



AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, February 14, 2023

6:00 PM

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

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – MARK HUMBERT

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION

For in-person attendees, face coverings or masks that cover both the nose and the mouth are required. Physically distanced seating will be available. If you are feeling sick, please do not attend the meeting in person.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://cityofberkeley-info.zoomgov.com/j/1617057994>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-254-5252 or 1-833-568-8864 (Toll Free) and enter Meeting ID: 161 705 7994. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

Please be mindful that the meeting will be recorded and all rules of procedure and decorum apply for in-person attendees and those participating by teleconference or videoconference.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

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, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. 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:

Land Acknowledgement Statement: *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

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

1. Adjourn in memory of Chimey Lee, Community Activist
2. Adjourn in memory of Mel Martynn, Community Activist

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 to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, 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 attending the meeting in-person and 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.*

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." Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move 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. Parking/Towing Fines & Fees Reform *(Reviewed by the Health, Life Enrichment, Equity & Community Committee)*

From: Councilmember Robinson (Author), Councilmember Harrison (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), Councilmember Hahn (Co-Sponsor)

Recommendation: Adopt second reading of Ordinance No. 7,854-N.S. amending BMC 14.72.080 to allow individuals who are eligible for Residential Preferential Parking (RPP) permits and also for parking citation Indigent Payment Plans to purchase Residential Parking Permits even if they have outstanding parking tickets older than 21 days.

First Reading Vote: Ayes – Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – Kesarwani; Absent – None.

Financial Implications: See report

Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on February 14, 2023

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: Various Funds - \$2,124,000

Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

- 3. Contract: Public Consulting Group for Professional Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a contract with Public Consulting Group (PCG) for professional services related to the Ground Emergency Medical Transport (GEMT), Quality Assurance Fee (QAF), Intergovernmental Transfer (IGT), and Public Provider Ground Emergency Medical Transport (PP-GEMT) programs using the General Services Agency's (GSA) contract No. 47QTCA20D004Y for an amount not to exceed \$200,000 in the base term from March 1, 2023 through January 22, 2025 and not to exceed \$300,000 in total with one two (2) year extension to January 22, 2027 if the GSA contract is extended.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473
- 4. Contract: Forster & Kroeger Landscape Maintenance for Chipping Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments, with Forster & Kroeger Landscape Maintenance to provide Chipping Services for two years from May 1, 2023 until April 30, 2025 in the amount not to exceed \$700,000.
Financial Implications: Various Funds - \$700,000
Contact: David Sprague, Fire, (510) 981-3473
- 5. Revenue Contract: 2023 Community Services Block Grant**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to accept the Community Services Block Grant (CSBG) Contract Number 23F-4001 in the amount of \$293,705 to provide services for low-income people for the period January 1, 2023 to May 31, 2024.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 6. Inclement Weather Shelter Program Funding Request and Contract No. 31900284 Amendment- Dorothy Day House (DDH) to Operate an Inclement Weather Shelter**
From: City Manager
Recommendation: Adopt a Resolution allocating an additional \$292,185 from Measure P to the Inclement Weather Shelter Program for a total allocation of \$412,185, and authorizing the City Manager or her designee to execute an amendment to Contract No. 31900284 with Dorothy Day House (DDH) to add \$190,260 to operate an inclement weather shelter for up to 127 nights from December 3, 2022 through April 15, 2023 for a total contract amount not to exceed \$4,211,173.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

- 7. Contract: Resources for Community Development for Martin Luther King Jr. House – Mental Health Services Act Operating Support**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Resources for Community Development (RCD) for Martin Luther King Jr. (MLK) House in the amount of \$107,890, to support hiring additional on-site staff to monitor the 12-room, transitional Single-Room Occupancy housing development.
Financial Implications: Mental Health Services Act Fund - \$107,890
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 8. Mills Act Contract – 2523 Piedmont Avenue**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a Mills Act contract with Wilson Wong and Christian Kwan for the City Structure of Merit property at 2523 Piedmont Avenue.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 9. Mills Act Contract – 2119 Marin Avenue**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a Mills Act contract with Anne and Michael Ray for the City Landmark property at 2119 Marin Avenue.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 10. Authorize a Funding Agreement with AC Transit to Supplement the Quick-Build Durant Transit Lane Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to negotiate and enter into a funding agreement between the City of Berkeley and AC Transit providing \$648,000 in additional City funding to supplement the Quick-Build Durant Transit Lane Project.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300

Council Consent Items

- 11. Berkeley Rotary Endowment: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund**
From: Mayor Arreguin (Author)
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Mayor Arreguin, to the Berkeley Rotary Endowment, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Arreguin and any other Councilmembers who would like to contribute.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 12. Referral: Southside Impact Fee Nexus Study**
From: Councilmember Robinson (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Humbert (Co-Sponsor)
Recommendation:
1. Refer to the City Manager to establish a development impact fee for projects within the Southside Plan boundary for the purpose of funding Southside public realm improvements. Staff should complete all necessary actions, including preparation of a Nexus Study pursuant to the Mitigation Fee Act.
2. Refer \$250,000 to the FY 2023 budget process for a consultant to be engaged over a two-year process, starting in 2024, to assist with the vision, capital list, nexus study, fee schedule, and other requirements.
Financial Implications: See report
Contact: Rigel Robinson, Councilmember, District 7, (510) 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, or use the "raise hand" function in Zoom, 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.

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

Action Calendar – Public Hearings

13a. Citywide Affordable Housing Requirements

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion:

1. Adopt first reading of an Ordinance amending the Berkeley Municipal Code Chapter 23.328, updating the citywide Affordable Housing Requirements in the Zoning Ordinance, repealing existing administration and zoning code sections that refer to affordable housing requirements, BMC Section 22.20.065, and Section 23.312.040(A)(6), and updating references to BMC Chapter 23.328 throughout the Berkeley Municipal Code, to become effective on April 1, 2023.

2. Adopt a Resolution establishing regulations for a voucher program and establishing an in-lieu fee pursuant to BMC Chapter 23.328 upon the effective date of contemporaneously adopted amendments to BMC Section 23.328, and rescind Resolution No. 70,668-N.S. related to fees, exemptions, and administration of inclusionary affordable housing and in-lieu programs upon the effective date of contemporaneously adopted amendments to BMC Chapter 23.328.

Financial Implications: See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400, Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

13b. Citywide Affordable Housing Requirements

From: Councilmember Harrison (Author)

Recommendation:

1. Amend Ordinance No. 7,853–N.S. to: a. replace exemption for fewer than five units with less than 3,000 square feet of Gross Floor Area as defined in BMC 23.106.030.

2. Rescind and replace Resolution No. 70,668–N.S. to: a. remove the in-lieu fee discount applied to projects of 12,000 or fewer residential square feet and include an analysis in the upcoming feasibility study of whether and at what size (based on residential square footage) projects should receive a discount in the level of affordable housing mitigation fees. Apply the standard \$45 per square foot fee on projects of between 3,000 and 12,000 residential square feet; and b. utilize square footage instead of unit numbers in studying likely impacts on smaller projects.

Expedite the completion of the next feasibility study of the application of in-lieu fees on smaller projects of 3,000 square feet or less (equivalent to four to five units) to determine the level at which in-lieu fees for smaller projects are financially feasible.

Financial Implications: See report

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Information Reports

14. Referral Response: Home Share Program

From: City Manager

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Information Reports

15. **LPO NOD: 1767-1771 Alcatraz Avenue/#LMSAP2022-0010**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

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.*

Archived indexed video streams are available at:

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>.

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 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 <https://berkeleyca.gov/>.

Agendas and agenda reports may be accessed via the Internet at:
<https://berkeleyca.gov/your-government/city-council/city-council-agendas>
and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@cityofberkeley.info

Libraries: Main – 2090 Kittredge Street,
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,
North Branch – 1170 The Alameda, Tarea Hall Pittman 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 (510) 981-6418 (V) or (510) 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 February 2, 2023.***

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](#).*

### **Hopkins Corridor Plan**

1. Michael Marletta
2. Constance Milligan
3. Ceara Brencic
4. Linda Franklin
5. Gabriele Weitzel
6. Warren Pottebaum
7. Miriam Kasin
8. Carol Hirth
9. Melissa Short
10. David Johnson
11. Richard Boubelik
12. Karen Olson
13. Diana Bohn
14. Phoebe Sorgen
15. Susan Griffin
16. Jane Stillwater
17. Stefano
18. Rocky Offner
19. Tony Corman
20. Sigurd Wilbanks
21. Ken Stein

22. Anne Boersma
23. Kirsten Rose
24. Gabi Klausner
25. Kori Kody
26. Richard Hiersch
27. Oded Hilu
28. Chris McKee
29. John Rice
30. Deb Trillia
31. Mary Staats
32. Carol Hirth
33. Maris Arnold
34. Mike Lubby
35. Malu Paradise
36. Lorna Byrne
37. Karen Dabrusin
38. Meredith Stout
39. David Shere
40. Lisa Bruce
41. Kenny Yip (2)
42. Simon Hochberg
43. Joel Myerson
44. Stephen Wood (2)
45. Grace Munakata
46. Todd Andrew (2)
47. Lisa Oglesby
48. Soleil Taylor
49. Carol Hirth
50. Matthew Dimond
51. Richard Neese
52. Marcello Barbero
53. Michael Tompkins
54. Carol Lesh
55. Lenore Dolin
56. Carol Hirth
57. Laurence LePaule
58. Patrick Gordis
59. Lois Yuen
60. Todd Andrews
61. Sandra Smith
62. Kelly Haberer
63. steidtmann@
64. Gabriela Kipnis
65. Patricia Kipnis
66. Laura Fujii
67. Barbara

68. Clifford Fred
69. Rachel Gold
70. Leslie Roussan
71. Wahid Bhimji
72. Jonah Busch
73. Amrando Chenyek
74. Tobey Wiebe
75. Sally Nelson
76. Nathan McPhail
77. Juli Dickey
78. Richard Tamm
79. Jack Kurzeil
80. Charles Siegel
81. Todd Andrew
82. Friends of Hopkins Street
83. Kenny Yip
84. Len Kamp
85. Stephen Wood
86. Charles Steidtmann
87. Janice Murota
88. Marguerite Lee
89. Nimrod Pitsker Elias
90. Andrea Traber
91. Dawn Howard
92. Stephanie Mackley
93. Stuart Hellman
94. Howard Goldberg
95. Cindi Goldberg
96. Carolyn Weil
97. Zipporah Collins
98. Jeanne Marguerite Brenna
99. Lee Bishop
100. Bianca Walser
101. Suzi Krebs
102. Summer Brenner
103. Ross Bernet
104. Robin Harley
105. Matthew Lewis
106. David Mendelsohn
107. Thomas Buckey
108. Diana Bohn
109. Gael Alcock
110. Joanne Cooke
111. Christopher Ardalan
112. Peggy Judge
113. Phyllis Orrick (3)

- 114. Tom Lent
- 115. Peggy Scott
- 116. Susan McKearnan
- 117. Toby Pohl
- 118. Kathy Kemp
- 119. Jenn Bejaka

### **Crime in Berkeley**

- 120. Tiffany Fyans
- 121. Carla and Dolph Rempp
- 122. Rachel De La Montanya

### **Homelessness**

- 123. David Freeling
- 124. Lynn Bradley

### **Equitable Housing**

- 125. Elisa Mikiten
- 126. Diana Bohn (2)
- 127. Sara Sebahar

### **Youth Seat on Environmental and Climate Commission**

- 128. Laura Galligan
- 129. Matthew Lovell
- 130. Franziska Raedeker
- 131. Helen Marcus
- 132. Ibmaison

### **Berkeley Police Matters**

- 133. Jennifer Louis, Interim Chief of Police

### **Grocery Stores Destruction**

- 134. David Lerman

### **UA Theater on Shattuck**

- 135. Constance Rivemale
- 136. Francie Maguire
- 137. Anne Herrick

### **African Americans Civil Rights**

- 138. Wade Nobles

### **Budget Matters**

- 139. Eric Friedman

**Reimagining Berkeley**

140. Diana Bohn

**Measure P**

141. Eric Friedman

**Telegraph Redesign**

142. Mike Wilson

**Berkeley's Missing Restaurant Reports**

143. David Lerman

**Urgent Care**

144. Fred Tabsharani

**Mental Health First Aid Certification**

145. Elana Auerbach

**Climate Change – Rising Sea Levels**

146. Fred Dodsworth

**Public Bank of the East Bay**

147. Bhima Sheridan

**Pathway STAIR Center**

148. Friends of the Adeline

**Bike Lane Study – Dwight and Bonar**

149. Farid Javandel, on behalf of the Transportation Division

150. Laurel and Ben Kuchinsky

**Proclamation Request for the Kiwanis**

151. Jeffrey Egeberg, on behalf of the Kiwanis Club of Berkeley

**San Pablo Avenue Improvement Plan**

152. Laura Riggs

**City of Berkeley Pension Liabilities**

153. Barbara Gilbert

**Pedestrian Safety**

154. Brooke Elmgren

**Youth Drug Use/Mental Health**

155. Barbara Gilbert

### **North Berkeley BART Plans**

156. Kenmotsu Junko

### **Solar Panel Adoption**

157. Peter Schultze-Allen

### **Commissioners Conflict of Interest**

158. Laura Fujii

### **RV's Parked Around West Berkeley Area**

159. Regina Kenney

### **Sexual Assault at the Hope Center**

160. Eric Friedman

### **Residential Parking Permits**

161. Lanay Thomas

### **Here/There Encampment**

162. Stephanie Thomas

163. Debbie Perkins

164. Judy ann Alberti

165. Margaret Hurlbert

166. Toby Blome

167. Nora Ultreya

168. Diana Bohn (2)

### **Support West Berkeley Seniors and Youth in Budget**

169. Carol Perez

### **SEIU 1021 Legislative Aides**

170. Julio Corral, on behalf of SEIU 1021

### **URL's Only**

171. Vivian Warkentin (2)

### **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.

## ORDINANCE NO. 7,854-N.S.

ORDINANCE AMENDING THE MUNICIPAL CODE TO ALLOW ISSUANCE OF RESIDENTIAL PARKING PERMITS FOR VEHICLES WITH OUTSTANDING PARKING TICKETS; AMENDING BERKELEY MUNICIPAL CODE SECTION 14.72.080

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 14.72.080 is amended to read as follows:

14.72.080 Issuance of permits.

A. Residential, local business and neighborhood-serving community facility parking permits shall be issued by the Department of Finance in accordance with requirements set forth in this chapter. Each such permit shall be designed to state or reflect thereon the identification of the particular residential, local business or neighborhood-serving community facility permit parking area for which it is issued. No more than one residential or local business parking permit shall be issued to each motor vehicle for which application is made.

B. When issuing local business and neighborhood-serving community facility permits, the Department of Finance in consultation with the traffic engineering division shall issue permits such that they will not unduly be concentrated on a specific block front in any given residential permit parking area.

C.

1. No permits shall be issued to residents in newly constructed residential units. The Current Planning division shall provide a listing of newly-constructed housing units to the Department of Finance.

2. No permits shall be issued to residents of Group Living Accommodations as defined in Chapter 23F.04 that are approved after January 1, 2012, unless the Zoning Adjustments Board specified otherwise when it approved the GLA. The Current Planning division shall provide a listing of addresses subject to this paragraph to the Department of Finance.

3. In the R-2 and R-2A zoning districts, no permits shall be issued to residents of dwelling units with more than 5 bedrooms to which new bedrooms have been added subsequent to January 1, 2012. The Current Planning division shall provide a listing of addresses subject to this paragraph to the Department of Finance.

4. This subdivision shall not prevent issuance of permits to residents of permitted and legal nonconforming sororities, fraternities and student cooperatives who are not otherwise prohibited from obtaining them.

D. The Department of Finance and the Public Works Transportation Division are authorized to issue such rules and regulations necessary to implement this chapter, and are not inconsistent with it.

E. Parking permits shall not be issued for vehicles for which there is any outstanding City of Berkeley notice of violation of parking rules and restrictions that are unpaid for more than 21 calendar days from the issuance of the parking violation, except for vehicles belonging to individuals eligible for the City's Indigent Payment Plan.

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.

At a regular meeting of the Council of the City of Berkeley held on January 31, 2023, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Harrison, Humbert, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Abstain: Kesarwani.

Absent: None.





Office of the City Manager

CONSENT CALENDAR  
February 14, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on February 14, 2023

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.

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report are **\$2,124,000**.

| <u>PROJECT</u>                                                                   | <u>Fund</u> | <u>Source</u>                       | <u>Amount</u>      |
|----------------------------------------------------------------------------------|-------------|-------------------------------------|--------------------|
| Consultant Services for Mental Health Medi-Cal Billing and the CalAIM Transition | 158<br>316  | Mental Health State AID realignment | \$75,000           |
| Target Case Management Consultant                                                | 313         | n/a                                 | \$150,000          |
| Bus Transportation for Summer Camps                                              | 125<br>011  | Playground Camp                     | \$399,000          |
| Just Transition Pilot Program                                                    | 011         | Discretionary                       | \$1,500,000        |
| <b>Total:</b>                                                                    |             |                                     | <b>\$2,124,000</b> |

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager's purchasing authority for services to \$50,000. As a

Formal Bid Solicitations and Request for Proposals  
Scheduled for Possible Issuance After Council  
Approval on February 14, 2023

CONSENT CALENDAR  
February 14, 2023

result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

#### BACKGROUND

On May 6, 2008, Council adopted Ordinance No. 7,035-N.S., amending the City Manager's purchasing authority for services.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The Finance Department reviews all formal bid and proposal solicitations to ensure that they include provisions for compliance with the City's environmental policies. For each contract that is subject to City Council authorization, staff will address environmental sustainability considerations in the associated staff report to City Council.

#### RATIONALE FOR RECOMMENDATION

Need for the services.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

Darryl Sweet, General Services Manager, Finance, 510-981-7329

#### Attachments:

- 1: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on February 14,2023
  - a. Consultant Services for Mental Health Medi-Cal Billing and the CALAIM Transition
  - b. Target Case management Consultant
  - c. Bus Transportation for Summer Camps
  - d. Just Transition Pilot Program

Note: Original of this attachment with live signature of authorizing personnel is on file in General Services.

DATE SUBMITTED: February 14, 2023

| SPECIFICATION NO.  | DESCRIPTION OF GOODS / SERVICES BEING PURCHASED                                  | APPROX. RELEASE DATE | APPROX. BID OPENING DATE | INTENDED USE                                                                                                                                                         | ESTIMATED COST   | BUDGET CODE TO BE CHARGED                                                                                                                                                                                                                                                   | DEPT. / DIVISION            | CONTACT NAME & PHONE     |
|--------------------|----------------------------------------------------------------------------------|----------------------|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|--------------------------|
| 23-11566-C         | Consultant services for Mental Health Medi-Cal billing and the CalAIM transition | 1/18/2023            | 2/23/2023                | Consultant services to provide technical expertise on mental health Medi-Cal billing and the changes and opportunities associated with the state's CalAIM initiative | \$75,000         | "\$37,500: HHMLADM23-NONPERSONN-CONTRSERVI-MISCPROFSV; 158-51-503-520-0000-000-451-612990-<br><br>\$37,500: HHMMCSYS23-NONPERSONN-CONTRSERVI-MISCPROFSV; 316-51-503-520-0000-000-451-612990-<br><br>"                                                                       | HHCS/Office of the Director | Amy Davidson 981-5406    |
| 23-11582-C         | Target Case Management Consultant                                                | 2/15/2023            | 3/15/2023                | Consultant Time to conduct a program assessment and training materials                                                                                               | \$150,000        | "Funding will be appropriated through the AAO2 in the following:<br><br>\$75,000: HHPTCM2301-NONPERSONN-OPERATING-MISCPROFSV; 313-51-506-556-2071-000-451-612990-<br><br>\$75,000: HHATCM2301-NONPERSONN-OPERATING-MISCPROFSV; 313-51-505-548-2071-000-444-612990-<br><br>" | HHCS/ Public Health         | Janice Chin 510-981-5121 |
| <b>DEPT. TOTAL</b> |                                                                                  |                      |                          |                                                                                                                                                                      | <b>\$225,000</b> |                                                                                                                                                                                                                                                                             |                             |                          |

DATE SUBMITTED: February 14, 2023

| SPECIFICATION NO.  | DESCRIPTION OF GOODS / SERVICES BEING PURCHASED | APPROX. RELEASE DATE | APPROX. BID OPENING DATE | INTENDED USE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | ESTIMATED COST                                 | BUDGET CODE TO BE CHARGED                                                                                                                   | DEPT. / DIVISION  | CONTACT NAME & PHONE       |
|--------------------|-------------------------------------------------|----------------------|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|-------------------|----------------------------|
| 23-11585-C         | Bus Transportation for Summer Camps             | 02/14/23             | 03/7/23                  | "Transportation to and from Berkeley Echo Lake Camp for Youth Camp Sessions<br><br>Bus Transportation Services for Recreation Division Programs<br><br>3-year contract (\$133,000/year) "                                                                                                                                                                                                                                                                                                                      | \$250,000<br><br>\$149,000<br>Total: \$399,000 | "Echo Lake Camp:<br>125-52-543-582-0000-000-461-634230-<br><br>Other Recreation Division Programs:<br>011-52-543-570-0000-000-461-634230- " | PRW<br>Recreation | Justin Pitcher<br>981-5123 |
| <b>DEPT. TOTAL</b> |                                                 |                      |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>399000</b>                                  |                                                                                                                                             |                   |                            |
| 23-11586-C         | Just Transition Pilot Program                   | 1/15/2023            | 3/28/2023                | The City of Berkeley seeks a highly qualified team led by a program administrator to develop and implement a Just Transition Pilot to install building electrification measures in existing affordable housing buildings and/or for low-to-moderate income The Just Transition Pilot requires electrification upgrades be completed by qualified contractor(s) who meet minimum labor standards, as a way to ensure that residential electrification construction work provides equitable benefits to workers. | Total not-to-exceed \$1,500,000                | 011-53-583-611-0000-000-441-612990-                                                                                                         | Planning / OESD   | Billi Romain 981-7432      |
| <b>DEPT. TOTAL</b> |                                                 |                      |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>1,500,000</b>                               |                                                                                                                                             |                   |                            |
| <b>TOTAL</b>       |                                                 |                      |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>2124000</b>                                 |                                                                                                                                             |                   |                            |



Office of the City Manager

CONSENT CALENDAR  
February 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: David Sprague, Interim Fire Chief  
 Subject: Contract: Public Consulting Group for Professional Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to enter into a contract with Public Consulting Group (PCG) for professional services related to the Ground Emergency Medical Transport (GEMT), Quality Assurance Fee (QAF), Intergovernmental Transfer (IGT), and Public Provider Ground Emergency Medical Transport (PP-GEMT) programs using the General Services Agency's (GSA) contract No. 47QTCA20D004Y for an amount not to exceed \$200,000 in the base term from March 1, 2023 through January 22, 2025 and not to exceed \$300,000 in total with one two (2) year extension to January 22, 2027 if the GSA contract is extended.

FISCAL IMPACTS OF RECOMMENDATION

PCG's compensation for contracted services are based on PCG's GSA Authorized Federal Supply Schedule Price List. In most cases, PCG is compensated once the City receives reimbursement from the California Department of Health Care Services (DCHS). The total contract with the extension, shall not exceed \$300,000. Funds will be available through the General Fund.

CURRENT SITUATION AND ITS EFFECTS

DCHS, in collaboration with Sacramento Metro Fire District, transitioned out of the GEMT Quality Assurance Fee (QAF) and the GEMT Certified Public Expenditure (CPE) programs. The new program, Public Provider Ground Emergency Medical Transport Intergovernmental Transfer Program (PP-GEMT IGT) is effective January 1, 2023 and significantly changes how supplemental payments are calculated. While the new program was being designed, the GEMT Certified Public Expenditure (CPE) program was put on hold in FY 2019 and cost reports were not being accepted by the DCHC. In order for the City to participate in the new PP-GEMT IGT program, the City is required to close out all reporting obligations that were put on hold beginning in FY 2019.

Since the GEMT program is no longer on hold and to receive supplemental payments from previous years, the Fire Department must submit GEMT reports for fiscal years 2019, 2020, 2021, 2022, and 2023. As the PP-GEMT IGT program evolves, additional

work may be required from PCG to analyze City data or prepare documents related to these programs. If the PP-GEMT IGT program fails to launch, DHCS may revert back to the legacy program (GEMT-CPE) and PCG's services will be needed to assist with preparation of the required reports.

#### BACKGROUND

The Department provides city-wide first responder medical and transport services. When services are provided to a Medi-Cal recipient, allowable costs that are in excess of other Medi-Cal revenue received by the City qualify for supplemental payments through these programs.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

#### RATIONALE FOR RECOMMENDATION

PCG's expertise, methodology, and approach to the report preparation is expected to yield an increase in supplemental payments compared to previous years.

#### ALTERNATIVE ACTIONS CONSIDERED

Staff would be required to painstakingly prepare and submit the five (5) cost-basis reports and any future reports and risk lower reimbursements to the City and a higher potential for a DHCS audit and subsequent repayment.

#### CONTACT PERSON

David Sprague, Interim Fire Chief, (510) 981-3473

#### Attachments:

- 1: Resolution
- 2: GSA Contract No. 47QTCA20D004Y

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

CONTRACT: PUBLIC CONSULTING GROUP FOR PROFESSIONAL SERVICES

WHEREAS, the Department provides city-wide first responder medical and transport services. When services are provided to a Medi-Cal recipient, allowable costs that are in excess of other Medi-Cal revenue received by the City qualify for supplemental payments through these programs; and

WHEREAS, DCHS, in collaboration with Sacramento Metro Fire District, transitioned out of the GEMT Quality Assurance Fee (QAF) and the GEMT Certified Public Expenditure (CPE) programs, and

WHEREAS, the new program, Public Provider Ground Emergency Medical Transport Intergovernmental Transfer Program (PP-GEMT IGT) is effective January 1, 2023 and significantly changes how supplemental payments are calculated, and

WHEREAS, while the new program was being designed, the GEMT Certified Public Expenditure (CPE) program was put on hold in FY 2019 and cost reports were not being accepted by the DCHC, and

WHEREAS, in order for the City to participate in the new PP-GEMT IGT program, the City is required to close out all reporting obligations that were put on hold beginning in FY 2019, and

WHEREAS, the GEMT program is no longer on hold and to receive supplemental payments from previous years, the Fire Department must submit GEMT reports for fiscal years 2019, 2020, 2021, 2022, and 2023, and

WHEREAS, as the PP-GEMT IGT program evolves, additional work may be required from PCG to analyze City data or prepare documents related to these programs. If PP-GEMT IGT program fails to launch, DHCS may revert back to the legacy program (GEMT-CPE), PCG's services will be needed to assist with preparation of required reports.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager to enter into a contract with Public Consulting Group (PCG) for professional services related to the Ground Emergency Medical Transport (GEMT), Quality Assurance Fee (QAF), Intergovernmental Transfer (IGT), and Public Provider Ground Emergency Medical Transport (PP-GEMT) programs using the General Services Agency's (GSA) contract No. 47QTCA20D004Y for an amount not to exceed \$200,000 in the base term from March 1, 2023 through January 22, 2025 and not to exceed \$300,000 in total with one two (2) year extension to January 22, 2027 if the GSA contract is extended.



Public Focus. Proven Results.™

**General Services Administration  
Federal Supply Service  
Authorized Federal Supply Schedule Price List**

**Multiple Award Schedule (MAS)**

**Public Consulting Group LLC**

**148 State St. 10<sup>th</sup> Floor**

**Boston, MA 02109**

**Phone: (617) 426-2026 FAX: (617) 426-2036**

**[www.publicconsultinggroup.com](http://www.publicconsultinggroup.com)**

**CONTRACT NUMBER: 47QTCA20D004Y**

**PERIOD COVERED BY CONTRACT: January 23, 2020 – January 22, 2025**

**PRICELIST CURRENT THOROUGH MODIFICATION #PS-0012 August 13, 2021**

*For more information on ordering from Federal Supply Schedule click on the FSS Schedules button at [fss.gsa.gov](http://fss.gsa.gov). On-line access to contract ordering information, terms and conditions, and up-to-date pricing, as applicable, is available on GSA Advantage! at <https://www.gsaadvantage.gov>*





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**INFORMATION FOR ORDERING ACTIVITIES**

1a. AUTHORIZED SPECIAL ITEM NUMBERS (SINs):

| <u>SIN</u> | <u>DESCRIPTION</u>                                                                                                                   |
|------------|--------------------------------------------------------------------------------------------------------------------------------------|
| 511210     | Software Licenses                                                                                                                    |
| 522310     | Financial Advising, Loan Servicing and Asset Management Services                                                                     |
| 531210     | Financial Asset Resolution Services                                                                                                  |
| 541211     | Auditing Services                                                                                                                    |
| 541219     | Budget and Financial Management Services                                                                                             |
| 54151S     | Information Technology Professional Services                                                                                         |
| 541611     | Management and Financial Consulting, Acquisition and Grants Management Support, and Business Program and Project Management Services |
| <b>OLM</b> | <b>Order-Level Materials (OLM)</b>                                                                                                   |

Note: Contractor has been awarded Special Item Numbers 511210 and 54151S under the Cooperative Purchasing Programs. All Special Item Numbers are awarded under the Disaster Recovery Program

1b. Lowest Priced Model Number and Price for each SIN: **See Price List**

1c. SERVICES OFFERED: **See Price List**

2. MAXIMUM ORDER PER SIN:

| <u>SIN</u> | <u>MAXIMUM ORDER</u> |
|------------|----------------------|
| 511210     | \$500,000            |
| 522310     | \$1,000,000          |
| 531210     | \$1,000,000          |
| 541211     | \$1,000,000          |
| 541219     | \$1,000,000          |
| 54151S     | \$500,000            |
| 541611     | \$1,000,000          |
| OLM        | \$250,000            |

**This maximum order threshold is a dollar amount at which it is suggested that the ordering agency request higher discounts from the contractor before issuing the order. The contractor may: (1) Offer a new lower price, (2) Offer the lowest price available under the contract, or (3) Decline the order within five (5) days. In accordance with the Maximum Order provisions contained in the Schedule, a delivery order may be placed against the Schedule contract even though it exceeds the maximum order threshold.**

3. MINIMUM ORDER LIMITATION: **\$100**

4. GEOGRAPHIC COVERAGE (DELIVERY AREA): **The geographic scope of this contract is the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. territories.**

5. POINT OF PRODUCTION: **United States**

6. BASIC DISCOUNT: **Prices listed are net, discounts have been deducted and the industrial funding fee has been added**

7. QUANTITY DISCOUNT: **None Offered**



- 8. PROMPT PAYMENT TERMS: **None, Net 30**
- 9. FOREIGN ITEMS: **None**
- 10a. TIME OF DELIVERY: **511210: 30 days**  
**522310: As negotiated with the Ordering Activity**  
**531210: As negotiated with the Ordering Activity**  
**541211: As negotiated with the Ordering Activity**  
**541219: As negotiated with the Ordering Activity**  
**54151S: As negotiated with the Ordering Activity**  
**541611: As negotiated with the Ordering Activity**
- 10b. EXPEDITED DELIVERY: **Contact Contractor**
- 10c. OVERNIGHT AND 2-DAY DELIVERY: **Contact Contractor**
- 10d. URGENT REQUIREMENTS: **Contact Contractor**
- 11. F.O.B. POINT: **FOB Destination**
- 12a. ORDERING ADDRESS: **Public Consulting Group LLC**  
**148 State St. 10<sup>th</sup> Floor**  
**Boston, MA 02109**
- 12b. ORDERING PROCEDURES: *For supplies and service the ordering procedures, information on Blanket Purchase Agreements (BPAs), and a sample BPA may be found at the GSA/FSS Schedule homepage ([gss.gsa.gov/schedule](http://gss.gsa.gov/schedule)).*
- 13. PAYMENT ADDRESS: **Same as Ordering Address**
- 14. WARRANTY PROVISION: **Standard Commercial Warranty**
- 15. EXPORT PACKING CHARGES: **Not Applicable**
- 16. TERMS AND CONDITIONS OF RENTAL: **Not Applicable**
- 17. TERMS AND CONDITIONS OF INSTALLATION: **Not Applicable**
- 18a. TERMS AND CONDITIONS OF REPAIR PARTS: **Not Applicable**
- 18b. TERMS AND CONDITIONS FOR ANY OTHER SERVICES: **Not Applicable**
- 19. LIST OF SERVICE AND DISTRIBUTION POINTS: **Not Applicable**
- 20. LIST OF PARTICIPATING DEALERS: **Not Applicable**
- 21. PREVENTIVE MAINTENANCE: **Not Applicable**
- 22a. SPECIAL ATTRIBUTES: **Not Applicable**



- 22b. SECTION 508 COMPLIANCE INFORMATION: **Not Applicable**
- 23. UNIQUE ENTITY IDENTIFIER (UEI) NUMBER :**182826909**
- 24. CONTRACTOR HAS REGISTERED IN THE SYSTEM FOR AWARD MANAGEMENT (SAM) DATABASE.



## PUBLIC CONSULTING GROUP LLC LABOR CATEGORY DESCRIPTION

### *SIN 54151S Information Technology Professional Services*

#### **IT Project Director**

**Functional Responsibility:** The IT Project Director leads IT Consulting engagements, providing overall leadership and coordinating resources.

Responsibilities:

- Provide overall leadership, coordination and oversight over the scope of work
- Exercise authority to commit resources needed to successfully perform work
- Communicate with client executives and other key stakeholders
- Function as the primary point of contact with the appropriate governance bodies and key stakeholders for activities related to contract administrations, overall program and/or project management and scheduling, communications with sponsors, dispute resolution, and engagement status reporting
- Responsible for planning and execution of engagement budgets
- Managed large teams, including training, assignments, performance evaluations, and managing issues, ensuring the overall program and project management discipline, driving its consistent use, overseeing development and monitoring of program and project management standards, tools, and processes. Experienced with direct demand management and reporting across a portfolio of projects, direct budget forecasting, developing and managing to portfolio, program, and project performance criteria.
- Has extensive experience in: project/program planning, assessment and management, project accounting, budgeting/forecasting systems and procedures, partnering strategies and contract law, performance appraisal techniques and development strategies, staffing strategies and options, skills inventory tools and capability planning, corrective action policies and procedures, development strategies, capability and capacity planning, effective interviewing techniques, information resources, corporate standards of excellence in customer service, problem escalation and resolution channels and risk management.

**Minimum/General Experience:** Minimum of 10 years' experience.

**Minimum Education:** Bachelor's Degree in computer science or related field.



### **IT Subject Matter Expert (SME)/Advisor**

**Functional Responsibility:** The IT Subject-Matter Expert (SME)/Advisor is responsible for providing technical support and/or leadership in the creation and delivery of technology solutions designed to meet customers' business needs and consequently, for understanding customers' businesses. As trusted advisor, create and maintain effective customer relationships to ensure customer satisfaction. Maintain knowledge of leading-edge technologies and industry/market domain knowledge. Shape technical direction and technical strategies for external customers.

#### **Responsibilities:**

- Applies advanced subject matter knowledge to complex business issues and is regarded by others as a subject matter expert
- Frequently contributes to the development of new ideas/methods
- Usually works on complex problems or projects where analysis of situations or data requires an in-depth evaluation of multiple factors
- Regularly exercises significant independent judgment within broadly defined policies and practices to determine best method for accomplishing work and achieving objectives
- Leads and/or provides expertise to functional project teams and may participate in cross functional initiatives
- Provides mentoring and guidance to employees at lower job levels
- Responsible for verifying and implementing the technical design solution to the problem as identified by the Project/Technical Manager
- Often responsible for providing a detailed technical design for enterprise IT Management solution
- Regularly leads in the technical assessment and delivery of specific technical solutions to the customer
- Coordinates implementation of new installations, designs, and migrations for SW solutions
- Provides advanced technical assistance and advice to others on proposal efforts, solution design, system management, tuning and modification of SW solutions
- Collects and determines data from appropriate sources to assist in determining customer needs and requirements
- Responds to requests for technical information from customers
- Develops customer technology solutions based upon SW products
- Engages in technical problem solving across multiple technologies; often needs to develop new methods to apply to the situation

**Minimum/General Experience:** Minimum of 10 years' experience.

**Minimum Education:** Bachelor's Degree in computer science or related field.



### **IT Project Manager II**

**Functional Responsibility:** The IT Project Manager II leads IT Consulting projects to ensure that scope, time, budget and quality expectations are met through planning, controlling and managing customer projects. The IT Project Manager II manages corporate, customer and third-party vendor efforts to plan, sell and implement solutions to resolve customer problems. Responsible for business as well as team management.

#### **Responsibilities:**

- Has accountability for a large IT projects with significant impact on business unit results and organizational strategy
- Applies expert subject matter knowledge to manage staff activities in solving most complex business/technical issues within established policies
- Acts as a key advisor to senior management on the development of overall policies and long-term goals of the project
- Plans, directs and monitors high-end operational/tactical activities of staff
- Recruits and supports development of direct staff members
- Has extensive experience in: project/program planning, assessment and management, project accounting, budgeting/forecasting systems and procedures, partnering strategies and contract law, performance appraisal techniques and development strategies, staffing strategies and options, skills inventory tools and capability planning, corrective action policies and procedures, development strategies, capability and capacity planning, effective interviewing techniques, information resources, corporate standards of excellence in customer service, problem escalation and resolution channels and risk management.

**Minimum/General Experience:** Minimum of 8 years' experience.

**Minimum Education:** Bachelor's Degree in computer science or related field.

### **IT Project Manager I**

**Functional Responsibility:** The IT Project Manager I lead IT Consulting projects to ensure that it meets all scope, time, budget and quality expectations, through planning, controlling and managing customer projects.

#### **Responsibilities:**

- Manage customer project delivery
- Manage project financials including P&L
- Manage project team; plan, direct and monitor operational/tactical activities of staff
- Apply subject matter knowledge to manage staff activities in solving common and complex business/technical issues within established policies
- Provide guidance on process and technical improvements and recommends changes in alignment with business tactics and strategy
- Assess business impact of specific technologies and/or strategies
- Identify and address technical or operational risks/issues
- Provide review/input on project activities for IT-related projects
- Collaborate with the project team to develop detailed project plans and work breakdown structures for IT projects
- Recruit and support development of direct staff members
- Experience in project/program planning, assessment and management, project accounting, skills inventory tools, and the application of IT Project Management best practices and industry standards
- Knowledgeable of IT trends in the marketplace.

**Minimum/General Experience:** Minimum of 5 years' experience.

**Minimum Education:** Bachelor's Degree in computer science or related field.



### **System Analyst I**

**Functional Responsibility:** The Systems Analyst is responsible for conducting research on various hardware and software to decide if they will improve the overall IT function. The Systems Analyst will install, deploy, and test new systems.

#### **Responsibilities:**

- Consult with colleagues about their IT needs.
- Research hardware and software technologies to decide if they offer improvements.
- Help the management team decide if IT systems and infrastructure upgrades make business sense.
- Develop new functionality for existing computer systems.
- Select and install new software and hardware systems.
- Oversee new system installation and setup and customize them for business needs.
- Run tests on systems.
- Train end users and write instruction manuals as necessary.
- Knowledge of and experience with distributed networking concepts.
- Experience using computer aided software engineering tools and applications.
- Deep knowledge of hardware and software applications.
- Proven track record developing and supporting effective business systems.
- Ability to effectively present information and respond to questions from groups of managers, clients, customers, and the general public.
- Strong understanding of and ability to use mathematics.
- Ability to define problems, collect data, establish facts, and draw valid conclusions.
- Work well with our network administrator, security analyst, hardware analyst, business analyst, support specialist and other team members.
- Assist with inventory control.
- Provide technical support as needed.

**Minimum/General Experience:** Minimum of 4 years' experience.

**Minimum Education:** Bachelor's Degree in computer science or related field.





### **Technical Business Analyst I**

**Functional Responsibility:** The Technical Business Analyst serves as the liaison between the program area staff and the technical team. This position will be responsible for understanding the needs of the program office and working with the technical team to incorporate these needs into the design of the application. Key Responsibilities include soliciting business requirements, directing a technical writer in developing test scenarios and training materials.

#### **Responsibilities**

- Understand the business functions and requirements of the program office and work in tandem with the program office staff to prioritize changes
- Facilitate sessions to elicit requirement details
- Analyze requirements to determine appropriate features for the application
- Create business requirements documentation
- Translate business requirements into technical specifications and develop test scenarios
- Create documentation
- Develop test cases, coordinate testing
- Develop training materials.
- Experience planning test cases and analyzing test outcomes
- Experience developing test documentation, including test scenarios and test scripts
- Analysis of changes requests, services requests, and problem reports
- Identification of possible solutions and making recommendations based on a variety of factors.
- Creating or updating use cases and artifacts
- Capturing and documenting requirements
- Functional elaboration using requirements attributes and traceability to manage scope and change through the product lifecycle
- Develop and update of test case scenarios
- Development of training materials
- A proven work history of excellent verbal and written communications with clients and technical staff in English.

**Minimum/General Experience:** Minimum of 4 years' experience.

**Minimum Education:** Bachelor's Degree in computer science or related field.



**Quality Assurance Software Tester**

**Functional Responsibility:** The Quality Assurance Software Tester is responsible for test planning, test script design, defect tracking, test summary, and test metrics reporting within a software project team.

**Responsibilities**

- Lead the QA testing for new software project development as well as ongoing production defect fixes
- Communicate the ongoing progress of the projects testing effort
- Actively participate in walk-through, inspection, review and user group meetings for quality assurance
- Assist QA analysts with complex problems regarding testing approaches, application knowledge, and technical knowledge
- Plan, document, evaluate and track testing results to ensure system applications are free from defects
- Develop and provide testing metrics and reports to effectively communicate quality measures and metrics to the project team and management
- Estimate quality assurance efforts on approved projects with IT Manager
- Manage toward results, by process, with facts and with continuous process improvement in mind
- Provide leadership and mentoring to team members
- Excellent understanding of Automation/Manual Testing and Strategies
- Thorough knowledge of the entire SDLC, testing methodologies and their direct implementation to projects.
- Ability to plan, manage, and organize multiple concurrent projects
- Experience in both Agile/Scrum and Waterfall Methodologies
- Experience testing browser-based/web applications
- Extremely detail-oriented and organized
- Extensive experience with User testing (UAT)

**Minimum/General Experience:** Minimum of 3 years' experience.

**Minimum Education:** Bachelor's Degree in computer science or related field.



### **Developer I**

**Functional Responsibility:** The Software Developer 1 is junior developer position responsible for the development of information technology projects. The Developer will primarily revolve around building software by writing code, as well as modifying software to fix errors, adapt it to new hardware, improve its performance, or upgrade interfaces.

#### **Responsibilities:**

- Modifying software to fix errors, adapt it to new hardware, improve its performance, or upgrade interfaces.
- Directing system testing and validation procedures.
- Directing software programming and documentation development.
- Consulting with departments or customers on project status and proposals.
- Working with customers or departments on technical issues including software system design and maintenance.
- Analyzing information to recommend and plan the installation of new systems or modifications of an existing system.
- Consulting with engineering staff to evaluate software-hardware interfaces and develop specifications and performance requirements.
- Designing and developing software systems using scientific analysis and mathematical models to predict and measure outcomes and design consequences.
- Preparing reports on programming project specifications, activities, or status.
- Conferring with project managers to obtain information on limitations or capabilities.
- Knowledge of the software development life-cycle.
- The desire to work in fast-paced environment.
- Ability to develop unit testing of code components or complete applications.
- Creativity is always a plus.
- Must be a full-stack developer and understand concepts of software engineering.
- Experience working on a variety of software development projects.
- Deep programming language knowledge.

**Minimum/General Experience:** Minimum of 2 years' experience.

**Minimum Education:** Associates Degree in computer science or related field.



*SINS 522310 (Financial Advising, Loan Servicing and Asset Management Services), 531210 (Financial Asset Resolution Services), 541211(Auditing Services), 541219 (Budget and Financial Management Services), and 541611 (Management & Financial Consulting, Acquisition & Grants Management Support, & Business Program & Project Management Services)*

#### **Consulting Management Executive - Senior**

**Functional Responsibility:** Provides executive leadership to the overall engagement effort and serves as a principal contact to the agency lead. Establishes executive direction to a team of experts and advisors who make recommendations, guide, determine best practices and deliver specialized subject matter knowledge to support effective and efficient management of agency programs and business functions. Provides corporate-level quality assurance for the engagement and oversees compliance with the firm's professional service standards. This position monitors the progress of the engagement to assure overall excellence in completion of deliverables and tasks. In collaboration with the agency lead, makes decisions about the direction of the engagement and provides a central point of authority and accountability for the firm.

**Minimum/General Experience:** Minimum of 15 years' experience

**Minimum Education:** Bachelor's Degree in a related field.

#### **Consulting Management Executive**

**Functional Responsibility:** Provides executive leadership to the overall engagement effort and serves as a principal contact to the agency lead. Establishes executive direction to a team of experts and advisors who make recommendations, guide, determine best practices and deliver specialized subject matter knowledge to support effective and efficient management of agency programs and business functions. Provides corporate-level quality assurance for the engagement and oversees compliance with the firm's professional service standards. This position monitors the progress of the engagement to assure overall excellence in completion of deliverables and tasks. In collaboration with the agency lead, makes decisions about the direction of the engagement and provides a central point of authority and accountability for the firm.

**Minimum/General Experience:** Minimum of 10 years' experience

**Minimum Education:** Bachelor's Degree in a related field.

#### **Senior Consultant**

**Functional Responsibility:** Supervises the engagement team, provides day-to-day engagement oversight, review and approval of deliverables and tasks, compliance with engagement standards and quality control of engagement reporting. Leads ongoing efforts of team of experts and advisors who make recommendations, guide, determine best practices and deliver specialized subject matter knowledge to support effective and efficient management of agency programs and business functions. The Consulting Senior Manager works closely with the Consulting Management Executive in the development of the overall engagement approach.

**Minimum/General Experience:** Minimum of 7 years' experience

**Minimum Education:** Bachelor's Degree in a related field.

#### **Consultant**

**Functional Responsibility:** The Consultant is responsible for the completion of a wide variety of engagement and deliverables. The Consultant provides subject matter expertise and advice, prepares recommendations, and determines best practices to support effective and efficient management of agency programs and business functions. Prepares technical reports by analyzing and summarizing information and trends. Possesses comprehensive knowledge of subject matter. Provides leadership, coaching, and/or mentoring to a subordinate group.

**Minimum/General Experience:** Minimum of 5 years' experience

**Minimum Education:** Bachelor's Degree in a related field.



### **Consulting Business Analyst**

**Functional Responsibility:** The Consulting Business Analyst plays a key role in completion of engagement deliverables by assessing best practices, collecting information, and analyzing quantitative and qualitative data to promote effective and efficient management of agency programs and business functions. Supports preparation of recommendations and prepares technical reports by analyzing and summarizing information and trends.

**Minimum/General Experience:** Minimum of 3 years' experience

**Minimum Education:** Bachelor's Degree in a related field.

### **Consulting Senior Subject Matter Expert**

**Functional Responsibility:** Provides specialized subject matter expertise relevant to the business requirements of the engagement. Expertise is highly technical in nature and may include expansive knowledge of industry regulations, best practices and emerging trends.

**Minimum/General Experience:** Minimum of 5 years' experience

**Minimum Education:** Bachelor's Degree in Public Policy, Public Administration, Business Administration, or related degree preferred

### **Program Operations Director**

**Functional Responsibility:** Oversees recurring program functions or processes necessary to support the engagement. Develops program strategies meant to assist engagement goals and objectives. Evaluates and recommends changes to program policies or procedures. Has extensive experience with program concepts and principles. Leads and directs the work of other program operations employees and has responsibility for personnel actions including hiring, performance management, and termination. Supervision is often provided through a team of subordinate managers.

**Minimum/General Experience:** 5+ years' experience managing complex operations projects in relevant area of discipline

**Minimum Education:** Bachelor's degree or higher in a related business discipline or the equivalent required

### **Program Operations Supervisor**

**Functional Responsibility:** Supervises program operational components of an engagement. Implements and administers program functions or processes, ensuring that they are completed accurately, on time, and in compliance with established policies and regulations. Tracks program processes and reports during engagement detailing quality. Assigns staff to tasks based on availability or expertise. Monitors program operations team to ensure engagement effectiveness. Knowledge of the field's policies, procedures, and practices.

**Minimum/General Experience:** 3 years of relevant work experience in the fields of business, healthcare, public policy, vocational rehabilitation, disability services, employment services, workforce development, human services, or public policy.

**Minimum Education:** Bachelor's degree in business administration, and accounting. Appropriate certifications accepted in lieu of degree for the disciplines of social work, public policy, project management, education, and healthcare where relevant (i.e. Registered Nurse, Certified Coder, Certified Project Management Professional, Masters in Social Work, etc.)

### **Program Senior Operations Manager**

**Functional Responsibility:** Administers recurring program functions or processes necessary to support the engagement. Develops and implements strategies meant to assist the engagement objectives. Evaluates and recommends changes to program policies or procedures. Comprehensive knowledge of the field's concepts and principles. Performs complex tasks typically following established processes. Leads and directs the work of other employees and has full authority for personnel decisions.

**Minimum/General Experience:** Minimum of 5 years' experience

**Minimum Education:** Bachelor's Degree in business, Business Administration, Accounting, Social Work, Public Policy, or other closely related fields



### **Program Operations Manager**

**Functional Responsibility:** Manages daily financial operations during the engagement. Administers recurring or daily financial functions or processes necessary for audit execution. Develops and implements financial strategies meant to assist meeting engagement goals. Approves and allocates resources based on financial engagement priorities. Performs complex engagement tasks typically following established financial processes. Leads and directs the work of other employees and has full authority for personnel decisions.

**Minimum/General Experience:** Minimum of 3 years' experience

**Minimum Education:** Bachelor's Degree in business, Business Administration, Accounting, Social Work, Public Policy, or other closely related fields preferred

### **Program Operations Analyst**

**Functional Responsibility:** Monitors and analyzes program operations that impact performance. Identifies, analyzes and solves technical program problems. Responds to customer problems and complaints. Assesses program needs and makes recommendations for change. Designs program tools to detect and report on performance. Troubleshoots and provides support to users. Performs work under direct supervision. Handles basic issues and problems and refers more complex issues to higher-level staff. Possesses entry to journey knowledge of subject matter.

**Minimum/General Experience:** Minimum of 1 years' experience

**Minimum Education:** Bachelor's Degree in business, business administration, accounting, social work, public policy, or other closely related fields.

### **Training Operations Director**

**Functional Responsibility:** Oversees recurring training functions or processes necessary to support the engagement. Develops training strategies meant to assist engagement goals and objectives. Evaluates and recommends changes to training policies or procedures. Has extensive experience with training concepts and principles. Leads and directs the work of other training operations employees and has responsibility for personnel actions including hiring, performance management, and termination. Supervision is often provided through a team of subordinate managers.

**Minimum/General Experience:** 5+ years' experience managing complex operations projects in relevant area of discipline

**Minimum Education:** Bachelor's degree or higher in a related business discipline or the equivalent required

### **Training Operations Supervisor**

**Functional Responsibility:** Supervises training operational components of an engagement. Implements and administers training functions or processes, ensuring that they are completed accurately, on time, and in compliance with established policies and regulations. Tracks training processes and reports during engagement detailing quality. Assigns staff to tasks based on availability or expertise. Monitors training operations team to ensure engagement effectiveness. Knowledge of the field's policies, procedures, and practices.

**Minimum/General Experience:** 3 years of relevant work experience in the fields of business, healthcare, public policy, vocational rehabilitation, disability services, employment services, workforce development, human services, or public policy.

**Minimum Education:** Bachelor's degree in business administration, and accounting. Appropriate certifications accepted in lieu of degree for the disciplines of social work, public policy, project management, education, and healthcare where relevant (i.e. Registered Nurse, Certified Coder, Certified Project Management Professional, Masters in Social Work, etc.)

### **Training Senior Operations Manager**

**Functional Responsibility:** Administers recurring training functions or processes necessary to support the engagement. Develops and implements strategies meant to assist the engagement objectives. Evaluates and recommends changes to training policies or procedures. Comprehensive knowledge of the field's concepts and principles. Performs complex tasks typically following established processes. Leads and directs the work of other employees and has full authority for personnel decisions.

**Minimum/General Experience:** Minimum of 5 years' experience

**Minimum Education:** Bachelor's Degree in business, Business Administration, Accounting, Social Work, Public Policy, or other closely related fields



### **Training Operations Manager**

**Functional Responsibility:** Manages daily financial operations during the engagement. Administers recurring or daily financial functions or processes necessary for audit execution. Develops and implements financial strategies meant to assist meeting engagement goals. Approves and allocates resources based on financial engagement priorities. Performs complex engagement tasks typically following established financial processes. Leads and directs the work of other employees and has full authority for personnel decisions.

**Minimum/General Experience:** Minimum of 3 years' experience

**Minimum Education:** Bachelor's Degree in business, Business Administration, Accounting, Social Work, Public Policy, or other closely related fields preferred

### **Training and Curriculum Specialist**

**Functional Responsibility:** Develops and delivers training programs. Identifies skill or knowledge gaps and develops training content in response to identified training needs. Selects training tools or training delivery mechanisms, based on the material being taught and the audience being targeted. Creates and maintains course content, manuals, or other training materials. Coordinates guest trainers or subject matter experts (SMEs). Assesses the impact of training programs by measuring employee understanding of the subject matter.

**Minimum/General Experience:** 3 years' experience in a relative subject matter area

**Minimum Education:** Bachelor's degree or higher or 5 years or more of relevant subject matter experience

### **Training Operations Analyst**

**Functional Responsibility:** Monitors and analyzes training operations that impact performance. Identifies, analyzes and solves technical training problems. Responds to customer problems and complaints. Assesses training needs and makes recommendations for change. Designs training tools to detect and report on performance. Troubleshoots and provides support to users. Performs work under direct supervision. Handles basic issues and problems and refers more complex issues to higher-level staff. Possesses entry to journey knowledge of subject matter.

**Minimum/General Experience:** Minimum of 1 years' experience

**Minimum Education:** Bachelor's Degree in business, business administration, accounting, social work, public policy, or other closely related fields.

### **Program Quality Assurance/Testing Specialist**

**Functional Responsibility:** Establishes quality assurance/testing standards for engagement processes and serves as QA and testing resource to the project. Works closely with cross-functional teams to identify and mitigate quality risks. Reviews processes and inputs to assure that established quality standards are met. Conducts root cause analysis for defects, non-conformities, or other quality failures. May be responsible for ensuring compliance with formal external quality standards. Performs work under general supervision. Handles moderately complex issues and problems and refers more complex issues to higher-level staff. Possesses solid working knowledge of subject matter. May provide leadership, coaching, and/or mentoring to a subordinate group.

**Minimum/General Experience:** Minimum of 4 years' experience

**Minimum Education:** Bachelor's Degree in a related field

### **Program Clinical/Claims Analyst**

**Functional Responsibility:** Reviews claims for irregularities, accuracy and completeness. Requests additional information, where necessary, for completion of claim processing. Reviews claims for eligibility. Maintains updated records and prepares required reports. Assists in claims cost control. Contacts individuals about claims and may provide counsel regarding the amount of benefits. Performs work under general supervision. Handles moderately complex issues and problems and refers more complex issues to higher-level staff. Possesses solid working knowledge of subject matter. May provide leadership, coaching, and/or mentoring to a subordinate group. Typically requires a bachelor's degree and 2 to 4 years of experience. Reports to: Typically reports to a department head or manager. Competencies: Problem-solving skills. Oral and written communication skills. Organizational skills.

**Minimum/General Experience:** 2 or more years of experience

**Minimum Education:** Bachelor's degree or Registered Nurse License or Registered Coder or Licensed Social Worker or High School diploma with 4 years or more relevant job experience



**Program Compliance Investigator**

**Functional Responsibility:** Promotes the use of compliance services or interventions that are necessary and appropriate, effective, and allowable. Investigates and substantiates claims/allegations of non-compliance. Establishes and tracks performance against measures of productivity, efficiency, and effectiveness. Oversees the work of staff that evaluates needs and determines necessity of plans or accuracy of charges. Collaborates to develop plans that balance quality with cost, ensuring appropriate use of resources. Prepares reports summarizing trends and identifies opportunities for cost reduction. Comprehensive knowledge of the field's concepts and principles. Performs complex tasks typically following established processes. Leads and directs the work of other employees and has full authority for personnel decisions.

**Minimum/General Experience:** At least 6 years of relevant experience in healthcare field or related work experience

**Minimum Education:** Bachelor's degree or higher and/or relevant certificate (i.e. Registered Nurse, Master of Social Work, Certified Coder, etc.)

**Substitutions:**

Public Consulting Group LLC reserves the right to make the following substitutions in the education and/or experience requirements of any of the service skill categories set forth herein.

1. One year of experience is the equivalent of one year of education.
2. One year of education is the equivalent of one year of experience.
3. Certification related to the technology is equivalent to two years of experience or education requirement.





**PUBLIC CONSULTING GROUP LLC  
GSA SCHEDULE CONTRACT PRICE LIST**

| SIN(s)                                            | LABOR CATEGORY                              | GSA PRICE<br>JANUARY<br>23, 2020 –<br>JANUARY<br>22, 2021 | GSA PRICE<br>JANUARY<br>23, 2021 –<br>JANUARY<br>22, 2022 | GSA PRICE<br>JANUARY<br>23, 2022 –<br>JANUARY<br>22, 2023 | GSA PRICE<br>JANUARY<br>23, 2023–<br>JANUARY<br>22, 2024 | GSA PRICE<br>JANUARY<br>23, 2024–<br>JANUARY<br>22, 2025 |
|---------------------------------------------------|---------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------|----------------------------------------------------------|----------------------------------------------------------|
| 54151S                                            | IT Project Director                         | \$251.78                                                  | \$257.57                                                  | \$263.50                                                  | \$269.56                                                 | \$275.76                                                 |
| 54151S                                            | IT Subject Matter Expert (SME)/Advisor      | \$246.98                                                  | \$252.66                                                  | \$258.47                                                  | \$264.41                                                 | \$270.50                                                 |
| 54151S                                            | IT Project Manager II                       | \$236.87                                                  | \$242.32                                                  | \$247.89                                                  | \$253.59                                                 | \$259.43                                                 |
| 54151S                                            | IT Project Manager I                        | \$216.61                                                  | \$221.59                                                  | \$226.69                                                  | \$231.90                                                 | \$237.24                                                 |
| 54151S                                            | System Analyst I                            | \$162.31                                                  | \$166.04                                                  | \$169.86                                                  | \$173.77                                                 | \$177.76                                                 |
| 54151S                                            | Technical Business Analyst I                | \$156.21                                                  | \$159.80                                                  | \$163.48                                                  | \$167.24                                                 | \$171.09                                                 |
| 54151S                                            | Quality Assurance Software Tester           | \$146.16                                                  | \$149.52                                                  | \$152.96                                                  | \$156.48                                                 | \$160.08                                                 |
| 54151S                                            | Developer I                                 | \$90.93                                                   | \$93.02                                                   | \$95.16                                                   | \$97.35                                                  | \$99.59                                                  |
| 522310, 531210,<br>541211, 541219,<br>and 541611, | Consulting Management Executive -<br>Senior |                                                           | \$296.73                                                  | \$303.55                                                  | \$310.53                                                 | \$317.67                                                 |
| 522310, 531210,<br>541211, 541219,<br>and 541611, | Consulting Management Executive             |                                                           | \$277.58                                                  | \$283.97                                                  | \$290.50                                                 | \$297.18                                                 |
| 522310, 531210,<br>541211, 541219,<br>and 541611, | Senior Consultant                           |                                                           | \$258.44                                                  | \$264.38                                                  | \$270.46                                                 | \$276.68                                                 |
| 522310, 531210,<br>541211, 541219,<br>and 541611, | Consultant                                  |                                                           | \$215.37                                                  | \$220.32                                                  | \$225.39                                                 | \$230.57                                                 |
| 522310, 531210,<br>541211, 541219,<br>and 541611, | Consulting Business Analyst                 |                                                           | \$167.51                                                  | \$171.36                                                  | \$175.30                                                 | \$179.33                                                 |
| 522310, 531210,<br>541211, 541219,<br>and 541611, | Consulting Senior Subject Matter<br>Expert  |                                                           | \$215.37                                                  | \$220.32                                                  | \$225.39                                                 | \$230.57                                                 |
| 522310, 531210,<br>541211, 541219,<br>and 541611, | Program Operations Director                 |                                                           | \$245.99                                                  | \$251.65                                                  | \$257.44                                                 | \$263.36                                                 |
| 522310, 531210,<br>541211, 541219,<br>and 541611, | Program Operations Supervisor               |                                                           | \$146.45                                                  | \$149.82                                                  | \$153.26                                                 | \$156.79                                                 |
| 522310, 531210,<br>541211, 541219,<br>and 541611, | Program Senior Operations Manager           |                                                           | \$201.01                                                  | \$205.63                                                  | \$210.36                                                 | \$215.20                                                 |
| 522310, 531210,<br>541211, 541219,<br>and 541611, | Program Operations Manager                  |                                                           | \$167.51                                                  | \$171.36                                                  | \$175.30                                                 | \$179.33                                                 |
| 522310, 531210,<br>541211, 541219,<br>and 541611, | Program Operations Analyst                  | \$100.76                                                  | \$103.07                                                  | \$105.44                                                  | \$107.87                                                 | \$110.35                                                 |



| SIN(s)                                            | LABOR CATEGORY                               | GSA PRICE<br>JANUARY<br>23, 2020 –<br>JANUARY<br>22, 2021 | GSA PRICE<br>JANUARY<br>23, 2021 –<br>JANUARY<br>22, 2022 | GSA PRICE<br>JANUARY<br>23, 2022 –<br>JANUARY<br>22, 2023 | GSA PRICE<br>JANUARY<br>23, 2023–<br>JANUARY<br>22, 2024 | GSA PRICE<br>JANUARY<br>23, 2024–<br>JANUARY<br>22, 2025 |
|---------------------------------------------------|----------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------|----------------------------------------------------------|----------------------------------------------------------|
| 522310, 531210,<br>541211, 541219,<br>and 541611, | Program Quality Assurance/Testing Specialist | \$95.72                                                   | \$97.92                                                   | \$100.17                                                  | \$102.48                                                 | \$104.83                                                 |
| 522310, 531210,<br>541211, 541219,<br>and 541611, | Program Clinical/Claims Analyst              | \$128.97                                                  | \$131.93                                                  | \$134.97                                                  | \$138.07                                                 | \$141.25                                                 |
| 522310, 531210,<br>541211, 541219,<br>and 541611, | Program Compliance Investigator              | \$109.82                                                  | \$112.35                                                  | \$114.93                                                  | \$117.57                                                 | \$120.28                                                 |
| 541219 and 541611                                 | Training Operations Director                 |                                                           | \$245.99                                                  | \$251.65                                                  | \$257.44                                                 | \$263.36                                                 |
| 541219 and 541611                                 | Traning Operations Supervisor                |                                                           | \$146.45                                                  | \$149.82                                                  | \$153.26                                                 | \$156.79                                                 |
| 541219 and 541611                                 | Training Senior Operations Manager           |                                                           | \$201.01                                                  | \$205.63                                                  | \$210.36                                                 | \$215.20                                                 |
| 541219 and 541611                                 | Training Operations Manager                  |                                                           | \$167.51                                                  | \$171.36                                                  | \$175.30                                                 | \$179.33                                                 |
| 541219 and 541611                                 | Training and Curriculum Specialist           | \$95.72                                                   | \$97.92                                                   | \$100.17                                                  | \$102.48                                                 | \$104.83                                                 |
| 541219 and 541611                                 | Traning Operations Analyst                   | \$105.79                                                  | \$108.23                                                  | \$110.72                                                  | \$113.26                                                 | \$115.87                                                 |

| SIN    | MFR PART NO       | PRODUCT DESCRIPTION                                                                                                  | GSA PRICE | COO |
|--------|-------------------|----------------------------------------------------------------------------------------------------------------------|-----------|-----|
| 511210 | EdPlan-EasyIEP-ON | EdPlan - Special Education Management System - EasyIEP - Annual License – Per Special Education Student – On Premise | \$12.92   | US  |



Office of the City Manager

CONSENT CALENDAR  
February 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: David Sprague, Interim Fire Chief  
 Subject: Contract: Forster & Kroeger Landscape Maintenance for Chipping Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments, with Forster & Kroeger Landscape Maintenance to provide Chipping Services for two years from May 1, 2023 until April 30, 2025 in the amount not to exceed \$700,000.

FISCAL IMPACTS OF RECOMMENDATION

The FY 2023 and FY2024 Adopted Budget includes funding for vegetation management and fuel reduction efforts from a variety of sources that is available for use toward the cost of chipping services, including within the Fire Department (General Fund, Measure FF and/or UC Settlement Fund), Parks, Recreation and Waterfront (General Fund) and/or Public Works (Zero Waste Fund). The Fire Department is pursuing grants to offset the cost of this service and upon grant approval, these funds would be added to the Department budget through the Annual Appropriation Ordinance (AAO) process. Funding for FY 2025 is contingent upon the adoption of the FY 2025 & FY 2026 biennial budget.

CURRENT SITUATION AND ITS EFFECTS

The City's current chipping program has been in operation for over a decade and serves only eight limited areas within Berkeley where residents pay a fire district surcharge. To support wide-spread and significant thinning and removal of vegetation that is anticipated to occur as part of the City's work to create more defensible space beginning in calendar year 2023, the chipping program will be modernized and potentially expanded to serve a larger portion of the City.

One of the key modernizations already in implementation is a piece of software that will provide easy online scheduling for residents, optimized route planning for the contractor, real-time data collection from the contractor, and management tools for the City. Program managers can track activity, measure performance and easily produce reports for grants and community updates.

F&K is the only vendor that has adequate staff and equipment to service Berkeley and over two years of experience working directly with the referenced software. F&K also has a detailed understanding of the event-based, curbside chipping program model planned this summer. Additionally, F&K has the following certifications and licenses: State Contractor's License with a C-27 certification (#748791); Small Business (Micro) certification, with a 721029 classification, by the California Department of General Services (#18296); certification as a State Minority Business Enterprise with the California Department of Transportation (#31098); registration with the California Department of Industrial Relations (#1000027030).

### BACKGROUND

F & K responded to a Request for Proposal and was selected after submitting the most competitive bid. This RFP was publicly released on January 17th, 2022 by Fire Safe Marin. All chipping contractors in the area were eligible to bid on the project. Requirements for a complete bid offer included past experience running a full-service curbside chipping program and the ability to provide at least four, 3-person crews for work between Monday and Thursday over a 22-week period between May and October. Contractors were also required to submit detailed equipment lists that included multiple sized box trucks ranging from 14 to 24 cubic yard capacity as well as being able to supply their own chippers. This was necessary to ensure that there was enough equipment available to provide daily service and access to small roads in the hills.

All contractors were required to supply proof of insurance and liability coverage and agree to an onsite inspection of their service yard and equipment. In total, Fire Safe Marin received bids from 4 local contractors. A planning team made up of representatives from the five Marin Wildfire Prevention Authority JPA districts which includes Bolinas Fire District, City of Larkspur, City of Mill Valley, City of San Rafael, County of Marin Fire, Inverness Fire District, Kentfield Fire District, Marinwood Community Services District, Muir Beach Community Services District, Novato Fire District, Sleepy Hollow Fire District, Southern Marin Fire District, Stinson Beach Fire District, Town of Corte Madera, Town of Fairfax, Town of Ross, and the Town of San Anselmo reviewed all the bids and selected Forster & Kroeger Landscape Maintenance.

While Fire Safe Marin is a non-profit 501(c)3, the RFP process followed the customary procurement procedures and best practices utilized by all Marin County government agencies (e.g. – Fire Protection Districts, Special Protection Districts, JPAs, etc.). The planning team overseeing the RFP process included government employees from the jurisdictions that make-up the Marin Wildfire Prevention Authority (MWPA). All these employees had decades of experience overseeing RFPs for their respective agencies. Lastly, the contract between the MWPA and the winning bidder (Forster & Kroeger) was drafted by lawyers representing the MWPA. Fire Safe Marin was simply the organization that handled the administrative functions associated with publishing the RFP.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This program will support the removal and thinning of hazardous vegetation which will create more defensible space and help prevent a wildfire from becoming a conflagration. A smaller wildfire will generate a smaller volume of smoke if one does ignite in or adjacent to the City.

RATIONALE FOR RECOMMENDATION

It is critically important that this program and contractor are in place by Spring 2023 for a successful delivery in early Summer 2023. This contract will provide two-seasons of service from F & K, who has implemented an equally complex program in Marin County.

ALTERNATIVE ACTIONS CONSIDERED

Purchasing the necessary apparatus, equipment and hiring numerous part-time employees required to run the program. This would be significantly more expensive and require a degree of management and supervision that the City does not have staff to fulfill.

CONTACT PERSON

David Sprague, Interim Fire Chief, (510) 981-3473

Attachment

1. Resolution

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

CONTRACT: FORSTER & KROEGER LANDSCAPE MAINTENANCE FOR CHIPPING SERVICES

WHEREAS, the City's current chipping program has been in operation for over a decade and serves only eight limited areas within Berkeley where residents pay a fire district surcharge, and

WHEREAS, to support wide-spread and significant thinning and removal of vegetation that is anticipated to occur as part of the City's work to create more defensible space beginning in calendar year 2023, the chipping program will be modernized and potentially expanded to serve a larger portion of the City, and

WHEREAS, Forster & Kroeger Landscape Maintenance responded to a Request for Proposal and was selected after submitting the most competitive bid through an RFP publicly released on January 17th, 2022 by Fire Safe Marin.

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 Forster & Kroeger Landscape Maintenance to provide Chipping Services for two years from May 1, 2023 until April 30, 2025 in the amount not to exceed \$700,000.



Office of the City Manager

CONSENT CALENDAR

February 14, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing and Community Services

Subject: Revenue Contract: 2023 Community Services Block Grant

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to accept the Community Services Block Grant (CSBG) Contract Number 23F-4001 in the amount of \$293,705 to provide services for low-income people for the period January 1, 2023 to May 31, 2024.

FISCAL IMPACTS OF RECOMMENDATION

Berkeley's CSBG allocation for the period of January 1, 2023 to May 31, 2024 is \$293,705 (Community Action Program Fund #334). The CSBG allocation amount is included in the City's anti-poverty Community Action Fund and supports oversight and management of anti-poverty funds within the Department of Health, Housing and Community Services (HHCS). Unlike the City's budget, the CSBG grant period starts with the calendar year. Because the 17-month grant period spans two City fiscal years, half of the funds will be budgeted in FY 2023 and the other half will be budgeted in FY 2024. The additional appropriation will be made as part of the Second Amendment to the FY 2023 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

The City is a Community Action Agency (CAA) and therefore receives CSBG to support anti-poverty programs. CSBG funds are part of the federal Department of Health and Human Services budget passed through the state to local CAAs. Historically, the City has awarded CSBG funds to community service programs.

The Human Welfare and Community Action Commission (HWCAC) acts as the tripartite advisory Board for CSBG funding. As such, it is responsible for reviewing performance of funded programs, reviewing compliance with the implementation of the community action program, and advising Council on CSBG funding decisions. The Berkeley City Council is responsible for all final CSBG funding decisions.

At its January 18, 2023 meeting, the HWCAC passed a motion to recommend that the City accept the CSBG Funds and contract for 2023 (M/S/C: Sood/Bookstein. Ayes: Bookstein, Lippman, Sood, Zou. Noes: None. Abstain: Behm-Steinberg. Absent: Sim.

BACKGROUND

CSBG supports the City of Berkeley's anti-poverty efforts at a minimum funded level. In 2016 and 2017, the City received \$265,577. In 2019 and 2020, the award was increased to \$266,863 and \$307,106, respectively. In 2021, the award was \$275,106, and in 2022 the award slightly decreased to \$274,202. CSBG funds complement anti-poverty General Funds which are used for other critical community services, including disability and senior services, medical care, child care, and additional homeless services.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

The CSBG is necessary to support the provision of services for residents living in poverty in Berkeley.

ALTERNATIVE ACTIONS CONSIDERED

The City could choose to reject CSBG funding. This would reduce funding available for services to low-income Berkeley residents and is therefore not recommended.

CONTACT PERSON

Mary-Claire Katz, Associate Management Analyst, Health, Housing and Community Services, (510) 981-5414.

Attachments:

1: Resolution



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

REVENUE CONTRACT: 2023 COMMUNITY SERVICES BLOCK GRANT (CSBG)

WHEREAS, the City of Berkeley is a Community Action Agency and receives CSBG funds as the Berkeley Community Action Agency to support anti-poverty programs; and

WHEREAS, the Human Welfare and Community Action Commission (HWCAC) acts as an advisory tri-partite Board to the Council providing public participation in the governing process; and

WHEREAS, at the January 18, 2023 HWCAC meeting a motion was passed recommending that the City accept the Community Service Block Grant Funds; and

WHEREAS, this CSBG revenue contract is for the period of January 1, 2023 to May 31, 2024, with the option to extend the contract period and/or accept amendments that either increase the contract amount and/or update contract terms, for a contract amount of \$293,705 (Fund 334); and

WHEREAS, the funds have historically been used to support anti-poverty services and to support City of Berkeley oversight and management of anti-poverty programs (budget code (Fund 334).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to accept Community Service Block Grant Contract Number 23F-4001 for the amount of \$293,705, and execute any resultant agreements and amendments including amendments that may decrease or increase the contract amount or add discretionary funding, or to change the contract term, or to update contract terms, to provide low-income services for the time period January 1, 2023 to May 31, 2024, with the option to extend the contract period as amended by the California State Department of Community Services and Development. A record signature copy of said agreement and any amendments shall be on file in the office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
February 14, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing and Community Services

Subject: Inclement Weather Shelter Program Funding Request and Contract No. 31900284 Amendment- Dorothy Day House (DDH) to Operate an Inclement Weather Shelter

RECOMMENDATION

Adopt a Resolution allocating an additional \$292,185 from Measure P to the Inclement Weather Shelter Program for a total allocation of \$412,185, and authorizing the City Manager or her designee to execute an amendment to Contract No. 31900284 with Dorothy Day House (DDH) to add \$190,260 to operate an inclement weather shelter for up to 127 nights from December 3, 2022 through April 15, 2023 for a total contract amount not to exceed \$4,211,173.

FISCAL IMPACTS OF RECOMMENDATION

At its December 13, 2022 meeting, City Council allocated \$120,000 in Measure P (011-5002) to activate a inclement winter weather shelter (Shelter) for up to 45 days. The total amount of Measure P funds needed to cover both the City and operator costs to increase Shelter operations for up to 127 days is \$412,185, which will require an additional \$292,185 allocation from Measure P. The amount needed for DDH's portion of the Shelter operating costs is \$190,260. Measure P funds are available and, if approved by Council, will be added to the budget in the Second Amendment to the FY 2023 Annual Appropriations Ordinance (AAO#2).

CURRENT SITUATION AND ITS EFFECTS

Staff recommend that the Council allocate an additional \$292,185 in Measure P funds for the inclement weather shelter program and authorize an amendment to the City's contract with DDH so that the number of nights the Shelter can operate this winter can increase from 45 to up to 127. The extended operations and high usage also requires the addition of security, an increase in program coordination and nightly staffing, and the purchase of additional supplies, such as ponchos and blankets to improve the Shelter's operations and services.

At its December 13, 2022 meeting, City Council allocated \$120,000 to cover both City and operator costs to operate an inclement weather shelter at North Berkeley Senior Center for up to 45 nights from December 3, 2022 through April 15, 2023.

In anticipation of severe weather, Department of Health, Housing and Community Services' Housing and Community Services Division (HHCS/HCS) staff started working with DDH in December to activate an overnight inclement weather shelter at the North Berkeley Senior Center when the nightly forecast was 45 degrees or lower or 50% chance of rain.

These additional shelter activities were not specifically covered in DDH's current winter shelter contract, but DDH was able to quickly activate staff to open an overnight inclement weather shelter starting on December 3, 2022. The ongoing severe – cold and wet - weather conditions have resulted in a much higher rate of activation than originally planned for. One source shows that more than 19 inches of rain have fallen in Berkeley between December 1, 2022 and January 11, 2023.

As a result, DDH has activated the warming center 41 times (91% of the total planned) and provided more than 1,152 bednights of shelter; meaning the number of times a bed was filled for the night, in that same time period. In addition, DDH has agreed to extend the morning hours from 6:30 AM to 8:00 AM, in order to better bridge warming center hours with nearby drop-in center opening hours. Staff projects that adding these additional nights and hours will exceed budgeted costs, requiring an additional appropriation. With such a high rate of activation, HHCS is recommending sufficient budget to operate up to 127 nights total, though fewer may be required depending on weather conditions.

The estimated total costs for operating the Shelter for 127 nights this winter are detailed in Table 1 below:

Table 1

| <b>Inclement Weather Shelter Budget - 127 Days</b> |                   |
|----------------------------------------------------|-------------------|
| <b>Line item expense (per day)</b>                 | <b>per day</b>    |
| City Staff - building monitor                      | \$ 975            |
| Service Provider staffing costs - per day          | \$ 1,331          |
| Food                                               | \$ 35             |
| Building Maintenance and Supplies                  | \$ 300            |
| <b>Per day cost of operations</b>                  | <b>\$ 2,536</b>   |
| Estimated # of activated days                      | \$ 127            |
| <b>Subtotal of per day costs</b>                   | <b>\$ 335,425</b> |
| <b>Line item expense (other)</b>                   |                   |
| Shelter Coordinator (DDH)                          | \$ 4,060          |
| Program Supplies                                   | \$ 3,100          |
| Sat/Sun dinners                                    | \$ 9,600          |
| Security Contract                                  | \$ 50,000         |
| Transportation                                     | \$ 10,000         |
| <b>Subtotal of other costs</b>                     | <b>\$ 76,760</b>  |
| <b>TOTAL EXPENSE</b>                               | <b>\$ 412,185</b> |

**BACKGROUND**

The City currently provides 218 shelter beds. This includes beds accessible through the North County Housing Resource Centers, operated by Bay Area Community Services (BACS) and Women’s Daytime Drop-in Center (WDDIC) and non-congregate units coordinated by the City of Berkeley. While Berkeley shelters have started to bring occupancy numbers up to pre-pandemic levels, and the City has added non-congregate beds, the closure of 30 transition age youth shelter beds in 2020 and the temporary loss of 16 (COVID census) women’s shelter beds due to a fire at 2140 Dwight Way fire has reduced the total number of beds available in Berkeley to 81% of pre-COVID total shelter capacity. On most nights, the shelters are nearly full. City and DDH staff continue to refer people staying at the Shelter to the North County Housing Resource Center to gain access to a year-round shelter bed.

In addition to the inclement weather shelter, the City also supports DDH’s Berkeley Emergency Storm Shelter program, which opened in early October and will operate 24/7 until late April. This represents a longer season than in the past two years, when the shelter operated from late November through Mid-April.

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

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

RATIONALE FOR RECOMMENDATION

Dorothy Day House has a long history of operating Berkeley's inclement weather shelter program and was able to pivot quickly this year. Shelter operations will help mitigate the impact of the protracted period of severe weather this winter for unhoused residents.

ALTERNATIVE ACTIONS CONSIDERED

Due to the immediate action needed to provide shelter from inclement weather to people living on the streets in Berkeley, no alternative to activating an inclement weather shelter program was considered.

CONTACT PERSON

Jennifer Vasquez, Community Services Specialist III, (510) 981-5431

Attachments:

1: Resolution

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

CONTRACT NO. 31900284 AMENDMENT: DOROTHY DAY HOUSE TO OPERATE  
AN INCLEMENT WEATHER SHELTER

WHEREAS, the City of Berkeley is committed to providing a humane response to addressing homelessness; and

WHEREAS, the City of Berkeley has historically implemented a seasonal winter shelter program; and

WHEREAS, Dorothy Day House, has a long history of activating Berkeley's Emergency Storm Shelter when weather was forecast to be 45 degrees or colder or there is a 50% chance of rain for up to 45 nights during the winter season; and

WHEREAS, at its December 13, 2022 City Council meeting Council authorized expenditures of up to \$120,000 to cover costs for both City and operator inclement weather shelter expenses for up to 45 nights; and

WHEREAS, severe weather conditions have increased the need for an inclement weather shelter beyond 45 nights; and

WHEREAS, the estimated City and operator costs of operating up to 127 nights of inclement weather shelter is \$412,185, and

WHEREAS, Dorothy Day House has agreed to expand its Berkeley Emergency Storm Shelter (BESS) winter shelter operations to include an inclement weather shelter for up to 127 nights from December 3, 2022 through April 15, 2023; and

WHEREAS, Dorothy Day Hose has an existing contract with the City of Berkeley, Contract No. 31900284; and

WHEREAS, funds in the amount of \$190,260 are needed for Dorothy Day House to operate the inclement weather shelter for up to 127 days from December 3<sup>rd</sup> through April 15, 2023; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that an additional \$292,185 in Measure P funds will be allocated to the inclement weather shelter program and appropriated to the budget as part of AA02 for a total program allocation of \$412,185; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute an amendment for Contract No. 31900284, with Dorothy Day House to add \$190,260 for a total contract not to exceed amount of \$4,211,173 for the purpose of operating an inclement weather shelter program for up to 127 nights from December 3, 2022 through April 15, 2023; and

BE IF FURTHER RESOLVED that a payment of \$80,000 will be advanced prior to contract amendment execution to cover staffing and operating costs accrued since December 3, 2022; and

A record signature copy of said contract and any amendments to be on file in the City Clerk Department.





Office of the City Manager

CONSENT CALENDAR  
February 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing and Community Services  
 Subject: Contract: Resources for Community Development for Martin Luther King Jr. House – Mental Health Services Act Operating Support

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract with Resources for Community Development (RCD) for Martin Luther King Jr. (MLK) House in the amount of \$107,890, to support hiring additional on-site staff to monitor the 12-room, transitional Single-Room Occupancy housing development.

FISCAL IMPACTS OF RECOMMENDATION

On July 26, 2022, City Council approved the allocation of \$107,890 to MLK House in the Mental Health Services Act (MHSA) Fiscal Year 2023 Annual Plan Update. There is no increase in funds involved with this request. City Council approval is required to execute a contract to disburse the funds to RCD for MLK House.

The funding will come from MHSA Community Services and Supports System Development, Fund #315.

CURRENT SITUATION AND ITS EFFECTS

MLK House is a 12-room, Single-Room Occupancy (SRO) housing development that serves formerly homeless individuals. The property is owned by Resources for Community Development (RCD) and managed by RCD's property management partner, the John Stewart Company (JSCo).

In recent years and more so in the last two years of the pandemic, RCD/JSCo has experienced challenges in operating the property. The residents, who are now referred through Alameda County's Homestretch Coordinated Entry System (CES), are the highest need homeless individuals in the CES system. They have higher service needs than was intended for the existing service design at MLK House. The lack of adequate supportive services for the residents has led to problems which have adversely affected the physical condition and security of the property.

Seven of the twelve rooms at MLK House are currently occupied by program participants who receive rental subsidy from Shelter Plus Care and case management from Berkeley Mental Health (BMH). Currently, one (1) room is being used as a field office for BMH case management staff at the recommendation of Housing and Community Services (HCS) and BMH staff. City Shelter Plus Care staff occasionally use the office space as well. The increased onsite presence has already led to a reduction of conflicts amongst the residents.

During this same timeframe, RCD has been operating at a deficit. Even with the rental subsidy from Shelter Plus Care, the property is challenged with vacancies and ongoing and extensive repair costs. RCD has had to draw from replacement reserves to cover repair bills for the property. In FY 2022, RCD has withdrawn \$32,000 in replacement reserves to cover operating deficits. In addition, the property is aging and in need of upgrades to maintain habitability. In 2021, City Council approved a \$1.18M Housing Trust Fund rehabilitation loan to RCD which will allow them to address some of the repairs and upgrades that will improve health and safety, as well as security at the property.

In September 2021, RCD initiated conversations with HCS and BMH staff with a proposal to transfer ownership of the property to a qualified operator at the earliest date possible. After a year-long search, RCD presented a possible candidate to assume ownership and operation of MLK House. City staff are reviewing RCD's proposal and will take a recommendation to Council for consideration in early 2023. In the interim, the MHSA funds will allow RCD to increase on-site property management by 40-60 hours a week, which is equal to 1.5 staff. The additional staff presence will increase oversight of MLK House resident activity and improve security at the property. The MHSA operating funds will also relieve RCD's need to withdraw from reserves to cover operating costs, allowing the reserves to be used as intended - to cover the cost of capital improvements and deferred maintenance.

Providing operating support to MLK House meets a Strategic Plan Priority of providing and maintaining affordable housing and support service for our most vulnerable community members.

### BACKGROUND

MLK House is a two story, 12-room residential property that was acquired and rehabilitated by RCD to provide supportive housing for 12 homeless adults.

Prior to the CES system, referrals were made to MLK House through the Berkeley Mental Health (BMH) Housing Committee which screened potential residents for both program requirements (HUD homeless, disabled, low income, BMH participants) as well as criteria such as service engagement, ability to abide by MLK House rules and live cooperatively with other residents safely. Applicants were also expected to have taken steps to resolve issues that may have caused loss of prior housing (i.e., getting a

representative payee, drug treatment participation, etc.). The BMH Housing Committee consisted of BMH treatment supervisors and was facilitated by Housing and Community Services staff who also managed the Shelter Plus Care rental assistance program. This partnership allowed for BMH and Shelter Plus Care to do further screening of potential residents which is no longer practiced by either program.

While the residents receive case management available to them through the CES program, it is nowhere near the level required for people who are severely and persistently mentally ill. While most MLK residents do receive Berkeley Mental Health services, these voluntary services generally include weekly to monthly meetings with BMH clinical case managers. There are no BMH or other services staff sited at MLK House and residents are expected to have the skills to live independently and to follow house rules. This model is very different from RCD's focus today, which is large independent living properties, many with permanent supportive housing units but also more substantial staffing than the MLK House model currently permits.

Although RCD's property management partner, JSCo, is an experienced property management company, property management competencies do not include specialized skills related to housing formally unhoused individuals in supportive housing. The type of oversight required by current MLK House residents no longer fits RCD and JSCo's operations. While a new operator/owner is being sought, additional onsite service support is needed to achieve stability and safety for the residents and the property.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No impact. The MHSA Community Services and Supports funds will be used to hire on-site property management. No environmental impacts were identified.

#### RATIONALE FOR RECOMMENDATION

The purpose of the MHSA Community Services and Support funds is to assist MLK House in securing additional on-site property management staff. Increased on-site staff presence is critical in order to promote health and safety of the residents, as well as security of the property.

#### ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered as without these MHSA funds RCD will not be able to support the continued staff presence required.

#### CONTACT PERSON

Lourdes Chang, Community Development Project Coordinator, HHCS, (510) 981-5263

Attachments:

1: Resolution

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

CONTRACT: RESOURCES FOR COMMUNITY DEVELOPMENT FOR MARTIN LUTHER KING JR. HOUSE – MENTAL HEALTH SERVICES ACT OPERATING SUPPORT

WHEREAS, the Department of Health, Housing and Community Services, Mental Health Division is allocated annual funding under the State Mental Health Services Act (MHSA) for the provision of comprehensive mental health services; and; and

WHEREAS, the Mental Health Division works cooperatively and in partnership with community-based agencies in the provision of such mental health services; and WHEREAS, Resources for Community Development (RCD), a nonprofit housing development organization, owns and operates MLK House, a 12-room, affordable Single-Room Occupancy (SRO) housing development whose residents are the highest needs homeless individuals in the County's Coordinated Entry System (CES); and

WHEREAS, RCD has requested City assistance to support hiring on-site property management, which is critical to maintaining health and safety, as well as security of the property and the residents of MLK House; and

WHEREAS, on July 26, 2022, City Council approved the MHSA FY 2022-23 Annual Update, which included allocating \$107,890 of MHSA Community Services and Supports System Development Funds to support the MLK House in acquiring on-site property management to support on-site management: and

WHEREAS, funds are available in the Fiscal Year 2023 budget code #315 in the MHSA fund received from the State of California; and

WHEREAS, City Council approval is required to execute a contract to disburse the funds for MLK House.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute a contract and any amendments with Resources for Community Development to support the Martin Luther King Jr. House in acquiring on-site property management in an amount not to exceed \$107,890. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.



Office of the City Manager

CONSENT CALENDAR  
February 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Jordan Klein, Director, Planning and Development Department  
 Subject: Mills Act Contract – 2523 Piedmont Avenue

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to enter into a Mills Act contract with Wilson Wong and Christian Kwan for the City Structure of Merit property at 2523 Piedmont Avenue.

FISCAL IMPACTS OF RECOMMENDATION

Approving the Mills Act contract for the City Landmark property at 2523 Piedmont Avenue would reduce the property tax bills for the owners by an estimated total of approximately \$8,400 in year one, approximately 30% of which (\$2,500) would be diverted from Berkeley's tax revenue. Final amounts are determined by Alameda County after contract execution. This will be an annual impact to the City's tax revenue, as the contract runs for ten years, in comparable annual amounts, and automatically renews annually thereafter unless notice of nonrenewal is given. In turn, the work plan commits the owners to spending the anticipated tax savings on restoring the landmarked property. The Mills Act also specifies procedures for cancellation of the contract for a breach of conditions.

Council approval will allow property tax reduction for this property to begin in the 2024-2025 fiscal year.

CURRENT SITUATION AND ITS EFFECTS

On February 3, 2022, the property at 2523 Piedmont Avenue was designated as a City of Berkeley Structure of Merit, making the property owner eligible to take advantage of the Mills Act (see Attachment 2).

On August 4, 2022, the Landmarks Preservation Commission (LPC) reviewed the proposal by the present owners, Wilson Wong and Christina Kwan, to enter into a Mills Act contract for 2523 Piedmont Avenue, including a proposed scope of work and maintenance schedule, and voted 6-2-0-1 to recommend approval of the Mills Act Contract application to City Council (Moved/Second Crandall/Adams; Yes: Adams,

Crandall, Enchill, Leuschner, Linvill, Montgomery; No: Schwartz, Twu; Abstain: none; Absent: Finacom).

BACKGROUND

The Mills Act allows owners of historic properties to voluntarily enter into individual contracts with the City, in order to obtain limited ad valorem tax relief at the discretion of host jurisdictions, in exchange for maintaining and restoring their historic property. The property tax savings are offered to create an incentive for owners to maintain their historic properties, to designate historic properties that are currently not protected, and to purchase and upgrade already dilapidated historic properties.

In Berkeley, owners of those properties designated by the LPC as either a Landmark or a Structure of Merit may apply for a Mills Act contract. The Alameda County Assessor uses a formula, consistent with the provisions of the Mills Act, to determine the amount of property tax reduction, which applies a capitalization rate to the calculated net operating income for the property under the Mills Act contract. The Mills Act application includes a ten-year work plan to restore and maintain the subject property. The total investment in the work plan is intended to equal or exceed the total amount of the property tax relief over the contract period.

On February 24, 1998, the Berkeley City Council passed Resolution No. 59,355-N.S., which authorizes the local use of the Mills Act of 1972, as amended, which is codified in California Government Code Section 50280-90 and Revenue and Taxation Code Section 439.

In 2011, State law was amended to include more specific requirements regarding inspection, fees, and cancellation. The amendments clarified that the local legislative body may require fees for providing services pursuant to the Mills Act; shall inspect the property prior to a new agreement and then every five years thereafter; and shall cancel the contract if it determines that the owner has breached the conditions of the contract. As a result of these amendments, Land Use Planning fees for the approval and monitoring of these contracts were added in July 2012, and an ongoing inspection program is in place.

RATIONALE FOR RECOMMENDATION

In order to qualify for Mills Act consideration, 1) the property must qualify as historic; 2) the contract must adequately meet the requirements for Mills Act contracts; and 3) the type of improvements outlined in the work plan must meet the City standards, which require that tax savings be used according to the rules and regulations outlined in the Act.

The property located at 2523 Piedmont Avenue is eligible for the Mills Act contract because it is a Berkeley Structure of Merit. The contract template has been reviewed

by the City Attorney's Office for conformance to all relevant City and State regulations. Finally, the contract includes a comprehensive work plan that the property owner has agreed to complete within the first ten-year contract period (see Attachment 3) and that provides for the property "use, maintenance and restoration as to retain its characteristics as property of historical significance." The LPC has concluded that the proposed work plan meets the standards adopted by the City Council, and the costs of the proposed improvements are anticipated to equal or exceed the tax savings afforded the owners.

ENVIRONMENTAL SUSTAINABILITY & CLIMATE IMPACTS

Approval of the contract would encourage historic resource rehabilitation, materials conservation, and construction and demolition waste diversion.

ALTERNATIVE ACTIONS CONSIDERED

The Council could deny the application if it found that it did not satisfy the requirements of the Act.

CONTACT PERSON

Jordan Klein, Director, Planning and Development Department, 510-981-7534  
Fatema Crane, Senior Planner/LPC Secretary, 510-981-7413

Attachments:

1. Draft City Council Resolution
2. LPC NOD, Structure of Merit Designation for 2523 Piedmont Avenue, April 25, 2022
3. Rehabilitation and Maintenance Plan, received May 31, 2022
4. LPC Staff Report August 4, 2022

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

AUTHORIZING THE CITY MANAGER TO EXECUTE A MILLS ACT CONTRACT AND ANY NECESSARY AMENDMENTS WITH WILSON WONG, FOR THE MAINTENANCE AND RESTORATION OF A HISTORIC PROPERTY LOCATED AT 2523 PIEDMONT AVENUE, IN RETURN FOR THE OWNER TO OBTAIN A PROPERTY TAX REDUCTION

WHEREAS, on February 24, 1998, the Berkeley City Council adopted Resolution No. 59,355-N.S. which authorized the use of Mills Act contracts; and

WHEREAS, on February 3, 2022, 2523 Piedmont Avenue was designated as a City of Berkeley Structure of Merit and became eligible to take advantage of the Mills Act; and

WHEREAS, on August 4, 2022, the Landmarks Preservation Commission reviewed the proposed projects listed in the Mills Act Contract Application for 2523 Piedmont Avenue, and recommended that the City Council enter into a Mills Act contract with the property owner; and

WHEREAS, the City of Berkeley Mills Act program requires each contract to be approved by the City Council and signed by the City Manager; and

WHEREAS, the City Council, in light of all evidence, finds that the contract is consistent with the purposes of the Mills Act program.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Manager is authorized and directed to execute a Mills Act Contract and any necessary amendments with Wilson Wong and Christina Kwan for the maintenance and restoration of the historic property located at 2523 Piedmont Avenue and in return offer a property tax reduction for a period of at least ten years, with a recorded copy of such contract and amendments to be on file in the Office of the City Clerk and Alameda County Clerk- Recorder.





L A N D M A R K S  
P R E S E R V A T I O N  
C O M M I S S I O  

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N O T I C E O F D E C I S I O N

**DATE OF BOARD DECISION: February 3, 2022**  
**DATE NOTICE MAILED: April 25, 2022**  
**APPEAL PERIOD EXPIRATION: May 10, 2022**  
**EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): May 11, 2022<sup>1</sup>**

## **2523 Piedmont Avenue**

### **The Wurts-Lenfest House**

**Landmark application (#LMIN2021-0004) for consideration of City Landmark or Structure of Merit designation status for a single-family residence – APN 055-1851-022-00.**

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following designation:

- City of Berkeley Structure of Merit, pursuant to Berkeley Municipal Code Section 3.24.110.B

**INITIATED BY:** Petition of Berkeley Residents

**ZONING DISTRICT:** Restricted Multiple-Family Residential (R-2A)

**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines -- Review for Exemptions.

**The application materials for this project are available online at:**  
<http://www.cityofberkeley.info/zoningapplications>

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<sup>1</sup> Pursuant to BMC Section 23B.32.090, the City Council may “certify” any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structure of Merit designation status - #LMIN2021-0004  
2523 Piedmont Avenue – Wurts-Lenfest House  
May 10, 2022  
Page 2 of 4

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

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**COMMISSION VOTE: 9-0-0-0**

**YES:** ADAMS, CRANDALL, ENCHILL, FINACOM, JOHNSON, LEUSCHNER,  
MONTGOMERY, SCHWARTZ, TWU

**NO:** None

**ABSTAIN:** None

**ABSENT:** None

**TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):**

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley; or by facsimile to (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.
  - a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the Commission made under the provisions of Chapter 3.24.
2. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
3. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
  - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
  - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
  - c. The fee for all appeals by Applicants is \$2500.

If no appeal is received, the landmark designation will be final on the first business day following expiration of the appeal period.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structure of Merit designation status - #LMIN2021-0004  
2523 Piedmont Avenue – Wurts-Lenfest House  
May 10, 2022  
Page 3 of 4

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

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

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a “taking” of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must include the following information:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a “taking” as set forth above.

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

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structure of Merit designation status - #LMIN2021-0004  
2523 Piedmont Avenue – Wurts-Lenfest House  
May 10, 2022  
Page 4 of 4

**PUBLIC COMMENT:**

Communications to Berkeley boards, commissions or committees 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 a City board, commission or committee, 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 secretary of the relevant board, commission or committee. 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 secretary to the relevant board, commission or committee for further information.

**FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or [fcrane@cityofberkeley.info](mailto:fcrane@cityofberkeley.info) or [lpc@cityofberkeley.info](mailto:lpc@cityofberkeley.info)

**ATTACHMENTS:**

- 1. Findings and Conditions
- 2. Landmark application



**ATTEST:** \_\_\_\_\_  
Fatema Crane, Secretary  
Landmarks Preservation Commission

Cc: City Clerk  
Property Owner: Wilson Wong & Christina Kwan, 2523 Piedmont Ave., Berkeley, CA  
Applicants: Claremont Elmwood Neighborhood Association, P. O. Box 5108, Berkeley, CA

ATTACHMENT 1, PART 2

FINDINGS FOR APPROVAL

FEBRUARY 3, 2022

**2523 Piedmont Avenue – The Wurtz-Lenfest House**

**City of Berkeley Landmark Application #LMIN2021-0004**

PROJECT DESCRIPTION

Structure of Merit Designation of the property at 2523 Piedmont Avenue [APN 055 185102200] – The Wurtz-Lenfest House

CEQA FINDINGS

1. The project is found to be exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15061.b.3 of the CEQA Guidelines (activities that can be seen with certainty to have no significant effect on the environment).

LANDMARK PRESERVATION ORDINANCE FINDINGS

2. Pursuant to Berkeley Municipal Code (BMC) Section 3.24.110.B.2.c of the Landmarks Preservation Ordinance, and based on the evidence presented in the Landmark application, the Landmarks Preservation Commission of the City of Berkeley (Commission) finds that the subject property exhibits architectural merit as a good example of the East Shingle Cottage, also known as the High-Peaked Colonial Revival House. The subject main building dates to the period during which this regional style emerged and retains all of its character-defining features, including: a steeply-pitched roof with front-facing gable, horizontal wood siding on the lower story and wood shingles on the upper story; recessed entry porch with partial height pony walls and classical column posts; bay window at lower story of front elevation; windows in front gable with shingles curving inward to meet the frame; wood windows throughout with painted sashes and broad, flat trim. Further, the building retains its original design, materials and workmanship, which are the National Park Service's hallmarks of architectural integrity. For these reasons, the property and building warrant designation status as a City of Berkeley Structure of Merit.
3. Further, the Commission finds that property was the long-time residence of David Mundstock, a key figure in the development of progressive politics and government in Berkeley. Mundstock was the author of major reforms in elections, fair representation, and local government structure and policies; he was a community historian who compiled records and analysis of his era.
4. The property is one of four, extant residences in the immediate area that was developed by Rebecca Snyder Wurts and Myron Le Fevre Wurtz.

FEATURES TO BE PRESERVED, OR RESTORED WHERE POSSIBLE

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This designation shall apply to the subject property and the following distinguishing features shall be preserved:

Main Building

- Two-story massing, with A-frame upper story roughly twice the height (at the ridge) than the lower story
- Recessed main entry porch, with partial-height walls topped with classical columns
- Wood exterior materials and trim, including shingles on the upper story and horizontal, narrow gauge clapboard siding on lower story
- Bay window on lower floor at front facade
- Original wood main door, including glazing in the upper half and ornamental wreath detail within the lower half
- Twenty-seven original wood windows including: west/front elevation (at ground floor and upper floors) containing double-hung with true-divided-lites and ogee lugs at the upper sash; north/side elevation (at ground and upper floors) containing double-hung with true-divided-lites and ogee lugs at the upper sash and (at upper floor) containing a horizontally-oriented, fixed true divided lite window; south/side elevation (at ground and upper floors) containing double-hung with true-divided-lites and ogee lugs at the upper sash; and east/rear (at ground and upper floors) containing double-hung with true-divided-lites and ogee lugs at the upper sash and (ground) true-divided lite wood door.

Received  
OCT 04 2021  
Land Use Planning

**CITY OF BERKELEY**  
*Ordinance #4694 N.S.*  
**LANDMARK APPLICATION**

**Wurts-Lenfest House**  
**2523 Piedmont Avenue**  
**Berkeley, California**

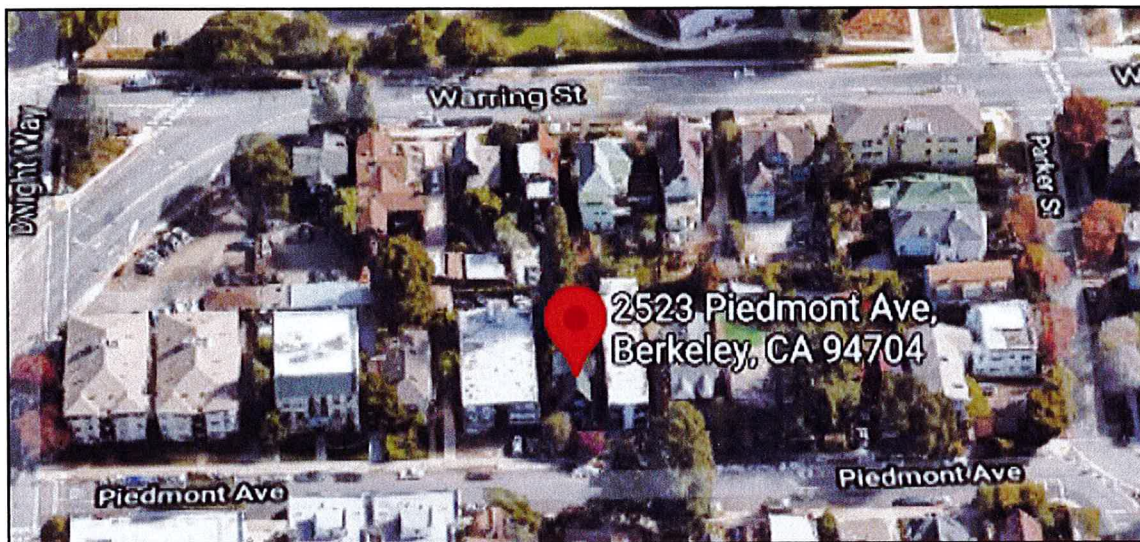


*Figure 1. Street (west) façade of the Wurts-Lenfest House. Anthony Bruce, 2021*

1. **Street Address:** 2523 Piedmont Avenue  
**County:** Alameda    **City:** Berkeley    **ZIP:** 94704
2. **Assessor's Parcel Number:** 55-1851-22 (Kearney Tract, Block 1, part of Lot 6)  
**Dimensions:** 30 feet x 135 feet  
**Cross Streets:** Dwight Way and Parker Street
3. **Is property on the State Historic Resource Inventory?** No  
**Is property on the Berkeley Urban Conservation Survey?** Yes  
**Form #:** 17540
4. **Application for Landmark Includes:**
  - a. **Building(s):** Yes    **Garden:** No    **Other Feature(s):** No
  - b. **Landscape or Open Space:** No
  - c. **Historic Site:** No
  - d. **District:** No
  - e. **Other:** Entire property
5. **Historic Names:** Wurts-Lenfest House  
**Commonly Known Name:** David Mundstock's House
6. **Date of Construction:** 1901    **Factual:** Yes  
**Source of Information:** Lot sale recorded in *SF Call*, 1 Aug. 1900;  
1902 property assessment record
7. **Designer:** Unknown [A.W. Smith ?]
8. **Builder:** Unknown
9. **Style:** High-Peaked Colonial Revival
10. **Original Owners:** Myron LeFevre and Rebecca Snyder Wurts (1901);  
Arabelle Lenfest and heirs (1902–c. 1915)  
**Original Use:** Single-family residence
11. **Present Owner:** Wilson K. Wong and Christina Kwan,  
2523 Piedmont Avenue, Berkeley, California 94704  
**Present Occupant:** Vacant
12. **Present Use:** Residential  
**Current Zoning:** R-2A    **Adjacent Property Zoning:** R-2A
13. **Present Condition of Property:**  
**Exterior:** Excellent    **Interior:** Guttled    **Grounds:** Defoliated  
**Has the property's exterior been altered?** Minimally



## 14. Description



*Fig. 2. Block 1, Kearney Tract. Google view.*

The Wurts-Lenfest House is located at 2523 Piedmont Avenue, on a block lying directly west of the Clark Kerr Campus and south of Dwight Way. The house is a wood-framed, one-and-a-half-story structure built in 1901 in the High-Peaked Colonial Revival style.

The house is clad in narrow-gauge painted clapboard on all sides of the ground floor. Its high-peaked gable and two dormers retain the original unpainted shingles. The porch columns, windows, and front steps conform to the classic Colonial Revival style, complemented by the inward-curving gable walls flanking the upper front bay window that echoes a feature often found in the Bay Area's late Victorian shingled style houses.

The various windows (twenty-seven in all) are original, save two, and exhibit a handsome repetitive patterning. In early 2021, the house was repainted so as to compliment its distinctive features. The house is an excellent example of the High-Peaked Colonial Revival style.

### Massing, Roof, and Cladding

The building's footprint is rectangular. The footprint includes a one-story, flat-roofed rear wing—typical for houses of this period—projecting to the east (fig. 3).

Typical of the High-Peaked Colonial Revival house, a dormer is featured on both the north and south slope of the main roof: a shed-roofed dormer on the north slope and a gable-roofed dormer on the south slope. Both dormers are clad in the original unpainted shingles (Figs. 4 and 5).

In the front of the house (Figs. 1 and 6), the high gable roof projects over the first floor about twenty inches. The gable has closed eaves over a plain, wide frieze board. A row of small dentils runs at the top of the frieze board, with moldings above and below.



*Fig. 3. The one-story extension of the ground floor at the rear. Daniella Thompson, 2021*



Fig. 4. The dormer on the north, showing the horizontal stair landing window. Daniella Thompson, 2021

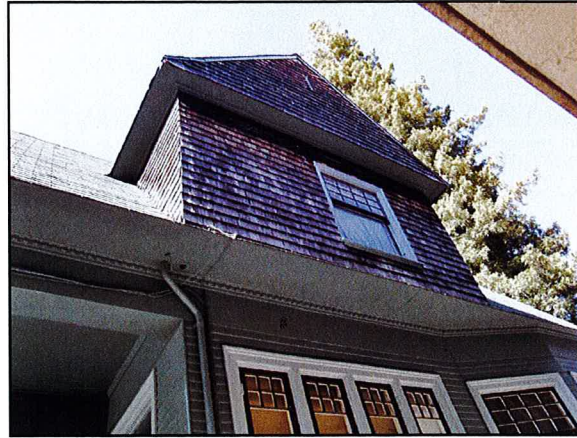


Fig. 5. The south dormer over the group of four entry hall windows. Daniella Thompson, 2021

## Front (West) Façade High-Peaked Gable

The front façade is distinguished by its symmetrical high roof gable and an asymmetrical ground floor (Fig. 6). The roofline of the gable is flared outward at its lower tips. Bordering the gable's shingle cladding at the roof's edge is a single row of vertical shingles. A narrow vertical vent with a wooden frame and sill is embedded in the gable wall's upper region, further emphasizing the height of the roof.

The three-sided upper front bay window is inset some twenty-five inches within the gable, with its center window flush with the gable wall. The window bay is flanked by the gable's curving walls, which form niches for the bay's side windows. The windows are painted in a handsome shade of cream trim and grey-green sash (as are all the windows). A horizontal narrow painted board undergirds the bay window inset, stretching across the front inset to unify the bay with the shingled façade.

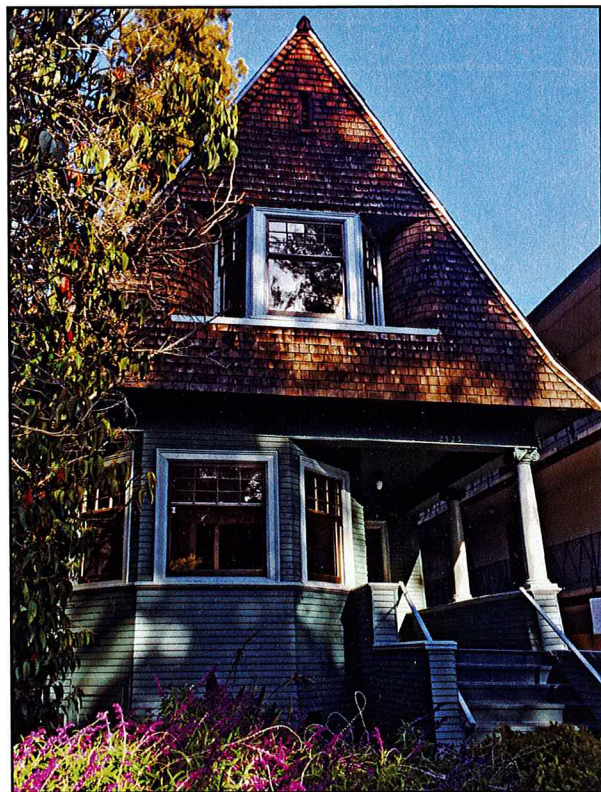


Fig. 6. Front façade. Anthony Bruce, 2021

The three windows in the bay act as the model for the noteworthy window patterning throughout the house. They are double-hung, wood-framed, and set within molded casings. The longer lower sashes are single-paned, while the shorter upper sashes are divided by wooden muntins. The center window's upper sash is divided into twelve (4 over 3) lites, and the side windows are divided into six (2 over 3) lites. A long, plain, wooden sill extends across the bottom of the bay. It appears that recently the lower sash of the south window in the bay has been broken.

## Front (West) Façade First Floor

The handsome ground-floor façade is both in balance and in contrast to the dramatic high-peaked gable above. (Figs. 1 and 6) The north side of the first floor is three-sided with one window per side set directly under the wide frieze board. Below the north facet of the bay, close to the ground, is a crawl-space access door. The south side of the first floor is defined by a substantial wide stairway with a recessed entrance porch. The height and spread of the first floor narrow-gauge clapboard



*Fig. 7. The front porch.  
The Grubb Company listing photo, 2021*



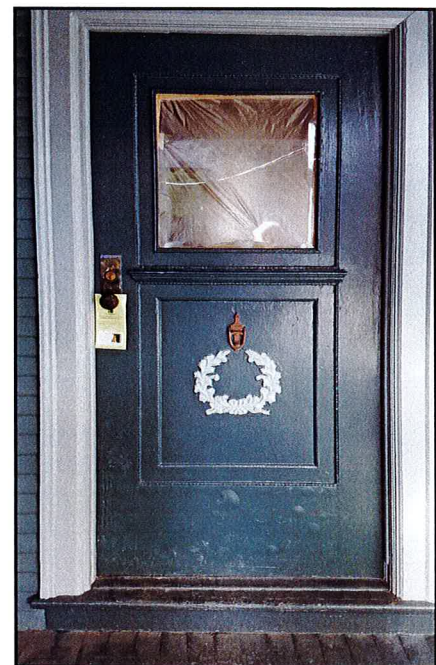
*Fig. 8. An Ionic capital on a porch column.  
The Grubb Company listing photo, 2021*

siding, below the bay windows, together with the prominent wide stairway leading up to the inset porch, give the entire house frontage, including the high-peaked gable, a substantial and balanced architectural “footing” and presence.

The windows in the first floor bay are of the same type seen in the gable, but here a molded sill runs under all three facets (Fig. 7). While the center window is identical to the one in the upper bay, the side windows below have nine (3 over 3) lites in their upper sashes.

The recessed porch is open on the south side and reached by a wooden staircase flanked by two-step parapets with molded wooden caps. The southern parapet continues into the porch. Supporting the porch on the open side are two distinctive wooden Tuscan columns with Ionic capitals. The porch walls are clad in the narrow-gauge clapboard, topped by the plain wide cornice. The porch ceiling is paneled in tongue-and-groove and there is a ceiling light.

At the eastern end of the porch a finely crafted entrance door is set within wide, mitred, molded casing. The door features two rectangular frames, the upper containing a clear beveled-glass pane and the lower, a panel adorned with a garland. The door retains its original ornate brass hardware, including a bell turn that rings on the inside of the door.



*Fig. 9. The front door.  
Ramine Akhavan, 2021.*

## South Façade

The front part of the south façade is situated under the overhang of the gable roof (see Fig. 1). On the upper level, the gable-roofed dormer has closed roof eaves but no frieze board. A narrow vertical vent with a wood frame and sill is embedded in the gable wall's upper region. The dormer features an off-center double-hung window with twelve (4 over 3) lites in the upper sash.

On the ground floor, to the east of the porch, a distinctive bank of four small, wood-framed casement windows illuminating the entrance hall is set in a molded casing. The upper third of each window is divided into six (3 over 2) lites.

Further east is a shallow bay with three identical double-hung windows set in molded casings and featuring twelve (4 over 3) lites in the upper sash. The windows share a molded sill that is continuous from the porch parapet.

Beyond the bay begins the one-story rear wing (Fig. 3). This wing is clad in the same narrow-gauge clapboard as the rest of the house but has no frieze board. Instead, a strip of molding runs under the roof soffit. The south façade of the rear wing includes three windows. A small casement with six (3 over 2) lites in its upper part is located close to the bay. Beyond it are two double-hung windows, the first with twelve (4 over 3) lites in the upper sash and the second with nine (3 over 3).

The right bay window glass was recently broken and also the middle (or large) window for the back room appears to have been broken. The front steps are said to be being pushed out of line by the underground roots of a Bay Tree that was cut down some time ago.



*Fig. 10. South façade, looking east.  
Daniella Thompson, 2021*



## North Façade

On the north side, a substantial shed-roofed dormer occupies the central portion of the façade (Fig 11). Its roof slopes from the tip of the gable to the lower edge of the main roof, and its vertical wall extends directly down to the ground, enclosing the space below the gable overhang and creating additional space for the stairwell.

The north wall of the dormer includes a horizontal stairwell-landing window with eighteen (9 over 2) lites (Fig. 12) in fixed position. Further to

*Fig. 11. Front façade showing some of the north elevation. Anthony Bruce, 2021*

the rear in the dormer is a double-hung window with nine (3 over 3) lites. Below this window on the ground floor there is another double-hung window with nine (3 over 3) lites.

The rear wing's front part shelters under the main gable eave, while the rest possesses its own roof. A single double-hung window is set on the north wall of this wing, with twelve (4 over 3) lites in its upper sash.

### Rear (East) Façade

The east wall of the main gable features two windows that are only partially visible from the ground. Both are double-hung and possess nine (3 over 3) lites in the upper sash (Fig. 3).

The rear wing's east wall has been altered. It contains two doors in flat board casings. The one on the left is wood-framed and glazed with ten (2 over 5) lites. The door in the center, which opens onto a small porch accessed by stairs, is screened, and its features and materials are not visible. Above the central door is a metal awning. To its right is a double-hung window with undivided panes, set in a narrow casing of undetermined material. At the extreme right of the wall, a patch in the clapboard suggests that a window has been removed from that spot.

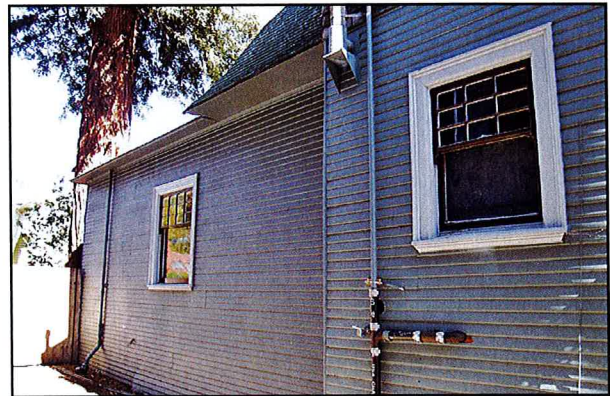


*Fig. 12. The stair landing window in the north dormer (before interior demolition) The Grubb Company listing photo, 2021*

### Yard Areas

Both the front and back yard have recently been cleared of flowering shrubs, trees, and plants, except for a large, mature redwood tree in the back (Figs. 1 and 13). The architectural impact of the house is enhanced by the traditional garden set-back and by the natural east-west slope of the land.

*Fig.13. North side of the one-story extension. Daniella Thompson, 2021*



### Features to Be Preserved

The Wurts-Lenfest House is a classic High-Peaked Colonial Revival house of simple, yet striking, appearance. It was seemingly designed so that every individual feature might be harmonious and contribute to a rhythm that creates a balanced, yet dramatic whole. Because the exterior of the house has been maintained in fine condition over the last one hundred and twenty years, and because the house retains almost all of its original features—all essential to its whole; therefore, all its features appear to be significant, including, but not limited to:

- the 27 original windows
- the window framing and sills
- the high-peaked gable roof
- the shingled walls within the gable roof
- the shingled dormers
- the narrow-gage clapboard siding
- the neo-classical pillars on the porch
- the wooden porch stairs and side parapets
- existing garden set-back

## 15. History



*Fig. 14. The 2500 blocks of Warring and Piedmont, west of the California School for the Deaf and Blind School, seen from the hill behind the school. Berkeley Historical Society.*

### Introduction: John Kearney Tract

The Wurts-Lenfest House story begins with John Kearney who is said to have been one of those men who joined the Irish Catholic migration to the United States after the Potato Famine of 1846-47. In 1869, by the age of 36, he became a naturalized citizen in San Francisco. Before then, however, he was already known to be a grain farmer on a section of the East Bay Hills, above what became College Avenue, north of what became Derby Street, and south of Dwight Way. He would have obtained this land from some transaction involving the Peralta Family, but how he did is unclear given that the Peralta land transactions were questionable at that time.

John Kearney appears somewhat later to have foreseen a new direction of land use, following the lead of the College of California (then located in Oakland). In 1863, the College had purchased extensive farmland to the north of Strawberry Creek, which became the future site for the University of California (U.C.), and property to the south of Strawberry Creek extending to the point of Dwight Way, to be platted for the selling of village lots to finance an envisioned new campus. Not long after, in 1867, Kearney is recorded to have sold a 130-acre parcel of his farmland, east of what would become Warring Street, for \$12,100 in gold coin for the State Deaf, Dumb, and Blind Asylum, or the California School for the Deaf and Blind, now U.C.'s Clark Kerr Campus.

The Berkeley Architectural Heritage Association (BAHA) tour booklet entitled "The Making of a Streetcar Suburb: Classic Berkeley Houses in the Kearney Tract on the College Avenue Electric Line" tells that Kearney must have felt an excitement then for the possibilities of a new town:

...Kearney was present at an historic meeting held on January 20, 1874 in the Oakland home of Francis K. Shattuck and presided over by Dr. Henry Durant, then mayor of Oakland and the first president of the University, at which a heated discussion occurred regarding incorporation of the growing community around the college campus. It was

Kearney who is reported to have made the motion to incorporate Berkeley, backed by the college professors in the room, who wanted “to keep out of the jaws of Oakland.”

The incorporation of Berkeley did not occur until 1878, but Kearney proceeded regardless to subdivide his remaining farmland into a residential tract composed of six blocks. He filed the subdivision map with the County of Alameda, titled, “Map of the Property of John Kearney Near the State University” on September 12, 1876.

The Kearney Tract was adjacent to the College of California’s “Berkeley Property” subdivision already laid out in 1865 by Frederick Law Olmsted (known for his design of New York’s Central Park). Olmsted’s plan featured a novel, centrally divided road “along the curve of the hillside” named “Piedmont Way” (California Registered Historic Landmark No. 986, City of Berkeley Landmark #130). In 1900 the City of Berkeley renamed the street Piedmont Avenue and connected it to the Kearney Tract’s “Mark Street,” where the Wurts-Lenfest House was built in 1901.

The Kearney Tract was originally laid out in 1876 with large “villa” lots measuring 120 feet x135 feet, large enough for gardens and horse stables, as well as a house. As early as 1877, three large houses were built on the 2500 block of Piedmont, including a house in lot 6, numbered 2521 Piedmont, for William H. Chapman (where Lela Lenfest was living at the time of her death in 1951). Up until the late 1890s, the Kearney Tract simply reflected the rural life that had been in the greater East Bay: an evolving mix of farms, and clusters of houses and businesses within the town grids, a few factory sites here and there, all connected to the transcontinental railroad terminus and wharfs along the Bay. U.C. had only just begun to grow its campus.

## The East Bay Building Boom

What changed life in the East Bay and, in turn, the Kearney Tract, was an economic growth and prosperity that just seemed to “boom” across the landscape in the 1890s, spreading quickly through the towns of Alameda, Oakland, and Berkeley. The clear cause was the continual modernizing of the train and ferry transportation systems connecting Oakland to San Francisco, and, then, Oakland to Berkeley.

In 1876 former Governor Leland Stanford and real estate developer Francis Kittredge Shattuck purchased a steam train right-of-way, creating a spur line from the railroad along the Bay to go up Stanford Avenue and Adeline Street—through farm property then, up to the small cluster of business properties at Shattuck and University Avenues. In 1891, well after Berkeley was incorporated and beginning to grow and thrive, the first electric streetcar was “hooked up” from central Oakland to travel out Grove Street (now Martin Luther King) to Downtown Berkeley. And, of course, as more announcements of plans for new streetcar connections were being made, property near the lines was quickly being subdivided for new homes, including all along College Avenue.



*Fig. 15. The Chapman House (1877) stood at 2521 Piedmont Avenue. Note Wurts-Lenfest House to the south in this 1939 photo. Donogh File, BAHA Archives.*

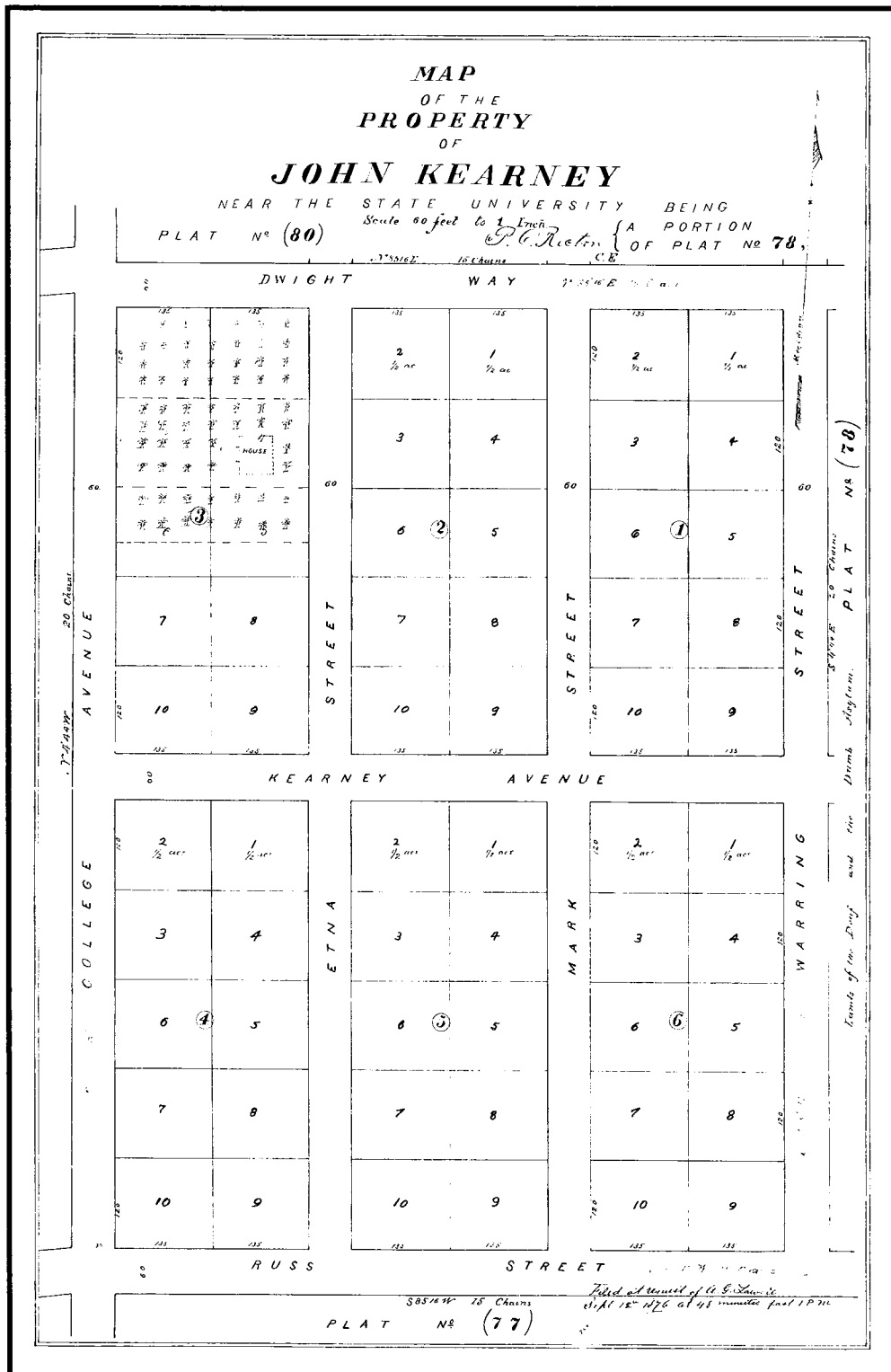


Fig. 16. Map of the Kearney Tract, filed with the County in 1876. Lot 6 in Block 1 is the site of the Wurts-Lenfest House.



Accordingly, to quote from an article in the *Oakland Enquirer*, June 12, 1899, entitled “Realty and Building”:

Large Number of Realty Sales Indicates a Very Healthy Local Market: Business in real estate and building circles is increasingly active. It has been estimated that there are at least 100 houses in process of construction in Oakland and vicinity. The rule is becoming more general that a real estate transfer means a new dwelling. There is a great demand for structures ranging in price from \$2500 to \$3000 and sales are easier made of new than old houses...The various new tracts about the suburbs which have recently been put on the market find ready buyers.

In concert with the real estate developers and the buyers, there was a ready stream of contractors and carpenters. Lumber was piling up at the piers, and most of the builders were skilled craftsmen.

### Emergence of the Colonial Revival House

By the end of the 19th Century, a new American architectural vision had reached the East Bay, replacing the fanciful Queen Anne Victorian house in popularity: the Colonial Revival style (which was contemporaneously referred to as “Late Colonial Revival”). The design type, based on American house architecture of the Georgian period, presented a style of symmetry and balance, with classical details (Fig. 17 and 25). Thus, on those streets soon to be serviced by new streetcar lines, developers created rows of these handsome, boxy one- or two-story dwellings: the Colonial Revival. Again, from “The Making of a Streetcar Suburb”:

...It has a square or rectangular boxy shape, with a hipped roof and a central, usually hipped-roofed dormer. Some were designed by architects, others put up by builders from pattern books. Some are wide and large, and some narrow and small. Some have elaborate Classic details, and others are plain and covered with brown shingles in the Craftsman Style. Some were designed to look like single family dwellings but were actually built with 2-4 units. They have a good flexible floor plan, and are easy to convert to multiple units or for making additions to the rear without changing the facade.



Fig. 17. A Colonial Revival style house at 2742 Garber Street. Anthony Bruce, 2021

### Emergence of the High-Peaked Colonial Revival House

Interspersed with the Colonial Revival houses, there could be found an unusual variant: the High-Peaked Colonial Revival house. Sometimes, even, there were several in a row, as on the 3000 block of Martin Luther King (Fig. 22). The High-Peaked Colonial Revival house did not just appear overnight. Initially, it seems to have developed from a playfulness with the late Victorian era



*Fig. 18. The high-gabled house at 2535 St. Charles Avenue in Alameda, designed by Edgar Mathews in 1894. Google Street View.*



*Fig.19. The earliest known true High-Peaked Colonial Revival house, at 2354 East 23rd Street in Oakland, designed by Hugo Storch in 1895. Google Street View.*



*Fig. 20. A High-Peaked Colonial Revival house on 33rd Street in Oakland, built by J.H. Simpson and likely designed by A. W. Smith. Google Street View.*

house before it found its own distinct mode when it merged successfully with the Colonial Revival house style, embellishing it with a dramatic high-peaked roof flair, after a short experimental period in the late 1890s (Figs. 20,21,23). In time, the High-Peaked Colonial Revival house became so stylized and balanced, that it appeared that if the gable roof were to be removed, then the first floor could stand on its own and the house would actually be a Colonial Revival Cottage.

Yet, no two High-Peaked Colonial Revival houses appear to be alike, each appears to have its own special appeal. The design became most popular during the early 1900s, and was rarely built after about 1905. Nevertheless, these houses make up a significant part of what gives the East Bay—and Berkeley—a distinctive architectural character. Daniella Thompson in her research has identified almost 200 examples remaining in Berkeley. (see: [http://berkeleyheritage.com/east-bay\\_then-now/highpeak\\_colonial.html](http://berkeleyheritage.com/east-bay_then-now/highpeak_colonial.html)) Very few have survived with their historic fabric intact, which makes the exterior of the Wurts-Lenfest House all the more important, as it is a perfect “text book” example of the style in fine exterior condition.

While the origin of the style is elusive, it does seem to be an East Bay phenomenon. The earliest known high-peaked “try-out” house was built in 1894 at 2535 St. Charles Street in Alameda (Fig. 18). It was designed by Oakland-born architect Edgar A. Mathews, who is much acclaimed for his later Bay Region styled residential work featuring high-gabled roofs in San Francisco’s Pacific Heights district. His Alameda house is more a playful suggestion than a true High-Peaked Colonial Revival, as there are several high gables and they are integrated into the first floor (coupled with a turret), instead of being a separate roof element.

The next pin-pointed example of the developing style, built in 1895, is a house found at 2354 East 23rd Street in Oakland’s Fruitvale district designed by Hugo Storch (Fig. 19). Storch also designed South Berkeley Community Church, 1912 (City of Berkeley Landmark #10, placed on the National Register of Historic Places). Storch’s Fruitvale house, although severely altered, includes many of the hallmarks of a High-Peaked Colonial Revival, including the design of the upper floor as a separate triangular volume from the first floor.



*Fig. 21. A late 1890s High-Peaked Colonial Revival on 32nd Street in Oakland, designed by A.W. Smith. Google Street View.*

Until about 1900, the High-Peaked Colonial Revival houses were elaborately ornamented. Then, given the demand on developers for new housing, the house type was simplified to feature its essential elements for speed and economy of construction. Nevertheless, whether simple or ornamented, the house is identified by its steep gable making up about two thirds of the height of the house, appearing as if it were a geometric triangular volume set on top of the first story. The window pattern(s) in the gable usually reflect Colonial Revival features (such as Palladian windows and columns) and are often repeated in other house features. Because shingles were becoming a new Bay Area building material at that time, the gable and side dormers, or entire house, might be shingled.



Fig. 22. Three High-Peaked Colonial Revival houses in a row in the 3000 block of Martin Luther King, Jr. Way. Daniella Thompson, 2005.

### High-Peaked Colonial Revival House and A. W. (Alfred William) Smith, Architect (1864-1933)

The article in the June 12, 1899 *Oakland Enquirer*, telling of the building boom, also celebrates the sudden emergence of this new house type (which was called “Dutch Colonial” in the article). The writer ascribes the new style to “Mr. Smith” (failing to mention the 1895 house designed by Hugo Storch), describing a house at 36th and Grove (Martin Luther King):

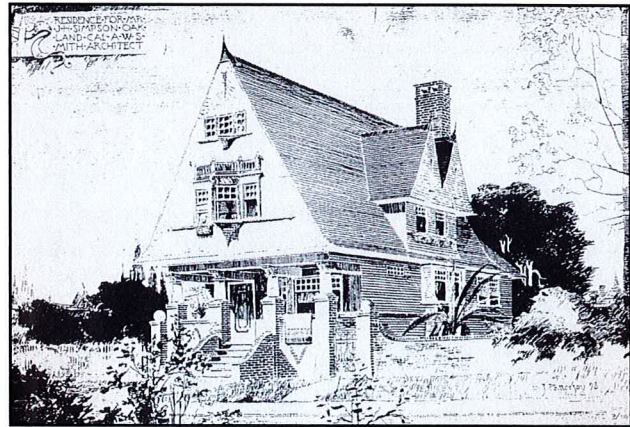


Fig.23. A High-Peaked Colonial Revival residence in Oakland designed by A.W. Smith for J.H. Simpson in late 1897. Perspective drawing by D. J. Patterson. From California Architect and Building News.

...He [Smith] declares it wasn't a very handsome structure, because it exaggerated every idea he wanted to incorporate in the house which he subsequently built along this line. Mechanics and contractors who visited the structure while in course of erection laughed at it. However, notwithstanding their jeers, the style caught on and has been wonderfully popular. Mr. Smith ascribes the popularity to the growth of the artistic in the building public, which has caused a departure from the strict rules of architecture and given rise to the development of the picturesque style.

The same article attributes the growing popularity of the style to the real estate developer and builder Joseph H. Simpson, as well as to the architect A. W. Smith, conveying that the style had burst into popularity overnight, during the urgent need for homes for normal working people:

...One of the most distinctive features of recent local building operations is the wonderful popularity suddenly achieved by the style of house known as the Dutch Colonial whose principal characteristic is a high peaked roof ... the style has been adapted

and enlarged upon by Architect A. W. Smith who since the 15th of January of last year [1898] has put up no less than twenty-seven houses, all on this peculiar line of architecture...

Mr. Smith ascribes the popularity to the growth of the artistic in the building public, which has caused a departure from the strict rules of architecture and given rise to the development of the picturesque style.

Simpson had a house-building shop and mill in Oakland on Brockhurst Street and owned surrounding land on 32nd and 33rd Streets, as well as on Brockhurst. Today this area — the Hoover-Foster neighborhood — still displays (in spite of every negative 20th Century urban environmental impact) picturesque examples of the Colonial Revival house mixed together with remarkable High-Peaked Colonial Revival houses, most likely all designed by Smith. And, it is most likely that two years later Smith also designed the Wurts-Lenfest House.



Fig. 24. An example of a High-Peaked Colonial Revival built by the Berkeley Homebuilding Association in 1906–07 at 3015 Hillegass Avenue.  
Anthony Bruce, 2020

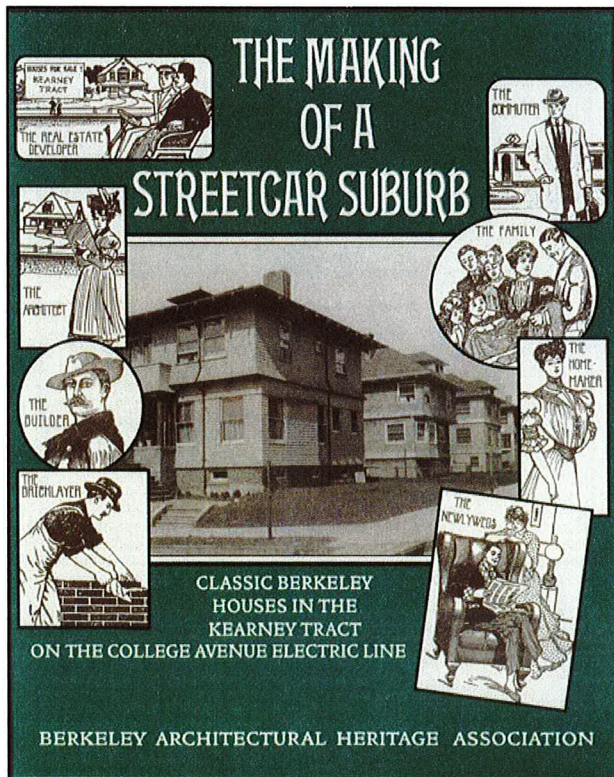


Fig. 25. The cover of the BAHA tour booklet, showing a row of Colonial Revival houses in Berkeley.

A. W. Smith could almost be called a native of the East Bay, having attended Oakland High School and, then, living his later years in Berkeley. His family came from Louisiana to Oakland when he was a boy so that his father could work at the transcontinental railroad terminus. Smith listed himself in Oakland's 1888 voter registration as "carpenter," learning his design skills as a contractor. By 1892 Smith was listed in the newspaper contract notices as an "architect." He was granted a California State Architect Certificate in 1901.

Smith's contribution as a local self-made architect in the East Bay has been recognized as a remarkable feat. He designed hundreds of buildings (400 listed in the Oakland permit ledger, the BAHA office lists some 150 buildings known in Berkeley) in all styles from Queen Anne to the Colonial Revival and High-Peaked Colonial Revival before the turn-of-the-century and, then, in the early years of the 20th Century he adjusted his vision to Craftsman, Shingle, Prairie, and

Mission designs, as well as churches, lodges, and commercial buildings. When Smith moved to Berkeley, he lived on Telegraph in a brown-shingle house that he designed in 1908. It is said that Smith may have been the most prolific architect in the East Bay, adjusting, with agility, from one style to the next. As the Alameda Architectural Preservation Society wrote of Smith’s architectural work:

[his buildings] ... did—and do—more to shape the area’s character than the select gems and jewels of the “name” architects. Smith’s buildings — whimsical, severe, naturalistic, honest, unpretentious, charming, exotic, elegant, inventive, eccentric, mannerist, substantial — give a distinctive flavor to our East Bay cities.



Fig. 26. Snyder House, 2820 San Pablo Ave., designed by A. W. Smith in 1901. Daniella Thompson, 2005.

### Streetcar Suburb Houses in the Kearney Tract

Now, to focus on the sudden real estate activity in the Kearney Tract after 1900, and more specifically on Piedmont Avenue (formerly Mark Street) and Lot 6 of Block 1. Records show that in 1878 the Julius F. Foss family purchased the William H. Chapman house, which included all of Lot 6. Then, in 1895, Eli Gardner acquired Lot 6, only to turn around and sell it to a Dr. C. P. Devore in 1899, who then, in September of that year, sold all of Lot 6 to Dr. Henry Newton Yates of Crockett. Then, in August 1900, Dr. Yates sold the southern portion of Lot 6 to Rebecca Wurts (he deeded the northern part of Lot 6 to his father, who resided in the former Chapman House, 2521 Piedmont Avenue). On August 1, 1900, the *San Francisco Call* reported Rebecca Wurts’ purchase among its listing of real estate transactions:

Henry N. and Beatrice Yates to Rebecca Wurts [wife of Myron L.], lot on E line of Mark Street [soon to be Piedmont], 300 S of Dwight Way, S 60 by E. 135, being the S half of lot 6, block 1, map of property of John Kearney, Berkeley: \$10.

Several months later, Rebecca and her husband Myron Wurts also acquired the full Lot 5 of the Kearney Tract facing east onto Warring Street which was connected to Lot 6 on the back-side. Lot 5 included a small house (built c. 1897–98) at 2520 Warring Street, the north portion of Lot 5. The “small house,” altered and enlarged, is still there.

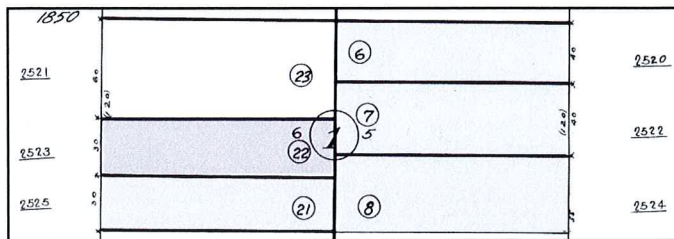


Fig. 27. Map of the five lots owned by Myron and Rebecca Wurts in Block 1.

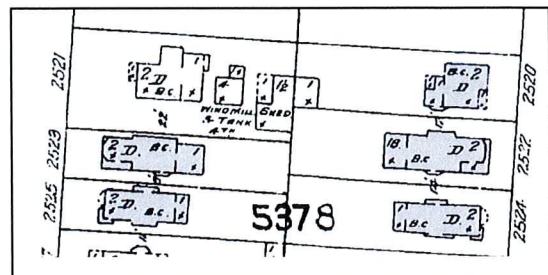


Fig. 28. The five houses built or remodeled by Myron and Rebecca Wurts in Block 1.

## Rebecca Snyder Wurts and Myron LeFevre Wurts, Developers

So, why would Rebecca and Myron Wurts snap up property in the Kearney Tract in 1900? The answer is that they were not beginners in real estate investments. And, as already presented here, the East Bay was becoming seamless with the advance of the streetcar, or at least, because of talk that it was coming. One little community was connecting to another, streets were connecting to each other, and the un-built-upon parcels were selling fast. To quote, again, from “The Making of a Streetcar Suburb”:

The newspapers of the day were full of reports and rumors that soon a streetcar line would be established on College Avenue to connect the area with “Downtown” Berkeley, Oakland, and San Francisco. By 1904, the *Berkeley Reporter* described how Berkeleyans were “anxiously awaiting completion of a new car line to be constructed on College Avenue. It will be the impetus to the promotion of building.” But homeowners and real estate speculators did not wait for the arrival of the new car line. As soon as there was a hint of truth to the rumors, real estate activity began in the vicinity of College Avenue.

Rebecca Snyder Wurts (1871–1957) was an Oakland native. She was the daughter of Andrew Jackson Snyder (1823–1896) who is known to be the first substantial developer of early Oakland in the 1860s, when its commercial center was being built on lower Broadway. His obituary described him as, “the first real estate dealer of Oakland and one of the city’s wealthy men.”

Myron LeFevre Wurts (c.1859–1925) was born in New York State and is known to have arrived in San Francisco by 1887. On his way to California he had tried his luck in silver ore mining in Arizona. He and Rebecca married in 1888 when he is recorded to have set up a real estate business.

In 1889, Myron Wurts is known to have purchased nineteen acres of property in West Berkeley (for \$24,000), along San Pablo Avenue, close to property his father-in-law already owned in West Berkeley. And, then in 1892, with a new partner and a Boston investor, he purchased a large section of undeveloped land behind Lake Merritt where he is reported to have made large capital expenditures preparing the land for a subdivision called “Boulevard Heights,” soon to be serviced by an electric line. Sometime between 1895 and 1896, Wurts established his own real estate office in Berkeley, located on Shattuck Avenue.

## Rebecca and Myron Wurts and the Kearney Tract

With development in their blood, it seems natural and opportune that in 1900 Rebecca and Myron Wurts would be interested in and, then, purchase two large villa-sized lots in the Kearney Tract—Lot 5 and Lot 6 in Block 1 (Fig. 27). As the streetcar line was anticipated, and Mark Street was being connected to Piedmont Avenue (i.e. connected to the U.C. community), and as development was the Wurtses’ business, it is quite natural that as soon as they acquired the two large lots, they immediately subdivided them so as to become five new parcels for the building of four new houses.



Fig. 29. The other High-Peaked Colonial Revival house that the Wurts’ built on Lot 5, directly behind the Wurts-Lenfest House. Anthony Bruce, 2021.

## Rebecca and Myron Wurts and architect A. W. Smith

In 1901, Rebecca and Myron Wurts made additions to the small house on Warring and built four new handsome Colonial Revival houses: 2523 Piedmont (High-Peaked Colonial Revival to become the Lenfest home), 2525 Piedmont (hip-roofed Colonial Revival, demolished in 1957 for an apartment building), 2522 Warring (High-Peaked Colonial Revival mirroring the Lenfest House, with design variations, Fig. 29), and 2520 Warring (hip-roofed Colonial Revival, altered in late 1930s). By 1902 the five houses were assessed to Rebecca Wurts.

Understanding that the building of homes in the East Bay was “hot” at the turn-of-the-century, who would Rebecca and Myron Wurts have asked to design the four houses on their new parcels in Kearney Tract? Given that the Wurts-Lenfest house is such a masterfully designed High-Peaked Colonial Revival house, it seems logical that they might have asked Smith. Certainly, Rebecca and Myron Wurts and A. W. Smith were fellow participants in the East Bay’s new and dynamic development activity.

In asking such a question, it is worth noting that even in BAHA’s 2002 tour booklet “The Making of a Streetcar Suburb” which listed every address in the Kearney Tract, along with a known date of construction, architect, and or builder for each address, the builder or architect was still a mystery for the five houses in Lots 5 and 6. In this case, a quote from Betty Marvin, of the Oakland Cultural Heritage Survey, applies: “Vast numbers of developers used their own contractors and did not record building contracts in those days.”

Even though no contract or completion notices have been found that identify Smith with the Wurts houses in the Kearney Tract, there is a tangible link between Rebecca and Myron Wurts and A. W. Smith. Rebecca’s brother Lewis C. Snyder’s architect of choice at that time was none other than A. W. Smith. The Wurts’ would therefore have had reason to ask Smith to design their four houses in the Kearney Tract. At that very same time, the A.W. Smith was designing a High-Peaked Colonial Revival house for Lewis Snyder’s own residence at 2820 San Pablo Avenue (Fig. 26). The contract and completion notices for that house, published in *Edwards Transcript of Records*, May and August 1901, confirms the architect was A.W. Smith.



Fig. 30. Lela Lenfest, from the 1905 Blue and Gold.

## Residency in 2325 Piedmont

Upon the completion of 2523 Piedmont, as if according to plan, the handsome speculative High-Peaked Colonial Revival house sold to a mother who sought a residence while her daughter attended the University. Belle Lenfest and her daughter Lela moved into the new house in 1902. They came from Mendocino County where Mr. Lenfest, who had died in 1896, had been a foreman in a sawmill. Belle and Lela stayed in the house on Piedmont until Belle’s death in 1914.

Lela had graduated from U.C. and taught high school classes. Soon after, Lela inherited the house from her mother’s estate. She sold it and moved elsewhere for several years. Then, as if she missed the Kearney Tract, its neighborhood vitality, its handsome streets as a “streetcar suburb,” and being adjacent to the University, Lela bought the large, old 1877 Chapman House at 2521 Piedmont, on the northern larger half of lot 6, a house big enough for her to rent rooms until 1951 when she passed away (fig. 15). Her nephew sold the house to Values, Inc. to be replaced by an apartment building in 1956.

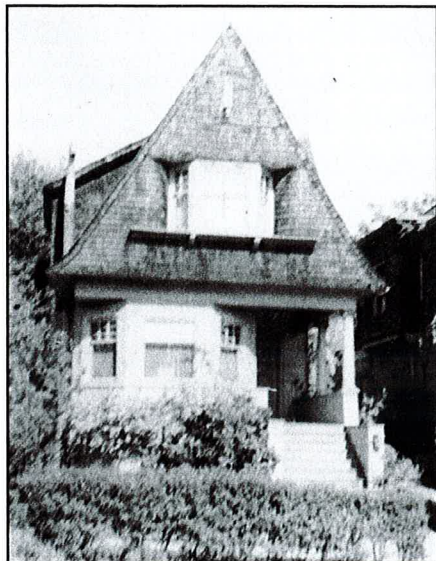
## The Wurts-Lenfest House into the Twenty-First Century

Being so close to U.C., the 2500 block of Piedmont has often housed campus-related residents like Belle Lenfest who originally came to Berkeley because of her daughter's attendance at the University. Because the 2500 block was close to the campus and because there were still undivided villa lots remaining in the twentieth century, the street was a natural site for large-scale apartment building development. It began in 1922 when the Le Conte estate (1877), on two villa lots, was divided and a very fine building designed by Walter Ratcliff was built at 2515 Piedmont. Then, an even larger apartment house was built in 1930 across the street on one of the villa lots that had been part of the Goodall estate (1877). By 1955, two more apartments had been added to the streetscape on yet-unsubdivided villa lots. Many of the homes were altered to accommodate the in-and-out living of student life. The Wurts-Lenfest House stands sound and handsome, regardless of the changing times, the construction in the mid-1950s of small apartment houses on either side, and the impacts of transient student living.

David Mundstock (1948–2020) who owned the Wurts-Lenfest House from 1978 to 2020 (a co-owner for part of the time) deserves credit for the fine condition of the house today. David, who was a graduate of both U.C. and U.C. Berkeley's law school, was admired all over Berkeley as a "progressive political activist," serving as an aide to Councilwoman Loni Hancock, later Berkeley's Mayor. David first lived in the Wurts-Lenfest House as a student himself and, then, as the owner, he rented to students. He cared very much about the character and preservation of the neighborhood and was a critical advocate of researching the history of the Merton J. Congdon House, built in 1894 (City of Berkeley Structure of Merit, No. 208), nearby at 2527 Piedmont. It is thanks in large part to David that the Wurts-Lenfest House stands today as such a fine surviving example of the High-Peaked Colonial Revival.

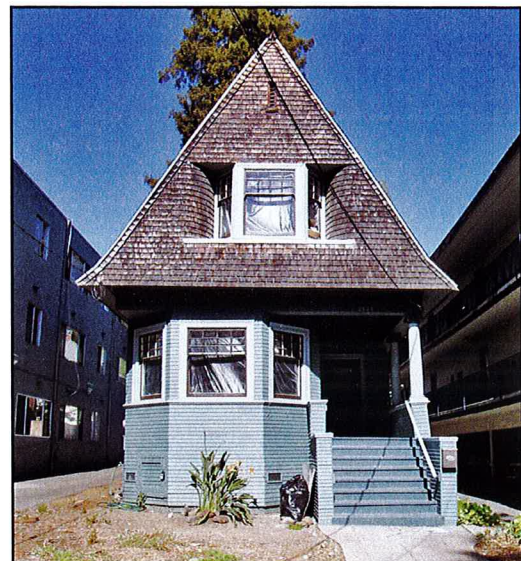
Ironically and sadly, after the caring stewardship of the house by David Mundstock, the new owner has destroyed all the original interior features that meant so much to David and to anyone who had visited the house and lived in it over the years.

All of David's papers were donated to the Berkeley Historical Society after his death. The Historical Society recently announced that it is planning an exhibit based upon the materials in his collection.



*Fig. 31. The Wurts-Lenfest House in 1939. Note added flower shelf in the upstairs bay, since removed. Donogh File, Berkeley Architectural Heritage Association*

*Fig. 32. The Wurts-Lenfest House. Daniella Thompson, 2021.*





**16. Significance (City of Berkeley Landmarks criteria 1-b, 1-c, and 2)**

The Wurts-Lenfest House is significant as a text-book example of the High-Peaked Colonial Revival style, a house type that was created in the East Bay and that flourished for only a short period of time. The Wurts-Lenfest House is also significant as an example of a house type popular with developers of speculative houses at the turn-of-the-20th-century during the development of East Bay streetcar suburbs. Additionally, the Wurts-Lenfest House is significant as it is not only a fine architectural example, but it is also a pristine, intact example.

Today the Wurts-Lenfest House stands out almost like a museum artifact, not only because it is one of the earliest subdivision houses built in the Elmwood District along its streetcar line, but also because the original residential setting of the northern half of this block of Piedmont Avenue has almost vanished. Yet, its presence maintains the historic character of the Kearney Tract amid its newer surroundings. Nearly isolated by a since-emerged apartment house row, its exuberant High-Peaked style, nevertheless, remains proud as a dramatic reflection of an era that burst forth with rapid development in every direction, abundant skills of craftsmanship, and the dynamics of educational growth. Set on a slight rise above the sidewalk, and recently cleared of all garden enhancements, the Wurts-Lenfest House is now completely visible as a nearly perfect prototype of its time — in design, proportions, balance, materials, and craftsmanship.

That the Wurts-Lenfest House stands today as finely as it does is also of particular consequence because, whether in Alameda, Oakland, or Berkeley, it is not often that an intact High-Peaked Colonial Revival can be found. More often than not, most of the remaining High-Peaked Colonial Revival houses have been diminished in architectural integrity, suffering from either the ravages of time and/or the often difficult challenge to maintain the original details and integrity of design and materials (note the tragic fire this summer that took two of A.W. Smith’s 1899 High-Peaked Colonial Revival houses on 9th Street in Oakland).

It is exciting, however, that interest in the High-Peaked Colonial Revival house has begun to blossom — thanks in part to George Gunn in Alameda, Betty Marvin in Oakland, and Daniella Thompson in Berkeley. Just recently there have been several shared discoveries posted on Facebook. Still, no East Bay town has yet landmarked a High-Peaked Colonial Revival house, its own to claim. Let’s make Berkeley the lead in the recognition of our collective regional charm and style, citing one of the finest in design, balance, detail, and representation: the Wurts-Lenfest House at 2523 Piedmont Avenue.

**17. Historic Value—**                      **City:** Yes      **Neighborhood:** Yes

**Architectural Value—**      **City:** Yes      **Neighborhood:** Yes

**18. Is the property endangered? Yes**

**19. Bibliography:**

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chitectural Preservation Society, January 2006.

Bagwell, Beth. *Oakland; The Story of a City*, Presido Press, 1982.

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Hancock, Loni. "Remembering David Mundstock" *Berkeley Daily Planet*, September 19, 2020.

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Ormsby Donogh Real Estate File. Berkeley Architectural Heritage Association.

Sanborn Fire Insurance Maps. Berkeley Architectural Heritage Association.

Thompson, Daniella. "High-Peaked Colonial Revival." BAHA website, 2005. [http://berkeley-heritage.com/eastbay\\_then-now/highpeak\\_colonial.html](http://berkeley-heritage.com/eastbay_then-now/highpeak_colonial.html)

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U.S. Census and California Voter Registration records. Ancestry.com.

Wollenberg, Charles, *Berkeley: A City in History*, University of California Press, 2008.

To date, a thorough study of the High-Peaked Colonial Revival House has not been undertaken. Such a study does seem timely as many of these amazing houses have already disappeared or are in disrepair.

**20. Recorder:** Lesley Emmington, Anthony Bruce for the Claremont Elmwood Neighborhood Association (CENA), P.O. Box 5108, Berkeley, California 94705

**Date:** September 2021

MILLS ACT  
**EXTERIOR REHABILITATION SCHEDULE**

| Feature                                                                                     | Character Defining? | Condition | Recommended Treatment                                                                                                                        | Schedule                                | Budgets (from bids) |
|---------------------------------------------------------------------------------------------|---------------------|-----------|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|---------------------|
| Wood shingle siding - stained - at upper story front and rear gables and dormers both sides | Yes                 | Poor      | Replace and restain wood shingles to match existing, including stepped shingle roof edge trim at gables                                      | Replace - 2023;<br>Maintain - 2024-2033 | \$95,635            |
| Wood windows with multi-lite sashes (part or whole) - at front and sides                    | Yes                 | Poor      | Replace 12 identified irreparable windows with new to match existing                                                                         | Replace - 2023;<br>Maintain - 2024-2033 | \$20,987            |
| Composition shingle roofs, roof drainage and flashing assemblies                            | Yes                 | Poor      | Replace comp. shingle roofing and metal flashing with new similar to existing; install new roof drainage assemblies (gutters and downspouts) | Replace - 2023;<br>Maintain - 2024-2033 | \$53,350            |
| <b>* Door Detail</b>                                                                        |                     |           |                                                                                                                                              |                                         |                     |
|                                                                                             |                     |           |                                                                                                                                              | <b>Total Estimated<br/>10yr. Budget</b> | <b>\$169,972</b>    |

**GENERAL NOTES:**

- A. This proposed 10 year work plan is focused on the rehabilitation of primary exterior features and materials.  
 B. The proposed work plan is commensurate with the estimated Mills Act tax reduction per the accompanying Spreadsheet.  
 C. This focused work plan represents only a portion of current and future rehabilitation and maintenance work.

*\* Restore original wreath ornament on front door per LPC recommendation*

| FINANCIAL ANALYSIS FOR MILLS ACT CONTRACT                                             |        |           |           |           |           |           |           |           |           |           |           |           |
|---------------------------------------------------------------------------------------|--------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| REVENUES                                                                              |        | 2021-22   | 2022-23   | 2023-24   | 2024-25   | 2025-26   | 2026-27   | 2027-28   | 2028-29   | 2029-30   | 2030-31   | 2031-32   |
| 1) Monthly Rental Income                                                              |        | \$8,500   |           |           |           |           |           |           |           |           |           |           |
| 2) Annual Rental Income                                                               | 3%     | \$102,000 | \$105,060 | \$108,212 | \$111,458 | \$114,802 | \$118,246 | \$121,793 | \$125,447 | \$129,211 | \$133,087 | \$137,079 |
| <b>ANNUAL EXPENSES</b>                                                                |        |           |           |           |           |           |           |           |           |           |           |           |
| 3) Insurance                                                                          | 5%     | \$5,100   | \$5,253   | \$5,411   | \$5,573   | \$5,740   | \$5,912   | \$6,090   | \$6,272   | \$6,461   | \$6,654   | \$6,854   |
| 4) Utilities                                                                          | 5%     | \$5,100   | \$5,253   | \$5,411   | \$5,573   | \$5,740   | \$5,912   | \$6,090   | \$6,272   | \$6,461   | \$6,654   | \$6,854   |
| 5) Maintenance                                                                        | 5%     | \$5,100   | \$5,253   | \$5,411   | \$5,573   | \$5,740   | \$5,912   | \$6,090   | \$6,272   | \$6,461   | \$6,654   | \$6,854   |
| 6) Management                                                                         | 5%     | \$5,100   | \$5,253   | \$5,411   | \$5,573   | \$5,740   | \$5,912   | \$6,090   | \$6,272   | \$6,461   | \$6,654   | \$6,854   |
| 7) Other                                                                              | 5%     | \$5,100   | \$5,253   | \$5,411   | \$5,573   | \$5,740   | \$5,912   | \$6,090   | \$6,272   | \$6,461   | \$6,654   | \$6,854   |
| 8) Total Expenses                                                                     | 25%    | \$25,500  | \$26,265  | \$27,053  | \$27,865  | \$28,700  | \$29,561  | \$30,448  | \$31,362  | \$32,303  | \$33,272  | \$34,270  |
| (Sum Line 3-7)                                                                        |        |           |           |           |           |           |           |           |           |           |           |           |
| NET OPERATING INCOME<br>(Line 2 Minus 8)                                              |        | \$76,500  | \$78,795  | \$81,159  | \$83,594  | \$86,101  | \$88,684  | \$91,345  | \$94,085  | \$96,908  | \$99,815  | \$102,810 |
| <b>CAPITALIZATION RATE</b>                                                            |        |           |           |           |           |           |           |           |           |           |           |           |
| 9) Interest Component                                                                 | 4.25%  |           |           |           |           |           |           |           |           |           |           |           |
| 10) Historic Property Risk Component<br>(2% for comm. & apts, or 4% for SFD & Condos) | 4.00%  |           |           |           |           |           |           |           |           |           |           |           |
| 11) Property Tax Component                                                            | 1.25%  |           |           |           |           |           |           |           |           |           |           |           |
| 12) Amortization Component                                                            | 1.67%  |           |           |           |           |           |           |           |           |           |           |           |
| 13) Capitalization Rate<br>(Sum Line 9-12)                                            | 11.17% |           |           |           |           |           |           |           |           |           |           |           |
| <b>TAXES</b>                                                                          |        |           |           |           |           |           |           |           |           |           |           |           |
| 14) Mills Act Assessment<br>(Net Operating Income/Line 13)                            |        | \$684,870 | \$705,416 | \$726,579 | \$748,376 | \$770,827 | \$793,952 | \$817,771 | \$842,304 | \$867,573 | \$893,600 | \$920,408 |
| 15) Tax Under Mills Act<br>(Line 14 X .0125)                                          |        | \$8,561   | \$8,818   | \$9,082   | \$9,355   | \$9,635   | \$9,924   | \$10,222  | \$10,529  | \$10,845  | \$11,170  | \$11,505  |
| 16) Current Tax<br>(Line 16 - Line 15)                                                |        | \$16,973  | \$17,183  | \$17,397  | \$17,612  | \$17,831  | \$18,052  | \$18,276  | \$18,502  | \$18,732  | \$18,964  | \$19,199  |
| 17) Tax Savings<br>(Line 16 - Line 15)                                                |        | \$8,412   | \$8,366   | \$8,314   | \$8,258   | \$8,195   | \$8,127   | \$8,053   | \$7,973   | \$7,887   | \$7,794   | \$7,694   |
| <b>THE FOLLOWING TABLE IS TO COMPLETED BY STAFF ONLY</b>                              |        |           |           |           |           |           |           |           |           |           |           |           |
| 18) Annual Costs to City<br>(Line 17 X 30%)                                           |        | Current   | Year 1    | Year 2    | Year 3    | Year 4    | Year 5    | Year 6    | Year 7    | Year 8    | Year 9    | Year 10   |
|                                                                                       |        | \$2,524   | \$2,510   | \$2,494   | \$2,477   | \$2,459   | \$2,438   | \$2,416   | \$2,392   | \$2,366   | \$2,338   | \$2,308   |



L A N D M A R K S  
P R E S E R V A T I O N  
C O M M I S S I O N  
S T A F F R E P O R T

FOR COMMISSION ACTION  
AUGUST 4, 2022

## 2523 Piedmont Avenue

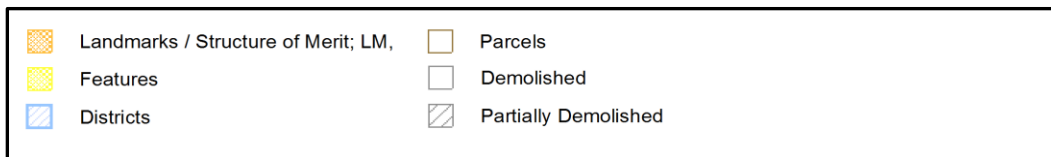
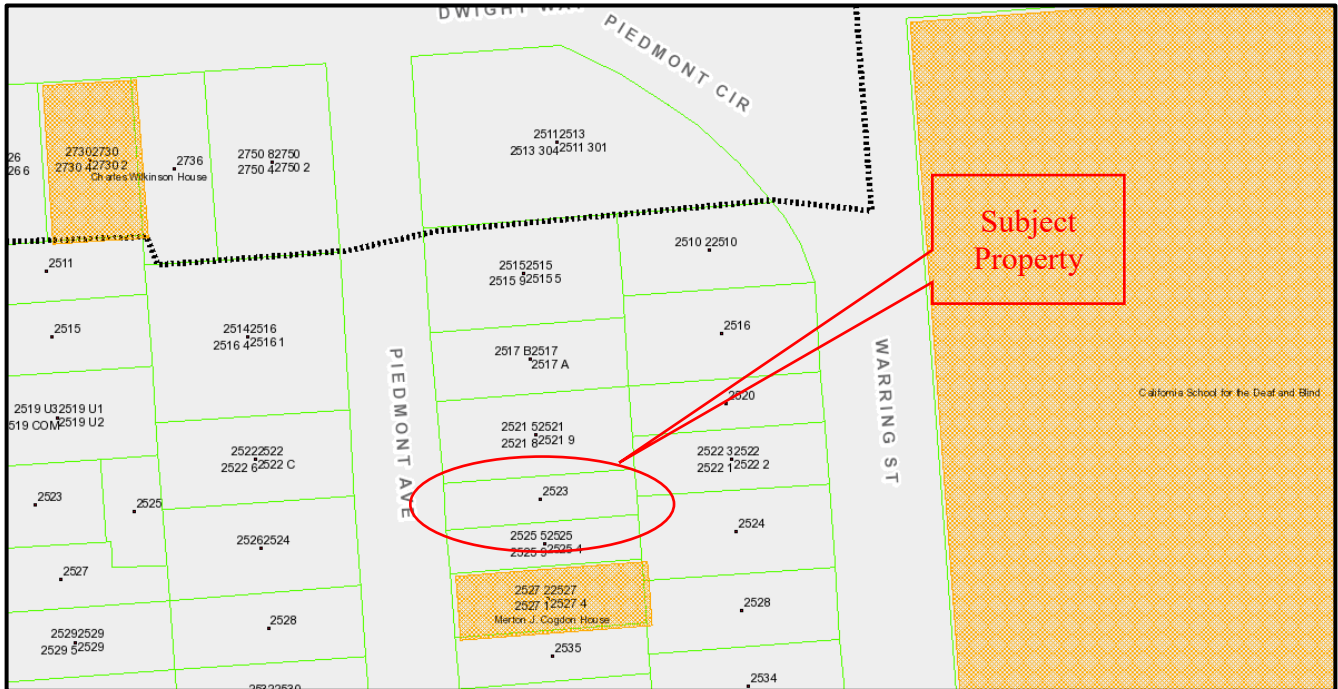
Mills Act Contract Application LMMA2022-0001 for a residential property and City of Berkeley Landmark, The Wurts-Lenfest House.

### I. Application Basics

#### Parties Involved:

- **Property Owner:** Wilson Wong & Christina K. Kwan  
2523 Piedmont Avenue  
Berkeley, CA
- **Historic Resource Consultant:** Mark Hulbert, Historic Architect  
Preservation Architecture  
446 17<sup>th</sup> Street, #302  
Oakland, CA 94612
- **Recommendation:** Approve the proposed rehabilitation schedule, encourage the inclusion of the missing door detail; recommend favorable action to City Council.

Figure 1: Vicinity Map



**Figure 2: Subject Building, Existing Site Conditions** (Google, 2021)



## II. Background

The subject main building at 2523 Piedmont Avenue was constructed in 1896, according to City records. It is an example of the High-Peaked Colonial Revival style, also known as the Eastern Shingle Cottage.

In 2021, more than 70 Berkeley residents prepared a petition to grant designation status to this property. On February 3, 2022, the Landmarks Preservation Commission (LPC) designated this site as a Structure of Merit (SOM), owing to the main building's integrity of design and craftsmanship; see Notice of Decision, Attachment 3 of this report.

On May 31, 2022, the applicant and owner submitted a Mills Act Contract Application for this City SOM property.

### III. Issues and Analysis

The historic resource consultant's *Historic Architectural Summary* for this Mills Act Application is provided as Attachment 1. This document includes the consultant's list of *Character-Defining Areas, Spaces and Features* (on page 2), *the Mills Act Work Program* for maintenance and repairs (page 4 - 5), and the City's financial analysis spreadsheet for estimating the potential Mills Act tax savings for this request. Therein, the proposed *Exterior Rehabilitation Schedule* outlines building exterior and site improvements for the subject property over a projected 10-year period. Improvements to the exterior of the City Landmark building include, but are not limited to: replacement of the existing roof and drainage assembly as well as in-kind replacement of twelve historic windows; and replacing and re-staining wood shingle cladding.

During the designation hearings for the Wurts-Lenfest, staff and neighbors noted that an original ornamental wreath detail was removed during repair work in late 2021, very likely in or around December 2021. Because the alteration occurred subsequent to the initiation of the designation consideration on October 4, 2022, the removal of this feature was prohibited without prior approval from LPC. To correct this unpermitted work, the applicant must be strongly encouraged to correct and restore the missing feature. Therefore, staff suggests adding the restoration of the decorative wreath to the rehabilitation schedule for this Mills Act consideration. An annotated rehabilitation schedule reflects this recommendation; see Attachment 2.

All improvements included in the Rehabilitation Schedule relate to the historic, character defining features of the building and site. The schedule appears to constitute ordinary maintenance and repair of the property and, therefore, would be permitted ministerially under the Landmarks Preservation Ordinance (Berkeley Municipal Code Section 3.24.260). However, any future work that would go beyond the scope of maintenance and repair would be subject to prior approval by the Commission.

The work plan items appear to be justifiable in that they constitute restoration, repair, rehabilitation and continued maintenance of the subject property. Further, they would provide for the property's "use, maintenance and restoration as to retain its characteristics as property of historical significance," as provided for in the Mills Act, Government Code Sections 50280 et. Seq., as authorized by the Berkeley City Council per Resolution No. 59,355 – N.S. For these reasons, staff concludes that the proposed tasks represent improvements that are consistent with the requirements of the Mills Act.



#### IV. Mills Act Contract Proposal

The intent of the Mills Act is to provide property tax relief so that the property owners entering into Mills Act Contracts with the City will spend the property-tax money that is saved through the Contract on preserving and/or restoring their property. The applicant’s proposed 10-year plan of improvements is summarized in Table 1 below along with staff’s recommended addition for restoration of the missing door detail.

**Table 1. Summary of Rehabilitation Schedule & Recommended Treatments**

| Feature                                       | Treatment<br>(as recommended by historic resource consultant<br>except where noted) | Estimated<br>Year of<br>completion |
|-----------------------------------------------|-------------------------------------------------------------------------------------|------------------------------------|
| Wood Shingle                                  | Replace and re-stain shingles                                                       | 2024                               |
| Wood Windows                                  | Replace twelve in-kind                                                              |                                    |
| Composition shingle roof, drainage & flashing | Replace shingle roofing and metal flashing, and install new drainage assembly.      |                                    |
| Wood molding ornamentation on front door      | Restore per City staff recommendation.                                              | Undetermined                       |

The working financial analysis spreadsheet provided by the applicant at time of submittal, estimates that the cost of the owner’s proposed improvements over a 10-year period is approximately \$170,00 and the estimated total tax savings over the 10-year period is approximately \$90,000, starting at an annual savings of \$8,400 and then decreasing to approximately \$7,600 by the tenth year of the program.

#### V. Recommendation

Staff has determined that all work proposed in the Mills Act Contract work plan provides for the property’s “use, maintenance and restoration as to retain its characteristics as property of historical significance”, and advises the Commission to recommend that City Council approve the Mills Act Contract request for the subject property, subject to the inclusion of the door detail restoration.

**Attachments:**

1. Mills Act Application for 2523 Piedmont Avenue – Historic Architectural Summary, received May 16, 2019
2. Mills Act Application for 2523 Piedmont Avenue – Exterior Rehabilitation Schedule, received June 25, 2019
3. Notice of Decision – Landmark designation for 2523 Piedmont Avenue (2022)

LANDMARKS PRESERVATION COMMISSION  
August 4, 2022

2523 PIEDMONT AVENUE  
Page 6 of 6

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**Prepared by:** Fatema Crane, Senior Planner/LPC Secretary; [fcrane@cityofberkeley.info](mailto:fcrane@cityofberkeley.info) (510) 981-7410



Office of the City Manager

CONSENT CALENDAR  
February 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Jordan Klein, Director, Planning and Development Department  
 Subject: Mills Act Contract – 2119 Marin Avenue

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to enter into a Mills Act contract with Anne and Michael Ray for the City Landmark property at 2119 Marin Avenue.

FISCAL IMPACTS OF RECOMMENDATION

Approving the Mills Act contract for the City Landmark property at 2119 Marin Avenue would reduce the property tax bills for the owners by an estimated total of approximately \$12,000 in year one, approximately 30% of which (\$3,600) would be diverted from Berkeley's tax revenue. Final amounts are determined by Alameda County after contract execution. This will be an annual impact to the City's tax revenue, as the contract runs for ten years, in comparable annual amounts, and automatically renews annually thereafter unless notice of nonrenewal is given. In turn, the work plan commits the owners to spending the anticipated tax savings on restoring the landmarked property. The Mills Act also specifies procedures for cancellation of the contract for a breach of conditions.

Council approval will allow property tax reduction for this property to begin in the 2024-2025 fiscal year.

CURRENT SITUATION AND ITS EFFECTS

On September 1, 2022, the property at 2119 Marin Avenue was designated as a City of Berkeley Structure of Merit, making the property owner eligible to take advantage of the Mills Act (see Attachment 2).

On September 1 and October 6, 2022, the Landmarks Preservation Commission (LPC) reviewed the proposal by the present owners, Anne and Michael Ray, to enter into a Mills Act contract for 2119 Marin Avenue, including a proposed scope of work and maintenance schedule, and voted 5-0-0-4 to recommend approval of the Mills Act Contract application to City Council (Moved/Second Linvill/Leuschner; Yes: Enchill, Finacom, Leuschner, Linvill, Twu; No: none; Abstain: none; Absent: Adams, Crandall, Montgomery, Schwartz).

## BACKGROUND

The Mills Act allows owners of historic properties to voluntarily enter into individual contracts with the City, in order to obtain limited ad valorem tax relief at the discretion of host jurisdictions, in exchange for maintaining and restoring their historic property. The property tax savings are offered to create an incentive for owners to maintain their historic properties, to designate historic properties that are currently not protected, and to purchase and upgrade already dilapidated historic properties.

In Berkeley, owners of those properties designated by the LPC as either a Landmark or a Structure of Merit may apply for a Mills Act contract. The Alameda County Assessor uses a formula, consistent with the provisions of the Mills Act, to determine the amount of property tax reduction, which applies a capitalization rate to the calculated net operating income for the property under the Mills Act contract. The Mills Act application includes a ten-year work plan to restore and maintain the subject property. The total investment in the work plan is intended to equal or exceed the total amount of the property tax relief over the contract period.

On February 24, 1998, the Berkeley City Council passed Resolution No. 59,355-N.S., which authorizes the local use of the Mills Act of 1972, as amended, which is codified in California Government Code Section 50280-90 and Revenue and Taxation Code Section 439.

In 2011, State law was amended to include more specific requirements regarding inspection, fees, and cancellation. The amendments clarified that the local legislative body may require fees for providing services pursuant to the Mills Act; shall inspect the property prior to a new agreement and then every five years thereafter; and shall cancel the contract if it determines that the owner has breached the conditions of the contract. As a result of these amendments, Land Use Planning fees for the approval and monitoring of these contracts were added in July 2012, and an ongoing inspection program is in place.

## RATIONALE FOR RECOMMENDATION

In order to qualify for Mills Act consideration, 1) the property must qualify as historic; 2) the contract must adequately meet the requirements for Mills Act contracts; and 3) the type of improvements outlined in the work plan must meet the City standards, which require that tax savings be used according to the rules and regulations outlined in the Act.

The property located at 2119 Marin Avenue is eligible for the Mills Act contract because it is a Berkeley Structure of Merit. The contract template has been reviewed by the City Attorney's Office for conformance to all relevant City and State regulations. Finally, the contract includes a comprehensive work plan that the property owner has agreed to complete within the first ten-year contract period (see Attachment 3) and that

provides for the property “use, maintenance and restoration as to retain its characteristics as property of historical significance.” The LPC has concluded that the proposed work plan meets the standards adopted by the City Council, and the costs of the proposed improvements are anticipated to equal or exceed the tax savings afforded the owners.

ENVIRONMENTAL SUSTAINABILITY & CLIMATE IMPACTS

Approval of the contract would encourage historic resource rehabilitation, materials conservation, and construction and demolition waste diversion.

ALTERNATIVE ACTIONS CONSIDERED

The Council could deny the application if it found that it did not satisfy the requirements of the Act.

CONTACT PERSON

Jordan Klein, Director, Planning and Development Department, 510-981-7534  
Fatema Crane, Senior Planner/LPC Secretary, 510-981-7413

Attachments:

1. Draft City Council Resolution
2. LPC NOD, Structure of Merit Designation for 2119 Marin Avenue, dated October 31, 2022
3. Rehabilitation and Maintenance Plan, received September 27, 2022
4. LPC Staff Report September 1, 2022

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

AUTHORIZING THE CITY MANAGER TO EXECUTE A MILLS ACT CONTRACT AND ANY NECESSARY AMENDMENTS WITH ANNE AND MICHAEL RAY, FOR THE MAINTENANCE AND RESTORATION OF A HISTORIC PROPERTY LOCATED AT 2119 MARIN AVENUE, IN RETURN FOR THE OWNER TO OBTAIN A PROPERTY TAX REDUCTION

WHEREAS, on February 24, 1998, the Berkeley City Council adopted Resolution No. 59,355-N.S. which authorized the use of Mills Act contracts; and

WHEREAS, on September 1, 2022, 2119 Marin Avenue was designated as a City of Berkeley Structure of Merit and became eligible to take advantage of the Mills Act; and

WHEREAS, on September 1 and October 6, 2022, the Landmarks Preservation Commission reviewed the proposed projects listed in the Mills Act Contract Application for 2119 Marin Avenue, and recommended that the City Council enter into a Mills Act contract with the property owner; and

WHEREAS, the City of Berkeley Mills Act program requires each contract to be approved by the City Council and signed by the City Manager; and

WHEREAS, the City Council, in light of all evidence, finds that the contract is consistent with the purposes of the Mills Act program.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Manager is authorized and directed to execute a Mills Act Contract and any necessary amendments with Anne and Michael Ray for the maintenance and restoration of the historic property located at 2119 Marin Avenue and in return offer a property tax reduction for a period of at least ten years, with a recorded copy of such contract and amendments to be on file in the Office of the City Clerk and Alameda County Clerk-Recorder.



L A N D M A R K S  
P R E S E R V A T I O N  
C O M M I S S I O N

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N O T I C E O F D E C I S I O N

**DATE OF COMMISSION DECISION:** September 1, 2022

**DATE NOTICE MAILED:** October 31, 2022

**APPEAL PERIOD EXPIRATION:** November 15<sup>17</sup>, 2022

**EFFECTIVE DATE OF DECISION (Barring Appeal or Certification):** November 15<sup>18</sup>, 2022<sup>1</sup>

## 2119 Marin Avenue The Laflin House

**Landmarks Preservation Commission Landmark Initiation (LMIN#2022-0002) to consider designation of the structure located on the above property as a City of Berkeley Landmark or Structure of Merit**

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following designation:

**DESIGNATION:** Structure of Merit

**APPLICANT:** Anne & Michael Ray, 2119 Marin Avenue, Berkeley, CA 94709

**ZONING DISTRICT:** Single-family Residential/Hillside Overlay R-1(H)

**ENVIRONMENTAL REVIEW STATUS:** The designation qualifies for a Categorical Exemption under Section 15061 of the Public Resources Code, Guidelines for Implementation of the California Environmental Quality Act (CEQA).

**The application materials for this project are available online at:**

<https://berkeleyca.gov/construction-development/land-use-development/zoning-projects>

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**FINDINGS AND APPROVED APPLICATION ARE ATTACHED TO THIS NOTICE**

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<sup>1</sup> Pursuant to BMC Section 1.04.070, if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day. Pursuant to BMC Section 3.24.190, the City Council may “certify” any decision of the LPC for review, within fifteen days from the mailing of the NOD. Such certification shall stay all proceedings in the same manner as the filing of a notice of appeal.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
LMIN 2022-0002  
2119 Marin Avenue  
October 31, 2022  
Page 2 of 4

**COMMISSION VOTE: 5-2-0-2**

**YES:** ADAMS, CRANDALL, LEUSCHNER, LINVILL, SCHWARTZ  
**NO:** FINACOM, MONTGOMERY  
**ABSTAIN:** [NONE]  
**ABSENT:** ENCHILL, TWU

**TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):**

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley; or by facsimile to (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.
2. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
3. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
  - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
  - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
  - c. The fee for all appeals by Applicants is \$2500.

If no appeal is received, the landmark designation will be final on the first business day following expiration of the appeal period.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

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

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.



LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
LMIN 2022-0002  
2119 Marin Avenue  
October 31, 2022  
Page 3 of 4

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

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

**PUBLIC COMMENT:**

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Communications to Berkeley boards, commissions or committees 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 a City board, commission or committee, 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 secretary of the relevant board, commission or committee. 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 secretary to the relevant board, commission or committee for further information.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
LMIN 2022-0002  
2119 Marin Avenue  
October 31, 2022  
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**FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or Fcrane@cityofberkeley.info. All project application materials, may be viewed at the Permit Service Center (Zoning counter), 2120 Milvia Street, between 8 a.m. and 4 p.m., Monday through Friday.

**ATTACHMENTS:**

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1. Findings
2. Landmark Application, received **MAY 17, 2022**

ATTEST: 

Fatema Crane, Principal Planner  
Secretary to the Landmarks Preservation Commission

cc: City Clerk  
Applicant & Property Owner: Anne & Michael Ray, 2119 Marin Avenue, Berkeley, CA

# ATTACHMENT 1

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## FINDINGS

SEPTEMBER 1, 2022

### 2119 Marin Avenue – Laflin House

**Landmark application #LMIN2022-0002 for the consideration of City Landmark or Structure of Merit designation status for a residential building constructed in 1910 – APN 61-2584-3**

#### PROJECT DESCRIPTION

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Structure of Merit designation of the property at 2119 Marin Avenue, Laflin House.

#### CEQA FINDINGS

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1. The project is found to be exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15061.b.3 of the CEQA Guidelines (activities that can be seen with certainty to have no significant effect on the environment).

#### LANDMARK PRESERVATION ORDINANCE FINDINGS

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2. Pursuant to Berkeley Municipal Code (BMC) Sections 3.24.110.B.2.a of the Landmarks Preservation Ordinance, the Commission finds that the subject main building meets the designation criterion for Structure of Merit (SOM) status because it was constructed in 1910 and, thereby, is a contemporary of the nearby City Landmark Elmer Buckman House, constructed in 1910 as well as the Northbrae Public Improvements that were established in 1907. Both of these City Landmarks are located in the same neighborhood as the subject building, and the Northbrae Public Improvements abut the subject property.
3. Pursuant to Berkeley Municipal Code (BMC) Sections 3.24.110.B.2.b, the Commission finds that the subject building meets an additional SOM criterion related to its compatibility with the nearby Landmark Buckman House that is similar in size and features matching natural exterior building materials such as wood shingles, trim and windows. Both buildings are the work of prominent Berkeley architect Walter H. Ratcliff, Jr.

## FEATURES TO BE PRESERVED

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1. This Structure of Merit designation shall apply to the subject property and the following distinguishing features of the main building shall be preserved:
  - Two-story massing of the original 1910 structure
  - Gablet hipped roof with front-facing hipped dormer featuring two double-hung windows within the gablet
  - Wide eaves at the front supported by simple brackets
  - West side roof dormer with gable roof
  - Two connected gable dormers, each with a double-hung window on the east side
  - Redwood horizontal board siding at first floor, including west side entry stairs and front porch
  - Painted wood shingles at second floor
  - Exposed brick chimney at west side
  - Wood and glass door at original front porch
  - Wood double-hung windows
  - Wood trim, including water table, window/door casings and sills, roof eaves and trimmed edges



Planning and Development Department  
Land Use Planning Division

**City of Berkeley**  
**Ordinance #4694 N.S.**  
**LANDMARK APPLICATION**

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**1. Street Address: 2119 Marin Avenue**  
**City: Berkeley**  
**County: Alameda**  
**Zip: 94707**

**2. Assessor's Parcel Number: 61-2584-3**  
**Block and Lot: 2584/3**  
**Tract: Berkeley Heights**  
**Dimensions: 40"w.x125.8-136.8'd.**  
**Cross Streets: Shattuck and Oxford**

**3. Is property on the State Historic Resource Inventory? No**

**Is property on the Berkeley Urban Conservation Survey? Yes**  
**Form # 30821**

**4. Application for Landmark includes:**  
**a. Building: X      Garden:**                      **Other features:**  
**b. Landscape or Open Space:**                      **Natural      Designed      Other**  
**c. Historic Site:**  
**d. District:**  
**e. Other:**

**5. Historic Name: Laflin Residence**

**6. Commonly Known Name: none**

**7. Date of Construction: a. Factual: 1910      b. Approximate:**  
**Source of Information: Permit #728**

**8. Architect: Walter H. Ratcliff, Jr.**

**9. Builder: Nels Olsen**

**10. Style: Craftsman**

**10. Original Owners: Carrie F. and Addison H. Laflin**  
**Original Use: Single-family residence**

**11. Present Owners: Anne and Michael Ray**

**12. Present Use:**

|                       |                         |               |                   |              |
|-----------------------|-------------------------|---------------|-------------------|--------------|
| <b>Residential:</b>   | <b>Single Family: X</b> | <b>Duplex</b> |                   |              |
| <b>Multiple</b>       |                         |               |                   |              |
| <b>Commercial:</b>    | <b>Office</b>           | <b>Store</b>  | <b>Industrial</b> | <b>Hotel</b> |
| <b>Institutional:</b> | <b>School</b>           |               | <b>Hospital</b>   | <b>Other</b> |

**Current Zoning: R1H**

**Adjacent Property Zoning: R1H**

**13. Present Condition of Property:**

|                  |                  |                |             |             |
|------------------|------------------|----------------|-------------|-------------|
| <b>Exterior:</b> | <b>Excellent</b> | <b>Good: X</b> | <b>Fair</b> | <b>Poor</b> |
| <b>Interior:</b> | <b>Excellent</b> | <b>Good: X</b> | <b>Fair</b> | <b>Poor</b> |
| <b>Grounds:</b>  | <b>Excellent</b> | <b>Good: X</b> | <b>Fair</b> | <b>Poor</b> |

**Has the property's exterior been altered? Yes, at rear, see attached report**

**14. Description: see attached report**

**15. History: see attached report**

16. Significance: see attached report

**Historic Value:**

National          State          County          City: X          Neighborhood: X

**Architectural Value:**

National          State          County          City: X          Neighborhood: X

17. Is the property endangered? No

18. Photographs: Date: See attached report          Repository:  
Photographer:

19. Bibliography: see attached report

20. Recorder: Mark Hulbert          Date: April 20, 2022  
Organization: Preservation Architecture

# PRESERVATION ARCHITECTURE

April 20, 2022

## **LAFLIN-RAY RESIDENCE 2119 Marin Ave., Berkeley Historical Architectural Report**

### **Introduction**

The following report summarizes the history and describes the character of the existing residence at 2119 Marin Ave. in north Berkeley. This effort's purposes are to recognize the historic importance of this residence to its owners, neighbors and to the City of Berkeley by applying for Landmark status and, in conjunction, apply for the State of California's historic preservation incentive program, the Mills Act. While the overall property consists of 2 parcels and buildings, the residence and its parcel (APN 61-2584-3) are the subject of these Landmark and Mills Act applications (figs.1-2).

The intent of this documentation is to provide thorough background information identifying the historical significance of the residence and, under the Mills Act, to record a program for its ongoing retention, maintenance and rehabilitation. The Landmark application and Mills Act program focus on the building exterior and structure so do not extend or apply to the building site or its interior.

This historical documentation is based on substantive previous work on the subjects of historic Berkeley architecture, the works of renowned Berkeley architect Walter H. Ratcliff, Jr. and the development of Berkeley's Northbrae neighborhoods. In this regard, specific acknowledgements duly recognize the Berkeley Architectural Heritage Association (BAHA) for their previous work on these subjects, including inventories of the works of Ratcliff (*Walter H. Ratcliff, Jr. Architect - His Berkeley Work*, BAHA, 2011), along with a well-crafted 1994 walking tour brochure on the north Berkeley neighborhood known as Northbrae (*Northbrae: A Residential Park at Berkeley*, BAHA, 1994), in which tour and brochure the subject residence was prominently included.

In addition to historical research, these efforts have included existing conditions documentation, as well as field recordation of a range of directly associated resources.

### **Summary History**

2119 Marin Ave. was an originally modest redwood house, inside and out, its 1910 origins early in the development of the Northbrae and Berkeley Heights neighborhoods and likewise relatively early in the career of its architect, Walter H. Ratcliff, Jr. (1881-1978). This house was speculatively designed for the Berkeley Development Company, the developers of the Berkeley Heights subdivision in which this property stands and who mapped the Berkeley Heights tract in 1909 (fig.3). Yet the parcel and house design were sold to and thus built for its first owners, Addison H. and Carrie F. Laflin, previous San Franciscans whose newly established Berkeley residence was first listed in the 1911 directory (which residential listing was on Contra Costa Ave., a briefly deployed original name for Marin Ave.). The Laflin family thereafter retained and occupied their property for 113 years, the Laflin's granddaughter selling it to its current owner in 2013, when a range of historic records were passed on to the owner, including a valuable set of historic photos (figs.4-9).

The overall Northbrae development's origins date to a 1909 subdivision. That development, at the hilly northern extent of Berkeley and Alameda County, was enabled by modern rail and auto transportation. The nearby arrival of rail, both the Southern Pacific Red Line and the Key Route streetcars, made this early 20th century development a middle-class, streetcar suburb.



The subject house exemplifies the modesty underlying the initial development intent. The original permit was for a 2-story, 6-room, approximately 1,900 square foot house, its valuation \$2,868 (which translates into some \$84,000 today). At that time, the Laflins had 1 newborn child. The family would add 2 others during the 1910s, when they also evidently added an automobile and, consequently, a 10 foot by 14 foot garage (\$100) – yet that 1921 garage was built on an adjoining parcel that the Laflins also originally acquired (thus tempering the seeming modesty of the venture). As the Laflin family grew, so did their house and to which, in 1928, they added a 2-story addition to the rear along with a small new entry way at the south side, the add totaling some 630 square feet and costing about the same (\$2,500 in 1928 dollars) as the original house.

The early photos of the 1910 house clearly convey the rustic simplicity of the Laflin home while also giving the impression of it being compact and small. But, in reality, the house has a surprising physical stature.

Contextually, based on the previous research on Northbrae, 2119 Marin is 1 of 12 homes designed by Ratcliff in the Northbrae neighborhoods between 1909 and 1916. Of those, its design is comparable to 2 others, at 2022 Los Angeles (1909) and 875 Indian Rock Ave. (1910). Yet, each of those 12 homes is relatively unique within the range of then contemporary academic architectural styles. Relative to which, the house at 2119 Marin is uniquely and atypically rustic, a definitive example of a “simple house,” its prominent clipped-hip roof also apparently unique in the Ratcliff oeuvre.

Altogether, this range of contemporaneous houses clearly demonstrate Ratcliff’s ranging design capabilities. Yet another example further underscores such capability, a residence at 18 Alvarado Rd. in the Claremont neighborhood of southeast Berkeley. Whereas the Marin Ave. house was speculatively designed, modestly scaled and affordably priced, the Alvarado Rd. house was a custom Tudor style design that originally cost 3 times that of 2119 Marin. Moreover, those 2 houses were permitted within 10 days of each other, so evidently shared Ratcliff’s architectural drawing board. Such ranging capabilities and successes were assuredly part of Ratcliff’s appeal and are readily appreciated to this day.

The 2119 Marin Ave. house was also 1 of 7 houses attributed to the Berkeley Development Co., including several of its lower Marin Ave. neighbors (at 1925, 1931 and 1939 Marin), of which the 2119 house was the earliest, by far relative to the concentrated development timeframe of this vicinity. Each of the other 6 were constructed from 1914-1919. No others were by Ratcliff – in fact, 5 of the other 6 were designed by Ratcliff’s contemporary, architect Henry H. Gutterson (1884-1954).

It took all of 2 decades to essentially build out the Berkeley Heights neighborhood, wherein the first homes were built c1909 and where, by 1929, there were few undeveloped lots. A comparison of the 1929 to the 1950 Sanborn maps demonstrates the resulting and stable extent of this neighborhood, where those few vacant lots were by then developed yet there were otherwise no observable changes. And given societal circumstances, the development that occurred in the intervening years was post-WWII. Thus, the various modern homes that are mostly-welcomely scattered around the Northbrae neighborhoods.

#### **Summary Descriptions** (figs.11-24)

The original 1910 house, fronting on and facing northeast towards Marin Ave., was 2 stories with a rectangular floor plan, the exterior walls and roofs all wood, including horizontal wood board siding

below the deeply overhanging roofline and shingle cladding at the upper front and rear gables and the roof dormers at each side; wood doors, windows – including a projecting bay window at the upper front – and trim; and the roof itself clad in wood shakes. The original entry was at the left (southwest) side via an exterior porch, forward of which stood a broad brick chimney that disappeared into the roofline then reappeared above as a slender chimney shaft. The partial height walls of the side entry porch and another porch across the front were likewise clad in horizontal board siding, which treated those porches as extensions of the house. In addition to the upper frontward bay window that kerfs the front roof, the 2 side dormers are worth pointing out, as they are not the same. The northeast side dormer is a paired gable, a form common to a number of Ratcliff houses. Like the front bay, that dormer is also set within a kerfed roof, allowing for a taller wall and windows. Alternatively, the southwest side dormer is only one gable at its front, with a low roofline extending rearward, its wall sitting directly on the roof, resulting in a low wall with little windows. Of these side dormers, the northeast one is evidently the more architectural, even as the southwest was the entry side.

Of these original forms, characteristics and elements, the entry porch, southwest side entry door and window, and the rearward (northwest) exterior wall, clipped roof and gable were replaced by the subsequent addition. Forward of that addition, the original house and its materials are substantially intact.

The 1928 rear addition – which, per the permit records, was apparently the design of the owner and their builder – tied into and conformed to the original architecture excepting its side-gabled roofs, yet clearly related to the original upper gabled forms. Those conforming forms and treatments together with the rearward placement resulted in an appropriately subordinate and respectful addition. The house as it stood was depicted in the 1929 Sanborn map (fig.10).

Another small rear addition was completed in 1978. That add stands within the re-entrant corner between the rear wall of the original house and the northeast side wall of the 1928 addition. The original wood shingle roofing has also been replaced, as has the front porch decking and west side entry steps. Otherwise, the exterior of the house has not changed from its original and early character.

#### *Permit Summary*

| <i>date</i> | <i>permit work</i>                      | <i>owner/architect/contractor</i>               |
|-------------|-----------------------------------------|-------------------------------------------------|
| Jul. 1910   | New residence                           | Berkeley Development Co./W.H. Ratcliff/N. Olsen |
| Feb.1921    | New garage                              | A.H. Laflin/--/same                             |
| Sep.1928    | Build on at rear                        | A.H. Laflin/--/C.J. Pattinson                   |
| Jan.1948    | New porch flooring, repair railing      | A.H. Laflin/--/J. Arnell                        |
| Mar.1953    | New brick porch and steps               | A.H. Laflin/--/Robert E. McDonald               |
| Dec.1958    | Reroof over wood shingles               | A.H. Laflin/--/Robert E. McDonald               |
| Mar.1978    | Add breakfast rm., kitchen remodel      | M. Little/--/Roger N. Benton                    |
| Jul.1978    | Reroof                                  | Paul Little/--/Caldwell-Roland                  |
| Oct.1988    | Repair roof, reroof, repair front porch | Miln & Sandy Little/--/David Gerstel            |
| May.1990    | New fences, retaining wall, drainage    | Paul & Sandra Little/Bill Coburn/David Gerstel  |

#### **Developer**

The Berkeley Development Company (BDC) was one of numerous development and construction companies under the umbrella of the Mason-McDuffie companies and its regular cast of

shareholders. Of whom, Louis Titus and Duncan McDuffie were the BDC president and secretary, respectively. All of Northbrae was consolidated and acquired by the BDC in 1902, its first homes constructed in 1907 and some 30 completed, inclusive of 2119 Marin, by 1910.

### Architect

Walter H. Ratcliff, Jr. (1881-1973) has a locally well documented life and career. As a young man at the turn of the twentieth century, Ratcliff studied and practiced architectural design intermittently during the first decade of the 1900s. His architectural studies were not formal – Ratcliff's 1903 college degree was in chemistry. But he then apprenticed in the office of architect John Galen Howard, spent a period at the British School in Rome, and otherwise traveled in Europe, studying architecture along the way. His intermittent work and studious travels concluded in 1907. In 1908, back in the Bay Area, Ratcliff joined forces with architect Alfred Henry Jacobs, in San Francisco. By 1909, he was back in Berkeley practicing as Walter H. Ratcliff, Jr., Architect. Ratcliff's architectural work was largely prolific and successful, despite the major cataclysms over the course of his professional years – World War I, the Great Depression and World War II, each of which inserted long and difficult times into professional livelihoods. Over the span of his working life, some of Ratcliff's periodic roles were that of architect for the Alameda County Home Builders, Berkeley City Architect (1913 to c1920), Mills College Campus Architect (1920s) and, remarkably, in the wake of the Great Depression, President of the Fidelity Guaranty Building and Loan Association.

Ratcliff's architectural works encompassed residences, largely for the well-to-do but also many smaller and speculative homes; several apartment buildings; a number of commercial buildings large and small; a range of educational and ecclesiastical buildings; and a number of public works. Oddly enough, given his dedication to the Berkeley community and his role for a period as the City Architect, he authored no important civic architectural works (the City of Berkeley Corporation Yard excepted, but that is arguably not an important civic work). And though his range of work is otherwise comprehensive, many examples of which remain standing, it is his residential work that was the most prolific and that constitutes Ratcliff's central architectural oeuvre.

On that front, Ratcliff designed hundreds of houses, most in Berkeley, with dozens remaining. He designed in period styles – the Arts and Crafts, Shingle, Storybook, Italianate, Spanish and Tudor Revival, along with combinations thereof. His work was evidently influenced by the Beaux Arts tradition that he experienced in Europe as well as firsthand in the office of John Galen Howard, by the Ratcliff family's English heritage and, otherwise, by examples gleaned from European travels. His period designs were obviously as confident, comfortable, and contagious then as now. The residences that remain standing fit into their environs. That such houses survive in numbers – despite the hostility to tradition of the intervening years – attests to the quality and integrity of Ratcliff's residential architecture.

Per the evidence and by all accounts, in his life and in his work, Ratcliff was disciplined, studious, intelligent, well-to-do, and unwaveringly traditional.

Walter H. Ratcliff, Jr. retired from architecture in the late 1940s, though successive generations of his family have sustained the Ratcliff firm to the present day. Ratcliff's important architectural contributions and legacy, so particular to Berkeley, enable his unequivocal recognition as a Master Architect. His relevance can also be measured by the recognition bestowed on a long list of his designs via the designation as Berkeley Landmarks:

- 2750 Adeline Street, Frederick H. Dakin Warehouse, 1906
- 1326 Allston Way, Corporation Yard/Ratcliff Building, 1913
- 2018 Allston Way, Elks Club, 1913
- 2126 Bancroft Way, Waste & Clark, 1913
- 2700 Bancroft Way, Westminster Hall, 1926
- 2410 Bowditch Street, Anna Head School
- 2515 Channing Way, The Robcliff Apartment House, 1921
- 2959 College Avenue, Mercantile Trust Co., 1925
- 2500 Durant Avenue, The Cambridge Apartments, 1914
- 2222 Harold Way, Armstrong College, 1923
- 2624 Hillegass Avenue, The Berkeley Tennis Club, 1908 (Ratcliff & Jacobs)
- 1581 Le Roy Avenue, Hillside School, 1925
- 45 Oak Ridge Road, Montgomery House, 1909
- 1952 Oxford Street, Richfield Oil Co., 1930
- 920 Shattuck Avenue, Elmer Buckman House, 1909
- 2107 Shattuck Avenue, Mason-McDuffie Company, 1928
- 2140 Shattuck Avenue, American Trust Building
- 2323 Shattuck Avenue, Fidelity Savings Building (w/Walter Sorensen)
- 2031 Sixth Street, West Berkeley Children's Center Day Nursery, 1927
- 18 Alvarado Road, McCormack Residence, 1910
- 2526 Hawthorne Terrace, George D. and Ellen G. Blood Residence, 1929

### Owners

Addison H. Laflin (1882-1959) and Carrie F. Laflin (c1885-1969) were the original owners of the 2119 Marin Ave. residence, which was completed for them and where they moved into in 1911. True to the initial intent and potential of the Northbrae development, the Laflins were young, both in their late-20s, and evidently middle-class. His career was spent as a salesman, manager and eventual executive in the wholesale dried fruit industry, in San Francisco, where he was first listed in the 1909 directory and last listed in 1951, then the president of the Not-A-Seed Sales Company. Following her passing, the property remained in the Laflin-Little family until 2013.

### Builders

#### *Nels Olsen*

Per permit records, the builder of the 1910 house was Nels Olsen. Permit records (provided by BAHA) identify a range of Olsen's construction projects and the associated architects:

- 2708 Benvenue Ave. (George Meeker, 1909)
- 1715 Blake St. (1909)
- 260 Tunnel Rd. (Oliver/Foulkes/Kaiser, 1909)
- 2820 Piedmont Ave. (Ratcliff, 1909)
- 2406 Tenth St. (1911)
- 244 Alvarado Rd. (Noble Newsom, 1911)
- 900 Shattuck Ave. (Olin Grove, 1911)
- 1500 San Pablo Ave. (Wm Schmidt, 1913)
- 1905 and 1907 McGee St. (Frank M. May, 1913)
- 1061 California St. (Maury Diggs, 1913)

*Joseph Pattinson*

Pattinson was identified in permit records as the builder of the 1928 addition. The 1928 directory listed his residence on The Alameda in Berkeley and identified him as building contractor. General searches found 2 further project references, a 1915 “frame and iron barn” for the CA Fruit Cannery Assoc. in Ignacio, Marin County (*Building and Engineering News*; June 7, 1916, p27); and a 1918 building for the Bay Point Foundry Co. in Bay Point, Contra Costa County (*Western Engineering*; July 1918, p14).

**Evaluation of Significance**

Based on the above historical documentation, the following addresses the property’s basis for consideration of City of Berkeley Landmark designation (per Section 3.24.110 Landmarks, Historic Districts and Structures of Merit Designation Criteria for Consideration).

A. *Landmarks and historic districts. General criteria which the [landmark preservation] commission shall use when considering structures, sites and areas for landmark or historic district designation are as follows:*

1. *Architectural merit:*

a. *Property that is the first, last, only or most significant architectural property of its type in the region;*

The residence at 2119 Marin Ave. is none of the above.

b. *Properties that are prototypes of or outstanding examples of periods, styles, architectural movements or construction, or examples of the more notable works of the best surviving work in a region of an architect, designer or master builder;*

The 1910 house at 2119 Marin Ave. is an outstanding and notably preserved work of the renowned historic Berkeley architect Walter H. Ratcliff, Jr.

c. *Architectural examples worth preserving for the exceptional values they add as part of the neighborhood fabric.*

As an early and well-preserved residence in the development of the 1909 Berkeley Heights tract, 2119 Marin Ave. is an integral and exceptional part of its neighborhood fabric. Its setting and architectural character are therefore preservation-worthy.

2. *Cultural value: Structures, sites and areas associated with the movement or evolution of religious, cultural, governmental, social and economic developments of the City;*

The subject property and its residence are representative of historic patterns of residential development in early twentieth century Berkeley – specifically, the development of Northbrae and Berkeley Heights, in which the 2119 Marin Ave. house was amongst the first group to be realized. Moreover, this residence was one of a small number of Northbrae residences directly commissioned by Northbrae’s developers, the Berkeley Development Co. Additionally, it was the first of their residential designs to be built in the neighborhood, thus directly represents the historically important social and economic development of Berkeley’s Northbrae neighborhood.

3. *Educational value: Structures worth preserving for their usefulness as an educational force;*

The subject property, being a single-family residence within a neighborhood thereof, has limited potential educational value on that basis. Nonetheless, as noted above, it was one of the earliest residences in the Northbrae development and was realized for the historically important Berkeley real estate entity, the Berkeley Development Co., so offers that margin of historic educational value.

4. *Historic value: Preservation and enhancement of structures, sites and areas that embody and express the history of Berkeley/Alameda County/California/United States. History may be social, cultural, economic, political, religious or military;*

The original and primary part of the residential property at 2119 Marin Ave. is important for its association to the Master Berkeley Architect Walter H. Ratcliff, Jr. It is an early and unique residential design in the context of his career. Moreover, the house is an early contributor to its North Berkeley neighborhood so, altogether, clearly expresses Berkeley's early 20th century developmental and architectural history.

5. *Any property which is listed on the National Register described in Section 470A of Title 16 of the United States Code.*

The subject property is not listed on the National Register.

Additionally, the 1910 Laflin Residence at 2119 Marin Ave. retains its integrity (integrity being a measure of a property's extant state relative to its origins and identified significance) of location and setting, design, materials, workmanship, feeling and association, all of which are substantially intact relative to the original and early property. While the 1910 house was expanded in 1928 with a rear addition, that add was compatible with, appropriate to and, at this juncture, an integral part of the historic residence.

### **Character Defining Features**

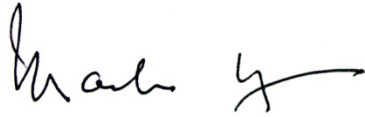
Based on the NR analysis, the historical and historic architectural significance of the house at 2119 Marin Ave. is embodied in the following physical and material characteristics:

- 2-story building form of 1910 house under frontward clipped-hip roof and rearward 1928 addition with side-gabled roof
- Project bay window at upper front
- East and west side roof dormers with shedded and gabled roofs
- Redwood horizontal board siding at lower walls, frontward and rearward, including at west side entry stair and porch and at front porch, painted
- Wood shingling at upper front gable, east and west side gables and at rearward walls, painted
- Exposed brick chimney at west side
- Wood panel door at west side entry and wood and glass door at front porch
- Wood double-hung windows and wood picture windows at west side, including side casements at rear-most picture window, all painted
- Wood trim, including water table, window/door casings and sills, roof eaves and trimmed edges
- Wood roof brackets at front
- Wood attic vents in front and side gables

Non-historic alterations:

- Roofing and roof drainage
- 1978 addition at rear, northeast corner
- Site work

Signed:

A handwritten signature in black ink, appearing to read "Mark Hulbert", with a long horizontal flourish extending to the right.

Mark Hulbert  
Preservation Architect

attached: Figs.1-24 (pp.9-25); original permit application

### **Selected Resources & References**

from Berkeley Architectural Heritage Association (BAHA):

*Northbrae: A Residential Park at Berkeley*, 1994

*Walter H. Ratcliff, Jr. Architect - His Berkeley Work*. 2011

Copies of City of Berkeley building permit applications, 1910-1928

Summary of the works of contractor Nels Olsen

Woodruff Minor: *The Architecture of Ratcliff*. Heyday Books, Berkeley, 2006.

Sanborn Fire Insurance Maps for Berkeley, California; 1911, 1929 & 1950, vol.3, sh.353.

City of Berkeley permit records for 2119 Marin Ave.



Fig.1 – 2119 Marin Ave. (highlighted, approx.) – Location aerial (Google Earth 2021, north at upper right)



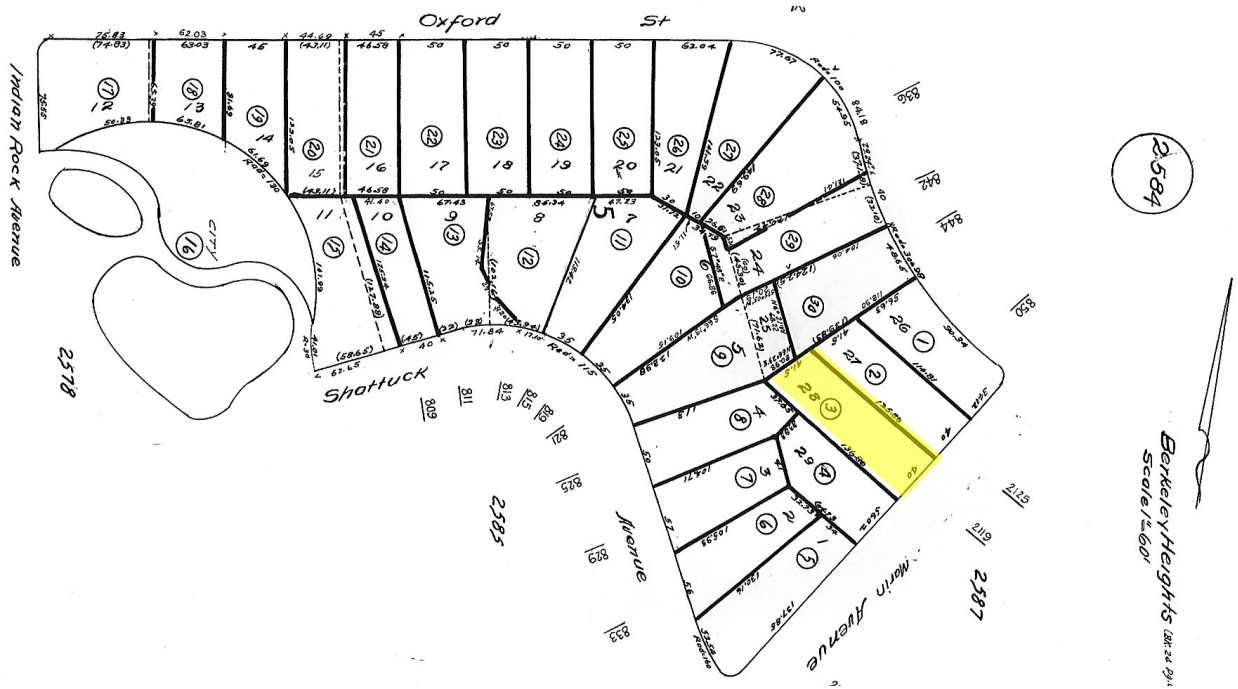


Fig.2 – 2119 Marin Ave. (highlighted) – from Assessor's parcel map



Fig.3 – 2119 Marin Ave. (highlighted) – from 1909 Berkeley Heights tract map (north is up) (note original use of Contra Costa Ave.)



Figs.4-5 – 2119 Marin Ave. – West side (above) and front (below), 1910 (figs.5-10 from owners)





Figs.6-7 – 2119 Marin Ave. – Rear (above) and east side (below), 1910





Figs.8-9 – 2119 Marin Ave. – West side (above) and front (below), 1940



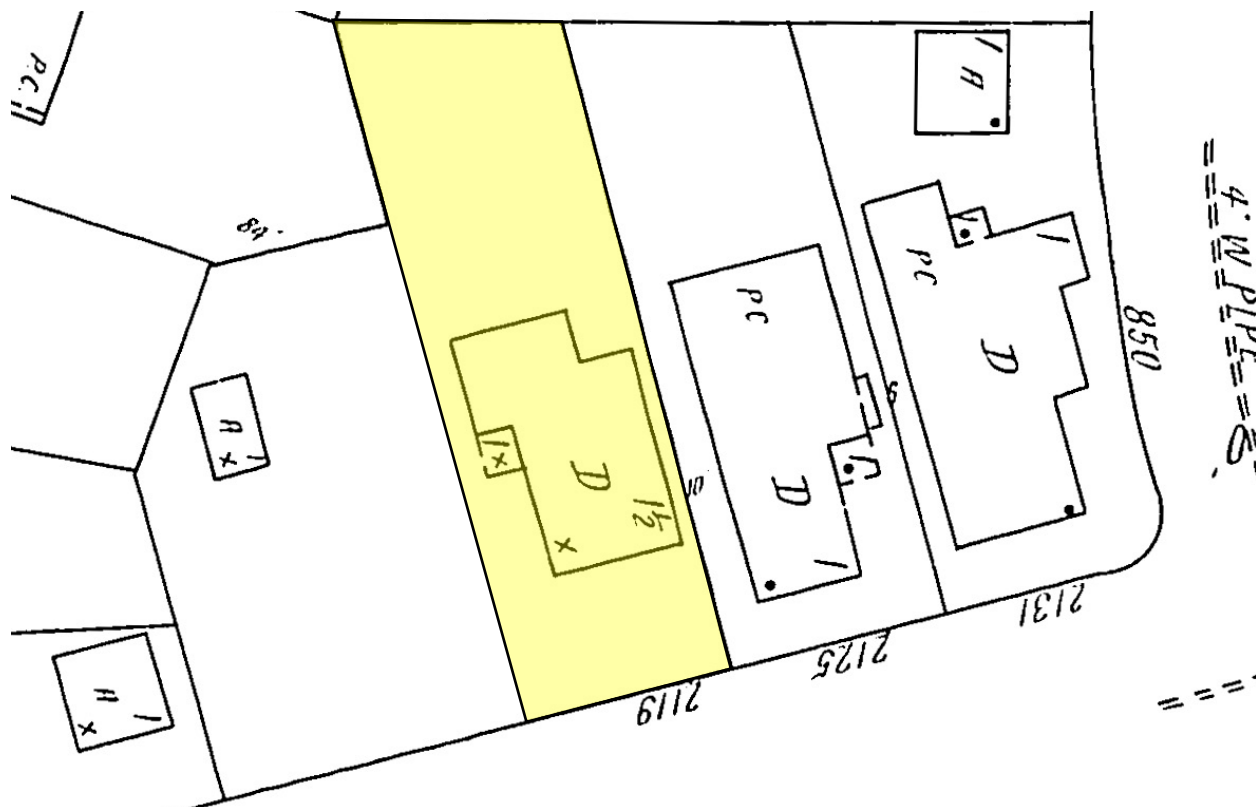


Fig.10 – 2119 Marin Ave. (highlighted) – from 1929 Sanborn map (north is up)



Fig.11 – 2119 Marin Ave. – Front of house from street (figs.11-24, MH 2022)



Fig.12 – 2119 Marin Ave. – Site entry from street, looking north



Fig.13 – 2119 Marin Ave. – Front and part east side



Figs.14-15 – 2119 Marin Ave. – West side







Fig.16 – 2119 Marin Ave. – Rear



Fig.17 – 2119 Marin Ave. – West side entry



Fig.18 – 2119 Marin Ave. – Bracket at front porch



Figs.19-20 – 2119 Marin Ave. – Front porch





Fig.21 – 2119 Marin Ave. – Chimney at west side



Fig.22 – 2119 Marin Ave. – West side, rear



Fig.23 – 2119 Marin Ave. – East side



Fig.24 – 2119 Marin Ave. – Redwood siding



APPLICATION FOR BUILDING PERMIT, No. 728

FRAME BUILDING

Application is hereby made to the Building Inspector of the City of Berkeley for permission to build a  
2 story 6 room frame Dwellings  
 corner on the west of Center Castro av. street 75 feet west of  
18th St. street. Estimated entire cost of building \$ 2860  
 Building to be occupied as Residence by [No.] \_\_\_\_\_ families  
 Size of lot 40 by \_\_\_\_\_ feet.  
 Size of proposed building 26 ft. by 40 ft. Extreme height of building \_\_\_\_\_ ft.  
 Height in clear of cellar \_\_\_\_\_ ft. in. Height in clear of first story 9 ft. \_\_\_\_\_ in.  
 Height in clear of second story \_\_\_\_\_ ft. in. Height in clear of third story \_\_\_\_\_ ft. in.  
 Height in clear of fourth story \_\_\_\_\_ ft. in. Height in clear of fifth story \_\_\_\_\_ ft. in.  
 Foundation to be of (material) concrete (Thickness) 8 inches, greatest height of foundation  
24 inches. Width of footings 16 inches  
 Size of posts 2 by 6 Main Mills 4 by 6 Girders 4 by 6 Posts  
 on piers 4 by 6 If piers are used, give size \_\_\_\_\_ by \_\_\_\_\_ ft. on centers.  
 Size of underpinning 2 by 6 inches 16 inches on centers.  
 Size of studs in first story 2 by 4 inches 8 inches on centers.  
 Size of studs in second story 2 by 4 inches 4 inches on centers.  
 Size of studs in third story \_\_\_\_\_ by \_\_\_\_\_ inches \_\_\_\_\_ inches on centers.  
 Size of studs in fourth story \_\_\_\_\_ by \_\_\_\_\_ inches \_\_\_\_\_ inches on centers.  
 Size of studs in fifth story \_\_\_\_\_ by \_\_\_\_\_ inches \_\_\_\_\_ inches on centers.  
 Exterior wall covering to be of 1x8 sheetrock Light shaft wall covering to be of \_\_\_\_\_  
 First floor joists 2 by 10 inches 16 inches on centers. Longest span between supports 13'-6" ft.  
 Second floor joists 2 by 10 inches \_\_\_\_\_ inches on centers. Longest span between supports \_\_\_\_\_ ft.  
 Third floor joists \_\_\_\_\_ by \_\_\_\_\_ inches \_\_\_\_\_ inches on centers. Longest span between supports \_\_\_\_\_ ft.  
 Fourth floor joists \_\_\_\_\_ by \_\_\_\_\_ inches \_\_\_\_\_ inches on centers. Longest span between supports \_\_\_\_\_ ft.  
 Fifth floor joists \_\_\_\_\_ by \_\_\_\_\_ inches \_\_\_\_\_ inches on centers. Longest span between supports \_\_\_\_\_ ft.  
 Rafters 2 by 4 inches 32 inches on centers. Longest span between supports 8 ft.  
 Roof covered with shingles Steep or flat? 1/2 Pitch  
 Are studs in bearing partitions to be same as outside walls of each story? yes Give size 2 by 4  
 Chimneys of brick lined with lime any patent flues? no  
 Gas grate flues in the patent chimney or brick? no  
 Any dumb waiters or chutes? \_\_\_\_\_ Any elevator (freight or passenger)? no

If exterior walls are to be covered with shingles, walls must be close boarded: up and down boarding prohibited.

Plans and specifications must be filed.  
 Name of Architect: W. H. Hatchiff, Jr. Address First National Bank  
 Name of Owner: Berkeley Developments Address Adson Bldg, Berkeley  
 Name of Builder: C. O. Olsen Address 2415-7th St, Berk.

STATE OF CALIFORNIA  
 COUNTY OF ALAMEDA  
 CITY OF BERKELEY

The undersigned, being first duly sworn upon oath, deposes and says that the statements herein contained are true and correct, and hereby agrees to save, indemnify and keep harmless the City of Berkeley against all liabilities, judgments, costs and expenses which may in any wise accrue against said City in consequence of the granting of this permit, or from the use or occupancy of any sidewalk, street or sub-sidewalk place by virtue thereof, and will in all things strictly comply with the conditions of this permit and Ordinances of the City of Berkeley.

Subscribed and sworn to before me  
JUL 11 1910  
 \_\_\_\_\_  
 Signature of Owner, Architect or Builder.  
 Address 2415-7th St

Clark

Building Inspector must be notified when building is ready for lathing, or before exterior walls are covered.

WRITE IN INK

# APPLICATION FOR BUILDING PERMIT

## Alterations and Repairs

Application is hereby made to the Department of Buildings and Inspections of the City of Berkeley for permission to build after or add to a 2 story fr room frame residence

located 2119 Marin Av. N. side bet. Alfred & Shattuck

All provisions of the Building Law will be complied with in the erection, alteration or repairing of said building whether specified herein or not.

Value \$2500

Building to be occupied as residence by (No.) one family

### WRITE PLAINLY FULL DESCRIPTION OF WORK TO BE DONE

Build on at rear of house two rooms and extend the N. E. bedroom 5 ft. northwesterly -  
Foundation of concrete -  
floor joists 2x10 - 16 on 4  
ceiling " 2x6 " "  
Rafters 2x6 32 "  
Shingle roof - 5 ft

*All plans*

Name of Owner A. H. Laffin June Residence Address 2119 Marin

Name of Builder J. Pattinson Residence Address 925 The Alameda

I hereby agree to save, indemnify and keep harmless the City of Berkeley against all liabilities, judgments, costs and expenses which may in any wise accrue against said City in consequence of the granting of this permit, or from the use or occupancy of any sidewalk, street or sub-sidewalk space by virtue thereof, and will in all things strictly comply with the conditions of this permit and Ordinances of the City of Berkeley.

In Zone No. \_\_\_\_\_ Ordinance No. 4500 Signature of Owner, Architect or Builder J. Pattinson

Address 925 The Alameda

### FOR DEPARTMENT USE ONLY

Number \_\_\_\_\_ Street \_\_\_\_\_ Page \_\_\_\_\_ Permit No. 31436  
Filed \_\_\_\_\_ Ready \_\_\_\_\_ Checked by \_\_\_\_\_ Date Issued Oct. 31 1936

MILLS ACT  
EXTERIOR REHABILITATION SCHEDULE

| Feature                                                                                              | Character Defining? | Condition | Recommended Treatment                                                                                                                    | Schedule  | Budgets          | Notes |
|------------------------------------------------------------------------------------------------------|---------------------|-----------|------------------------------------------------------------------------------------------------------------------------------------------|-----------|------------------|-------|
| A. All wood board siding and trim work throughout first story and below, including front porch walls | Yes                 | Fair      | Repair existing wood board siding and trim work; repaint all (see below)                                                                 | 2024-2026 | \$40,000         | a     |
| B. Wood shingle siding, second story, south (front) and west side                                    | Yes                 | Fair-poor | Remove and replace existing wood shingles with new wood shingles to visually match original/early shingle work; repaint all (see below)  | 2024-2026 | \$48,000         | b     |
| C. All wood windows and trim (30 total)                                                              | Yes                 | Fair-poor | Repair existing wood windows or, where irreparable, selectively replace with new wood windows to match existing; repaint all (see below) | 2024-2026 | \$40,000         | c     |
| D. All painted exterior wood siding, soffits, trim, windows and doors                                | Yes                 | Fair      | Prepare and repaint overall exterior wood with paint color(s) to match original Craftsman character of building                          | 2026-2028 | \$35,000         |       |
| E. All roofs, roof drainage and flashing                                                             | Yes                 | Fair      | Replace roofing, flashing and roof drainage assemblies                                                                                   | 2030      | \$50,000         | d     |
| F. Wood steps at west side entry                                                                     | Yes                 | Poor      | Replace to match existing                                                                                                                | 2028      | \$20,000         |       |
| <b>Total Estimated 10yr. Budget</b>                                                                  |                     |           |                                                                                                                                          |           | <b>\$233,000</b> |       |

**GENERAL NOTES:**

1. This proposed 10 year work plan is focused on the rehabilitation of primary exterior features and materials.
2. The proposed work plan is commensurate with the estimated Mills Act tax reduction per the accompanying Spreadsheet.
3. This focused work plan represents only a portion of current and future rehabilitation work.

**REHAB NOTES:****a. Wood Repairs and Repainting:**

- Remove all loose and failed wood material;
- Remove all paint on existing wood to remain to sound paint layers;
- Patch areas of rotted wood with wood epoxies and wood patches (dutchmen);
- Where irreparable, replace wood with new to match existing;
- Where removed, repair and replace underlayment;
- Caulk wood joints;
- Sand and clean all wood surfaces.

**b. Wood Shingles:**

- Existing, painted wood shingles at north (rear) and east side in good condition and to be retained;
- Replicate missing original concave wood shingle roof projecting within south gable over second floor windows (as shown in early photos).

**c. Windows:**

- Replace any windows requiring replacement with new to match original/existing, including upper sash drops/ears at double-hung windows

**d. Reroofing:**

- Remove existing roofing and drainage assemblies and replace with new roofing and drainage assemblies;
- New roofing to be composition roof shingles visually similar to original/early wood roof shingles, including ridgeline and hipline shingles.



L A N D M A R K S  
P R E S E R V A T I O N  
C O M M I S S I O N  
S T A F F R E P O R T

FOR COMMISSION ACTION  
SEPTEMBER 1, 2022

## 2119 Marin Avenue – The Laflin House

**Mills Act Contract Application #LMMA2022-0002 for a single-family residential property that is pending City Landmark or Structure of Merit designation consideration– APN 61-2584-3.**

### I. Application Basics







#### A. Parties Involved:

- **Property Owner:** Anne and Michael Ray  
2119 Marin Avenue  
Berkeley, CA
- **Historic Resource Consultant:** Mark Hulbert, Historic Architect  
Preservation Architecture  
446 17<sup>th</sup> Street, #302  
Oakland, CA 94612

**B. Recommendation:** Approve the proposed rehabilitation schedule and recommend favorable action to City Council.

Figure 1: Vicinity Map – highlighting nearby City Landmarks and Structures of Merit



|                                                                                     |                                     |                                                                                     |                      |
|-------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------------------------------------------------|----------------------|
|  | Landmarks / Structure of Merit; LM, |  | Parcels              |
|  | Features                            |  | Demolished           |
|  | Districts                           |  | Partially Demolished |

**Figure 2: Subject property, primary façade in 1940 (Laflin family)**



**Figure 3: Subject property, primary façade in 2022 (Hulbert)**



## II. Background

### California Mills Act

The Mills Act, California Government Code Article 12, Section 50280-50290, is a tax incentive program designed to encourage proper maintenance and preservation of historically significant properties. The state law permits local jurisdictions to enter into agreements with owners of historic properties to reduce property taxes and to require that the savings are used to complete approved rehabilitation and preservation activities over a minimum ten-year period.

In 1998, City Council adopted Resolution 59,355 authorizing use of the Mills Act for sites in Berkeley. Only the owners of locally designated City Landmarks and Structures of Merit may apply for Berkeley Mills Act contracts.

The Landmarks Preservation Commission (LPC) must review Mills Act requests, determine whether the proposed rehabilitation schedules include appropriate activities, and then consider recommending that City Council enter into a Mills Act contract with the property owner.

### Application Chronology

On May 23, 2022, the property owner submitted the subject Mills Act application and a City Landmark (LM) or Structure of Merit (SOM) application, in accordance with Berkeley Municipal Code (BMC) Section 3.24.120. Both applications were prepared by historic architect Mark Hulbert.

The LM/SOM designation application is pending review and consideration by the Landmarks Preservation Commission (LPC); the public hearing for this matter began August 5, 2022, and will continue on September 1, 2022.

Consideration of this Mills Act application is contingent upon LPC approval of the pending LM or SOM request. The Commission may consider the Mills Act request only after it takes favorable action on the pending designation request.

## III. Issues and Analysis

The Mills Act contract application package for this consideration is included as Attachment 1 of this report. It contains a *Historical Architectural Report*, a proposed *Exterior Rehabilitation Schedule* with a cost budget and a completed *Financial Analysis Worksheet* for this request.

The proposed *Exterior Rehabilitation Schedule* outlines building exterior and site improvements for the subject property over a projected 10-year period. Improvements to the exterior of the City Landmark building include, but are not limited to: repair of wood board siding and replacement of wood shingles to match existing; repair and replace as needed all wood windows; and to repaint the exterior building materials.

All improvements included in the *Exterior Rehabilitation Schedule* relate to the historic, character defining features of the building and site. The schedule appears to constitute ordinary maintenance and repair of the property and, therefore, would be permitted ministerially under the Landmarks Preservation Ordinance (Berkeley Municipal Code Section 3.24.260). However, any future work that would go beyond the scope of maintenance and repair would be subject to prior approval by the Commission.

These work plan items appear to be justifiable in that they constitute restoration, repair, rehabilitation and continued maintenance of the subject property. Further, the activities would provide for the property’s “use, maintenance and restoration as to retain its characteristics as property of historical significance,” as provided for in the Mills Act, Government Code Sections 50280 et. Seq., as authorized by the Berkeley City Council per Resolution No. 59,355 – N.S. For these reasons, staff concludes that the proposed tasks represent improvements that are consistent with the requirements of the Mills Act.

#### IV. Mills Act Contract Proposal

The intent of the Mills Act is to provide property tax relief so that the property owners entering into Mills Act Contracts with the City will spend the property-tax money that is saved through the Contract on preserving and/or restoring their property. The applicant’s proposed 10-year plan of improvements is summarized in Table 1 below along with staff’s recommended addition for restoration of the missing door detail.

**Table 1. Summary of Rehabilitation Schedule & Recommended Treatments**

| <b>Feature</b>                                                      | <b>Treatment</b><br>(as recommended by historic resource consultant except where noted)              | <b>Estimated Year of completion</b> |
|---------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|-------------------------------------|
| Painted wood board and wood shingle siding and trim work throughout | Repair existing painted wood board siding and trim work; replace all wood shingles to match existing | 2024-2026                           |
| Thirty painted wood windows                                         | Repair or, where irreparable, selectively replace to match existing                                  | 2024-2026                           |
| All painted exterior wood siding, trim, windows and doors           | Repaint                                                                                              | 2026-2028                           |
| Roof, roof drainage and flashing                                    | Replace roofing, drainage assemblies and flashing                                                    | 2030                                |
| Wood steps at west side entry                                       | Replace to match existing                                                                            | 2028                                |



The working financial analysis spreadsheet provided by the applicant at time of submittal estimates that the cost of the owner's proposed improvements over a 10-year period is approximately \$185,000 and the estimated total tax savings over the 10-year period is approximately \$135,500, with an annual savings of approximately \$12,300 over the ten-year of the program.

## V. Recommendation

Staff has determined that all work proposed in the Mills Act Contract work plan provides for the property's "use, maintenance and restoration as to retain its characteristics as property of historical significance", and advises the Commission to recommend that City Council approve the Mills Act Contract request for the subject property.

### Attachments:

1. Mills Act Application for 2119 Marin Avenue – including *Historical Architectural Report, Exterior Rehabilitation Schedule and Financial Analysis Worksheet*, received May 23, 2022

**Prepared by:** Fatema Crane, Principal Planner/LPC Secretary; [fcrane@cityofberkeley.info](mailto:fcrane@cityofberkeley.info) (510) 981-7410





Office of the City Manager

CONSENT CALENDAR  
February 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Liam Garland, Director, Public Works  
 Subject: Authorize a Funding Agreement with AC Transit to Supplement the Quick-Build Durant Transit Lane Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to negotiate and enter into a funding agreement between the City of Berkeley and AC Transit providing \$648,000 in additional City funding to supplement the Quick-Build Durant Transit Lane Project.

FISCAL IMPACTS OF RECOMMENDATION

The City will contribute a total of \$648,000 in supplemental funding to support the project's construction and delivery. Funding in the amount of \$336,000 is available in the FY 2023 budget in the General Fund (Fund 011). Funding in the amount of \$312,000 is subject to appropriation in the FY 2024 budget in the Measure BB Fund 134.

The funding will pay for new bus shelters at three new bus bulbs, angle parking on the north side of Durant Avenue for the whole project length, and an extension of the bus lane from Ellsworth Street to Fulton Street.

CURRENT SITUATION AND ITS EFFECTS

AC Transit and the City are collaborating on the Quick-Build Durant Transit Lane project, which would introduce several transit operation improvements on Durant Avenue in the Southside neighborhood. Installing a transit-only lane and additional parking spaces can alleviate roadway conflicts and provide a clear path for transit.

AC Transit's original scope of work for the project included:

- A red transit-only lane between Ellsworth Street and College Avenue, creating a dedicated lane for buses in a highly congested corridor;
- New bus bulbs at the bus stops within this project area, which would speed up transit operations by no longer necessitating buses pulling out of and back into traffic;
- Traffic signal modification at the intersection of Durant and College Avenues, to allow buses priority for right turns; and

- Reconsidering curb management on the north side of Durant Avenue between Telegraph Avenue and Bowditch Street, which experiences heavy loading traffic.

Initial design work identified that the three bus bulbs would need powered bus shelters due to shade from existing tree canopies. In June 2022, Council included funding from the General Fund in the FY 2023 budget to fund this unexpected cost increase.

Additionally, in the past year, City staff proposed additional elements to expand the project's scope and effectiveness. These included:

- Extending the transit lane from Ellsworth Street west to Fulton Street;
- Implementing front-in angled parking on the north side of Durant Avenue for the full length of the transit lane project, increasing parking capacity in residential and commercial areas; and
- Installing concrete bus pads at the bus stops in the project corridor.

Staff committed to AC Transit that the City would identify local funding to deliver additional City-proposed scope elements. After a review of available funds, the City identified funding for the transit lane extension and angled parking on the north side of Durant Avenue. The funding agreement will formalize this pledge.

The Quick-Build Durant Transit Lane Project is a Strategic Plan Priority Project, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

### BACKGROUND

AC Transit lines 6, 36, and 51B operate on stretches of Durant Avenue in the Southside neighborhood of Berkeley. Durant Avenue is frequently congested due to delivery drivers double-parking, particularly between Telegraph Avenue and Bowditch Street, which adversely impacts transit reliability. Durant Avenue is also a major vehicular access corridor connecting Downtown Berkeley with the Southside neighborhood, with three one-way through lanes and curbside parking and/or loading zones supporting local residents, businesses, and visitors.

The Quick-Build Durant Transit Lane Project is part of an AC Transit-wide effort to improve transit services to complement the numerous corridor improvement projects being undertaken as part of the AC Transit Major Corridors Study (2016) and the Quick-build Framework (2020).

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The Project would result in more efficient transit operations, encouraging more people to use public transportation and engage in active modes of transportation instead of driving.

RATIONALE FOR RECOMMENDATION

This project is a collaboration between the City and AC Transit to benefit transit operations and improve parking management in a highly congested area. The purpose of the Quick-Build project is to improve transit operations along Durant Avenue and to further implement improvements consistent with the City's transportation policies. AC Transit worked with the City of Berkeley in developing the project scope, including project elements, outreach/notification, and approval processes. The City will continue to work with AC Transit in finalizing the project design and implementation.

ALTERNATIVE ACTIONS CONSIDERED

City staff originally sought to fund new concrete bus pads at the bus stops in the project corridor, but insufficient funding was available to support their construction.

CONTACT PERSON

Farid Javandel, Deputy Director of Public Works, Transportation and Engineering (510) 981-7061  
Gordon Hansen, Senior Planner, Public Works, (510) 981-7064

Attachment:  
1: Resolution

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

AUTHORIZE A FUNDING AGREEMENT WITH AC TRANSIT TO SUPPORT THE  
QUICK-BUILD DURANT TRANSIT LANE PROJECT

WHEREAS, AC Transit operates local bus lines on Durant Avenue in the Southside neighborhood of Berkeley; and

WHEREAS, AC Transit has been awarded federal grant funding to implement the Quick-Build Durant Transit Lane project, which will benefit transit operations and improve parking management in a highly congested area; and

WHEREAS, City staff have collaborated with AC Transit on the project scope, adding supplemental project elements to increase the project's extent and effectiveness; and

WHEREAS, the City has identified a total of \$648,000 in supplemental funding to support the expanded project scope, with \$336,000 available in the FY 2023 budget in the General Fund (Fund 011) and \$312,000 subject to appropriation in the FY 2024 budget in the Measure BB Fund 134; and

WHEREAS, the supplemental funding will pay for new bus shelters at three new bus bulbs, angle parking on the north side of Durant Avenue for the whole project length, and an extension of the bus lane from Ellsworth Street to Fulton Street.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to negotiate and sign a funding agreement with AC Transit to supplement the implementation of the Quick-Build Durant Transit Lane project.



Office of the Mayor

CONSENT CALENDAR  
February 14, 2023

To: Honorable Members of the City Council

From: Mayor Jesse Arreguin

Subject: Berkeley Rotary Endowment: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Mayor Arreguin, to the Berkeley Rotary Endowment, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Arreguin and any other Councilmembers who would like to contribute.

BACKGROUND

The Berkeley Rotary Endowment is the fiscal sponsor of the annual Martin Luther King Jr Celebration, with the 12<sup>th</sup> annual event having taken place on January 16, 2023. The purpose of this event is to bring the faith based, business, university, youth and civic communities together to celebrate the life and dreams of Dr. King and to honor adult and youth leaders in our community. During the event, several local non-profits are highlighted for the work they do in the community, and donations raised go to the organizations that are honored.

This year, five different organizations were recognized.

- **Black Girls United:** They work with BUSD to provide safe spaces for Black girls, providing mental and emotional support, skills for peer conflict mediation, and celebrate blackness.
- **Women's Daytime Drop-In Center:** Founded in 1987, today they support around 1,600 people annually with housing navigation, parenting classes, essential supplies, and more.
- **BOSS Women & Children's Reentry Campus:** This program operated by Building Opportunities for Self-Sufficiency (BOSS) provides interim housing and services to formerly incarcerated women, providing a transition to stable housing and family reunification.
- **Pacific Center for Human Growth:** Celebrating its 50<sup>th</sup> anniversary, this is the oldest LGBTQ+ center in the Bay Area, providing a wide range of services such as mental and physical health, support groups, and facilitated workshops.

- **Love Never Fails:** They provide a wide range of services to survivors of human trafficking, including workforce development, mentoring, education, survivor empowerment, and housing.

Funds raised through this Resolution will help the Berkeley Rotary Endowment support these important organizations that carry on the legacy of Dr. Martin Luther King Jr.

FINANCIAL IMPLICATIONS

No General Fund impact; \$250 is available from Mayor Arreguin's Office Budget discretionary accounts.

ENVIRONMENTAL SUSTAINABILITY

There are no environmental impacts associated with the recommendations in this report.

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

1: Resolution



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

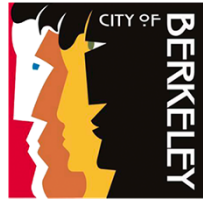
WHEREAS, Mayor Jesse Arreguin has surplus funds in his office expenditure account; and

WHEREAS, a California non-profit tax exempt corporation, the Berkeley Rotary Endowment, seeks funds in the amount of \$250 to provide the following public services to publicly commemorate and honor the contributions of Dr. Martin Luther King Jr. by supporting non-profit organizations who carry on his legacy; and

WHEREAS, the provision of such services would fulfill the following municipal public purpose of bringing the communities across the City, including, but not limited to faith based, business, university, youth and civic communities, together to celebrate the life and dreams of Dr. King and to honor adult and youth leaders in our community.

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 the Berkeley Rotary Endowment to fund the following services of bringing the communities across the City, including, but not limited to faith based, business, university, youth and civic communities, together to support non-profit organizations that carry on the legacy of Dr. Martin Luther King Jr.





CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

CONSENT CALENDAR  
 February 14, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Rigel Robinson (author), Vice Mayor Ben Bartlett (co-sponsor), Councilmember Kate Harrison (co-sponsor), Councilmember Mark Humbert (co-sponsor)

Subject: Referral: Southside Impact Fee Nexus Study

RECOMMENDATION

1. Refer to the City Manager to establish a development impact fee for projects within the Southside Plan boundary for the purpose of funding Southside public realm improvements. Staff should complete all necessary actions, including preparation of a Nexus Study pursuant to the Mitigation Fee Act.
2. Refer \$250,000 to the FY 2023 budget process for a consultant to be engaged over a two-year process, starting in 2024, to assist with the vision, capital list, nexus study, fee schedule, and other requirements.

BACKGROUND

Under the Mitigation Fee Act, local governments are authorized to impose fees on development projects to fund new public facilities. Prior to approval of an impact fee, a Nexus Study is required to establish the purpose of the impact fee, the uses the fee will fund, the reasonable relationship of the fee, and the types of development that will be subject to the fee.

The Downtown Streets and Open Space Improvement Plan (SOSIP), adopted in 2013, is funded by development impact fees and in-lieu fees alongside grants and other sources.<sup>1</sup> The SOSIP implements the Downtown Area Plan and provides guidance for actions to make Downtown Berkeley more bicycle- and pedestrian-friendly, support community vitality, and promote economic development. Examples of major projects identified in the SOSIP include the Downtown Berkeley BART plaza, Shattuck reconfiguration, and Milvia bike lanes.

Much like Downtown, Southside is an economically vibrant, dense, mixed-use neighborhood with high levels of pedestrian activity. Southside also serves as the gateway between the UC Berkeley campus and the City of Berkeley. Establishing a

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<sup>1</sup><https://berkeleyca.gov/your-government/our-work/adopted-plans/streets-and-open-space-improvement-plan-sosip>

Southside SOSIP to fund public realm projects would enable the City to close funding gaps and meet the neighborhood's infrastructure needs.

While the list of projects that can be funded by the impact fee are subject to the findings of the Nexus Study, potential projects include those outlined in the Telegraph Public Realm Plan (TPRP). The TPRP is a vision plan established in 2016 that seeks to “enhance Telegraph Avenue as a pedestrian-friendly place and distinctive destination” through scramble intersections, sidewalk improvements, public art, and more. The Southside SOSIP impact fee could also generate funding for Car-Free Telegraph, which was established as a Council priority through a February 2022 referral. Funding allocations for Southside SOSIP projects shall be determined in consultation with the appropriate City Councilmembers and shall be approved by the City Council.

#### ALTERNATIVES CONSIDERED

The Council could also consider an open space in-lieu fee. City staff is considering amendments to the 2011 Southside Plan to encourage the production of housing at all income levels.<sup>2</sup> The draft objective standards presented in September 2022 propose a reduction in the minimum open space requirement — referring to areas such as balconies, courtyards, and rooftops — in order to increase floor area dedicated to residential development.<sup>3</sup> Establishing an open space in-lieu fee would allow developers to pay the fee and opt out of building on-site open space, allowing more flexibility in project design.

#### FINANCIAL IMPLICATIONS

Staff time and \$250,000 from the General Fund.

#### ENVIRONMENTAL SUSTAINABILITY

None.

#### CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170  
Angie Chen, Legislative Assistant  
Chloe Park, Intern

#### Attachments:

- 1: Berkeley Municipal Code 23.204.130: Open Space Requirements for C-DMU
- 2: Staff Report and Resolution Adopting C-DMU Open Space In-Lieu Fee
- 3: Downtown Area Plan SOSIP Fee Nexus Study

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<sup>2</sup> <https://berkeleyca.gov/your-government/our-work/adopted-plans/southside-plan>

<sup>3</sup> <https://berkeleyca.gov/sites/default/files/documents/2022-09-20%20WS%20Item%2001%20Residential%20Objective%20Standards.pdf>

### 23.204.130 C-DMU Downtown Mixed-Use District.

A. *District Purpose.* The purpose of the C-DMU district is to implement the vision and goals of the Downtown Area Plan (adopted 2012), which include: Environmental Sustainability, Land Use, Access, Historic Preservation and Urban Design, Streets and Open Space, Housing and Community Health and Services, and Economic Development.

B. *Allowed Land Use.*

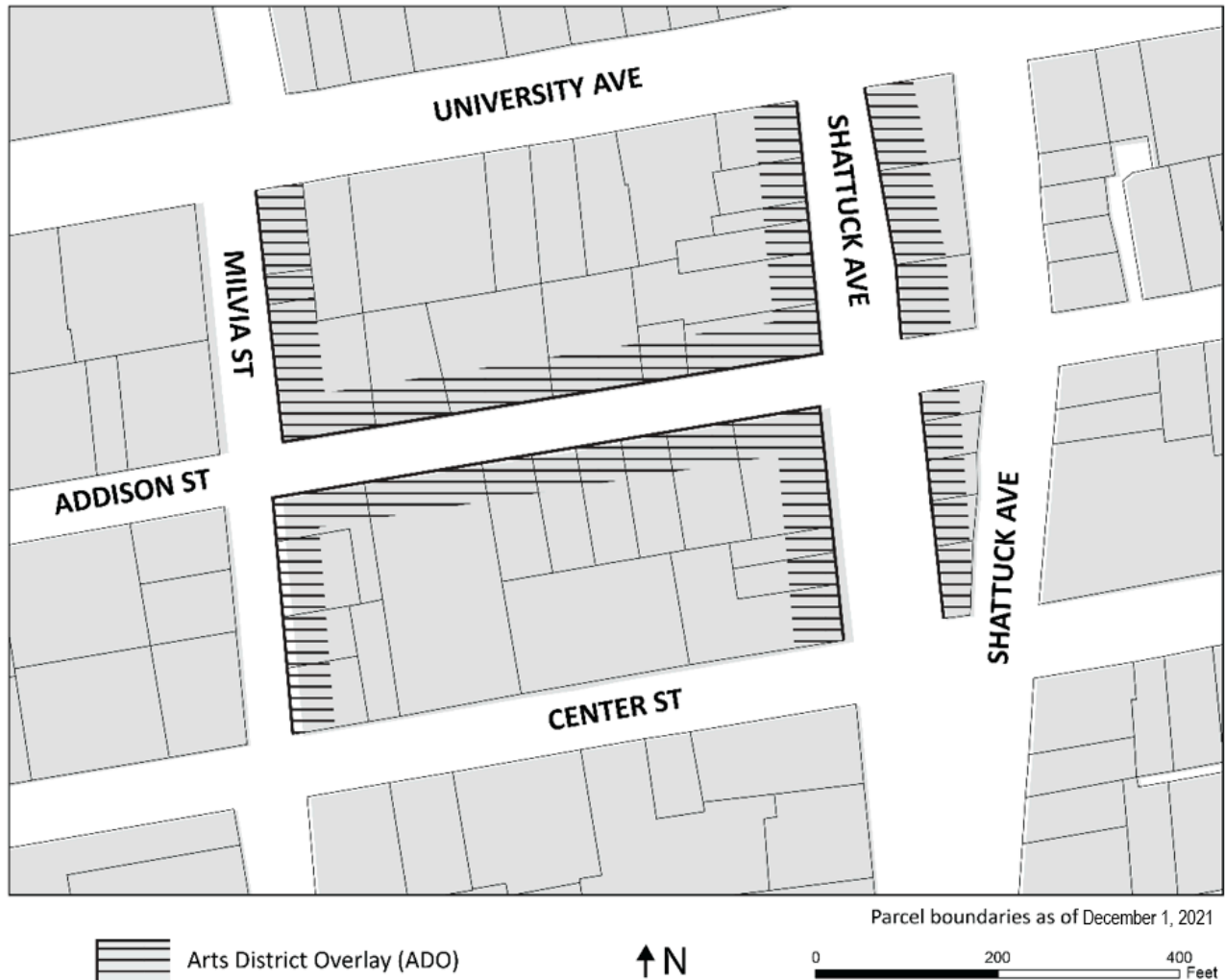
1. *General.* See Table 23.204-1: Allowed Uses in the Commercial Districts.
2. *Automatic Teller Machines (ATM).* An ATM inside a non-bank building is allowed with an AUP.
3. *Banks and Financial Services, Retail.* Retail banks and financial services in the C-DMU require permits as follows:
  - (i) Under 7,500 square feet outside of the Arts District Overlay: Zoning Certificate.
  - (ii) All other retail banks and financial service uses: AUP.
4. *Media Production.* Recording studios are allowed with an AUP. Broadcast studios require a Use Permit.

C. *Additional Permit Requirements.* See Section [23.204.030](#)--Additional Permit Requirements.

D. *Arts Overlay District.*

1. *Purpose.* The purpose of the Downtown Arts District Overlay (ADO) is to create a core of cultural activities and supportive retail and commercial uses in the C-DMU district. The ADO is intended to generate more pedestrian vitality in the downtown, promote Berkeley's regional leadership in the arts, and encourage broader economic revitalization of the area. The types of uses which would enhance the Arts District include ground floor retail uses which would contribute to the cultural vitality of the area, seated food service, and uses which provide pedestrian scale and siting.
2. *Boundaries.* The boundaries of the ADO are shown in Figure 23.204-4: C-DMU Downtown Arts District Overlay Boundaries.

**Figure 23.204-4. C-DMU DOWNTOWN ARTS DISTRICT OVERLAY BOUNDARIES**



3. *Use Limitations; Findings.* Food service establishments and offices on the ground floor adjacent to a street frontage require an AUP. To approve the AUP, the Zoning Officer must find that:

- (a) The project meets the purposes of the Arts Overlay District as set forth above; and
- (b) The location, size, type, appearance, and signage of the proposed use will:
  - i. Animate and enhance the pedestrian experience on the street; and
  - ii. Be generally open to the public evenings and on weekends, whenever practicable.

E. *Development Standards.*

1. *Height.*

- (a) *Height Limits.* Table 23.204-37: C-DMU Height Limits shows height limits in the C-DMU district, except as otherwise allowed by Paragraph [2](#) below. See Figure 23.204-5: C-DMU Sub-Areas for district sub-area boundaries.

Figure 23.204-5. C-DMU SUB-AREAS



**Table 23.204-37. C-DMU HEIGHT LIMITS**

| SUB-AREA   | MINIMUM    | MAXIMUM | MAXIMUM WITH USE PERMIT |
|------------|------------|---------|-------------------------|
| Core Area  | 50 ft.     | 60 ft.  | 75 ft.                  |
| Outer Core | 40 ft.     |         |                         |
| Corridor   | 40 ft.     |         |                         |
| Buffer     | No minimum | 50 ft.  | 60 ft.                  |

(b) *Parapet Walls.* For roofs with parapet walls, building height is measured to the top of the roof. Parapets may exceed the height limit by up to 5 feet as of right.

(c) *Minimum Height.* The minimum height standard applies to new buildings only, measured to the top of the plate. Theater and museum buildings are exempt.

2. *Increased Height Allowance.*

(a) *Allowed Height.* The ZAB may issue a Use Permit for up to five buildings that exceed the C-DMU height limits as shown in Table 23.204-38: C-DMU Increased Height Allowance.

**Table 23.204-38. C-DMU INCREASED HEIGHT ALLOWANCE**

| Sub-Area                     | Number of Buildings | Height  |         |
|------------------------------|---------------------|---------|---------|
|                              |                     | Minimum | Maximum |
| Combined Core and Outer Core | 2                   | 75 ft.  | 120 ft. |
| Core                         | 3                   | 120 ft. | 180 ft. |

(b) *Application Process.*

i. Applications for any of the five buildings over 75 feet in height may be submitted on July 1, 2012. If no applications that satisfy the submittal requirements as determined by the Zoning Officer are submitted on that date, then the next deadline to submit applications will be no later than six months from that date, with application opportunity dates at six-month intervals until the first application has been submitted. Once the first application has been submitted, then the application opportunity date will occur once yearly on the anniversary of the date of the first submittal.

ii. A project shall secure a position as one of the five allowed buildings over 75 feet in height following final Use Permit approval. Such Use Permits shall include a condition of approval that establishes a schedule for: submittal of a building permit application, timely response to plan check comments, payment of building permit fees such that a building permit can be issued, and beginning



construction. The process for allowing extension of the timeline requirements, if any, shall be specified in the condition.

iii. Failure of a permit holder to strictly comply with the schedule established by the Use Permit is grounds for revocation of the Use Permit pursuant to Chapter [23.404.080](#) (Permit Revocation).

(c) *Community Benefit Required.*

i. To approve a Use Permit for increased building height under this section, the ZAB must find that the project will provide significant community benefits, either directly or by providing funding for such benefits to the satisfaction of the City, beyond what would otherwise be required by the City.

ii. Significant community benefits may include, but are not limited to affordable housing, supportive social services, green features, open space, transportation demand management features, job training, and/or employment opportunities.

iii. This community benefit requirements shall be included as conditions of approval and the owner shall enter into a written agreement with the City that shall be binding on all successors in interest.

3. *Setbacks.*

(a) *Basic Standards.* Table 23.204-39 shows minimum required lot line setbacks in the C-DMU district. Additional standards are listed in [23.204.130.3.d](#).

**Table 23.204-39. C-DMU Setback Standards**

| Portion of Building at Height of: | Front                     | Minimum Interior Side          |                            | Minimum Rear |
|-----------------------------------|---------------------------|--------------------------------|----------------------------|--------------|
|                                   |                           | 65' and less from lot frontage | Over 65' from lot frontage |              |
| Zero to 20 feet                   | No minimum.<br>5 ft. max. | No minimum                     |                            |              |
| 21 feet to 75 feet                | No minimum.               | No minimum                     | 5 ft.                      |              |
| 76 feet to 120 feet               | 15 ft. min.               | 5 ft.                          | 15 ft.                     |              |
| Over 120 feet                     | 15 ft. min.               | 15 ft.                         |                            |              |

(b) *Modifications to Standards.* The ZAB may modify the setback standards in Table 23.204-39 with a Use Permit upon finding that the modified setbacks will not unreasonably limit solar access or create significant increases in wind experienced on the public sidewalk.

(c) *Residential Transitions.* The setback standards in Table 23.204-39 shall not apply to commercial lots abutting or confronting residential zoning. Such lots shall comply with Section [23.304.030.C.2](#)--Setbacks (Lots Adjacent to Residential Districts).

(d) *Additional Standards.*

- i. For buildings over 120 feet in height, that portion of the building over 120 feet must be less than 120 feet in width when measured at the widest point on the diagonal in plan view.
  - ii. For a lot that abuts the interior side or rear lot line of a residentially-zoned lot, a new building shall be set back from the shared property line by 20 feet where the building exceeds 45 feet in height.
  - iii. For a lot that confronts a residentially-zoned lot, a new building shall be set back 10 feet from the street-facing property line where the building exceeds 45 feet in height, except that this provision shall not apply to lots confronting public uses with a residential zoning designation, such as Berkeley High School, Civic Center Park, and Fire Station 2. However, this provision will apply for all lots with frontage on the Martin Luther King Jr. Way right-of-way.
  - iv. For lots with frontage on the Shattuck Avenue right-of-way south of Durant Avenue, a new building shall be set back 15 feet from the Shattuck Avenue property line where the building exceeds 65 feet in height.
  - v. Architectural features such as eaves, cornices, canopies, awnings, bay windows, uncovered porches, balconies, fire escapes, stairs and landings may project up to five feet into required setbacks of this section so long as the surface area of such projections does not exceed 50 percent of the surface area of the side of the building on which the projections are located.
4. *Usable Open Space.* Table 23.204-40 shows minimum required usable open space in the C-DMU district.

**Table 23.204-40. C-DMU USABLE OPEN SPACE REQUIREMENTS**

|                      | <b>MINIMUM USABLE OPEN SPACE</b>                                                        | <b>SUPPLEMENTAL STANDARDS</b>                 |
|----------------------|-----------------------------------------------------------------------------------------|-----------------------------------------------|
| Residential Uses     | 80 sq. ft./unit [1]                                                                     | <a href="#">23.304.090</a> —Usable Open Space |
| Non-Residential Uses | 1 sq. ft. of privately-owned public open space per 50 sq. ft. of commercial floor area. |                                               |

**Note:**

[1] Each square foot of usable open space provided as privately-owned public open space is counted as two square feet of required on-site open space.

5. *Privately-Owned Public Open Space.*
- (a) If a privately-owned public open space is indoors or enclosed, it shall include natural light in the form of windows, skylights, entryways, or other openings.
  - (b) Privately-owned public open space must be:

- i. Clearly identified with signage in a publicly conspicuous location at street level indicating the area that is open to the public, the hours the space is open, and the party responsible for maintenance; and
- ii. Separated from the grade of the public sidewalk by a height no greater than 3 vertical feet unless an AUP is obtained.

#### 6. *Open Space Alternatives.*

- (a) In lieu of providing the open space required by this section on-site, an applicant may either:
  - i. Pay an in-lieu fee to help fund the Streets and Open Space Improvement Plan (SOSIP); and/or
  - ii. Construct public improvement consistent with the SOSIP.
- (b) Payment of a fee in lieu of providing publicly accessible open space requires a Use Permit. To allow payment of an in-lieu fee, the ZAB must find that the payment will support timely development of open space improvements that will serve the needs of project residents and other people living in and using the downtown.
- (c) Construction of public improvements consistent with the SOSIP in lieu of open space requires a Use Permit. To allow construction of public improvements, the ZAB must find that the public improvements:
  - i. Will be located within the vicinity of the project and are consistent with the SOSIP;
  - ii. Will be coordinated with other ongoing or approved SOSIP or other right-of-way improvements in the vicinity, and will not create a hazardous situation or an unusual appearance in the downtown; and
  - iii. Will be finished before issuance of a certificate of occupancy for the project, unless otherwise allowed by the project conditions of approval.

#### 7. *Ground Floor Street Frontage.*


- (a) Special ground floor street frontage requirements in Paragraph [\(b\)](#) below apply to the following uses in the C-DMU district:
  - i. Insurance Agents, Title Companies, Real Estate Agents, Travel Agents.
  - ii. Office, Business and Professional.
  - iii. Group Class Instruction.
  - iv. Gym/Health Club.
- (b) New ground floor uses listed in paragraph [\(a\)](#) above that are adjacent to a street frontage shall either:
  - i. Include a storefront window display; or

ii. Be transparent and provide pedestrian viewing at least 10 feet into the storefront area.

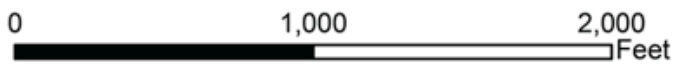
8. *Residential Entrance Limitations.* In new buildings constructed on public serving frontages, as shown in Figure 23.204-6, entrances to individual dwelling units and to living quarters in group living accommodations are not permitted on the street-facing side of the street-level floor.

**Figure 23.204-6. C-DMU PUBLIC SERVING FRONTAGES**



 Public-Serving Frontage Required

Parcel boundaries as of December 1, 2021



F. *Streets and Open Space Improvement Plan (SOSIP) Fee.* In addition to any other requirement of this section, projects shall be subject to payment of an impact fee to implement the Streets and Open Space Improvement Plan.

G. *Green Building Provisions.*

1. *New Buildings.* Construction of any new building shall attain either:

- (a) LEED Gold rating or higher as defined by the U.S. Green Building Council (USGBC); or
- (b) Building performance equivalent to this rating, as determined by the Zoning Officer.

2. *Additions 20,000 Square Feet or Less.* Additions of 20,000 square feet or less shall be required to meet all applicable standards of the Stopwaste Small Commercial Checklist, or equivalent, as determined by the Zoning Officer. The rating shall be appropriate to the use type of the proposed construction.

3. *Additions More than 20,000 Square Feet.* Additions of more than 20,000 square feet shall attain either:

- (a) LEED Gold rating or higher as defined by the U.S. Green Building Council (USGBC); or
- (b) Building performance equivalent to this rating, as determined by the Zoning Officer.

H. *Environmental Impacts.* Projects that may create potentially significant environmental impacts as described in the Downtown Area Plan Final EIR shall be subject to the adopted Mitigation Monitoring Program for the Downtown Area Plan.

I. *Permit Findings.* To approve an AUP or Use Permit for a project in the C-DMU district, the review authority must make the findings in Section [23.406.040](#) (Use Permits) and find that the proposed use or structure:

- 1. Is compatible with the purposes of the district; and
- 2. Is compatible with the surrounding uses and buildings. (Ord. 7835-NS § 4, 2022; Ord. 7830-NS § 4, 2022; Ord. 7810-NS § 7, 2022; Ord. 7787-NS § 2 (Exh. A), 2021)

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**The Berkeley Municipal Code is current through Ordinance 7836-NS, and legislation passed through October 11, 2022.**

Disclaimer: The City Clerk's Office has the official version of the Berkeley Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.berkeleyca.gov](http://www.berkeleyca.gov)  
[Code Publishing Company](#)



Office of the City Manager

PUBLIC HEARING  
June 13, 2017

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Carol Johnson, Director, Planning and Development Department  
Phillip L. Harrington, Director, Department of Public Works  
Subject: Open Space In-Lieu Fee for New Downtown Buildings

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution setting the Open Space In-Lieu Fee for the Downtown Mixed-Use Zoning District at \$196 per square foot of required on-site open space that is waived or reduced.

FISCAL IMPACTS OF RECOMMENDATION

Revenues from this fee will be deposited into the Streets and Open Space Improvement Fund 452-4950-326.10-04. Total potential revenue is unknown as this voluntary fee relates only to new buildings receiving open space waivers, not to other buildings. As of the date of this writing, three buildings located in the downtown area have been approved with a requirement to pay the fee. Using the proposed \$196 per square foot fee amount, the owners of these buildings would pay a total of \$1,043,112. The appropriation of these and any other fees collected will occur in future amendments to the Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

On March 20, 2012, Council adopted the Downtown Area Plan (DAP)<sup>1</sup> and the Downtown Mixed-Use (C-DMU) Zoning District that implements the DAP (BMC Chapter 23E.68).<sup>2</sup> The C-DMU regulations require that new buildings provide on-site residential and/or commercial open space, depending on the buildings' uses. Such residential open space may be private and/or publicly accessible, while commercial open space must be publicly accessible. Consistent with DAP policies LU-2.1 and LU-2.4, the C-DMU zoning also allows developers to pay a fee in lieu of providing the required open space, provided that fee is used for "timely development of open space improvements that will serve the needs of both project residents and other people living in and using the downtown."<sup>3</sup> The C-DMU further specifies in-lieu fees are to be used for projects in the Downtown Streets and Open Space Improvement Plan (SOSIP).<sup>4</sup>

<sup>1</sup> The DAP is available at <http://bit.ly/2q0dJZ5>.

<sup>2</sup> The C-DMU zoning regulations are available at <http://bit.ly/2nW6Fep>.

<sup>3</sup> BMC Section 23E.68.090.G.1

<sup>4</sup> BMC Sections 23E.68.070.D.3 and 23E.68.090.G.1

On January 29, 2013, after review and input by a joint subcommittee of the Parks and Waterfront Commission, Planning Commission, Public Works Commission, and Transportation Commission, Council adopted the SOSIP. The SOSIP addresses public open space needs in the downtown area through improvements to existing City-owned streets and open spaces, as distinct from acquisition of private property for construction of new parks. SOSIP projects with substantial open space features include the Center Street Plaza and Greenway, Shattuck Square Improvements, and the Shattuck Avenue “Park Blocks”.<sup>5</sup>

As noted above, the Zoning Adjustments Board has approved three buildings with a requirement to pay this fee.<sup>6</sup> In order to collect the fee, however, Council must first adopt a resolution setting the fee amount. Consistent with the DAP policies and zoning provisions discussed above, the proposed fee is based on what it would cost the City to construct an amount of SOSIP open space improvements that is proportional to the amount of private open space that is waived, with an adjustment to account for differences between public and private open space.<sup>7</sup>

#### BACKGROUND

Paying the in-lieu fee will allow developers to voluntarily “opt out” of building on-site open space, thus allowing more flexibility in project design and relieving developers of on-site open space costs, including construction, maintenance, security and liability. The fee will also provide much-needed funding for creation of new and improvements to existing City-owned open spaces, which are larger and more readily accessible to the public than privately-owned open space. The fee does not adversely impact development feasibility in comparison with the status quo, because it is not required for projects that meet open space requirements, and it provides developers with design flexibility and reduced construction and operational costs.

As discussed earlier, Council has already determined through adoption of the DAP, the SOSIP and C-DMU zoning that open space in-lieu fees should be directed toward public improvements as specified in the SOSIP. Given this established policy, staff has calculated proposed fees using the following method (see Attachment 2 for detailed calculations):

1. Identify SOSIP projects with substantial open space features (noted above), and remove other projects from calculation;

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<sup>5</sup> The SOSIP is available at <http://bit.ly/2ob4dnl>; see pp. 20-40 (policies 1.6-1.9) for discussion of the referenced projects.

<sup>6</sup> These projects are 2129 Shattuck Ave. (16-story hotel and bank), 1935 Addison St. (6-story residential/commercial building), and 2120 Berkeley Way (6-story office building). Based on the proposed fee amount, these projects would pay fees of \$899,836, \$114,660, and \$28,616, respectively.

<sup>7</sup> The fee would allow construction of 1.5 square feet of public open space for each square foot of private open space that is waived. The ratio of 1.5 to 1 is an “equivalency factor” to ensure that open space produced using the in-lieu fee is roughly commensurate in user benefit with the private open space being waived. For further details on the fee calculation and equivalency factor, see page 3, items 1-4, and Attachment 2.



2. Update project cost estimates from the 2010 SOSIP financing plan to reflect current construction costs;
3. Calculate total area (square footage) of SOSIP projects and average cost per square foot; and
4. Multiply average cost by “equivalency factor” of 1.5 to account for differences between public and private open space.<sup>8</sup>

The resulting fee represents the average amount that the City would pay to construct 1.5 square feet of SOSIP public open space improvements. Because developers would pay this amount for each square foot of waived or reduced open space, adequate public open space would be constructed to replace the reduced private open space, and the fee would act as a good trade-off. As with other development fees, the amount would need to be increased periodically to keep pace with design, construction, and administrative costs.

Staff did not base the calculation on potential savings or greater yield realized by developers, because these will vary widely depending on project circumstances, and because in-lieu fees are generally calculated based on cities’ actual costs to provide a public improvement or service equivalent to the private feature being waived. As discussed in the attached report from Economics and Planning Systems, based on current market conditions, developers would be more likely to pay the proposed fee only for “mid- and high-value projects”. This indicates the proposed fee amount is set at an appropriate balance point: sufficiently low to generate funds for SOSIP projects (consistent with DAP policy), but sufficiently high that relatively few projects would realize major profits through open space waivers.

#### ENVIRONMENTAL SUSTAINABILITY

Consistent with SOSIP policies, fee revenues would be spent on public improvements that help achieve various sustainability goals, including improving stormwater quality and pedestrian and bicycle safety.

#### RATIONALE FOR RECOMMENDATION

The recommended action is consistent with Council-adopted DAP policies and the Zoning Ordinance, and would allow near-term revenues of about \$1 million for open space improvements in the downtown area, as well as additional revenues over time.

#### ALTERNATIVE ACTIONS CONSIDERED

Council could elect to set lower fees than staff proposes, which may incentivize more developers to pay the fee instead of providing on-site open space. Further analysis would be required to determine if this would increase total revenues. Staff did not

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<sup>8</sup> This “equivalency factor” accounts for the fact that open space located in the public right-of-way does not benefit the occupants of new buildings in the downtown area as much as open space incorporated into those buildings, due to increased distance from the building site, increased noise from adjacent streets and higher user density; and reduced privacy. The equivalency factor helps ensure open space produced using the in-lieu fee is roughly commensurate in user benefit with the private open space being waived.

pursue this approach because the proposed fee amount is expected to be attractive to developers for many, but not all, projects, which will help encourage both substantial fee revenues and production of on-site open space.

CONTACT PERSONS

Aaron Sage, Principal Planner, Transportation Division (510) 981-6399

Alex Amoroso, Principal Planner, Land Use Planning Division (510) 981-7520

Attachments:

- 1: Resolution
- 2: Fee Calculation
- 3: Report from Economic & Planning Systems
- 4: Public Hearing Notice

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

DETERMINING THAT THE PREVIOUSLY CERTIFIED DOWNTOWN AREA PLAN ENVIRONMENTAL IMPACT REPORT MAY BE RELIED UPON FOR APPROVAL OF THE OPEN SPACE IN-LIEU FEE AND SETTING THE OPEN SPACE IN-LIEU FEE AT \$196 PER SQUARE FOOT OF REQUIRED ON-SITE OPEN SPACE THAT IS WAIVED OR REDUCED FROM A DEVELOPMENT PROJECT

WHEREAS, on March 20, 2012, the Council certified the environmental impact report prepared for the Downtown Area Plan (DAP), and adopted CEQA findings and a mitigation monitoring and reporting program; and

WHEREAS, DAP policies LU-2.1 and LU-2.4 call for the creation of an open space in-lieu fee and specify that such fee be used to fund improvements in the Downtown Streets and Open Space Improvement Plan (SOSIP); and

WHEREAS, the adopted C-DMU zoning district allows for the waiver or reduction of on-site open space through the granting of a Use Permit and the payment of an in-lieu fee, and specifies that open space in-lieu fees be used to fund improvements in the SOSIP.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that approval of the Open Space In-Lieu Fee may be based on the Downtown Area Plan Environmental Impact Report as certified on March 20, 2012, and that none of the conditions set forth in Public Resources Code section 21166, California Code of Regulations 15162, or any other applicable regulation require an additional environmental review.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley hereby sets the Open Space In-Lieu fee at \$196 per square foot of required on-site open space that is waived or reduced from a development project.

**Open Space In Lieu Fee Calculation**  
 4/27/2017

Calculation Steps:

1. Identify SOSIP projects with significant open space features, remove other projects from calculation (Column A).
2. Update project estimates to reflect current construction costs and add anticipated environmental review cost (Column B).
3. Calculate total area of projects (Column C) and average cost per square foot (Column B / Column C).
4. Multiply average cost (Column D) by equivalency factor (Column E) to account for differences between public and private open space.
5. Column F is proposed fee amount.

|                                                     | <b>A</b>                                      | <b>B</b>            | <b>C</b>       | <b>D</b>              | <b>E</b>           | <b>F</b>     |
|-----------------------------------------------------|-----------------------------------------------|---------------------|----------------|-----------------------|--------------------|--------------|
| Project Name                                        | Project Costs (Design, Construction, & Mgmt.) |                     | Project Area   | Avg. Cost Per Sq. Ft. | Equivalency Factor | Proposed Fee |
|                                                     | 2010                                          | 2016                |                |                       |                    |              |
| Center Street Greenway - Shattuck to Oxford Phase 1 | \$3,400,000                                   | \$4,230,000         | 11,550         |                       |                    |              |
| Center Street Greenway - MLK to Milvia              | \$1,231,621                                   | \$2,170,000         | 28,010         |                       |                    |              |
| Shattuck Square - University to Center              | \$1,760,000                                   | \$3,740,000         | 28,182         |                       |                    |              |
| Shattuck Park Block - Allston to Kittredge          | \$940,000                                     | \$1,820,000         | 14,400         |                       |                    |              |
| Shattuck Park Blocks - Durant to Haste              | \$2,806,496                                   | \$4,470,000         | 45,626         |                       |                    |              |
| Environmental Review Contingency                    |                                               | \$250,000           |                |                       |                    |              |
| <b>TOTALS</b>                                       | <b>\$10,138,117</b>                           | <b>\$16,680,000</b> | <b>127,768</b> | <b>\$130.55</b>       | <b>1.5</b>         | <b>\$196</b> |

## MEMORANDUM

To: Aaron Sage

From: Benjamin C. Sigman and Teifion Rice-Evans

Subject: Downtown Area Plan On-Site Open Space Opportunity Cost Analysis; EPS #161004

Date: May 10, 2017

*The Economics of Land Use*



The City of Berkeley is establishing an in-lieu fee that may be paid to satisfy on-site open space requirements for new real estate development projects in the City's C-DMU (Downtown Mixed Use) Zoning District. The City engaged Economic & Planning Systems (EPS) to assist with the process by advising on fee calculations and assessing the resulting fee levels in the context of Downtown development economics. This memorandum summarizes findings from EPS review of the proposed fee, specifically the magnitude of the fee relative to the value that may be created for project applicants when open space requirements are satisfied off site.

### Background

The C-DMU Zoning District (Municipal Code Chapter 23E.68) requires that new buildings shall provide on-site open space, or pay an in-lieu fee to help fund projects in the Downtown Streets and Open Space Improvement Plan (SOSIP). For residential uses, the code requires 80 square feet of usable open space per unit. This amount may be reduced by 50 percent if the open space is publicly accessible. For nonresidential uses, the code requires one square foot of publicly accessible open space per 50 square feet of commercial floor area. In lieu of providing the open space required on site, an applicant may elect to pay an in-lieu fee.

A City of Berkeley analysis has calculated the in-lieu fee at \$196 per square foot of open space required on site but not provided. The fee calculation reflects the total cost to the City to provide off-site open space, consistent with the SOSIP, which achieves a similar level of public benefit as the required on-site open space. In the event that an applicant chooses to satisfy on-site open space requirements through a contribution to SOSIP improvements, the applicant would pay the in-lieu fee. For example, a 50,000-square foot office building with the responsibility to provide 1,000 square feet of on-site open space could pay \$196,000 to waive the requirement for on-site open space.

*Economic & Planning Systems, Inc.  
One Kaiser Plaza, Suite 1410  
Oakland, CA 94612-3604  
510.841.9190 tel  
510.740.2080 fax*

*Oakland  
Sacramento  
Denver  
Los Angeles*

[www.epsys.com](http://www.epsys.com)

EPS collaborated with the City on the fee analysis by providing a review of the fee calculation and methodology. The proposed fee level reflects current cost estimates associated with the City development of the significant public open space elements contained in the SOSIP. To reflect differences between on-site public open space and the public spaces contained in the SOSIP, the City analysis appropriately relies on an equivalency factor adjustment to ensure that off-site open space developed through the in-lieu fee program achieves a community benefit that is commensurate with that which would have been achieved through the on-site open space. The City analysis assumes that 50 percent more SOSIP open space is needed to achieve equivalency with the public benefit of on-site open space.

**Opportunity Cost Analysis**

This opportunity cost analysis assesses the proposed on-site open space in-lieu fee in the context of current real estate and economic conditions present in Downtown Berkeley. The purpose of the analysis is to evaluate whether the magnitude of the fee is roughly commensurate with the value that would be created for development projects when the in-lieu fee option increases site development potential by reducing on-site open space. While this analysis does not directly consider financial feasibility, it does offer potentially valuable information regarding the economic tradeoffs that applicants may face when considering whether to supply on-site open space or pay the in-lieu fee.

In some cases, the flexibility allowed by the on-site open space in-lieu fee could create a net value for a project applicant. Specifically, when the option to pay the in-lieu fee allows for greater development capacity (i.e., a bigger building), the increased land value generated by the additional development potential may exceed the on-site open space in-lieu fee burden, resulting in a net benefit for the applicant. In cases where on-site open space can be provided by a project without negatively affecting development capacity (e.g., rooftop open spaces), it is likely that the project will provide the required open space on site. However, when the provision of on-site open space reduces the quantity of income-producing building square footage, the applicant is more likely to pay the in-lieu fee.

The opportunity cost analysis considers the case in which the on-site open space requirement directly and proportionately reduces development capacity. First, the analysis considers the range of real estate value and associated land value for new, finished buildings in Downtown Berkeley. Second, the analysis estimates the value that would be given up to provide on-site open space. If the value that would be given up to provide on-site open space exceeds the in-lieu fee burden, project value is maximized by paying the in-lieu fee and enjoying the net value of additional real estate development potential. The analysis focuses on land value as the best measure of benefit that might accrue to a project based on the regulatory flexibility offered by the in-lieu fee option.

|                                                                                                                                                                                          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Tradeoff Decision</b></p> <p><b>IF:</b> Land value increase from off-site open space is greater than (&gt;) the on-site open space in lieu fee</p> <p><b>THEN:</b> Pay the fee</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Real Estate Value**

EPS reviewed over 200 commercial real estate transactions in Berkeley, including a significant number of property sales in the vicinity of Downtown.<sup>1</sup> The data included hotel, office,

<sup>1</sup> Research conducted during June 2016. Commercial real estate market trends have exhibited increasing value since then.

residential, and mixed-use property transactions. While there is a paucity of new construction and well documented transactions of new buildings downtown, this review established that newer buildings commonly trade in the range of \$300 to \$600 per gross square foot of built space. Additional review of financial projections for future buildings in the Downtown area indicates that developers anticipate achieving product value that is at the upper end of this range. Recognizing that projects will be more or less valuable given varied site locations, use mixes, market positioning, and other factors, EPS concludes that finished values for Downtown projects generally will range between \$400 and \$600 per gross built square foot, given recent real estate market conditions.

The analysis goes on to assume that land value associated with these new buildings will be in the range of 10 percent to 20 percent of finished value, reflective of EPS experience conducting financial feasibility analysis of new real estate development projects throughout the urbanized San Francisco Bay Area. It is important to note that this assumption reflects healthy real estate development and economic conditions, in which development costs including fees and entitlement burdens bear a reasonable relationship to finished product values. EPS has not conducted financial feasibility analysis to verify that these residual land values are achievable, but recent developer activity in Downtown Berkeley is a good indication that development economics are healthy.

### **Open Space Requirement**

The 2012 Downtown Area Plan (DAP), which provides the policy basis for the C-DMU Zoning District, describes the City's intentions concerning the design and benefits of on-site open space.

**Open Spaces on Private Property.** *Downtown open spaces also include plazas, courtyards and walkways on private land. Streetside plazas provide active gathering places connected to public life. Midblock courtyards offer intimate and protected environments that complement the bustle of streets and streetside spaces. Midblock walkways provide "short cuts" that make Downtown more walkable. Open space can also be shared among residents within a building or complex of buildings. Shared open spaces include courtyards and roof gardens that offer protected spaces for the enjoyment of residents. (DAP Policy OS-4)*

The Zoning Ordinance definition of on-site open space leaves room for interpretation on a project-specific basis, and thus there is a range of potential open space formats and configurations that might be employed across various project types. Of particular relevance to this analysis is the number of building floors that would be given up to provide on-site open space. Due to the flexibility provided in the Zoning Ordinance, and the project-specific requirements that may be imposed through the City's discretionary review process, it is not



*2211 Harold Way Preliminary Design Rendering  
Presented to the Design Review Committee on  
December 8, 2014*

possible to predict exactly what types of open space may be allowed on future projects. One project might carve out an interior courtyard completely open to the sky, while another may cantilever over an open space area to create a partially covered courtyard. In the latter case, it might be that only two floors of building space are given up to provide an on-site open space.

Plans for a recent Downtown project (2211 Harold Way) included this type of covered open space (in addition to public space open to the sky), as shown in the architectural rendering above. If this open space had been designed to be fully open to the sky, additional building square footage would have been given up to provide more light and air to the open space.

### Findings from Analysis

Due to the range of potential real estate and associated land values in Downtown Berkeley, as well as uncertainty around the format of on-site open space that might be developed within a new building project, the EPS analysis yields a range of opportunity cost outcomes that might result if public open space is developed on site. The findings identify the approximate magnitude of land value that might be lost in providing public open space on site.

The analysis finds that in many cases where the on-site open space requirement cannot be accommodated on site without a loss of developable square footage (i.e., it results in a direct and proportional reduction in building space), the applicant will seek to pay the in-lieu fee (i.e., real estate value potential is greater than the fee). However, for relatively low value projects it may be financially optimal for the applicant to give up potential building space to provide publicly-accessible on-site open space, rather than to pay the fee (i.e., foregone real estate value potential is less than the fee). **Figure 1** presents key assumptions and the range of analytical findings. The figure highlights (using a blue box) the mid- and high-value project scenarios in which an applicant is most likely to pay the in-lieu fee. In these cases, the applicant is likely to pay the in-lieu fee because the lost real estate value from providing on-site open space exceeds the cost of the proposed in-lieu fee.

### Conclusions

New buildings constructed under the City of Berkeley's C-DMU Zoning District are required to provide on-site open space. The C-DMU District provides an in-lieu fee option that creates flexibility for projects that cannot easily accommodate on-site open space. Projects may opt to pay an amount determined to be commensurate with the cost to provide equivalent open space off site. Fee payment is not required and in some cases may serve to improve the feasibility of a project, relative to the provision of on-site open space.

The current in-lieu fee proposal of \$196 per square foot of open space that is required, but not provided on site, appears to be high enough that some projects will maximize value by building on-site open space while other projects will maximize value by paying the in-lieu fee. Based on EPS analysis, the proposed in-lieu fee likely is an attractive option for mid- to high-value projects. For these projects, the land value supported by the additional building space likely is sufficient to warrant paying an in-lieu fee to satisfy the on-site open space requirement.



**Figure 1 On-Site Open Space Opportunity Cost Analysis**

| Analytical Element              | Low Estimate | Midpoint Estimate | High Estimate | Notes                                                           |
|---------------------------------|--------------|-------------------|---------------|-----------------------------------------------------------------|
| <b><u>Real Estate Value</u></b> |              |                   |               |                                                                 |
| Market Value Per Square Foot    | \$400        | \$500             | \$600         | Value per gross building square foot, excluding parking         |
| Land Value Share of Total Value | 10%          | 15%               | 20%           | Share of built value attributable to underlying land asset      |
| Land Value Per Square Foot      | \$40         | \$75              | \$120         | Value of land per gross building square foot, excluding parking |

**On-Site Open Space Requirement Opportunity Cost**

|                                   |       | Opportunity Cost Per Square Foot of On-Site Open Space                                                                                                            |       |                                                                                                                     |
|-----------------------------------|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|---------------------------------------------------------------------------------------------------------------------|
| Four-Story Loss of Building Space | \$160 | \$300                                                                                                                                                             | \$480 | Values reflect the lost real estate value per square foot of on-site open space that displaces saleable real estate |
|                                   |       | <div style="border: 2px solid blue; padding: 10px; width: fit-content; margin: 0 auto;"> <p><b>Lost real estate value exceeds proposed in-lieu fee</b></p> </div> |       |                                                                                                                     |

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL  
DOWNTOWN OPEN SPACE IN-LIEU FEE**

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 Departments of Planning and Development and Public Works are proposing to set the open space in lieu fee for new Downtown buildings at \$196 per square feet of waived or reduced open space. Collection of this fee is already allowed under the Downtown zoning regulations (BMC Section 23E.68.070.D.3), but the fee amount has not been set.

The hearing will be held on Tuesday, June 13, 2017 at 7:00 p.m. in the City Council Chambers, 2134 Martin Luther King, Jr. Way.

For further information, please contact Aaron Sage, Principal Planner, Public Works Department, at (510) 981-6399.

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 June 1, 2017.

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:** June 2, 2017 and June 9, 2017 – The Berkeley Voice



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 June 1, 2017.

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Mark Numainville, City Clerk

RESOLUTION NO. 66,001–N.S.

DETERMINING THAT THE PREVIOUSLY CERTIFIED DOWNTOWN AREA PLAN ENVIRONMENTAL IMPACT REPORT MAY BE RELIED UPON FOR APPROVAL OF THE DOWNTOWN STREETS AND OPEN SPACE IMPROVEMENT PLAN (SOSIP) IMPACT FEE; APPROVING THE NEXUS STUDY FOR THE SOSIP IMPACT FEE; AND SETTING THE SOSIP IMPACT FEE AT THE MAXIMUM JUSTIFIABLE LEVEL

WHEREAS, on January 26, 2010 the City Council appointed a SOSIP Subcommittee, comprised of members of the following commissions: Parks, Recreation & Waterfront, Public Works, Transportation, and Planning; and

WHEREAS, on September 30, 2010, the SOSIP Subcommittee voted unanimously to recommend policies and design concepts contained in the draft SOSIP, entitled “SOSIP Subcommittee Recommendations for the Downtown Streets & Open Space Improvement Plan, dated September 2010; and

WHEREAS, the SOSIP Subcommittee recommendations were presented to seven Commissions, each of which endorsed and commented on the SOSIP; and

WHEREAS, on November 7, 2012, the Planning Commission considered all of the Commission comments and recommended approval of a 2012 SOSIP for approval to the Council; and

WHEREAS, approval of the SOSIP is consistent with the Downtown Area Plan (DAP), which includes Policy OS 1.2 to adopt a Streets & Open Space Improvement Plan (SOSIP) to guide the comprehensive design of significant positive alterations and additions to Downtown’s parks, plazas, and streetscapes, as was approved by the Council on March 20, 2012; and

WHEREAS, on March 20, 2012, the Council certified the environmental impact report prepared for the DAP, and adopted CEQA findings and a mitigation monitoring and reporting program; and

WHEREAS, the only activities under the SOSIP that would result in potentially significant adverse environmental impacts are the Major Projects which may eliminate traffic lanes; and

WHEREAS, the program-level DAP EIR analyzed the elimination of traffic lanes on Shattuck and University Avenues, and the closure of Center Street; and

WHEREAS, other SOSIP policies for improved pedestrian and bicycle facilities, and policies regarding watershed management, landscaping, furnishings, signage, and lighting would not create significant adverse environmental impacts; and

WHEREAS, the Council adopted the SOSIP plan on January 29, 2013; and

WHEREAS, the California Mitigation Fee Act (Gov. Code §§ 66000 *et seq.*) allows cities to establish impact fees to mitigate the impacts of new development; and

WHEREAS, Berkeley Municipal Code Chapter 22.20 authorizes the City Council to adopt and impose mitigation fees; and

WHEREAS, the City has prepared a Nexus Study as required by the Mitigation Fee Act to establish the reasonable relationship of the fee, the uses the fee will fund and the types of development that will be subject to the fee and established the proportional contribution of new development to the impacts that will be mitigated by the fee.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that approval of the SOSIP Impact Fee may be based on the Downtown Area Plan Environmental Impact Report as certified on March 20, 2012, and that none of the conditions set forth in Public Resources Code section 2116 California Code of Regulations 15162 or any other applicable regulation require an additional environmental review.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley hereby approves the Nexus Study for the Downtown Streets and Open Space Improvement Plan (SOSIP) Impact Fee, Exhibit A attached.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley hereby sets the SOSIP Impact fee at

- \$2.23 per square foot of new residential use
- \$1.68 per square foot of new commercial use
- \$1.12 per square foot of new institutional use.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley hereby approves, at the discretion of the City Manager or designee, a dollar for dollar credit of up to the amount of the Impact Fee for construction of a SOSIP identified capital project.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley hereby approves an exemption from the SOSIP Impact Fees for projects less than 1,000 square feet of new development and for projects that require neither a use permit nor a building permit.

The foregoing Resolution was adopted by the Berkeley City Council on January 29, 2013 by the following vote:

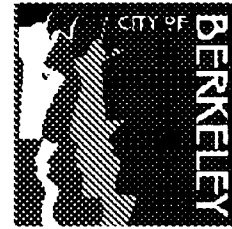
Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.

Attest: Mark Numainville  
Mark Numainville, CMC, Acting City Clerk

Tom Bates  
Tom Bates, Mayor



# Downtown Area Plan Streets and Open Space Improvement Plan (SOSIP) Fee Nexus Study

Prepared by  
City of Berkeley  
Planning and Development Department

City of Berkeley  
September, 2011

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### Executive Summary

The purpose of the proposed Downtown Berkeley Streets, Open Space and Improvement Fee (SOSIF) is to ensure that new Downtown development mitigates its impacts on the Downtown environment by contributing its fair share of funding for the capital improvements to streets and open space to meet the demands of additional residents and businesses. Those capital improvements are set forth in the Downtown Streets and Open Space Improvement Plan (SOSIP) and in the Downtown Area Plan Environmental Impact Report. Prior to approval of an impact fee, a Nexus Study is required, which must explain the reasonable relationship between the proposed fee, its uses, and the type of development project on which the fee will be imposed. In brief summary, this Nexus Study is based on the following information projections and calculations.

- A Capital Improvement Program specific to Downtown Streets and Open Space of \$17,123,117
- New development of residential, commercial and institutional uses is expected to add 2,892,519 square feet of floor area to Downtown by 2030.
- The "Service Population" for Downtown Streets and Open Space will increase from 10,456 to 15,332, or about 46%
- Based on the relative use of the new public improvements constructed under the SOSIP, the maximum justifiable fee per square foot of new development is:
  - \$2.23 per square foot of new residential use
  - \$1.68 per square foot of new commercial use
  - \$1.12 per square foot of new institutional use
- Over the 25 year time frame, the fee is expected to raise \$5.445M with the remaining \$11.68M from grants, parking in-lieu fees and other revenue sources as described later in this report.

### Introduction

A Downtown Area Plan was adopted by the City Council on March 20, 2012. The plan area stretches from Hearst Avenue in the north to Dwight Way in the south and from Oxford Avenue in the east to Martin Luther King Avenue in the West. One of the key implementation measures in the Downtown Area Plan is the adoption and implementation of a Streets and Open Space Improvement Plan. This plan was prepared in 2010 and is expected to be adopted by the City Council on January 29, 2013 with the intent of establishing "a framework for Downtown Berkeley's public realm, which is comprised of public parks, plazas, and street rights-of-way, which together comprise about 40% of the Downtown Area. The SOSIP offers a simple playbook that communicates a



clear vision for vibrant parks, plazas, and streets that are shared by pedestrians, cyclists, and cars traveling at slow speeds." (Draft SOSIP, 2011)

An Environmental Impact Report (EIR) was prepared in 2009 for a draft of the Downtown Area Plan and certified as adequate for the DAP when it was adopted.

Development impact fees are subject to constitutional limitations, which are codified in California in the Mitigation Fee Act (Gov. Code §§ 66000 *et seq.*). Section 66001(a) requires a local government proposing to exact a development impact fee to:

- (1) Identify the purpose of the fee.
- (2) Identify the use to which the fee is to be put. If the use is financing public facilities, the facilities shall be identified. That identification may... be made by reference to a capital improvement plan... or... other public documents that identify the public facilities for which the fee is charged.
- (3) Determine how there is a reasonable relationship between the Fee's use and the type of development project on which the fee is imposed.
- (4) Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

The local agency must also "determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed." (Gov. Code §66001(b).)

### **Policy Support**

Several key elements of the Downtown Area Plan were submitted in a ballot measure (Measure R) for the consideration by voters in November, 2010. Measure R was passed by the voters with almost two-thirds of the vote.

A fundamental tenet of the Downtown Area Plan is that downtown streets must serve multiple functions: as open space, as public gathering and meeting places, as carriers of pedestrians, auto and transit, as stormwater treatment facilities, as retail mall and as the "front yard" of residential buildings. Dedicated open spaces are also critical elements of an overall downtown environment and also serve multiple functions, including gathering spaces, places of celebration, eating places, occasional marketplaces, recreational locations, stormwater treatment and as elements of the pedestrian network. Together, Downtown streets and open spaces form Downtown's "public realm": the public environment in which commerce, travel

and community networking takes place. It is the quality of the streets and open space in the Downtown that in large measure determine its livability and attractiveness for new development. At the same time, development places new demands on that network as new residents and businesses make use of the public realm. This is especially true in higher density environments such as a downtown where there is limited private open space.

When developing new streets and open spaces and rehabilitating and modifying old ones, all of the overlapping functions of streets and open space must be addressed in a cohesive way. For that reason, the concept of a single Streets and Open Space Improvement Fee to pay for the necessary improvements to the public realm is found in many different portions of the Downtown Area Plan, including under Environmental Sustainability, Land Use, Access, and the Streets and Open Space Chapters.

The SOSIP is expected to be adopted on January 29, 2013 and includes more detailed plans, priorities and financing options on which this Nexus Study is based.

#### **Fee Purpose**

The purpose of the proposed SOSIF is ensure that new development contributes its fair share of funding for the street and open space improvements necessary to support Downtown as a vibrant, active neighborhood for current and future residents and workers. Specific improvements have been identified in the SOSIP. The fee will not support ongoing maintenance or operational needs.

The SOSIF will supplement State, Federal and City funds that may also be available to support the proposed SOSIP capital projects:

- State Strategic Growth Council Grants
- MTC/ABAG Livable Cities Grants
- MTC Grants in Support of Priority Development Areas (PDA's)
- General Fund Revenues
- In-lieu fees from on-site open space requirements
- In lieu fees for on-site parking requirements (for transit and pedestrian access Improvements identified in the SOSIP)

Most of these funding sources are described in SOSIP Project Cost and Financing Plan Report (October, 2010). The SOSIF will ensure that new development pays its proportionate share of improvement costs. Other funds and grants will be used to address the local share attributable to existing development.

It should be emphasized that the City has been very successful in obtaining grants to support Downtown improvements over the years. In 2010, the City was awarded a grant Downtown BART Plaza redesign and development project, and has previously received grants for sidewalk enhancements along Addison Street and Center Street. As one of the most transit-accessible locations in the region, Downtown Berkeley has been designated a regional "Priority Development Area." As required by SB 375, ABAG/MTC are developing a Sustainable Communities Strategy (SCS) that is targeting transit-accessible PDA's as the primary locations for development over the next 25 years in order to reduce Greenhouse Gas Emissions. Early scenarios of the SCS have identified Downtown Berkeley as an important infill site. SB 375 also requires that regional transportation improvement funds be targeted to support development in PDA's. Additional grant funds are therefore likely to be available for Downtown improvements over the next 20 years.

**Fee Use/Cost of Improvements (Benefit)**

The SOSIP Project Cost and Financing Plan Report (October, 2010) identified the costs of the improvements to implement the SOSIP over 20 years. The list of each improvement proposed to be funded by the SOSIF and its cost described fully in Appendix A. The Financing Plan Report also identified a near-term set of improvements for \$8.8 M. Detailed cost estimates for the near term projects are also found in the Financing Plan Report, Appendix A.

Table 1, below, summarizes a subset of the improvements that are proposed to be funded partially by the SOSIF. The projects do not include some of the more costly features in the SOSIP and establish a realistic set of goals for the use of the fee over the next 20 years (see Appendix A for a further description). It is assumed that the features that are not included in the list, such as a Strawberry Creek feature on Center Street (Oxford to Shattuck) and day-lighting it in Martin Luther King Park, would be funded through special grants available for creek-related or similar improvements.

Table 1: Summary of DAP Improvements

| Project                                                                             | Cost (\$)    |
|-------------------------------------------------------------------------------------|--------------|
| <b>Center Street Greenway:</b>                                                      |              |
| • Shattuck to Oxford, Phase 1 Improvements                                          | 3,400,000    |
| • Center Street Greenway, Milvia to MLK                                             | 1,231,621    |
| • Center Street Greenway, Milvia to Shattuck                                        | 830,000      |
|                                                                                     |              |
| <b>University Avenue, Oxford to Shattuck</b>                                        | \$1,380,000  |
|                                                                                     |              |
| <b>Shattuck Avenue</b>                                                              |              |
| • Shattuck Square, University to Center                                             | 1,760,000    |
| • Park Block, Allston to Kittredge                                                  | 940,000      |
| • Sidewalk Widening, Kittredge to Bancroft                                          | 510,000      |
| • Sidewalk Widening, Bancroft to Durant                                             | 550,000      |
| • Sidewalk Widening, Haste to Dwight                                                | 530,000      |
| • Lower Park Block Durant to Haste                                                  | 2,806,496    |
|                                                                                     |              |
| <b>Milvia Street</b>                                                                |              |
| • University to Center (Shared Street)                                              | \$590,000    |
| • Center to Allston (Shared Street, Traffic Calming & Green Infrastructure)         | \$295,000    |
|                                                                                     |              |
| <b>Hearst Avenue</b>                                                                |              |
| • Greenway adjacent to UC Helios Walnut-Oxford and UC Health Campus Henry to Walnut | \$1,300,000  |
|                                                                                     |              |
| <b>Downtown Street Trees</b>                                                        |              |
| • Planting of New Street Trees in Downtown Outside of Above Projects                | \$1,000,000  |
|                                                                                     |              |
| <b>TOTAL</b>                                                                        | \$17,123,117 |

#### ***New Development's Contributions (Impact)***

As the proposed improvements to be funded by the SOSIF will serve both existing and future development, the proportion of the costs to be paid by new Downtown development is derived by estimating the new demand for improvements generated by new development relative to the total that will exist in Downtown as of a forecast year, in this case 2030.

The Funding Plan Report found (as shown in Table 2) that there was about 3.2 M square feet of existing commercial development in the Plan area, and about 2.2 M square feet of residential use (Funding Plan Report). In addition, the University of California, the City of Berkeley, Berkeley City College and other institutional uses comprised about 1.2 M square feet of Downtown floor area. Based on the Funding Report forecast, over the next 20 years, there will be approximately 1.795 M square feet of new residential use, .38 M square feet of new commercial development and .716 M square feet of new institutional floor area (primarily University of California). Overall, all new development will constitute roughly 30.4 percent of all Downtown building space in 2030.

**Table 2**  
**Projected Growth**  
**Downtown Berkeley SOSIP\***

| Growth Scenario                      | Commercial<br>[1] | Institutional | Residential [2] | Total     |
|--------------------------------------|-------------------|---------------|-----------------|-----------|
| <b>Development</b>                   |                   |               |                 |           |
| Existing Downtown Dev. (sq. ft.)     | 3,223,552         | 1,182,354     | 2,219,403       | 6,625,309 |
| <i>Share of Total</i>                | 33.9%             | 12.4%         | 23.3%           | 69.6%     |
| New (2030 Baseline) Dev. (sq. ft.)   | 379,575           | 716,059       | 1,795,089       | 2,890,724 |
| <i>Share of Total</i>                | 4.0%              | 7.5%          | 18.9%           | 30.4%     |
| Total (2030 Baseline) Dev. (sq. ft.) | 3,603,127         | 1,898,413     | 4,014,492       | 9,516,032 |
| <i>Share of Total</i>                | 37.9%             | 19.9%         | 42.2%           | 100.0%    |

[1] Commercial includes retail and restaurant, office, entertainment, and hotel.

[2] Assumes 1,000 square feet per residential unit.

Sources: City of Berkeley; Economic & Planning Systems, Inc.

### Reasonable Relationship

Based on the above estimates of existing and projected Downtown development, new Development after 2010 will constitute about 30.4 percent of all development in 2030.

In estimating a streets and open space improvement fee on new development, consideration must be given to the proportionate share of the impact of new development relative to that of existing development, and to the relative need for and use of the resource. The use made of streets and open spaces is generally related to the number of people in Downtown and the amount of time those people will typically spend there. Streets and open space serves all users of Downtown, including employees and employers, residents, retail businesses and institutional users. Not only are SOSIP projects intended to improve the experience of Downtown, but also address the safety and comfort of pedestrians, bicyclists, transit riders and other non-auto users of the Downtown street system.

The need for and use of streets and open space is roughly proportional to the number of hours spent in the Downtown environment, and also on the number of visitors and others that are typically attracted to Downtown by the uses. Existing space in Downtown consists of three categories of use: residential, commercial, and institutional uses. Each of these categories of use comprises a fairly wide range of intensities and more fine-grained uses, which have different characteristics in terms of how much the occupants (residents and employees) use Downtown and how much they attract other people to Downtown.

- Residential uses range from Single Room Occupancy hotel rooms with 200 or less gross square feet of space per person, to condominiums with 800+ gross square feet of space per person or more. For purposes of analyzing benefit, an assumed average of 500 gross square feet per person was used. Residents will tend to be in Downtown considerably more than workers, and will attract visitors but not a significant number at any given time.
- Commercial uses comprise office-based uses that tend to be relatively intense (4 people per 1000 square feet of space) and retail uses that are much less intense in terms of workers (2 people per 1000 square feet). For purposes of analyzing impact, it is assumed that most future commercial buildings in Downtown will be multi-story office buildings with a relatively small portion of the building devoted to retail uses on the ground floor. Accordingly an average of 3 people per 1000 square feet was used as an average intensity of use for these buildings. Employees of offices and shops will be in and use Downtown less than residents. While office uses will tend to attract relatively

few people to the Downtown, retail uses are dependent on attracting people and rely on an attractive, safe pedestrian environment. However, new retail space is expected to comprise a small percentage of future new commercial building space.

- Institutional Uses include a wide range of uses from educational (classroom) and cultural institutions (theaters) with relatively few workers per 1000 square feet to administrative offices that are similar to office uses, and labs that are somewhat less intense than offices. Because of this wide range of uses, it is assumed that, on average, these uses will be less intense with 2 workers per 1000 square feet of space. Workers in institutional space will tend to be similar to office users in terms of how much they use Downtown. Cultural and some types of educational use (classrooms) have a very low intensity of employment but attract large number of “visitors” and customers.

### Fee Calculation

The following three tables set forth the basis for the proposed fee. Table 3 takes 2010 square footage of development, translates the amount of space into population, and then into “user population”, assuming residents have the most use of Downtown (a factor of “1”), while office and institutional uses spend comparatively less time in (a factor of “0.5”) Downtown. Based on that analysis, in 2010, the “user population” was 10,456.

Table 4 shows expected 2010-2035 growth and makes the same calculation, translating square feet to user population.

Finally, Table 5 calculates the cost per square foot. Simply stated, this is based on the increase in user population for each development type as a proportion of the total cost of implementing the SOSIP, and then assigning that cost on a per square foot basis. For example, new residential uses are expected to generate 23.4 percent of the Downtown “user population” in 2035, and are therefore responsible for 23.4 percent of the total SOSIP cost, or \$4.01M. That total cost is then divided by the amount of new square feet expected ( $\$4.01\text{M}/1.795\text{M sq. ft}$ ) to get a per square foot maximum fee per square foot of \$2.23.

**Table 3**  
**Calculation of Service Population – 2010 Development Base**

|                |           | 2010      |       |            |             |
|----------------|-----------|-----------|-------|------------|-------------|
|                |           | Intensity | Pop   | Use Factor | Service Pop |
| Dwelling Units | 2,219,403 | 2/1000 sf | 4,439 | 1          | 4,439       |
| Commercial     | 3,223,552 | 3/1000 sf | 9,671 | 0.5        | 4,835       |
| Institutional  | 1,182,354 | 2/1000 sf | 2,365 | 0.5        | 1,182       |
| Total          | 6,625,309 |           |       |            | 10,456      |

**Table 4**  
**Calculation of Service Population - 2035**

|                |           | 2010-2035 |            |             |
|----------------|-----------|-----------|------------|-------------|
|                | New       | Pop       | Use Factor | Service Pop |
| Dwelling units | 1,795,089 | 3590      | 1          | 3,590       |
| Commercial     | 379,575   | 1139      | 0.5        | 569         |
| Institutional  | 716,059   | 1432      | 0.5        | 716         |
|                |           |           |            | 4,876       |

**Table 5**  
**Maximum Cost per square foot of new development by type of use**

| Percent New Service Population of Total | New Service Population X Total Cost | Cost/Square Feet of New development |
|-----------------------------------------|-------------------------------------|-------------------------------------|
| Residential - 23.4%                     | \$4.010 M                           | \$2.23                              |
| Commercial - 3.7%                       | \$.636 M                            | \$1.68                              |
| Institutional - 4.7%                    | \$.800M                             | \$1.12                              |



### **Applicability**

The proposed fee would be applicable to all new floor area developed in Downtown. Although the University of California is generally exempt from the City's land use authority, the University has consistently indicated in public statements that it would be willing to pay its fair share for improvements so long as it was treated the same as any other developer in the Downtown. Should the University or other public entity choose to not participate in the fee, the costs could not be distributed to other new development, but would have to be absorbed by other funding sources.

### **Credits**

#### **Credit for Project Improvements:**

A project's SOSIF payment may be reduced if an applicant constructs all or a portion of a capital project which is included on the SOSIF list, at the discretion of the City. Credit is given on a \$1 to \$1 ratio up to the amount required by the SOSIF. An applicant may also be required to construct an off-site SOSIF capital improvement as a standard condition of project approval (i.e. basic street frontage requirements) or based on the project's environmental review.

#### **Credit for Existing Uses:**

Existing occupied Downtown building floor area may be demolished or converted to a new use as part of a larger construction project. In such cases, the area demolished or converted will be credited against the gross square feet of new floor area to determine net gross feet of floor area added. The SOSIF fee shall only be applied to new gross square feet of floor area (not including parking areas). Should a building renovation lead to a net reduction in floor area (e.g., removal of an interior mezzanine) no credit will be given toward future development on-site unless it is part of a phased project.

### **Exemptions**

Properties that might otherwise be subject to the fee are exempt if:

- Modification or development of less than 1,000 square feet (one time exemption)
- Site changes which trigger neither a use permit nor a building permit

### **Preferred Uses - Reduction to Fee**

Preferred uses as identified by the City Council may be exempt from the SOSIF or be assigned a reduced fee. However, the loss of funding from such a reduction cannot be passed to other

uses to which the SOSIF is to be applied, but rather would create additional burden for local funding.

### Phasing of Implementation

As developers have often based land and project feasibility assessments based on current requirements and fees, a graduated approach to implementing the fee may be advisable. The Council in enacting this fee may choose to reduce fees in the initial years of application. One example of such an option would be to apply the fees at 50% of the justifiable rate for the first year and 75 percent for the second year after the fee's enactment.

The shortfall resulting from such a graduated implementation, would need to be made up from either the local funding match, revenue from additional development not projected in the Nexus Study, or a more aggressive program of grant solicitations. This alternative has the benefit of allowing the City to move forward while the information to support a fee is current, while acknowledging the current difficult economic conditions. A graduated roll out could create an incentive for land holders to move forward prior to the full fee implementation, which would be economically advantageous to the City.

### Requirements for Funds Use

Revenues resulting from the imposition of the SOSIF must be kept and administered in a separate account or fund dedicated to the public improvements being financed and must not be commingled with other revenues and funds of the local agency (Government Code section 66006). In addition, five years after the first deposit into the account or fund, the local agency must make specific findings regarding any unexpended funds, whether those funds are committed to expenditure or not (Government Code section 66001). The same findings must continue to be made once every five years thereafter. If these findings are not made, statute requires the agency to refund the fees to the current owner of the affected property. Refunds may be made by direct payment, temporary suspension of fees, or "other reasonable means," at the discretion of the local agency.

### Review

The SOSIF will be reviewed and revised on an as-needed basis to account for material changes in circumstances, including changes in:

- project improvement costs, and
- development assumptions.

It is also anticipated that the SOSIP will be updated and additional improvements proposed over the next 20 years and then added to the list of improvements eligible for funding with the SOSIP. Additional Downtown improvement projects were discussed during the SOSIP development process but were not included in the final SOSIP to ensure a reasonable focus on the most desired projects.

### Appendix

Appendix A: SOSIP Projects Cost and Financing Report (October 2010) is available at:  
[http://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/SOSIP/AppendixB.pdf](http://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/SOSIP/AppendixB.pdf)





Office of the City Manager

PUBLIC HEARING  
February 14, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department  
Lisa Warhuus, Director, Health, Housing and Community Services Department

Subject: Citywide Affordable Housing Requirements

RECOMMENDATION

Conduct a public hearing and upon conclusion:

1. Adopt first reading of an Ordinance amending the Berkeley Municipal Code Chapter 23.328, updating the citywide Affordable Housing Requirements in the Zoning Ordinance, repealing existing administration and zoning code sections that refer to affordable housing requirements, BMC Section 22.20.065, and Section 23.312.040(A)(6), and updating references to BMC Chapter 23.328 throughout the Berkeley Municipal Code, to become effective on April 1, 2023.
2. Adopt a Resolution establishing regulations for a voucher program and establishing an in-lieu fee pursuant to BMC Chapter 23.328 upon the effective date of contemporaneously adopted amendments to BMC Section 23.328, and rescind Resolution No. 70,668-N.S. related to fees, exemptions, and administration of inclusionary affordable housing and in-lieu programs upon the effective date of contemporaneously adopted amendments to BMC Chapter 23.328.

SUMMARY

At their meeting on January 17, 2023, the City Council conducted a public hearing and took actions to adopt the first reading of a proposed ordinance to amend the City's affordable housing requirements; adopt a resolution establishing an in-lieu fee for the City's inclusionary requirements and regulations for related voucher programs; and also made additional amendments which were included in Supplemental Communications Packet #2 from the Planning and Development Department (see more detailed description below).

In order to implement the City Council's action to calculate the in-lieu fee based on the "net residential floor area" using the equivalent of the 2020 Affordable Housing Mitigation Fee level (instead of residential gross floor area), staff created a new definition for "Residential Unit Floor Area" (Attachment 1, Section 23.328.020.H) and

modified references to this new definition in the ordinance. The proposed resolution (Attachment 2) includes updated references to the new definition for the basis of the in-lieu fee in BMC Chapter 23.328, the tiered in-lieu fee amounts (as described in Supplemental Communications Packet #2), and would supersede Resolution No. 70,668-N.S.

#### FISCAL IMPACTS OF RECOMMENDATION

The proposed \$56.25 per square foot in-lieu fee based on Residential Unit Floor Area (Attachment 2, Section 23.328.020.H) is roughly equivalent to the proposed \$45 per square foot of applicable gross floor area, assuming a 80/20 ratio of gross floor area over net area based on industry standards. This calculation is based on the 2020 Affordable Housing Mitigation Fee (See Attachments 3 and 4, January 17, 2023 City Council Meeting – Item 21 Citywide Affordable Housing Requirements Staff Report and Supplemental Communications Packet #2, for a more detailed explanation).

#### CURRENT SITUATION AND ITS EFFECTS

At their meeting on January 17, 2023, the City Council conducted a public hearing and adopted the first reading of Ordinance No. 7,853–N.S. and Resolution No. 70,668–N.S., updating the City’s affordable housing requirements for housing development projects.

As part of the Council action, the item was amended to include the revisions provided in Supplemental Communications Packet #2 from the Planning and Development Department regarding:

1. An exemption for projects of fewer than five units<sup>1</sup>
2. Anti-piecemealing provisions,<sup>2</sup> and
3. Calculation of the in-lieu fee based on “net residential floor area” using the 2020 Affordable Housing Mitigation Fee level.<sup>3</sup>

In order to implement Council direction to calculate the in-lieu fee based on the “net residential floor area” using the equivalent of the 2020 Affordable Housing Mitigation Fee level, staff prepared a new definition for “Residential Unit Floor Area” (Attachment 1, Section 23.328.020.H). The new definition was crafted to convey Council’s stated intent to exclude common areas and other shared space. The new definition does not use the word “net” to avoid confusion with existing usage of the term “net” that conveys a comparison between proposed and existing square footage, e.g., “net new” area that is subject to various other regulations and fees.

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<sup>1</sup> See Attachment 2, Section 23.328.050.F Exemptions.

<sup>2</sup> See Attachment 2, Section 23.328.020.E Housing Development Project.

<sup>3</sup> See Attachment 2, Section 23.328.020.H. Residential Unit Floor Area.

The proposed resolution (Attachment 2) includes updated references to the new definition for the basis of the in-lieu fee in BMC Chapter 23.328, the tiered in-lieu fee amounts (as described in Supplemental Communications Packet #2), and would supersede Resolution No. 70,668-N.S.

BACKGROUND

See January 17, 2023 City Council Meeting – Item 21 Citywide Affordable Housing Requirements Staff Report.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

See January 17, 2023 City Council Meeting – Item 21 Citywide Affordable Housing Requirements Staff Report.

RATIONALE FOR RECOMMENDATION

The actions recommended in this staff report and accompanying legislation implement the actions taken by City Council on January 17, 2023 under Item 21 – Citywide Affordable Housing Requirements.

ALTERNATIVES CONSIDERED

See January 17, 2023 City Council Meeting – Item 21 Citywide Affordable Housing Requirements Staff Report and Supplemental Communications Packet #2.

CONTACT PERSON

Alisa Shen, Principal Planner, Planning and Development, [ashen@cityofberkeley.info](mailto:ashen@cityofberkeley.info), (510) 981-7409

Margot Ernst, Housing Division Manager, Health Housing and Community Services, [mernst@cityofberkeley.info](mailto:mernst@cityofberkeley.info), (510) 981-5427.

Attachments:

- 1: Draft Ordinance
- 2: Draft Resolution
- 3: 1/17/23 City Council Meeting – Item 21, Staff Report and Attachments:
- 4: 1/17/23 City Council Meeting – Item 21, Supplemental Communications Packet #2
- 5: Public Hearing Notice

ORDINANCE NO. -N.S.

AFFORDABLE HOUSING REQUIREMENTS; AMENDING BERKELEY MUNICIPAL  
CODE TITLES 22 AND 23

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 22.20.065, and Section 23.312.040(A)(6) are hereby repealed.

Section 2. That Berkeley Municipal Code Chapter 23.328 is repealed and re-enacted to read as follows:

**23.328.010 Findings and Purpose.**

A. The State of California has established a Regional Housing Needs Allocation (RHNA) process under which it allocates a “fair share” of the regional housing need, updated periodically, to each local jurisdiction. The “fair share” allocated to Berkeley increased significantly based on the regional housing needs determination finalized in late 2021. The sixth cycle of the RHNA for the San Francisco Bay Area allocates to Berkeley a “fair share” that calls for adequate sites for 8,934 housing units for the period from 2023 to 2031, including sites for 2,446 Very Low Income units, 1,408 Low Income units, and 1,416 Moderate Income units.

B. The Bay Area suffers from a shortage of affordable housing. As the Bay Area region experiences increased economic growth and a high demand for housing, housing prices continue to rise, which leads to displacement of low income residents and exacerbates the shelter crisis that has led to unacceptably high rates of homelessness in the City of Berkeley and the Bay Area region.

C. In 1990, the City established the Housing Trust Fund program to pool available funding for affordable housing development. The Housing Trust Fund program is funded



by federal, state, and local revenues, including by in-lieu and mitigation fees paid by developers of market-rate housing projects under the City's existing affordable housing ordinances.

D. The City Council hereby finds that there is a legitimate public interest in the provision of affordable housing to address the crises of displacement, homelessness, and lack of housing affordability in the City, and that there is a significant and increasing need for affordable housing in the City to meet the City's regional share of housing needs under the California Housing Element Law.

E. The City Council further finds that the public interest would best be served if new affordable housing were integrated into new market-rate residential developments to facilitate economically diverse housing, while also providing alternative options to the on-site construction of affordable housing such as the payment of fees to replenish the City's Housing Trust Fund program and allowing for the construction of affordable housing on land dedicated by market-rate housing developers.

F. The City Council intends that this Ordinance be construed as an amendment to the City's existing affordability requirements, and that the repeal and re-enactment of any requirement shall not be construed to relieve a party of any outstanding obligation to comply with the requirements applicable to any previously approved Housing Development Project.

**23.328.020 Definitions.**

A. "Affordable Unit" means a Residential Unit that is in perpetuity affordable to Very Low Income Households or Lower-Income Households, as defined in California Health and Safety Code sections 50052.5 and 50053.

B. "Affordable Housing Compliance Plan" means an enforceable commitment by an Applicant to comply with the requirements of this Chapter that identifies the number and type of Affordable Units, the amount of In-Lieu Fees, and/or the parcels of land (or portions thereof) that will be provided and/or paid by the Applicant to comply with those requirements.

C. "AMI" means the area median income applicable to the City of Berkeley, as defined by the U.S. Department of Housing and Urban Development, or its successor provision, or as established by the City of Berkeley in the event that such median income figures are no longer published by the U.S. Department of Housing and Urban Development.

D. "Applicant" means any individual, person, firm, partnership, association, joint venture, corporation, entity, combination of entities or authorized representative thereof, who applies to the City for any Housing Development Project.

E. "Housing Development Project" means a development project, including a Mixed-Use Residential project (as defined in 23.502.020(M)(13), involving the new construction of at least one Residential Unit. Projects with one or more buildings or projects including multiple contiguous parcels under common ownership or control shall be considered as a sole Housing Development Project and not as individual projects.

F. "Housing Trust Fund" means the program to finance low and moderate-income housing established by Resolution No. 55,504-N.S., or any successor fund established for the same purpose.

G. "Lower-Income Household" means a household whose income does not exceed the low-income limits applicable to Alameda County, as defined in California Health and Safety Code section 50079.5 and published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development.

H. "Residential Unit Floor Area" means, for the purpose of this Chapter, the floor area of the Residential Unit(s) of a Housing Development Project.

1. Residential Unit Floor Area shall be measured from the interior of the walls of each unit. The Residential Unit Floor Area shall exclude areas that are not habitable residential square footage such as:

- a. Balconies, whether private or open to all residents
- b. Storage lockers not located within residential units

- c. Vehicular (e.g., automobile or motorcycle) and bicycle parking areas that are separate areas from the residential unit
  - d. Other qualifying areas that are not associated with residential units, upon approval of the Zoning Officer.
2. For Residential Units consisting of Group Living Accommodations, Residential Unit Floor Area shall also include common rooms/lounges and supporting facilities such as kitchens and restrooms.
- I. "Regulatory Agreement and Declaration of Restrictive Covenants" means, for the purposes of this Chapter, a legally binding agreement recorded against the property to codify the requirements and conditions of a Housing Development Project providing Affordable Units.
- J. "Residential Unit" means, for purposes of this Chapter, any Dwelling Unit, any Live/Work Unit, or any bedroom of a Group Living Accommodation (GLA) except a GLA in a University-recognized fraternity, sorority or co-op; provided, however, that for purposes of this Chapter, "Residential Unit" shall not include any Accessory Dwelling Unit or Junior Accessory Dwelling Unit.
- K. "Very Low Income Household" means a household whose income is no more than 50% of AMI, as defined in California Health and Safety Code section 50105.

**23.328.030 Affordable Housing Requirements.**

- A. Requirement to Construct Affordable Units
- 1. Except as otherwise provided in this Chapter, no permit for the construction of any Housing Development Project shall be issued unless at least 20% of the Residential Units are Affordable Units. When the calculation results in a fractional unit, an Applicant will round up to the nearest whole unit. The Affordable Units shall have the same proportion of unit types (i.e., number of bedrooms) and average size as the market rate units (provided, however, that no Affordable Unit may have more than three bedrooms).
  - 2. In lieu of providing Affordable Units pursuant to Paragraph 1, an Applicant

may propose an alternative mix of unit-types to comply with this Chapter by providing Affordable Units that comprise at least 20% of the Residential Unit Floor Area of the Housing Development Project in order to achieve a mix of Affordable Units including two-bedroom or three-bedroom units. The City Manager or their designee may approve the proposed alternative mix of unit-types that meet the requirements of this section.

3. Affordable Units shall be (a) reasonably dispersed throughout the Housing Development Project; and (b) comparable to other Residential Units in the Housing Development Project in terms of appearance, materials, and finish quality. Residents of Affordable Units shall have access to the same common areas and amenities that are available to residents of other Residential Units in the Housing Development Project.

4. The City Manager or their designee shall adopt rules and regulations (a) establishing the affordable sales price or affordable rent for each Affordable Unit, consistent with the requirements of Health and Safety Code sections 50052.5 and 50053; and (b) ensuring that Affordable Units are sold or rented to Very Low Income and Lower Income Households, consistent with the requirements of this Chapter.

5. Rental Units.

a. At least 50% of the required Affordable Units in the Housing Development Project shall be offered at a rent that is affordable to Very Low Income Households, up to a maximum requirement of 10% of the total units in the Housing Development Project if the project provides more Affordable Units than are otherwise required by this Chapter.

b. In determining whether a unit is affordable to Very Low Income or Low Income Households, maximum allowable rent for any affordable unit shall be reduced by an amount equal to the value of the City-published utility allowance provided for Tenant-paid utilities and any other mandatory fee imposed by the property owner as a condition of tenancy.

- c. Any percentage increase in rent of an occupied Affordable Unit shall not exceed the lesser of 65% of the increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending the previous December 31, or 65% of the percentage increase in AMI for the same calendar year. In no event, however, shall the allowable annual adjustment be less than zero (0%) or greater than seven percent (7%).
  - d. Affordable Units designated for Very Low Income Households shall be offered for rent to tenants receiving assistance under the Section 8 Program (42 U.S.C. Section 1437f), the Shelter Plus Care Program (42 U.S.C. Section 11403 *et. seq.*), or any similar state or federally funded rent subsidy program prior to being offered to other potential tenants. The Council may establish related program requirements by resolution.
  - e. The owner of any Affordable Unit offered for rent must report to the City annually the occupancy and rents charged for each Affordable Unit, and any other information required pursuant to rules and regulations adopted by the City Manager or their designee.
6. Ownership Units. Inclusionary units in ownership projects shall be sold at a price that is affordable to an appropriate-sized household whose income is no more than 80 percent of the AMI.
7. All Affordable Units shall be subject to a recorded affordability restriction requiring in perpetuity that each Affordable Unit be sold at an affordable sales price or offered for rent at an affordable rent, as defined in this Chapter.
8. Affordable Live/Work Units shall be proactively marketed by the Applicant and/or owner to income-eligible persons performing a work activity permitted in the district where the project is located whose type of work causes them to have a requirement for a space larger in size than typically found in residential units.
9. An Affordable Unit that is constructed to qualify for a density bonus under

Government Code section 65915 that otherwise meets the requirements of this Chapter shall qualify as an Affordable Unit under this Chapter.

B. Option to Pay In-Lieu Fee

1. In lieu of providing some or all of the Affordable Units required under this Chapter (including any fractional units), an Applicant may elect to pay a fee, the amount of which the City Council may establish by resolution (“In-Lieu Fee”). The City Council may by resolution differentiate among types, classes, and locations of Housing Development Projects to the extent permitted by law; may establish separate fees and criteria for the provision of units that are affordable to Very Low Income Households and units that are affordable to Low Income Households; and may establish the method for calculation of the In-Lieu Fee.

2. In-Lieu Fees shall be applied to the Residential Unit Floor Area of a Housing Development Project. For Live/Work units, the In-Lieu Fee shall be applied to the Residential Unit Floor Area that is designated as non-workspace in the zoning permit approvals consistent with BMC section 23.312.040.

3. In-Lieu Fees shall be estimated as part of the preliminary Affordable Housing Compliance Plan and finalized at the time of building permit issuance, consistent with the final Affordable Housing Compliance Plan.

4. In-Lieu Fees shall be paid prior to the issuance of the first Certificate of Occupancy, or if no Certificate of Occupancy is required, prior to the initial occupancy of the Housing Development Project.

5. Up to 15% of In-Lieu Fees collected may be used to pay for administration of the In-Lieu Fee or the Housing Trust Fund program. At least 85% of In-Lieu Fees collected shall be deposited into the City’s Housing Trust Fund program.

C. Option to Dedicate Land

1. At the discretion of the City Manager or their designee, the requirements of this Chapter may be satisfied by the dedication of land in lieu

of constructing Affordable Units within the Housing Development Project if the City Manager or their designee determines that all of the following criteria have been met:

- a. Marketable title to the site is transferred to the City, or an affordable housing developer approved by the City, prior to issuance of building permit of the Housing Development Project pursuant to an agreement between the Applicant and the City.
- b. The site has a General Plan designation that authorizes residential uses and is zoned for residential development at a density to accommodate at least the number of Affordable Units that would otherwise be required under Paragraph A.
- c. The site is suitable for development of the Affordable Units, taking into consideration its configuration, physical characteristics, location, access, adjacent uses, and applicable development standards and other relevant planning and development criteria including, but not limited to, factors such as the cost of construction or development arising from the nature, condition, or location of the site.
- d. Infrastructure to serve the dedicated site, including, but not limited to, streets and public utilities, are available at the property line and have adequate capacity to serve the maximum allowable residential density permitted under zoning regulations.
- e. The site has been evaluated for the presence of hazardous materials and for the presence of geological hazards and all such hazards are or will be mitigated to the satisfaction of the City prior to acceptance of the site by the City.
- f. The value of the site upon the date of dedication is equal to or greater than the in-lieu fee that would otherwise be required under Paragraph A. The value of the site shall be determined pursuant to the program guidelines approved by the City Manager or their

designee.

2. The City shall solicit proposals from affordable housing developers to construct restricted income units on the site dedicated to the City, but if the City is unable to obtain a qualified affordable housing developer to construct a viable affordable housing development on the property within two years of its solicitation or to commence construction within five years, the City may sell, transfer, lease, or otherwise dispose of the dedicated site for any purpose. Any funds collected as the result of a sale, transfer, lease, or other disposition of sites dedicated to the City shall be deposited into a fund designated for use in the City's Housing Trust Fund program.

**23.328.040 Waiver or Modification of Affordable Housing Requirements.**

A. The City Manager or their designee may waive or modify up to fifty percent of the requirements of this Chapter at their sole discretion where any of the following conditions are established:

1. A project providing low- or moderate-income housing is funded in whole or in part by the City's Housing Trust Fund program;
2. The implementation of the requirements of this Chapter would violate the rights of any person under the California or United States Constitutions, any federal law, or any state law governing a matter of statewide concern and applicable to a charter city; or
3. The benefits of the project to the City outweigh the detriment of foregoing the provision of Affordable Housing or the contribution of In-Lieu fees to the Housing Trust Fund program. In weighing the benefits and detriment to the City, the following factors may be considered:
  - a. The impact of the requirements of this Chapter on the feasibility of a Housing Development Project;
  - b. Other economically beneficial uses of the Applicant's property;



- c. The burdens the Housing Development Project places on the City in terms of increased demand for affordable housing, childcare, public facilities or amenities, or other impacts which reasonably may be anticipated to be generated by or attributable to the Housing Development Project; and
- d. The impact on the Housing Trust Fund program of foregoing the payment of any In-Lieu fee that would otherwise be made.

B. Waivers or modifications greater than fifty percent of the amount which otherwise would be required by this Chapter shall be subject to the approval of City Council.

C. The Applicant shall bear the burden of proof to establish eligibility for a waiver or modification of the requirements of this Chapter.

**23.328.050 Implementation.**

A. The Applicant for any Use Permit or Zoning Certificate for a Housing Development Project shall submit a preliminary Affordable Housing Compliance Plan to the Zoning Officer at the time of application. The preliminary Affordable Housing Compliance Plan shall be incorporated as a condition of approval of any Use Permit or Zoning Certificate issued to the Applicant. No building permit may be issued for the project until the final Affordable Housing Compliance Plan is approved.

B. The Applicant must execute a Regulatory Agreement and Declaration of Restrictive Covenants to regulate all Affordable Units provided in a Housing Development Project. No building permit may be issued for the project until the Regulatory Agreement and Declaration of Restrictive Covenants are executed.

C. The Affordable Housing Compliance Plan and/or Regulatory Agreement and Declaration of Restrictive Covenants may be amended administratively, provided that the Zoning Officer finds them to be in full compliance with the provisions of this ordinance and State law, prior to issuance of Certificate of Occupancy.

- D. The City Manager or their designee may promulgate additional rules and regulations consistent with the requirements of this Chapter.
- E. The City Council may by resolution establish fees for the implementation and administration of this Chapter and may establish administrative penalties for violations of this Chapter.
- F. Exemptions. The following types of Housing Development Projects and Residential Units are exempt from this Chapter:
1. A Housing Development Project for which either a building permit was issued on or before April 1, 2023 or a preliminary application including all of the information required by subdivision (a) of California Government Code section 65941.1 was submitted on or before April 1, 2023 shall be subject to this Chapter's requirements that were in place as of the preliminary application's submittal date but shall otherwise be exempt from this Chapter. This exemption shall expire upon the occurrence of any of the circumstances defined in paragraphs (2), (6), or (7) of subdivision (o) of California Government Code section 65589.5 or in subdivision (d) of California Government Code section 65941.
  2. A Housing Development Project with fewer than five Residential Units, unless it is part of a larger Housing Development Project. This exemption shall expire on April 1, 2025.
  3. A Residential Unit that replaces a unit existing as of April 1, 2023 that has been destroyed by fire, earthquake or other disaster, or that was previously subject to a mitigation fee or inclusionary housing requirement.
  4. A Residential Unit existing as of April 1, 2023 that is expanded, renovated, or rehabilitated.

Section 3. The Berkeley Municipal Code Section 23.330.070 is hereby amended to read as follows:

**23.330.070 Qualifying Units.**

Qualifying units must meet the standards set forth in Chapter 23.328 (Affordable Housing Requirements).

Section 4. 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.

RESOLUTION NO. \_\_\_\_\_

ADOPTING REGULATIONS FOR VOUCHER PROGRAM AND ESTABLISHING AN IN-LIEU FEE TO SUPPORT THE PROVISION OF AFFORDABLE HOUSING PURSUANT TO BERKELEY MUNICIPAL CODE CHAPTER 23.328 AND RESCINDING RESOLUTION 70,668-N.S N.S.

WHEREAS, Berkeley Municipal Code (“BMC”) Chapter 23.328 establishes a requirement that 20% of Residential Units (as defined) in market-rate developments be offered for rent or sale at affordable rents or prices, as defined (“Affordable Units”); and

WHEREAS, BMC Chapter 23.328 authorizes the City Council to establish by resolution preferences for renting Affordable Units offered for rent to tenants receiving assistance under the Section 8 Program (42 U.S.C. Section 1437f), the Shelter Plus Care Program (42 U.S.C. Section 11403 *et. seq.*), or similar state or federally funded rent subsidy programs; and

WHEREAS, BMC Chapter 23.328 authorizes developers of market-rate housing to pay a fee in lieu of complying with the requirement to provide on-site affordable housing (“In-Lieu Fee”); and

WHEREAS, BMC Chapter 23.328 authorizes the City Council to establish the In-Lieu Fee by resolution, and further authorizes the Council to differentiate among types, classes, and locations of Housing Development Projects to the extent permitted by law; to establish separate fees and criteria for the provision of units that are affordable to Very Low Income Households and units that are affordable to Low Income Households; and to establish the method for calculating the In-Lieu Fee; and

WHEREAS, the City retained Street Level Advisors to provide analysis and recommendations for updating the City’s affordable housing requirements, the scope of which included a financial feasibility study of the City’s affordable housing mitigation fees; and

WHEREAS, Street Level Advisors prepared a Financial Feasibility Analysis dated April 27, 2021, which determined that an In-Lieu Fee of \$45 per square foot of the residential Gross Floor Area (as defined in BMC Section 23.106.030) would be financially feasible; and

WHEREAS, Street Level Advisors recommended certain modifications to the fee that would not adversely impact the financial feasibility of housing development projects, such as charging a lower / tiered fee for smaller projects; and

WHEREAS Street Level advisors identified an equivalent rate if the In-Lieu fee were to be calculated based on an assumed 80/20 ratio of gross and net square feet of

residential area in typical housing development projects of \$56.25 per square foot of Residential Unit Floor Area.

WHEREAS, this Resolution supersedes Resolution No. 70,668-N.S.

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

1. All Affordable Units shall be offered to tenants in accordance with Council-adopted eligibility preference criteria. All Very Low-Income Units, comprising a portion of the Affordable Units authorized and provided for by BMC Chapter 23.328, must be offered to tenants receiving assistance under the Section 8 Program (42 U.S.C. Section 1437f) or the Shelter Plus Care Program (42 U.S.C. Section 11403 *et. seq.*) before being marketed to other income-eligible households. The allocations shall be divided equally between the Section 8 Program (50%) and the Shelter Plus Care Program (50%). The majority of the Very Low-Income units shall be designated for the Shelter Plus Care Program when there is an uneven number of units.
2. The initial In-Lieu Fee authorized and provided for by BMC Chapter 23.328 shall be \$56.25 per square foot of the Residential Unit Floor Area) of a Housing Development Project (as defined in BMC Chapter 23.328) and shall be automatically increased biennially based on changes to the California Construction Cost Index unless otherwise provided for by BMC Chapter 23.328 or by this Resolution.
3. Housing Development Projects subject to BMC Chapter 23.328 may provide less than the required number of Affordable Units in the Housing Development Project and pay a proportionately reduced In-Lieu Fee, calculated as follows: the fee per square foot multiplied by the total Residential Unit Floor Area of a Housing Development Project, multiplied by the percentage of the applicable requirement remaining after accounting for any on-site Affordable Units provided. Projects that provide no on-site Affordable Units will have an applicable requirement multiplier of one.
4. For Housing Development Projects of less than 12,000 square feet of Residential Unit Floor Area, the In-Lieu Fee shall be calculated as follows:

| Residential Unit Floor Area | Fee per Square Foot |
|-----------------------------|---------------------|
| ≥12,000                     | \$56.25             |
| 11,000-11,999               | \$53.75             |
| 10,000-10,999               | \$51.25             |
| 9,000-9,999                 | \$48.75             |
| 8,000-8,999                 | \$46.25             |

|             |         |
|-------------|---------|
| 7,000-7,999 | \$43.75 |
| 6,000-6,999 | \$41.25 |
| 5,000-5,999 | \$38.75 |
| 4,000-4,999 | \$36.25 |
| 3,000-3,999 | \$33.75 |
| 2,000-2,999 | \$31.25 |
| 1,000-1,999 | \$28.75 |
| <1,000      | \$26.25 |

BE IT FURTHER RESOLVED, Resolution No. 68,074-N.S. is hereby rescinded and is of no force or effect on any Housing Development Project that obtains a building permit after the effective date of this resolution, but shall continue to apply to those projects that were approved and subject to its provisions or the provisions of predecessor resolutions and ordinances addressing the same subject matter.

BE IT FURTHER RESOLVED, the rescission of Resolution No. 70,668-N.S and this Resolution shall be effective upon the effective date of contemporaneously adopted amendments to BMC Chapter 23.328.



Office of the City Manager

PUBLIC HEARING  
January 17, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department  
Lisa Warhuus, Director, Health, Housing and Community Services Department

Subject: Citywide Affordable Housing Requirements

RECOMMENDATION

Conduct a public hearing and upon conclusion:

1. Adopt first reading of an Ordinance amending the Berkeley Municipal Code Chapter 23.328, updating the citywide Affordable Housing Requirements (AHR) in the Zoning Ordinance, repealing existing administration and zoning code sections that refer to affordable housing requirements, BMC Section 22.20.065, and Section 23.312.040(A)(6), and updating references to BMC Chapter 23.328 throughout the Berkeley Municipal Code (**Attachment 1**), to become effective on April 1, 2023.
2. Adopt a Resolution establishing regulations for a voucher program and establishing an in-lieu fee pursuant to BMC Section 23.328.020(A)(2) (**Attachment 2**) upon the effective date of contemporaneously adopted amendments to BMC Section 23.328, and rescind Resolution No. 68,074-N.S. related to fees, exemptions, and administration of inclusionary affordable housing and in-lieu programs upon the effective date of contemporaneously adopted amendments to BMC Section 23.328 (**Attachment 2**).

SUMMARY

The proposed amendments to affordable housing requirements have been developed in response to City Council referrals and State laws that govern affordable housing requirements. In particular, Assembly Bill 1505 in 2017 reauthorized inclusionary housing requirements on rental properties, allowing for the proposed consolidation of most of the City's affordable housing requirements for rental and ownership properties.

Key elements of the proposed amendments include: establishing a new in-lieu fee calculated on a per square foot basis; setting the same per square foot fee for rental and ownership projects; providing new options by which requirements can be met; and various administrative changes. The revised regulations are designed to be easier to understand, make it easier for applicants to comply, simplify administration and

oversight, and increase transparency by consolidating most affordable housing requirements in one place in the municipal code, eliminating conflicting requirements, and standardizing and simplifying certain fees and requirements.

#### FISCAL IMPACTS OF RECOMMENDATION

The proposed \$45 per square foot in-lieu fee is roughly equivalent to the 2020 Affordable Housing Mitigation Fee (AHMF) of \$39,746 per rental unit. Since 2015, the City of Berkeley has collected approximately \$38 million in Affordable Housing Mitigation Fees towards the Housing Trust Fund Program. It is challenging to predict future affordable housing fee revenue trends given the variables that are outside of the City's control (e.g., how individual project applicants choose to comply with the City's affordable housing requirements, changes in state law, and broader housing market trends). However, if overall housing development and affordable housing compliance plan trends continue, staff projects generating a similar amount over the next eight-year Housing Element cycle.

#### CURRENT SITUATION AND ITS EFFECTS

The City's affordable housing requirements for new development are currently found in several sections of the Berkeley Municipal Code, including:

- BMC 21.28: Condominiums and Other Common Interest Subdivisions
- BMC 22.20: Mitigations and Fees—Conditions of Approval for Development Projects
- BMC 23.326: Demolition and Dwelling Unit Controls
- BMC 23.328: Inclusionary Housing
- BMC 23.312: Live/Work
- BMC 13.76: Rent Stabilization and Eviction for Good Cause

Prior to 2009, Berkeley had a single Inclusionary Zoning Ordinance (BMC Chapter 23C.12) which applied to both ownership and rental projects. In 2009, a Court of Appeals decision in *Palmer/Sixth Street Properties LP v. City of Los Angeles* (the "Palmer decision") prevented California jurisdictions from enforcing inclusionary housing requirements on rental properties. In response, Berkeley and many other cities adopted an Affordable Housing Mitigation Fee (AHMF). The AHMF ordinance requires payment of a fee and allows the provision of on-site units as an alternative. This approach allowed Berkeley to achieve its policy goals without violating the restrictions imposed by the Palmer decision. Although the provisions of the Inclusionary Housing Ordinance that applied to rental housing remained in the Berkeley Municipal Code, they were unenforceable and superseded by the AHMF ordinance. Inclusionary provisions related to condominiums remained enforceable.

In 2018, the California Legislature passed AB1505 which effectively overturned the Palmer decision and authorized the implementation of inclusionary housing



requirements applied to rental properties, subject to a development feasibility analysis. This legislation has allowed the City to update its programs to combine rental and ownership requirements under a single inclusionary housing ordinance and make other changes that respond to City Council referrals.

The proposed changes are informed by a memorandum prepared by Street Level Advisors, a firm that assists cities across the nation to develop programs and policies to facilitate equitable development, and by feedback provided by the Planning Commission, Housing Advisory Commission and the Council in 2021 (**Attachment 3**).<sup>1</sup> Updating the City’s Affordable Housing Requirements is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support services for our most vulnerable community members.

**Key Elements of Proposed Ordinance and Resolution**

**1. Consolidation of Affordable Housing Requirements.** As authorized by Assembly Bill 1505, the proposed amendments impose “inclusionary” or on-site affordable housing requirements and allow the payment of an in-lieu fee, among other options, instead of the current rules which impose a mitigation fee and allow for the provision of on-site units in-lieu of the fee.<sup>2, 3</sup> The proposed ordinance consolidates the City’s existing regulations by addressing both rental and ownership projects in an amended BMC Chapter 23.328, renamed as “Affordable Housing Requirements,” thus allowing for the deletion of the sections of the BMC where these topics were formerly addressed (BMC Sections 22.20.065, and 23.312.A6).

The proposed ordinance would become effective on April 1, 2023. Development projects for which either a Building Permit was issued or a preliminary application was submitted on or before April 1, 2023 shall be subject to this Chapter’s requirements that were in place as of the preliminary application’s submittal date, but shall otherwise be exempt from this Chapter (see section 23.328.050.F of proposed ordinance). The City’s inclusionary requirement remains the same: at least 20% of the residential units of a housing development project must be affordable units, as defined in BMC Section 23.238.

**2. Establishment of a Per Square Foot In-Lieu Fee.** Instead of the existing method of calculating fees on a per-unit basis, the proposed resolution sets the affordable housing in-lieu fee at \$45 per square foot applied to the gross floor area (as defined by BMC Section 23.106.030) of a housing development project. In a

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<sup>1</sup> See Background section for more information on the project methodology and public process.

<sup>2</sup> Street Level Advisors Memorandum (Jan. 2022): Recommendations 1.1, 1.2, 1.3 (as noted above, condo conversion requirements will be addressed in a separate process in the future), 1.4 and 1.5.

<sup>3</sup> Bill Text - AB-1505:

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB1505](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB1505)

mixed-use project, the fee shall not be assessed on any leasable commercial floor area (as defined by BMC section 23.106.040), nor on the common areas that exclusively serve non-residential areas uses. For Live/Work units, the In-Lieu Fee shall be applied to the gross floor area that is designated as non-workspace in the zoning permit approvals consistent with BMC Section 23.312.040.<sup>4</sup>

As stated in Section 23.328.030(B), the proposed ordinance also stipulates that the In-Lieu Fee will be estimated as part of the preliminary Affordable Housing Compliance Plan (which is required to be submitted as part of the zoning permit application) and will be finalized prior to building permit issuance (consistent with the final Affordable Housing Compliance Plan). The In-Lieu Fee must be paid prior to Certificate of Occupancy.

The \$45 per square foot fee is roughly equivalent to the 2020 AHMF for projects with typically sized units.<sup>5</sup> As is the case with the existing AHMF, the proposed In-Lieu Fee would be automatically adjusted every two years based on the California Construction Cost Index (CCCI). Over the last two years, the CCCI has increased sharply, with a cumulative increase of 16.2%, as compared to increases of approximately 2-4% each year between 2016 and 2020. Effective July 1, 2022, the AHMF increased from \$39,746 to \$46,185 per rental unit (see referenced document list at end of this report). This significant increase is reflective of the escalating costs in construction and inflation affecting housing prices throughout the state. Despite the recent increase, City staff are recommending that the City Council set the new per square foot based in-lieu fee based on the fee level of 2020, which was the basis for the financial feasibility analysis prepared by Street Level Advisors.

City staff will be initiating a new feasibility study later this fiscal year, as recommended by both the Planning and Housing Advisory Commissions. This new study will analyze the feasibility of smaller building development types (e.g., “missing middle” housing), monitor the effects of the newly adopted fees and inclusionary requirements, and establish whether adjustments should be made to the fee level or cost structure. There may be reasons to raise or lower the per square foot fee: to adjust the sliding scale for smaller projects, better align the developer cost of the inclusionary versus fee options, or to make other changes to reflect market conditions as the city emerges from the pandemic and faces inflationary, recessionary, and other market influences.

**3. Incentive to Increase Affordable Units Serving Extremely Low-Income (ELI) Households (up to 30% of AMI).** The City’s current rules require that 40% of all Very Low Income (VLI; up to 50% of AMI) units be offered first to Housing Choice

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<sup>4</sup> See definitions for “Floor Area, Gross” and “Floor Area, Leasable (BMC 23.106.030, under “F”) and draft ordinance (Attachment 1) for “Housing Development Project” (section 23.328.020).

<sup>5</sup> SLA Jan. 2022 Memo, Recommendations 2.1 and 3.1.

voucher holders, and 40% be offered first to Shelter+Care voucher holders. The proposed changes would require that all of the required VLI units be offered to voucher holders (50% to Housing Choice voucher holders and 50% to Shelter+Care voucher holders) before being marketed to other income-eligible households. This change, along with the way that the City's requirements interact with the State Density Bonus, will serve to slightly increase the share of ELI tenants served, without adding layers of complexity to the program, since voucher holders in both programs generally have incomes well below 30% AMI.<sup>6</sup>

**4. Standardization of Ownership and Rental Fees.** The feasibility analysis prepared by Street Level Advisors found that the City's existing requirements for ownership/condominium projects resulted in an equivalent per square foot fee ranging from \$54 to \$75, which is considerably higher than the equivalent per square foot fees estimated for rental projects (\$45 per square foot). The imposition of a higher fee discourages development of new home ownership projects. Setting the fee at \$45 per square foot for both rental and ownership projects would "level the playing field" and still generate substantial in-lieu fees per unit, since ownership units tend to be larger than rental units. The proposed ordinance authorizes the City Council to set fees, and the proposed resolution sets the affordable housing in-lieu fee at \$45 per gross residential square foot for both rental and ownership projects. This approach will be revisited as part of the new feasibility study.<sup>7</sup>

**5. Standardization of Live-Work Requirements.** The proposed ordinance consolidates the affordable housing requirements for live/work units from BMC 23.312 into BMC 23.328, and removes the exemption from inclusionary and fee requirements for live/work projects. The same requirements would apply to live/work projects as any other project. Live/work projects would also retain the existing marketing provision, to proactively ensure that the developer reaches out to income-eligible persons performing a work activity appropriate to the unit and district where the property is located.<sup>8</sup>

**6. Land Dedication Option.** The proposed ordinance adds an option for project applicants to dedicate land, if authorized by the City Manager, for an approved non-profit housing developer (see proposed ordinance Section 23.328.030.C). Donated land must meet specified criteria to ensure that the land is suitable for development of affordable housing, including having appropriate infrastructure, an absence of hazardous materials or other hazards, and be of equal or greater in value than the in-lieu fee that otherwise would be required.<sup>9</sup>

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<sup>6</sup> See SLA Recommendation 4.1.

<sup>7</sup> See SLA Recommendation 6.1.

<sup>8</sup> SLA Jan. 2022 Memo: Recommendations 7.1.

<sup>9</sup> SLA Jan. 2022 Memo: Recommendation 8.1.

**7. Family-Sized Units Option.** During the process of developing the recommendations, policymakers expressed interest in promoting the development of affordable units that are suitable for families, but actively discourage units with high bedroom counts. The draft ordinance adds an option for project applicants to propose an alternative mix of affordable unit types whose total size is at least 20% of the residential Gross Floor Area (rather than a unit-for-unit equivalent), in order to achieve a mix of affordable units including two- and three-bedroom units. Review and approval of the proposal would be at the discretion of the City Manager or their designee.<sup>10</sup> This option has been further revised from earlier proposals, which would have provided a similar option by right if a project applicant provided affordable units including a specified level of two- or three-bedroom units. The current option better addresses staff implementation concerns by establishing a process by which a proposal can be reviewed holistically to ensure that unit size, unit mix and overall number of units provided and households served meet the intent of the ordinance.

**8. Removal of Exemption for Most Group Living Accommodation (GLA) Projects.** The proposed ordinance would remove the current exemption for GLAs from inclusionary and fee requirements. Fraternities, sororities and other specially designated units recognized by the University of California would retain their exemption. The proposed ordinance would also prohibit affordable units from having more than three bedrooms in order to reduce administrative burdens.<sup>11</sup>

**9. Eliminate Exemption for Small Projects and Establish Tiered Fees.** The proposed resolution eliminates the exemption for projects of one to four units and replaces it with a tiered fee for projects with less than 12,000 square feet in residential Gross Floor Area (BMC 23.106.030), by reducing the fee by \$2 per square foot for each 1,000 square foot increment less than 12,000 sf (see Table 1 below and Attachment 2).<sup>12</sup>

The proposed fee structure is intended to address concerns expressed about the potential for developers to segment their projects into smaller projects of four units or less in order to circumvent existing rules, while also reducing the fee for smaller projects. The threshold of 12,000 square feet (roughly equivalent to 12 to 15 units) to start the phased reduction provides a relatively long phase-in of the full fee with small increments, to remove incentives for applicants to intentionally size projects just below the level of the next fee amount step.

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<sup>10</sup> SLA Jan. 2022 Memo: Recommendation 9.1.

<sup>11</sup> SLA Jan. 2022 Memo: Recommendations 11.1 and 11.2.

<sup>12</sup> SLA Jan. 2022 Memo: Recommendations 12.1 and 12.2.

**Table 1. Proposed Tiered Square Foot Based Fee**

| <b>Applicable Gross Floor Area<br/>(BMC 23.328.030(B))</b> | <b>Fee per Square Foot</b> |
|------------------------------------------------------------|----------------------------|
| 12,000+                                                    | \$45                       |
| 11,000-11,999                                              | \$43                       |
| 10,000-10,999                                              | \$41                       |
| 9,000-9,999                                                | \$39                       |
| 8,000-8,999                                                | \$37                       |
| 7,000-7,999                                                | \$35                       |
| 6,000-6,999                                                | \$33                       |
| 5,000-5,999                                                | \$31                       |
| 4,000-4,999                                                | \$29                       |
| 3,000-3,999                                                | \$27                       |
| 2,000-2,999                                                | \$25                       |
| 1,000-1,999                                                | \$23                       |
| <1,000                                                     | \$21                       |

**11. Cap Annual Rate of Rent Increases.**<sup>13</sup> As recommended by the Housing Advisory Commission (HAC), the proposed ordinance stipulates that any percentage increase in rent of an affordable unit shall be the lesser of 65% of the increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region (as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics for the twelve-month period ending the previous December 31), or 65% of the corresponding increase in AMI for the same calendar year. In no event, however, shall the allowable annual adjustment be less than zero (0%) or greater than seven percent (7%). This is consistent with how the Rent Stabilization Board calculates rent increases, but is a change from the existing affordable housing requirements, which tie rent increases to the increase in Area Median Income (AMI) only. When the affordable units are vacant and re-rented, the property owner can increase the rent based on the affordability category of the unit.

The Planning Commission recommended that rent increases be tied to AMI two years after adoption of ordinance. Staff do not recommend this approach because annual rent adjustments are typically smaller and therefore more manageable for tenants. Increasing rents based on AMI after two years may create a larger rent increase that is more difficult for tenants to predict/budget. This is reflective of staff experience managing properties that have “banked” increases in the past and implement multiple year increases at once.

The goal is to ensure that rent increases do not result in a high housing cost burden or displacement of existing tenants. Over the past decade, annual increases in AMI are generally higher than the average increase in income of lower income

<sup>13</sup> SLA Jan. 2022 Memo: Recommendation 13.

households, resulting in unintended adverse impacts to tenants. Although CPI-U has traditionally been more stable than AMI, this may change given the current inflationary cycle. Staff recommend tying rent increases to the lesser of annual increases in CPI-U or AMI.

**12. Administrative Changes.** The proposed ordinance also recommends four administrative changes:<sup>14</sup>

- a. Affordable Housing Compliance Plan. The proposed ordinance language was clarified to better define the enforceable agreement (the “Affordable Housing Compliance Plan”) that applicants are required to submit and when such a plan must be submitted to the City. The Compliance Plan must specify how an applicant will comply with City affordable housing requirements, including the number and type of affordable units, the amount of In-Lieu Fees, and/or the parcels of land (or portions thereof) that will be provided and/or paid, and must be submitted to the Zoning Officer at the time of application.
- b. Authorization of administrative citations. The proposed ordinance explicitly authorizes the creation of a proposed schedule of fines for monitoring and compliance violations to be included in the program guidelines.
- c. Deduction of required fees/costs from gross rent. The proposed ordinance requires that any mandatory fees imposed by the property-owner as a condition of tenancy, as well as an allowance for tenant-paid utilities, be included in the determination of whether a unit is affordable to Very Low-Income or Low-Income Households.
- d. Increase administrative set-aside from 10% to 15%. The proposed ordinance states that 15% of In-Lieu Fees collected may be used to pay for administration of the In-Lieu Fee or the Housing Trust Fund program, due to the increasing size and complexity of the City’s portfolio of HTF units. This also allows staff to better budget for administrative expenses given the unpredictable nature of market-based fee revenue. At least 85% of In-Lieu Fees collected shall be deposited into the City’s Housing Trust Fund program.

### **Other Policy Considerations**

Staff are also advancing proposed changes to the City’s regulation of demolitions (BMC Chapter 23.326). Demolition requirements help protect existing rental-controlled housing by regulating and compensating for the elimination of such units which occurs through modifications to existing housing stock (e.g., removing kitchens, combining units). The modifications currently under consideration retain, modify and expand existing requirements for the replacement of protected units and the provision of relocation benefits for displaced tenants, while bringing the local ordinance into better alignment with recent updates to state law. Staff anticipate bringing revisions to the

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<sup>14</sup> SLA Jan. 2022 Memo: Recommendation 14.1 - 14.4.

demolition requirements to City Council in early 2023, subsequent to additional review by the 4x4 Committee and Planning Commission.

In addition, a number of proposed changes to the City's condominium conversion regulations were presented in the memorandum prepared by Street Level Advisors. These included simplifying the calculation of the required fee, reducing the fees under certain circumstances and allowing flexibility in the use of the fees. These recommendations require additional consideration and may require additional nexus and feasibility analyses. Changes to BMC Chapter 21.28, Condominiums and Other Common Interest Subdivisions, will be considered in a future, separate item.

### BACKGROUND

The City of Berkeley has a strong history of programs and initiatives to retain existing affordable and rent controlled tenant housing, protect tenants from displacement, and create new affordable housing, including deed-restricted income-qualified housing. City Council has adopted multiple, interrelated referrals to explore revisions to the City's affordable housing requirements for new development that are currently codified in several sections of the Berkeley Municipal Code (**Attachment 4**).

There have also been changes to State laws that govern affordable housing requirements, streamlining, dwelling unit replacement, and density bonus incentives. There are also numerous locally adopted implementing resolutions that set fee amounts and exemptions. In addition, the City has administrative guidelines and practices to implement the State and local requirements.

The City engaged the consulting firm Street Level Advisors to evaluate existing regulations and potential changes in order to comprehensively update the City's affordable housing requirements. The work to date has included:

- **October 2020:** Street Level Advisors presented a range of identified policy issues and solicited feedback from the public and stakeholders including affordable housing developers and advocates, market-rate developers, Planning Commission, Housing Advisory Commission, Zoning Adjustments Board, and Rent Stabilization Board.
- **May 2021:** Street Level Advisors prepared a memorandum analyzing 14 categories of potential changes to the City's affordable housing requirements based on Council referrals and stakeholder and public feedback. Staff and Street Level Advisors presented the proposed changes to the Planning Commission and at a City Council worksession to inform drafting of the ordinance and resolution.<sup>15</sup>

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<sup>15</sup> May 18, 2021 Council Worksession Report: <https://berkeleyca.gov/sites/default/files/documents/2021-05-18%20WS%20Item%2002%20Updating%20Citywide%20Affordable.pdf>

- **March 2022:** Staff presented the proposed resolution and ordinance to the Planning Commission and the Housing Advisory Commission and requested a recommendation to bring to the City Council.

Both Commissions approved the staff recommendations with a few modifications, including the following recommendations:

- **Update feasibility analysis.** Both Commissions recommended new evaluations of the in-lieu fee within one to two years (HAC and PC, respectively), including tracking distribution of fees, on-site units, mixed compliance projects, small project and ownership projects, including co-housing/community housing. As noted above, staff will be initiating a new feasibility study later this fiscal year.
- **Cap annual rent increases for inclusionary units.** The Planning Commission recommended that rent increases should be tied to Area Median Income after two years of ordinance adoption. The Housing Advisory Commission (HAC) recommended that rent increases should be tied to 65% of Consumer Price Index (CPI), which is consistent with the manner in which the Rent Stabilization Board calculates rent increases. The proposed ordinance was revised to tie rent increases to 65% of CPI.
- **Ensure definitions of terms are included in the chapter and/or in the zoning ordinance glossary.** As recommended by the Planning Commission, the proposed draft ordinance and the draft resolution have been revised for clarity. Staff have revised the drafts to include definitions and clearer references regarding how the proposed in-lieu fee would be applied and calculated.
- **Require Very Low-Income units to be first offered to voucher holders.** The Planning Commission recommended that the existing regulations remain in place such that 80% of Very Low-Income units be required to be offered to voucher holders (40% to Shelter+Care and 40% to Section 8 voucher holders) instead of proposed ordinance increase to 100% (50% to Shelter+Care and 50% to Section 8 voucher holders). The HAC agreed with the draft ordinance as proposed by staff.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Infill affordable housing may reduce greenhouse gas emissions when located near transit, job centers, and other amenities. The proposed changes are intended to continue to facilitate on-site affordable housing units and fees available to the Housing Trust Fund for affordable housing developers in order to support the provision of affordable housing and housing support services for our City’s most vulnerable community members.

RATIONALE FOR RECOMMENDATION

The recommended changes are primarily in response to policy referrals from City Council related to affordable housing development. The new ordinance is intended to maintain or increase the number of on-site affordable housing units and the amount of



fees available to the Housing Trust Fund, while addressing a number of other policy considerations and concerns regarding the complexity of existing regulations, and maintaining the overall feasibility of housing development in Berkeley.

**ALTERNATIVES CONSIDERED**

The Planning Commission and Housing Advisory Commission each discussed the merits of setting the fee at a level either higher or lower than the recommended \$45 per square foot.

Staff considered raising the proposed per square foot in-lieu fee by 16.2% to match the recent automatic adjustment to the existing Affordable Housing Mitigation Fee on July 1, 2022, which would be equivalent to \$52 per square foot. Street Level Advisors recommended considering adjustments to the fee once the housing market had stabilized following the fluctuations that resulted from the pandemic, and to concurrently conduct an updated feasibility analysis within the next three years to determine what fee level typical projects could support. Given the recent increase in construction costs and inflation overall, it seems prudent to base further increases in fees on updated feasibility analyses prior to adjusting the level of the fee.

Staff also considered a modified tiered fee structure that would provide a fee discount to any project with fewer than 8,000 square feet (roughly equivalent to 8-10 units) and phase in the fee more quickly in \$3 increments, as shown in Table 2 below. Reductions below 8,000 square feet could eliminate the value of phasing in the \$45 square foot fee versus charging a lower fee for smaller projects.

**Table 2. Modified Tiered Square Foot Based Fee**

| <b>Applicable Gross Floor Area<br/>(BMC 23.328.030(B))</b> | <b>Fee per Square Foot</b> |
|------------------------------------------------------------|----------------------------|
| 8,000+                                                     | \$45                       |
| 7,000-7,999                                                | \$42                       |
| 6,000-6,999                                                | \$39                       |
| 5,000-5,999                                                | \$36                       |
| 4,000-4,999                                                | \$33                       |
| 3,000-3,999                                                | \$30                       |
| 2,000-2,999                                                | \$27                       |
| 1,000-1,999                                                | \$24                       |
| <1,000                                                     | \$21                       |

Some Planning Commission members expressed concerns regarding the removal of the exemption of one- to four-unit projects prior to completing a feasibility analysis on these types of projects. The City Council could consider modifying the effective date of

the tiered fee structure and/or the exemption of small projects for a specified period of time by which the new feasibility study will likely have been completed (e.g. 18 – 24 months). The City Council could also consider maintaining the existing exemption for one- to four-unit projects and/or not adopt the tiered fee structure.

Staff also considered introducing a limited local density bonus program for small projects and Group Living Accommodations (where individuals generally lease bedrooms and not apartments). The program would prohibit the provision of on-site affordable units in these types of projects, and allow additional development as would be allowed under the State Density Bonus in exchange for payment of a fee (instead of on-site units). After further review and consideration, staff have concluded that the proposed tiered fee for small projects (less than 12,000 sf), and the definition of affordable units being limited to three bedrooms or less, serve to address the goal of incentivizing smaller projects to select the in-lieu fee option.

The Council could also consider no changes to the current structure of having an Affordable Housing Mitigation Fee and an in-lieu inclusionary requirement.

#### CONTACT PERSON

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#### Attachments:

- 1: Draft Ordinance
- 2: Draft Resolution
- 3: Updating Affordable Housing Requirements for the City of Berkeley: Analysis and Recommendations. Prepared by Street Level Advisors, Revised February 2022.
- 4: Summary of Council Referrals Related to Affordable Housing Requirements
- 5: Public Hearing Notice

#### Links to Referenced Documents:

- 1: Off-Agenda Memo Regarding Bi-annual Increase to Affordable Housing Mitigation Fee, July 13, 2022:  
[https://berkeleyca.gov/sites/default/files/documents/Affordable%20Housing%20Mitigation%20Fee%20Increase%20071322\\_0.pdf](https://berkeleyca.gov/sites/default/files/documents/Affordable%20Housing%20Mitigation%20Fee%20Increase%20071322_0.pdf)
- 2: City Council Worksession Report: Citywide Affordable Housing Requirements Update, May 18, 2021:  
<https://berkeleyca.gov/sites/default/files/documents/2021-05-18%20WS%20Item%2002%20Updating%20Citywide%20Affordable.pdf>
- 3: Planning Commission Report: Citywide Affordable Housing Requirements Update, May 5, 2021:

<https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-03-02%20PC%20Agenda%20Packet.pdf>

ORDINANCE NO. -N.S.

AFFORDABLE HOUSING REQUIREMENTS; AMENDING BERKELEY MUNICIPAL  
CODE TITLES 22 AND 23

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 22.20.065, and Section 23.312.040(A)(6) are hereby repealed.

Section 2. That Berkeley Municipal Code Chapter 23.328 is repealed and re-enacted to read as follows:

**23.328.010 Findings and Purpose.**

A. The State of California has established a Regional Housing Needs Allocation (RHNA) process under which it allocates a “fair share” of the regional housing need, updated periodically, to each local jurisdiction. The “fair share” allocated to Berkeley increased significantly based on the regional housing needs determination finalized in late 2021. The sixth cycle of the RHNA for the San Francisco Bay Area allocates to Berkeley a “fair share” that calls for adequate sites for 8,934 housing units for the period from 2023 to 2031, including sites for 2,446 Very Low-Income units, 1,408 Low Income units, and 1,416 Moderate Income units. Under the state Housing Element Law, the City must update its Housing Element to provide adequate sites for its updated “fair share” allocation by 2023.

B. The Bay Area suffers from a shortage of affordable housing. As the Bay Area region experiences increased economic growth and a high demand for housing, housing prices continue to rise, which leads to displacement of low income residents and exacerbates the shelter crisis that has led to unacceptably high rates of homelessness in the City of Berkeley and the Bay Area region.

C. In 1990, the City established the Housing Trust Fund program to pool available funding for affordable housing development. The Housing Trust Fund program is funded

by federal, state, and local revenues, including by in-lieu and mitigation fees paid by developers of market-rate housing projects under the City's existing affordable housing ordinances.

D. The City Council hereby finds that there is a legitimate public interest in the provision of affordable housing to address the crises of displacement, homelessness, and lack of housing affordability in the City, and that there is a significant and increasing need for affordable housing in the City to meet the City's regional share of housing needs under the California Housing Element Law.

E. The City Council further finds that the public interest would best be served if new affordable housing were integrated into new market-rate residential developments to facilitate economically diverse housing, while also providing alternative options to the on-site construction of affordable housing such as the payment of fees to replenish the City's Housing Trust Fund program and allowing for the construction of affordable housing on land dedicated by market-rate housing developers.

F. The City Council intends that this Ordinance be construed as an amendment to the City's existing affordability requirements, and that the repeal and re-enactment of any requirement shall not be construed to relieve a party of any outstanding obligation to comply with the requirements applicable to any previously approved Housing Development Project.

**23.328.020 Definitions.**

A. "Affordable Unit" means a Residential Unit that is in perpetuity affordable to Very Low Income Households or Lower-Income Households, as defined in California Health and Safety Code sections 50052.5 and 50053.

B. "Affordable Housing Compliance Plan" means an enforceable commitment by an Applicant to comply with the requirements of this Chapter that identifies the number and type of Affordable Units, the amount of In-Lieu Fees, and/or the parcels of land (or portions thereof) that will be provided and/or paid by the Applicant to comply with those requirements.

C. "AMI" means the area median income applicable to the City of Berkeley, as defined by the U.S. Department of Housing and Urban Development, or its successor provision, or as established by the City of Berkeley in the event that such median income figures are no longer published by the U.S. Department of Housing and Urban Development.

D. "Applicant" means any individual, person, firm, partnership, association, joint venture, corporation, entity, combination of entities or authorized representative thereof, who applies to the City for any Housing Development Project.

E. "Housing Development Project" means a development project, including a Mixed-Use Residential project (as defined in 23.502.020(M)(13), involving the new construction of at least one Residential Unit. Projects with one or more buildings shall be considered as a sole Housing Development Project and not as individual buildings.

F. "Housing Trust Fund" means the program to finance low and moderate-income housing established by Resolution No. 55,504-N.S., or any successor fund established for the same purpose.

G. "Lower-Income Household" means a household whose income does not exceed the low-income limits applicable to Alameda County, as defined in California Health and Safety Code section 50079.5 and published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development.

H. "Regulatory Agreement and Declaration of Restrictive Covenants" means, for the purposes of this Chapter, a legally binding agreement recorded against the property to codify the requirements and conditions of a Housing Development Project providing Affordable Units.

I. "Residential Unit" means, for purposes of this Chapter, any Dwelling Unit, any Live/Work Unit, or any bedroom of a Group Living Accommodation (GLA) except a GLA in a University-recognized fraternity, sorority or co-op; provided, however, that for purposes of this Chapter, "Residential Unit" shall not include any Accessory Dwelling Unit or Junior Accessory Dwelling Unit.

J. "Very Low-Income Household" means a household whose income is no more than 50% of AMI, as defined in California Health and Safety Code section 50105.

**23.328.030 Affordable Housing Requirements.**

A. Requirement to Construct Affordable Units

1. Except as otherwise provided in this Chapter, no permit for the construction of any Housing Development Project shall be issued unless at least 20% of the Residential Units are Affordable Units. When the calculation results in a fractional unit, an Applicant will round up to the nearest whole unit. The Affordable Units shall have the same proportion of unit types (i.e., number of bedrooms) and average size as the market rate units (provided, however, that no Affordable Unit may have more than three bedrooms).

2. In lieu of providing Affordable Units pursuant to Paragraph 1, an Applicant may propose an alternative mix of unit-types to comply with this Chapter by providing Affordable Units that comprise at least 20% of the applicable "Floor Area, Gross" of the Housing Development Project as defined in section 23.328.030(B)(2) in order to achieve a mix of Affordable Units including two-bedroom or three-bedroom units. The City Manager or their designee may approve the proposed alternative mix of unit- types that meet the requirements of this section.

3. Affordable Units shall be (a) reasonably dispersed throughout the Housing Development Project; and (b) comparable to other Residential Units in the Housing Development Project in terms of appearance, materials, and finish quality. Residents of Affordable Units shall have access to the same common areas and amenities that are available to residents of other Residential Units in the Housing Development Project.

4. The City Manager or their designee shall adopt rules and regulations (a) establishing the affordable sales price or affordable rent for each Affordable Unit, consistent with the requirements of Health and Safety Code sections 50052.5

and 50053; and (b) ensuring that Affordable Units are sold or rented to Very Low Income and Lower Income Households, consistent with the requirements of this Chapter.

5. Rental Units.

- a. At least 50% of the required Affordable Units in the Housing Development Project shall be offered at a rent that is affordable to Very Low-Income Households, up to a maximum requirement of 10% of the total units in the Housing Development Project if the project provides more Affordable Units than are otherwise required by this Chapter.
- b. In determining whether a unit is affordable to Very Low Income or Low Income Households, maximum allowable rent for any affordable unit shall be reduced by an amount equal to the value of the City-published utility allowance provided for Tenant-paid utilities and any other mandatory fee imposed by the property owner as a condition of tenancy.
- c. Any percentage increase in rent of an occupied Affordable Unit shall not exceed the lesser of 65% of the increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending the previous December 31, or 65% of the percentage increase in AMI for the same calendar year. In no event, however, shall the allowable annual adjustment be less than zero (0%) or greater than seven percent (7%).
- d. Affordable Units designated for Very Low Income Households shall be offered for rent to tenants receiving assistance under the Section 8 Program (42 U.S.C. Section 1437f), the Shelter Plus Care Program (42 U.S.C. Section 11403 *et. seq.*), or any similar state or federally funded rent subsidy program prior to being offered to other potential tenants. The Council may establish related program requirements by resolution.
- e. The owner of any Affordable Unit offered for rent must report to the



City annually the occupancy and rents charged for each Affordable Unit, and any other information required pursuant to rules and regulations adopted by the City Manager or their designee.

6. Ownership Units. Inclusionary units in ownership projects shall be sold at a price that is affordable to an appropriate-sized household whose income is no more than 80 percent of the AMI.

7. All Affordable Units shall be subject to a recorded affordability restriction requiring in perpetuity that each Affordable Unit be sold at an affordable sales price or offered for rent at an affordable rent, as defined in this Chapter.

8. Affordable Live/Work Units shall be proactively marketed by the Applicant and/or owner to income-eligible persons performing a work activity permitted in the district where the project is located whose type of work causes them to have a requirement for a space larger in size than typically found in residential units.

9. An Affordable Unit that is constructed to qualify for a density bonus under Government Code section 65915 that otherwise meets the requirements of this Chapter shall qualify as an Affordable Unit under this Chapter.

B. Option to Pay In-Lieu Fee

1. In lieu of providing some or all of the Affordable Units required under this Chapter (including any fractional units), an Applicant may elect to pay a fee, the amount of which the City Council may establish by resolution ("In-Lieu Fee"). The City Council may by resolution differentiate among types, classes, and locations of Housing Development Projects to the extent permitted by law; may establish separate fees and criteria for the provision of units that are affordable to Very Low Income Households and units that are affordable to Low Income Households; and may establish the method for calculation of the In-Lieu Fee.

2. In-Lieu Fees shall be applied to the "Floor Area, Gross" (as defined by BMC Section 23.106.030) of a Housing Development Project. However, in a mixed-use project, the fee shall not be assessed on any "Floor Area, Leasable"

(as defined by BMC section 23.106.040), nor on any common areas that exclusively serve a non-residential use. For Live/Work units, the In-Lieu Fee shall be applied to the “Floor Area, Gross” that is designated as non-workspace in the zoning permit approvals consistent with BMC section 23.312.040.

3. In-Lieu Fees shall be estimated as part of the preliminary Affordable Housing Compliance Plan and finalized at the time of building permit issuance, consistent with the final Affordable Housing Compliance Plan.

4. In-Lieu Fees shall be paid prior to the issuance of the first Certificate of Occupancy, or if no Certificate of Occupancy is required, prior to the initial occupancy of the Housing Development Project.

5. Up to 15% of In-Lieu Fees collected may be used to pay for administration of the In-Lieu Fee or the Housing Trust Fund program. At least 85% of In-Lieu Fees collected shall be deposited into the City’s Housing Trust Fund program.

C. Option to Dedicate Land

1. At the discretion of the City Manager or their designee, the requirements of this Chapter may be satisfied by the dedication of land in lieu of constructing Affordable Units within the Housing Development Project if the City Manager or their designee determines that all of the following criteria have been met:

a. Marketable title to the site is transferred to the City, or an affordable housing developer approved by the City, prior to issuance of building permit of the Housing Development Project pursuant to an agreement between the Applicant and the City.

b. The site has a General Plan designation that authorizes residential uses and is zoned for residential development at a density to accommodate at least the number of Affordable Units that would otherwise be required under Paragraph A.

c. The site is suitable for development of the Affordable Units, taking into consideration its configuration, physical characteristics, location, access, adjacent uses, and applicable development standards and other relevant planning and development criteria including, but not limited to, factors such as the cost of construction or development arising from the nature, condition, or location of the site.

d. Infrastructure to serve the dedicated site, including, but not limited to, streets and public utilities, are available at the property line and have adequate capacity to serve the maximum allowable residential density permitted under zoning regulations.

e. The site has been evaluated for the presence of hazardous materials and for the presence of geological hazards and all such hazards are or will be mitigated to the satisfaction of the City prior to acceptance of the site by the City.

f. The value of the site upon the date of dedication is equal to or greater than the in-lieu fee that would otherwise be required under Paragraph A. The value of the site shall be determined pursuant to the program guidelines approved by the City Manager or their designee.

2. The City shall solicit proposals from affordable housing developers to construct restricted income units on the site dedicated to the City, but if the City is unable to obtain a qualified affordable housing developer to construct a viable affordable housing development on the property within two years of its solicitation or to commence construction within five years, the City may sell, transfer, lease, or otherwise dispose of the dedicated site for any purpose. Any funds collected as the result of a sale, transfer, lease, or other disposition of sites dedicated to the City shall be deposited into a fund designated for use in the City's Housing Trust Fund program.

**23.328.040 Waiver or Modification of Affordable Housing Requirements.**

A. The City Manager or their designee may waive or modify up to fifty percent of the requirements of this Chapter at their sole discretion where any of the following conditions are established:

1. A project providing low- or moderate-income housing is funded in whole or in part by the City's Housing Trust Fund program;
2. The implementation of the requirements of this Chapter would violate the rights of any person under the California or United States Constitutions, any federal law, or any state law governing a matter of statewide concern and applicable to a charter city; or
3. The benefits of the project to the City outweigh the detriment of foregoing the provision of Affordable Housing or the contribution of In-Lieu fees to the Housing Trust Fund program. In weighing the benefits and detriment to the City, the following factors may be considered:
  - a. The impact of the requirements of this Chapter on the feasibility of a Housing Development Project;
  - b. Other economically beneficial uses of the Applicant's property;
  - c. The burdens the Housing Development Project places on the City in terms of increased demand for affordable housing, childcare, public facilities or amenities, or other impacts which reasonably may be anticipated to be generated by or attributable to the Housing Development Project; and
  - d. The impact on the Housing Trust Fund program of foregoing the payment of any In-Lieu fee that would otherwise be made.

B. Waivers or modifications greater than fifty percent of the amount which otherwise would be required by this Chapter shall be subject to the approval of City Council.

C. The Applicant shall bear the burden of proof to establish eligibility for a waiver or modification of the requirements of this Chapter.

**23.328.050 Implementation.**

A. The Applicant for any Use Permit or Zoning Certificate for a Housing Development Project shall submit a preliminary Affordable Housing Compliance Plan to the Zoning Officer at the time of application. The preliminary Affordable Housing Compliance Plan shall be incorporated as a condition of approval of any Use Permit or Zoning Certificate issued to the Applicant. No building permit may be issued for the project until the final Affordable Housing Compliance Plan is approved.

B. The Applicant must execute a Regulatory Agreement and Declaration of Restrictive Covenants to regulate all Affordable Units provided in a Housing Development Project. No building permit may be issued for the project until the Regulatory Agreement and Declaration of Restrictive Covenants are executed.

C. The Affordable Housing Compliance Plan and/or Regulatory Agreement and Declaration of Restrictive Covenants may be amended administratively, provided that the Zoning Officer finds them to be in full compliance with the provisions of this ordinance and State law, prior to issuance of Certificate of Occupancy.

D. The City Manager or their designee may promulgate additional rules and regulations consistent with the requirements of this Chapter.

E. The City Council may by resolution establish fees for the implementation and administration of this Chapter and may establish administrative penalties for violations of this Chapter.

F. Exemptions.

1. A Housing Development Project for which either a building permit was issued on or before April 1, 2023 or a preliminary application including all of the information required by subdivision (a) of California Government Code section 65941.1 was submitted on or before April 1, 2023 shall be subject to this

Chapter's requirements that were in place as of the preliminary application's submittal date but shall otherwise be exempt from this Chapter. This exemption shall expire upon the occurrence of any of the circumstances defined in paragraphs (2), (6), or (7) of subdivision (o) of California Government Code section 65589.5 or in subdivision (d) of California Government Code section 65941.

2. A Residential Unit that replaces a unit existing as of April 1, 2023 that has been destroyed by fire, earthquake or other disaster, or that was previously subject to a mitigation fee or inclusionary housing requirement.
3. A Residential Unit existing as of April 1, 2023 that is expanded, renovated, or rehabilitated.

Section 3. The Berkeley Municipal Code Section 23.330.070 is hereby amended to read as follows:

**23.330.070 Qualifying Units.**

Qualifying units must meet the standards set forth in ~~Section 23.328.040 (Requirements Applicable to All Inclusionary Units)~~ Chapter 23.328 (Affordable Housing Requirements).

Section 4. 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.

RESOLUTION NO. \_\_\_\_\_

ADOPTING REGULATIONS FOR VOUCHER PROGRAM AND ESTABLISHING AN IN-LIEU FEE TO SUPPORT THE PROVISION OF AFFORDABLE HOUSING PURSUANT TO BERKELEY MUNICIPAL CODE SECTION 23C.12.030.B, AND RESCINDING RESOLUTION 65,074-N.S.

WHEREAS, Berkeley Municipal Code (“BMC”) Section 23.328 establishes a requirement that 20% of Residential Units (as defined) in market-rate developments be offered for rent or sale at affordable rents or prices, as defined (“Affordable Units”); and

WHEREAS, BMC Section 23.328 authorizes the City Council to establish by resolution preferences for renting Affordable Units offered for rent to tenants receiving assistance under the Section 8 Program (42 U.S.C. Section 1437f), the Shelter Plus Care Program (42 U.S.C. Section 11403 *et. seq.*), or similar state or federally funded rent subsidy programs; and

WHEREAS, BMC Section 23.328 authorizes developers of market-rate housing to pay a fee in lieu of complying with the requirement to provide on-site affordable housing (“In-Lieu Fee”); and

WHEREAS, BMC Section 23.328 authorizes the City Council to establish the In-Lieu Fee by resolution, and further authorizes the Council to differentiate among types, classes, and locations of Housing Development Projects to the extent permitted by law; to establish separate fees and criteria for the provision of units that are affordable to Very Low Income Households and units that are affordable to Low Income Households; and to establish the method for calculating the In-Lieu Fee; and

WHEREAS, the City retained Street Level Advisors to provide analysis and recommendations for updating the City’s affordable housing requirements, the scope of which included a financial feasibility study of the City’s affordable housing mitigation fees; and

WHEREAS, Street Level Advisors prepared a Financial Feasibility Analysis dated April 27, 2021, which determined that an In-Lieu Fee of \$45 per square foot of the residential Gross Floor Area (as defined in BMC 23.106.030) would be financially feasible; and

WHEREAS, Street Level Advisors recommended certain modifications to the \$45 per square foot affordable housing fee that would not adversely impact the financial feasibility of housing development projects, such as charging a lower / tiered fee for smaller projects.

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

1. All Affordable Units shall be offered to tenants in accordance with Council-adopted

eligibility preference criteria. All Very Low-Income Units, comprising a portion of the Affordable Units authorized and provided for by BMC Section 23.328, must be offered to tenants receiving assistance under the Section 8 Program (42 U.S.C. Section 1437f) or the Shelter Plus Care Program (42 U.S.C. Section 11403 *et. seq.*) before being marketed to other income-eligible households. The allocations shall be divided equally between the Section 8 Program (50%) and the Shelter Plus Care Program (50%). The majority of the Very Low-Income units shall be designated for the Shelter Plus Care Program when there is an uneven number of units.

2. The initial In-Lieu Fee authorized and provided for by BMC Section 23.328 shall be \$45 per square foot of the Gross Floor Area (BMC 23.106.030) for the residential portion of the Housing Development Project, as defined in BMC Section 23.328.020 and shall be automatically increased biennially based on changes to the California Construction Cost Index unless otherwise provided for by BMC Section 23.328 or by this Resolution.
3. Housing Development Projects subject to BMC Section 23.328 may provide less than the required number of Affordable Units in the Housing Development Project and pay a proportionately reduced In-Lieu Fee, calculated as follows: the fee per square foot multiplied by the total Gross Floor Area (BMC 23.106.030) of the residential portion of the Housing Development Project, multiplied by the percentage of the applicable requirement remaining after accounting for any on-site Affordable Units provided. Projects that provide no on-site Affordable Units will have an applicable requirement multiplier of one.
4. For Housing Development Projects of less than 12,000 square feet of applicable Gross Floor Area (pursuant BMC 23.328.030(B)), the In-Lieu Fee shall be calculated as follows:

| Applicable Gross Floor Area (BMC 23.328.030(B)) | Fee per Square Foot |
|-------------------------------------------------|---------------------|
| 12,000+                                         | \$45                |
| 11,000-11,999                                   | \$43                |
| 10,000-10,999                                   | \$41                |
| 9,000-9,999                                     | \$39                |
| 8,000-8,999                                     | \$37                |
| 7,000-7,999                                     | \$35                |
| 6,000-6,999                                     | \$33                |
| 5,000-5,999                                     | \$31                |
| 4,000-4,999                                     | \$29                |
| 3,000-3,999                                     | \$27                |
| 2,000-2,999                                     | \$25                |
| 1,000-1,999                                     | \$23                |
| <1,000                                          | \$21                |



BE IT FURTHER RESOLVED, Resolution No. 68,074-N.S. is hereby rescinded and is of no force or effect on any Housing Development Project that obtains a building permit after the effective date of this resolution, but shall continue to apply to those projects that were approved and subject to its provisions or the provisions of predecessor resolutions and ordinances addressing the same subject matter.

BE IT FURTHER RESOLVED, the rescission of Resolution No. 68,074-N.S. and this Resolution shall be effective upon the effective date of contemporaneously adopted amendments to BMC Section 23.328.



**Street Level Advisors**

**Updating Affordable Housing Requirements for  
The City of Berkeley, CA  
Analysis and Recommendations**

**Revised February 2022<sup>1</sup>**

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<sup>1</sup> Previous version: 4/27/21. See 5/5/21 PC Meeting - Item 9 – Attachment 1:  
[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/Commission\\_for\\_Planning/2021-05-05\\_PC\\_Item%209\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-05-05_PC_Item%209(1).pdf)

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# Summary of Proposed Changes

|                             | CURRENT                                                                                                                                                                                                  | PROPOSED OPTION(S)                                                                                                                                                                                 |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ordinance                   | <b>Rental:</b> Affordable Housing Mitigation Fee (BMC 22.20.065)                                                                                                                                         | Affordable Housing Requirements Ordinance (one ordinance that addresses requirements for rental, ownership and live/work units)                                                                    |
|                             | <b>Ownership:</b> Inclusionary Housing Requirements (BMC 23C.12)                                                                                                                                         |                                                                                                                                                                                                    |
| On-site Unit Income Targets | <b>Rental:</b> 10% of total units @ 50% of AMI, 10% of total units at 80% of AMI                                                                                                                         | No change                                                                                                                                                                                          |
|                             | <b>Ownership:</b> 20% of total units @ 80% of AMI                                                                                                                                                        |                                                                                                                                                                                                    |
| Base Fee                    | <b>Rental:</b> \$39,746 per market rate unit                                                                                                                                                             | \$45 per gross residential square foot                                                                                                                                                             |
|                             | <b>Ownership:</b> 62.5% of the difference between market and affordable price for inclusionary unit.                                                                                                     |                                                                                                                                                                                                    |
| VLI Incentive               | 40% of VLI units marketed to Housing Choice Voucher holders, 40% to Shelter+Care holders.                                                                                                                | All VLI Units must be offered to voucher holders first (50% to Housing Choice and 50% to Shelter + Care).                                                                                          |
| Mixed Compliance Incentive  | Projects that provide less than 20% on-site receive the same reduction in fee whether units are VLI or LI                                                                                                | More expensive/higher need VLI units reduce remainder fee by more than LI units.                                                                                                                   |
| Live Work and GLA           | Live Work Ordinance (BMC 23E.20) exempts projects from IH and AHMF, requires 20% of live work units be affordable at 80% of AMI. Units with Group Living Accommodations (GLA) occupancy are also exempt. | Remove special exemption for Live Work and GLA units. Affirmative marketing of Live Work units to artists/others who need larger units still required.                                             |
| Land Dedication             | None                                                                                                                                                                                                     | Create new Land Dedication Option                                                                                                                                                                  |
| Family Size Unit Incentive  | None                                                                                                                                                                                                     | Projects that provide 2 and 3-bedroom BMR units may choose to provide 20% of total Residential Square Feet instead of 20% of units.                                                                |
| Condo Conversion            | Nexus Fee calculation or 8% of market value. 50% reduction in fee for owner occupied units                                                                                                               | 8% of market value. 50% reduction expanded to include tenants who buy units at conversion, and nonprofit/cooperative/cohousing projects                                                            |
| Maximum Unit Size           | None                                                                                                                                                                                                     | Projects with average unit size >3BR may not choose on-site unit option                                                                                                                            |
| Small Project Exemption     | Projects with <5 units are exempt                                                                                                                                                                        | Exemption removed; Reduced fee for projects with fewer than 12,000 gross residential square feet, phased in as size increases. Offer a local density bonus to projects providing <5 BMR units that |

|                       |                                                           |                                                                       |
|-----------------------|-----------------------------------------------------------|-----------------------------------------------------------------------|
|                       |                                                           | choose in lieu fee.                                                   |
| Cap on rent increases | BMR Unit rents increase along with HUD Area Median Income | Limit annual rent increases to the change in the Consumer Price Index |

## Overarching Goals for Updating Requirements:

### Center racial and economic equity by reversing exclusionary zoning

Berkeley has committed to pioneering policies that attempt to undo some of the harm caused by exclusionary zoning practices. In addition to its rent control and tenant protection policies, the City’s Inclusionary Housing requirements are central to its efforts to build a more racially and economically integrated future.

Two key goals of the program are to ensure that affordable housing is included in all parts of the City and to promote the inclusion of affordable units within market-rate housing.

There has been quite a bit of academic research into the benefits of economic integration and the emerging consensus is that the location of affordable housing matters.<sup>2</sup> Much of the City’s affordable housing is concentrated in neighborhoods with the greatest health and safety challenges and the least economic opportunity. Integrating affordable housing into every neighborhood offers significant health and economic advantages, particularly for low-income children. While the same research has consistently not found additional benefits from locating affordable units in the same buildings as market rate housing (beyond the neighborhood benefits), requiring affordable units in new market rate buildings has been a key way that cities have succeeded in locating affordable housing in certain ‘high opportunity’ neighborhoods.

Currently, both the Affordable Housing Mitigation Fee (AHMF) and Inclusionary Housing Requirements (IHO) ordinances allow developers to choose to either provide on-site units or pay a fee into the City’s Affordable Housing Trust Fund program. Several recent Council referrals have focused on either reducing or eliminating the fee option in order to encourage more on-site affordable housing units in mixed income buildings. Other council referrals have called on the City to encourage payment of fees, which allow investment in non-profit owned 100% affordable projects. These projects leverage outside affordable housing funding to build more units at deeper levels of affordability and also offer critical social services.

While increasing the share of on-site affordable units continues to be an important community goal, it is important to note that this is not the only way that Berkeley is achieving the goal of

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<sup>2</sup> The Urban Institute compiled a very helpful summary of several dozen research studies on the benefits of mixed income communities. [urban.org/uploadedpdf/412292-effects-from-living.pdf](http://urban.org/uploadedpdf/412292-effects-from-living.pdf)

overcoming the legacy of segregation. Most of Berkeley falls into what is generally considered a moderate- to high-opportunity area, in part because the City offers high-quality schools to students regardless of which neighborhood they live in. At the same time, Berkeley has been successful in locating nonprofit affordable housing in most parts of the City. These broader realities reduce the pressure on the City's inclusionary housing policy to produce affordable units on-site in every building and allow the City to pursue a balanced strategy of private and publicly sponsored provision of affordable housing in every neighborhood. An appropriate goal might be for the City to target a mix of on-site units in most market rate buildings while maintaining the collection of critical fees to support nonprofit affordable properties.

Though our analysis confirmed that Berkeley's current rules appear to strongly favor payment of the fee, the actual record of projects over the past few years paints a different picture and shows that Berkeley's current policy is already achieving this kind of mix, with the majority of projects providing on-site units and paying a prorated fee.

Currently, providing an on-site affordable unit is generally far more costly to a developer than paying the associated fee. Just as an example, Street Level Advisors calculated that for a hypothetical Berkeley rental property, providing one on-site Very Low Income unit would reduce the resale value of a building by about \$483,000. One on-site Low Income unit would reduce the building value by \$340,000. Opting out of providing either of those units would require payment of an Affordable Housing Mitigation Fee totaling only \$198,730.<sup>3</sup> While the specifics differ for each building based on the local market rents, in this example on-site costs more than twice as much as paying the current fee.

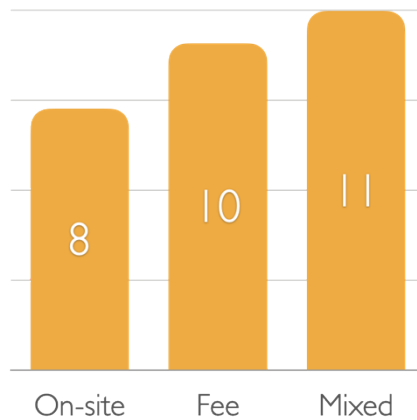
We estimate that the current AHMF costs roughly \$45 per gross residential foot, and the on-site requirements cost a typical project roughly \$114 per foot.

In spite of this, between 2012 and 2020 nearly two-thirds of Berkeley's projects have included some affordable units on-site and just under one-third have fully complied through the on-site option. Figure 3 shows that the mixed compliance option (some units plus some fee) has been the most popular option. There are likely several reasons for this, including political pressures, but one clear factor is the State Density Bonus (SDB). The State requires cities to allow developers who include affordable units to build more units on a site than would otherwise be allowed and to take advantage of certain planning and zoning concessions which make it easier to get projects built. Under the current rules, projects that provide at least 11% of their base project units affordable to Very Low-Income residents qualify for the maximum benefit under the Density Bonus. These benefits cause many Berkeley projects to include 11% affordable units on-site and pay the fee for the remaining units. A recent change to state law will allow a 50% density bonus to projects that provide 15% VLI units (among other options). This change should result in even more on-site units in Berkeley even under the current City ordinance.

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<sup>3</sup> Because Berkeley requires \$39,746 per unit or 1 on-site unit for every 5 units (20%), every on-site unit that is included reduces the fee by 5 times \$39,746.

FIGURE 1: Compliance Option Selected 2012 - 2020



### Encourage a mix of units and fees

The changes proposed below clarify Berkeley's policy to make on-site affordable units the preferred default requirement for both rental and ownership projects but allow payment of a fee as an alternative in order to:

- 1) continue to generate significant fee revenue to support nonprofit affordable housing projects throughout the City, and
- 2) offer flexibility for projects to choose between multiple compliance options depending on different circumstances.

Ideally, the proposed changes will encourage a mix of fees and units over time with fees coming primarily from projects where on-site units would be less feasible (e.g. due to economies of scale) or more difficult to monitor.

The proposed Affordable Housing Requirements ordinance would be structured so that providing on-site units is the default requirement for nearly all projects, with an exception for small projects and co-living type projects which would be encouraged to pay the fee. It might be possible to remove the fee option entirely, but state law requires cities to offer multiple compliance options such as a fee in their inclusionary housing ordinances. Ideally, the program would be structured such that the cost to a project of providing units on-site is more similar to the cost of paying the fee. This would maintain flexibility but reduce the incentive to pay the fee rather than provide units.

Over time, strong demand for housing in Berkeley should mean that higher fees are practical, but our analysis of current market conditions suggests that 2021 is a particularly risky time to raise Berkeley's housing fees. The Covid-19 pandemic has created uncertainty in the real estate market and led to falling rents throughout the region. The multi-family rental prototypes we studied earned returns that were just barely above the minimums required for financial feasibility. The recommendations below call for restructuring the fee to be calculated on a per square-foot basis but setting it, for the moment, at a level which is financially comparable to

the current fee for most projects. Once the housing market has recovered from the effects of the pandemic, we recommend evaluating a fee increase which would bring the cost of the fee option closer to the cost of on-site compliance.

More immediately, the proposed changes recognize the growing popularity of mixed compliance based on the State Density Bonus and aim to increase the number of on-site units primarily by increasing the prevalence of these mixed compliance projects. Together these changes should increase the number of affordable units provided on-site within market rate projects throughout Berkeley without dramatically reducing the affordable housing fee revenue that the City's HTF program receives.

### **Continue Berkeley's legacy of value capture**

A key goal of Berkeley's inclusionary housing ordinance and Affordable Housing Mitigation Fee has been to ensure that new real estate development projects in Berkeley contribute benefits for the whole community. This principle of Public Value Capture (or Land Value Capture) calls on the City to closely evaluate the profitability of real estate projects and set its housing requirements at a level which captures a share of the profits to support housing for our lowest income residents. Careful value capture requires close attention to the financing and economic realities of development in order to ensure that the City is capturing the appropriate amount of financial returns.

Appendix A contains a detailed description of Street Level Advisors financial feasibility study. Building on past studies conducted in support of Berkeley's Affordable Housing Mitigation Fee, we analyzed a single hypothetical rental and a single condominium building prototype in order to better understand the financial feasibility of these projects under the current program and under the proposed changes described below.

For rental projects, our model suggests that most projects would not be able to feasibly comply with the current 20% on-site requirement but that projects that choose to pay the fee or access the State Density Bonus by providing some units on-site and paying a partial fee would both earn returns that are just barely above the threshold we identified for feasibility (5% yield on cost). The returns for density bonus projects are comparable to the fee alternative because the additional cost of providing some units on-site is offset by the additional benefit of building more units on the same site.

For our rental prototype (described in Appendix A), the proposed fee of \$45 per gross square foot results in a virtually identical return to what the project would see under the current fee. A higher fee (\$55 per square-foot) would result in a marginal return. The proposed approach of providing more 'credit' for projects that provide on-site VLI units than those that provide LI units results in modest increases in the returns available to mixed compliance projects that take advantage of the State Density Bonus. While this small difference is not critical for this prototype, it is likely that there would be projects where this difference would result in on-site



affordable units in projects that would otherwise have paid the fee entirely (or not moved forward at all).

**Figure 2: Comparison of Returns - Rental**

| Scenario                              | Base Units | Bonus Units | LI Units | VLI Units | Fee \$      | Yield on Cost | % of Base | % of Total |
|---------------------------------------|------------|-------------|----------|-----------|-------------|---------------|-----------|------------|
| <b>Current Policy</b>                 |            |             |          |           |             |               |           |            |
| \$39,746 Per Unit Fee                 | 72         | 0           | 0        | 0         | \$2,861,712 | 5.08%         | 0%        | 0%         |
| Onsite Units                          | 72         | 0           | 7        | 7         | \$0         | 4.94%         | 19%       | 19%        |
| Mixed Compliance - 11% VLI            | 72         | 25          | 0        | 8         | \$2,265,522 | 5.07%         | 11%       | 8%         |
| Mixed Compliance - 15% VLI            | 72         | 36          | 0        | 11        | \$2,106,538 | 5.10%         | 15%       | 10%        |
| <b>Proposed Alternatives</b>          |            |             |          |           |             |               |           |            |
| \$45 Per Foot Fee                     | 72         | 0           | 0        | 0         | \$2,967,750 | 5.07%         | 0%        | 0%         |
| \$55 Per Foot Fee                     | 72         | 0           | 0        | 0         | \$3,627,250 | 4.99%         | 0%        | 0%         |
| Mixed Compliance (Weighted) - 11% VLI | 72         | 25          | 0        | 8         | \$2,350,809 | 5.10%         | 11%       | 8%         |
| Mixed Compliance (Weighted) - 15% VLI | 72         | 36          | 0        | 11        | \$2,184,925 | 5.12%         | 15%       | 10%        |

For ownership projects, there is no Yield on Cost metric; feasibility is generally evaluated based on the profit from sales as a percent of the total development cost. Because there have been very few recent condo projects in Berkeley, it is not possible to identify the exact threshold for feasibility. One common benchmark considers projects that earn more than 10% profit to be “feasible.” We found that neither the current fee nor the current on-site requirement resulted in profit as a percent of development cost above this 10% threshold. The proposed switch to a \$45 per square-foot fee would result in profit just above 10% while a higher \$55 per square-foot fee would result in profit closer to 9%.

**Figure 3: Comparison of Returns - Ownership**

| Scenario                           | Total Units | LI Units | Fee \$      | Profit % of Cost |
|------------------------------------|-------------|----------|-------------|------------------|
| <b>Current Policy</b>              |             |          |             |                  |
| Current Fee (based on sale prices) | 56          | 0        | \$3,810,847 | 8.00%            |
| Onsite Units                       | 56          | 11       | \$0         | 1.13%            |
| <b>Proposed Alternatives</b>       |             |          |             |                  |
| \$45 Per Foot Fee                  | 56          | 0        | \$2,767,050 | <b>10.88%</b>    |
| \$55 Per Foot Fee                  | 56          | 0        | \$3,381,950 | 9.16%            |

### Continue progress on housing goals

The Bay Area and the Berkeley community need more housing. Rapidly rising housing costs and growing displacement pressures are the result of a systemic shortage of housing. While building more housing alone would not be sufficient to address the current inequities, we cannot

overcome our housing challenges without building significantly more housing. The Regional Housing Needs Allocation (RHNA) requires Berkeley to permit nearly 9,000 new homes at all income levels during the period from 2023 to 2031.

To meet this historic challenge, Berkeley's affordable housing policies must balance two critical but competing goals.

- 1) We must set affordable housing requirements high enough to produce meaningful levels of affordable housing, and
- 2) We must ensure that they are not too high for developers to accommodate.

If Berkeley sets its requirements too low, it may see construction that only serves to further existing inequity and racial exclusion. But if requirements are set too high, the result could be that little or no new housing is built, which would itself perpetuate the inequities which drive ongoing displacement of existing residents and push prices and rents up to levels which effectively prevent new low- and moderate-income households, including many households of color, from moving to Berkeley.

Berkeley's current affordable housing requirements (both the on-site requirements and the fee options) are somewhat higher than other East Bay jurisdictions (see Figure 6 below). But in spite of the relatively high costs, construction is continuing in Berkeley. Even during the pandemic, builders continue to undertake new residential projects. This suggests that Berkeley's requirements do not dramatically overburden development. However, Street Level Advisors' feasibility analysis (Appendix A) finds that the current requirements are only marginally financially feasible in today's environment. This suggests that Berkeley could see more building overall - including more affordable housing development - by slightly reducing the cost of compliance for some projects.

The proposed changes include many small adjustments to current requirements intended to make it easier for developers to understand and comply with program rules and for the City to oversee and administer. This will also facilitate transparency for the community at large. These changes are explicitly intended to make it easier to build the new housing that Berkeley desperately needs. However, the proposed changes attempt to achieve this while simultaneously maintaining or increasing the overall contribution that new market-rate housing makes to the provision of affordable housing in Berkeley.

Under the proposed changes, some types of projects are asked to contribute more and others less (relative to the existing inclusionary requirements), but the goal is to maintain or increase the number of on-site units and the amount of fees available to the HTF program. The proposed changes do this by reducing the fee assessed to projects with relatively smaller units and increasing the fee on projects with large or extra large units. They will also slightly reduce the fee due from projects that provide some units on-site. These changes should encourage more projects to build some units on-site while also improving overall feasibility so that more housing projects are able to move forward.

## **Work within the City's existing administrative capacity**

Berkeley's current affordable housing requirements are among the most complex in the region, but the City has fewer administrative staff than many other jurisdictions. HHCS currently has a total of 1.3 FTE to implement the BMR program:

- 0.20 FTE to work on new projects (apply requirements, meet with applicants, draft and execute regulatory agreements);
- 1.0 FTE monitor for completed projects, funded by an annual monitoring fee on BMR units; and
- 0.10 FTE related policy work and program supervision.

Adopting changes to the City's affordable housing requirements that increase administrative requirements would only be possible if new General Funds could be identified to support the implementation. As the City's BMR portfolio expands, funding for an additional monitor should be a consideration as well. Implementing local affordability requirements is not an eligible use of federal funds, so local funds are required to support this activity.

The proposed changes described below add complexity to the rules in several places but attempt to offset the complexity by streamlining and eliminating administrative challenges in several other places. The goal is to design a program which the City can successfully implement with existing staffing resources.

# Proposed Changes in Detail:

## 1. Consolidate Affordable Housing Requirements into a single framework

### Proposed Changes:

- 1.1. Combine the requirements of the Affordable Housing Mitigation Fee (AHMF) and Inclusionary Housing (IH) ordinances into a single “Affordable Housing” ordinance which would impose on-site affordable housing requirements for both ownership and rental projects.
- 1.2. The fee would be structured as an “in lieu fee” offered as an alternative to on-site units, rather than as a mitigation fee.
- 1.3. The new ordinance would also replace the affordable housing requirements sections of the Condo Conversion and Live/Work ordinances.
- 1.4. To the extent possible, standardize the requirements that are applied to different projects to simplify implementation of the program.
- 1.5. The new ordinance would apply to all new project applications received after a date specified several months after adoption.

### Background and Analysis:

Prior to 2009, Berkeley had a single Inclusionary Zoning Ordinance (BMC Chapter 23C.12) which applied to both ownership and rental projects. In 2009, a Court of Appeals decision known as *Palmer/Sixth Street Properties LP v. City of Los Angeles* prevented California jurisdictions from enforcing inclusionary housing requirements on rental properties. Like many other cities, Berkeley responded by adopting an Affordable Housing Mitigation Fee (AHMF) (BMC section 22.20.065). Instead of requiring on-site units and then offering an in lieu fee as an alternative, the AHMF ordinance requires payment of a fee and allows the provision of on-site units as an alternative. This approach allowed Berkeley to achieve its policy goals without violating the restrictions imposed by the Palmer decision. But it created a situation in which the City had two different ordinances that attempt to impose similar requirements. The provisions of the Inclusionary Housing Ordinance that applied to rental housing remained in the Berkeley Municipal Code but were unenforceable and superseded by the AHMF ordinance.

In 2018, the California Legislature passed AB1505 which effectively overturned the Palmer decision and authorized the implementation of inclusionary housing requirements applied to rental properties. This legislation has allowed a number of cities to update their programs to combine rental and ownership requirements under a single inclusionary housing ordinance.

For example, in June 2019, the Mountain View City Council completed a two-phase process to update its Below Market Rate Program requirements. Mountain View now requires any new residential development, whether rental or ownership, to provide 15% of its units at affordable

rents.<sup>4</sup> Similarly, after suspending its inclusionary rental housing requirement in 2011 to comply with the Palmer decision, the City of Menlo Park updated its Below Market Rate Housing Program to subject all new residential developments to its affordable housing requirements.<sup>5</sup>

Berkeley's new Affordable Housing Requirements (AHR) ordinance would address both rental and ownership projects (including Live/Work and Group Living Accommodations) and would impose an on-site affordable housing requirement for both while allowing payment of an in lieu fee.

## 2. Calculate the fee on a per square-foot basis

### Proposed Change:

- 2.1. Calculate affordable housing fees on a per square-foot basis instead of per unit. Initially set the fee at \$45 per gross residential square foot, which is roughly equivalent to the current fee for projects with typically sized units. Collect the fee at the time of Certificate of Occupancy eliminating the current discount for earlier payment. Increase the fee amount automatically based on the change in the California Construction Cost Index.

### Background and Analysis:

Some stakeholders have expressed concerns that projects that propose units with large numbers of bedrooms are not being required to pay an appropriate fee. Because Berkeley charges its AHMF on a per unit basis, a project that chooses to include a number of 5-bedroom units for example, would pay far less proportionally than a similarly sized project with studio, 1- and 2-bedroom units. It is not clear whether this savings is enough to cause developers to choose much larger bedroom configurations since these large unit 'co-living' projects are a trend nationwide. But it is clear that Berkeley's ordinance creates an incentive for projects that select this configuration and there does not seem to be a public policy reason for Berkeley to prefer these extra-large units. While there are benefits to projects that include 'family sized' 2 and 3-Bedroom units (discussed in proposed change #9 below), beyond 3 bedrooms, new units are generally housing multiple unrelated individuals rather than families.

A number of cities have changed to calculating in lieu fees on a per square-foot basis. San Francisco and Santa Barbara both made this change in 2019 and San Jose made a similar change in early 2021. Instead of charging a flat fee per unit, the City would charge the fee for each square foot of residential space in the building regardless of how the building is divided up into

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<sup>4</sup> City of Mountain View, Below Market Rate Program, <https://www.mountainview.gov/depts/comdev/preservation/homebuying/bmrhousing/default.asp>

<sup>5</sup> City of Menlo Park, BMR Requirements for Residential Developers, <https://www.menlopark.org/DocumentCenter/View/1493/BMR-Requirements-for-Residential-Developers>

units. As an example, a 25,000 square foot building would pay the same fee whether it was split up into 50 small studios or 15 multi-bedroom co-living units.

Currently, in Berkeley, every rental project would pay \$39,746 per unit (assuming that they provided no units on-site). For a typical project, this is equivalent to a fee of \$45 per gross residential square foot, as illustrated in the table below.

“Gross Square Feet – Residential” is defined as all of the square footage of a new building (as defined in BMC 23F.04.010 ) minus any exclusively commercial space or indoor parking area. In a typical project, the gross square footage is roughly 1.25 times the net square footage.

We conducted a market analysis in order to estimate a per square-foot fee which would be equivalent to the current AHMF. We collected data on the unit sizes of 18 recent Berkeley projects. We then multiplied the average unit sizes by 1.25 to estimate the gross square footage of each of these projects. For each project, we calculated an ‘equivalent per square-foot fee’ by dividing the fee that the project would have paid under the current rules (assuming no on-site units) by the gross square footage. The equivalent per square-foot fees ranged from \$38 to \$65. The typical fee was approximately \$45 which corresponds to an average unit size of 705 square feet.<sup>6</sup> Figure 4 shows the distribution of average unit sizes and equivalent square foot fees.

**Figure 4: Impact of unit size on equivalent square foot fee calculation**

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<sup>6</sup> This excludes several outlier projects with very large or very small units.

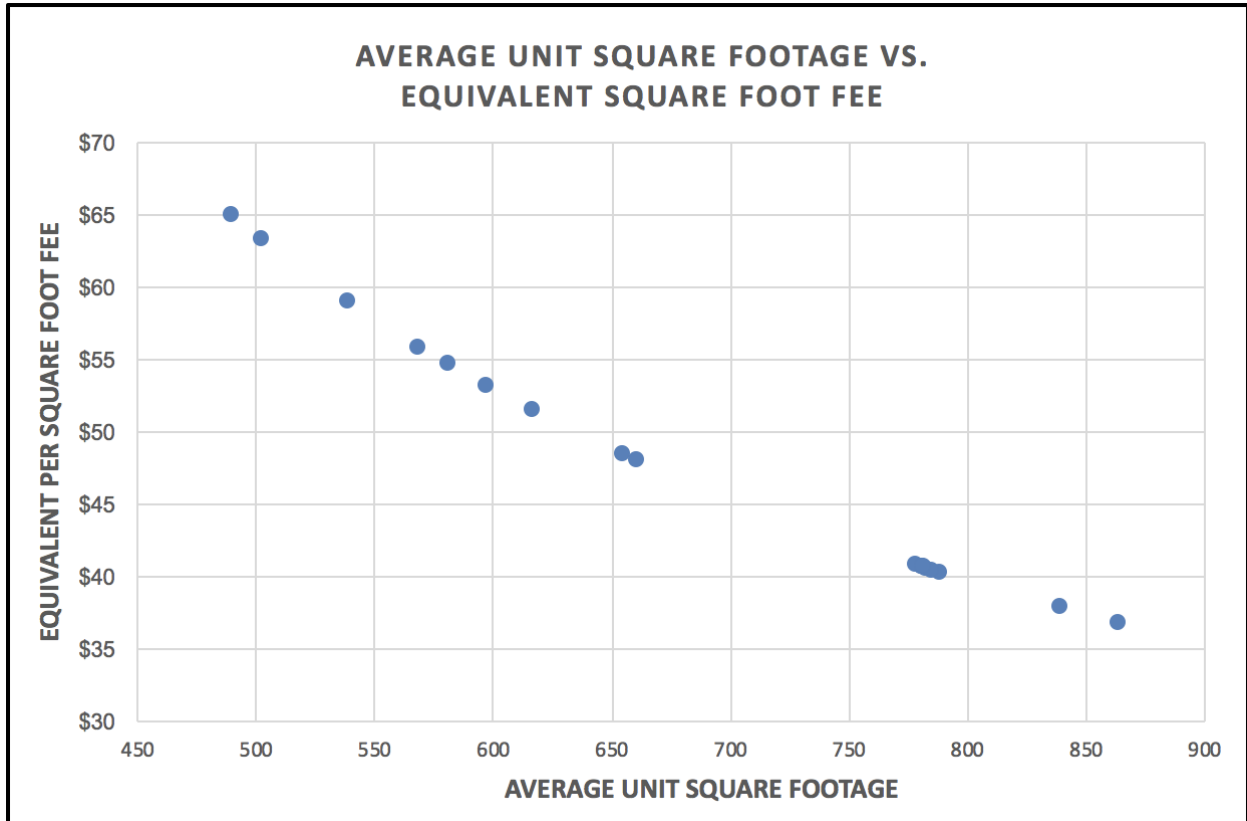


Figure 5 shows a sample of recent projects in order to illustrate the impact of switching to a per square-foot fee. Under the current per unit fee, projects that have the same number of units like Avalon and Hillside Village would pay the same amount of fee. The equivalent per square-foot fees (\$37.91 vs. \$48.14) show that Avalon is getting a much better deal by paying less relative to its size.

The per square-foot fee adjusts for the difference in project sizes. If Berkeley switched to a standard fee of \$45 per square-foot, projects with small units such as the Delaware Apartments would pay a lower total fee while projects with large units such as Higby would pay higher total fees.

Figure 5: Equivalent per foot fees for recent projects - Examples

| Project Name     | Total Units | Average Unit Square Footage | Current Fee (Assuming \$39,746 per unit) | Equivalent Per square-foot Fee | Projected Fee (assuming \$45/sq.foot) |
|------------------|-------------|-----------------------------|------------------------------------------|--------------------------------|---------------------------------------|
| Higby            | 98          | 864                         | \$3,895,108                              | \$36.82                        | \$4,760,145                           |
| Avalon           | 94          | 839                         | \$3,736,124                              | \$37.91                        | \$4,434,615                           |
| Stonefire        | 98          | 782                         | \$3,895,108                              | \$40.65                        | \$4,311,900                           |
| Hillside Village | 94          | 661                         | \$3,736,124                              | \$48.14                        | \$3,492,405                           |
| The Dwight       | 99          | 617                         | \$3,934,854                              | \$51.57                        | \$3,433,680                           |
| The Delaware     | 51          | 581                         | \$2,027,046                              | \$54.72                        | \$1,667,025                           |

For comparison, Figure 6 provides fee levels for nearby jurisdictions.

**Figure 6: Comparison of Inclusionary Housing Requirements and Fee Levels for Other Jurisdictions**

| City                | % Affordable Housing Required On-site                                 | Fee                                                                                   | Notes                                                   |
|---------------------|-----------------------------------------------------------------------|---------------------------------------------------------------------------------------|---------------------------------------------------------|
| Alameda             | 15% for all multifamily projects                                      | \$20,342 Per Unit                                                                     | No alternative to fee for buildings of 9 or fewer units |
| Emeryville          | 20% for all multifamily projects                                      | \$31,032 Per Unit                                                                     |                                                         |
| Fremont             | 12.9% for rental                                                      | \$27.00 Per Residential Square Foot                                                   |                                                         |
| Hayward             | 6% for rental, 10% for ownership                                      | \$19.37 Per Residential Square Foot                                                   | Lower fees for high-density condos                      |
| Livermore           | 10% downtown, 15% everywhere else                                     | \$29.23 Per Residential Square Foot                                                   | Projects with 10 or more units may not pay fee          |
| Oakland             | 10% if low- or moderate- income units, 5% if very low-income units    | For multi-family: \$22,000 per unit in Zone 1, \$17,750 in Zone 2, \$12,000 in Zone 3 |                                                         |
| Pleasanton          | 15% for all multifamily projects                                      | \$45,083 per unit                                                                     |                                                         |
| San Francisco       | 20% for small projects, 25% for large rental, 33% for large ownership | \$199.50 Per Gross square foot times affordable percent                               | Equivalent to \$60 per square-foot for many projects.   |
| San Jose (proposed) | 15% for all multifamily projects                                      | Moderate Market Areas: \$18.26 per net residential foot<br>Strong Market Areas: \$43  |                                                         |



The current AHMF ordinance allows developers to choose between paying a higher fee (currently \$39,746) at the Certificate of Occupancy when a project is nearly complete or a reduced fee (currently \$36,746 ) earlier when a project receives a building permit. Nearly all projects have selected the higher fee because of the high value that developers place on the ability to pay the fee later. Paying later reduces their financing costs and lowers their overall financial risk. Removing the option to pay early would recognize this reality and eliminate an additional element of administrative complexity and communication challenge.

The existing Affordable Housing Mitigation Fee is automatically adjusted by the annual percentage change in the California Construction Cost Index published by the California Department of General Services, every other year. The automatic adjustment is applied to all projects that have not received final approval by the City of Berkeley prior to the date of the automatic adjustment. This automatic adjustment ensures that the fee keeps pace (roughly) with what it costs the City and its nonprofit partners to construct new affordable housing using the fee revenue. This method should remain in place.

### **3. Evaluate the potential for higher fees when the market is stronger**

#### **Proposed Change:**

- 3.1. In order to encourage more on-site units, phase in a slightly higher fee once the housing market has stabilized. Conduct an updated feasibility analysis within 3 years, increase the per square-foot fee if the analysis shows that typical projects could support the higher fee.

#### **Background and Analysis:**

Under current market conditions, Berkeley's on-site compliance option (20%) is significantly more costly for most projects relative to the cost of the Affordable Housing Mitigation Fee or In-lieu Fee. This creates an incentive for projects to choose to pay the fee instead of providing units on-site. In spite of this incentive, the majority of projects have provided some level of on-site units because the State Density Bonus provides an even stronger incentive to include affordable units on-site, and the units count against the fee obligation as well.

Ideally, the on-site unit and in-lieu fee requirements would be more closely aligned so that they represented similar costs for most projects. This kind of alignment would likely result in a higher number of on-site units without entirely eliminating the fee revenue which is critical to Berkeley's HTF program. Aligning the economics of these two options would require either raising the fee or lowering the on-site requirement considerably.

In rough terms, the on-site requirement would need to be lowered to about 15% in order to represent a cost to most rental projects that was equivalent to the cost of the current AHMF. However, none of the local stakeholders we spoke with suggested that there would be public support for lowering Berkeley's on-site requirement.

A number of stakeholders, on the other hand, suggested raising the fee. This seems to be the more obvious path to aligning the cost of the two options and increasing the share of units on-site. However, our feasibility analysis (Appendix A) suggests that 2021 would be a particularly risky time to raise the affordable housing fee. The Covid-19 pandemic has created uncertainty in the real estate market. Rents in Berkeley have fallen significantly and rents in high-cost newly constructed buildings may have fallen more than the average. At the same time, construction costs have not (yet) fallen leaving most multi-family housing developments in a precarious position. Builders are still moving forward with new rental buildings in Berkeley but the City's volume of new applications has fallen relative to recent years. It seems likely that Berkeley will continue to be a desirable location for new housing over the long term but it is not yet clear whether there will be a protracted slow down in new building throughout the region following the pandemic.

While the level of local fees, including affordable housing fees, is just one small factor that developers consider when they decide whether or not to move forward with a project, Berkeley already charges more than most other East Bay jurisdictions and increasing the fee at this time could contribute to a greater slow down in new building.

For this reason, we are recommending that Berkeley allow for a period of housing market recovery before considering an increase in the Affordable Housing Fee. The City could plan on an update to the feasibility analysis in one to three years or wait for evidence that either rents have begun increasing or that construction costs have begun to fall before reconsidering the level of the fee.

#### **4. Incentivize Extremely Low-Income (30% of AMI) units**

**Proposed Changes:**

- 4.1. Require all VLI Units to be offered to voucher holders (50% to Housing Choice Voucher Holders and 50% to Shelter + Care Voucher Holders) before being marketed to other income eligible households.

**Alternative:**

- 4.2. Retain the current rules which require 40% of VLI units be offered first to Housing Choice Voucher Holders and another 40% be offered first to Shelter + Care Voucher Holders.

### Background and Analysis:

A number of local stakeholders have expressed a desire to see Berkeley's program provide relatively more units to serve Extremely Low-income (ELI) households (below 30% of Area Median Income) who face the most acute housing challenges.

Some cities achieve this by creating a formula which allows developers to substitute a smaller number of units targeting Extremely Low Income residents for some portion of otherwise required on-site BMR units. Los Angeles's Transit Oriented Communities (TOC) program requires affordable units in exchange for a significant density bonus. The TOC program allows developers to choose between providing a greater number of low-income units or a smaller number of more deeply affordable Extremely Low Income units. Even though the rents on the ELI units are much lower, many developers have chosen this option because they can provide fewer affordable units (and more market rate units). Between 30% and 50% of the BMR units produced through the program have targeted ELI households and this program has driven a significant increase in the total number of income restricted ELI units produced in LA. In 2020, 34% of new BMR units in LA were restricted to ELI tenants.

While this type of approach might increase the number of ELI units in Berkeley, it is worth noting that Berkeley is already a national leader in serving ELI households through inclusionary housing. *Currently 29% of Berkeley's BMR tenants have incomes below 30% of AMI* and the share of ELI tenants is likely to increase noticeably under current rules. Berkeley's AHMF requires that at least half of BMR units must target 50% of AMI and, *of those, 40% must be offered first to Housing Choice voucher holders from the Housing Authority and another 40% must be offered first to Shelter Plus Care voucher holders managed by the City's Housing and Community Services division.* Voucher holders in both programs generally have incomes well below 30% of AMI. And because of the acute shortage of inexpensive market rate housing, most of the households that receive vouchers in Berkeley are unable to use them in the market. This approach has benefits for developers as well. The City allows the property to receive the contract rent offered by the subsidy program as long as the tenant's share of rent is below the BMR limit. The contract rents are generally far below the market rent for brand new buildings but also quite a bit higher than the BMR affordable rent for 50% AMI units. Because of the voucher, the ELI tenants, on the other hand, generally pay much less than the 50% AMI affordable rent.

In addition, because of the way Berkeley's requirements interact with the State Density Bonus (SDB), developers tend to favor the 50% AMI units. As a result, 77% of Berkeley's BMR units approved since 2012 have been regulated as 50% AMI units. If this pattern continues and, going forward, 80% of these units are reserved for voucher holders, then we would expect voucher holders to make up 62% of new BMR tenants.

A 2020 State law (AB 2345) expands the SDB beginning in January 2021. Developers will now be allowed to build 50% more units if they provide at least 15% VLI units (among other options). This new law should result in a greater number of on-site VLI units and, as a result, a greater number of ELI/voucher tenants. At some point, it is likely that the City would exhaust

the supply of unused vouchers and some of these units would ultimately be leased to Very low Income tenants (below 50% of AMI) instead.

In addition to its success in serving ELI tenants in BMR units, the City currently requires that at least 20% of units in all projects funded with the Housing Trust Fund be affordable to ELI tenants.

Requiring that all VLI units first be offered to voucher holders would slightly increase the share of ELI tenants housed going forward while also removing an element of complexity from the program and simplifying otherwise complex rounding issues.

## 5. Adjust the residual fee for mixed compliance projects

### Proposed Change:

- 5.1. Encourage more mixed compliance projects by changing the calculation of the remaining fee due when projects provide less than 20% affordable units on-site. Restructure the remainder fee so that providing VLI (50% AMI) units reduces the fee due by more than providing LI (80% AMI) units.

### Alternative:

- 5.2. Continue the current practice of providing the same reduction in fee for any units, whether they serve VLI tenants or LI tenants.

### Background and Analysis:

Currently rental projects that provide 20% affordable units on-site are exempt from the Affordable Housing Mitigation Fee (AHMF). Half of these units must be for Very Low Income (VLI) residents earning less than 50% of AMI and half must be for Low Income (LI) residents earning less than 80% of AMI. When a developer provides a portion of the required units on-site, the City has a formula that is used to determine the remaining fee. For example, if a project provides half of the required on-site units, they also owe half of the fee that would have been due. In order to access the benefits of the State Density Bonus, the majority of recent projects have selected this mixed compliance option.

Under the current rules, providing any on-site affordable housing unit reduces the fee that is due by the same amount regardless of whether the unit provided is a LI or a VLI unit. But because the VLI units rent for much less, they are much more costly to provide on-site. When a developer agrees to provide any permanently affordable unit, they will receive less rental income from that unit throughout the life of the project than they would from a market-rate unit. As a result, each affordable unit in a project decreases the value of a building - the amount that a building could be sold for. Street Level Advisors estimated the cost of providing these units on-site for a hypothetical six story project and found that a VLI unit reduces the value by \$483,000 while a LI unit reduces value by \$340,000.

One way to encourage more projects to provide some units on-site would be to restructure the remainder fee so that providing VLI (50% AMI) units reduces the fee due by more than providing LI (80% AMI) units. Based on the relative affordable rents, providing 10% VLI units could relieve the developer of \$30 of the \$45 per square-foot remainder fee, while providing 10% LI units could relieve them of only \$15 of the \$45 per square-foot fee. Projects providing fewer than the 10% of units required in either category would pay a fee adjusted proportionally.<sup>7</sup>

**Figure 7: Examples to illustrate partial compliance - 100 unit project**

| <b>Example</b> | <b>VLI units</b> | <b>LI Units</b> | <b>Fee</b> |
|----------------|------------------|-----------------|------------|
| On-site Only   | 10               | 10              | \$0        |
| Fee Only       | 0                | 0               | \$45       |
| Only VLI       | 10               | 0               | \$15       |
| Only LI        | 0                | 10              | \$30       |
| Half Each      | 5                | 5               | \$22.50    |
| 11% VLI        | 11               | 0               | \$12       |
| 15% VLI        | 15               | 0               | \$0        |

This change would increase the feasibility of the mixed compliance options and should result in on-site units from some projects that would have otherwise selected to pay the fee. However it is important to note that this mixed compliance option is already the most popular option and appears to be financially feasible without this change.

## 6. Standardize ownership fees

### Proposed Change:

- 6.1. Apply the same per square-foot fee for both rental and ownership units. Continue to require different income targeting for ownership units.

<sup>7</sup> The formula for calculating the reduction in fee could be  $(\text{Full Fee} * 1.33 / 20) * (\text{actual \% of VLI units}) + (\text{Full Fee} * .67 / 20) * (\text{actual \% of LI units})$ . If the full fee is \$45 per square-foot, then each 1% of VLI units would reduce the fee due by \$3 per square-foot and each 1% of LI units would reduce the fee by \$1.50 per square-foot.

**Alternative:**

- 6.2. Charge any project that chooses to record a Condominium Map a higher fee of \$55 per square-foot.

**Background and Analysis:**

Many local stakeholders are under the impression that Berkeley’s current Inclusionary In-Lieu Fee for ownership projects is higher than the Affordable Housing Mitigation Fee for rental projects. Berkeley has seen very few ownership projects in recent years, so it is difficult to directly compare, but our analysis suggests that this is true, both on a per unit and per square-foot basis.

In lieu of each affordable unit, the current Inclusionary Housing Ordinance allows payment of a fee equal to 62.5% of the difference between the market price and the “affordable” price. To estimate the equivalent per square-foot fee that this rate yields, we used proprietary data from Property Radar to calculate average square footages and market values for Berkeley condos, shown in Figure 8.

**Figure 8: Condo pricing estimates**

| Berkeley Condo Sales 2021 |          |           | Prototype (New Building) |
|---------------------------|----------|-----------|--------------------------|
| Unit Size                 | Avg Sqft | Avg Value | Projected Value          |
| Studio                    | 646      | \$620,752 |                          |
| 1-BR                      | 814      | \$703,556 | \$725,000                |
| 2-BR                      | 1117     | \$853,125 | \$925,000                |
| 3-BR                      | 1571     | \$995,797 | \$1,100,000              |

It is likely that newly built condos would sell for higher than average prices but there have not been enough Berkeley condo projects in recent years to calculate appropriate projections for new buildings only. We have assumed sale prices for newly built condo units would be roughly 5 to 10% higher than the citywide average condo sales prices.

The IHO defines the affordable price for the purpose of calculating the fee as three times (3x) the Area Median Income (AMI) adjusted for household size. We used those prices to estimate in lieu fees. We then multiplied those numbers by 20% to yield the equivalent per unit fee, which range from \$48,000 to \$85,000. This suggests that the fees required for ownership projects in the IHO are indeed higher than the \$39,746 per unit currently required for rental

projects under the AHMF. Our estimates for the equivalent per square-foot fees for ownership projects range from \$54 to \$75, which is higher than the typical equivalent per square-foot fees that we found for rental projects. Projects with very high cost condo units would face even higher fees.

**Figure 9: Estimated BMR Ownership Fees 2021**

| Unit Size | Sq Ft | Market Price | Affordable Price | In Lieu Fee | In Lieu Fee Per Unit | In Lieu Fee per Sq Ft |
|-----------|-------|--------------|------------------|-------------|----------------------|-----------------------|
| Studio    | 646   | \$620,752    | \$234,960        | \$241,120   | \$48,224             | \$75                  |
| 1BR       | 814   | \$703,556    | \$250,650        | \$283,066   | \$56,613             | \$70                  |
| 2BR       | 1117  | \$853,125    | \$282,000        | \$356,953   | \$71,391             | \$64                  |
| 3BR       | 1571  | \$995,797    | \$313,200        | \$426,623   | \$85,325             | \$54                  |

Note that the median condo value in Berkeley has risen dramatically in recent years, from a low of \$364,000 in 2012 to \$900,000 in January 2021.<sup>8</sup> Because prices have risen much faster than income, the in lieu fee has risen too.

We analyzed the financial feasibility of the current fees for hypothetical affordable ownership projects (Appendix A) and found that the current fees resulted in profits that fall below commonly used benchmarks for necessary profit. High cost condos might be able to pay the fee and earn the minimum required profit but projects with sales prices closer to Berkeley’s average condo prices were not. However, under current conditions, more typically priced condos were able to pay the proposed rental fee of \$45 per square-foot and remain financially feasible. While there have not been enough condo projects in Berkeley recently to draw strong conclusions, this exercise lends support to the assertion that the relatively high level of Berkeley’s fee for ownership projects is contributing to developer’s choice to build rental rather than ownership housing.

The current policy appears to discourage homeownership development. Some local stakeholders have expressed an interest in adjusting the policy to give developers, and ultimately Berkeley residents, more choice between rental and homeownership housing. Setting the fee at \$45 per square-foot for both types of project would level the playing field considerably. The typical ownership unit would still pay more because ownership units tend to be larger. As an alternative, many cities charge homeownership units slightly more. Setting

<sup>8</sup> Zillow Home Value Index for Condos/Co-ops, <https://www.zillow.com/berkeley-ca/home-values>

Berkeley's fee at, for example, \$55 per square-foot for ownership projects would slightly disincentivize ownership but by less than the current fee approach.

***Addressing rental projects that record condo maps***

Another reason to consider standardizing the fee between rental and ownership projects stems from the fact that a growing number of new multi-family buildings are recording condominium maps but opening initially as rental housing projects. This gives project owners the flexibility to later sell the rental units as condos if housing market conditions change. The added flexibility makes it easier for developers to access project financing or to access financing on better terms.

For projects that provide on-site affordable rental units, the City records restrictions which require that the BMR units remain affordable rentals for the life of the project. But the potential for projects that are initially rental and pay the AHMF but later convert to ownership is not addressed in Berkeley's current code. Projects that paid the AHMF as rental projects and later sold condo units would owe an additional fee, but monitoring and collecting this fee is administratively and legally challenging.

Some cities have responded to this trend by requiring projects that record a condo map when they are first built to pay a higher affordable housing fees that would be due for ownership projects even if the building is initially operated as rental housing. This would not be practical under Berkeley's current approach because the ownership in lieu fee is set based on the actual sale price of units but those may not be determined for many years (if ever). Setting a single in lieu fee that would be applied to both rental and ownership projects at the time of development would eliminate this complexity. Alternatively, setting a higher fee per square-foot for projects with a Condo Map would also provide a practical alternative, though it might increase costs on rental projects that are not likely to ever actually convert to ownership but need the Condo Map in order to access certain financing sources.

## **7. Standardizing Live Work and GLA requirements**

**Proposed Change:**

- 7.1. Remove the exemption for Live / Work projects from IHO/AHMF ordinances; apply the same requirements to Live / Work projects as any other project except for the "affirmative marketing" provision
- 7.2. Remove the exemption for units with Group Living Accommodations (GLA) tenancy (and consider retaining an exemption for University-recognized GLAs)

**Background and Analysis:**

A 2018 Council Referral (2018-09-12, Item 17) called for the elimination of the affordable housing requirements in the Live Work Ordinance and removal of the live/work exemptions



from both the IHR and AHMF ordinances. This action would simply apply the Inclusionary Housing or AHMF ordinances to Live Work exactly as they are applied to other projects.

Live/Work units are currently exempt from both the Inclusionary zoning ordinance and the Affordable Housing Mitigation fee. Instead, Berkeley's Live Work Ordinance (Berkeley Municipal Code 23E.20) requires projects that create 5 or more Live/Work units to include 1 inclusionary unit affordable to 80% of AMI for every 5 Live/Work units created. The inclusionary requirements in the Live/Work ordinance differ from the requirements applied to other projects. Affordable units under the Live/Work ordinance are all targeted to 80% of AMI. In addition, the Live Work Ordinance specifically allows inclusionary Live/Work units to be smaller, have lesser finishes and be located anywhere in a project while both the IHR and AMHF ordinances require units to be the same size, have comparable finishes and be distributed throughout a project.

There is one provision of the Live/Work ordinance which is specific to Live/work affordable units which it would make sense to retain or move to the new ordinance. Inclusionary live/work units must be affirmatively marketed to "income-eligible persons performing a work activity permitted in the District where the project is located whose type of work causes them to have a requirement for a space larger in size than typically found in residential units." The ordinance currently provides no standards for documenting tenants' need for live/work space or rules for waiving this requirement in the event that a tenant with this need cannot be found within a reasonable period.

The ordinance currently exempts Group Living Accommodations (GLA) units, but because this classification represents a type of tenancy rather than a specific type of unit, it would make sense to subject GLA units to the Affordable Housing Requirements like any other unit. Fraternities, sororities, and other specially designated units managed by the University would retain their exemption. Further study could be necessary to assess the impact of this change on project feasibility.

## **8. Add a land dedication option**

### **Proposed Change:**

- 8.1. Add a land dedication option which authorizes the City Manager to approve donation of land to the City or an approved nonprofit housing developer. Donated land must be appraised for a value of at least 75% of the in lieu fee which would otherwise be due, be sufficiently sized and zoned to support multifamily housing development and otherwise be suitable for affordable housing development.

### **Alternative:**

- 8.2. Don't add a land dedication option - continue with two compliance options; on-site units or in lieu fee, though this would leave projects newly excluded from the on-site option with only one compliance option.

**Background and Analysis:**

Some stakeholders have suggested that the program would be stronger if Berkeley allowed developers to comply by providing off-site affordable projects, preserving existing ‘naturally occurring affordable housing’ or dedicating land for affordable housing development. We evaluated the feasibility of adding off-site and preservation options and concluded that Berkeley currently lacks the staff capacity necessary to effectively implement these complex options. However, it is worth noting that the City can and does use in lieu fee revenue collected to finance both off-site projects and preservation/rehabilitation projects. By collecting fees and then going through the existing procedures for the HTF and Small Sites programs, the City avoids the need to develop new detailed rules and closely monitor developer implementation of these alternatives.

The third option, land dedication, however, provides an outcome which the City cannot achieve on its own through the use of fee revenue. While this option also would require detailed rules to avoid abuse, it may be less challenging than off-site or preservation options and is likely to be used in far fewer cases.

Access to sites is one of the key barriers facing affordable housing developers. Market rate developers sometimes end up with control over sites which could be better used for affordable housing. Sometimes market rate projects are large enough to set aside a portion for affordable housing. In these, somewhat rare, cases, it is sometimes more affordable for the developer to donate land for affordable housing than to build on-site units or pay an in lieu fee. If the donated site is appropriate for affordable housing, it can save significant time and make new projects possible. Of course, if sites are not appropriate, land donation can result in a significant burden on City resources. If the policy were to include a land dedication option, the City would need to develop detailed guidelines which outlined site requirements and retain the option to only accept sites when there is a high probability that they will be developable for affordable housing including, for example, expressions of interest from local affordable housing developers.

## 9. Provide a family sized units option

**Proposed Change:**

- 9.1. In lieu of providing 20% of units at affordable prices, allow projects to provide affordable units comprising 20% of the Gross Residential Floor Area in the project provided that at least 50% of those units are in 2 or 3 bedroom units.

**Background and Analysis:**

Berkeley’s IHR and AHMF ordinances currently require that on-site BMR affordable units be of the same type and size as market rate units in the property. As the cost of construction has risen, there has been a trend for market rate projects to include smaller and smaller

apartments and this has meant that the BMR units have been shrinking as well. Some stakeholders have asked the City to consider ways to incentivize more ‘family sized’ units even in buildings where the market rate units are quite small. This request has been made at the same time that other stakeholders have called for the City to actively discourage units with high bedroom counts (i.e., co-living units).

It seems that in the current context the City should be encouraging 2 and 3-bedroom units but not larger ones. One way to achieve this is to require that projects set aside a given percentage of floor area for affordable housing instead of a percentage of units if the majority of those units are 2 and 3-bedroom units.

When New York City adopted their Mandatory Inclusionary policy for the first time in 2016, rather than requiring a percentage of units be affordable, they required that the affordable units make up a percentage of net residential floor area.<sup>9</sup> This allows developers to include larger or smaller affordable units. Projects offering smaller BMR units may need to provide more units and projects offering larger units would provide fewer units. Cambridge, MA, a city with size and demographic similarities to Berkeley, also switched to this method in 2017, but with the additional condition that large developments (30,000 square feet or more) are required to include 3-bedroom affordable units.<sup>10</sup> Both of these approaches would add considerable complexity to already complex rules in Berkeley. The proposed change would continue to require 20% of units for most Berkeley projects, but would add an alternative for projects that chose to offer mostly 2 and 3 bedroom BMR units.

## 10. Simplify the requirements for condominium conversions

### Proposed Changes:

- 10.1. Calculate the Condo conversion fee at 8% of the market value of converted units.
- 10.2. Reduce the conversion fee to 4% for any unit that is and has been occupied by an owner as his or her principal place of residence for at least 5 consecutive years immediately prior to the date that the fee is paid, including as a tenant in that unit immediately prior to ownership.
- 10.3. Also reduce the conversion fee to 4% for any co-housing unit, any unit that is part of a housing cooperative, or conversion undertaken by a nonprofit developer.
- 10.4. Continue to allow a further 25% discount in the fee if it is paid at the time of conversion rather than at the time of sale of condo units.
- 10.5. Add flexibility in the use of conversion fees. Allow up to 10% of conversion revenue to be used for Condominium Conversion program delivery and/or Housing Trust

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<sup>9</sup> New York City Mandatory Inclusionary Housing Program, <https://www1.nyc.gov/site/planning/plans/mih/mandatory-inclusionary-housing.page>

<sup>10</sup> City of Cambridge Inclusionary Housing, <https://www.cambridgema.gov/CDD/housing/inclusionaryhousing>

Fund program and project monitoring and enforcement or related program administrative costs with the remaining 80% placed into the Housing Trust Fund.

**Background and Analysis:**

Berkeley’s Condominium conversion ordinance (CCO) (Berkeley Municipal Code [BMC] Chapter 21.28 et seq.) requires payment of an Affordable Housing Mitigation Fee at the time that rental properties are converted to condominium ownership. Between 1992 and 2009 this mitigation fee recaptured essentially the entire difference in affordability that resulted from conversion. This had the effect of discouraging conversions. In 2005, the state Court of Appeal held that cities could not prohibit conversion of rental units to Tenants in Common ownership (TIC). Since then, the City has sought to encourage conversion of rental units to condominiums rather than TICs because of difficulties that can arise for people who invest in TIC properties. It has done so by imposing a de facto cap on the affordable housing mitigation fee charged for conversion to condominiums since 2009.

**Nexus Fee Calculation:** Under the current ordinance the AHMF for condo conversions is calculated through a complex ‘nexus formula’ that considers costs of ownership, rental and mortgage rates. Alternatively, owners can choose to pay 8% of the sales price (or 4% for 2-unit buildings) instead of the Nexus Fee if they agree to limit rent increases for any existing tenants. This alternative calculation generally results in much lower fees. As a result, the nexus-based fee method has been used very rarely. We recommend that all condominium conversions be subject to the 8%/4% fee, and that all sitting tenants be provided protections and an opportunity to purchase.

Examples:

**Nexus Formula:** Rental Costs = \$1,500 per month x 12 months/year = \$18,000 annually  
 Ownership Cost (including principal, interest, taxes, insurance, and homeowners’ association dues) = \$2,700 per month x 12 = \$32,400  
 Assume a mortgage rate of 6.5 percent. Increased housing cost due to ownership conversion of the unit = \$32,400 - \$18,000 = \$14,400  
 Mitigation Fee = \$14,400/0.065 = \$221,538

**Alternative Formula:** Sale price for converted unit = \$400,000. If owner agrees to limit rents to existing or future tenants. Mitigation fee = 8% x \$400,000 = \$32,000.

**Discount for Owner Occupants/Tenant Conversion:** Currently, the condo conversion ordinance provides a 50% reduction in the fee to owners who have lived in their units for the 5 prior years. However, only owners who resided in their units on June 30, 2010 are currently eligible.

*If the property contains three or more units, the affordable housing mitigation fee for a unit that is occupied by an owner as their principal place of residence for at least 5 consecutive years immediately prior to the date of sale, including as a tenant in that unit immediately prior to ownership, shall be reduced by 50 percent, but only if the owner owned and resided in the unit as of June 30, 2010.*

A Council referral had proposed to extend the 50% reduction to tenants in addition to owners who have lived in a unit for at least 5 years prior to conversion so long as the building was 4 or fewer units.

*If the property contains 4 units or fewer, the affordable housing mitigation fee for a unit that is and has been occupied by an owner as his or her principal place of residence for at least 5 consecutive years immediately prior to the date of conversion or sale, including as a tenant in that unit immediately prior to ownership, shall be reduced by 50 percent.*

It is not clear why this tenant conversion benefit should be limited based on building size. The current ordinance is limited to properties with 3 or more units while the referral was limited to 4 or fewer units. The proposed change would apply to owner occupied or tenant purchased units in buildings of any size.

Although instances of condominium conversion by nonprofits, in co-housing projects, or in housing cooperatives are quite rare, it makes sense to extend the fee reduction to these cases as well.

**Use of Fee Revenue:** The current condo conversion ordinance does not allow any of the Mitigation Fee revenue to be used for program administration, but the program can be staff-intensive to implement. The AMHF and IHR Ordinances allow a portion of fee revenue to be used for program administrative staffing.

## 11. Prohibit on-site units for Group Living Accommodation (GLA)

### Proposed Change:

- 11.1. Prohibit projects with an average of more than 3 bedrooms per unit from selecting the on-site option in order to reduce administrative burdens.
- 11.2. Adopt a local density bonus that enables these projects to access the benefits of the State Density Bonus in exchange for an increased in lieu fee instead of on-site units.

### Background and Analysis:

**Group Living Projects:** It is challenging to regulate and monitor BMR units in co-living and group living projects where individuals generally lease bedrooms not apartments. It is difficult to find eligible households who can both qualify for and afford 4-bedroom or larger BMR units and the households that would most benefit from large BMR units might be less interested in living in a building that was primarily targeting students and young adults. Additionally, it is typical for groups of unrelated adults renting larger units together to change composition frequently, which makes maintaining current documentation of eligibility more complicated for owners and therefore compliance more difficult for the City to monitor.

Local Density Bonus: Berkeley cannot prevent developers from providing on-site affordable units in order to qualify for the benefits of the State Density Bonus (SDB). It would be possible for the City to simply require some projects to pay the full fee even if they provide on-site units for the purpose of accessing the density bonus but this would impact the feasibility of small projects and projects that provide large bedroom count units. An alternative would be for the City to adopt a limited local density bonus program for these projects that are not allowed to provide on-site units under the City's ordinance. This local bonus could provide access to all of the benefits of the State Density Bonus (including additional density and other planning concessions) in exchange for a fee rather than on site units. We calculated that, for a typical rental project, providing 11% (of base units) on-site increases the cost of compliance relative to paying the fee only by \$10 per square-foot. If a local density bonus offered the benefits of 35% increased density and other concessions to projects that paid \$55 per square-foot (instead of \$45) this option would be no more or less attractive to developers than the current State Density Bonus option. In other words, if a co-living project could access the density bonus in exchange for a fee of \$55 per square-foot they would generally choose that option rather than provide on-site units.

## 12. Change requirements for small projects/missing middle projects

### Proposed Changes:

- 12.1. Eliminate exemption for 1-4 unit projects and replace it with a tiered fee that steps up gradually for projects with less than 12,000 gross residential square feet, by reducing the fee by \$2 per square-foot for each 1000 square foot increment less than 12,000.
- 12.2. Offer a local density bonus, equal to the State Density Bonus, to projects providing <5 BMR units that choose the in lieu fee.

### Alternative:

- 12.3. Eliminate exemption for 1-4 unit projects and expect even very small projects to contribute the full fee.

### Background and Analysis:

Currently both the AHMF and the Inclusionary housing ordinance exempt buildings with 1-4 units. Presumably this exemption was motivated by a sense that very small projects would have a harder time absorbing the cost of including affordable housing into their budgets. While this is often, but not always true, there is no reason to think that suddenly at 5 units a project budget can easily afford to comply. There is a much wider range of "missing middle"-type projects that may be feasible in Berkeley at a small scale which may also struggle to meet the City's requirements. Many of these projects may be larger than 5 units.

At the same time there has been significant concern in Berkeley about the potential that developers may segment larger projects into several smaller 4-unit projects in order to circumvent the inclusionary housing or AHMF ordinance. By exempting very small projects but

then suddenly imposing the full requirement at a certain point, the current ordinance creates an incentive to build projects in 4-unit increments.

One approach to this challenge would be to impose the fee (at some level) on every project (with the exception of Accessory Dwelling Units), but to reduce the fee for small projects. Many cities just impose a lower fee for smaller projects. San Jose just amended their program to set the fee at a level that is 50% lower for projects with fewer than 20 units. However, this approach still creates a big step up at 20 units. An alternative is to gradually phase in higher fees as the size of the project increases. Figure 10 shows the schedule that would result from a \$2 decrease in the fee for each increment of 1000 gross residential square feet below 12,000.

**Figure 10: Proposed schedule for small project phase-in**

| Gross Residential Square Feet | Fee per square-foot |
|-------------------------------|---------------------|
| 12,000+                       | \$45                |
| 11,000-11,999                 | \$43                |
| 10,000-10,000                 | \$41                |
| 9,000-9,999                   | \$39                |
| 8,000-8,999                   | \$37                |
| 7,000-7,999                   | \$35                |
| 6,000-6,999                   | \$33                |
| 5,000-5,999                   | \$31                |
| 4,000-4,999                   | \$29                |
| 3,000-3,999                   | \$27                |
| 2,000-2,999                   | \$25                |
| 1,000-1,999                   | \$23                |
| <1,000                        | \$21                |

Reducing the fee for small projects would have an uncertain impact on Berkeley’s future fee revenue. The City would collect less revenue from small projects with at least 5 units, but would begin collecting fees from 1 to 4 unit projects. Offering a local density bonus to projects providing less than 5 BMR units that choose the in lieu fee would likely reduce the number of projects with a small number of on-site BMR units that need to be monitored while also increasing total fee revenue.

Small projects pose a special challenge for program administration and monitoring. Monitoring compliance for a building with one or two regulated units requires a similar investment of staff time as a project with 20 BMR units. Often the owners of smaller buildings have fewer resources and less outside professional property management support and as a result, they often find the burdens of compliance more challenging, and require relatively more intervention and training from City staff.

Many cities address this by encouraging developers of small properties to select the fee or other option rather than providing on-site BMR units which may prove difficult to monitor.

Redwood City prohibits the on-site units option for projects with fewer than 20 total units, effectively requiring these projects to pay the in lieu fee.

In Berkeley, however, because so many projects select mixed-compliance, there is a real risk that projects with more than 20 total units could end up including only a very small number of on-site BMR units. For example a 40 unit project selecting on-site compliance (20%) would provide 8 BMR units but if they chose to only provide 10% on-site and pay a fee for the remainder they would only provide 4 BMR units on-site. Removing the on-site option for projects that would result in fewer than 5 BMR units would force these projects to either pay the fee entirely or fully comply through the on-site option. Either option would simplify monitoring enormously.

### 13. Cap the annual rate of rent increases

**Proposed Change:**

13.1. Limit the annual increase in BMR affordable rents for occupied units to no more than the annual change in the Consumer Price Index. Allow rents to be marked up to the maximum 'affordable' rents based on HUD AMI calculations whenever units turn over.

**Alternative:**

13.2. Limit the annual rent increase to no more than 10% in any single year.

**Background and Analysis:**

Sudden increases in the Area Median Income can result in large changes in the allowable affordable rent which can negatively impact BMR tenants. Similarly, some property owners fail to annually adjust rents as allowed by the current ordinance. They are allowed to 'catch up' by raising the rents by a larger amount later but this too can cause sudden shocks in rent for vulnerable tenants.

Limiting the amount that rent can be increased for occupied BMR units would provide stability and predictability for tenants. This change, however, will have a real impact on the operating budgets of projects with on-site BMR units. The current rules tie rents to changes in the Area Median Income (AMI). Over the past several decades the AMI has risen quite a bit faster than the Consumer Price Index. While the AMI is generally a measure of what people in the area earn, the rapid increase in the AMI has been driven, in part, by the growth of high paying jobs and the influx of higher income residents throughout the Bay Area rather than a rise in the wages and other income that lower-income residents earn. As a result, 'affordable' rents have risen faster than what many low-income tenants can comfortably 'afford.'

Limiting the rate of rent increases will have a real impact on the operating budgets of buildings that include on-site units. As long as units remain occupied, the rents may rise



more slowly than building operating costs. It is likely that this change in policy will make the on-site option slightly less attractive to developers and increase the likelihood of projects selecting to pay the fee in lieu. However, a growing number of Berkeley projects are including on-site VLI units and then filling those units with residents who hold housing vouchers. The policy should continue to allow these properties to collect the full voucher payment standard which might increase faster than CPI without impacting affordability for the residents. This reliance on vouchers should mean that many density bonus projects would not be impacted by a rule tying rent increases to CPI.

## 14. Administrative changes

### a. Require compliance plans

#### **Proposed Change:**

14.1. Require developers of new projects to submit a simple Affordable Housing Compliance Plan at the time of Building Permit application indicating their proposed strategy for complying with the requirements of the AHR ordinance. Allow revisions to this plan at any time prior to the Certificate of Occupancy.

#### **Background and Analysis:**

Currently developers can wait until their projects are built and applying for a Certificate of Occupancy to inform the City of their intended strategy for complying with the AHMF or Inclusionary Housing Ordinance, including whether they intend to pay the fee or provide some or all of the required on-site units. Requiring developers to indicate a proposed strategy earlier in the process a) allows city staff to make plans for monitoring units or project fee revenue so that it can be invested quickly and b) ensures that developers are fully understanding Berkeley's requirements early in the development. Many cities provide a simple fill in the blanks template for this purpose and allow projects to change their plans at a later date by simply submitting a revised plan.

### b. Authorize administrative citations

#### **Proposed Change:**

14.2. Explicitly authorize the creation of a proposed schedule of fines for monitoring and compliance violations to be included in the program guidelines.

#### **Background and Analysis:**

Other jurisdictions have found that having the ability to impose monetary fines is an effective tool for encouraging developer and property manager compliance with

monitoring requirements. Explicitly authorizing citations in the ordinance might help clarify staff's authority to impose these penalties.

***c. Authorize annual monitoring fee for ownership units***

**Proposed Change:**

14.3. Explicitly authorize the City to charge a fee annually to BMR Homeowners to offset monitoring costs. The fee would be assessed only on new owners going forward. The fee would be included as a housing cost in calculation of the affordable sales prices so that buyers will pay less for their units in order to make the fee affordable.

**Background and Analysis:**

The City currently charges owners of rental properties an annual monitoring fee but no fee is charged to BMR homeowners.

***d. Deduct required fees/costs from gross rent***

**Proposed Change:**

14.4. Clarify this language in the ordinance to make it clear that mandatory fees or costs must be deducted from the maximum allowable rent for BMR rental units.

**Background and Analysis:**

Currently the AHMF ordinance calls for reduction in the maximum rent based on the anticipated cost of tenant paid utilities. Some properties impose other mandatory costs such as renter's insurance or administrative fees. Current practice is to deduct any cost which is mandatory for BMR tenants from the maximum gross rent to calculate the affordable rent but this requirement is not currently outlined in the ordinance.

# Appendix A: Financial Feasibility Analysis

## Overview:

The City of Berkeley retained Street Level Advisors to recommend changes to its existing affordable housing requirements. Our policy recommendations are intended to increase the construction of affordable units while maintaining the financial feasibility of market-rate development. We conducted a financial feasibility study in order to understand the current housing development environment and predict how our recommended policies might affect this environment. Our study relies on a static pro forma analysis to estimate the return on investment that can be generated by typical residential developments in Berkeley.

For the rental prototype, we used a common measure of return known as yield on cost (YOC), or a project's net operating income divided by the total development cost. Based on a review of current market conditions in Berkeley and the East Bay, we concluded that projects earning a yield of at least 5.0% would be "feasible" meaning that they would likely be able to secure investment. Projects earning slightly less (between 4.5% and 5%) would be considered "marginal" meaning that some projects in this category might be able to obtain financing while others might not. Projects earning less than a 4.5% yield we considered "infeasible."

For ownership projects, the Yield on Cost cannot be calculated so we used a different measure of profitability: Profit as a percent of development cost, also called Return on Cost. Because of the lack of recent condo projects in Berkeley, we were unable to objectively determine the minimum necessary profit as a percent of cost for local ownership projects. As a point of reference, a common rule of thumb used in other studies considers projects "feasible" when profit exceeds 10-15% of development cost.

Our rental prototype is a 6-story, 72-unit development with a small amount of commercial space on the ground floor and one parking space for every two housing units. We estimate that under current conditions, rental projects that choose to pay Berkeley's Affordable Housing Mitigation Fee (AHMF) earn a Yield on Cost of 5.08% - just barely above the feasibility threshold. Projects that provide on-site units earn a yield of 4.94% just under the threshold into the marginal category. However, economic conditions are in flux due to the COVID-19 pandemic, and new projects could become more feasible in the near future.

Our prototype, revenue, and cost assumptions are based on prior studies, comparable projects, and other market research. The remainder of this memo describes these assumptions and our methodology in more detail.

**Prior Studies:**

Over the past decade, the City of Berkeley has evaluated the financial feasibility of its affordable housing requirements several times. Our analysis builds on the feasibility studies conducted by these consultants.

The 2015 Bay Area Economics Nexus Study contains one section that addresses the financial feasibility of new rental housing. BAE estimated the Return on Cost for a four-story, mixed-use development in the C-W zoning district at two different fee levels. In their simplified model, all 81 units are 900 square foot two-bedrooms. BAE's analysis suggested that the fee could be increased to \$34,000 while maintaining the minimum necessary return on cost.

The 2016 Strategic Economics Feasibility Analysis tested a wider range of fee levels. Using a four-story model that is almost identical to the BAE model, they estimated the Yield on Cost at six fee levels between \$0 and \$84,391. Strategic Economics considered Yield on Cost because it is a more accurate measure of feasibility for rental housing than Return on Cost. The minimum Yield on Cost required for feasibility in their analysis was 6.5% reflecting the higher interest rate environment in 2016. They found that new developments would be marginally feasible if the fee was \$45,000 and infeasible if the fee was any higher.

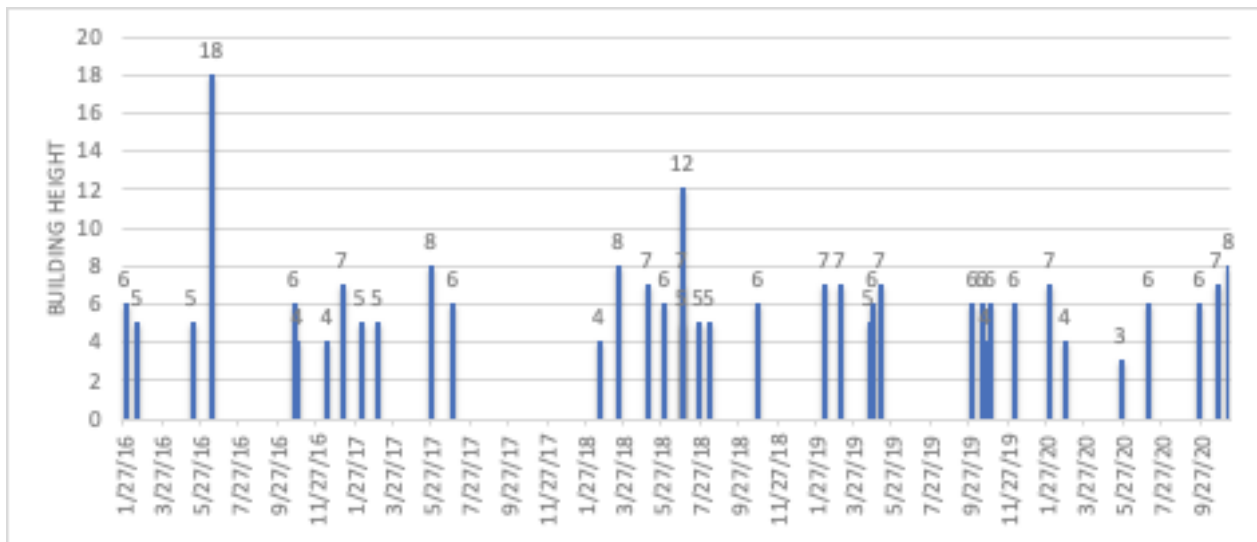
Together, the BAE and Strategic Economics analyses suggested that new rental development would be feasible at fee levels equivalent to and above the current level.

**Prototypes Studied:**

Rents and construction costs have escalated dramatically since the Strategic Economics analysis was published. Our recent data shows that rents are over 30% higher and the construction costs per square-foot in our model below are nearly double those in the Strategic Economics report. Our specific revenue and cost assumptions are described in the next section.

Because of these trends, the type of development project that both BAE and Strategic Economics used as their example would no longer be financially feasible in Berkeley. Driven by these same trends, the types of development projects being undertaken in Berkeley have shifted. Developers have responded to rising construction costs by building smaller units, fewer parking spaces and taller buildings on smaller lots. Figure 1 shows that developers of multi-family buildings in Berkeley have been primarily proposing 5-8 story buildings in recent years.

Figure 1: Permit applications for residential project with >20 units 2016 – 2020



Following these trends, we have used a slightly different prototype to test feasibility in today’s market. Our prototype is a 6-story building with wood frame residential over a concrete podium. Where BAE and Strategic Economics assumed a 1-acre lot, we have assumed a half-acre. Our prototype includes 72 housing units and 3,000 square feet of commercial space (see Figure 2). Our model is taller but contains fewer units and less commercial space than the 4-story, 81-unit Strategic Economics prototype. The units in our model are also smaller than the units in the Strategic Economics analysis. Based on a detailed study of recent projects in Berkeley we have assumed a mix of 450 square-foot studios, 725 square-foot one-bedrooms, and 925 square-foot two bedrooms where Strategic Economics had assumed that all units would be 900 square-foot two-bedrooms.

Recent data also suggests that the capitalization rate for residential development is 4.0-4.25%, significantly lower than the cap rate of 5.0% which Strategic Economics used in 2016. Additionally, the parking ratio of 1 space per unit in the Strategic Economics study reflects the minimum parking requirements in much of the city at the time their study was published. As parking minimums have recently been eliminated, we assume a more modest parking ratio of 0.5 spaces per unit, consistent with observed occupancy rates.

Figure 2: Rental Prototype Details

| Prototype Feature              | Value                           |
|--------------------------------|---------------------------------|
| <b>Project</b>                 |                                 |
| Construction Type              | Wood Frame over Concrete Podium |
| Stories                        | 6                               |
| Site Area in Acres             | 0.5                             |
| Gross Sq Ft                    | 68,950                          |
| Residential Sq Ft              | 52,750                          |
| Common Area Sq Ft              | 13,200                          |
| Commercial Space Sq Ft         | 3,000                           |
| <b>Residential Units</b>       |                                 |
| Number of Units                | 72                              |
| Number of Studios              | 14                              |
| Number of 1BD Units            | 36                              |
| Number of 2BD Units            | 22                              |
| Studio Sq Ft                   | 450                             |
| 1BD Sq Ft                      | 725                             |
| 2BD Sq Ft                      | 925                             |
| <b>Parking</b>                 |                                 |
| Parking Ratio (Spaces / Units) | 0.5                             |
| Number of Spaces               | 36                              |

For the ownership prototype, we assumed larger average unit sizes. In order to facilitate comparison, we assumed a building of the same overall size (square feet) but with fewer units of larger size. We also assumed the same parking ratio (.5) as our rental prototype in order to facilitate comparison, though it is more likely that a condo project would provide 1 space per unit which would lower overall returns.

Figure 3: Ownership Prototype Details

| Prototype Feature              | Value                           |
|--------------------------------|---------------------------------|
| <b>Project</b>                 |                                 |
| Construction Type              | Wood Frame over Concrete Podium |
| Stories                        | 6                               |
| Site Area in Acres             | 0.5                             |
| Gross Sq Ft                    | 61,490                          |
| Residential Sq Ft              | 52,290                          |
| Common Area Sq Ft              | 9,200                           |
| Commercial Space Sq Ft         | 0                               |
| <b>Residential Units</b>       |                                 |
| Number of Units                | 56                              |
| Number of 1BD Units            | 35                              |
| Number of 2BD Units            | 18                              |
| Number of 3BD Units            | 3                               |
| 1BD Sq Ft                      | 850                             |
| 2BD Sq Ft                      | 1,025                           |
| 3BD Sq Ft                      | 1,365                           |
| <b>Parking</b>                 |                                 |
| Parking Ratio (Spaces / Units) | 0.5                             |
| Number of Spaces               | 28                              |

### Revenue and Cost Assumptions:

The revenue and cost assumptions used in our pro forma analysis are shown in Figure 4. The main inputs that influence project revenue are the residential rents. Our analysis of data from CoStar, RealPage, and Berkeley's Rent Stabilization Board led us to estimate that typical rents for newly built apartments in Berkeley would be approximately \$3,100 for studios, \$4,000 for one-bedrooms, and \$4,500 for two-bedrooms. Other revenues include commercial rents of \$3 per square-foot and parking revenue of \$200 per space per month. These assumptions reflect rents that would have been assumed by projects prior to the pandemic. During the pandemic, rents throughout the region have fallen dramatically with some estimates showing rent in Berkeley down by 5 to 10% along with significant increases in apartment vacancy rates. The best available evidence suggests that these decreases are likely temporary. Developers in

Berkeley are moving forward on construction of new apartments which would not be financially feasible if the pandemic rents and vacancy rates were permanent.

The key input driving costs is the construction cost estimate of \$400 per gross square foot. This assumption is based on actual construction costs for comparable East Bay projects and studies that estimate the construction cost inflation rate. Other important development cost assumptions include land at \$8,000,000 per acre and parking construction costs at \$50,000 per space. We assume that soft costs - which include architecture, engineering, and inspection fees – equal 22% of hard costs. Our estimates for land, parking, and soft costs rely on data from several comparable Berkeley projects but, of course, these figures vary quite a bit between actual projects. Financing costs include the construction loan interest rate of 4.5% and the initial construction loan fee of 1.0%. Our financing cost assumptions are based on independent estimates of prevailing interest rates and data from comparable Berkeley projects.

The current inclusionary housing rules require that 80% of on-site VLI units be offered first to housing voucher holders. Berkeley allows developers to charge the full Housing Authority Payment Standard rent for these units even when it exceeds the rent that could be charged to a VLI tenant with no voucher. We have assumed these slightly higher rents for 80% of any VLI units on-site.

Note: The COVID-19 pandemic caused an uncommon economic crisis that the US is only beginning to recover from. It is unclear what persistent impacts the pandemic will have on the housing development environment and consequently on our model. We cannot be certain how inputs such as construction costs and rents will change or how investors that finance development will respond to this uncertainty. Over the past year construction costs have continued to rise while rents have fallen across the Bay Area. This combination has made it harder for real estate projects to achieve feasibility, but these trends do not appear to be lasting. Our model reflects conditions as they were at the beginning of 2020.



Figure 4: Revenue and Cost Assumptions

| Revenue/Cost                    | Assumption  | Unit of Measure     |
|---------------------------------|-------------|---------------------|
| <b>Residential Revenue</b>      |             |                     |
| Studio Rent                     | \$3,100     | per unit per month  |
| 1BD Rent                        | \$4,000     | per unit per month  |
| 2BD Rent                        | \$4,500     | per unit per month  |
| <b>Ownership Revenues</b>       |             |                     |
| 1BD Price                       | \$725,000   | per unit            |
| 2BD Price                       | \$925,000   | per unit            |
| 3BD Price                       | \$1,100,000 | per unit            |
| <b>Other Revenues</b>           |             |                     |
| Commercial Rent                 | \$3.00      | per sq ft per month |
| Parking Revenue                 | \$200       | per space per month |
| <b>Development Costs</b>        |             |                     |
| Construction Costs              | \$400-\$415 | per gross sq ft     |
| Land Costs                      | \$8,000,000 | per acre            |
| Parking Costs                   | \$50,000    | per space           |
| Soft Costs                      | 20-22%      | of hard costs       |
| <b>Financing Costs</b>          |             |                     |
| Construction Loan Interest Rate | 4.5%        | annual rate         |
| Loan to Cost Ratio              | 70%         | of total cost       |
| Period of Initial Loan          | 24          | months              |
| Initial Construction Loan Fee   | 1.0%        | of loan             |
| Average Outstanding Balance     | 60%         | of loan             |
| <b>Operating Costs</b>          |             |                     |
| Rental Vacancy Rate             | 4%          | of units unoccupied |
| Rental Operating Cost           | 35%         | of revenues         |

### Policy Scenarios:

We built a financial model using the project prototypes described above in order to test the impact of potential changes to the City's affordable housing requirements on the feasibility of

residential development. We ran the model for the same hypothetical projects under a number of different policy assumptions. First, we established the returns that would be available under the current law depending on which performance option the project selected.

### Current Program Scenarios

#### Rental

**Current Fee:** Under this alternative, we assume the hypothetical project elects to pay Berkeley's current Affordable Housing Mitigation Fee (AHMF) of \$39,746 for each unit in the building. A project paying the fee would not be eligible for the density bonus.

**Current On-site Units:** Under this alternative, we imagine the project selecting instead to provide on-site units as provided under the current AMHF ordinance. The project would provide 7 Very Low Income (VLI) units (10%) and 7 Low Income (LI) units (10%). For the sake of comparison, we have assumed that the project does not access the density bonus though it would likely qualify.

**Current Mixed Compliance – 11% VLI:** The most common approach in recent years has been for projects to provide enough units on-site in order to maximize the benefits of the State Density Bonus and pay a fee to cover the remainder of their obligation under Berkeley's AHMF. Prior to 2021, projects that provided 11% of base units as restricted Very Low Income units on-site would receive the maximum 35% density bonus. We have assumed that our hypothetical project could increase the total number of housing units by 35% (from 79 to 97) with no increase in land costs<sup>11</sup>.

**Current Mixed Compliance – 15% VLI:** In 2020 the State Legislature approved an expansion of the State Density Bonus which allows greater increases in density in exchange for more affordable housing units on-site. Now a developer can request a 50% increase in residential density if they provide, for example, at least 15% Very Low Income units. We have analyzed the profitability of a hypothetical

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<sup>11</sup> Our analysis does not attempt to capture the full financial value of the density bonus. In addition to the right to build more housing units on a given site, state law allows developers to request a number of planning concessions based on the amount of affordable housing that they provide. These concessions clearly provide real value which can increase the profitability of projects. However, because the dollar value of concessions is abstract and highly dependent on the particular project, we have not attempted to include this in our financial modeling. As a result, our conclusions are likely to slightly understate the difference between the returns from density bonus and other types of projects.

project assuming a 50% increase in units with 15% of base units (10% of total units) restricted to VLI residents under current rules.

**Ownership**

**Current On-site Compliance:** A for-sale project that elected to provide on-site affordable units would be required to provide 20% of units to be affordable to and occupied by Low Income households earning less than 80% of AMI.

**Current In Lieu Fee (Based on Sales Prices):** Alternatively, a developer may pay an in lieu fee calculated based on 62.5% of the difference between the market price and the affordable price. This approach results in a different level of fee for different projects depending on the market prices of units in the project. For the sake of illustration, we estimated a range of current market prices based on average condo sales prices listed on Zillow.com and calculated the fee which would be due.

**Figure 5: Condo Pricing Assumptions**

| Estimated BMR Ownership Fees 2021 |       |                        |                  |             |                      |                       |
|-----------------------------------|-------|------------------------|------------------|-------------|----------------------|-----------------------|
| Unit Size                         | Sq Ft | Estimated Market Price | Affordable Price | In Lieu Fee | In Lieu Fee Per Unit | In Lieu Fee per Sq Ft |
| 1BR                               | 814   | \$703,556              | \$250,650        | \$283,066   | \$56,613             | \$70                  |
| 2BR                               | 1117  | \$853,125              | \$282,000        | \$356,953   | \$71,391             | \$64                  |
| 3BR                               | 1571  | \$995,797              | \$313,200        | \$426,623   | \$85,325             | \$54                  |

**Alternative Policy Options**

In addition to evaluating the performance of the prototype under the current policy rules, we considered several alternative scenarios based on the proposed policy changes.

**Rental**

**\$45 Per square-foot Fee:** Under this alternative, we assumed that the City adopted a fee of \$45 per gross square foot (excluding parking and commercial space) and we evaluated the returns for a prototype project that elected to pay this fee in full with no on-site BMR units.

**\$55 Per square-foot Fee:** This alternative assumes full payment of a higher fee per square-foot.

**Mixed Compliance (Weighted)– 11% VLI:** In this alternative we have assumed a \$45 per square-foot fee is adopted along with an adjusted formula for determining the remainder fee for mixed compliance projects. We assumed that each 1% of VLI units provided would reduce the fee due by \$3 per square-foot and each 1% of LI units would reduce the fee by \$1.50 per square-foot. In this alternative, we assume a project that provides 11% of the base units (equivalent to 8% of total units) as VLI in order to receive a 35% density bonus.

**Mixed Compliance (Weighted)– 15% VLI:** In this alternative we assume a project that provides 15% of the base units (equivalent to 10% of total units) as VLI in order to receive a 50% density bonus under state law. As with the scenario above, this alternative assumes that the formula for calculating the remaining fee for mixed compliance provides greater reductions for projects that provide VLI units.

### Ownership

**\$45 Per Square-foot Fee:** In this scenario, we have assumed that the City adopts a single per square-foot rate of \$45 which would be applied to all projects whether rental or ownership.

**\$55 Per Square-Foot Fee:** This alternative assumes that the City adopts a higher per square-foot fee for ownership projects (or any project that records a condominium map).

### **Findings:**

For rental projects, our model suggests that most projects would not be able to feasibly comply with the current 20% on-site requirement but that projects that choose to pay the fee or access the State Density Bonus by providing some units on-site and paying a partial fee would both earn returns that are just barely above the threshold which we identified for feasibility (5% yield on cost). The returns for density bonus projects are comparable to the fee alternative because the additional cost of providing some units on-site is offset by the additional benefit of building more units on the same site.

For this prototype, the proposed fee of \$45 per gross square foot results in a virtually identical return. A higher fee (\$55 per square-foot) would result in a marginal but very close to feasible

return. The proposed approach of providing more ‘credit’ for projects that provide on-site VLI units than those that provide LI units results in modest increases in the returns available to mixed compliance projects that take advantage of the State Density Bonus. While this small difference is not critical for this prototype, it is likely that there would be projects where this difference would result in on-site affordable units in projects that would otherwise have paid the fee entirely (or not moved forward at all).

**Figure 6: Comparison of Returns - Rental**

| Scenario                              | Base Units | Bonus Units | LI Units | VLI Units | Fee \$      | Yield on Cost | % of Base | % of Total |
|---------------------------------------|------------|-------------|----------|-----------|-------------|---------------|-----------|------------|
| <b>Current Policy</b>                 |            |             |          |           |             |               |           |            |
| \$39,746 Per Unit Fee                 | 72         | 0           | 0        | 0         | \$2,861,712 | 5.08%         | 0%        | 0%         |
| Onsite Units                          | 72         | 0           | 7        | 7         | \$0         | 4.94%         | 19%       | 19%        |
| Mixed Compliance - 11% VLI            | 72         | 25          | 0        | 8         | \$2,265,522 | 5.07%         | 11%       | 8%         |
| Mixed Compliance - 15% VLI            | 72         | 36          | 0        | 11        | \$2,106,538 | 5.10%         | 15%       | 10%        |
| <b>Proposed Alternatives</b>          |            |             |          |           |             |               |           |            |
| \$45 Per Foot Fee                     | 72         | 0           | 0        | 0         | \$2,967,750 | 5.07%         | 0%        | 0%         |
| \$55 Per Foot Fee                     | 72         | 0           | 0        | 0         | \$3,627,250 | 4.99%         | 0%        | 0%         |
| Mixed Compliance (Weighted) - 11% VLI | 72         | 25          | 0        | 8         | \$2,350,809 | 5.10%         | 11%       | 8%         |
| Mixed Compliance (Weighted) - 15% VLI | 72         | 36          | 0        | 11        | \$2,184,925 | 5.12%         | 15%       | 10%        |

For ownership projects, we found that neither the current fee nor the current on-site requirement resulted in profit as a percent of development cost above the benchmark of 10%. The proposed switch to a \$45 per square-foot fee would result in profit just above 10% while a higher \$55 per square-foot fee would result in profit closer to 9%.

**Figure 7: Comparison of Returns - Ownership**

| Scenario                           | Total Units | LI Units | Fee \$      | Profit % of Cost |
|------------------------------------|-------------|----------|-------------|------------------|
| <b>Current Policy</b>              |             |          |             |                  |
| Current Fee (based on sale prices) | 56          | 0        | \$3,810,847 | 8.00%            |
| Onsite Units                       | 56          | 11       | \$0         | 1.13%            |
| <b>Proposed Alternatives</b>       |             |          |             |                  |
| \$45 Per Foot Fee                  | 56          | 0        | \$2,767,050 | 10.88%           |
| \$55 Per Foot Fee                  | 56          | 0        | \$3,381,950 | 9.16%            |

**Sensitivity Analysis:**

*Revenues and Costs:* The feasibility projections above are highly sensitive to assumptions about rents and construction costs. These assumptions are different from one project to the next and change in somewhat unpredictable ways over time. The heat table in Figure 8 below shows the

yields on cost that our model predicts for a range of different scenarios in regard to construction costs and rents for our prototype. This table shows returns for a 6-story rental project that selects the proposed \$45 per square-foot fee option. The axes indicate how these scenarios compare with current construction cost and rent levels. The (0%, 0%) cell in the center of the table represents the estimated yield on cost for projects given today’s rents and construction costs. The (-10%, 10%) cell in the top right represents the yield for projects if rents decrease 10% and construction costs increase 10% relative to current levels. Green cells represent situations in which projects will be feasible, with expected yields on cost at or above 5%. The redder a cell is, the less feasible projects will be. A rise in construction costs will increase the total development cost of a project, making it less feasible. A drop in market rents will decrease the rental income a project can expect, also making it less feasible.

**Figure 8: Yield on Cost Sensitivity to Rents and Construction Costs**

|       |      | Construction Costs |       |       |       |       |       |       |       |       |       |       |
|-------|------|--------------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
|       |      | -10%               | -8%   | -6%   | -4%   | -2%   | 0%    | 2%    | 4%    | 6%    | 8%    | 10%   |
| Rents | -10% | 5.07%              | 4.96% | 4.85% | 4.75% | 4.65% | 4.56% | 4.47% | 4.38% | 4.30% | 4.22% | 4.14% |
|       | -8%  | 5.18%              | 5.07% | 4.96% | 4.85% | 4.76% | 4.66% | 4.57% | 4.48% | 4.40% | 4.32% | 4.24% |
|       | -6%  | 5.29%              | 5.18% | 5.07% | 4.96% | 4.86% | 4.76% | 4.67% | 4.58% | 4.49% | 4.41% | 4.33% |
|       | -4%  | 5.40%              | 5.29% | 5.17% | 5.07% | 4.96% | 4.86% | 4.77% | 4.68% | 4.59% | 4.50% | 4.42% |
|       | -2%  | 5.52%              | 5.40% | 5.28% | 5.17% | 5.07% | 4.96% | 4.87% | 4.77% | 4.68% | 4.60% | 4.51% |
|       | 0%   | 5.63%              | 5.51% | 5.39% | 5.28% | 5.17% | 5.07% | 4.97% | 4.87% | 4.78% | 4.69% | 4.61% |
|       | 2%   | 5.74%              | 5.62% | 5.50% | 5.38% | 5.27% | 5.17% | 5.07% | 4.97% | 4.87% | 4.78% | 4.70% |
|       | 4%   | 5.85%              | 5.73% | 5.60% | 5.49% | 5.38% | 5.27% | 5.17% | 5.07% | 4.97% | 4.88% | 4.79% |
|       | 6%   | 5.97%              | 5.84% | 5.71% | 5.59% | 5.48% | 5.37% | 5.26% | 5.16% | 5.07% | 4.97% | 4.88% |
|       | 8%   | 6.08%              | 5.95% | 5.82% | 5.70% | 5.58% | 5.47% | 5.36% | 5.26% | 5.16% | 5.07% | 4.97% |
|       | 10%  | 6.19%              | 6.06% | 5.93% | 5.80% | 5.69% | 5.57% | 5.46% | 5.36% | 5.26% | 5.16% | 5.07% |

With current rents and construction costs, projects are just barely feasible with estimated yields of 5.07%. However, if rents rise by just 2% and construction costs remain flat, projects will become more feasible with expected yields of 5.17%. As expected, yields increase as rents rise and decrease as construction costs rise. Yield on cost is just slightly more sensitive to construction costs than rents. Construction costs falling by 10% will increase yields a bit more than rents rising by 10%.

*Parking:* The feasibility of new rental development in Berkeley is also highly sensitive to assumptions about the amount of parking provided. The parking ratio is the number of parking spaces divided by the number of residential units. Before 2021, Berkeley’s zoning regulations mandated projects in some districts to have parking ratios of at least 1. Berkeley recently eliminated minimum parking requirements, making parking ratios of 0 possible.

Figure 9 shows the yields on cost that our model predicts for a range of parking scenarios. In our model, parking ratios are used to describe the amount of parking provided by a project. Creating parking spaces is expensive and limits the area available for the project’s residential or amenity space. As a result, higher parking ratios reduce a project’s yield on cost and projected feasibility. Our model predicts that projects that provide no parking will be solidly financially feasible while projects that provide 1 space per unit are not currently feasible.

Figure 9: Yield on Cost Sensitivity to the Parking Ratio

| Parking Ratio |       |       |       |       |
|---------------|-------|-------|-------|-------|
| 0.00          | 0.25  | 0.50  | 0.75  | 1.00  |
| 5.34%         | 5.20% | 5.07% | 4.94% | 4.82% |

Even with strong financial incentives and no City parking requirements, most projects are likely to include significant amounts of parking. Depending on the location of the project, tenants may see parking as a necessary building amenity. In other cases, project investors insist on some level of parking. When Seattle eliminated parking requirements in many parts of the city, [one study](#) found that most projects still included parking. In areas with no parking requirement, nearly 30% of new buildings provided no parking after the mandate was removed. But the remaining 70% provided parking even though it was not required by the city. Figure 10 shows that the average project provided .49 parking spaces per unit.

Figure 10: Seattle parking reform results

| Minimum Number of Required Parking Spaces/Unit | Number of Development Projects | Average Parking Ratio | Buildings That Exactly Met Requirement | Buildings That Provide Parking Above Requirement |                     |                  |
|------------------------------------------------|--------------------------------|-----------------------|----------------------------------------|--------------------------------------------------|---------------------|------------------|
|                                                |                                |                       |                                        | <0.5 Spaces/Unit                                 | 0.5-1.0 Spaces/Unit | >1.0 Spaces/Unit |
| 0                                              | 570 (65.6%)                    | 0.49                  | 29.5%                                  | 24.2%                                            | 39.0%               | 7.4%             |

**Attachment 4: Summary of Council Referrals Related to City Affordable Housing Requirements**

| Referral                                                                                                                                                          | Short Description                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Conducting an Analysis of Increasing Inclusionary Housing over Affordable Housing Mitigation Fee (9/10/19)                                                        | A companion to 4/23/19 referral to analyze feasibility of ideas from Homeless Commission including:<br>-Requiring on-site units instead of a fee<br>-Requiring an increased number of inclusionary units<br>-Providing an incentive to build on-site instead or pay the fee (similar to the Adeline Corridor Specific Plan)<br>-Prohibit payment of fee in certain geographic areas<br>-Ensure access for extremely low-income persons and persons experiencing homelessness. |
| Refer to the City Manager and the Housing Advisory Commission to Consider Reforming the Affordable Housing Mitigation Fee (4/23/19)                               | Evaluate the possibility of changing the City's affordable housing fee structure, including converting the current per-unit calculation to a per-square foot fee, per-bedroom fees and/or whether to apply a different fee methodology in different parts of the city.                                                                                                                                                                                                        |
| Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation (2/19/19)                     | Close a loophole allowing avoidance of the affordable housing fees through lot line manipulation by requiring the fee from projects on contiguous lots under common ownership with the potential for 5 or more units across all lots. Modify the structure of the in lieu fee for ownership projects to a flat per unit fee similar to the rental fee. Evaluate the appropriateness of the fee level.                                                                         |
| Encourage Long Term Tenant Stability (11/27/18)                                                                                                                   | Modify the Berkeley Municipal Code (BMC Section 21.28.080) to allow tenants buying their units (through Tenancy-In-Common) to pay only 50% of the Affordable Housing Mitigation Fee at the time of conversion. This is the same benefit offered to owners who convert rental buildings that they also live in to ownership.                                                                                                                                                   |
| Rectify Discrepancy Regarding Inclusionary Units in Live/Work Housing (9/13/2018)                                                                                 | Eliminate the affordable housing requirements in the Berkeley Municipal Code (BMC Sections 23C.12 and 23E.20.080) and instead apply the Inclusionary Housing or AHMF ordinances to Live Work exactly as they are applied to other projects.                                                                                                                                                                                                                                   |
| Pilot Density Bonus Program for the Telegraph Avenue Commercial District to Generate Revenue to House the Homeless and Extremely Low-Income Individuals (5/30/17) | Create a new City Density Bonus policy for the Telegraph Avenue Commercial District to generate in-lieu fees instead of on-site affordable housing units.                                                                                                                                                                                                                                                                                                                     |

To read the reports from which these referrals derived, please visit the City of Berkeley's Records Online page, at <https://records.cityofberkeley.info/PublicAccess/paFiles/cqFiles/index.html> . For Search Type select "Public – Staff Report Query," for Meeting Body select "City Council," and for Doc Date put the date of the referral formatted MM/DD/YYYY (e.g. 09/10/2019). Other fields may be left blank. Click "Search" and the requested document should come up as one of a handful of listed results.

For further assistance searching Records Online, please contact the City Clerk Department at [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info).



**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**AMENDMENTS TO BMC CHAPTER 23.328 UPDATING THE CITYWIDE AFFORDABLE HOUSING REQUIREMENTS IN THE ZONING ORDINANCE; REPEAL OF BMC SECTIONS 22.20.065, AND SECTION 23.312.040(A)(6); AND A RESOLUTION ADOPTING REGULATIONS FOR VOUCHER PROGRAM AND ESTABLISHING AN IN-LIEU FEE PURSUANT TO BMC SECTION 23.328.020(A)(2) AND RESCINDING RESOLUTION NO. 65,074-N.S.**

**The public may participate in this hearing by remote video or in-person.**

The Department of Planning and Development and Planning Commission of the City of Berkeley is proposing amendments to BMC Chapter 23.328, updating the citywide affordable housing requirements in the Zoning Ordinance; repeal of BMC Sections 22.20.065, and Section 23.312.040(A)(6); and a Resolution Adopting Regulations for Voucher Program and Establishing an In-Lieu Fee Pursuant to BMC Section 23.328.020(A)(2) and Rescinding Resolution No. 65,074-N.S.

Pursuant to CEQA Guidelines Section 15378(a) and 15060(c)(2), environmental review is not required because the proposed amendments do not meet the definition of a Project under CEQA Guidelines Section 15378(a), nor does it constitute an activity covered by CEQA under CEQA Guidelines Section 15060(c)(2) because passage of amendments do not constitute a direct physical impact on the environment, nor would it result in an indirect, reasonably foreseeable physical impact on the environment. The proposed amendments do not include any provisions that would exempt or otherwise reduce environmental review required under CEQA for individual development projects.

The hearing will be held on, **Tuesday, January 17, 2023 at 6:00 p.m.** at the Berkeley Unified School District Board Room located at 1231 Addison Street, Berkeley CA 94702.

A copy of the agenda material for this hearing will be available on the City's website at [www.berkeleyca.gov](http://www.berkeleyca.gov) as of **January 5, 2023**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

For further information, please contact **Alisa Shen, Principal Planner** at (510) 981-7409.

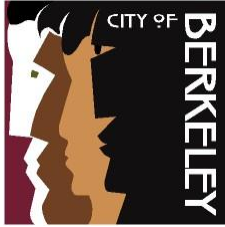
Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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:** January 6 and January 13, 2023 – The Berkeley Voice  
Per California Government Code Sections 65856(a) and 65090, and 6062(a).

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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 January 5, 2023.

Mark Numainville, City Clerk



Office of the City Manager

SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2

Meeting Date: January 17, 2023

Item Number: 21

Item Description: Citywide Affordable Housing Requirements

Submitted by: Jordan Klein, Director, Planning & Development Department

This supplemental report covers the following issues related to the Citywide Affordable Housing Requirements item for City Council's consideration:

1. Exemption for projects of fewer than five units.
2. Anti-piecemealing provisions.
3. Calculation of the in-lieu fee based on net residential square footage rather than gross residential square footage.

1. Exemption for projects of fewer than five units.

The proposed revisions to the Citywide Affordable Housing Requirements would eliminate the current exemption for projects of fewer than five units, instead requiring that every housing development project must provide affordable housing units or pay an in-lieu fee. The proposed revisions would also establish a tiered fee structure that would assess lower fees for smaller projects, defined as less than 12,000 gross square feet. As noted in the "Alternatives Considered" section of the staff report, City Council could consider maintaining the existing exemption for projects of fewer than five units, or establishing an effective date for phasing in the requirement for smaller projects.

The following modification to section **23.328.050.F Exemptions** of the proposed ordinance would extend the existing exemption for projects of fewer than five units through March 31, 2025:

F. Exemptions. The following types of Housing Development Projects and Residential Units are exempt from this Chapter.

1. A Housing Development Project for which either a building permit was issued on or before April 1, 2023 or a preliminary application including all of the information required by subdivision (a) of California Government Code section 65941.1 was submitted on or before April 1, 2023 shall be subject to this Chapter's requirements that were in place as of the preliminary application's submittal date but shall otherwise be exempt from this Chapter. This exemption shall expire upon the occurrence of any of the circumstances defined in paragraphs (2), (6), or (7) of subdivision (o) of California Government Code section 65589.5 or in subdivision (d) of California Government Code section 65941.

2. A Housing Development Project with fewer than five Residential Units, unless it is part of a larger Housing Development Project. This exemption shall expire on April 1, 2025.

~~23.~~ A Residential Unit that replaces a unit existing as of April 1, 2023 that has been destroyed by fire, earthquake or other disaster, or that was previously subject to a mitigation fee or inclusionary housing requirement.

~~34.~~ A Residential Unit existing as of April 1, 2023 that is expanded, renovated, or rehabilitated.

2. Anti-piecemealing provisions.

City Council can consider strengthening anti-piecemealing provisions—to prevent projects from avoiding compliance with affordable housing requirements by dividing projects into multiple phases or across multiple parcels—particularly if the City Council chooses to maintain the exemption for smaller projects. This could be achieved through a modification to the definition of “Housing Development Project” (23.328.020.E):

E. "Housing Development Project" means a development project, including a Mixed-Use Residential project (as defined in 23.502.020(M)(13)), involving the new construction of at least one Residential Unit. Projects with one or more buildings or projects including multiple contiguous parcels under common ownership shall be considered as a sole Housing Development Project and not as individual ~~buildings~~projects.

Anti-piecemealing provisions, including specific parameters for phased projects and common ownership, will be more fully defined and established through program guidelines (as enabled by ordinance section 23.328.050.D).

3. Calculation of the in-lieu fee based on net residential square footage rather than gross residential square footage.

The proposed ordinance and resolution set the affordable housing in-lieu fee at \$45 per square foot applied to the gross floor area (as defined in BMC Section 23.106.030) of a housing development project. The in-lieu fee would not be applied to non-residential area of a mixed-use project (as defined in BMC Section 23.106.040) or work space in a live/work unit (consistent with BMC Section 23.312.040).

City Council can consider basing the in-lieu fee on net residential floor area instead of gross floor area. Staff heard the concern that using gross floor area—which includes common areas and shared amenity spaces in residential projects—would potentially create a disincentive to providing such spaces. A fee that is based on net residential floor area—i.e., only the total square footage of the housing units themselves—could address this potential impact.

Staff developed an in-lieu fee that is based on gross floor area, because gross floor area is more easily tracked and verifiable throughout the approval process. The delineation of what is and is not included in net floor area is complex and depends on representation of these elements on an applicant’s plans, which can change during the development process. Developers already have strong incentives to build as little common space as possible, given high construction costs. Nevertheless, such spaces are included because prospective occupants value these spaces and are generally willing to pay higher rents to live in buildings with amenities. Staff suppose that among the factors that drive decisions about the amount and type of common space, it is unlikely that the fee calculation basis will make a meaningful difference. Therefore, staff continue to recommend an in-lieu fee that is based on gross floor area. Nevertheless, City Council can choose to base the fee on net residential floor area, and staff has prepared the following information to facilitate that consideration.

The Street Level Advisors analysis assumed roughly 20% common space in a typical building, though the actual share of common area in housing development projects varies widely. Thus, a fee of \$56 per square foot of net residential floor area would be roughly equivalent to the proposed fee of \$45 per square foot of gross floor area. A fee of \$65 per square foot of net residential floor area would be roughly equivalent to the \$52 per square foot of gross floor area fee, if City Council chose to base the fee on the 2022 affordable housing mitigation fee (\$46,185 per unit) rather than the 2020 fee that the \$45 per square foot fee is based on and that was considered in the most recent feasibility analysis.

The following tables illustrate the proposed in-lieu fee and the tiered fee structure for projects less than 12,000 square feet based on gross floor area and the equivalent net residential floor area. Table 1 presents fee levels that are roughly equivalent to the 2020 Affordable Housing Mitigation Fee, and Table 2 presents fee levels that are roughly equivalent to the 2022 Affordable Housing Mitigation Fee.

Table 1. In-Lieu Fees Equivalent to 2020 Affordable Housing Mitigation Fee Level

Applicable Floor Area, in Square Footage	Fee Per Square Foot, Gross Floor Area (Residential) Methodology	Fee Per Square Foot, Net Floor Area (Residential) Methodology
≥12,000	\$45	\$56.25
11,000-11,999	\$43	\$53.75
10,000-10,999	\$41	\$51.25
9,000-9,999	\$39	\$48.75
8,000-8,999	\$37	\$46.25
7,000-7,999	\$35	\$43.75
6,000-6,999	\$33	\$41.25
5,000-5,999	\$31	\$38.75
4,000-4,999	\$29	\$36.25
3,000-3,999	\$27	\$33.75
2,000-2,999	\$25	\$31.25
1,000-1,999	\$23	\$28.75
<1,000	\$21	\$26.25

Table 2. In-Lieu Fees Equivalent to 2022 Affordable Housing Mitigation Fee Level

Applicable Floor Area, in Square Footage	Fee Per Square Foot, Gross Floor Area (Residential) Methodology	Fee Per Square Foot, Net Floor Area (Residential) Methodology
≥12,000	\$52.00	\$65.00
11,000-11,999	\$49.50	\$62.00
10,000-10,999	\$47.00	\$59.00
9,000-9,999	\$44.50	\$56.00
8,000-8,999	\$42.00	\$53.00
7,000-7,999	\$39.50	\$50.00
6,000-6,999	\$37.00	\$47.00
5,000-5,999	\$34.50	\$44.00
4,000-4,999	\$32.00	\$41.00
3,000-3,999	\$29.50	\$38.00
2,000-2,999	\$27.00	\$35.00
1,000-1,999	\$24.50	\$32.00
<1,000	\$22.00	\$29.00

If City Council chooses to establish the fee based on net residential floor area rather than gross floor area, staff will prepare additional necessary modifications to the ordinance prior to subsequent reading(s) of the ordinance.

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

AMENDMENTS TO BMC CHAPTER 23.328 UPDATING THE CITYWIDE AFFORDABLE HOUSING REQUIREMENTS IN THE ZONING ORDINANCE; REPEAL OF BMC SECTIONS 22.20.065, AND SECTION 23.312.040(A)(6); AND A RESOLUTION ADOPTING REGULATIONS FOR VOUCHER PROGRAM AND ESTABLISHING AN IN-LIEU FEE PURSUANT TO BMC SECTION 23.328.020(A)(2) AND RESCINDING RESOLUTION NO. 65,074-N.S.

The public may participate in this hearing by remote video or in-person.

The Department of Planning and Development and Planning Commission of the City of Berkeley is proposing amendments to BMC Chapter 23.328, updating the citywide affordable housing requirements in the Zoning Ordinance; repeal of BMC Sections 22.20.065, and Section 23.312.040(A)(6); and a Resolution Adopting Regulations for Voucher Program and Establishing an In-Lieu Fee Pursuant to BMC Section 23.328.020(A)(2) and Rescinding Resolution No. 65,074-N.S.

Pursuant to CEQA Guidelines Section 15378(a) and 15060(c)(2), environmental review is not required because the proposed amendments do not meet the definition of a Project under CEQA Guidelines Section 15378(a), nor does it constitute an activity covered by CEQA under CEQA Guidelines Section 15060(c)(2) because passage of amendments do not constitute a direct physical impact on the environment, nor would it result in an indirect, reasonably foreseeable physical impact on the environment. The proposed amendments do not include any provisions that would exempt or otherwise reduce environmental review required under CEQA for individual development projects.

The hearing will be held on, **Tuesday, February 14, 2023 at 6:00 p.m.** at the Berkeley Unified School District Board Room located at 1231 Addison Street, Berkeley CA 94702.

A copy of the agenda material for this hearing will be available on the City's website at www.berkeleyca.gov as of **February 2, 2023**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

For further information, please contact **Alisa Shen, Principal Planner** at (510) 981-7409.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

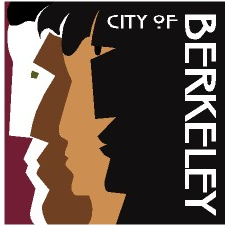
Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication 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 for further information.

Published: February 3 and February 10, 2023 per California Government Code Sections 65856(a) and 65090, and 6062(a).

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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 February 2, 2023.

\_\_\_\_\_  
Mark Numainville, City Clerk





Kate Harrison  
Councilmember, District 4

## REVISED AGENDA MATERIAL

**Meeting Date:** February 14, 2023

**Item Description:** Citywide Affordable Housing Requirements

**Submitted by:** Councilmember Harrison

### RECOMMENDATION:

1. Amend Ordinance No. 7,853–N.S. to:
  - a. replace exemption for fewer than five units with less than 3,000 square feet of Gross Floor Area as defined in BMC 23.106.030.
2. Rescind and replace Resolution No. 70,668–N.S. to:
  - a. remove the in-lieu fee discount applied to projects of 12,000 or fewer residential square feet and include an analysis in the upcoming feasibility study of whether and at what size (based on residential square footage) projects should receive a discount in the level of affordable housing mitigation fees. Apply the standard \$45 per square foot fee on projects of between 3,000 and 12,000 residential square feet; and
  - b. utilize square footage instead of unit numbers in studying likely impacts on smaller projects. Expedite the completion of the next feasibility study of the application of in-lieu fees on smaller projects of 3,000 square feet or less (equivalent to four to five units) to determine the level at which in-lieu fees for smaller projects are financially feasible.

### CURRENT SITUATION AND RATIONALE FOR RECOMMENDATION

Several referrals to alter or clarify the structure and amount of affordable housing fees were addressed in the ordinance and resolution heard by Council on January 17, 2023. The goals of many of these referrals were met with the passage of the first reading of the legislation. Among them were primarily applying affordable housing fees on a square foot rather than per unit basis; providing consistency in the application of affordable housing fees for ownership, rental and live-work units; incentivizing family-sized units; providing new options by which requirements can be met (such as land dedications); and various administrative changes. The

Planning and Housing Advisory Commissions also added measures to incentivize extremely low-income units and cap annual rent increases.

The referral to change the basis on which fees are applied from units to square footage was intended to remove an incentive to build large, multi-bedroom units with shared facilities and label them a single unit for purpose of avoiding the affordable housing in-lieu fee (an exception to which applied to projects with four or fewer units, regardless of square footage). It was also intended to address concerns about the potential for developers to segment their projects into smaller projects of four units or fewer and avoid paying affordable housing fees altogether.

The former per unit fee in place in 2020 was converted to a square foot basis (\$45 per residential square foot) and applied to larger projects. The 2020 fee structure already represents a discount from what would have been the figure of \$56.25 per square foot had the conversion been made from the current per unit fee. Staff explained that the lower 2020 fee was used as that was the fee in place at the time that Street Level Advisors began its work and was found to be entirely feasible, although the \$56.25 per square foot figure would, according to Mr. Jacobus have also been within the range of feasibility, albeit at the outer limit.

To encourage the provision of common space, the square footage fee would continue to apply to residential space only.

Resolution No. 70,668–N.S. also applied a threshold of 12,000 square feet (roughly equivalent to 17 units at an average unit size of 700 square feet) to start a phased reduction in fees. At the hearing, staff and consultants confirmed that this figure was selected without a specific analysis and without evidence that these projects are not being proposed under the current fee levels. The further discount in Resolution No. 70,668–N.S. represents an unacceptable reduction in fees with real consequences for Berkeley’s affordable housing policy and objectives. Because of these factors, this item incorporates an amended resolution reversing the further fee reduction for projects under 12,000 square feet until a feasibility study is completed.

At the same time, Council approved a supplemental amending Ordinance No. 7,853–N.S. such that projects of fewer than five units are exempt from any fees ahead of a planned feasibility study until at April 2025. To be consistent with the approach to fees for larger buildings, the feasibility study should be conducted using the same per square foot methodology. As this study is already planned, the revised Ordinance strikes the exemption expiration and the attached Resolution asks that the study also consider the range of appropriate fees for projects of up to 12,000 square residential feet.

In addition, in their first reading, both the ordinance and resolution continue to state the standard in terms of number of units for which the fee was null until completion of the study; this left intact the earlier issue of incentivizing large, multi-bedroom units with shared facilities and label them a single unit for purpose of avoiding the affordable housing in-lieu fee.

This recommendation amends the Ordinance and Resolution to:

- retain the exception to fees for the smallest projects until a study can be done but changes the basis to square footage of under 3,000 square feet from the recommended fewer than five units, in order to remove unintended incentives, which the original referrals were intended to address;
- eliminate the further discounting of fees for projects between 3,000 and 12,000 residential square feet pending consideration of the necessity for this discount in the upcoming feasibility study.

As discussed in the staff analysis that accompanied the January 17 item:

“The Bay Area suffers from a shortage of affordable housing. As the Bay Area region experiences increased economic growth and a high demand for housing, housing prices continue to rise, which leads to displacement of low-income residents and exacerbates the shelter ...”

The fees paid in lieu of building units are used to construct affordable housing, the cost of which is rising along with that of market-rate housing. Discounting the fees at a given size level without having studied the need to do so denies the City and its non-profit partners funds needed to construct increasingly needed and increasingly expensive affordable housing. This shortfall is further exacerbated by the delay between when in-lieu fees are paid and when affordable housing is actually constructed, during which time construction costs continue to rise.

The Council should insist on an evidence-based analysis from which to make policy determinations that will have a significant impact on the future of Berkeley's housing landscape.

#### ATTACHMENTS

1. Revised Ordinance
2. Revised Resolution

ORDINANCE NO. -N.S.

AFFORDABLE HOUSING REQUIREMENTS; AMENDING BERKELEY MUNICIPAL  
CODE TITLES 22 AND 23

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 22.20.065, and Section 23.312.040(A)(6) are hereby repealed.

Section 2. That Berkeley Municipal Code Chapter 23.328 is repealed and re-enacted to read as follows:

**23.328.010 Findings and Purpose.**

A. The State of California has established a Regional Housing Needs Allocation (RHNA) process under which it allocates a “fair share” of the regional housing need, updated periodically, to each local jurisdiction. The “fair share” allocated to Berkeley increased significantly based on the regional housing needs determination finalized in late 2021. The sixth cycle of the RHNA for the San Francisco Bay Area allocates to Berkeley a “fair share” that calls for adequate sites for 8,934 housing units for the period from 2023 to 2031, including sites for 2,446 Very Low-Income units, 1,408 Low Income units, and 1,416 Moderate Income units. Under the state Housing Element Law, the City must update its Housing Element to provide adequate sites for its updated “fair share” allocation by 2023.

B. The Bay Area suffers from a shortage of affordable housing. As the Bay Area region experiences increased economic growth and a high demand for housing, housing prices continue to rise, which leads to displacement of low income residents and exacerbates the shelter crisis that has led to unacceptably high rates of homelessness in the City of Berkeley and the Bay Area region.

C. In 1990, the City established the Housing Trust Fund program to pool available funding for affordable housing development. The Housing Trust Fund program is funded

by federal, state, and local revenues, including by in-lieu and mitigation fees paid by developers of market-rate housing projects under the City's existing affordable housing ordinances.

D. The City Council hereby finds that there is a legitimate public interest in the provision of affordable housing to address the crises of displacement, homelessness, and lack of housing affordability in the City, and that there is a significant and increasing need for affordable housing in the City to meet the City's regional share of housing needs under the California Housing Element Law.

E. The City Council further finds that the public interest would best be served if new affordable housing were integrated into new market-rate residential developments to facilitate economically diverse housing, while also providing alternative options to the on-site construction of affordable housing such as the payment of fees to replenish the City's Housing Trust Fund program and allowing for the construction of affordable housing on land dedicated by market-rate housing developers.

F. The City Council intends that this Ordinance be construed as an amendment to the City's existing affordability requirements, and that the repeal and re-enactment of any requirement shall not be construed to relieve a party of any outstanding obligation to comply with the requirements applicable to any previously approved Housing Development Project.

**23.328.020 Definitions.**

A. "Affordable Unit" means a Residential Unit that is in perpetuity affordable to Very Low Income Households or Lower-Income Households, as defined in California Health and Safety Code sections 50052.5 and 50053.

B. "Affordable Housing Compliance Plan" means an enforceable commitment by an Applicant to comply with the requirements of this Chapter that identifies the number and type of Affordable Units, the amount of In-Lieu Fees, and/or the parcels of land (or portions thereof) that will be provided and/or paid by the Applicant to comply with those requirements.

C. "AMI" means the area median income applicable to the City of Berkeley, as defined by the U.S. Department of Housing and Urban Development, or its successor provision, or as established by the City of Berkeley in the event that such median income figures are no longer published by the U.S. Department of Housing and Urban Development.

D. "Applicant" means any individual, person, firm, partnership, association, joint venture, corporation, entity, combination of entities or authorized representative thereof, who applies to the City for any Housing Development Project.

E. "Housing Development Project" means a development project, including a Mixed-Use Residential project (as defined in 23.502.020(M)(13), involving the new construction of at least one Residential Unit. Projects with one or more buildings or projects including multiple contiguous parcels under common ownership shall be considered as a sole Housing Development Project and not as individual projects.

F. "Housing Trust Fund" means the program to finance low and moderate-income housing established by Resolution No. 55,504-N.S., or any successor fund established for the same purpose.

G. "Lower-Income Household" means a household whose income does not exceed the low-income limits applicable to Alameda County, as defined in California Health and Safety Code section 50079.5 and published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development.

H. "Regulatory Agreement and Declaration of Restrictive Covenants" means, for the purposes of this Chapter, a legally binding agreement recorded against the property to codify the requirements and conditions of a Housing Development Project providing Affordable Units.

I. "Residential Unit" means, for purposes of this Chapter, any Dwelling Unit, any Live/Work Unit, or any bedroom of a Group Living Accommodation (GLA) except a GLA in a University-recognized fraternity, sorority or co-op; provided, however, that for purposes of this Chapter, "Residential Unit" shall not include any Accessory Dwelling Unit or Junior Accessory Dwelling Unit.

J. "Very Low-Income Household" means a household whose income is no more than 50% of AMI, as defined in California Health and Safety Code section 50105.

**23.328.030 Affordable Housing Requirements.**

A. Requirement to Construct Affordable Units

1. Except as otherwise provided in this Chapter, no permit for the construction of any Housing Development Project shall be issued unless at least 20% of the Residential Units are Affordable Units. When the calculation results in a fractional unit, an Applicant will round up to the nearest whole unit. The Affordable Units shall have the same proportion of unit types (i.e., number of bedrooms) and average size as the market rate units (provided, however, that no Affordable Unit may have more than three bedrooms).

2. In lieu of providing Affordable Units pursuant to Paragraph 1, an Applicant may propose an alternative mix of unit-types to comply with this Chapter by providing Affordable Units that comprise at least 20% of the applicable "Floor Area, Gross" of the Housing Development Project as defined in section 23.328.030(B)(2) in order to achieve a mix of Affordable Units including two-bedroom or three-bedroom units. The City Manager or their designee may approve the proposed alternative mix of unit- types that meet the requirements of this section.

3. Affordable Units shall be (a) reasonably dispersed throughout the Housing Development Project; and (b) comparable to other Residential Units in the Housing Development Project in terms of appearance, materials, and finish quality. Residents of Affordable Units shall have access to the same common areas and amenities that are available to residents of other Residential Units in the Housing Development Project.

4. The City Manager or their designee shall adopt rules and regulations (a) establishing the affordable sales price or affordable rent for each Affordable Unit, consistent with the requirements of Health and Safety Code sections 50052.5

and 50053; and (b) ensuring that Affordable Units are sold or rented to Very Low Income and Lower Income Households, consistent with the requirements of this Chapter.

5. Rental Units.

- a. At least 50% of the required Affordable Units in the Housing Development Project shall be offered at a rent that is affordable to Very Low-Income Households, up to a maximum requirement of 10% of the total units in the Housing Development Project if the project provides more Affordable Units than are otherwise required by this Chapter.
- b. In determining whether a unit is affordable to Very Low Income or Low Income Households, maximum allowable rent for any affordable unit shall be reduced by an amount equal to the value of the City-published utility allowance provided for Tenant-paid utilities and any other mandatory fee imposed by the property owner as a condition of tenancy.
- c. Any percentage increase in rent of an occupied Affordable Unit shall not exceed the lesser of 65% of the increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending the previous December 31, or 65% of the percentage increase in AMI for the same calendar year. In no event, however, shall the allowable annual adjustment be less than zero (0%) or greater than seven percent (7%).
- d. Affordable Units designated for Very Low Income Households shall be offered for rent to tenants receiving assistance under the Section 8 Program (42 U.S.C. Section 1437f), the Shelter Plus Care Program (42 U.S.C. Section 11403 *et. seq.*), or any similar state or federally funded rent subsidy program prior to being offered to other potential tenants. The Council may establish related program requirements by resolution.
- e. The owner of any Affordable Unit offered for rent must report to the



City annually the occupancy and rents charged for each Affordable Unit, and any other information required pursuant to rules and regulations adopted by the City Manager or their designee.

6. Ownership Units. Inclusionary units in ownership projects shall be sold at a price that is affordable to an appropriate-sized household whose income is no more than 80 percent of the AMI.

7. All Affordable Units shall be subject to a recorded affordability restriction requiring in perpetuity that each Affordable Unit be sold at an affordable sales price or offered for rent at an affordable rent, as defined in this Chapter.

8. Affordable Live/Work Units shall be proactively marketed by the Applicant and/or owner to income-eligible persons performing a work activity permitted in the district where the project is located whose type of work causes them to have a requirement for a space larger in size than typically found in residential units.

9. An Affordable Unit that is constructed to qualify for a density bonus under Government Code section 65915 that otherwise meets the requirements of this Chapter shall qualify as an Affordable Unit under this Chapter.

B. Option to Pay In-Lieu Fee

1. In lieu of providing some or all of the Affordable Units required under this Chapter (including any fractional units), an Applicant may elect to pay a fee, the amount of which the City Council may establish by resolution ("In-Lieu Fee"). The City Council may by resolution differentiate among types, classes, and locations of Housing Development Projects to the extent permitted by law; may establish separate fees and criteria for the provision of units that are affordable to Very Low Income Households and units that are affordable to Low Income Households; and may establish the method for calculation of the In-Lieu Fee.

2. In-Lieu Fees shall be applied to the "Floor Area, Gross" (as defined by BMC Section 23.106.030) of a Housing Development Project. However, in a mixed-use project, the fee shall not be assessed on any "Floor Area, Leasable"

(as defined by BMC section 23.106.040), nor on any common areas that exclusively serve a non-residential use. For Live/Work units, the In-Lieu Fee shall be applied to the "Floor Area, Gross" that is designated as non-workspace in the zoning permit approvals consistent with BMC section 23.312.040.

3. In-Lieu Fees shall be estimated as part of the preliminary Affordable Housing Compliance Plan and finalized at the time of building permit issuance, consistent with the final Affordable Housing Compliance Plan.

4. In-Lieu Fees shall be paid prior to the issuance of the first Certificate of Occupancy, or if no Certificate of Occupancy is required, prior to the initial occupancy of the Housing Development Project.

5. Up to 15% of In-Lieu Fees collected may be used to pay for administration of the In-Lieu Fee or the Housing Trust Fund program. At least 85% of In-Lieu Fees collected shall be deposited into the City's Housing Trust Fund program.

C. Option to Dedicate Land

1. At the discretion of the City Manager or their designee, the requirements of this Chapter may be satisfied by the dedication of land in lieu of constructing Affordable Units within the Housing Development Project if the City Manager or their designee determines that all of the following criteria have been met:

a. Marketable title to the site is transferred to the City, or an affordable housing developer approved by the City, prior to issuance of building permit of the Housing Development Project pursuant to an agreement between the Applicant and the City.

b. The site has a General Plan designation that authorizes residential uses and is zoned for residential development at a density to accommodate at least the number of Affordable Units that would otherwise be required under Paragraph A.

c. The site is suitable for development of the Affordable Units, taking into consideration its configuration, physical characteristics, location, access, adjacent uses, and applicable development standards and other relevant planning and development criteria including, but not limited to, factors such as the cost of construction or development arising from the nature, condition, or location of the site.

d. Infrastructure to serve the dedicated site, including, but not limited to, streets and public utilities, are available at the property line and have adequate capacity to serve the maximum allowable residential density permitted under zoning regulations.

e. The site has been evaluated for the presence of hazardous materials and for the presence of geological hazards and all such hazards are or will be mitigated to the satisfaction of the City prior to acceptance of the site by the City.

f. The value of the site upon the date of dedication is equal to or greater than the in-lieu fee that would otherwise be required under Paragraph A. The value of the site shall be determined pursuant to the program guidelines approved by the City Manager or their designee.

2. The City shall solicit proposals from affordable housing developers to construct restricted income units on the site dedicated to the City, but if the City is unable to obtain a qualified affordable housing developer to construct a viable affordable housing development on the property within two years of its solicitation or to commence construction within five years, the City may sell, transfer, lease, or otherwise dispose of the dedicated site for any purpose. Any funds collected as the result of a sale, transfer, lease, or other disposition of sites dedicated to the City shall be deposited into a fund designated for use in the City's Housing Trust Fund program.

**23.328.040 Waiver or Modification of Affordable Housing Requirements.**

A. The City Manager or their designee may waive or modify up to fifty percent of the requirements of this Chapter at their sole discretion where any of the following conditions are established:

1. A project providing low- or moderate-income housing is funded in whole or in part by the City's Housing Trust Fund program;
2. The implementation of the requirements of this Chapter would violate the rights of any person under the California or United States Constitutions, any federal law, or any state law governing a matter of statewide concern and applicable to a charter city; or
3. The benefits of the project to the City outweigh the detriment of foregoing the provision of Affordable Housing or the contribution of In-Lieu fees to the Housing Trust Fund program. In weighing the benefits and detriment to the City, the following factors may be considered:
  - a. The impact of the requirements of this Chapter on the feasibility of a Housing Development Project;
  - b. Other economically beneficial uses of the Applicant's property;
  - c. The burdens the Housing Development Project places on the City in terms of increased demand for affordable housing, childcare, public facilities or amenities, or other impacts which reasonably may be anticipated to be generated by or attributable to the Housing Development Project; and
  - d. The impact on the Housing Trust Fund program of foregoing the payment of any In-Lieu fee that would otherwise be made.

B. Waivers or modifications greater than fifty percent of the amount which otherwise would be required by this Chapter shall be subject to the approval of City Council.

C. The Applicant shall bear the burden of proof to establish eligibility for a waiver or modification of the requirements of this Chapter.

**23.328.050 Implementation.**

A. The Applicant for any Use Permit or Zoning Certificate for a Housing Development Project shall submit a preliminary Affordable Housing Compliance Plan to the Zoning Officer at the time of application. The preliminary Affordable Housing Compliance Plan shall be incorporated as a condition of approval of any Use Permit or Zoning Certificate issued to the Applicant. No building permit may be issued for the project until the final Affordable Housing Compliance Plan is approved.

B. The Applicant must execute a Regulatory Agreement and Declaration of Restrictive Covenants to regulate all Affordable Units provided in a Housing Development Project. No building permit may be issued for the project until the Regulatory Agreement and Declaration of Restrictive Covenants are executed.

C. The Affordable Housing Compliance Plan and/or Regulatory Agreement and Declaration of Restrictive Covenants may be amended administratively, provided that the Zoning Officer finds them to be in full compliance with the provisions of this ordinance and State law, prior to issuance of Certificate of Occupancy.

D. The City Manager or their designee may promulgate additional rules and regulations consistent with the requirements of this Chapter.

E. The City Council may by resolution establish fees for the implementation and administration of this Chapter and may establish administrative penalties for violations of this Chapter.

F. Exemptions. The following types of Housing Development Projects and Residential Units are exempt from this Chapter.

1. A Housing Development Project for which either a building permit was issued on or before April 1, 2023 or a preliminary application including all of the information required by subdivision (a) of California Government Code section 65941.1 was submitted on or before April 1, 2023 shall be subject to this

Chapter's requirements that were in place as of the preliminary application's submittal date but shall otherwise be exempt from this Chapter. This exemption shall expire upon the occurrence of any of the circumstances defined in paragraphs (2), (6), or (7) of subdivision (o) of California Government Code section 65589.5 or in subdivision (d) of California Government Code section 65941.

2. A Housing Development Project with ~~fewer than five 3,000 square feet or less of residential Gross Floor Area as defined in BMC 23.106.030 Residential Units~~, unless it is part of a larger Housing Development Project. ~~This exemption shall expire on April 1, 2025.~~
3. A Residential Unit that replaces a unit existing as of April 1, 2023 that has been destroyed by fire, earthquake or other disaster, or that was previously subject to a mitigation fee or inclusionary housing requirement.
4. A Residential Unit existing as of April 1, 2023 that is expanded, renovated, or rehabilitated.

Section 3. The Berkeley Municipal Code Section 23.330.070 is hereby amended to read as follows:

**23.330.070 Qualifying Units.**

Qualifying units must meet the standards set forth in Chapter 23.328 (Affordable Housing Requirements).

Section 4. 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.

RESOLUTION NO. \_\_\_\_\_

ADOPTING REGULATIONS FOR VOUCHER PROGRAM AND ESTABLISHING AN IN-LIEU FEE TO SUPPORT THE PROVISION OF AFFORDABLE HOUSING PURSUANT TO BERKELEY MUNICIPAL CODE SECTION 23C.12.030.B, AND RESCINDING RESOLUTION 65,074-N.S.

WHEREAS, Berkeley Municipal Code (“BMC”) Section 23.328 establishes a requirement that 20% of Residential Units (as defined) in market-rate developments be offered for rent or sale at affordable rents or prices, as defined (“Affordable Units”); and

WHEREAS, BMC Section 23.328 authorizes the City Council to establish by resolution preferences for renting Affordable Units offered for rent to tenants receiving assistance under the Section 8 Program (42 U.S.C. Section 1437f), the Shelter Plus Care Program (42 U.S.C. Section 11403 *et. seq.*), or similar state or federally funded rent subsidy programs; and

WHEREAS, BMC Section 23.328 authorizes developers of market-rate housing to pay a fee in lieu of complying with the requirement to provide on-site affordable housing (“In-Lieu Fee”); and

WHEREAS, BMC Section 23.328 authorizes the City Council to establish the In-Lieu Fee by resolution, and further authorizes the Council to differentiate among types, classes, and locations of Housing Development Projects to the extent permitted by law; to establish separate fees and criteria for the provision of units that are affordable to Very Low Income Households and units that are affordable to Low Income Households; and to establish the method for calculating the In-Lieu Fee; and

WHEREAS, the City retained Street Level Advisors to provide analysis and recommendations for updating the City’s affordable housing requirements, the scope of which included a financial feasibility study of the City’s affordable housing mitigation fees; and

WHEREAS, Street Level Advisors prepared a Financial Feasibility Analysis dated April 27, 2021, which determined that an In-Lieu Fee of \$45 per square foot of the residential Gross Floor Area (as defined in BMC 23.106.030) would be financially feasible; and

WHEREAS, Street Level Advisors recommended certain modifications to the \$45 per square foot affordable housing fee that would not adversely impact the financial feasibility of housing development projects, such as charging a lower / tiered fee for smaller projects.

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

1. All Affordable Units shall be offered to tenants in accordance with Council-adopted

eligibility preference criteria. All Very Low-Income Units, comprising a portion of the Affordable Units authorized and provided for by BMC Section 23.328, must be offered to tenants receiving assistance under the Section 8 Program (42 U.S.C. Section 1437f) or the Shelter Plus Care Program (42 U.S.C. Section 11403 *et. seq.*) before being marketed to other income-eligible households. The allocations shall be divided equally between the Section 8 Program (50%) and the Shelter Plus Care Program (50%). The majority of the Very Low-Income units shall be designated for the Shelter Plus Care Program when there is an uneven number of units.

2. The initial In-Lieu Fee authorized and provided for by BMC Section 23.328 shall be \$45 per square foot of the Gross Floor Area (BMC 23.106.030) for the residential portion of the Housing Development Project, as defined in BMC Section 23.328.020 and shall be automatically increased biennially based on changes to the California Construction Cost Index unless otherwise provided for by BMC Section 23.328 or by this Resolution.
3. Housing Development Projects subject to BMC Section 23.328 may provide less than the required number of Affordable Units in the Housing Development Project and pay a proportionately reduced In-Lieu Fee, calculated as follows: the fee per square foot multiplied by the total Gross Floor Area (BMC 23.106.030) of the residential portion of the Housing Development Project, multiplied by the percentage of the applicable requirement remaining after accounting for any on-site Affordable Units provided. Projects that provide no on-site Affordable Units will have an applicable requirement multiplier of one.
4. Continue to delay the In-Lieu Fee on smaller projects but utilize square footage instead of unit numbers in studying likely impacts. 3,000 For Housing Development Projects of less than 12,000-square feet of applicable Gross Floor Area (pursuant BMC 23.328.030(B)) is roughly equivalent to four residential units., the In-Lieu Fee shall be calculated as follows:

| Applicable Gross Floor Area (BMC 23.328.030(B)) | Fee per Square Foot |
|-------------------------------------------------|---------------------|
| 12,000+                                         | \$45                |
| 11,000-11,999                                   | \$43                |
| 10,000-10,999                                   | \$41                |
| 9,000-9,999                                     | \$39                |
| 8,000-8,999                                     | \$37                |
| 7,000-7,999                                     | \$35                |
| 6,000-6,999                                     | \$33                |
| 5,000-5,999                                     | \$31                |
| 4,000-4,999                                     | \$29                |
| 3,000-3,999                                     | \$27                |
| 2,000-2,999                                     | \$25                |
| 1,000-1,999                                     | \$23                |



<1,000

\$21

BE IT FURTHER RESOLVED, Resolution No. 68,074-N.S. is hereby rescinded and is of no force or effect on any Housing Development Project that obtains a building permit after the effective date of this resolution, but shall continue to apply to those projects that were approved and subject to its provisions or the provisions of predecessor resolutions and ordinances addressing the same subject matter.

BE IT FURTHER RESOLVED, the rescission of Resolution No. 68,074-N.S. and this Resolution shall be effective upon the effective date of contemporaneously adopted amendments to BMC Section 23.328.





Office of the City Manager

INFORMATION CALENDAR  
February 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services  
 Subject: Referral Response: Home Share Program

INTRODUCTION

This report responds to a Council referral on home share programs that originated with the Housing Advisory Commission. A home share program pairs individual homeowners who have extra room in their homes with individuals seeking affordable housing in a communal setting. This may also support homeowners with financial need and/or a need for companionship or other support. Home share programs are typically designed to support housing affordability for seniors and to prevent displacement.

Staff researched home share programs to gather information on their scope, staffing, and a potential Berkeley-focused program. Council may consider identifying funds and issuing a Request for Proposals to fund such a program via an existing home share provider. There are existing local home share programs that could scale up operations in Berkeley with additional funding.

CURRENT SITUATION AND ITS EFFECTS

This report responds to referral #000-2822 that originally appeared on the agenda of the October 16, 2018 Council meeting and was sponsored by Igor Tregub, Chairperson of the Housing Advisory Commission.

Home share programs match those seeking affordable housing with those who have extra room in their homes, and need financial support, companionship, task exchanges, or some combination thereof. These programs typically pair older adults (aged 55 and over) with individuals aged 18 and over who are seeking affordable housing in a communal setting. The programs facilitate the match through a “high-touch” screening process for both homeowners and tenants. They also vet homes to ensure the accuracy of listings and facilitate shared living through development of house agreements and regular check-ins. These programs address housing shortages and mitigate isolation and loneliness senior populations are facing. They also increase financial security and help individuals remain at home in their community. These services are offered free of charge to homeowner and tenant participants.

In 2018, the City Council referred to the City Manager the possibility of working with existing similar programs such as Safe Home (Rebuilding Together senior rehabilitation program) and Ashby Village to implement a Home Share Pilot Program.

The nonprofit organization Front Porch is currently implementing home share programs in the East Bay (Contra Costa County and parts of Alameda County), as well as in San Francisco and Marin County (<https://covia.org/programs/home-match/>). Berkeley residents may be able to access the home share programs already operational in Alameda County. Front Porch is connected to local senior-serving organizations such as Ashby Village and Rebuilding Together. There is also a UC-Berkeley Retirement Home Match Program run by the Berkeley Retirement Center that matches retired UC Berkeley faculty and staff who own homes with Berkeley graduate students, post-docs and visiting scholars. This program has not been active since the COVID-19 pandemic began in 2020, but is in conversation with Front Porch about partnering to begin delivering home sharing service to more diverse populations.

There is also existing funding to focus on high-need areas in Berkeley. For example, Front Porch received a grant from the State's CalHome program to provide services in Oakland, San Leandro, Hayward, Fremont, City of Alameda and Treasure Island. This grant includes funding to work with Ashby Village to support home providers in Opportunity Zones, which cover parts of South Berkeley, West Berkeley, and downtown. Outreach to potential home providers in these parts of Berkeley started in late 2022; as of the time of writing this report in December 2022, one match has been made in Berkeley, and Front Porch is currently working with two other home providers to coordinate tenants. Their goal is to facilitate and stabilize four or five home matches per year in Berkeley through this program.

City funding could support a full-time program manager dedicated to Berkeley that would result in increased outreach in Berkeley. Front Porch estimates this can provide and stabilize housing for 35-40 Berkeley residents per year. Additionally, this outreach could be citywide, and not limited to Opportunity Zones, which may result in increased opportunities for lower-income tenants to find housing in higher-resource areas.

## BACKGROUND

In 2018, the City began the Age-Friendly Berkeley initiative (<https://www.agefriendlyberkeley.org>), which identified affordable housing and home modifications as priority issues for seniors. Currently, several City programs assist senior homeowners. The Home Modifications for Accessibility and Safety program operated by Rebuilding Together and the Center for Independent Living completes home improvement projects to improve accessibility within the home for seniors and persons with disabilities. Similarly, low- and moderate-income senior households may apply for a zero interest loan for home improvements through the City's Senior and Disabled Home Improvement Loan Program.

There is a severe shortage of affordable housing in Berkeley; in July 2022, more than 21,000 residents applied to get on a Berkeley Housing Authority wait list for Section 8 housing vouchers, with only 2,000 vouchers available. Over half of renter households in Berkeley are rent-burdened, paying more than 30 percent of their income to housing expenses. In a 2017 survey of UC Berkeley students, 10 percent identified as having experienced homelessness at some point since arriving at UC Berkeley. Berkeley's senior population, ages 65 to 74, was the fastest growing age group between 2010 and 2019. Senior-headed households comprise nearly 28 percent of all Berkeley households. Of senior households that are owner-occupied, one in four are lower income (80% area median income or lower). Berkeley is in a unique position to benefit from a home share program given its mix of senior homeowners and the UC Berkeley student population.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

If Council chooses to fund a Request for Proposals for a home share program through the budget process, this program may help reduce greenhouse gas (GHG) emissions associated with longer commutes by reducing or reversing displacement of those with ties to Berkeley.

Additionally, the Front Porch Home Match program described above is including climate adaptation activities as part of its deliverables in a CalHome award for Alameda County. These activities enhance their existing "home readiness" program and provide environmentally beneficial upgrades to participating homes including providing energy efficient light bulbs to replace incandescent bulbs, window tinting to reduce ambient heat, low-flow showerheads, and helping caulk or foam leaks around windows and change filters on home provider's furnaces.

#### POSSIBLE FUTURE ACTION

If Council chooses to fund a Request for Proposals for home share through the budget process, the City's Health, Housing, and Community Services department could administer the competitive Request for Proposals to fund an existing home share program provider(s). The City's Aging Services may also partner on outreach through their many existing outreach channels with seniors.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

If Council chooses to fund a Request for Proposals for home share through the budget process, home share organizations would supply bids to formalize a local program and do targeted outreach in Berkeley. Home share provider organization staff typically recruit homeowners and tenants, vet and prepare homes, and coordinate ongoing support to ensure successful cohabitation.

For a home share program, it may make sense to explore a cost share with another jurisdiction, and/or with UC-Berkeley, given the potential to assist housing insecure students in finding affordable housing and the existing university efforts on home share

Referral Response: Home Share Program

INFORMATION CALENDAR  
February 14, 2023

programming. Depending on whether there is a cost share, staff estimate home share program costs would range from \$50,000 to \$125,000.

CONTACT PERSON

Anna Cash, Community Development Project Coordinator, HHCS, 510 981 5403

Attachments:

- 1: Home Match All Counties Impact Survey 2021
- 2: Original Referral Report from October 16, 2018



# Home Match

CREATING COMMUNITY



2021 Contra Costa County Match

## Our Impact

### 2021 Match Survey Highlights

Home Match is a vital housing resource in the Bay Area. Our matches:

- **Save on housing costs;**
- **Feel more connected to their communities;** and
- **Feel more secure in their housing.**

**93%** of our survey respondents are **satisfied with our service** and **95%** **would recommend us to a friend or relative** – or already have!

#### About Us

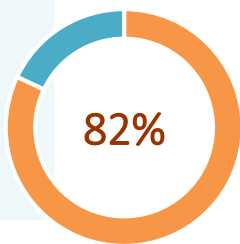
Home Match is a nonprofit home-sharing program that harnesses the strength of community to improve lives.

[covia.org/services/home-match](https://covia.org/services/home-match)

### ..... TOP 4 REASONS PEOPLE LOVE HOME MATCH .....

#### 1 Savings & Financial Stability

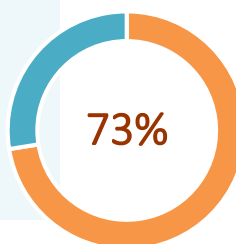
“I needed the financial assistance so my children helped to connect me with Home Match.”



Feel **less worried about money** due to their match, with 81% reporting **monthly savings of \$400 or more.**

#### 2 Safe & Compatible Homemates

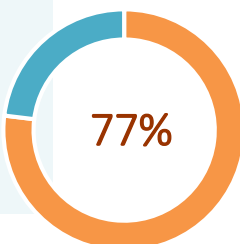
“I wanted to share my home with someone having difficulty finding a place to live in the Bay Area.”



Feel they have **safer and more secure housing**: “I love Home Match because [they] thoroughly vet applicants.”

#### 3 Stable & Secure Housing Options

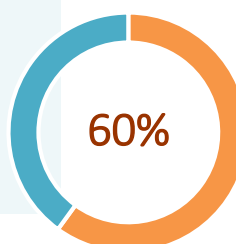
“I had nowhere to go, Home Match helped me find an affordable room for rent with a lovely family.”



Feel **more comfortable in their housing**, with 74% reporting they feel **happier** due to their match.

#### 4 Companionship & Mutual Benefit

“My new home mate has been my friend for years. I was at a transition point and Home Match was a good option.”



Feel **more connected to others**: “We had a spare room, we needed support and we wanted to offer support to another.”



[Commission Name]

ACTION CALENDAR  
 October 16, 2018  
 (Continued from May 29, 2018)

To: Honorable Mayor and Members of the City Council  
 From: Housing Advisory Commission  
 Submitted by: Igor Tregub, Chairperson, Housing Advisory Commission  
 Subject: Home Share Pilot Program Recommendation

RECOMMENDATION

Direct the City Manager to issue a Request for Qualifications (RFQ) to establish a two-year Home Share Pilot Program that could be expanded into a permanent housing program in the City of Berkeley.

FISCAL IMPACTS OF RECOMMENDATION

At this time, the HAC does not know exactly what a program would cost in Berkeley. There are local examples of current programs, for example, in Fremont, the budget is \$75,000. This budget covers the costs of renting out office space and paying staff salaries. Staff would be responsible for conducting interviews, background checks, house screening, as well as follow-up support. Berkeley's RFQ process will be helpful in identifying costs. There is also the possibility of the nonprofit independently funding Home Share services through grant resources, with the City contributing just a portion of the budget, including the donation of office space.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley is home to a large number of seniors and to a young adult population. According to the 2015-2023 Housing Element, of the 112,580 residents counted by the 2010 Census, 27% were between the ages of 18 and 24, and 23% of the population was over 55 years of age. Students are having a difficult time finding affordable housing while seniors, living on fixed incomes, still need to cover increased costs of utilities for all residents, and continuing costs of property taxes, insurance, and maintenance for homeowners. Home Sharing is a living arrangement in which two or more unrelated people share a house or an apartment. A Home Share Program will benefit both younger and older individuals and households.

The HAC will assist the City in developing an RFQ for this proposed program.

BACKGROUND

The Housing Advisory Commission took the following action at its March 1, 2018 meeting:



Action: M/S/C (Wright/Amezcuca) to adopt the proposed recommendations with amendments as dictated by the Commission.

Vote: Ayes: Amezcua, Johnson, Kesarwani, Owens, Wolfe, and Wright. Noes: Lord. Abstain: None. Absent: Lewis (excused), Tregub (excused).

Home Sharing programs connect homeowners or renters with extra rooms who need assistance to home seekers in need of housing.

To launch a city-sponsored Home Sharing program, it is advantageous to partner with a local nonprofit organization that can help with the vetting and screening process of interested parties. It is essential to have city-backing in order to increase community member trust in the program, and to have a funding model that is not based on charging commissions to home providers or home seekers.

Although there are no age guidelines about who can participate in the Home Share program as a home provider or seeker, most matches are between senior home providers and younger lodgers. In some of these arrangements, reduced rent is given in exchange for the home seeker helping with chores or other household needs. These arrangements may prove advantageous for those who enjoy intergenerational living.

#### EXAMPLES OF HOME SHARE PROGRAMS

The City of Fremont has officially sponsored a home share program (<https://www.fremont.gov/2375/Home-Sharing-Program>), partnering with the nonprofit organization, HIP Housing (Human Investment Project Housing). Together, they are matching home seekers who currently live, work, or go to school in Fremont, with homeowners or renters with an extra room. (<http://hiphousing.org/programs/home-sharing-program/>).

HIP screens home seekers and home providers at an interview, checking references and income verification. HIP also provides this home matching service in San Mateo County. HIP has operated its San Mateo program for over 30 years. Their program serves as the model for programs in other cities.

In San Francisco, the Mayor's Office of Housing and Community Development has partnered with Northern California Presbyterian Homes & Service and Episcopal Senior Communities (ESC), to provide a Home Match program. (<http://www.homematchsf.org/>) To take advantage of this free program, home seekers must be 18 years of old or older, earn no more than 90% of the Area Median Income, and undergo a thorough background check. To participate as a home provider, the homeowner must provide proof of home ownership and residence, give a tour of the property during the interview process, and undergo a thorough background check. Both parties must describe their

ideal home arrangement, personal characteristics, meet, and decide if they are a good match to live together. Ninety percent of the San Francisco home share program is funded by the County, and is staffed by a program director and outreach manager.

#### ENVIRONMENTAL SUSTAINABILITY

Recommendations regarding the implementation of a Home Share Pilot Program do not impact the environment directly.

#### RATIONALE FOR RECOMMENDATION

We need to think of creative ways to help Berkeley residents afford housing and “age in place.” This program would be available both to senior homeowners and senior renters.

#### ALTERNATIVE ACTIONS CONSIDERED

Accessory Dwelling Unit (ADU) developments are another way to help seniors remain in their housing. However, not all housing is conducive to adding ADUs, and the creation of an ADU requires investment of funds that seniors may not have.

#### CITY MANAGER

See companion report.

#### CONTACT PERSON

Amy Davidson, Commission Secretary, Health, Housing & Community Services, (510) 981-5406



Office of the City Manager

INFORMATION CALENDAR  
February 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Jordan Klein, Director, Planning and Development Department  
 Subject: LPO NOD: 1767-1771 Alcatraz Avenue/#LMSAP2022-0010

INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) for is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.240.A, which requires that “a copy of the Notice of Decision shall be filed with the City Clerk and the City Clerk shall present said copy to the City Council at its next regular meeting.”

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has approved a Structural Alteration Permit (SAP) for the subject City Landmark property. This action is subject to a 15-day appeal period, which began on January 31, 2023.

BACKGROUND

BMC/LPO Section 3.24.300 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by February 14, 2022. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must then rule on the designation within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY & CLIMATE IMPACTS

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

CONTACT PERSON

Fatema Crane, Principal Planner, Planning and Development, 510-981-7410

Attachments:

1: Notice of Decision – #LMSAP2022-0010/1767-1771 Alcatraz Way



L A N D M A R K S  
P R E S E R V A T I O N  
C O M M I S S I O N

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Notice of Decision

**DATE OF BOARD DECISION:** November 3, 2022  
**DATE NOTICE MAILED:** January 30, 2023  
**APPEAL PERIOD EXPIRATION:** February 14, 2023  
**EFFECTIVE DATE OF PERMIT (Barring Appeal):** February 15, 2023<sup>1</sup>

## 1767-1771 Alcatraz Avenue – Wells Fargo Bank South Berkeley Branch

**Structural Alteration Permit #LMSAP2022-0010 to replace storefronts on a non-historic commercial building that is located on a City Landmark property.**

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following permit:

**PERMITS REQUIRED:**

- Structural Alteration Permit

**APPLICANT:** Denise Hall Montgomery, Denise Hall Montgomery Architecture, Berkeley, CA

**ZONING DISTRICT:** Commercial Adeline Corridor (C-AC)

**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt pursuant to Section 15331 of the CEQA Guidelines (Historical Resource Restoration and Rehabilitation).

**The Application materials for this project are available online at:**

<https://berkeleyca.gov/construction-development/land-use-development/zoning-projects>

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<sup>1</sup> Pursuant to BMC Section 1.04.070, if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day. Pursuant to BMC Section 3.24.190, the City Council may “certify” any decision of the LPC for review, within fifteen days from the mailing of the NOD. Such certification shall stay all proceedings in the same manner as the filing of a notice of appeal.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
#LMSAP2022-0010  
1767-1771 Alcatraz Avenue  
January 17, 2023  
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**FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE**

**COMMISSION VOTE: 7-0-1-1**

**YES:** ADAMS, CRANDALL, ENCHILL, LEUSCHNER, LINVILL, SCHWARTZ, TWU

**NO:** [NONE]

**ABSTAIN:** FINACOM

**ABSENT:** MONTGOMERY

**TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code)**

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An appeal may be taken to the City Council by the City Council on its own motion, by motion of the Planning Commission, by motion of the Civic Art Commission, by the verified application of the owners of the property or their authorized agents, or by the verified application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of this chapter.

Such appeal shall be taken by filing a written notice of appeal with the City Clerk within fifteen days after the mailing of the notice of the decision of the commission. The notice of appeal shall clearly and concisely set forth the grounds upon which the appeal is based. If the appeal is taken by an owner of the property affected, or an authorized agent, the notice of appeal shall be filed in duplicate and the City Clerk shall immediately forward one copy to the secretary of the commission. If the appeal is taken by someone other than an owner of affected property or an authorized agent, the notice of appeal shall be filed in triplicate and the City Clerk shall immediately forward one copy to the owner or authorized agent of the affected property and one copy to the secretary of the commission. Within ten days after the filing of a notice of appeal, the secretary of the commission shall transmit to the City Council a copy of the application, a copy of the notice of appeal and a written statement setting forth the reasons for the commission's decision, and shall make available to the council, at the time the matter is considered by the council, all other papers constituting the record upon which the action appealed from was taken.

The City Clerk is located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley. The City Clerk's facsimile number is (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.

An appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

The required fee is as follows (checks and money orders must be payable to "City of

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
#LMSAP2022-0010  
1767-1771 Alcatraz Avenue  
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Berkeley”):

- a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
- b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
- c. The fee for all appeals by Applicants is \$2,500.

**STRUCTURAL ALTERATION PERMIT ISSUANCE:**

If no appeal is received, the Structural Alteration Permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time. Information about the Building Permit process can be found at the following link:

<http://www.ci.berkeley.ca.us/permitservicecenter/>.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

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

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised in a public hearing and/or written correspondence during the proceedings related to this permit.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a “taking” of property for public use without just compensation under the

LANDMARKS PRESERVATION COMMISSION  
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California or United States Constitutions, your appeal of this decision must including the following information:

- A. That this belief is a basis of your appeal.
- B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
- C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

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

**PUBLIC COMMENT:**

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Communications to Berkeley boards, commissions or committees 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 a City board, commission or committee, 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 secretary of the relevant board, commission or committee. 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 secretary to the relevant board, commission or committee for further information.

**FURTHER INFORMATION:**

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Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7413 or [fcrane@cityofberkeley.edu](mailto:fcrane@cityofberkeley.edu). All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, between 8 a.m. and 4 p.m., Monday through Thursday.

**ATTACHMENTS:**

- 
- 1. Findings and Conditions
  - 2. Project Plans, dated **AUGUST 24, 2022**

**ATTEST:**   
Fatema Crane, Principal Planner  
Secretary to the Landmarks Preservation Commission



LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
#LMSAP2022-0010  
1767-1771 Alcatraz Avenue  
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cc: City Clerk  
Applicant: Denise Hall Montgomery, Denise Hall Montgomery Architecture,  
1769 Alcatraz Avenue, Berkeley, CA 94703  
Property Owner: Allan Cadgene and Tom Goetzl, 2088 Union Street, San  
Francisco, CA 94123

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## Findings and Conditions

### 1767-1771 Alcatraz Avenue

#### Wells Fargo Bank South Berkeley Branch

**Structural Alteration Permit #LMSAP2022-0010 to replace storefronts on a non-historic commercial building that is located on a City Landmark property.**

#### **CEQA FINDINGS**

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1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15331 of the CEQA Guidelines (“Historic Resource Restoration/Rehabilitation”). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, and (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5.

#### **SECRETARY OF THE INTERIOR’S STANDARDS FINDINGS**

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Regarding the Secretary of the Interior’s Standards for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

1. The proposed project does not require a change of use. The property will retain its historic commercial use.
2. The project avoids removal of distinctive materials and any alteration of features that characterize the property. The project scope is limited to work within the façade of non-historic building and will not result in changes to its form or any changes to the historic Wells Fargo Bank South Berkeley Branch building.
3. The new storefront systems will not resemble or replicate designs from the property’s historic period. These new features are contemporary and will not result in a false sense of historical development.
4. The subject property does not feature changes that have acquired significance in their own right.
5. Distinctive materials, features, finishes, and construction techniques, or examples of craftsmanship that characterize the Beaux-Arts Wells Fargo Bank South Berkeley Branch

building will be substantially retained and preserved with this project that will not affect the historic structure.

6. As conditioned herein, if deteriorated historic features will be affected by this request, then they would be repaired or replaced to match the materials, design, and finishes of the original items.
7. The applicant does not propose chemical or physical treatments. However, standard conditions of Structural Alteration Permit approval would require any chemical or physical treatments to be undertaken using the gentlest means possible.
8. The project does not have the potential to affect any archaeological resources because the applicant proposes no excavation.
9. The proposed new work is designed with complimentary, high-quality materials in simplified, contemporary style employing colors and finishes that harmonize with the historic design elements of the building. Owing to these aspects, new work will be sufficiently differentiated from the historic design.
10. If the proposed improvements were removed in the future, they would not permanently impair the integrity or essential form of the subject building.

#### **FINDINGS FOR APPROVAL**

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1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve and enhance the characteristics and features specified in the designation for this property. Specifically:
  - a. The proposed area of scope is located adjacent, but not a part of, the landmarked structures and no changes are proposed on the landmarked building.
  - b. The proposed project would provide an energy efficient replacement of the existing storefront system. All proposed updates would be consistent with the existing storefront design. There are no aspects of this proposal that would be detrimental to the character of the landmarked commercial building.

#### **STANDARD CONDITIONS**

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

##### **1. Conditions 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 Permit, under the title 'Structural Alteration 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. Plans and Representations Become Conditions**

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.

**3. Subject to All Applicable Laws and Regulations**

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.

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

- A. 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.
- B. 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.

**5. Indemnification Agreement**

The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.

**ADDITIONAL CONDITIONS**

The following additional conditions are attached to this Permit:

- 6. The proposed storefront renovation project is approved as shown on the drawings dated "08/24/2022" subject to the following conditions.
- 7. No changes can be made to these approved plans without prior approval.
- 8. **Repair and replacement of character-defining features.** Repair and replacement of character-defining features. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old or historic feature in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

9. **Chemical Treatments.** Any chemical treatments needed as construction progresses will be undertaken using the gentlest means possible.
10. **COLORS.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit color and materials information for review and approval by Landmarks staff, in coordination with the LPC Chair as needed.
11. **DETAILS.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit storefront details for review and approval by the Landmarks plan checker.
12. **CLEAR GLASS** All glass is assumed to be clear glass. Any proposed glass that is not clear glass, or includes signage, shall be indicated on all drawings, and shall be reviewed for approval by Landmarks staff
13. **LIGHTING.** Prior to Landmarks plan checker sign-off of the building permit set of drawings, the applicant shall submit lighting details showing all existing and proposed site and building lighting. Exterior lighting, including for signage, shall be downcast and not cause glare on the public right-of-way and adjacent parcels.
14. The applicant shall be responsible for identifying and securing all applicable permits from the Building and Safety Division and all other affected City divisions/departments prior to the start of work.
15. The applicant is responsible for complying with all the above conditions. Failure to comply with any condition could result in construction work being stopped, issuance of citations, as well as further review by the Landmarks staff, which may modify or impose additional conditions, or revoke approval.
16. All building permit drawings and subsequent construction shall substantially conform to the approved plans as outlined in Condition #1. Any modifications must be reviewed by the Landmarks plan checker to determine whether the modification requires approval.
17. 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.

**GENERAL NOTES**

1. THE CONTRACTOR SHALL EXECUTE THE WORK OF THIS PROJECT IN FULL COMPLIANCE WITH THE FOLLOWING CODE EDITIONS; 2022 CALIFORNIA RESIDENTIAL CODE (CRC), 2022 CALIFORNIA BUILDING CODE (CBC), 2022 CMC, 2022 CPC, 2022 CFC & 2022 CEC AS AMENDED BY THE CITY OF BERKELEY AND 2022 TITLE 24 ENERGY STANDARDS. THE CBC IS BASED ON THE 2021 IBC, 2021 UMC, 2021 UPC, 2021 15 IFC & 2021 NEC. THE CONTRACTOR SHALL GIVE ALL NOTICES AND COMPLY WITH ALL APPLICABLE REGULATIONS, LAWS, ORDINANCES AND ORDERS BY ANY PUBLIC AUTHORITY HAVING JURISDICTION OVER THE PROJECT. THE CONTRACTOR SHALL BRING TO THE ATTENTION OF THE ARCHITECT IN A TIMELY FASHION ANY DISCREPANCIES OR CONFLICTS BETWEEN THE REQUIREMENTS OF APPLICABLE CODES AND THE DRAWINGS OF WHICH THE CONTRACTOR IS OR BECOMES AWARE.

2. THE CONTRACTOR SHALL STUDY THE CONTRACT DOCUMENTS AND REPORT TO THE ARCHITECT IN WRITING ALL INCONSISTENCIES AND OMISSIONS HE FINDS PRIOR TO COMMENCING WORK. THE CONTRACTOR SHALL BECOME FAMILIAR WITH THE EXISTING CONDITIONS OF THE SITE AND PROJECT PRIOR TO COMMENCING WORK. IF THE CONTRACTOR PROCEEDS WITH ANY OF THE WORK WITHOUT INSTRUCTIONS OF THE ARCHITECT, WHERE SUCH INSTRUCTIONS ARE REQUIRED BY THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL MAKE GOOD AT HIS OWN COST ANY RESULTING ERROR, DAMAGE OR DEFECTS.

3. WRITTEN DIMENSIONS ON DRAWINGS SHALL TAKE PRECEDENCE OVER DIMENSIONS SCALED FROM DRAWINGS. CONTRACTOR SHALL NOT SCALE DRAWINGS. IF A DIMENSION(S) HAS BEEN OMITTED THE CONTRACTOR SHALL BRING THIS TO THE ATTENTION OF THE ARCHITECT IN A TIMELY FASHION.

4. CONTRACTOR SHALL VERIFY DIMENSIONS AND DETAILS OF ALL PROJECT COMPONENTS. CONTRACTOR SHALL BE RESPONSIBLE FOR INSTALLATION CLEARANCES OF ALL ITEMS, INCLUDING BUT NOT LIMITED TO MECHANICAL AND ELECTRICAL EQUIPMENT, AND CABINET WORK, TO BE INSTALLED IN THE PROJECT.

5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR INITIATING, MAINTAINING AND SUPERVISING ALL SAFETY PRECAUTION PROGRAMS IN CONNECTION WITH WORK, AND FOR MAINTAINING APPROPRIATE INSURANCE TO PROTECT THE CONTRACTOR, THE OWNER AND THE ARCHITECT.

6. CONTRACTOR SHALL PROTECT THE ADJACENT PROPERTY, THE PUBLIC AND SHALL BE RESPONSIBLE FOR ANY DAMAGE OR INJURY DUE TO HIS NEGLIGENCE.

7. THE ARCHITECT WILL ASSIST THE OWNER IN SUBMITTING PLANS TO THE DEPARTMENT OF BUILDINGS FOR BUILDING PERMIT APPLICATION; ARCHITECT WILL ANSWER BUILDING DEPARTMENT'S PLAN CHECK COMMENTS AND RE SUBMIT AS REQUIRED. THE OWNER WILL SECURE AND PAY FOR THE BUILDING PERMIT. CONTRACTOR WILL PAY FOR ALL OTHER PERMITS (INCLUDING ANY REQUIRED SIDEWALK SHED PERMITS, PARKING OR DUMPSTER PERMITS), LICENSES, INSPECTIONS AND THE LIKE REQUIRED TO EFFECT THE WORK OF THE CONTRACT DOCUMENTS THROUGH RECEIPT OF A CERTIFICATE OF OCCUPANCY.

8. CONTRACTOR SHALL CONSULT WITH REPRESENTATIVES OF APPLICABLE UTILITIES, INCLUDING BUT NOT LIMITED TO GAS, WATER, POWER, SEWER, TELEPHONE, AND CABLE TELEVISION, DETERMINE EXACT LOCATIONS AND AVAILABILITY OF UTILITIES, AND DETERMINE CONDITION OF EXISTING SERVICE PRIOR TO COMMENCING WORK. CONTRACTOR SHALL ADVISE ARCHITECT AND OWNER OF UNANTICIPATED CHANGES TO THE EXISTING SERVICES REQUIRED FOR THE SUCCESSFUL COMPLETION AND OPERATION OF THE PROJECT SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT AND OWNER PRIOR TO COMMENCEMENT OF CONSTRUCTION.

9. CONTRACTOR SHALL ERECT AND MAINTAIN TEMPORARY BARRICADES AND DUST-PROOF PARTITIONS AS NEEDED FOR PROTECTION AGAINST NUISANCE AND ACCIDENT, AND SHALL CONTINUOUSLY MAINTAIN ADEQUATE PROTECTION OF HIS WORK AND THE OWNER'S PROPERTY FROM DAMAGE OR LOSS ARISING IN CONNECTION WITH THE WORK OF THIS PROJECT.

10. IMPROVEMENTS ON THE SITE, WORK IN PROGRESS, STORED MATERIALS ON PROPERTY SHALL BE PROTECTED BY THE CONTRACTOR FROM DAMAGE ARISING FROM THE WORK AND FROM NORMAL USE OF THE SITE DURING THE COURSE OF THE WORK WHETHER BY THE CONTRACTOR OR ANY OTHER PARTY. ALL ITEMS DAMAGED DUE TO INSUFFICIENT PROTECTION SHALL BE FULLY RESTORED TO THEIR PRIOR CONDITION BY THE CONTRACTOR AT NO COST TO THE OWNER.

11. PARTITION DIMENSIONS ARE TO FACE OF STUD UNLESS NOTED OTHERWISE. OTHER COMPONENTS ARE DIMENSIONED TO DIMENSION POINTS SHOWN ON DETAILS, OR AS NOTED ON THE DRAWINGS.

12. NO PART OF THE STRUCTURE SHALL BE OVERLOADED BEYOND ITS SAFE CARRYING CAPACITY BY THE PLACING OF MATERIALS, EQUIPMENT, TOOLS, MACHINERY OR ANY OTHER ITEMS DURING THE COURSE OF THE CONTRACTOR'S WORK.

13. AT THE COMPLETION OF THE WORK, THE CONTRACTOR SHALL CLEAN HIS AND THE SURROUNDING AREA, REMOVE ALL WASTE MATERIALS AND RUBBISH FROM THE PROJECT AS WELL AS HIS OR HER TOOLS, CONSTRUCTION EQUIPMENT, MACHINERY AND SURPLUS MATERIALS. THE CONTRACTOR SHALL REMOVE PUTTY AND PAINT FROM ALL GLASS, MIRRORS, AND WASH AND POLISH SAME; REMOVE ALL LABELS, TAGS, GREASE, DIRT, STAINS, ETC. AND CLEAN ALL FIXTURES AND EQUIPMENT TO THE EXTENT OF RESTORING THEM TO THE ORIGINAL FINISH.

14. THE CONTRACTOR SHALL MAINTAIN A CURRENT COPY OF THE CBC & CRC ON SITE.

15. CONTRACTOR SHALL BE RESPONSIBLE FOR SECURITY OF THE SITE, CONSTRUCTION-IN-PROGRESS, AND STORED MATERIALS AND EQUIPMENT, WHETHER ON- OR OFF-SITE.

16. THE OWNER SHALL PAY FOR TESTING OF ANY MATERIALS DISCOVERED ON THE SITE BY THE ARCHITECT, OWNER OR CONTRACTOR SUSPECTED OF CONTAINING TOXIC SUBSTANCES REQUIRING SPECIAL REMOVAL AND DISPOSAL. CHANGES TO THE CONTRACT RESULTING FROM THE DISCOVERY, TESTING, OR REMOVAL OF SUCH MATERIALS (IF ANY) SHALL BE EFFECTED BY A CHANGE ORDER.

17. GENERAL CONTRACTOR WILL BE RESPONSIBLE FOR ANY AND ALL WORK PROVIDED BY ANY AND ALL SUBCONTRACTORS. GENERAL NOTES THAT REFER TO "CONTRACTOR" INCLUDE ALL WORK PROVIDED BY SUBCONTRACTORS. CONTRACTOR AND ALL SUBCONTRACTORS SHALL VERIFY ALL GRADES, DIMENSIONS, AND CONDITIONS IN FIELD PRIOR TO THE START OF PROJECT AND AT APPROPRIATE TIMES DURING THE COURSE OF CONSTRUCTION BEFORE RELATED PROJECT PHASES.

18. EACH SUBCONTRACTOR IS CONSIDERED A SPECIALIST IN HIS RESPECTIVE FIELD AND SHALL, PRIOR TO THE SUBMISSION OF HIS BID AND THE PERFORMANCE OF WORK, NOTIFY THE CONTRACTOR OF ANY WORK CALLED OUT IN THE CONSTRUCTION DOCUMENTS WHICH CANNOT BE EXECUTED AS INDICATED OR CANNOT BE FULLY GUARANTEED. THE CONTRACTOR WILL THEN NOTIFY THE OWNER AND ARCHITECT PRIOR TO ACCEPTANCE OF SUBCONTRACTOR'S BID.

19. THE ARCHITECT HAS MADE THE ASSUMPTION THAT EXISTING CONCEALED CONDITIONS ARE STANDARD. THE CONTRACTOR WILL BE EXPECTED TO PERFORM THE NECESSARY WORK TO COMPLETE THE INDICATED CONSTRUCTION. IN THE EVENT THAT DEMOLITION REVEALS UNEXPECTED CONDITIONS, THE CONTRACTOR MUST INFORM THE OWNER AND ARCHITECT OF ANTICIPATED CHANGE ORDERS IN ADVANCE.

20. CONTRACTOR IS TO PROVIDE SAMPLES OF REQUESTED SUBMITTALS AND OF ALL PROPOSED MATERIAL SUBSTITUTIONS TO THE ARCHITECT FOR REVIEW. THE ARCHITECT WILL REQUIRE FIVE WORKING DAYS FOR REVIEW OF ALL SUBMITTALS INCLUDING SHOP DRAWINGS, SHOP DRAWINGS AND MATERIALS TO THE ARCHITECT WILL HAVE BEEN REVIEWED AND APPROVED BY THE CONTRACTOR. BY SUBMITTING SHOP DRAWINGS AND SUBMITTALS TO THE ARCHITECT, THE CONTRACTOR REPRESENTS THAT THE CONTRACTOR HAS DETERMINED AND VERIFIED MATERIAL, FIELD MEASUREMENTS, AND FIELD CONSTRUCTION RELATED THERETO, AND HAS CHECKED AND COORDINATED THE INFORMATION CONTAINED WITHIN SUCH SUBMITTALS WITH THE REQUIREMENTS OF THE WORK AND OF THE CONTRACT DOCUMENTS. THE ARCHITECT'S REVIEW OF SUBMITTALS AND SHOP DRAWINGS IS FOR CONFIRMATION OF DESIGN INTENT ONLY.

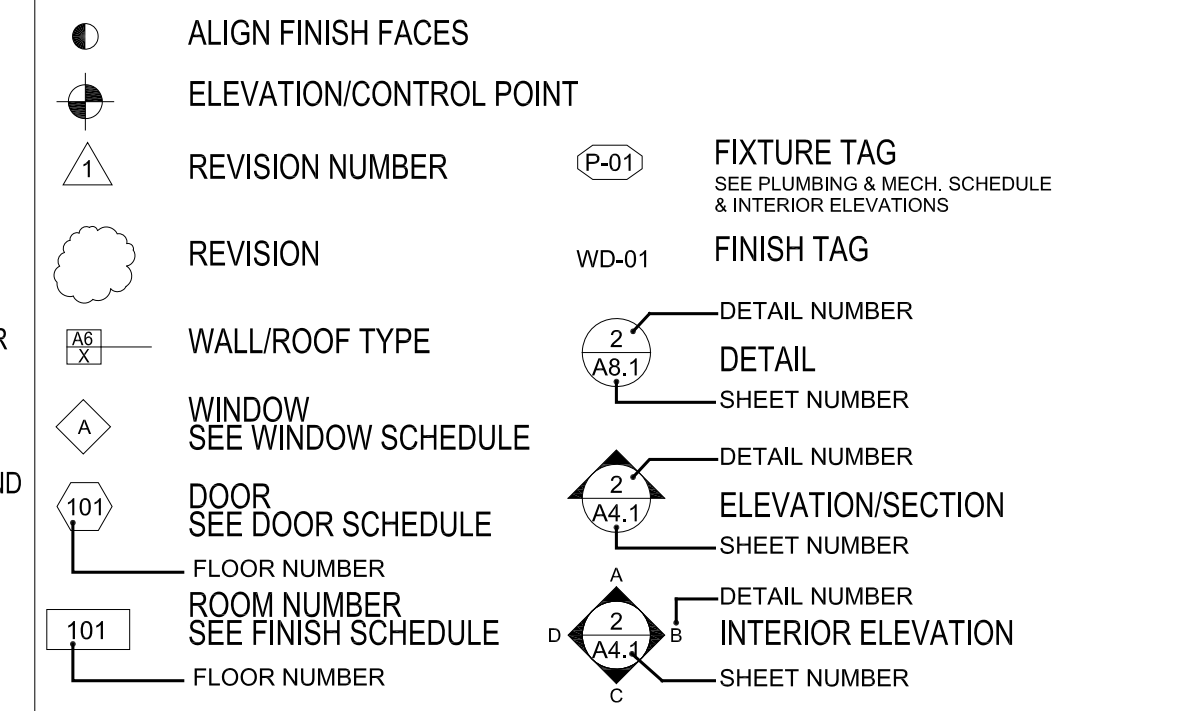
21. CONTRACTOR WILL BE RESPONSIBLE FOR PERMITS REQUIRED FOR CONSTRUCTION STAGING, PARKING, SIDEWALK, DRAINAGE AND/OR SEWER WORK IN THE PUBLIC RIGHT-OF-WAY.

22. THESE CONTRACT DOCUMENTS INTEND TO DESCRIBE A FINISHED PROJECT READY FOR LEGAL USE.

**ABBREVIATIONS**

|           |                        |           |                                       |
|-----------|------------------------|-----------|---------------------------------------|
| &         | AND                    | JT.       | JOINT                                 |
| L         | ANGLE                  |           |                                       |
| @         | AT                     | LAM.      | LAMINATE                              |
| CL        | CENTER LINE            | LT.       | LIGHT                                 |
| #         | FOUND OR NUMBER        |           |                                       |
| d         | PENNY                  | M.B.      | MACHINE BOLT                          |
|           |                        | MAX.      | MAXIMUM                               |
| ACOUS.    | ACOUSTIC               | MECH.     | MECHANICAL                            |
| ADJ.      | ADJUSTABLE             | MEMB.     | MEMBRANE                              |
| APPROX.   | APPROXIMATE            | MET./MTL. | METAL                                 |
| A.F.F.    | ABOVE FINISH FLOOR     | MFR.      | MANUFACTURER                          |
| ALT.      | ALTERNATE              | MIN.      | MINIMUM                               |
| ALUM.     | ALUMINUM               | MISC.     | MISCELLANEOUS                         |
| A.B.      | ANCHOR BOLT            | M.O.      | MASONRY OPENING                       |
|           |                        | MTD.      | MOUNTED                               |
|           |                        | MUL.      | MULLION                               |
| BD.       | BOARD                  |           |                                       |
| BITUM.    | BITUMINOUS             |           |                                       |
| BLDG.     | BUILDING               | N         | NEW                                   |
| BLK.      | BLOCK                  | N         | NORTH                                 |
| BL'KG.    | BLOCKING               | N         | NOT IN CONTRACT                       |
| B.O.T.    | BOTTOM OF TRUSS        | N.I.C.    | NUMBER                                |
|           |                        | NO.       | NOT TO SCALE                          |
|           |                        | N.T.S.    |                                       |
| CLG.      | CEILING                | O.C.      | ON CENTER                             |
| C.T.      | CERAMIC TILE           | O.F.C.I.  | OWNER FURNISHED, CONTRACTOR INSTALLED |
| CL'KG.    | CAULKING               |           |                                       |
| CLR.      | CLEAR                  |           |                                       |
| CONC.     | CONCRETE               | P. LAM.   | PLASTIC LAMINATE                      |
| CONN.     | CONNECTION             | PLYWD.    | PLYWOOD                               |
| CONSTR.   | CONSTRUCTION           | P.T.      | PRESSURE-TREATED                      |
| C.J.      | CONTROL JOINT          | PTD.      | PAINTED                               |
| CONT.     | CONTINUOUS             | PTN.      | PARTITION                             |
| CTSK.     | COUNTERSUNK            |           |                                       |
| CMU       | CONCRETE MASONRY UNIT  | Q.T.      | QUARRY TILE                           |
| D         | DEPTH                  | R.        | RISER                                 |
| DBL.      | DOUBLE                 | RAD.      | RADIUS                                |
| DET./DTL. | DETAIL                 | REF.      | REFRIGERATOR                          |
| D.F.      | DOUGLAS FIR            | REINF.    | REINFORCED                            |
| DIA.      | DIAMETER               | REQ.      | REQUIRED                              |
| DIM.      | DIMENSION              | RESIL.    | RESILIENT                             |
| DN.       | DOWN                   | RM.       | ROOM                                  |
| DWG.      | DRAWING                | R.O.      | ROUGH OPENING                         |
| EA.       | EACH                   | RWD.      | REDWOOD                               |
| ELEC.     | ELECTRICAL             | RWL.      | RAINWATER LEADER                      |
| ELEV.     | ELEVATION              |           |                                       |
| E.P.      | ELECTRICAL PANEL       | SASM      | SELF ADHERED SHEET MEMB.              |
| EQ.       | EQUAL                  | SQ. FT.   | SQUARE FEET                           |
| (E)       | EXISTING               | SHT.      | SHEET                                 |
| EXP./JT.  | EXPANSION JOINT        | SQ. IN.   | SQUARE INCH                           |
| EXT.      | EXTERIOR               | SM.       | SIMILAR                               |
|           |                        | S.L.D.    | SEE LANDSCAPE DRAWING                 |
|           |                        | S.M.D.    | SEE MECHANICAL DRAWING                |
| F.D.      | FLOOR DRAIN            | SPEC.     | SPECIFICATIONS                        |
| F.E.      | FIRE EXTINGUISHER      | SQ.       | SQUARE                                |
| F.F.      | FINISH FLOOR           | S.S.      | STAINLESS STEEL                       |
| F.F.E.    | FINISH FLOOR ELEVATION | STD.      | STANDARD                              |
| FIN.      | FINISH                 | STL.      | STEEL                                 |
| FL.       | FLOOR                  | STOR.     | STORAGE                               |
| F.O.C.    | FACE OF CONCRETE       | S.S.D.    | SEE STRUCTURAL DRAWING                |
| F.O.F.    | FACE OF FINISH         |           |                                       |
| F.O.M.    | FACE OF MASONRY        | TEL.      | TELEPHONE                             |
| F.O.S.    | FACE OF STUD           | T&G       | TONGUE AND GROOVE                     |
| F.O.SH.   | FACE OF SHEATHING      | T.        | TREAD                                 |
| FT.       | FOOT                   | THK.      | THICK                                 |
| FTG.      | FOOTING                | TYP.      | TYPICAL                               |
| FURR.     | FURRING                | T.O.      | TOP OF                                |
|           |                        | T.O.C.    | TOP OF CONCRETE                       |
|           |                        | T.O.O.    | TOP OF OUTRIGGER                      |
| GA.       | GAUGE                  | T.O.P.    | TOP OF PLATE                          |
| G.C.      | GENERAL CONTRACTOR     | T.O.S.    | TOP OF SLAB                           |
| GL.       | GLASS                  | T.O.T.    | TOP OF TRUSS                          |
| GSM.      | GALVANIZED SHEET METAL |           |                                       |
| GYP. BD./ | GYP. WALL BOARD        | U.O.N.    | UNLESS OTHERWISE NOTED                |
| GWB.      |                        |           |                                       |
| H         | HEIGHT                 | VERT.     | VERTICAL                              |
| H.B.      | HOSE BIB               | V.F.      | VERIFY IN FIELD                       |
| H.C.      | HOLLOW CORE            | V.G.      | VERTICAL GRAIN                        |
| HDWD.     | HARDWOOD               |           |                                       |
| HDWR.     | HARDWARE               | W         | WIDTH                                 |
| HORIZ.    | HORIZONTAL             | W         | WITH                                  |
| HR.       | HOUR                   | WD.       | WOOD                                  |
| HW        | HARDWOOD               | WDW       | WINDOW                                |
| IN.       | INCH                   | W/O       | WITHOUT                               |
| INTM.     | INTERMEDIATE           | WP        | WATERPROOF                            |
| INSUL.    | INSULATION             | WRC       | WESTERN RED CEDAR                     |
| INT.      | INTERIOR               |           |                                       |

**SYMBOL LEGEND**



**PROJECT DESCRIPTION**

PROJECT ADDRESS: 1767, 1769, 1771 ALCATRAZ AVE, BERKELEY, CA 94703  
 ASSESSOR'S PARCEL NO.: 52-1531-6  
 DESCRIPTION OF WORK: STOREFRONT REPLACEMENT  
 OCCUPANCY: M - MERCANTILE  
 CONSTRUCTION: V - NON SPRINKLERED (AT ADDITION)

ZONING: C-AC  
 FIRE ZONE: 1  
 LIQUEFACTION ZONE: YES  
 YEAR BUILT: 1906 - 3290 ADELINE - BUILDING AT CORNER (NO WORK PROPOSED)

HIST STATUS: COB STRUCTURE OF MERIT @ 3290 ADELINE BUILDING ONLY

| PROJECT FEATURES        | EXISTING | PROPOSED  | PERMITTED/REQ. |
|-------------------------|----------|-----------|----------------|
| DWELLING UNITS          | 0        | NO CHANGE |                |
| PARKING SPACES          | 0        | NO CHANGE |                |
| SETBACKS                |          |           |                |
| FRONT YARD              | 0        | NO CHANGE | NO MINIMUM     |
| SIDE YARD LEFT          | 5'3"     | NO CHANGE | NO MINIMUM     |
| RIGHT                   | 0        | NO CHANGE | NO MINIMUM     |
| REAR YARD               | 0        | NO CHANGE | NO MINIMUM     |
| BUILDING HEIGHT         | 1 STORY  | NO CHANGE | 4 STORIES MAX  |
| AVERAGE                 | 19'-2"   | NO CHANGE |                |
| MAXIMUM                 | 19'-2"   | NO CHANGE | 45' MAX        |
| AREAS                   |          |           |                |
| LOT AREA                | 7956 SF  | NO CHANGE |                |
| GROSS FL AREA:          |          |           |                |
| FIRST FLOOR             |          | NO CHANGE |                |
| SUBJECT BLDG            | 2948 SF  |           |                |
| HISTORIC BLDG           | 4141 SF  |           |                |
| SECOND FLOOR            |          |           |                |
| HISTORIC BLDG           | 3737 SF  | NO CHANGE |                |
| TTL GROSS FL AREA       | 10909 SF | NO CHANGE |                |
| BUILDING FOOTPRINT:     |          |           |                |
| MAIN BUILDING           |          |           |                |
| SUBJECT BLDG            | 2948 SF  |           |                |
| HISTORIC BLDG           | 4224 SF  |           |                |
| TTL FOOTPRINT:          | 7172 SF  | NO CHANGE |                |
| USEABLE OPEN SPACE:     | 784 SF   | NO CHANGE | NO MINIMUM     |
| FLOOR AREA RATIO (FAR): | 1.37     | NO CHANGE | 2.5 MAX.       |

**SCOPE OF WORK**

ADDRESS: 3290 ADELINE STREET (HISTORIC BUILDING AT CORNER); NO CHANGE

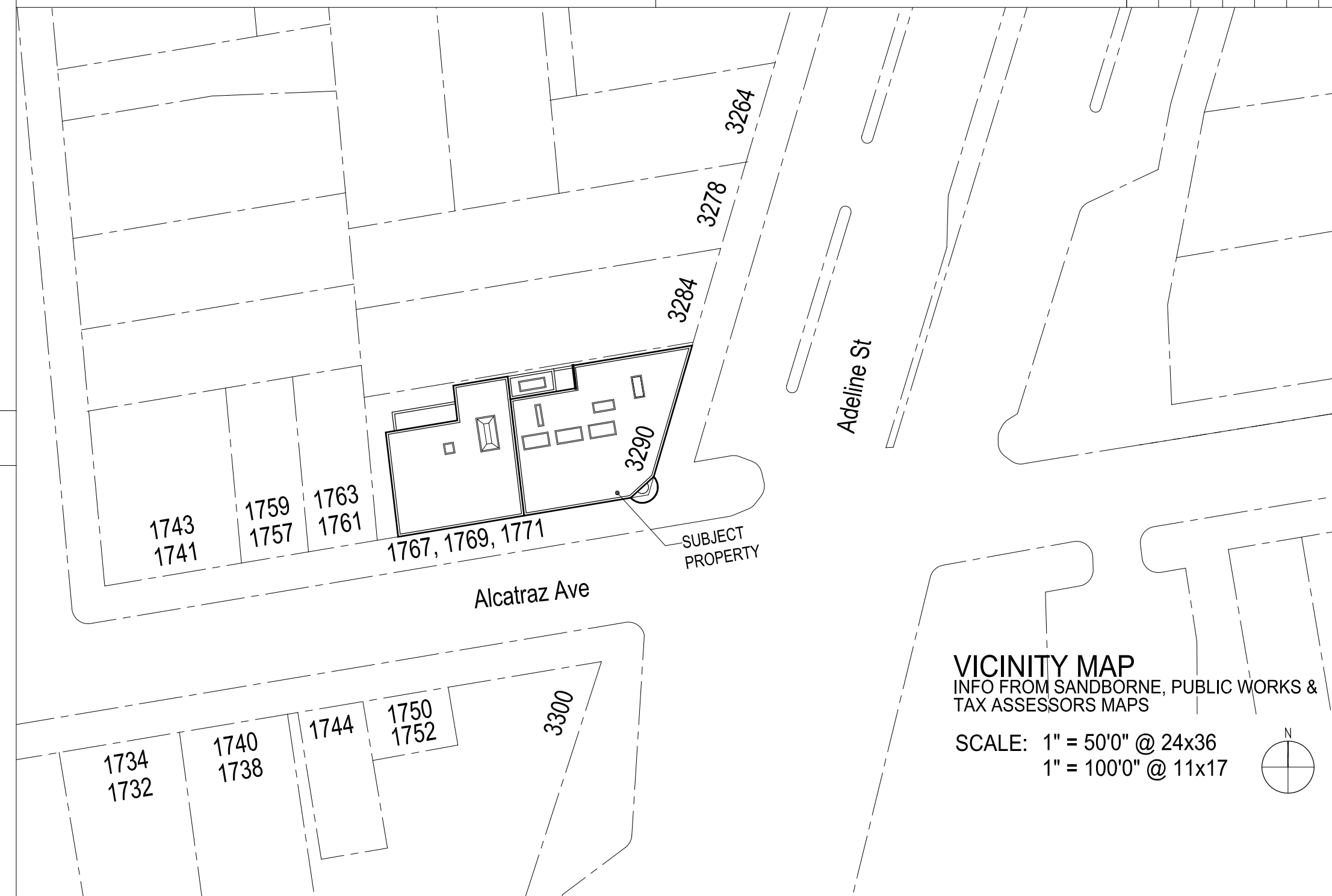
ADDRESS: 1767, 1769, 1771 ALCATRAZ AVENUE (SINGLE STORY BUILDING); REPLACE EXISTING ALUMINUM STORE FRONT SYSTEM WITH CODE COMPLIANT ALUMINUM STOREFRONT SYSTEM ONLY.

NO CHANGE TO:

- EXTERIOR SIDING
- EXTERIOR PAINT COLORS
- EXTERIOR SIGNAGE
- BUILDING INTERIOR

**DRAWING INDEX**

| SHEET NO. & TITLE                                 | SUBMISSION & DATE |
|---------------------------------------------------|-------------------|
| A0.0 GENERAL INFORMATION                          | X                 |
| A0.1 ACCESSIBILITY NOTES                          |                   |
| A0.3 SITE PHOTOGRAPHS                             | X                 |
| A0.7 WINDOW & DOOR SCHEDULES                      | X                 |
| A1.0 SITE AND ROOF PLAN - EXISTING                | X                 |
| A2.1 FIRST FLOOR PLANS - EXIST/DEMO & PROPOSED    | X                 |
| A2.2 SECOND FLOOR PLAN - EXISTING                 | X                 |
| A2.3 ENLARGED FLOOR PLANS - EXIST/DEMO & PROPOSED | X                 |
| A3.0 BUILDING ELEVATIONS - EXISTING & PROPOSED    | X                 |
| A3.1 BUILDING ELEVATIONS - EXISTING & PROPOSED    | X                 |
| A3.2 BUILDING SECTION                             | X                 |
| A8.3 BUILDING DETAILS - WINDOWS & DOORS           |                   |
| A8.4 BUILDING DETAILS - DOORS & WINDOWS           |                   |
| T1.0 TITLE 24 ENERGY CALCULATIONS                 |                   |
| T2.0 TITLE 24 ENERGY CALCULATIONS                 |                   |



ARCHITECT

**architecture**  
**denise hall montgomery**

1769 alcatraz avenue  
 berkeley, ca 94703  
 t 510.547.3040  
 c 510.504.9394  
 dhm@dnharchitecture.com



PROJECT

**Allan Cadgene & Tom Goetzl**  
**ALCATRAZ AVE STOREFRONT REPLACEMENTS**

1767, 1769, 1771 Alcatraz Ave,  
 Berkeley, CA 94703

DIRECTORY

OWNERS

Allan Cadgene & Tom Goetzl  
 1767, 1769, 1771 Alcatraz Ave,  
 Berkeley, CA 94703  
 t 415-425-2501  
 allan@allmar1.com

TITLE 24 ENERGY ANALYSIS

ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HEREIN CONSTITUTE ORIGINAL AND UNPUBLISHED WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED, USED OR DISCLOSED WITHOUT WRITTEN CONSENT OF DENISE HALL MONTGOMERY, ARCHITECT.

|                   |                  |
|-------------------|------------------|
| DATE: 24.AUG.2022 | SCALE: AS NOTED  |
| JOB: 22003        | DRAWN BY: dhm/jb |

SHEET

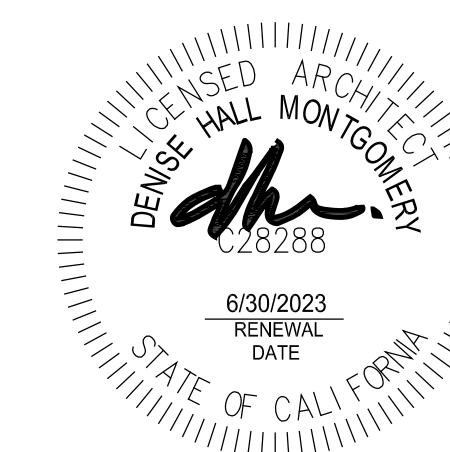
**GENERAL INFORMATION**

**A0.0**

ARCHITECT

architecture  
denise hall montgomery

1769 alcatraz avenue  
berkeley, ca 94703  
t 510.547.3040  
c 510.504.9394  
dhm@dnhmarchitecture.com



PROJECT

Allan Cadgene & Tom Goetzl  
ALCATRAZ AVE STOREFRONT  
REPLACEMENTS

1767, 1769, 1771 Alcatraz Ave,  
Berkeley, CA 94703

DIRECTORY

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t 415-425-2501  
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CONSENT OF DENISE HALL MONTGOMERY, ARCHITECT.

|       |             |           |          |
|-------|-------------|-----------|----------|
| DATE: | 24.AUG.2022 | SCALE:    | AS NOTED |
| JOB:  | 22003       | DRAWN BY: | dhm/jb   |

SHEET

SITE  
PHOTOS

**A0.3**

ALCATRAZ AVENUE ELEVATIONS



ADELINE STREET ELEVATIONS



1 ELEVATION PHOTOMONTAGE  
NTS





1767 ALCATRAZ - (E) FACADE



1769 ALCATRAZ - (E) FACADE



1771 ALCATRAZ - (E) FACADE

**DOOR SCHEDULE**

| ID | ROOM NUM - NAME | TYPE | MANUFACTURER | DOOR CONFIG. | DOOR SIZE |            |        | DOOR FINISH |      | FRAME FINISH |        | HDWR |   | REMARKS |
|----|-----------------|------|--------------|--------------|-----------|------------|--------|-------------|------|--------------|--------|------|---|---------|
|    |                 |      |              |              | X - WIDTH | Y - HEIGHT | THK.   | EXT.        | INT. | EXT.         | INT.   | J    | B |         |
| 01 | SUITE 1767      | 1    | ARCADIA      | OUTSWING     | 3'-8"     | 7'-1 1/2"  | 1 3/4" | AL          | AL   | CLR AL       | CLR AL | J    | B |         |
| 02 | SUITE 1769      | 1    | ARCADIA      | INSWING      | 3'-1 1/2" | 7'-1 1/2"  | 1 3/4" | AL          | AL   | CLR AL       | CLR AL | J    | B |         |
| 03 | SUITE 1771      | 1    | ARCADIA      | OUTSWING     | 3'-1 1/2" | 7'-1 1/2"  | 1 3/4" | AL          | AL   | CLR AL       | CLR AL | J    | B |         |

**DOOR TYPES**



**HARDWARE SCHEDULE**

- FINISH TBD. CONTRACTOR TO CONFIRM FINISH WITH ARCHITECT BEFORE ORDERING.
- ALL DOORS RECEIVE 2 HINGES, LATCHSET OR LOCKSET, FLOOR STOP, WALL BUMPER IF APPLICABLE, CLOSER OR HOLD OPEN AS NOTED.
- HARDWARE TYPE:
  - A. N/A
  - B. CLOSER
  - C. PASSAGE SET
  - D. PRIVACY LOCK
  - E. ENTRANCE/OFFICE SET
  - F. FINGER PULL
  - G. EXIT LOCK
  - J. SECURITY LOCK
  - K. PULL
  - L. CONCEALED HINGE
  - M. DOUBLE ACTING HINGE
  - N. SELF-CLOSER

**MATERIAL AND FINISH KEY**

|          |                          |
|----------|--------------------------|
| PTD:     | PAINTED                  |
| CLR:     | CLEAR SEALED             |
| STSL:    | STAINED & SEALED         |
| SGDF:    | STAIN GRADE DOUG. FIR    |
| PGW:     | PAINT GRADE WOOD         |
| SGDW:    | PAINT GRADE DOUG. FIR    |
| PR WT:   | PRIMED WHITE             |
| BRZ AL:  | BRONZE ANODIZED ALUMINUM |
| CLR AL:  | CLR ANODIZED ALUMINUM    |
| HM:      | HOLLOW METAL             |
| GALV:    | GALVANIZED               |
| AL:      | ALUMINUM                 |
| WD:      | WOOD                     |
| ST. STL: | STAINLESS STEEL          |
| GL:      | GLAZED                   |

**GENERAL DOOR NOTES**

- VERIFY ALL WALL THICKNESSES IN FIELD PRIOR TO ORDER.
- VERIFY ALL R.O. AND FRAME DIMS WITH PROPRIETARY DOOR FRAME MANUFACTURER'S STANDARDS AND REQUIREMENTS.
- DIMENSIONS OF ALL DOOR STILE AND RAILS ARE FROM LEAF EDGE TO PANEL DAYLIGHT EDGE, TYP.
- ALL GLASS DOOR PANELS SHALL BE CLEAR TEMPERED GLASS, U.O.N.
- SEE HARDWARE SCHEDULES FOR DOOR HARDWARE GROUPS.
- PROVIDE LOW-E INSULATED DOUBLE GLAZING FOR LITES IN ALL EXTERIOR DOORS, U.O.N.

**STOREFRONT SCHEDULE**

| ID | LOCATION   | TYPE | OPERATION | MANUFACTURER | FRAME DIMENSION |        |            | MATERIAL   |      | FINISH |        | HARDWARE STYLE | HARDWARE FINISH | GLAZING | REMARKS  |      |
|----|------------|------|-----------|--------------|-----------------|--------|------------|------------|------|--------|--------|----------------|-----------------|---------|----------|------|
|    |            |      |           |              | W               | X      | Y          | Z          | EXT. | INT.   | EXT.   |                |                 |         |          | INT. |
| A1 | SUITE 1767 | A    | FIXED     | ARCADIA      | -               | 13'-0" | 9'-2"      | 11'-1 1/2" | AL   | AL     | CLR AL | CLR AL         | -               | CLR AL  | TEMPERED | X    |
| A2 | SUITE 1771 | A    | FIXED     | ARCADIA      | -               | 11'-7" | 9'-2"      | 11'-1 1/2" | AL   | AL     | CLR AL | CLR AL         | -               | CLR AL  | TEMPERED | X    |
| B1 | SUITE 1769 | B    | FIXED     | ARCADIA      | -               | 5'-6"  | 9'-2"      | 11'-1 1/2" | AL   | AL     | CLR AL | CLR AL         | -               | CLR AL  | TEMPERED | X    |
| C1 | SUITE 1769 | C    | FIXED     | ARCADIA      | -               | 5'-6"  | 11'-1 1/2" | 11'-1 1/2" | AL   | AL     | CLR AL | CLR AL         | -               | CLR AL  | TEMPERED | X    |
| C2 | SUITE 1771 | C    | FIXED     | ARCADIA      | -               | 5'-5"  | 11'-1 1/2" | 11'-1 1/2" | AL   | AL     | CLR AL | CLR AL         | -               | CLR AL  | TEMPERED | X    |
| D1 | SUITE 1767 | D1   | FIXED     | ARCADIA      | -               | 4'-0"  | 11'-1 1/2" | 11'-1 1/2" | AL   | AL     | CLR AL | CLR AL         | -               | CLR AL  | TEMPERED | X    |

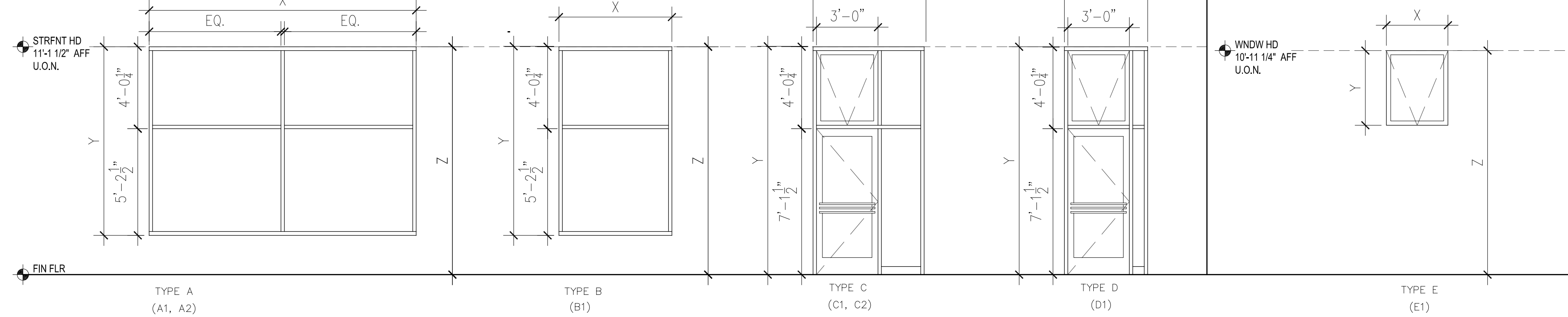
**WINDOW SCHEDULE**

| ID | LOCATION          | TYPE | OPERATION | MANUFACTURER | FRAME DIMENSION |       |       | MATERIAL |      | FINISH |        | HARDWARE STYLE | HARDWARE FINISH | GLAZING | REMARKS  |          |
|----|-------------------|------|-----------|--------------|-----------------|-------|-------|----------|------|--------|--------|----------------|-----------------|---------|----------|----------|
|    |                   |      |           |              | W               | X     | Y     | Z        | EXT. | INT.   | EXT.   |                |                 |         |          | INT.     |
| E1 | SUITE 1767        | E    | HOPPER    | ALL WEATHER  | -               | 3'-8" | 3'-3" | 10'-11"  | AL   | AL     | CLR AL | CLR AL         | LOOP PULL       | CLR AL  | TEMPERED | BLOCKSET |
| E2 | SUITE 1769 & 1771 | E    | HOPPER    | ALL WEATHER  | -               | 3'-1" | 3'-3" | 10'-11"  | AL   | AL     | CLR AL | CLR AL         | LOOP PULL       | CLR AL  | TEMPERED | BLOCKSET |

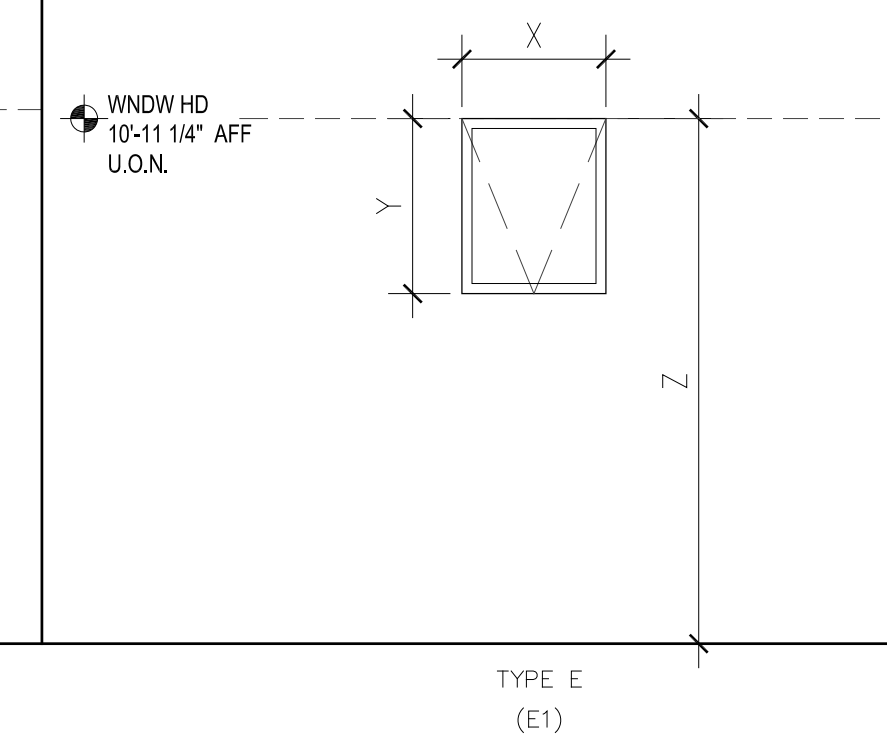
**GENERAL STOREFRONT & WINDOW NOTES**

- VERIFY QUANTITY OF WINDOWS WITH FLOOR PLANS.
- VERIFY DIRECTION OF SWING / ACTION WITH ELEVATIONS
- DIMENSIONS SHOWN ON WINDOW TYPE DIAGRAMS ARE FRAME SIZE, U.O.N.
- VERIFY ALL ROUGH OPENING DIMENSIONS IN FIELD PRIOR TO WINDOW FABRICATION.
- PROVIDE SAFETY GLAZING AS REQUIRED PER CBC 2406.4
- ALL EXTERIOR GLAZING TO BE DOUBLE-PANED, CLEAR, LOW-E INSULATED GLAZING UNITS, U.O.N.
- ALL OPERABLE WINDOWS TO HAVE LOOP PULL
- INSTALLER TO VERIFY FIELD CONDITIONS AND DIMENSIONS PRIOR TO PLACING WINDOW ORDER.

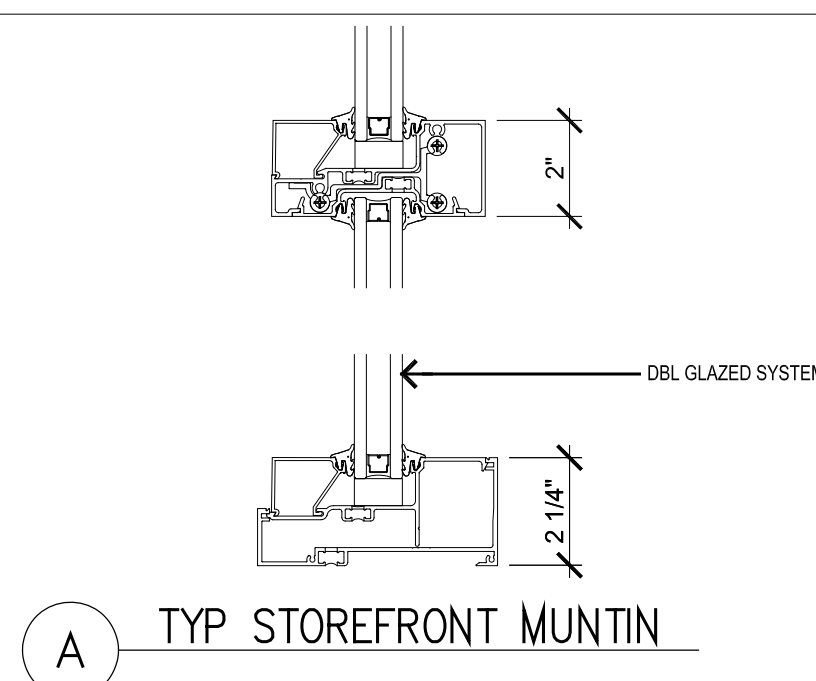
**STOREFRONT TYPES**



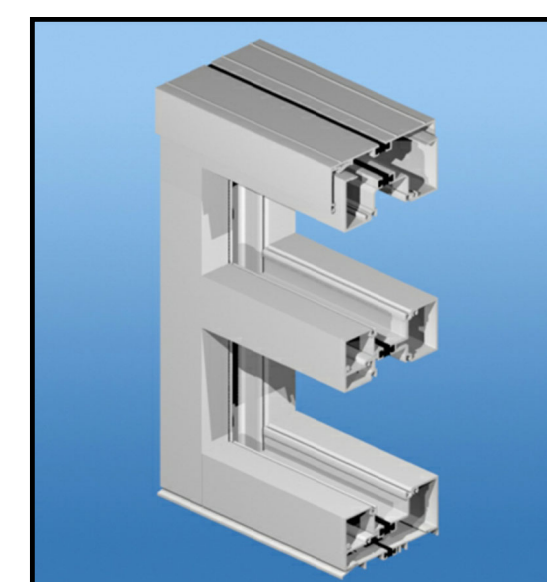
**WINDOW TYPES**



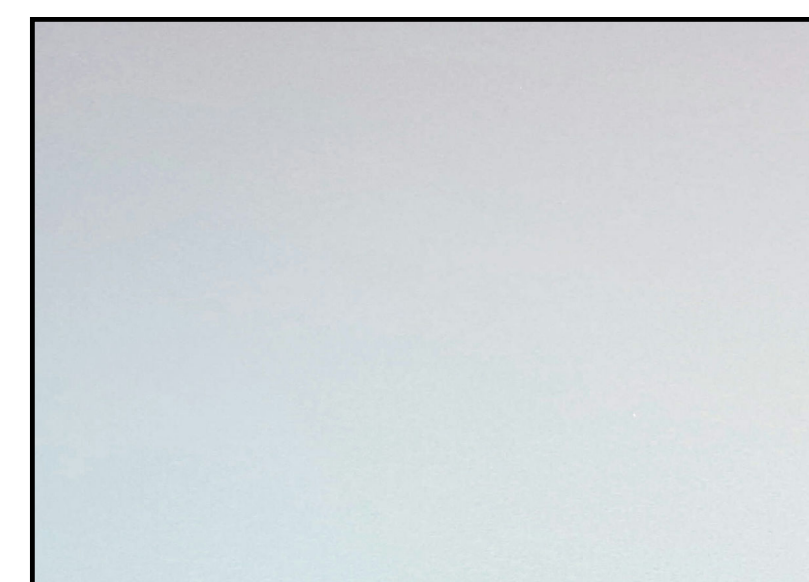
**STOREFRONT DETAILS**



**COLORS AND MATERIALS**



PROPOSED STOREFRONT: CLEAR ANODIZED ALUMINUM



HOPPER WNDW LOOP PULL

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TITLE 24 ENERGY ANALYSIS

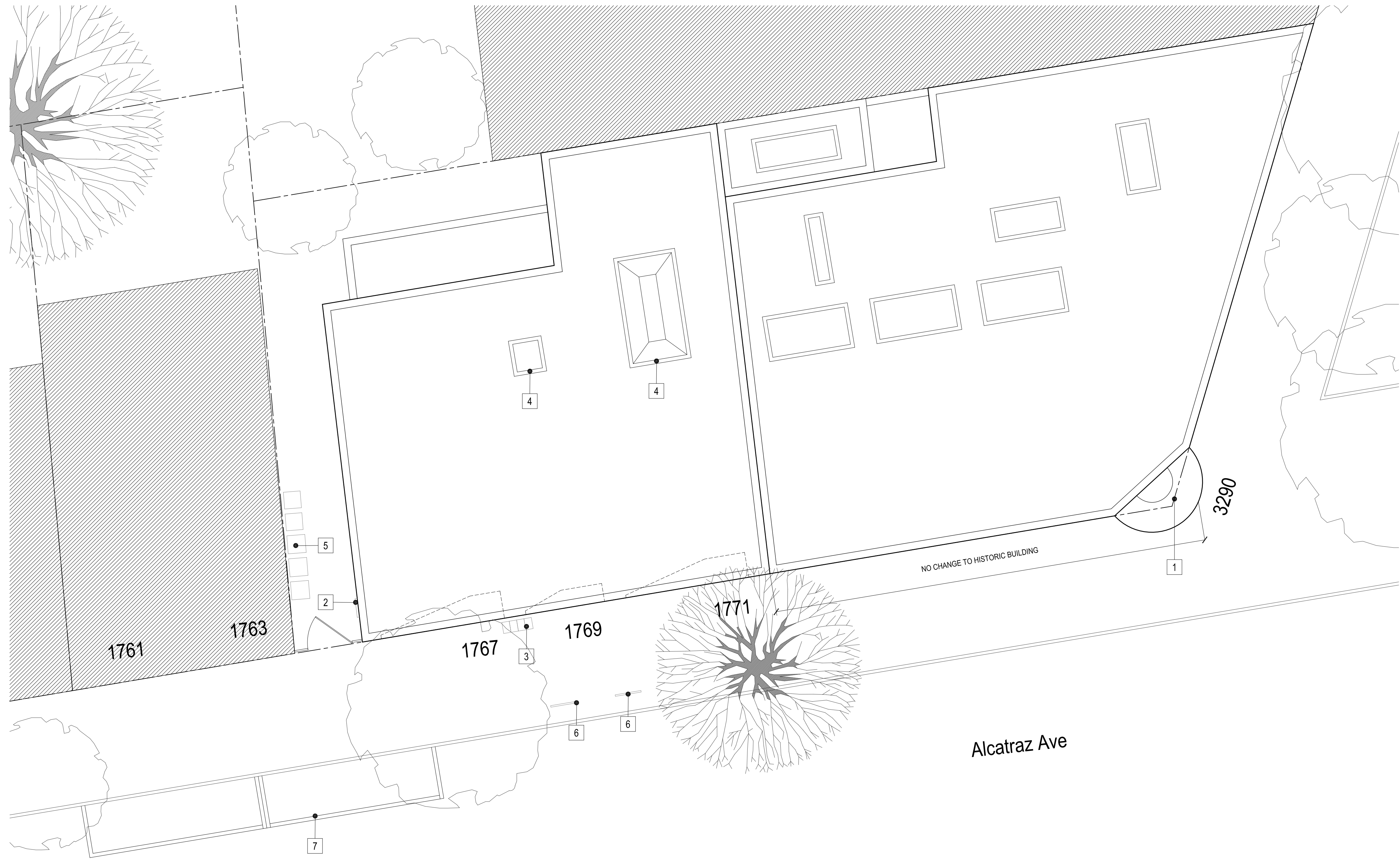
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| JOB: 22003        | DRAWN BY: dhm/ jb |

SHEET

SCHEDULES

**A0.7**



**GENERAL NOTES**

1. SITE PLAN BASED ON ASSESSOR'S MAP AND SITE MEASUREMENTS.
2. SIDEWALKS IN DISREPAIR SHALL BE REPLACED IN ACCORDANCE WITH THE CITY OF OAKLAND STANDARDS.

**KEY**

- (E) WALL / COMPONENT TO BE REMOVED
- ===== (E) WALL TO REMAIN
- (N) WALL
- (E) OR (N) BUILDING ELEMENT ABOVE

**SHEET NOTES**

- 1 PROPERTY LINE
- 2 (E) ELECTRICAL & WATER METERS
- 3 (E) GAS METER
- 4 (E) SKYLIGHT
- 5 (E) TRASH BINS
- 6 (E) BIKE RACK
- 7 (E) PARKLET

1 **EXISTING SITE AND ROOF PLAN - NO CHANGE**  
 1/8" = 1'0" @ 24x36; 1/16" = 1'0" @ 11x17

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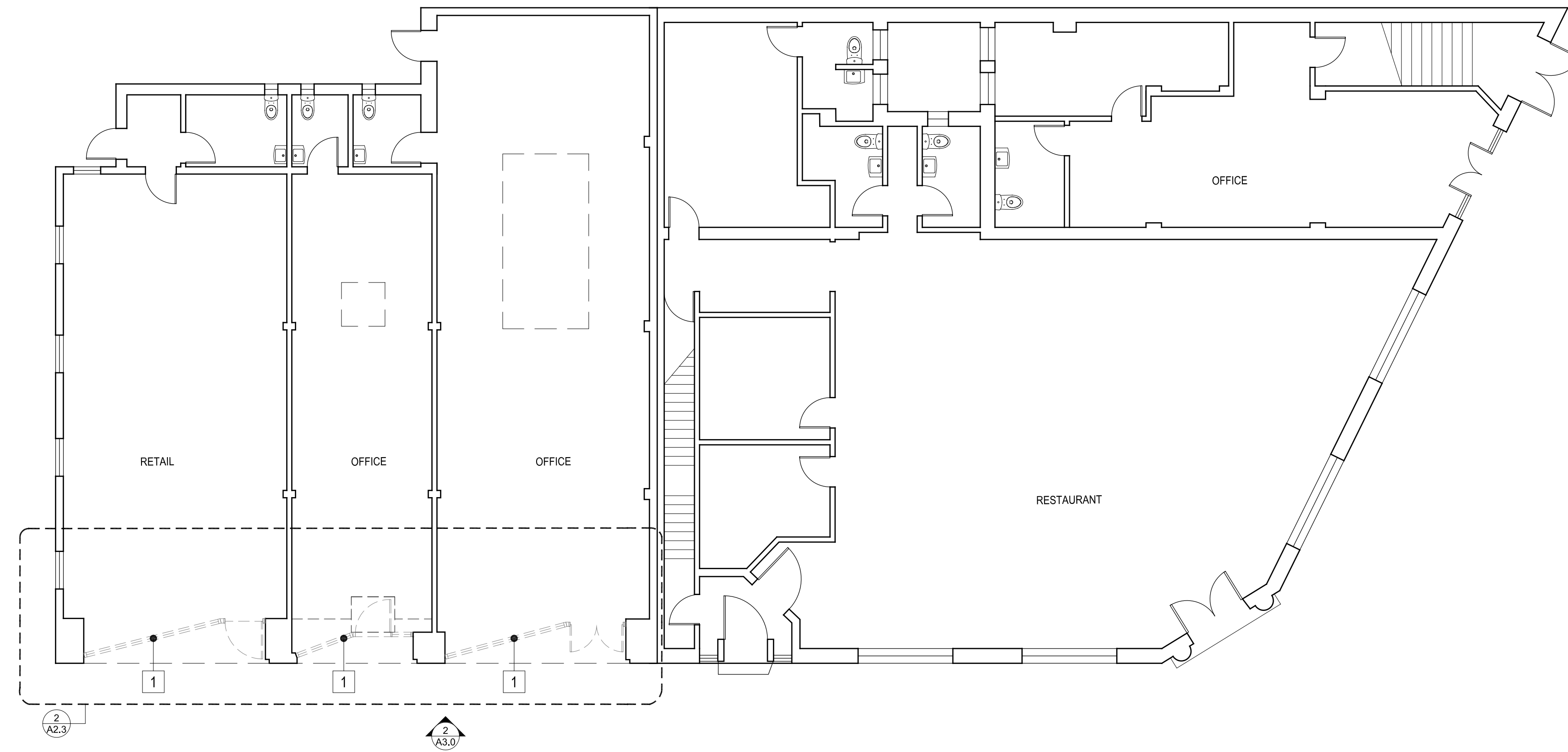
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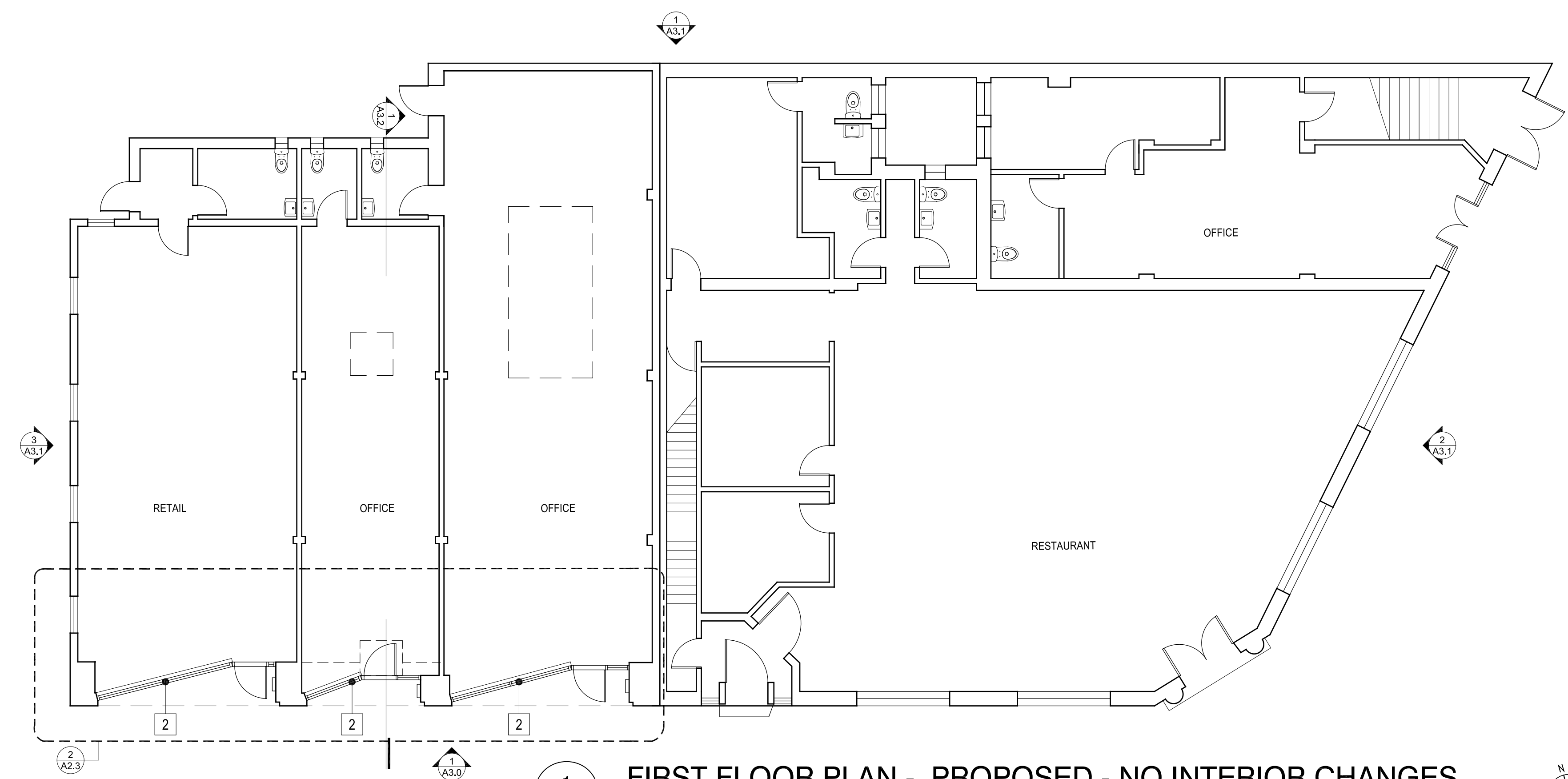
SHEET

SITE & ROOF PLAN  
EXISTING &  
PROPOSED

**A1.0**



**2 FIRST FLOOR PLAN - EXISITNG - NO INTERIOR CHANGES**  
 1/8" = 1'-0" @ 24x36; 1/16" = 1'-0" @ 11x17



**1 FIRST FLOOR PLAN - PROPOSED - NO INTERIOR CHANGES**  
 1/8" = 1'-0" @ 24x36; 1/16" = 1'-0" @ 11x17

**GENERAL PLAN NOTES**

1. ALL DIMENSIONS ARE TO FACE OF FINISH FRAMING, U.O.N.
2. VERIFY ALL DIMENSIONS IN FIELD. CONTRACTOR TO BRING ALL DISCREPANCIES TO THE ARCHITECT'S ATTENTION PRIOR TO CONSTRUCTION AND FABRICATION OR BEAR THE COST OF CORRECTION.
3. INSTALL R-13 FIBERGLASS BATT INSULATION @ ALL 2X4 EXTERIOR WALLS. INSTALL R-19 FIBERGLASS BATT INSULATION @ ALL 2X6 EXTERIOR WALLS.
4. INSTALL 5/8" GYP. BD. AT ALL WALLS AND CEILINGS U.O.N. SEE PLAN AND WALL TYPE SCHEDULE.
5. INSTALL 5/8" TYPE X GYPSUM BOARD UNDER ALL STAIRWAY SPACES.
6. FOR ALL WET AREAS, USE 1/2" GLASS MAT GYPSUM BACKER BOARD
7. GRADE SHALL FALL A MINIMUM OF 6 INCHES WITHIN THE FIRST 10 FEET OF BUILDING FOOTPRINT PER CRC R401.3
8. SALVAGE & PROTECT ALL INTERIOR DOORS TO BE REUSED IN REMODEL

**KEY**

- (E) WALL / COMPONENT TO BE REMOVED
- (E) WALL TO REMAIN
- (N) WALL
- (E) OR (N) BUILDING ELEMENT ABOVE

**SHEET NOTES**

- 1 DEMO (E) STOREFRONT
- 2 (N) STROREFRONT

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SHEET

FIRST FLOOR  
PLAN EXISTING &  
PROPOSED

**A2.1**

**GENERAL PLAN NOTES**

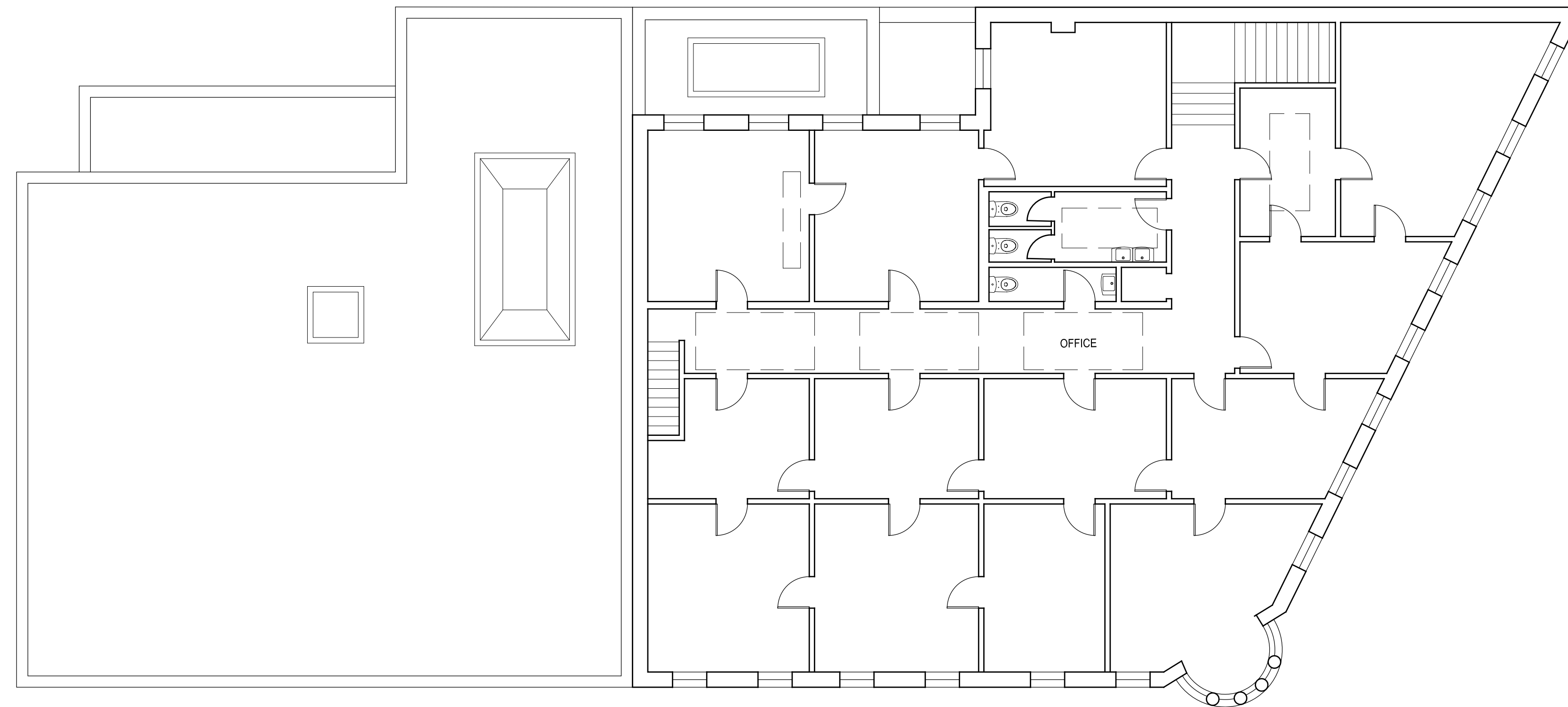
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**KEY**

- (E) WALL / COMPONENT TO BE REMOVED
- ==== (E) WALL TO REMAIN
- ===== (N) WALL
- (E) OR (N) BUILDING ELEMENT ABOVE

**SHEET NOTES**

- 1 x
- 2 x
- 3 x



1 ROOF PLAN / SECOND FLOOR PLAN - EXISITING - NO CHANGE  
 1/8" = 1'-0" @ 24x36; 1/16" = 1'-0" @ 11x17

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SHEET

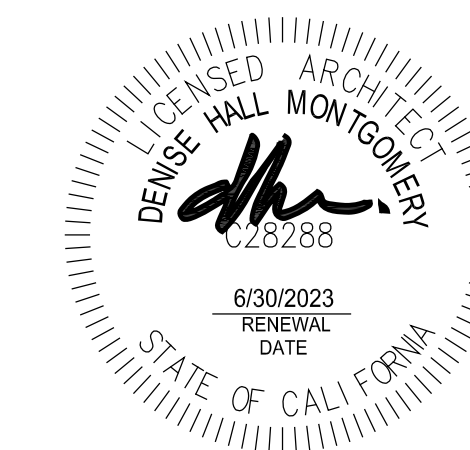
SECOND FLOOR  
 PLAN EXISTING &  
 PROPOSED

**A2.2**

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SHEET

ENLARGED FLOOR PLAN  
EXISTING &  
PROPOSED

**A2.3**

GENERAL PLAN NOTES

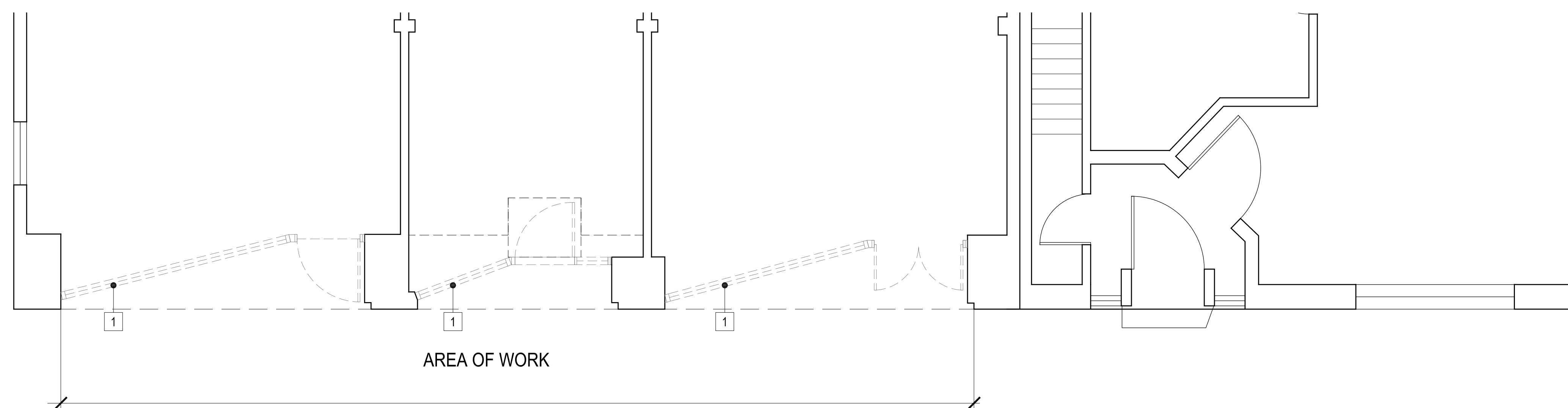
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6. FOR ALL WET AREAS, USE 1/2" GLASS MAT GYPSUM BACKER BOARD
7. GRADE SHALL FALL A MINIMUM OF 6 INCHES WITHIN THE FIRST 10 FEET OF BUILDING FOOTPRINT PER CRC R401.3
8. SALVAGE & PROTECT ALL INTERIOR DOORS TO BE REUSED IN REMODEL

KEY

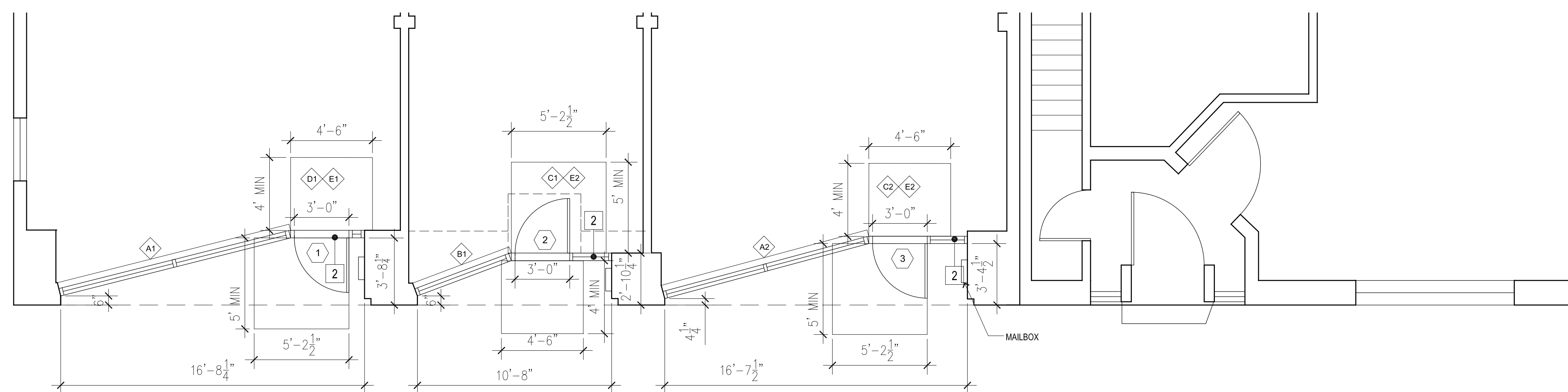
- (E) WALL / COMPONENT TO BE REMOVED
- ==== (E) WALL TO REMAIN
- ==== (N) WALL
- (E) OR (N) BUILDING ELEMENT ABOVE

SHEET NOTES

- 1 DEMO (E) STOREFRONT
- 2 (N) STOREFRONT



2 ENLARGED FLOOR PLAN - EXISTING - NO INTERIOR CHANGES  
1/4" = 1'-0" @ 24x36; 1/8" = 1'-0" @ 11x17



1 ENLARGED FLOOR PLAN - PROPOSED - NO INTERIOR CHANGES  
1/4" = 1'-0" @ 24x36; 1/8" = 1'-0" @ 11x17

KEY

- (E) WALL / COMPONENT TO BE REMOVED
- (E) WALL TO REMAIN
- (N) WALL

SHEET NOTES

- 1 REPLACE STOREFRONT OF SUITES 1767, 1769, AND 1771



2 NORTH (FRONT) ELEV - EXISTING  
3/16" - 1'-0"



1 NORTH (FRONT) ELEV - PROPOSED  
3/16" - 1'-0"

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SHEET

EXTERIOR BUILDING  
ELEVATIONS  
EXISTING &  
PROPOSED

**A3.0**

KEY

- (E) WALL / COMPONENT TO BE REMOVED
- (E) WALL TO REMAIN
- (N) WALL

SHEET NOTES

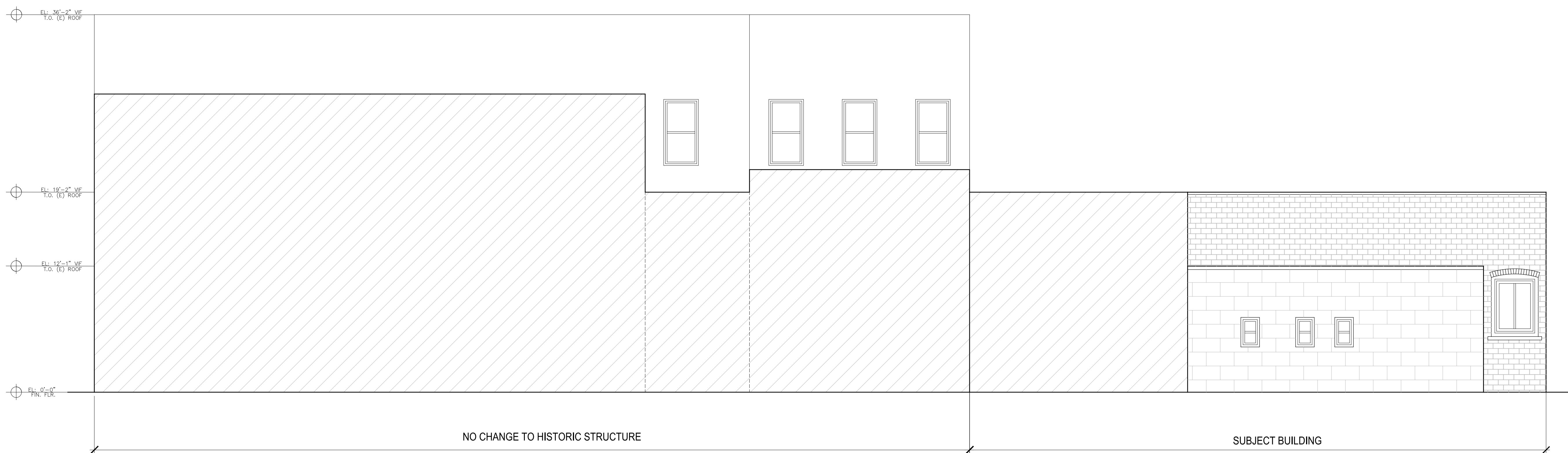
- 1 REPLACE STOREFRONT OF SUITES 1767, 1769, AND 1771



3 WEST (SIDE) ELEV - NO CHANGE  
3/16" - 1'-0"



2 EAST (SIDE) ELEV - NO CHANGE  
3/16" - 1'-0"



1 SOUTH (REAR) ELEV - NO CHANGE  
3/16" - 1'-0"

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SHEET

EXTERIOR BUILDING  
ELEVATIONS  
EXISTING

**A3.1**

**SHEET NOTES**

- 1 x
- 2 x
- 3

**GENERAL NOTES**

1. ALL DIMENSIONS ARE TO FACE OF FINISH, U.O.N.
2. VERIFY ALL DIMENSIONS IN FIELD. CONTRACTOR TO BRING ALL DISCREPANCIES TO THE ARCHITECT'S ATTENTION PRIOR TO CONSTRUCTION AND FABRICATION OR BEAR THE COST OF CORRECTION.
3. INSTALL R-13 FIBERGLASS BATT INSULATION @ ALL 2X4 EXTERIOR WALLS. INSTALL R-19 FIBERGLASS BATT INSULATION @ ALL 2X6 EXTERIOR WALLS.
4. INSTALL 5/8" GYP. BD. AT ALL WALLS AND CEILINGS U.O.N. SEE PLAN AND WALL TYPE SCHEDULE.
5. INSTALL 5/8" TYPE X GYPSUM BOARD UNDER ALL STAIRWAY SPACES.
6. FOR ALL WET AREAS, USE 1/2" GLASS MAT GYPSUM BACKER BOARD
7. GRADE SHALL FALL A MINIMUM OF 6 INCHES WITHIN THE FIRST 10 FEET OF BUILDING FOOTPRINT PER CRC R401.3
8. SALVAGE & PROTECT ALL INTERIOR DOORS TO BE REUSED IN REMODEL
9. REFER TO SHEETS A5.0 AND A6.0 SERIES FOR INTERIOR ELEVATION INFORMATION

ARCHITECT

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PROJECT

Allan Cadgene & Tom Goetzl  
ALCATRAZ AVE STOREFRONT  
REPLACEMENTS

1767, 1769, 1771 Alcatraz Ave,  
Berkeley, CA 94703

DIRECTORY

OWNERS

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TITLE 24 ENERGY ANALYSIS

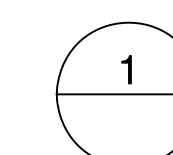
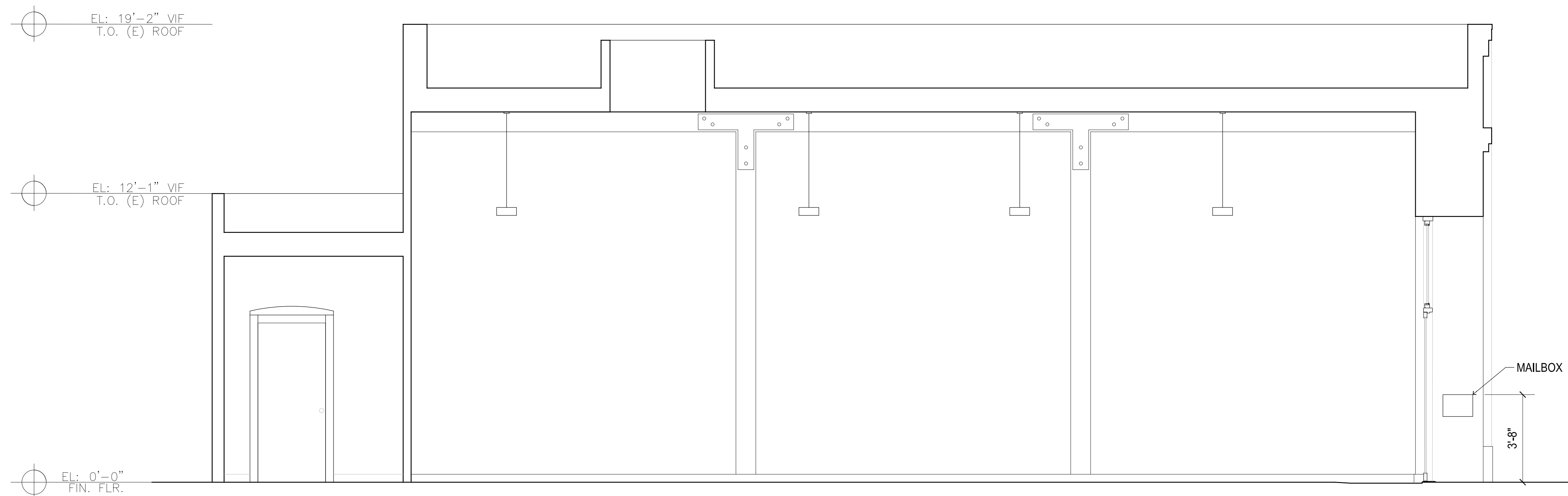
ALL DRAWINGS AND WRITTEN MATERIAL APPEARING  
HEREIN CONSTITUTE ORIGINAL AND UNPUBLISHED  
WORK OF THE ARCHITECT AND MAY NOT BE  
DUPLICATED, USED OR DISCLOSED WITHOUT WRITTEN  
CONSENT OF DENISE HALL MONTGOMERY, ARCHITECT.

|       |             |           |          |
|-------|-------------|-----------|----------|
| DATE: | 24.AUG.2022 | SCALE:    | AS NOTED |
| JOB:  | 22003       | DRAWN BY: | dhm/ jb  |

SHEET

BUILDING  
SECTIONS

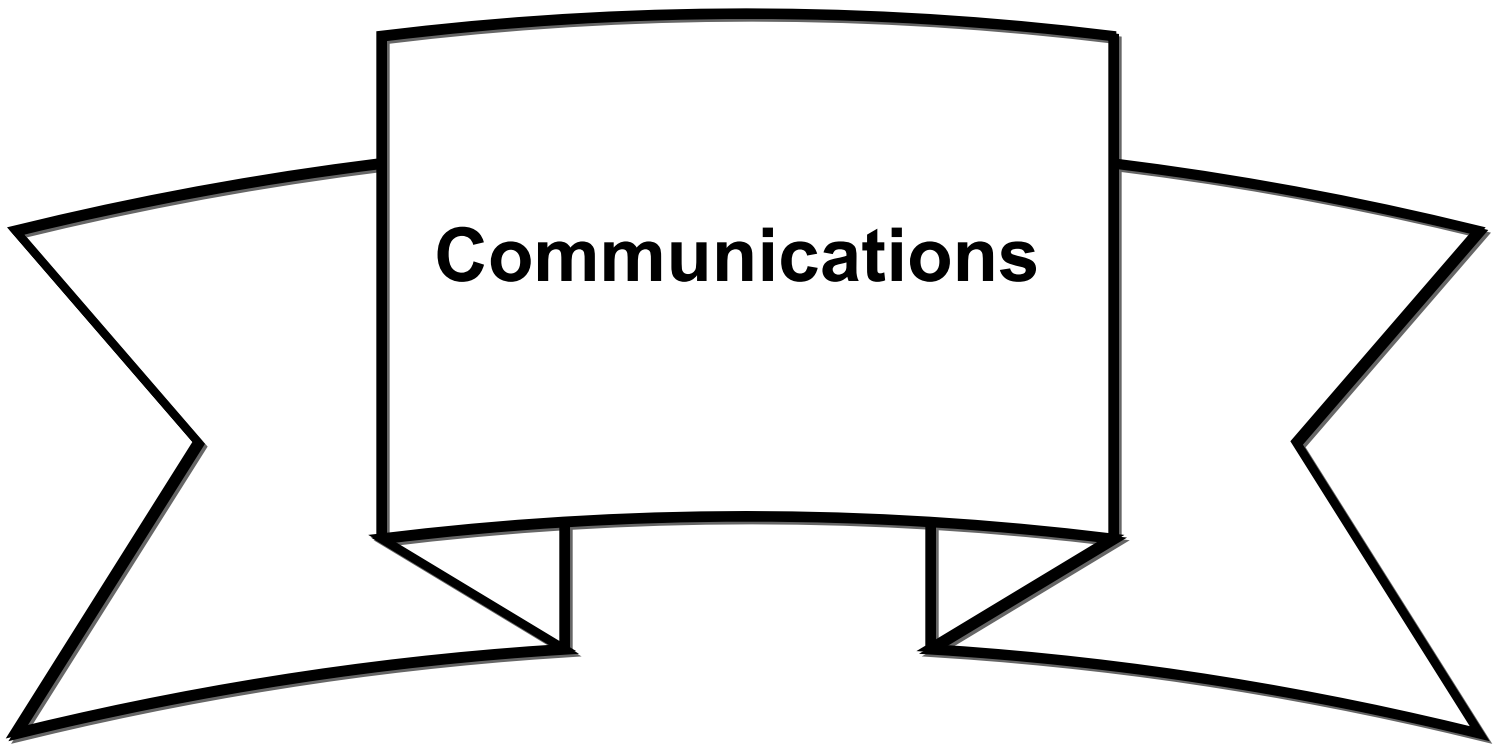
**A3.2**



**BUILDING SECTION - TYPICAL**

3/8" - 1'-0" @ 24 x 36; 3/16" - 1'-0" @ 11 x 17





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

**City Clerk Department**

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

**Records Online**

<https://records.cityofberkeley.info/>

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

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