

AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, June 1, 2021

6:00 PM

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 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

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

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/89868895268>. 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 **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and enter Meeting ID: **898 6889 5268**. 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 teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted 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:

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

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. 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 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. Waiver of Sanctuary City Ordinance for Westlaw Contract**
From: City Manager
Recommendation: Adopt a Resolution waiving the contract prohibition of Berkeley Municipal Code Chapter 13.105, Sanctuary City Contracting, in order to enter into a contract with Westlaw.
Financial Implications: None
Contact: Farimah Brown, City Attorney, (510) 981-6950
- 2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on June 1, 2021**
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 - \$2,270,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 3. Notice of Appropriations Limit for Fiscal Year 2022**
From: City Manager
Recommendation: Adopt a Resolution providing notice that: 1) Council will adopt an appropriations limit for Fiscal Year 2022 at its meeting of June 29, 2021; and 2) the amount of the limit and the background material used in its calculation will be available for public review in the City Clerk's Office on or before June 14, 2021.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 4. Contract No. 32000228 Amendment: Ghilotti Construction Company, Inc. for Berkeley Rose Garden Pergola Reconstruction and Site Improvements Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000228 with Ghilotti Construction, Inc. for the Berkeley Rose Garden Pergola Reconstruction and Site Improvements Project, increasing the amount by \$225,000 for an amended total amount not to exceed \$3,716,917.
Financial Implications: Various Funds - \$225,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Consent Calendar

5. **Multi-Agency Policing Agreement for Grizzly Peak Boulevard**

From: City Manager

Recommendation: Adopt a Resolution approving the Memorandum of Understanding (MOU) entitled "Multi-Agency Policing Agreement Among City of Oakland Police Department, Berkeley University of California Police Department, East Bay Regional Park District, City of Berkeley Police Department, Contra Costa County Sherriff's Department, East Bay Municipal Utilities District, and City of Orinda" to provide for enforcement cooperation regarding problematic behavior and fire prevention on Grizzly Peak Boulevard.

Financial Implications: See report

Contact: Jennifer Louis, Police, (510) 981-5900

6. **Referral Response: Amending Chapter 19.34 of the Berkeley Municipal Code to Expand Automatic Gas Shut-Off Valve Requirements in Multifamily, Condominium and Commercial Buildings Undergoing Renovations**

From: Disaster and Fire Safety Commission

Recommendation: The proposed ordinance modifications in the referral dated October 29, 2019, shown in Attachment 2 to the staff report (the Referral), can be briefly summarized as:

- Expand the Gas Shut-Off Valve requirements to remove exceptions for multi-family, condominium, and commercial buildings

The Disaster and Fire Safety Commission (DFSC) recommends that changes of the Berkeley Municipal Code be referred to the City Manager and Planning Department to be modified in accordance with the Referral as part of the 2022 Code adoption cycle, including the following changes:

1. Do not allow excess flow valves to substitute for motion-activated shut-off valves as a way to comply with this ordinance.
2. Clarify requirements for excess flow valves and motion activated (seismic) valves.
3. Include a provision to include gas valves for common areas when required for any individual unit of a building.
4. Do not include any requirements regarding sale or transfer of the building.
5. Remove the dollar limit on the modifications and replace with a requirement to comply any time a plumbing or mechanical permit is issued.

In addition, the Commission recommends the inclusion of wording in the Berkeley Emissions Saving Ordinance (BESO) to require that in any transfer of property, that the property be required to equipped with a seismic gas shutoff valve.

Financial Implications: See report

Contact: Keith May, Commission Secretary, (510) 981-3473

Council Consent Items

- 7. Oppose – Assembly Bill 1139, Net Energy Metering**
From: Mayor Arreguin (Author), Councilmember Harrison (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)
Recommendation: Adopt a Resolution in opposition to AB 1139 (Gonzalez): Net energy metering. Send a copy of the Resolution to Senator Skinner, Assemblymembers Wicks and Gonzalez, and Governor Newsom.
Financial Implications: Staff time
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 8. Referral to the Fiscal Year 2022 Budget Process: Continuing Anti-Displacement Programs**
From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor)
Recommendation: Refer to \$900,000 to the FY 2022 Budget Process for continued funding of the following anti-displacement programs (launched in 2017) with the proposed funding source from General Fund tax receipts from the Measure U1 gross receipts tax: 1) Housing Retention Program (administered by the Eviction Defense Center EDC): \$250,000 2) Legal Counseling, Services and Problem Solving for Extremely-Low, Very-Low, Low and Moderate Income Tenants (\$275,000 each to the East Bay Community Law Center and EDC): \$550,000 3) Flexible Housing Subsidies for Homelessness Prevention: \$100,000
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 9. Referral to the Fiscal Year 2022 Budget Process: Landlord Incentives for Section 8 Participation**
From: Mayor Arreguin (Author), Councilmember Harrison (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor), Councilmember Taplin (Co-Sponsor)
Recommendation: Refer to the Fiscal Year 2022 Budget Process, \$100,000 of General Fund revenues to replenish and augment funding for the Section 8 Landlord Incentive Program currently offered by the Berkeley Housing Authority.
Financial Implications: General Fund - \$100,000
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 10. Support – Senate Bill 617, the Solar Access Act**
From: Mayor Arreguin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Taplin (Co-Sponsor)
Recommendation: Adopt a Resolution in support of SB 617 (Wiener): Residential solar energy systems: permitting. Send a copy of the Resolution to Senators Wiener and Skinner, Assemblymember Wicks, and Governor Newsom.
Financial Implications: Staff time
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Council Consent Items

- 11. Berkeley Housing Authority Board of Commissioners Re-Appointments**
From: Mayor Arreguin (Author)
Recommendation: Adopt a Resolution re-appointing Dan Rossi, Christine Schildt, and Adolph Moody to the Berkeley Housing Authority Board of Commissioners.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 12. Budget Referral: \$200,000 to the Bay Area Community Land Trust for Capacity Building to Support the Small Sites Program**
From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Refer to the Fiscal Year 2022 Budget process an allocation of \$200,000 to the Bay Area Community Land Trust (BACLT) for capacity building for the purpose of adding staffing to complete small property purchases for conversion from rental to deed restricted affordable housing or limited-equity cooperatives. Funds would be appropriated from Measure U-1 tax receipts with \$165,000 designated for staff capacity building and \$40,000 for a consultant to engage in strategic planning and project management.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 13. Budget Referral: Phase 2 of Civic Center District Visioning**
From: Mayor Arreguin (Author), Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Refer to the Fiscal Year 2022 Budget process \$200,000 in General Fund revenues for Phase 2 of planning for the Civic Center Visioning Project.
Financial Implications: General Fund - \$200,000
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 14. Berkeley Rep's OVATION: Imagine Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor), Councilmember Wengraf (Co-Sponsor), Mayor Arreguin (Co-Sponsor)
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$250 from Councilmember Hahn, to the Berkeley Repertory Theatre, a 501(c)(3) non-profit organization, to support OVATION: Imagine, an event to support Berkeley Rep's productions and arts education programs, with funds relinquished to the City's general fund for this purpose from the discretionary Council office budget of Councilmember Hahn, and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Funds - \$250
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

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 use the "raise hand" function 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

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

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

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

15. **Fiscal Year 2022 Proposed Budget Public Hearing #2**

From: City Manager

Recommendation: Conduct a second public hearing on the FY 2022 Proposed Biennial Budget.

Financial Implications: See FY 2022 Proposed Biennial Budget

Contact: Rama Murty, Budget Office, (510) 981-7000

16. **ZAB Appeal: 2421 Fifth Street, Use Permit #ZP2020-0043**

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision and approving Use Permit #ZP2020-0043 to demolish a single-family dwelling and construct two residential buildings: a three-story triplex and a three-story single-family dwelling, for a total of four new dwellings, and dismiss the appeal.

Financial Implications: None

Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar – New Business

17. Police Accountability Board – Appointment of Members

From: City Manager

Recommendation: Adopt a Resolution appointing nine members to the Police Accountability Board nominated by the Mayor and City Councilmembers, and appointing one alternate member.

Financial Implications: See report

Contact: Mark Numainville, City Clerk, (510) 981-6900

18a. Recommendation that the City Council Pass a Resolution Regarding Procurement, Sales and Serving of Sugar-Sweetened Beverages.

From: Sugar Sweetened Beverage Product Panel of Experts (*Reviewed by the Health, Life Enrichment, Equity & Community Policy Committee*)

Recommendation: The Sugar Sweetened Beverage Product Panel of Experts recommends that the Berkeley City Council adopt a Resolution that City of Berkeley departments and City food services contractors shall not: 1) Serve sugar-sweetened beverages at City meetings and events on City property; 2) Procure sugar-sweetened beverages with City funds; or, 3) Sell sugar-sweetened beverages on City property, including in vending machines.

Policy Committee Recommendation: M/S/C (Hahn/Bartlett) to move an item to Council recommending approval of the Sugar Sweetened Beverage Product Panel of Experts Resolution regarding procurement, sales and serving of sugar-sweetened beverages with the following changes in the resolved clause and removing the third item:

Therefore be it resolved that the City of Berkeley shall not:

1. Procure sugar-sweetened beverages with City funds; and 2. Serve or sell sugar-sweetened beverages on City property, including in vending machines.

And be it further resolved that the City discourages sugar-sweetened beverages at events on City property that receive City of Berkeley funding, and mandate that these events be required to provide options other than sugar-sweetened beverages.

And be it further resolved that in areas or facilities where employees regularly work beyond the core business hours of 8 a.m. – 6 p.m., the City of Berkeley shall provide refrigerators in good working order and of adequate size for the number of employees in that area, to bring and store their own beverages.

In addition, ask the City Council to make a referral to the Sugar-Sweetened Beverage Product Panel of Experts to consider how to regulate sugar sweetened beverages at events held on City of Berkeley Property hosted by non-City entities who receive City of Berkeley funds.

Vote: All Ayes.

Financial Implications: See report

Contact: Dechen Tsering, Commission Secretary, (510) 981-5300

Action Calendar – New Business

18b. Companion Report: Recommendation that the City Council Pass a Resolution Regarding Procurement, Sales, and Serving Sugar-Sweetened Beverages
From: City Manager *(Reviewed by the Health, Life Enrichment, Equity & Community Policy Committee)*

Recommendation: Recommend that the City Council adopt an amended resolution that recognizes the important principles in the Commission recommendation, clarifies the intent of the measure and provides some flexibility for City programs and staff while still emphasizing availability of healthy options. This amended resolution would require that the majority of all beverages provided or sold at any City event or on any City property (including vending machines) be non-sugar sweetened beverages (as defined in chapter 7.72 of the Berkeley Municipal Code) and education materials be provided to all COB staff to actively discourage the consumption of sugar-sweetened beverages and encourage the consumption of water.

Policy Committee Recommendation: M/S/C (Hahn/Bartlett) to move an item to Council recommending approval of the Sugar Sweetened Beverage Product Panel of Experts Resolution regarding procurement, sales and serving of sugar-sweetened beverages with the following changes in the resolved clause and removing the third item: Therefore be it resolved that the City of Berkeley shall not:

1. Procure sugar-sweetened beverages with City funds; and 2. Serve or sell sugar-sweetened beverages on City property, including in vending machines.

And be it further resolved that the City discourages sugar-sweetened beverages at events on City property that receive City of Berkeley funding, and mandate that these events be required to provide options other than sugar-sweetened beverages.

And be it further resolved that in areas or facilities where employees regularly work beyond the core business hours of 8 a.m. – 6 p.m., the City of Berkeley shall provide refrigerators in good working order and of adequate size for the number of employees in that area, to bring and store their own beverages.

In addition, ask the City Council to make a referral to the Sugar-Sweetened Beverage Product Panel of Experts to consider how to regulate sugar sweetened beverages at events held on City of Berkeley Property hosted by non-City entities who receive City of Berkeley funds.

Vote: All Ayes.

Financial Implications: See report

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

Council Action Items

19. Adopt a Resolution Updating City of Berkeley Street Maintenance and Rehabilitation Policy

From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Taplin (Co-Sponsor) *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*

Recommendation: 1. Adopt a Resolution updating the City's Street Maintenance and Rehabilitation Policy dated June 1, 2021.

2. Refer the exploration of potential bonding and funding opportunities for improving the Paving Condition Index (PCI) of streets and creating a Paving Master Plan back to the Facilities, Infrastructure, Transportation, Environment & Sustainability (FITES) Committee for further review.

Policy Committee Recommendation: M/S/C (Robinson/Harrison) to move the Public Works supplemental item "City of Berkeley Street Maintenance and Rehabilitation Policy to Council" with a positive recommendation including amendments made during the meeting today, and ask Council to refer the exploration of potential bonding and funding opportunities for improving the PCI of streets and creating a Paving Master Plan back to the FITES Committee for further review. All Ayes.

Financial Implications: Staff time

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

Public Comment – Items Not Listed on the Agenda

Adjournment

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

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

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

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service 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 posted on the City's website at <http://www.cityofberkeley.info>.

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

COMMUNICATION ACCESS INFORMATION:

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.



Captioning services are provided at the meeting, on B-TV, and on the Internet.

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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 Thursday, May 20, 2021.*

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 through [Records Online](#).*

### **Cal (UC) Students Are Terrorists**

1. Anne Whyte (2)
2. Jen Loy, on behalf of UC Berkeley

### **Parking Enforcement While Dropping Off Children at School**

3. Dawn Howard

### **Oppose SB-9**

4. Jennifer Cole
5. Summer Brenner
6. Dick Mallory
7. Renate Crocker
8. Jana Olson
9. Michael Cohn
10. Lisa Goodman
11. Helen Toy
12. Betsy Cohen

### **Tenant Opportunity to Purchase Act (TOPA) Legislation**

13. Michele Chitson

14. Gr1@
15. Janine Goosen
16. Julie Caskey
17. Chad Andrews
18. Cora Stryker
19. Jennifer Kim
20. Justin Davis
21. Michael Farrell
22. Hope Henderson
23. Jane Henderson
24. Julia Drees
25. David Filippini
26. Sabrina and Markus Leunig
27. Charlotte Stanton
28. Jennifer Formoso
29. Sohee Procek
30. Erin Chalmers
31. Al Hassan Hleieh
32. Mary Canavan
33. John Weiszer
34. Marcia Hutcherson
35. Khalil Bendib
36. Ginny Madsen

#### **Homelessness and Encampment Issues**

37. Nathan Scullion
38. Todd Oliver, owner of Shattuck Square
39. Linda Hung (2)
40. Kirstie Bennett, on behalf of the Telegraph-Channing Mall Merchants
41. Diana Bohn

#### **The Jump and Bike Park (Berkeleyside article)**

42. Monique Webster
43. David Alter
44. Amy Buege
45. Phorest Bateson
46. Heath Maddox
47. Julian Alcala
48. Ernst Schmidt
49. Youssef Rafatjah
50. Dan Leaverton
51. Sean Williams
52. Sue Reinhold
53. Nico Tripceovich
54. Victoria Hritonenko
55. Bruce Perens (2)

56. Svetlana Livdan

**Electrification of Existing Buildings**

57. Phoebe Sorgen

58. Thomas Lord

**Zoning Rules for Housing**

59. Marissa Moss

**LRDP and Housing Project #1 and #2**

60. Robert Breuer Family

**American Rescue Plan Act Monies**

61. Richard Rollins

**Berkeley Police Department Audit Report**

62. Jane Martin

**Traffic at Grizzly Peak/Marin/Summit Drive**

63. Joshua Bloom

**URL's Only**

64. phcanin@

65. russbumper (3)

**Supplemental Communications and Reports**

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

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





Office of the City Manager

CONSENT CALENDAR

June 1, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Farimah Brown, City Attorney  
Michael Woo, Deputy City Attorney

Subject: Waiver of Sanctuary City Ordinance for Westlaw Contract

RECOMMENDATION

Adopt a Resolution waiving the contract prohibition of Berkeley Municipal Code Chapter 13.105, Sanctuary City Contracting, in order to enter into a contract with Westlaw.

CURRENT SITUATION AND ITS EFFECTS

In order to provide legal services, the City Attorneys' office ("CAO"), relies on external legal resources. The preeminent provider of legal resources is Westlaw, a Thomsen Reuters Company. However, Westlaw provides services to the United States Immigration and Customs Enforcement Department. Pursuant to Chapter 13.105, the Sanctuary City Contracting Ordinance, the Council must grant a waiver in order for the City to contract with Westlaw.

BACKGROUND

One of the most critical tasks performed by attorneys is legal research. From researching cases and statutes for litigation to preparing ordinances and reviewing contract terms, having a robust and comprehensive legal research tool is indispensable. Since 2000 and until the passage of the Sanctuary City Contracting Ordinance in 2019, the CAO has contracted with Westlaw, a Thomson Reuters company. Westlaw is relied upon by numerous legal organizations, governmental agencies, and non-profit organizations. Current subscribers include entities such as the Federal Courts, California courts, MALDEF ([www.maldef.org](http://www.maldef.org)) RAICES ([www.raicestexas.org](http://www.raicestexas.org)) Rio Grande Legal Aid ([www.trla.org](http://www.trla.org)), Centro Legal de la Raza ([www.centrolegal.org/](http://www.centrolegal.org/)) as well as the AMLAW 100 and law firms of all sizes. Westlaw is essential to work done by city attorneys, public defense agencies, legal aid associations and prosecutors. In firms with more than 500 attorneys, Westlaw is the legal resource service of choice for 75% of those firms and is the leading platform in the legal industry, relied on for:

- Accuracy of case law, statutes and regulations, all of which are interconnected through its *proprietary* Key Number System, a master classification system of U.S. law.

- Editorial Enhancements that allow customers to quickly isolate legal issues of importance as well as see their development through the American Jurisprudence system.
- *Exclusive* content critical to municipal attorneys, such as *McQuillen: The Law of Municipal Corporations*, *Matthews Municipal Ordinances*, and *The Ordinance Law Annotations*.
- In addition to the exclusive and proprietary sources described above, the following critical legal research resources are also proprietary to Westlaw: California Jurisprudence, the Rutter Group Collection, Miller & Starr CA Real Estate, Witkin Library, American Law Reports, CA Civil Practice Collection, CA Judges BenchBook Series and CA Code Forms Government<sup>1</sup>.

The Sanctuary City Contracting Ordinance, adopted in 2019, prohibits contracting with an entity that provides services to the United States Immigration and Customs Enforcement Department unless a waiver is granted by the Council. Section 13.105.030 provides that a waiver can be granted "...based on a specific determination that no reasonable alternative exists, taking into consideration the following:

1. The intent and purpose of this ordinance;
2. The availability of alternative services, goods and equipment; and
3. Quantifiable additional costs resulting from use of available alternatives

The intent and purpose of the Ordinance is to ensure that the City does not financially support any company that provides services that infringes upon the rights of immigrants. Here, the CAO will be using Westlaw to, among other things, enhance efforts to *protect* immigrant rights as needed. With respect to availability of alternative services, as explained above, due to the specialized and proprietary nature of Westlaw services, no alternative exists to provide the level of resources offered by Westlaw. Additionally, the second most used legal research software with 14% of the market – LexisNexis – also provides data services to the United States Immigration and Customs Enforcement Department. But, not only is LexisNexis also not in compliance with the Sanctuary City Contracting Ordinance, its software lacks the capability of Westlaw's products. Consequently, no amount of additional costs can equate to the offerings from Westlaw.

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<sup>1</sup> While Westlaw licenses some of these products to third parties, the products within those third party services are stand alone and not integrated with each other as they are in the Westlaw ecosystem and thus significantly reducing their utility to the user. Additionally, no other company provides the wide suite of integrated legal products such as calendaring, data management and time keeping available from Westlaw.



ENVIRONMENTAL SUSTAINABILITY

While much of the proprietary publications identified above were previously only available in print (and are still available in print today), the CAO intends to contract only for online access to these sources, thereby significantly reducing reliance on print publications and the concomitant negative impact on the environment.

RATIONALE FOR RECOMMENDATION

The CAO requires services provided by Westlaw and no alternative exists.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Farimah Brown, City Attorney, (510) 981-6998

Michael Woo, Deputy City Attorney, (510) 981-6998

Attachments:

1: Resolution

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

ADOPT A RESOLUTION WAIVING THE CONTRACT REQUIREMENTS OF THE SANCTUARY CITY CONTRACTING ORDINANCE PURSUANT TO CHAPTER 13.105 OF THE BERKELEY MUNICIPAL CODE, IN ORDER TO ENTER INTO A CONTRACT WITH WESTLAW, A THOMSON REUTERS COMPANY

WHEREAS, Pursuant to Ordinance No. 7650-N.S. and Chapter 13.105, the Sanctuary City Contracting Ordinance, in order to enter into a contract with Westlaw, a Thomson Reuters Company, the City Council must determine that no reasonable alternative exists based on consideration of three factors; and

WHEREAS, the three factors: the intent and purpose of the act, the availability of alternative service providers and quantifiable additional costs resulting from the use of alternative providers have all been considered; and

WHEREAS, the use of services provided by Westlaw is indispensable to the practice of law; and

WHEREAS, contracting with Westlaw will not violate the intent of the Ordinance as its services will be used to promote the interest of the immigrant community in conformance with the intent and purpose of the Ordinance; and

WHEREAS, no other contractors are available who can provide the services required by this contract; and

WHEREAS, no additional costs are quantifiable as there are no available alternatives; and

WHEREAS, failing to provide this waiver would result in additional costs to use Westlaw on an ala carte basis; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a waiver to the "no-contract" provision of the B.M.C. Section 13.105 is approved because no reasonable alternative exists to the services that will be provided under contract with Westlaw, a Thomsen Reuters Company.



Office of the City Manager

CONSENT CALENDAR  
June 1, 2021

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 June 1, 2021

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 is \$2,270,000.

| <u>PROJECT</u>                     | <u>Fund</u> | <u>Source</u> | <u>Amount</u>      |
|------------------------------------|-------------|---------------|--------------------|
| Fire Department Project Management | 164         | Measure FF    | \$2,000,000        |
| Standard of Cover Study            | 164         | Measure FF    | \$200,000          |
| Bond Capacity Study                | 501         | PW            | \$70,000           |
| <b>Total:</b>                      |             |               | <b>\$2,270,000</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 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.

Formal Bid Solicitations and Request for Proposals  
Scheduled for Possible Issuance After Council  
Approval on June 1, 2021

CONSENT CALENDAR  
June 1, 2021

### BACKGROUND

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

### ENVIRONMENTAL SUSTAINABILITY

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 June 1, 2021
  - a) Fire Department Project Management
  - b) Standard of Cover Study
  - c) Bond Capacity Study

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

DATE SUBMITTED: June 1, 2021

| 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      |
|-------------------|-------------------------------------------------|----------------------|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|---------------------------|------------------|---------------------------|
| 21-11457-C        | Fire Department Project Management              | 6/2/2021             | 6/29/2021                | Seeking individuals or firms to provide project management services for the City as it plans and deploys a complex set of interrelated projects made possible by Measure FF – a parcel tax measure. These projects/programs will improve the fire and ems response and deployment, upgrade dispatch services, improve wildland urban interface fire prevention and evacuation strategies/programs , improve fire department training property, staffing and delivery, among other related | \$1,000,000 - 2,000,000 (over 5 Fiscal Years) | Funds available in FY2022 | Fire Suppression | David Sprague<br>981-5501 |

DATE SUBMITTED: June 1, 2021

| 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      |
|--------------------|-------------------------------------------------|----------------------|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|--------------------------------------------------------------------------------|------------------|---------------------------|
| 21-11458-C         | Standard of Cover Study                         | 6/2/2021             | 6/29/2021                | The Standards of Coverage Analysis and Report will enable the Berkeley Fire Department to define the appropriate level of service based on a comprehensive study of the department's historical performance, community risk factors and expectations, an evaluation of existing and projected risks, hazards, population, topography, and proposed deployment strategies. The report will be a key component of an ensuing planning process. | \$200,000          | Measure FF                                                                     | Fire Suppression | David Sprague<br>981-5501 |
| <b>Dept TOTAL</b>  |                                                 |                      |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              | \$2,200,000        |                                                                                |                  |                           |
| 21-11459-C         | Bond Capacity Study                             | 6/2/2021             | 6/30/2021                | Study and report the long-term borrowing capacity of the city.                                                                                                                                                                                                                                                                                                                                                                               | \$70,000           | 501-54-623-673-0000-000-431-612990-<br><br>501-54-623-673-0000-000-431-612310- | PW/Engineering   | Sean O'Shea<br>981-6306   |
| <b>Dept TOTAL</b>  |                                                 |                      |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              | \$70,000           |                                                                                |                  |                           |
| <b>DEPT. TOTAL</b> |                                                 |                      |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>\$2,270,000</b> |                                                                                |                  | <b>22</b>                 |

DATE SUBMITTED: November 3, 2015







Office of the City Manager

CONSENT CALENDAR

June 1, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: Notice of Appropriations Limit for Fiscal Year 2022

RECOMMENDATION

Adopt a Resolution providing notice that: 1) Council will adopt an appropriations limit for Fiscal Year 2022 at its meeting of June 29, 2021; and 2) the amount of the limit and the background material used in its calculation will be available for public review in the City Clerk's Office on or before June 14, 2021.

FISCAL IMPACTS OF RECOMMENDATION

On June 29, 2021, the Council will set the Fiscal Year 2022 appropriations limit. The amount of appropriations subject to the limit is the budgeted proceeds of taxes (e.g., all taxes levied; transfers from an enterprise fund to the extent those transfers exceed the cost of providing the services; discretionary state subventions; interest earned from the investment of proceeds of taxes, etc.), and the total of these budgeted revenues cannot exceed the total appropriations limit. The City's actual appropriations in each fiscal year have been significantly below the limit, as they will be for Fiscal Year 2022. Thus, there are no present fiscal implications of establishing the limit.

CURRENT SITUATION AND ITS EFFECTS

Senate Bill 1352 requires that 1) the governing body of each local jurisdiction shall, by a legislative action, establish its appropriations limit at a regularly scheduled or special meeting and that documentation used in the determination of the appropriations limit shall be made available to the public fifteen days before that meeting. 2) Government Code Section 7910 requires that the City adopt its appropriations limit prior to the beginning of each fiscal year.

This Resolution gives public notice of Council's intent to adopt an appropriations limit for Fiscal Year 2022 at its meeting of June 29, 2021, and that the documents used in calculating the limit will be available for public review on or before June 14, 2021. Proposition 4, approved by the electorate of the State of California via a special election held on November 6, 1979, added Article XIII B to the constitution of the state. It requires local governments to adopt yearly appropriation limits according to specified formulas, and allows for specified, yearly adjustments of the limit. Proposition 111, approved by the voters June 5, 1990, and changed the Proposition 4 adjustment formulas. Senate Bill 152,

Government Code Sections 7900, et. seq, enacted by the Legislature of the State of California, provided for the implementation of Article XIII B defining various terms used in this article and prescribing procedures to be used in implementing specific provisions of the Article.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### BACKGROUND

The Finance Department of the City of Berkeley compiles the data and makes calculations incident to the determination of the XIII B appropriations limit. The amount of the Fiscal Year 2022 appropriations limit and the documentation incident to the determination thereof will be available for review by the public in the Office of the City Clerk on or before June 14, 2021, at least fifteen days prior to the Council's scheduled adoption of the appropriation limit, as required by law.

#### RATIONALE FOR RECOMMENDATION

This is a state law.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7326

Attachments:

1: Resolution

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

PROVIDING NOTICE OF SCHEDULED ADOPTION OF APPROPRIATIONS LIMIT FOR FISCAL YEAR 2022 PURSUANT TO ARTICLE XIII B OF THE CONSTITUTION OF THE STATE OF CALIFORNIA

WHEREAS, on November 6, 1979, the citizens of the State of California approved Proposition 4, which added Article XIII B to the Constitution of the State of California to place various limitations on the fiscal powers of State and local government; and

WHEREAS, Senate Bill 1352, Government Code Section 7900, et. seq. enacted by the Legislature of the State of California, provides for the implementation of Article XIII by defining various terms in this article; and

WHEREAS, the governing body of each jurisdiction is required to establish its appropriations limit at a regularly scheduled meeting or noticed special meeting; and

WHEREAS, 15 days prior to such meeting, the documentation used in the determination of the appropriations limit shall be made available to the public.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley does hereby give notice that it will, at its meeting of June 29, 2021, adopt a Resolution which establishes the appropriations limit for the 2021 Fiscal Year pursuant to Article XIII B of the Constitution of the State of California.

BE IT FURTHER RESOLVED that the documentation used in the determination of the appropriation limit for Fiscal Year 2022 shall be made available for public review in the Office of the City Clerk of the City of Berkeley, 2180 Milvia Street, Berkeley, California, on or before June 14, 2021.





Office of the City Manager

CONSENT CALENDAR

June 1, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront

Subject: Contract No. 32000228 Amendment: Ghilotti Construction Company, Inc. for Berkeley Rose Garden Pergola Reconstruction and Site Improvements Project

RECOMMENDATION

Adopt a resolution authorizing the City Manager to execute an amendment to Contract No. 32000228 with Ghilotti Construction, Inc. for the Berkeley Rose Garden Pergola Reconstruction and Site Improvements Project, increasing the amount by \$225,000 for an amended total amount not to exceed \$3,716,917.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract amendment is available in the FY 2021 budget in the Parks Tax Fund and Measure T1 Fund. No other funding is required, and no other projects will be delayed due to this expenditure.

CURRENT SITUATION AND ITS EFFECTS

The contract with Ghilotti Construction, Inc. for the Berkeley Rose Garden Pergola Reconstruction and Site Improvements Project was executed on May 19, 2020 for a total amount not to exceed \$3,491,917 (Resolution No. 69,339-N.S.). During construction, unforeseen existing conditions required that additional work be performed. Additionally, the City's parks maintenance staff identified additional deferred maintenance repairs and necessary replacements. The City has negotiated these change orders with Ghilotti Construction, Inc. This work was not included in the original contract scope, but is necessary to complete the project, and to increase accessibility and safety.

BACKGROUND

The project was advertised for bids on Monday, January 13, 2020, and bids were opened on February 11, 2020. The City received three bids, from a low bid of \$2,858,470 to a high bid of \$4,339,989 for base bid work, and from \$3,174,470 to \$4,643,522 for the base bid plus additive Bid Alternates 1 and 2.

The determination of the lowest responsive and responsible bidder was based on the price for base bid work, as indicated in the bid documents. Ghilotti Construction Company, Inc. was the lowest responsive and responsible bidder. Staff conducted references checks and received satisfactory feedback.

This improvement project is at Berkeley Rose Garden, located at 1200 Euclid Avenue, with ancillary work at Codornices Park, located at 1201 Euclid Avenue. The Berkeley Rose Garden was built in 1937, and was designated as a City of Berkeley Historical Landmark in 1995. From 2016-2017, the City performed initial efforts to renovate the site by demolishing the existing historic pergola which was in disrepair, reconstructing a portion of the historic pergola, and making several ADA access and site improvements to the site. This project will complete the reconstruction of the historic redwood pergola. The work to be done also includes, but is not limited to, providing ADA-compliant access through Codornices Park to the Rose Garden pergola, demolishing and reconstructing existing historic retaining walls, repairing tennis courts and pathways, renovating the Rose Garden restroom for ADA compliance, new fencing, flagstone paving, handrails, signage, and providing several site and access improvements throughout the site.

ENVIRONMENTAL SUSTAINABILITY

The construction contract includes requirements to comply with the City's Environmentally Preferable Purchasing Policy. The project is a renovation of a developed urban site and therefore will not negatively affect natural habitat.

RATIONALE FOR RECOMMENDATION

The City and Ghilotti Construction, Inc. have negotiated a price within the City's budget for renovations and safety improvements. This increase to the contract is necessary to address unforeseen conditions, perform additional deferred maintenance repairs, safety enhancements, and to complete current change orders. The City does not have the in-house labor or equipment resources to complete these construction activities.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, (510) 981-6700  
Evelyn Chan, Supervising Civil Engineer, PRW, (510) 981-6430

Attachments:

1: Resolution

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

CONTRACT NO. 32000228 AMENDMENT: GHILOTTI CONSTRUCTION COMPANY,  
INC. FOR BERKELEY ROSE GARDEN PERGOLA RECONSTRUCTION AND SITE  
IMPROVEMENTS PROJECT

WHEREAS, the Berkeley Rose Garden is in need of several site improvements including the reconstruction of the historic redwood Pergola; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this construction work; and

WHEREAS, an invitation for bids was duly advertised on January 13, 2020, and bids were opened on February 11, 2020, and the City received three bids;

WHEREAS, Ghilotti Construction, Inc. was the lowest responsive and responsible bidder, and references for Ghilotti Construction, Inc. were provided and checked out satisfactorily; and

WHEREAS, the contract with Ghilotti Construction, Inc. for the Berkeley Rose Garden Pergola Reconstruction and Site Improvements Project was executed on May 19, 2020 for a total amount not to exceed \$3,491,917 (Resolution No. 69,339-N.S.); and

WHEREAS, an increase of \$225,000 to the not-to-exceed contract amount is necessary to make deferred maintenance repairs and complete change orders; and

WHEREAS, funds are available in the FY 2021 budget in the Parks Tax Fund (Fund 138) and Measure T1 Fund (Fund 511).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 32000228 with Ghilotti Construction, Inc. for the Berkeley Rose Garden Pergola Reconstruction and Site Improvements Project, increasing the contract amount by \$225,000, for a total amended amount not to exceed \$3,716,917. A record signature copy of any amendments to be on file in the Office of the City Clerk.







Office of the City Manager

CONSENT CALENDAR  
June 1, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jen Louis, Interim Chief of Police

Subject: Multi-Agency Policing Agreement for Grizzly Peak Boulevard

RECOMMENDATION

Adopt a resolution approving the Memorandum of Understanding (MOU) entitled “Multi-Agency Policing Agreement Among City of Oakland Police Department, Berkeley University of California Police Department, East Bay Regional Park District, City of Berkeley Police Department, Contra Costa County Sheriff’s Department, East Bay Municipal Utilities District, and City of Orinda” to provide for enforcement cooperation regarding problematic behavior and fire prevention on Grizzly Peak Boulevard.

FISCAL IMPACT OF RECOMMENDATION

City of Berkeley Police Department currently provides law enforcement, follow up investigation and fire prevention related enforcement on an as needed basis for Grizzly Peak Boulevard. This agreement will allow for clear cooperation between agencies with jurisdiction on Grizzly Peak Boulevard. No additional fiscal impacts anticipated.

CURRENT SITUATION AND ITS EFFECTS

Law Enforcement agencies with jurisdiction on Grizzly Peak Boulevard, including the Berkeley Police Department and led by the Oakland Police Department, seek to enter into the attached Memorandum of Understanding (MOU). When groups decide to start a bonfire or ignite fireworks, the consequences in this High Fire Severity Zone could be catastrophic. By entering into an MOU, officers from any agency that are available can respond and assist in the region’s wildfire prevention efforts.

The MOU authorizes all agencies to retain their authority to provide initial or supplementary public safety services and enforcement within the area regardless of primary jurisdiction. It also clarifies that discovered or reported crimes requiring significant follow-up investigation should be turned over to the primary jurisdiction unless otherwise mutually agreed.

The MOU also clarifies that if representatives of any agency become aware of an incident at a location where their agencies have concurrent jurisdiction and are not able to determine which agency has primary jurisdiction, the agency which discovered or was first notified of the incident

will retain the responsibility to provide any law enforcement and/or other necessary public safety services until such time that the jurisdiction issue is agreed upon.

Included in the MOU is a map developed by EBRPD (Attachment B) and an electronic link to the map created by the City's Information Technology Department (ITD). The electronic map defines jurisdiction down to the parcel using the zoom feature to aid in determining jurisdiction. This map will be invaluable to staff in the field when following up on more serious investigations.

### BACKGROUND

Grizzly Peak Boulevard runs throughout the Oakland/Berkeley Hills and has somewhat complicated law enforcement jurisdiction between several agencies in the region. In the spring of 2020, Grizzly Peak became popular for problematic gatherings in the evenings centered around the nine separate turn-outs where this activity occurs and those locations are all accessed by the City of Oakland roadway but the underlying turn-outs are under predominantly the jurisdiction of UC Berkeley and East Bay Regional Park District. There were instances of people using the blocked-off turn-outs as areas to set up a stage with live performers, bon fires, and fireworks. In the spring of 2020, OFD tracked 6 wildfires on Grizzly Peak in a short 6-week period, the majority of which were caused by fireworks during these gatherings. A working group, which included representation from Berkeley Police Department, was formed to reduce the fire risks posed by these gatherings.

The Working Group also evaluated several long-term options, and decided to install signage prohibiting stopping at all turnouts between 9pm and 6am. Additionally the areas are posted as a tow-away zones on Red Flag Days. This allowed police to patrol and advise people to move-on after 9pm which proved moderately successful. The City of Oakland reached out to the partner jurisdictions to coordinate an enforcement response and convened an interagency group to discuss these challenges.

The Working Group conducted several successful operations together on weekend nights in the late summer 2020. In late summer, the turnouts were closed to vehicles. Logs from local tree removals were placed blocking each of the turnouts. The closure of the turn-outs has been very impactful in reducing the large gatherings that are the most problematic, but some level of patrolling, especially during the fire season, is still necessary. The group determined that ongoing efforts would be facilitated by entering into a Memorandum of Understanding clarifying the regional law enforcement cooperation on Grizzly Peak Boulevard.

While none of the activity experienced in 2020 was in City of Berkeley jurisdiction, the area is accessed from the north through Berkeley. The Berkeley Police Department anticipates that these interventions may displace the activity into Berkeley. The Berkeley Police Department will likely be involved in controlling traffic or limiting access, minimally on Red Flag days, from the Berkeley end of Grizzly Peak Boulevard.

### ENVIRONMENTAL SUSTAINABILITY

Grizzly Peak Boulevard is a High Fire Severity Zone. Environmental impacts of a wildfire in the Berkeley Oakland Hills could be catastrophic.

### RATIONALE FOR RECOMMENDATION

This Memorandum of Understanding clarifies jurisdictional issues between multiple agencies that will be involved in ongoing efforts to abate the fire danger posed by gatherings on Grizzly Peak Boulevard.

CONTACT PERSON

Jen Louis, Interim Chief of Police, (510) 981-5900

ATTACHMENTS

1. Memorandum of Understanding entitled: "MULTI-AGENCY POLICING AGREEMENT AMONG CITY OF OAKLAND POLICE DEPARTMENT, BERKELEY UNIVERSITY OF CALIFORNIA POLICE DEPARTMENT, EAST BAY REGIONAL PARK DISTRICT, CITY OF BERKELEY POLICE DEPARTMENT, CONTRA COSTA COUNTY SHERIFF'S DEPARTMENT, EAST BAY MUNICIPAL UTILITIES DISTRICT, and CITY OF ORINDA"
2. Resolution

**MULTI-AGENCY POLICING AGREEMENT AMONG  
CITY OF OAKLAND POLICE DEPARTMENT, BERKELEY UNIVERSITY OF CALIFORNIA  
POLICE DEPARTMENT, EAST BAY REGIONAL PARK DISTRICT, CITY OF BERKELEY  
POLICE DEPARTMENT, CONTRA COSTA COUNTY SHERIFF'S DEPARTMENT, EAST BAY  
MUNICIPAL UTILITIES DISTRICT, and CITY OF ORINDA**

I. INTRODUCTION

This agreement is intended to enable all peace officer agencies along the length of Grizzly Peak Boulevard in Alameda and Contra Costa Counties to work together to efficiently and effectively provide public safety services throughout Grizzly Peak Boulevard. All agencies agree to adopt the primary patrol authorities as outlined below.

This agreement shall not be interpreted as a restriction on the authorities granted by law to any agency, nor is it intended to interfere with the fulfillment of any agency's other duties, policies and mandates. Pursuant to the Mutual Aid and Jurisdictional Consent agreements of the Alameda and Contra Costa County Chiefs of Police and Sheriff's Association, all agencies recognize the ability of officers from the others to exercise peace officer powers and to enforce state and local laws in a manner consistent with applicable law and policy throughout the state.

In addition, this agreement is not intended to define property boundaries for purposes of determining legal ownership of real property, nor does it transfer or confer ownership rights or responsibilities of real property from or to any party.

II. DEFINITIONS

Concurrent authority – When more than one government agency borders the same geographic area along Grizzly Peak Boulevard as noted in the Grizzly Peak Responsibility Map, appended as Attachment A.

Grizzly Peak Responsibility Map – Defines the areas in which each agency agrees to take on primary public safety services responsibilities, appended as Attachment A and electronically here:

<https://oakgis.maps.arcgis.com/apps/View/index.html?appid=cd4d5586040e4371b26c31b23db68c01>

Primary jurisdiction – Color coded areas on Attachment A that define the geographical limits within which each agency agrees to take the lead on providing one or more public safety services relevant to a particular location, operation or issue.

Public safety services – Refers to the provision of law enforcement, fire safety, emergency medical response and parking enforcement services.

III. CITY OF OAKLAND PRIMARY JURISDICTION

For the purpose of providing effective and appropriate public safety services along Grizzly Peak Boulevard, it is recognized the City of Oakland agrees to accept primary jurisdiction responsibility as follows:

- A. **Grizzly Peak Boulevard**, all areas that are color coded Red, including turnouts, in Attachment A, 35 feet from the center line of Grizzly Peak Boulevard in either direction; and
- B. All agencies to this Agreement retain the authority to provide initial or supplementary public safety services and enforcement within the City of Oakland's primary jurisdiction, but discovered or reported crimes requiring significant follow-up investigation should be turned over to OPD unless otherwise mutually agreed.
- C. All agencies to this Agreement may enforce the City of Oakland's Municipal Code parking misdemeanors and infractions by issuing tickets and requesting tows when appropriate along the sections of Grizzly Peak Boulevard for which Oakland is assuming primary jurisdiction.

#### IV. CONTRA COSTA COUNTY PRIMARY JURISDICTION

For the purpose of providing effective and appropriate public safety services along Grizzly Peak Boulevard, it is recognized the County of Contra Costa agrees to accept primary jurisdiction responsibility as follows:

- A. **Grizzly Peak Boulevard**, all areas that are color coded Orange, including turnouts in Attachment A, 35 feet from the center line of Grizzly Peak Boulevard in either direction; and
- B. All agencies to this Agreement retain the authority to provide initial or supplementary public safety services and enforcement within the County of Contra Costa's primary jurisdiction, but discovered or reported crimes requiring significant follow-up investigation should be turned over to the County of Contra Costa unless otherwise mutually agreed.

#### V. AGENCIES WITH CONCURRENT OR ADJACENT JURISDICTION TO GRIZZLY PEAK BOULEVARD

- A. University of California, Berkeley (UCPD): For the purpose of providing effective and appropriate public safety services along Grizzly Peak Boulevard, it is recognized the UCPD, Berkeley agrees to accept primary jurisdiction responsibility as follows:
  - 1. All areas **adjacent to Grizzly Peak Boulevard** that are color coded Periwinkle Blue on Attachment A, starting at 35 feet from the center line of Grizzly Peak Boulevard and beyond; and
  - 2. All agencies to this Agreement retain the authority to provide initial or supplementary public safety services and enforcement within the UCPD's primary jurisdiction, but discovered or reported crimes requiring significant follow-up investigation should be turned over to the UCPD unless otherwise mutually agreed.

- B. East Bay Regional Park District (EBRPD): For the purpose of providing effective and appropriate public safety services along Grizzly Peak Boulevard, it is recognized the EBRPD agrees to accept primary jurisdiction responsibility as follows:
  - 1. All areas **adjacent to Grizzly Peak Boulevard** that are color coded Dark Green on Attachment A, starting at 35 feet from the center line of Grizzly Peak Boulevard and beyond; and
  - 2. All agencies to this Agreement retain the authority to provide initial or supplementary public safety services and enforcement within the EBRPD's primary jurisdiction, but discovered or reported crimes requiring significant follow-up investigation should be turned over to the EBRPD unless otherwise mutually agreed.
  
- C. East Bay Municipal Utilities District (EBMUD): For the purpose of providing effective and appropriate public safety services along Grizzly Peak Boulevard, it is recognized the City of Oakland agrees to accept primary jurisdiction responsibility as follows:
  - 1. All areas **adjacent to Grizzly Peak Boulevard** that are color coded Light Green in Attachment A, starting at 35 feet from the center line of Grizzly Peak Boulevard and beyond; and
  - 2. All agencies to this Agreement retain the authority to provide initial or supplementary public safety services and enforcement within the EBMUD's primary jurisdiction, but discovered or reported crimes requiring significant follow-up investigation should be turned over to the EBMUD unless otherwise mutually agreed.
  
- D. City of Berkeley: For the purpose of providing effective and appropriate public safety services along Grizzly Peak Boulevard, it is recognized the City of Berkeley agrees to accept primary jurisdiction responsibility as follows:
  - 1. All areas **adjacent to Grizzly Peak Boulevard** that are color coded Salmon on Attachment A, starting at 35 feet from the center line of Grizzly Peak Boulevard and beyond; and
  - 2. All agencies to this Agreement retain the authority to provide initial or supplementary public safety services and enforcement within the City of Berkeley's primary jurisdiction, but discovered or reported crimes requiring significant follow-up investigation should be turned over to the City of Berkeley unless otherwise mutually agreed.

VI. RED FLAG ALERTS

- A. All agencies agree to share Red Flag warnings with each other as soon as practically possible by providing notice to all parties as provided in Section X, below.
- B. All agencies agree to work together when Red Flag Alerts are issued in the area which includes Grizzly Peak Boulevard.

- C. At a minimum, each agency may dedicate at least one patrol officer to patrol the length of Grizzly Peak Boulevard.

VII. JURISDICTIONAL CONFLICT RESOLUTION

- A. If representatives of any agency become aware of an incident at a location where their agencies have concurrent jurisdiction and are not able to determine which agency has primary jurisdiction, the agency which discovered or was first notified of the incident should retain the responsibility to provide any law enforcement and/or other necessary public safety services until such time that the appropriate disposition is agreed upon. However, in making this determination, consideration should also be given to the nature of the incident and each agency's available resources.

VIII. AGENCY DUTIES

- A. Agencies shall inform all patrol officers, dispatchers and other employees who accept or assign calls for service about the terms of this agreement and update existing procedures, protocols and training content accordingly.
- B. Agencies shall keep a copy of the most current revision of this agreement in a location accessible to all patrol officers, dispatchers and other employees who accept or assign calls for service, and immediately available to those at the rank of Sergeant or higher.

IX. HISTORY, AMENDMENTS & TERMINATIONS

This is the first version of a written jurisdictional agreement between the agencies and signatories to this Agreement.

This agreement should be reviewed regularly and as-needed to determine if it should be adjusted to better meet the needs of the public and each agency.

Any agency may terminate their participation in this Agreement with 30 days' written notice to all other agencies, as provided below.

X. NOTICE

All notices called for in this Agreement shall be directed to the following personnel:

|                                                                             |                                                                              |                                                                                        |
|-----------------------------------------------------------------------------|------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| OPD:<br>Name _____<br><br>Title _____<br><br>Phone _____<br><br>Email _____ | UCPD:<br>Name _____<br><br>Title _____<br><br>Phone _____<br><br>Email _____ | CoCoCo Sheriff:<br>Name _____<br><br>Title _____<br><br>Phone _____<br><br>Email _____ |
| Berkeley:<br>Name _____                                                     | EPRPD:<br>Name _____                                                         | EBMUD:<br>Name _____                                                                   |

|                                                                                |                                           |                                           |
|--------------------------------------------------------------------------------|-------------------------------------------|-------------------------------------------|
| Title _____<br>Phone _____<br>Email _____                                      | Title _____<br>Phone _____<br>Email _____ | Title _____<br>Phone _____<br>Email _____ |
| Orinda:<br>Name _____<br><br>Title _____<br><br>Phone _____<br><br>Email _____ |                                           |                                           |

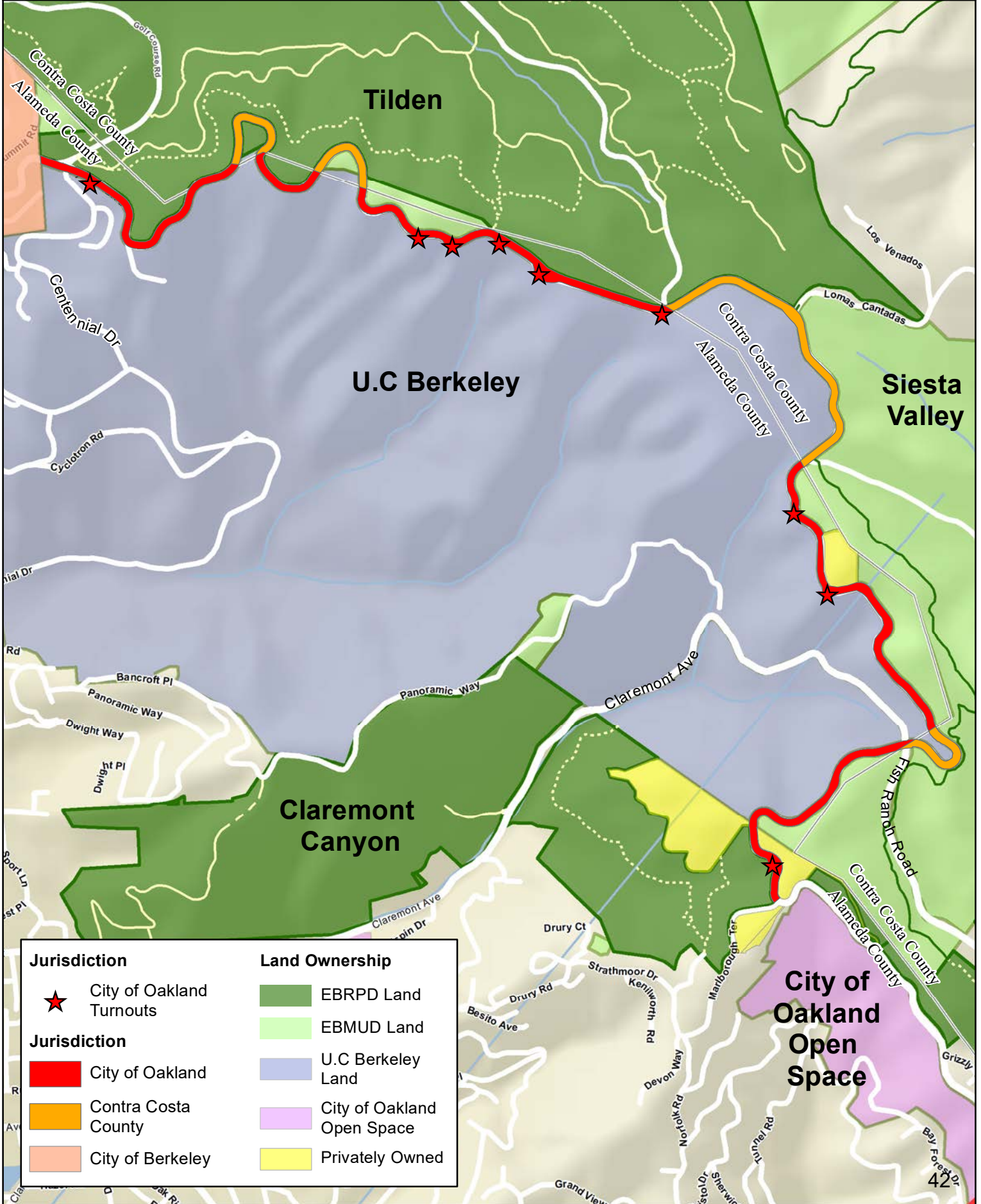
XI. AUTHORIZATION

We, the undersigned, as authorized representatives of our respective organizations, hereby approve this agreement as of the date below. This agreement will remain in effect until mutually amended, revised or terminated in writing.

|                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>CITY OF OAKLAND:</p> <p>_____<br/>City Administrator                      Date</p> <p>_____<br/>Chief of Police                              Date</p> <p>_____<br/>City Attorney                                  Date</p>                        | <p>BERKELEY UNIVERSITY OF CALIFORNIA:</p> <p>_____<br/>Chancellor                                      Date</p> <p>_____<br/>Chief of Police                                  Date</p> <p>_____<br/>Office of Legal Affairs                      Date</p> |
| <p>CONTRA COSTA COUNTY SHERIFF:</p> <p>_____<br/>County Administrator                      Date</p> <p>_____<br/>Sheriff                                              Date</p> <p>_____<br/>County Counsel                                  Date</p> | <p>EAST BAY MUNICIPAL UTILITIES DISTRICT:</p> <p>_____<br/>General Manager                              Date</p> <p>_____<br/>Chief of Police                                  Date</p>                                                                   |



|                          |                                  |               |
|--------------------------|----------------------------------|---------------|
|                          | General Counsel                  | Date          |
| CITY OF BERKELEY:        | EAST BAY REGIONAL PARK DISTRICT: |               |
| _____<br>City Manager    | _____<br>Date                    | _____<br>Date |
| _____<br>Chief of Police | _____<br>Date                    | _____<br>Date |
| _____<br>City Attorney   | _____<br>Date                    | _____<br>Date |
| CITY OF ORINDA:          |                                  |               |
| _____<br>City Manager    | _____<br>Date                    |               |
| _____<br>Chief of Police | _____<br>Date                    |               |
| _____<br>City Attorney   | _____<br>Date                    |               |
|                          |                                  |               |



| Jurisdiction |                          | Land Ownership |                            |
|--------------|--------------------------|----------------|----------------------------|
|              | City of Oakland Turnouts |                | EBRPD Land                 |
|              | City of Oakland          |                | EBMUD Land                 |
|              | Contra Costa County      |                | U.C Berkeley Land          |
|              | City of Berkeley         |                | City of Oakland Open Space |
|              |                          |                | Privately Owned            |

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

**MEMORANDUM OF UNDERSTANDING:**

**MULTI-AGENCY POLICING AGREEMENT AMONG  
CITY OF OAKLAND POLICE DEPARTMENT, BERKELEY UNIVERSITY OF  
CALIFORNIA POLICE DEPARTMENT, EAST BAY REGIONAL PARK DISTRICT,  
CITY OF BERKELEY POLICE DEPARTMENT, CONTRA COSTA COUNTY  
SHERIFF'S DEPARTMENT, EAST BAY MUNICIPAL UTILITIES DISTRICT, and CITY  
OF ORINDA**

WHEREAS, Grizzly Peak Boulevard and the Oakland Berkeley Hills are a High Fire Severity Zone; and

WHEREAS, problematic gatherings along Grizzly Peak Boulevard significantly increased fire danger since the spring of 2020. Including at least 6 wild fires caused by fireworks as well as illegal bonfires; and

WHEREAS, The Berkeley Police Department and listed agencies share jurisdiction and law enforcement responsibility for Grizzly Peak Boulevard. Oakland Police Department formed a regional working group of effected law enforcement agencies to coordinate efforts to abate the fire risk posed by these gatherings; and

WHEREAS, the Working Group conducted several abatement efforts in the Spring and Summer of 2020 and anticipate the need for ongoing abatement and coordination of the working group's efforts; and

WHEREAS, The Working Group proposes this Memorandum of Understanding be adopted to clarify jurisdictional issues between the involved agencies to facilitate and coordinate fire prevention related efforts along Grizzly Peak Boulevard;

NOW THEREFORE, BE IT RESOLVED by the City Council of Berkeley that the City Manager is authorized to enter into and execute the Memorandum of Understanding "MULTI-AGENCY POLICING AGREEMENT AMONG CITY OF OAKLAND POLICE DEPARTMENT, BERKELEY UNIVERSITY OF CALIFORNIA POLICE DEPARTMENT, EAST BAY REGIONAL PARK DISTRICT, CITY OF BERKELEY POLICE DEPARTMENT, CONTRA COSTA COUNTY SHERIFF'S DEPARTMENT, EAST BAY MUNICIPAL UTILITIES DISTRICT, and CITY OF ORINDA"





Disaster and Fire Safety Commission

CONSENT CALENDAR

June 1, 2021

To: Honorable Mayor and Members of the City Council

From: Disaster and Fire Safety Commission

Submitted by: Jose Bedolla, Chairperson, Disaster and Fire Safety Commission

Subject: Referral Response: Amending Chapter 19.34 of the Berkeley Municipal Code to Expand Automatic Gas Shut-Off Valve Requirements in Multifamily, Condominium and Commercial Buildings Undergoing Renovations

RECOMMENDATION

The proposed ordinance modifications in the referral dated October 29, 2019, shown in Attachment 2 to the staff report (the Referral), can be briefly summarized as:

- Expand the Gas Shut-Off Valve requirements to remove exceptions for multifamily, condominium, and commercial buildings

The Disaster and Fire Safety Commission (DFSC) recommends that changes of the Berkeley Municipal Code be referred to the City Manager and Planning Department to be modified in accordance with the Referral as part of the 2022 Code adoption cycle, including the following changes:

1. Do not allow excess flow valves to substitute for motion-activated shut-off valves as a way to comply with this ordinance.
2. Clarify requirements for excess flow valves and motion activated (seismic) valves.
3. Include a provision to include gas valves for common areas when required for any individual unit of a building.
4. Do not include any requirements regarding sale or transfer of the building.
5. Remove the dollar limit on the modifications and replace with a requirement to comply any time a plumbing or mechanical permit is issued.

In addition, the Commission recommends the inclusion of wording in the Berkeley Emissions Saving Ordinance (BESO) to require that in any transfer of property, that the property be required to equipped with a seismic gas shutoff valve.

FISCAL IMPACTS OF RECOMMENDATION

Staff savings realized from first responders not having to shut off valves manually in case of emergency.

Costs will include staff time to submit ordinance to the Building Standards Commission. In addition, building inspector staff time will be necessary to ensure compliance with new provisions.

### CURRENT SITUATION AND ITS EFFECTS

Currently, BMC 19.34.040 requires automatic gas shut-off valves in all new construction or existing buildings that undergo repair or alteration exceeding \$50,000 consistent with sewer lateral requirements. However, it makes several exceptions for multi-unit buildings, as described in Attachment 2. As a result, residents of multi-unit buildings as well as neighboring buildings that may be impacted by a gas-driven fire after an earthquake, are not protected by a gas shut-off valve requirement.

### BACKGROUND

In October of 2019 the Disaster and Fire Safety Commission received a referral from Councilmembers Harrison, Wengraf, Hahn, and Bartlett on modifications to the BMC 19.34.040 Gas Shut-Off Valves ordinance.

The Referral's proposed ordinance modifications expands the Gas Shut-Off Valves requirement by removing several exceptions, including an exception for multi-unit buildings.

The Referral was discussed by the DFSC in the 12/4/19, 1/22/20, and 2/26/20 meetings. Several meetings subsequent were cancelled due to Covid-19.

At the March 24, 2021 regular meeting of the Disaster and Fire Safety Commission, the commission took the following action:

**Action:** Recommend that changes of the Berkeley Municipal Code be referred to the City Manager and Planning Department to be modified in accordance with the Referral as part of the 2022 Code adoption cycle: Couzin

Second: Stein

**Vote:** 9 Ayes - Couzin, Dean, Bradstreet, Degenkolb, Grimes, Bedolla, Simmons, Rader, Stein.

Additional background can be found in the Referral, Attachment 1.

### ENVIRONMENTAL SUSTAINABILITY

In addition to potentially saving lives and property, increasing gas shut-off valve use may reduce the spread of house-fires and wildland-urban interface fires, reducing the pollution, hazardous waste, loss of habitat, and other environmental damage caused by uncontrolled fires, and reducing greenhouse gas emissions caused by gas leaks after an earthquake.

### RATIONALE FOR RECOMMENDATION

The DFSC generally concurs with the rationale for this recommendation described in the Referral. The modifications to the ordinance are intended to increase the use of automatic gas shutoff valves to help reduce or prevent gas-related fires in the event of an earthquake.

In a major earthquake, gas piping is subjected to forces which may result in significant leaks of natural gas. These leaks can in turn result in serious fires or explosions.

A good article about the dangers of gas fires in an earthquake and the performance of Motion Activated Gas Shutoff Valves can be found here:

<http://www.strandearthquake.com/psgsv.html>.

The DFSC differs from the Referral regarding excess flow valves:

The ordinance modifications in the Referral allow the use of excess flow shut-off valves in place of motion-activated shut-off valves. The DFSC recommends against allowing excess flow valves to substitute for motion-activated shut-off valves.

Excess flow valves are appropriate for connection to individual appliances and are readily available incorporated in appliance connection lines. However, these valves would have to allow for a very large flow if connected to a whole house, and the leaks resulting from an earthquake may not be adequate to trigger an excess flow valve, while still being large enough to create a severe potential for fire or explosion.

Therefore, we recommend against allowing excess flow valves at the whole-house level to satisfy the requirements of the ordinance. Our edits in Attachment 1 incorporate this suggestion.

The DFSC believes that setting a minimum project value to trigger the installation of seismic gas shutoff valves is not the right way to trigger that requirement. In practice, the installation of a Seismic Gas Shutoff Valve is a simple task for a plumbing or mechanical contractor, however it is not within the designated ability of many other contractors. The \$10,000 minimum value set could easily be exceeded by work done by persons not approved to contract for such work, which could add significantly to the cost of a contract. On the other hand, the work required to install a seismic shutoff valve is generally less than an hour for a mechanical or plumbing contractor and the valve itself will usually cost less than \$150. The change in cost to the property owner should be minor compared to the cost of the other work performed under mechanical or plumbing permits. Therefore, it makes sense to require that having an operational seismic gas shutoff valve in place to receive a final signoff on a permit is not a significant burden to the property owner.

Finally, the DFSC has been informed that the building department does not get involved with transfer of property except as permit applications are filed. Any requirements affecting the transfer of property, especially those involving natural gas service, should be addressed through the Office of Energy and Sustainable Development.

ALTERNATIVE ACTIONS CONSIDERED

n/a This is in response to a City Council referral.

CITY MANAGER

The City Manager concurs the content and recommendations of the Commission's Report.

CONTACT PERSON

Keith May, Secretary, Disaster and Fire Safety Commission, 510-981-5508

Attachments:

1. 10/19/2019 referral to the Disaster and Fire Safety Commission





Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Harrison, Wengraf, Hahn, and Bartlett  
Subject: Amending Chapter 19.34 of the Berkeley Municipal Code to Expand Automatic Gas Shut-Off Valve Requirements in Multifamily, Condominium and Commercial Buildings Undergoing Renovations and to All Existing Buildings Prior to Execution of a Contract for Sale or Close of Escrow

RECOMMENDATION

Refer to the Disaster and Fire Safety Commission to consider an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow. Ask the Commission to consider other triggers as appropriate.

POLICY COMMITTEE RECOMMENDATION

On October 3, 2019, the Facilities, Infrastructure, Technology, Environment & Sustainability Committee adopted the following action: M/S/C (Harrison/Robinson) to send the item with a Positive Qualified Recommendation back to the City Council with the following amendments.

Amend the recommendation revised to read as follows:

1. Refer to the Disaster and Fire Safety Commission to consider an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow and to ask the Commission to consider other triggers as appropriate.

Amend the Financial Implications to read:

Staff savings realized from responders not having to shut off gas in an emergency.

Vote: All Ayes.

## BACKGROUND

The California Building Standards Code, or Title 24 of the California Code of Regulations, specifies the standards for buildings and other structures in California. Title 24 is intended to protect public health, safety, and general welfare building occupants, and is updated at the state level and adopted by local jurisdictions every three years. Municipalities are permitted to make local amendments to the Building Standards Code<sup>1</sup> as deemed necessary for general welfare, as long as they are submitted to the California Building Standards Commission with the necessary findings. The ideal time to update local buildings codes is before the next code cycle. Berkeley will adopt the 2019 code on January 1, 2020.

Natural gas in buildings poses significant risks to health and safety. A recent ordinance adding Chapter 12.80 to the Berkeley Municipal Code phases out natural gas in new buildings.<sup>2</sup> This will make Berkeley's new building stock safer and greener over time, but there is an outstanding need to prevent seismic and other disasters in existing buildings.

Gas shut-off valves are a component of a plumbing system capable of preventing the flow within a gas piping system. Shut-off valves allow for a resident to stop the flow of gas in their homes in case of an emergency, such as an earthquake or a gas leak.

All existing buildings, if they have natural gas, should have a shut-off valve of some kind. However, manual shut-off valves require timely attention during a seismic event, physical access and exertion, and mechanical knowledge to operate. In case of a natural disaster, relying purely on manual shut-off valves can be dangerous. For example, following the 2010 San Bruno explosion, Pacific Gas & Electric officials testified before the National Transportation Safety Board that "gas feeding the flames could have been shut off an hour earlier if PG&E had automatic or remotely controlled valves on the pipeline that exploded."<sup>3</sup> Since the San Bruno explosion, gas companies across California have urged a fast transfer to automatic shut-off valves.

Currently, BMC 19.34.040 requires automatic gas shut-off valves in all new construction or existing buildings that undergo repair or alteration exceeding \$50,000 consistent with sewer lateral requirements. However, it makes blanket exceptions for buildings with individually metered residential units when the building contains five or more residential units, unless the units are condominiums, putting renters at risk of physical harm.

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<sup>1</sup> "Local Amendments to Building Standards—Ordinances," California Building Standards Commission, <https://www.dgs.ca.gov/BSC/Codes/Local-Jurisdictions-Code-Ordinances>.

<sup>2</sup> Susie Cagle, "Berkeley became first US city to ban natural gas. Here's what that may mean for the future," The Guardian, <https://www.theguardian.com/environment/2019/jul/23/berkeley-natural-gas-ban-environment>.

<sup>3</sup> Paul Rogers, "PG&E officials grilled about automatic shut of valves," Mercury News, March 1, 2011, <https://www.mercurynews.com/2011/03/01/pge-officials-grilled-about-automatic-shut-off-valves-3/>.

In recommending this exception for multi-unit buildings in 2010, City staff intended to reduce the cost burden to property owners. For example, City staff were concerned that the ordinance would require very large multifamily buildings to install shut-off valves in every unit in a 50 unit building when completing a \$50,000 renovation.<sup>4</sup>

While financial costs are important, there will also likely be significant costs to human life and property resulting from natural gas infrastructure during seismic events that far outweigh the costs to property owners for installing shut-off valves. A more-tailored and comprehensive approach was adopted by the City of Los Angeles's 1997 policy in the wake of the Northridge Earthquake, requiring valves in all multifamily, condominium and commercial units when a permit for any addition, alteration or repair valued in excess of \$10,000 is taken out affecting the entire building, or in specific units affected by work in excess of \$10,000.<sup>5</sup>

This item proposes to apply the \$50,000 threshold for all work affecting multifamily, condominium and commercial buildings exclusive of work affecting the units and apply a \$10,000 threshold to work in excess of \$10,000 inclusive of any individual unit. In addition, this item proposes maintaining the current single-family home requirement when a permit is taken out of any addition, alteration or repair valued in excess of \$50,000.

Consistent with the Los Angeles code, the item removes the exception for commercial occupancies and uses in mixed use buildings of residential and non-residential occupancies with a single gas service line larger than 1 1/2 inches that serves the entire building. Berkeley City staff in 2010 previously suggested that pipes larger than 1 1/2 inches were marginally more expensive to retrofit with valves and therefore warranted an exception. Though upon further review, the few additional hundred dollars in labor and materials per valve does not warrant an exception due to ongoing risks to health and safety.

Berkeley is on top of one of California's most dangerous fault lines, the Hayward fault, making it prone to earthquakes. The extreme fire risk associated with natural gas infrastructure is illustrated by the 2017 U.S. Geological Survey stimulation of "a 7.0 quake on the Hayward fault line with the epicenter in Oakland." The agency's report predicted that "about 450 large fires could result in a loss of residential and commercial building floor area equivalent to more than 52,000 single-family homes and cause

<sup>4</sup> "Installation of Automatic Gas Shut-off Valves," Berkeley Planning and Development Department, July 13, 2010, <https://www.cityofberkeley.info/recordsonline/api/Document/Af7NhvRQQKZ1%C3%81%C3%89xY9QpwmChW6QBqKp%C3%89scsKBclRXOVsvA1QlgXjP%C3%89Rs2zLVn2kCnCNjn918yaZSDbGqiogM WpBM%3D/>

<sup>5</sup> City of Los Angeles Ordinance No. 171874, December 16, 1997, [http://clkrep.lacity.org/onlinedocs/1995/95-0217-S1\\_ORD\\_171874\\_02-05-1998.pdf](http://clkrep.lacity.org/onlinedocs/1995/95-0217-S1_ORD_171874_02-05-1998.pdf); See also, City of Los Angeles Plumbing Code Section 94.1217.0.

property (building and content) losses approaching \$30 billion.”<sup>6</sup> The report identified ruptured gas lines as a key fire risk factor. This finding mirrors the destructive gas fires resulting from the Loma Prieta (1989) and Northridge (1994) earthquakes. According to the most recent census, 59.1% of units in Berkeley are occupied by renters.<sup>7</sup> It is vital to extend the shut-off valve requirement to rental units to prioritize the health and safety of all Berkeley residents and the broader community.

Beyond extending this protection to large rental buildings during major renovations, this ordinance amends BMC 19.34 to mirror the City of Los Angeles’s code to require installing automatic shut-off valves prior to execution of a contract for sale in all buildings and units therein.

The transfer of property triggers various state and local building code requirements. For example, at time of sale the state health and safety code requires that, gas water heaters are seismically braced, anchored, or strapped.<sup>8</sup> Other local ordinances related to environment, such as the BMC 19.81: the Building Energy Saving Ordinance, require energy efficiency reports prior to time of sale. The intention of Section 1209.4.2 is to ensure that all buildings that are sold in Berkeley include automatic gas shut-off valves, therefore enhancing seismic safety across the existing building stock.

#### FINANCIAL IMPLICATIONS

Staff savings realized from first responders not having to shut off valves manually in case of emergency.

Staff time to submit ordinance to the Building Standards Commission. In addition, building inspector staff time will be necessary to compliance with new provisions.

#### ENVIRONMENTAL SUSTAINABILITY

Mandating shut-off valves in rental units undergoing renovation and all units at sale will prevent the excess release of greenhouse gases (methane) due to gas leaks and fires during seismic events and other related emergencies.

#### CONTACT PERSON

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

#### ATTACHMENTS

1: Ordinance

<sup>6</sup> “The HayWired earthquake scenario—Engineering implications,” U.S. Geological Survey, April 18, 2018, <https://pubs.er.usgs.gov/publication/sir20175013v2>.

<sup>7</sup> “Bay Area Census: City of Berkeley” <http://www.bayareacensus.ca.gov/cities/Berkeley.htm>

<sup>8</sup> Health and Safety Code § 18031.7, [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=18031.7.&lawCode=HSC](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=18031.7.&lawCode=HSC)

AMENDING CHAPTER 19.34 OF THE BERKELEY MUNICIPAL CODE TO EXPAND  
AUTOMATIC GAS SHUT-OFF VALVE REQUIREMENTS IN MULTIFAMILY,  
CONDOMINIUM AND COMMERCIAL BUILDINGS UNDERGOING RENOVATIONS  
AND TO ALL EXISTING BUILDINGS PRIOR TO EXECUTION OF A CONTRACT FOR  
SALE OR CLOSE OF ESCROW

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

Section 1. That Berkeley Municipal Code Section 19.36.040 is hereby amended to read as follows:

**19.34.040 Gas Shut-Off Valves.**

Chapter 12 of the 2016~~9~~ California Plumbing Code is adopted in its entirety subject to the modifications thereto which are set forth below.

**1209.2 General Requirements for Gas Shut-Off Valves.** Automatic gas shut-off valves installed either in compliance with this Section or voluntarily pursuant to a plumbing permit issued on or after the effective date of this Section, shall comply with the following:

**1209.2.1** All valves shall:

1. Comply with all applicable requirements of the Berkeley Plumbing Code.
2. Be tested and listed by recognized testing agencies such as the Independent Laboratory of the International Approval Services (IAS), Underwriter's Laboratory (UL), International Association of Plumbing and Mechanical Officials (IAPMO) or any other agency approved by the State of California Office of the State Architect (OSA).
3. Be listed by the State of California Office of the State Architect (OSA).
4. Be installed on downstream side of the gas utility meter.
5. Be installed in accordance with the manufacturer's instructions.
6. Be installed in accordance with a plumbing permit issued by the City of Berkeley.
7. Provide a method for expedient and safe gas shut-off in an emergency.
8. Provide a capability for ease of consumer or owner resetting in a safe manner.

**1209.2.2** Motion activated seismic gas shut-off valves shall be mounted rigidly to the exterior of the building or structure containing the fuel gas piping, unless otherwise specified in the manufacturer's installation instructions.

**1209.3 Definitions**

For the purpose of this Section terms shall be defined as follows:

**AUTOMATIC GAS SHUT-OFF VALVE** shall mean either a motion activated gas shut-off valve or device or an excess flow gas shut-off valve or device.

**DOWNSTREAM OF GAS UTILITY METER** shall mean all gas piping on the property owner's side of the gas meter and after the service tee.

**EXCESS FLOW GAS SHUT-OFF VALVE** shall mean an approved valve or device that is activated by significant gas leaks or overpressure surges that can occur when pipes rupture inside a structure. Such valves are installed at each appliance, unless otherwise specified by the manufacturer's installation instructions.

**MOTION ACTIVATED GAS SHUT OFF VALVE** shall mean an approved gas valve activated by motion. Valves are set to activate in the event of a moderate or strong seismic event greater than 5.0 on the Richter scale.

**UPSTREAM OF GAS UTILITY METER** shall mean all gas piping installed by the utility up to and including the meter and the utility's service tee.

**1209.4 Devices When Required.** Approved automatic gas shut-off or excess flow valves shall be installed as follows:

**1209.4.1 New Construction.** In any new building construction containing gas piping for which a building permit is first issued on or after the effective date of this Section.

**1209.4.2 Existing Buildings.** In any existing building, when any addition, alteration or repair is made for which a building permit is issued on or after the effective date of this Section and the valuation for the work exceeds \$50,000.

**1209.4.2.1 Multifamily, Condominium and Commercial Buildings.**

1. In any existing commercial, multifamily and condominium and commercial building, and applicable to all units and tenant spaces therein if the building is individually metered and lacks a central automatic shut-off valve downstream of the utility delivery point, when any addition, alteration or repair exclusive of individual units or tenant spaces is made for which a building permit is issued on or after the effective date of this Section and the valuation for the work exceeds \$50,000.
2. In any existing commercial, multifamily and condominium unit for all gas piping serving only those individual units, when any addition, alteration or repair inclusive of individual units or tenant spaces is made for which a building permit is issued on or after the effective date of this Section and the valuation for the work exceeds \$10,000.

**1209.4.3 Sale of Existing Buildings.**

The requirement to install seismic gas shutoff or excess flow shutoff valves shall apply

prior to entering into a contract of sale, or prior to the close of escrow when an escrow agreement has been executed in connection with a sale as follows:

1. in any building or structure, and all units therein when gas piping serving those units lacks a central automatic shut-off valve downstream of the utility delivery point; or
2. in an individual condominium unit for all gas piping serving that individual unit.

**1209.4.4 Exceptions:**

~~1.—Buildings with individually metered residential units when the building contains 5 or more residential units, unless the units are condominiums.~~

~~2.—For residential or mixed use condominium buildings, valves are required when the value of the work exceeds \$50,000 in any single condominium unit or when any work done outside of the units exceeds \$50,000.~~

~~3.—Commercial occupancies and uses in mixed use buildings of residential and non-residential occupancies with a single gas service line larger than 1 1/2 inches that serves the entire building.~~

14. Automatic gas shut-off valves installed with a building permit on a building prior to the effective date of this Section provided the valves remain installed on the building or structure and are adequately maintained for the life of the building or structure.

25. Automatic gas shut-off valves installed on a gas distribution system owned or operated by a public utility.

Section 2. The effective date of this amendment shall be January 1, 2020, or the effective adoption date of the 2019 California Building Standards Code, whichever is sooner.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of 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.







Office of the Mayor

CONSENT CALENDAR

June 1, 2021

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Councilmembers Kate Harrison, Sophie Hahn, and Susan Wengraf

Subject: Oppose – AB 1139, Net energy metering

RECOMMENDATION

Adopt a Resolution in opposition to AB 1139 (Gonzalez): Net energy metering. Send a copy of the Resolution to Senator Skinner, Assemblymembers Wicks and Gonzalez, and Governor Newsom.

BACKGROUND

Consumers suffer when power is concentrated in the hands of a few. This was the lesson learned from the 2000 electricity crisis and out of that grew California's commitment to consumer solar and localized energy. Over the past two decades, hundreds of thousands of Californians have invested in rooftop solar to combat climate change, lower energy bills, and invest in local communities. The State of California encouraged these investments via policies like net metering, which lets solar users share their extra energy with their neighbors for a bill credit. Today, rooftop solar, often paired with battery storage, is an increasingly affordable investment embraced by working class communities as a common and increasingly affordable solution to wildfires, blackouts, and rate increases.

AB 1139, as written, severely threatens the ability for homeowners and tenants alike to benefit from rooftop solar by establishing, as the default policy of the State of California:

- A monthly fee estimated at \$70/month for an average home solar system.<sup>1</sup>

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<sup>1</sup> Link to [AB 1139](#); Section 3(b)(4) would require the state to charge solar users a "fixed charges based on the cost to...serve the eligible customer-generator". The precedent for how the CPUC would calculate this fee is to charge transmission and distribution charges for all the energy generated and consumed on-site by the solar user. In other words, the solar user who becomes more energy efficient, consuming less energy from the grid, would be charged a fee to cover what they would otherwise have bought from the utility. We estimate this fee to be approximately \$70/month for a typical 6 kW solar system. The larger the system, the higher the fee. Non-residential customers would be charged the fee as well as residential.  
Net Metering Bill credit: Section 3(b)(5).

- An 80% reduction in the credit given to solar users for surplus energy sent back to the grid.<sup>2</sup>
- Drastic rule changes applied to all existing solar users within 1 to 10 years, reversing a well-established principle protecting consumer investments for 20 years. Such a policy not only harms existing consumers, including schools, low-income affordable housing, and farms, but it erodes consumer confidence in government-backed programs on clean energy.<sup>3</sup>

AB 1139 hurts working families the most and therefore interferes with the state’s – including Berkeley’s – equity goals.

- The fastest growing segment of California’s rooftop solar market is in working class communities. Today, over 150,000 solar roofs serve customers in the California Alternate Rates for Energy (CARE) discount program. An additional 30,000 rental units serving more than 100,000 people at multifamily affordable housing projects are under development thanks to net metering. These low-income consumers will be greatly harmed by AB 1139, in some cases paying more for their energy than if they had never invested in solar.<sup>4</sup>
- According to analysis by the Center for Sustainable Energy, AB 1139 proposes to make virtual net energy metering – a principal tool for providing access to renters, particular in affordable housing under programs such as Solar on Multifamily Affordable Housing (SOMAH), with solar-generated energy – more expensive than not providing solar access at all.

|                                               | SDG&E        | SCE        | PG&E       |
|-----------------------------------------------|--------------|------------|------------|
| <b>Today</b>                                  | \$178        | \$122      | \$139      |
| <b>Under AB 1139</b>                          | \$56         | \$37       | \$45       |
| <b>Percentage Drop</b>                        | 69%          | 70%        | 68%        |
| <b>Years to pay off solar in bill savings</b> | 40-50+ years | > 50 years | > 50 years |

**Table 1: CARE Solar Customer Monthly Savings Before and After AB 1139<sup>5</sup>**

AB 1139 is based on flawed premise, promoted primarily by investor-owned utilities - the rooftop solar "cost shift". The real cost shift is wildfires, power outages, the long-distance transmission lines that cause them, as well as the lack of government accountability on those responsible.

- This year alone, ratepayers will be charged more than \$9 billion for power line maintenance and wildfire prevention.
- PG&E’s transmission charges to ratepayers increased 68% from 2016 to 2021. Half of these charges were self-approved by PG&E.
- Investor-owned utilities profit by building more and more expensive power lines. The state’s investor-owned utilities charged ratepayers nearly \$20 billion in

<sup>2</sup> Section 3 (b)(5) The average credit for surplus solar power is valued at 23 cents per kilowatt-hour. The bill would require “Credits ... for any electricity exported to the electrical grid at a rate equal to the hourly wholesale market rate...” The average hourly wholesale market rate for electricity is around 3 cents.

<sup>3</sup> Section 2(b)(6) & 2(d)(B)(2)

<sup>4</sup> Neighborhood level adoption data: The Berkeley Lab: [Solar Demographics Tool](#) and [Income Trends among U.S. Residential Rooftop Solar Adopters](#); [CARE data](#)

<sup>5</sup> Based on a 6 kWh system and a reduction in NEM credits from 17 cents to 3 cents per kWh

transmission line projects between 2010 and 2019 and collected more than \$20 billion in profits over a similar time period.<sup>6</sup>

Rooftop-scale solar reduces costs for all ratepayers, but also cuts utility profits – which has led investor-owned utilities to craft this flawed proposal.

- In 2018 alone, rooftop solar and energy efficiency prompted the state to scale back more than 20 power line projects, saving \$2.6 billion.
- Maximizing rooftop solar could save American households nearly \$500 billion over the next thirty years, while doubling down on our overreliance on long-distance power lines could cost Americans \$350 billion.<sup>7</sup>
- Reducing grid costs cut against utility profits, even if it saves all ratepayers. As the CPUC recently outlined, “IOUs are inherently incentivized to make investments to drive an increase in their rate base and therefore, their profitability.”<sup>8</sup>

Investor-owned utilities have lobbied against every major proposal to help more marginalized communities adopt solar and battery storage: affordable housing solar incentives, community solar, microgrids, on-bill financing and more.<sup>9</sup>

Lawmakers can best help working communities by rejecting AB 1139 and embracing proposals to bring rooftop solar and battery storage to millions more Californians. More affordable rooftop solar, not less, is the path to helping Californians struggling under the burden of skyrocketing energy bills, power outages, and wildfires.<sup>10</sup>

### FINANCIAL IMPLICATIONS

Limited staff time associated with sending a letter to designated recipients.

### ENVIRONMENTAL SUSTAINABILITY

No direct identifiable environmental sustainability savings are associated with this item. However, the passage of SB 1139 is likely to squelch the deployment of rooftop-scale solar and storage in the City of Berkeley, which would interfere with a key strategy in the realization of Berkeley’s Climate Action goals.

<sup>6</sup> CA Public Utilities Commission: [Utility Costs and Affordability of the Grid of the Future](#) (\$20 billion in transmission costs from 2010-19 pp. 39, Table 11; \$4.336 in 2021 transmission spending and rate of increase p. 36; 1\$/3.50 profit p. 37). \$20B profit figure from utility 10-K filings, [itemized here](#).

<sup>7</sup> [Utility Dive](#) breakdown of this CA Independent Systems Operator report; Vibrant Clean Energy: [Why Local Solar for All Costs Less](#)

<sup>8</sup> The Averch-Johnson effect described on page 24 of the CPUC’s “Utility Costs and Affordability of the Grid of the Future.”

<sup>9</sup> Partial list of initiatives utilities lobbied to kill or defang: Affordable housing solar incentives ([AB 693](#) - Eggman, 2015); Low-income feed in tariff ([AB 1990](#) - Fong); Community solar ([SB 843](#) - Wolk, 2013; [SB 43](#) - Wolk, 2013; CPUC implementation); Microgrids (SB 1339, CPUC implementation)

<sup>10</sup> Save California Solar: [Building Blocks to Equitable Solar & Storage Growth](#)

Oppose – AB 1139, Net energy metering

CONSENT CALENDAR  
June 1, 2021

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

- 1: Resolution
2. Text of AB 1139
- 3: AB 1139 Factsheet

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

IN OPPOSITION OF AB 1139, NET ENERGY METERING

WHEREAS, Over the past two decades, hundreds of thousands of Californians have invested in rooftop solar to combat climate change, lower energy bills, and invest in local communities; and

WHEREAS, The State of California encouraged these investments via policies like net metering, which lets solar users share their extra energy with their neighbors for a bill credit; and

WHEREAS, Today, rooftop solar, often paired with battery storage, is an increasingly affordable investment embraced by working class communities as a common and increasingly affordable solution to wildfires, blackouts, and rate increases; and

WHEREAS, AB 1139, as written, severely threatens the ability for homeowners and tenants alike to benefit from rooftop solar by establishing, as the default policy of the State of California; and

WHEREAS, AB 1139 hurts working families the most and therefore interferes with the state's – including Berkeley's – equity goals; and

WHEREAS, AB 1139 is based on flawed premise, promoted primarily by investor-owned utilities - the rooftop solar "cost shift", when the real cost shift is wildfires, power outages, the long-distance transmission lines that cause them, as well as the lack of government accountability on those responsible; and

WHEREAS, Rooftop-scale solar reduces costs for all ratepayers, but also cuts utility profits – which has led investor-owned utilities to craft this flawed proposal; and

WHEREAS, Investor-owned utilities have lobbied against every major proposal to help more marginalized communities adopt solar and battery storage: affordable housing solar incentives, community solar, microgrids, on-bill financing and more; and

WHEREAS, Lawmakers can best help working communities by rejecting AB 1139 and embracing proposals to bring rooftop solar and battery storage to millions more Californians. More affordable rooftop solar, not less, is the path to helping Californians struggling under the burden of skyrocketing energy bills, power outages, and wildfires.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby opposes AB 1139, Net energy metering.

BE IT FURTHER RESOLVED that that copies of this Resolution be sent to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Lorena Gonzalez.

AMENDED IN ASSEMBLY MAY 4, 2021

AMENDED IN ASSEMBLY APRIL 8, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1139**

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**Introduced by Assembly Member Members Lorena Gonzalez and  
Carrillo  
(Principal coauthor: Assembly Member Quirk)**

February 18, 2021

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An act to amend Section ~~739.1~~ of, to repeal Sections ~~2827.1 and 2827.7~~ of, and to repeal and add Section ~~2827~~ of, ~~2827.1~~ of, and to add Sections ~~913.13 and 2827.2~~ to, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1139, as amended, Lorena Gonzalez. ~~Energy: California Alternate Rates for Energy program: net energy metering: electrical corporation distributed eligible renewable energy resource allocations: interconnections.~~ *Net energy metering.*

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations. Existing law requires the commission to continue a program of assistance to low-income electric and gas customers with annual household incomes that are no greater than 200% of the federal poverty guideline levels, referred to as the California Alternate Rates for Energy (CARE) program, and requires that the cost not be borne solely by any single class of customer. Existing law requires the commission, in establishing CARE discounts for an electrical corporation with 100,000 or more customer accounts in California, to

AB 1139

— 2 —

~~ensure that the average effective CARE discount shall not be less than 30% or more than 35% of the revenues that would have been produced for the same billed usage by non-CARE customers.~~

~~This bill would require the commission, in establishing CARE discounts for an electrical corporation with 100,000 or more customer accounts in California, to ensure that the average effective CARE discount shall not be less than 40% or more than 45% of the revenues that would have been produced for the same billed usage by non-CARE customers. The bill would require that 25% of the cost of the CARE program be paid for exclusively by the residential class of customers.~~

*Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law requires every electric utility, defined to include electrical corporations, local publicly owned electric utilities, and electrical cooperatives, to develop a standard contract or tariff for net energy metering, as defined, for generation by a renewable electrical generation facility, as defined, and to make this contract or tariff available to eligible customer-generators, as defined, upon request on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer generators exceeds 5% of the electric utility's aggregate customer peak demand. For a large electrical corporation, as defined, existing law ~~required~~ requires the commission to ~~develop a new~~ have developed a 2nd standard contract or tariff to provide net energy metering to additional eligible customer-generators in its the electrical corporation's service territory and there is imposes no limitation on the number of new eligible customer-generators entitled to receive service pursuant to this new 2nd standard contract or tariff developed by the commission for a large electrical corporation. tariff. Existing law requires the commission to ensure that the 2nd standard contract or tariff made available to eligible customer-generators by large electrical corporations ensures that customer-sited renewable distributed generation continues to grow sustainably. Existing law requires the commission, in developing this standard contract or tariff, to include specific alternatives designed for growth among residential customers in disadvantaged communities.*

~~This bill would repeal those provisions and require all electrical corporations to submit, by advice letter, a standard net energy metering contract or tariff that would take effect beginning on July 1, 2022, and apply to all customer self-generators and replace all prior standard contracts and tariffs, except as specified. The bill would require that~~



~~the new net energy metering contract or tariff credit the customer self-generator for any electricity exported by the customer self-generator to the distribution system or transmission system at a rate equal to the hourly wholesale market rate applicable at the time of the export and the location of the customer self-generator and that the customer self-generator shall be charged for electricity imported from the distribution system or transmission system at a rate equal to the otherwise applicable tariff for customers in the same class of service who are not customer self-generators. For customer self-generators taking energy supply service from a community choice aggregator, the bill would authorize the aggregator to determine to provide credits and charges in different amounts. The bill would require that a customer self-generator be charged a monthly grid access charge equal to the costs attributable to the customer's gross electricity usage billed at the otherwise applicable rates for all elements of retail service except for generation, minus the amount the customer paid for nongeneration elements of retail service paid as part of the rate for imported electricity.~~

~~Beginning July 1, 2022, this bill would require the commission to annually allocate up to the following amounts, divided proportionately among the electrical corporations based on the number of residential customers of each electrical corporation, for the following purposes: (1) \$300,000,000 for residential customer self-generators who both participate in the CARE program and live in multifamily housing or in underserved communities to discount the initial purchase cost for the renewable electrical generation facility, (2) \$300,000,000 to eliminate any rate premium required and provide an additional 10% discount for residential customers who participate in the CARE program to participate in a 100% solar option under the Green Tariff Shared Renewables Program, and (3) \$500,000,000 for facilities serving public buildings to discount the initial purchase cost for the renewable electrical generation facility. The bill would require the commission to annually allocate up to 5% of the funds to marketing and customer education designed to maximize participation in those programs. The bill would authorize the electrical corporations to collect the projected annual amounts used to implement these programs as a nonbypassable charge on distribution.~~

~~This bill would require that an electrical corporation ensure that requests for establishment of a customer self-generator interconnection are processed in a time period not exceeding that for similarly situated customers requesting new electric service, but not to exceed 30 working~~

~~days from the date it receives a completed application form for customer self-generator service, and if an electrical corporation is unable to process a request within the allowed time, the bill would require the electrical corporation to notify the customer self-generator and the commission of the reason for its inability to process the request and the expected completion date.~~

*This bill would require the commission, no later than February 1, 2022, to develop a replacement for the 2nd standard contract or tariff, which may include net energy metering, for an eligible customer-generator with a renewable electrical generation facility that is a customer of a large electrical corporation, and would require that large electrical corporations offer the standard contract or tariff to eligible customer-generators beginning no later than December 31, 2023. The bill would eliminate the requirement that the large electrical corporation tariff or contract ensure that customer-sited renewable distributed generation continues to grow sustainably. The bill would require that a customer-generator of a large electrical corporation that receives service pursuant to the existing statutory net energy metering tariffs be transferred to the replacement tariff no later than 5 years from the date that customer first received service pursuant to those tariffs, except that an eligible customer-generator participating in the California Alternate Rates for Energy program would have to be transferred to the new tariff no later than 10 years from the date that customer first received service pursuant to those tariffs.*

*If the commission fails to adopt a replacement net energy metering tariff for large electrical corporations by February 1, 2022, this bill would require the commission to develop a successor net energy metering tariff for large electrical corporations, to take effect no later than December 31, 2023, that does specified things, including having interconnection fees and monthly fixed charges based on the cost to interconnect and serve the eligible customer-generator and crediting the eligible customer-generator for any electricity exported to the electrical grid at a rate equal to the hourly wholesale market rate applicable at the time of the export and at the location of the eligible customer-generator. The bill would require that a customer-generator of a large electrical corporation that receives service pursuant to the existing statutory net energy metering tariffs be transferred to the successor tariff no later than 5 years from the date that customer first received service pursuant to those existing tariffs, except that an eligible customer-generator participating in the California Alternate Rates for*

*Energy program would have to be transferred to the successor tariff no later than 10 years from the date that customer first received service pursuant to those existing tariffs.*

*Existing law requires the PUC to submit various reports to the Legislature, as specified.*

*This bill would require the PUC to annually report to the Legislature, by June 30, on progress made to grow use of distributed energy resources among residential customers in disadvantaged communities.*

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because certain provisions of the bill would require an order, decision, rule, direction, demand, or requirement of the commission to implement, this bill would impose a state-mandated local program by creating new crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 913.13 is added to the Public Utilities  
2 Code, to read:

3 913.13. The commission shall annually report, to be included  
4 in the assessment required by Section 913.7, on progress made to  
5 grow use of distributed energy resources among residential  
6 customers in disadvantaged communities.

7 SEC. 2. Section 2827.1 of the Public Utilities Code is amended  
8 to read:

9 2827.1. (a) For purposes of this section, “eligible  
10 customer-generator,” “large electrical corporation,” and “renewable  
11 electrical generation facility” have the same meanings as defined  
12 in Section 2827.

13 (b) Notwithstanding any other law, the commission shall develop  
14 a standard contract or tariff, which may include net energy  
15 metering, for eligible customer-generators with a renewable

1 electrical generation facility that is a customer of a large electrical  
 2 corporation no later than ~~December 31, 2015~~. The commission  
 3 may develop the standard contract or tariff prior to December 31,  
 4 2015, and may require a large electrical corporation that has  
 5 reached the net energy metering program limit of subparagraph  
 6 ~~(B) of paragraph (4) of subdivision (c) of Section 2827~~ to offer  
 7 the standard contract or tariff to eligible customer-generators.  
 8 *February 1, 2022*. A large electrical corporation shall offer the  
 9 standard contract or tariff to an eligible customer-generator  
 10 beginning July 1, 2017, or prior to that date if ordered to do so by  
 11 the commission because it has reached the net energy metering  
 12 program limit of subparagraph ~~(B) of paragraph (4) of subdivision~~  
 13 ~~(c) of Section 2827~~. *no later than December 31, 2023*. The  
 14 commission may revise the standard contract or tariff as appropriate  
 15 to achieve the objectives of this section. In developing the standard  
 16 contract or tariff, the commission shall do all of the following:

17 (1) ~~Ensure that the standard contract or tariff made available to~~  
 18 ~~eligible customer-generators ensures that customer-sited renewable~~  
 19 ~~distributed generation continues to grow sustainably and include~~  
 20 *Ensure* specific alternatives designed for growth among residential  
 21 customers in disadvantaged communities.

22 (2) Establish terms of service and billing rules for eligible  
 23 customer-generators.

24 (3) Ensure that the standard contract or tariff made available to  
 25 eligible customer-generators is based on the costs and benefits of  
 26 the renewable electrical generation facility.

27 (4) Ensure that the total benefits of the standard contract or tariff  
 28 to all customers and the electrical system are approximately equal  
 29 to the total costs.

30 (5) Allow projects greater than one megawatt that do not have  
 31 significant impact on the distribution grid to be built to the size of  
 32 the onsite load if the projects with a capacity of more than one  
 33 megawatt are subject to reasonable interconnection charges  
 34 established pursuant to the commission's Electric Rule 21 and  
 35 applicable state and federal requirements.

36 ~~(6) Establish a transition period during which eligible~~  
 37 ~~customer-generators taking service under a net energy metering~~  
 38 ~~tariff or contract prior to July 1, 2017, or until the electrical~~  
 39 ~~corporation reaches its net energy metering program limit pursuant~~  
 40 ~~to subparagraph (B) of paragraph (4) of subdivision (c) of Section~~

1 ~~2827, whichever is earlier, shall be eligible to continue service~~  
 2 ~~under the previously applicable net energy metering tariff for a~~  
 3 ~~length of time to be determined by the commission by March 31,~~  
 4 ~~2014. Any rules adopted by the commission shall consider a~~  
 5 ~~reasonable expected payback period based on the year the customer~~  
 6 ~~initially took service under the tariff or contract authorized by~~  
 7 ~~Section 2827.~~

8 ~~(7) The commission shall determine~~

9 (6) *Determine* which rates and tariffs are applicable to customer  
 10 generators only during a rulemaking proceeding. Any fixed charges  
 11 for residential customer generators that differ from the fixed  
 12 charges allowed pursuant to subdivision (f) of Section 739.9 shall  
 13 be authorized only in a rulemaking proceeding involving every  
 14 large electrical corporation. The commission shall ensure customer  
 15 generators are provided electric service at rates that are just and  
 16 reasonable.

17 (c) ~~Beginning July 1, 2017, or when ordered to do so by the~~  
 18 ~~commission because the large electrical corporation has reached~~  
 19 ~~its capacity limitation of subparagraph (B) of paragraph (4) of~~  
 20 ~~subdivision (e) of Section 2827, all~~ All new eligible  
 21 customer-generators *of a large electrical corporation* shall be  
 22 subject to the standard contract or tariff developed by the  
 23 commission and any rules, terms, and rates developed pursuant to  
 24 subdivision ~~(b)~~. *(b) by no later than December 31, 2023.* There  
 25 shall be no limitation on the amount of generating capacity or  
 26 number of new eligible customer-generators entitled to receive  
 27 service pursuant to the standard contract or tariff after July 1, 2017.  
 28 ~~An eligible customer-generator that has received service under a~~  
 29 ~~net energy metering standard contract or tariff pursuant to Section~~  
 30 ~~2827 that is no longer eligible to receive service shall be eligible~~  
 31 ~~to receive service pursuant to the standard contract or tariff~~  
 32 ~~developed by the commission pursuant to this section.~~ *tariff.*

33 (d) (1) *For purposes of this subdivision, the following terms*  
 34 *have the following meanings:*

35 (A) *“Prior tariff” means a net energy metering tariff approved*  
 36 *by the commission pursuant to either Section 2827 or this section*  
 37 *as it read prior to the addition of this subdivision.*

38 (B) *“Replacement tariff” means the contract or tariff that the*  
 39 *commission is required to develop and adopt for large electrical*  
 40 *corporations by February 1, 2022, pursuant to subdivision (b).*

1 (2) An eligible customer-generator of a large electrical  
 2 corporation receiving service pursuant to a prior tariff shall be  
 3 transferred to receive service pursuant to the replacement tariff  
 4 no later than five years from the date that customer first received  
 5 service pursuant to the prior tariff, except that an eligible  
 6 customer-generator participating in the California Alternate Rates  
 7 for Energy program shall be transferred to the replacement tariff  
 8 no later than 10 years from the date that customer first received  
 9 service pursuant to the prior tariff.

10 (e) Notwithstanding paragraph (1) of subdivision (a) of Section  
 11 1720 of the Labor Code, construction of any renewable electrical  
 12 generation facility after December 31, 2023, that is to receive  
 13 service pursuant to the replacement tariff, shall constitute a public  
 14 works project for purposes of Article 2 (commencing with Section  
 15 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code. For  
 16 purposes of this subdivision, “replacement tariff” has the same  
 17 meaning as defined in subdivision (d).

18 SEC. 3. Section 2827.2 is added to the Public Utilities Code,  
 19 to read:

20 2827.2. (a) For purposes of this section, the following terms  
 21 have the following meanings:

22 (1) “Eligible customer-generator,” “large electrical  
 23 corporation,” and “renewable electrical generation facility” have  
 24 the same meanings as defined in Section 2827.

25 (2) “Prior tariff” means a net energy metering tariff approved  
 26 by the commission pursuant to either Section 2827 or 2728.1 as  
 27 it read on December 31, 2021.

28 (3) “Replacement tariff” means the contract or tariff that the  
 29 commission is required to develop and adopt for large electrical  
 30 corporations by February 1, 2022, pursuant to subdivision (b) of  
 31 Section 2827.1.

32 (b) If the commission fails to adopt a replacement tariff for large  
 33 electrical corporations by February 1, 2022, the commission shall  
 34 develop a net energy metering tariff for large electrical  
 35 corporations, to take effect no later than December 31, 2023, that  
 36 does all of the following:

37 (1) Cost-effectively achieves the policy goals and objectives of  
 38 the state described in Sections 454.51, 454.52, and 454.53, and  
 39 includes specific alternatives designed for growth among  
 40 residential customers in disadvantaged communities.

1 (2) *Is based on the costs and benefits of the renewable electrical*  
2 *generation facility for nonparticipating ratepayers.*

3 (3) *Ensures that the nonparticipating ratepayer benefits of the*  
4 *standard contract or tariff exceeds or is approximately equal to*  
5 *the benefits to participating eligible customer-generators.*

6 (4) *Has interconnection fees and monthly fixed charges based*  
7 *on the cost to interconnect and serve the eligible*  
8 *customer-generator.*

9 (5) *Credits the eligible customer-generator for any electricity*  
10 *exported to the electrical grid at a rate equal to the hourly*  
11 *wholesale market rate applicable at the time of the export and at*  
12 *the location of the eligible customer-generator.*

13 (c) *An eligible customer-generator of a large electrical*  
14 *corporation receiving service pursuant to a prior tariff shall be*  
15 *transferred to receive service pursuant to the tariff adopted*  
16 *pursuant to subdivision (b) no later than 5 years from the date*  
17 *that customer first received service pursuant to the prior tariff,*  
18 *except that an eligible customer-generator participating in the*  
19 *California Alternate Rates for Energy program shall be transferred*  
20 *to the tariff adopted pursuant to subdivision (b) no later than 10*  
21 *years from the date that customer first received service pursuant*  
22 *to the prior tariff.*

23 (d) *Notwithstanding paragraph (1) of subdivision (a) of Section*  
24 *1720 of the Labor Code, construction of any renewable electrical*  
25 *generation facility after December 31, 2023, that is to receive*  
26 *service pursuant to the tariff adopted pursuant to subdivision (b),*  
27 *shall constitute a public works project for purposes of Article 2*  
28 *(commencing with Section 1770) of Chapter 1 of Part 7 of Division*  
29 *2 of the Labor Code.*

30 SEC. 4. (a) *For purposes of this section, the following terms*  
31 *have the following meanings:*

32 (1) *“Prior tariff” means a net energy metering tariff approved*  
33 *by the Public Utilities Commission pursuant to Section 2827.1 of*  
34 *the Public Utilities Code, as it read prior to the operative date of*  
35 *this section.*

36 (2) *“Replacement tariff” means the contract or tariff that the*  
37 *Public Utilities Commission is required to develop and adopt for*  
38 *large electrical corporations by February 1, 2022, pursuant to*  
39 *subdivision (b) of Section 2827.1 of, or the tariff developed*  
40 *pursuant to Section 2827.2 of, the Public Utilities Code.*

1 (b) *Until a replacement tariff is adopted and takes effect, all*  
2 *prior tariffs adopted by the Public Utilities Commission shall*  
3 *remain in operation.*

4 SEC. 5. *No reimbursement is required by this act pursuant to*  
5 *Section 6 of Article XIII B of the California Constitution because*  
6 *the only costs that may be incurred by a local agency or school*  
7 *district will be incurred because this act creates a new crime or*  
8 *infraction, eliminates a crime or infraction, or changes the penalty*  
9 *for a crime or infraction, within the meaning of Section 17556 of*  
10 *the Government Code, or changes the definition of a crime within*  
11 *the meaning of Section 6 of Article XIII B of the California*  
12 *Constitution.*

13 SECTION 1. ~~This act shall be known, and may be cited, as the~~  
14 ~~Solar Equity and Ratepayer Relief Act.~~

15 SEC. 2. ~~The Legislature finds and declares all of the following:~~

16 (a) ~~When the net energy metering program was initially enacted~~  
17 ~~in 1995 (Chapter 369 of the Statutes of 1995), it was reasonable~~  
18 ~~for most electrical service customers to subsidize the small minority~~  
19 ~~of customers who participated in the rooftop solar program. This~~  
20 ~~cost shift was just and reasonable because the fledgling rooftop~~  
21 ~~photovoltaic solar energy industry needed a public subsidy to~~  
22 ~~become established and to create a big enough market to drive~~  
23 ~~down costs.~~

24 (b) ~~Those goals have been accomplished. There are now one~~  
25 ~~million net energy metering customers with solar energy systems~~  
26 ~~with a generating capacity of nearly 10,000 megawatts. The cost~~  
27 ~~of solar energy systems has dropped more than 70 percent.~~

28 (c) ~~While the cost of solar energy systems has dropped, the~~  
29 ~~subsidy to the rooftop solar industry has grown to \$3,000,000,000~~  
30 ~~in 2021. This means that in 2021 customers without rooftop solar~~  
31 ~~are each spending more than \$200 per customer every year to~~  
32 ~~subsidize those with rooftop solar energy systems. The subsidy is~~  
33 ~~projected to grow to more than \$4,500,000,000 by 2030, or more~~  
34 ~~than \$300 per customer per year.~~

35 (d) ~~The subsidy is not cost effective for ratepayers. According~~  
36 ~~to the January 21, 2021, Net Energy Metering 2.0 Lookback Study~~  
37 ~~prepared at the request of the Public Utilities Commission, the~~  
38 ~~benefit-cost ratio of the current net energy metering program is~~  
39 ~~only 0.37, meaning that the costs to ratepayers not participating~~  
40 ~~in the program are almost triple the benefits.~~



1 ~~(e) This cost shift is unreasonably increasing electrical service~~  
2 ~~rates for customers without rooftop solar energy systems.~~

3 ~~(f) This cost shift is economically unjust. The median income~~  
4 ~~of those with rooftop solar energy systems using net energy~~  
5 ~~metering is much higher than the median income of those who do~~  
6 ~~not participate in the program.~~

7 ~~(g) According to a study published in the journal Nature~~  
8 ~~Sustainability, even after accounting for household income, rooftop~~  
9 ~~solar has been disproportionately installed in majority White~~  
10 ~~communities compared to communities of color.~~

11 ~~(h) Section 451 of the Public Utilities Code requires that all~~  
12 ~~charges by public utilities to customers be just and reasonable.~~  
13 ~~Unjust or unreasonable charges are unlawful.~~

14 ~~(i) To remedy the growing unjust and unreasonable charges,~~  
15 ~~the Legislature enacted Assembly Bill 327 (Chapter 611 of the~~  
16 ~~Statutes of 2013). Certain provisions of that act required the~~  
17 ~~commission to revise the net energy metering program so that~~  
18 ~~nonparticipating customers do not subsidize rooftop solar energy~~  
19 ~~system customers. The commission has not done so, resulting in~~  
20 ~~a continuation of this unsustainable and unjust cost shift.~~

21 ~~(j) It is time to reduce rates for electrical service for all~~  
22 ~~customers and particularly for lower income customers.~~

23 ~~(k) It is time to make California's net energy metering programs~~  
24 ~~fairer to lower income customers. Customers who have been~~  
25 ~~burdened by high rates and shut out of solar energy system~~  
26 ~~programs deserve lower rates and more opportunities to participate~~  
27 ~~in the solar energy system revolution.~~

28 ~~(l) This act replaces the current net energy metering structure~~  
29 ~~for residential customers with a fairer net energy metering structure.~~

30 ~~(m) Rooftop solar customers will continue to see economic~~  
31 ~~benefits from their solar energy systems in two ways. Rooftop~~  
32 ~~solar customers will be paid the wholesale market rate for~~  
33 ~~electricity they export to the electrical grid and will continue to~~  
34 ~~self-supply their own usage, rather than buying electricity from~~  
35 ~~their electrical utility or community choice aggregator. This will~~  
36 ~~allow rooftop solar customers to continue to have lower electrical~~  
37 ~~service bills than nonparticipating customers.~~

38 ~~(n) To the extent they obtain their electricity over the electrical~~  
39 ~~grid, rooftop solar customers will also pay for their usage of the~~

1 transmission and distribution grid they rely on just like customers  
2 that do not participate in net energy metering.

3 ~~(o) California must continue to expand solar generation to~~  
4 ~~advance the state's environmental and climate change goals for~~  
5 ~~the electrical industry. This act will enable California to increase~~  
6 ~~solar generation by targeting subsidies to lower income customers,~~  
7 ~~reduce rates for all customers, reduce rates even further for lower~~  
8 ~~income customers, and enable lower income Californians to~~  
9 ~~participate in solar energy system generation.~~

10 ~~(p) Targeted solar energy system subsidies will create tens of~~  
11 ~~thousands of good jobs.~~

12 ~~SEC. 3.— Section 739.1 of the Public Utilities Code is amended~~  
13 ~~to read:~~

14 ~~739.1.—(a) The commission shall continue a program of~~  
15 ~~assistance to low-income electric and gas customers with annual~~  
16 ~~household incomes that are no greater than 200 percent of the~~  
17 ~~federal poverty guideline levels. Except as provided in paragraph~~  
18 ~~(4) of subdivision (c), the cost of the program shall not be borne~~  
19 ~~solely by any single class of customer. For one-person households,~~  
20 ~~program eligibility shall be based on two-person household~~  
21 ~~guideline levels. The program shall be referred to as the California~~  
22 ~~Alternate Rates for Energy or CARE program. The commission~~  
23 ~~shall ensure that the level of discount for low-income electric and~~  
24 ~~gas customers correctly reflects the level of need.~~

25 ~~(b) The commission shall establish rates for CARE program~~  
26 ~~participants, subject to both of the following:~~

27 ~~(1) That the commission ensure that low-income ratepayers are~~  
28 ~~not jeopardized or overburdened by monthly energy expenditures,~~  
29 ~~pursuant to subdivision (b) of Section 382.~~

30 ~~(2) That the level of the discount for low-income electricity and~~  
31 ~~gas ratepayers correctly reflects the level of need as determined~~  
32 ~~by the needs assessment conducted pursuant to subdivision (d) of~~  
33 ~~Section 382.~~

34 ~~(c) In establishing CARE discounts for an electrical corporation~~  
35 ~~with 100,000 or more customer accounts in California, the~~  
36 ~~commission shall ensure all of the following:~~

37 ~~(1) The average effective CARE discount shall not be less than~~  
38 ~~40 percent or more than 45 percent of the revenues that would~~  
39 ~~have been produced for the same billed usage by non-CARE~~  
40 ~~customers. The average effective discount determined by the~~

1 ~~commission shall reflect any charges not paid by CARE customers,~~  
2 ~~including payments for the California Solar Initiative, payments~~  
3 ~~for the self-generation incentive program made pursuant to Section~~  
4 ~~379.6, payment of the separate rate component to fund the CARE~~  
5 ~~program made pursuant to subdivision (a) of Section 381, payments~~  
6 ~~made to the Department of Water Resources pursuant to Division~~  
7 ~~27 (commencing with Section 80000) of the Water Code, and any~~  
8 ~~discount in a fixed charge. The average effective CARE discount~~  
9 ~~shall be calculated as a weighted average of the CARE discounts~~  
10 ~~provided to individual customers.~~

11 ~~(2) If an electrical corporation provides an average effective~~  
12 ~~CARE discount in excess of the maximum percentage specified~~  
13 ~~in paragraph (1), the electrical corporation shall not reduce, on an~~  
14 ~~annual basis, the average effective CARE discount by more than~~  
15 ~~a reasonable percentage decrease below the discount in effect on~~  
16 ~~January 1, 2013, or that the electrical corporation had been~~  
17 ~~authorized to place in effect by that date.~~

18 ~~(3) The entire discount shall be provided in the form of a~~  
19 ~~reduction in the overall bill for the eligible CARE customer.~~

20 ~~(4) Twenty-five percent of the CARE program shall be paid for~~  
21 ~~exclusively by the residential class of customers.~~

22 ~~(d) The commission shall work with electrical and gas~~  
23 ~~corporations to establish penetration goals. The commission shall~~  
24 ~~authorize recovery of all administrative costs associated with the~~  
25 ~~implementation of the CARE program that the commission~~  
26 ~~determines to be reasonable, through a balancing account~~  
27 ~~mechanism. Administrative costs shall include, but are not limited~~  
28 ~~to, outreach, marketing, regulatory compliance, certification and~~  
29 ~~verification, billing, measurement and evaluation, and capital~~  
30 ~~improvements and upgrades to communications and processing~~  
31 ~~equipment.~~

32 ~~(e) The commission shall examine methods to improve CARE~~  
33 ~~enrollment and participation. This examination shall include, but~~  
34 ~~need not be limited to, comparing information from CARE and~~  
35 ~~the Universal Lifeline Telephone Service (ULTS) to determine~~  
36 ~~the most effective means of utilizing that information to increase~~  
37 ~~CARE enrollment, automatic enrollment of ULTS customers who~~  
38 ~~are eligible for the CARE program, customer privacy issues, and~~  
39 ~~alternative mechanisms for outreach to potential enrollees. The~~  
40 ~~commission shall ensure that a customer consents prior to~~

1 enrollment. The commission shall consult with interested parties,  
2 including ULTS providers, to develop the best methods of  
3 informing ULTS customers about other available low-income  
4 programs, as well as the best mechanism for telephone providers  
5 to recover reasonable costs incurred pursuant to this section.

6 ~~(f) (1) The commission shall improve the CARE application~~  
7 ~~process by cooperating with other entities and representatives of~~  
8 ~~California government, including the California Health and Human~~  
9 ~~Services Agency and the Secretary of California Health and Human~~  
10 ~~Services, to ensure that all gas and electric customers eligible for~~  
11 ~~public assistance programs in California that reside within the~~  
12 ~~service territory of an electrical corporation or gas corporation,~~  
13 ~~are enrolled in the CARE program. The commission may determine~~  
14 ~~that gas and electric customers are categorically eligible for CARE~~  
15 ~~assistance if they are enrolled in other public assistance programs~~  
16 ~~with substantially the same income eligibility requirements as the~~  
17 ~~CARE program. To the extent practicable, the commission shall~~  
18 ~~develop a CARE application process using the existing ULTS~~  
19 ~~application process as a model. The commission shall work with~~  
20 ~~electrical and gas corporations and the Low-Income Oversight~~  
21 ~~Board established in Section 382.1 to meet the low-income~~  
22 ~~objectives in this section.~~

23 ~~(2) The commission shall ensure that an electrical corporation~~  
24 ~~or gas corporation with a commission-approved program to provide~~  
25 ~~discounts based upon economic need in addition to the CARE~~  
26 ~~program, including a Family Electric Rate Assistance program,~~  
27 ~~utilize a single application form, to enable an applicant to~~  
28 ~~alternatively apply for any assistance program for which the~~  
29 ~~applicant may be eligible. It is the intent of the Legislature to allow~~  
30 ~~applicants under one program, that may not be eligible under that~~  
31 ~~program, but that may be eligible under an alternative assistance~~  
32 ~~program based upon economic need, to complete a single~~  
33 ~~application for any commission-approved assistance program~~  
34 ~~offered by the public utility.~~

35 ~~(g) It is the intent of the Legislature that the commission ensure~~  
36 ~~CARE program participants receive affordable electric and gas~~  
37 ~~service that does not impose an unfair economic burden on those~~  
38 ~~participants.~~

39 ~~(h) The commission's program of assistance to low-income~~  
40 ~~electric and gas customers shall, as soon as practicable, include~~

1 nonprofit group living facilities specified by the commission, if  
2 the commission finds that the residents in these facilities  
3 substantially meet the commission's low-income eligibility  
4 requirements and there is a feasible process for certifying that the  
5 assistance shall be used for the direct benefit, such as improved  
6 quality of care or improved food service, of the low-income  
7 residents in the facilities. The commission shall authorize utilities  
8 to offer discounts to eligible facilities licensed or permitted by  
9 appropriate state or local agencies, and to facilities, including  
10 women's shelters, hospices, and homeless shelters, that may not  
11 have a license or permit but provide other proof satisfactory to the  
12 utility that they are eligible to participate in the program.

13 (i) (1) In addition to existing assessments of eligibility, an  
14 electrical corporation may require proof of income eligibility for  
15 those CARE program participants whose electricity usage, in any  
16 monthly or other billing period, exceeds 400 percent of baseline  
17 usage. The authority of an electrical corporation to require proof  
18 of income eligibility is not limited by the means by which the  
19 CARE program participant enrolled in the program, including if  
20 the participant was automatically enrolled in the CARE program  
21 because of participation in a governmental assistance program. If  
22 a CARE program participant's electricity usage exceeds 400  
23 percent of baseline usage, the electrical corporation may require  
24 the CARE program participant to participate in the Energy Savings  
25 Assistance Program (ESAP), which includes a residential energy  
26 assessment, in order to provide the CARE program participant  
27 with information and assistance in reducing their energy usage.  
28 Continued participation in the CARE program may be conditioned  
29 upon the CARE program participant agreeing to participate in  
30 ESAP within 45 days of notice being given by the electrical  
31 corporation pursuant to this paragraph. The electrical corporation  
32 may require the CARE program participant to notify the utility of  
33 whether the residence is rented, and if so, a means by which to  
34 contact the landlord, and the electrical corporation may share any  
35 evaluation and recommendation relative to the residential structure  
36 that is made as part of an energy assessment, with the landlord of  
37 the CARE program participant. Requirements imposed pursuant  
38 to this paragraph shall be consistent with procedures adopted by  
39 the commission.

1     ~~(2) If a CARE program participant's electricity usage exceeds~~  
 2     ~~600 percent of baseline usage, the electrical corporation shall~~  
 3     ~~require the CARE program participant to participate in ESAP,~~  
 4     ~~which includes a residential energy assessment, in order to provide~~  
 5     ~~the CARE program participant with information and assistance in~~  
 6     ~~reducing their energy usage. Continued participation in the CARE~~  
 7     ~~program shall be conditioned upon the CARE program participant~~  
 8     ~~agreeing to participate in ESAP within 45 days of a notice made~~  
 9     ~~by the electrical corporation pursuant to this paragraph. The~~  
 10    ~~electrical corporation may require the CARE program participant~~  
 11    ~~to notify the utility of whether the residence is rented, and if so, a~~  
 12    ~~means by which to contact the landlord, and the electrical~~  
 13    ~~corporation may share any evaluation and recommendation relative~~  
 14    ~~to the residential structure that is made as part of an energy~~  
 15    ~~assessment, with the landlord of the CARE program participant.~~  
 16    ~~Following the completion of the energy assessment, if the CARE~~  
 17    ~~program participant's electricity usage continues to exceed 600~~  
 18    ~~percent of baseline usage, the electrical corporation may remove~~  
 19    ~~the CARE program participant from the program if the removal~~  
 20    ~~is consistent with procedures adopted by the commission. Nothing~~  
 21    ~~in this paragraph shall prevent a CARE program participant with~~  
 22    ~~electricity usage exceeding 600 percent of baseline usage from~~  
 23    ~~participating in an appeals process with the electrical corporation~~  
 24    ~~to determine whether the participant's usage levels are legitimate.~~

25    ~~(3) A CARE program participant in a rental residence shall not~~  
 26    ~~be removed from the program in situations where the landlord is~~  
 27    ~~nonresponsive when contacted by the electrical corporation or~~  
 28    ~~does not provide for ESAP participation.~~

29    ~~SEC. 4. Section 2827 of the Public Utilities Code is repealed.~~

30    ~~SEC. 5. Section 2827 is added to the Public Utilities Code, to~~  
 31    ~~read:~~

32    ~~2827. (a) As used in this section, the following terms have the~~  
 33    ~~following meanings:~~

34    ~~(1) "Customer self-generator" means a residential, commercial,~~  
 35    ~~industrial, or agricultural customer of an electrical corporation,~~  
 36    ~~who uses a renewable electrical generation facility, or a~~  
 37    ~~combination of those facilities, that is located behind the customer's~~  
 38    ~~meter, and is interconnected and operates in parallel with the~~  
 39    ~~electrical grid, and whose capacity is sized to primarily offset part~~  
 40    ~~or all of the customer's own electrical requirements, but which~~

1 shall not exceed one megawatt unless, as of December 31, 2021,  
2 it was eligible for, and receiving service pursuant to, a net energy  
3 metering contract or tariff approved by the commission pursuant  
4 to former Section 2827 or former Section 2827.1, as those sections  
5 existed on that date.

6 (2) ~~“Gross electricity usage” means that total usage of a~~  
7 ~~customer self-generator that is served by either imports from the~~  
8 ~~grid or production from an onsite renewable electrical generation~~  
9 ~~facility.~~

10 (3) ~~“Renewable electrical generation facility” means a facility~~  
11 ~~that generates electricity from a renewable source listed in~~  
12 ~~paragraph (1) of subdivision (a) of Section 25741 of the Public~~  
13 ~~Resources Code. A small hydroelectric generation facility is not~~  
14 ~~an eligible renewable electrical generation facility if it will cause~~  
15 ~~an adverse impact on instream beneficial uses or cause a change~~  
16 ~~in the volume or timing of streamflow.~~

17 (b) ~~The commission shall require all electrical corporations to~~  
18 ~~submit by advice letter a standard net energy metering contract or~~  
19 ~~tariff that shall take effect beginning on July 1, 2022, and apply~~  
20 ~~to all customer self-generators. The standard contract or tariff shall~~  
21 ~~replace all prior standard contracts and tariffs and shall provide~~  
22 ~~for all of the following:~~

23 (1) ~~The customer self-generator shall be credited for any~~  
24 ~~electricity exported by the customer self-generator to the~~  
25 ~~distribution system or transmission system, as applicable, at a rate~~  
26 ~~equal to the hourly wholesale market rate applicable at the time~~  
27 ~~of the export and the location of the customer self-generator. These~~  
28 ~~credits shall be applied to the customer self-generator’s other bill~~  
29 ~~obligations.~~

30 (2) ~~The customer self-generator shall be charged for electricity~~  
31 ~~imported by the customer self-generator from the distribution~~  
32 ~~system or transmission system, as applicable, at a rate equal to the~~  
33 ~~otherwise applicable tariff for customers in the same class of~~  
34 ~~service who are not customer self-generators.~~

35 (3) ~~Notwithstanding paragraphs (1) and (2), for customer~~  
36 ~~self-generators taking energy supply service from a community~~  
37 ~~choice aggregator, the aggregator may determine to provide credits~~  
38 ~~and charges in different amounts.~~

39 (4) ~~Notwithstanding the limitations of subdivision (f) of Section~~  
40 ~~739.9, the customer self-generator shall be charged a monthly grid~~

1 access charge equal to the costs attributable to the customer's gross  
2 electricity usage billed at the otherwise applicable rates for all  
3 elements of retail service except for generation, including all  
4 nonbypassable charges, such as those authorized by Sections 366.1,  
5 366.2, and 380, minus the amount the customer paid for  
6 nongeneration elements of retail service paid as part of the rate for  
7 imported electricity.

8 (5) Notwithstanding paragraphs (1) through (4), inclusive, any  
9 customer self-generator that previously began service under a net  
10 energy metering contract or tariff prior to January 1, 2022, may  
11 continue to take service under that contract or tariff as follows

12 (A) If the original net energy metering interconnection was prior  
13 to January 1, 2014, a customer self-generator may continue to take  
14 service under that contract or tariff until July 1, 2022.

15 (B) If the original net energy metering interconnection was after  
16 January 1, 2014, and prior to January 1, 2017, a customer  
17 self-generator may continue to take service under that contract or  
18 tariff until July 1, 2023.

19 (C) If the original net energy metering interconnection was after  
20 January 1, 2017, and prior to January 1, 2022, a customer  
21 self-generator may continue to take service under that contract or  
22 tariff until July 1, 2024.

23 (6) Notwithstanding paragraphs (1) to (4), inclusive, a  
24 nonresidential customer self-generator that pays a demand charge  
25 may take service under the tariff for customer self-generators that  
26 existed as of December 31, 2021. The commission may revise the  
27 tariff, if the revised tariff requires the customer self-generator to  
28 pay a demand charge or grid benefit charge that ensures that there  
29 are no costs shifted from that customer to any other customers or  
30 customer classes.

31 (e) (1) Beginning July 1, 2022, the commission shall do all the  
32 following:

33 (A) Annually allocate up to three hundred million dollars  
34 (\$300,000,000) statewide, divided proportionately among the  
35 electrical corporations based on the number of residential customers  
36 of each electrical corporation, which shall be used for residential  
37 customer self-generators who both participate in the California  
38 Alternative Rates for Energy program implemented pursuant to  
39 Section 739.1 and live in multifamily housing or in underserved  
40 communities, as defined in Section 1601, to discount the initial



1 purchase cost for the renewable electrical generation facility. The  
 2 discount to the initial purchase cost shall be designed to maximize  
 3 the number of participating customers. The renewable electrical  
 4 generation facilities serving these customer self-generators shall  
 5 be newly constructed, behind the customer meter, and located on  
 6 or near their housing.

7 (B) Annually allocate up to three hundred million dollars  
 8 (\$300,000,000) statewide, divided proportionately among the  
 9 electrical corporations based on the number of residential customers  
 10 of each electrical corporation, which shall be used to eliminate  
 11 any rate premium required and provide an additional 10-percent  
 12 discount for residential customers who participate in the California  
 13 Alternative Rates for Energy program implemented pursuant to  
 14 Section 739.1 to participate in a 100-percent solar option under  
 15 the Green Tariff Shared Renewables Program provided in Section  
 16 2833. The premium elimination and 10-percent discount shall be  
 17 in addition to the discount provided in Section 739.1. All renewable  
 18 electric generating facilities supplying electricity pursuant to this  
 19 subparagraph shall be newly constructed to supply electricity for  
 20 this program and shall meet the product content category  
 21 requirements of paragraph (1) of subdivision (b) of Section 399.16  
 22 in addition to the requirement of subdivision (e) of Section 2833.  
 23 The facility size and program size limits in subdivisions (b) and  
 24 (d) of Section 2833 shall not apply to participation in the Green  
 25 Tariff Shared Renewables Program under this subparagraph. Funds  
 26 shall be allocated pursuant to this subparagraph notwithstanding  
 27 subdivision (q) of Section 2833.

28 (C) Annually allocate up to five hundred million dollars  
 29 (\$500,000,000) statewide, divided proportionately among the  
 30 electrical corporations based on the number of residential customers  
 31 of each electrical corporation, which shall be used for facilities  
 32 serving public buildings to discount the initial purchase cost for  
 33 the renewable electrical generation facility. The discount to the  
 34 initial purchase cost shall be designed to maximize the number of  
 35 facilities served. The renewable electrical generation facilities  
 36 serving these customer self-generators shall be newly constructed,  
 37 behind the customer meter, and located on or near the public  
 38 building. For purposes of this subparagraph, a public building is  
 39 any building owned by the state or a political subdivision of the

1 state, as defined in subdivision (a) of Section 8698 of the  
2 Government Code.

3 ~~(D) Annually allocate up to 5 percent of the funds described in~~  
4 ~~this paragraph to marketing and customer education designed to~~  
5 ~~maximize participation in these programs.~~

6 ~~(E) Authorize the electrical corporations to collect the projected~~  
7 ~~annual amounts used to implement this paragraph as a~~  
8 ~~nonbypassable charge on distribution. Any revenue authorized and~~  
9 ~~collected but not used for this purpose shall be trued up and~~  
10 ~~credited back to distribution customers of the electrical corporation.~~

11 ~~(2) Notwithstanding paragraph (1) of subdivision (a) of Section~~  
12 ~~1720 of the Labor Code, construction of any renewable electrical~~  
13 ~~generation facility to supply power for the programs described in~~  
14 ~~paragraph (1) shall constitute a public works project for purposes~~  
15 ~~of Article 2 (commencing with Section 1770) of Chapter 1 of Part~~  
16 ~~7 of Division 2 of the Labor Code.~~

17 ~~(d) (1) Every electrical corporation shall ensure that requests~~  
18 ~~for establishment of a customer self-generator interconnection are~~  
19 ~~processed in a time period not exceeding that for similarly situated~~  
20 ~~customers requesting new electric service, but not to exceed 30~~  
21 ~~working days from the date it receives a completed application~~  
22 ~~form for customer self-generator service, including a signed~~  
23 ~~interconnection agreement from a customer self-generator and the~~  
24 ~~electric inspection clearance from the governmental authority~~  
25 ~~having jurisdiction.~~

26 ~~(2) Every electrical corporation shall ensure that requests for~~  
27 ~~an interconnection agreement from a customer self-generator are~~  
28 ~~processed in a time period not to exceed 30 working days from~~  
29 ~~the date it receives a completed application form from the customer~~  
30 ~~self-generator for an interconnection agreement.~~

31 ~~(3) If an electrical corporation is unable to process a request~~  
32 ~~within the allowed time pursuant to paragraph (1) or (2), it shall~~  
33 ~~notify the customer self-generator and the commission of the reason~~  
34 ~~for its inability to process the request and the expected completion~~  
35 ~~date.~~

36 ~~(e) (1) If a customer participates in direct transactions pursuant~~  
37 ~~to paragraph (1) of subdivision (b) of Section 365, or Section 365.1,~~  
38 ~~with an electric service provider that does not provide distribution~~  
39 ~~service for the direct transactions, the electrical corporation that~~  
40 ~~provides distribution service for the eligible customer-generator~~

1 is not obligated to provide the standard contract or tariff provided  
2 in this section to the customer.

3 ~~(2) If a customer participates in direct transactions pursuant to~~  
4 ~~paragraph (1) of subdivision (b) of Section 365 or 365.1 with an~~  
5 ~~electric service provider, and the customer is a customer~~  
6 ~~self-generator, the electrical corporation that provides distribution~~  
7 ~~service for the direct transactions may recover from the customer’s~~  
8 ~~electric service provider the incremental costs of metering and~~  
9 ~~billing service related to the standard contract or tariff provided~~  
10 ~~in this section in an amount set by the commission.~~

11 ~~(f) A renewable electrical generation facility used by a customer~~  
12 ~~self-generator shall meet all applicable safety and performance~~  
13 ~~standards established by the National Electrical Code, the Institute~~  
14 ~~of Electrical and Electronics Engineers, and accredited testing~~  
15 ~~laboratories, including Underwriters Laboratories Incorporated~~  
16 ~~and, where applicable, rules of the commission regarding safety~~  
17 ~~and reliability.~~

18 ~~(g) A customer self-generator shall reimburse the Department~~  
19 ~~of Water Resources for all charges that would otherwise be~~  
20 ~~imposed on the customer’s gross electricity usage by the~~  
21 ~~commission to recover bond-related costs pursuant to an agreement~~  
22 ~~between the commission and the Department of Water Resources~~  
23 ~~pursuant to Section 80110 or Division 28 (commencing with~~  
24 ~~Section 80500) of the Water Code, as well as the costs of the~~  
25 ~~department equal to the share of the department’s estimated net~~  
26 ~~unavoidable power purchase contract costs attributable to the~~  
27 ~~customer. The commission shall ensure that the charges are~~  
28 ~~nonbypassable.~~

29 ~~(h) The commission may authorize distributed resources located~~  
30 ~~on the customer side of the meter to participate in any wholesale~~  
31 ~~energy market transactions permitted by federal or state law.~~  
32 ~~Distributed resources may be aggregated for this purpose.~~  
33 ~~Notwithstanding Section 769, the commission shall not authorize~~  
34 ~~or permit any distributed resources located on the customer side~~  
35 ~~of the meter to be used to defer investment by an electrical~~  
36 ~~corporation in the distribution system. For purposes of this~~  
37 ~~subdivision, “distributed resources” has the same meaning as in~~  
38 ~~subdivision (a) of Section 769.~~

39 ~~SEC. 6. Section 2827.1 of the Public Utilities Code is repealed.~~

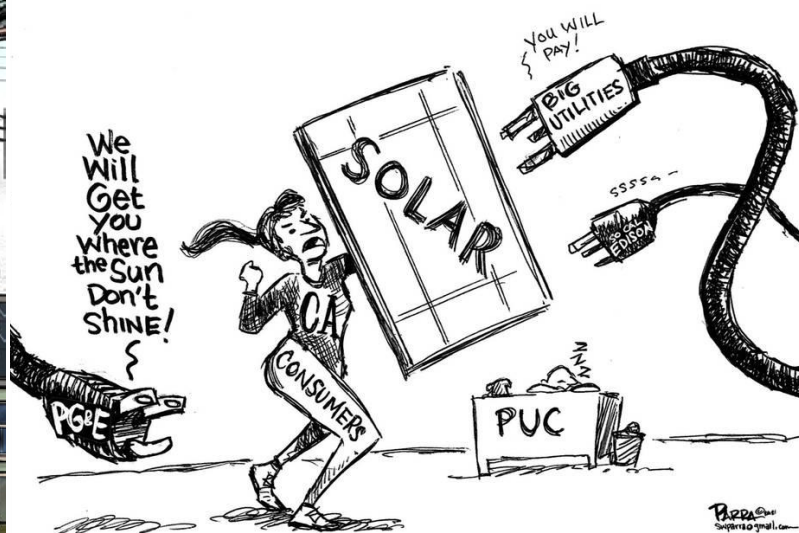
40 ~~SEC. 7. Section 2827.7 of the Public Utilities Code is repealed.~~

1     ~~SEC. 8. No reimbursement is required by this act pursuant to~~  
2     ~~Section 6 of Article XIII B of the California Constitution because~~  
3     ~~the only costs that may be incurred by a local agency or school~~  
4     ~~district will be incurred because this act creates a new crime or~~  
5     ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
6     ~~for a crime or infraction, within the meaning of Section 17556 of~~  
7     ~~the Government Code, or changes the definition of a crime within~~  
8     ~~the meaning of Section 6 of Article XIII B of the California~~  
9     ~~Constitution.~~

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**Fact Sheet:****AB 1139 (Gonzalez) is a Utility Profit Grab to Kill Rooftop Solar Just When It Is Taking Off In Working and Middle Class Communities**

Credit: Ben Slyngstad



Credit: Fresno Bee, SW Parra

Consumers suffer when power is concentrated in the hands of a few. This was the lesson learned from the 2000 electricity crisis and out of that grew California's commitment to consumer solar and localized energy. Over the past two decades, hundreds of thousands of Californians have invested in rooftop solar to combat climate change, lower energy bills, and invest in local communities.

The state encouraged these investments via policies like net metering, which lets solar users share their extra energy with their neighbors for a bill credit.

Today, utilities are threatened by this people-centered movement because it cuts at their profits. Rooftop solar is no longer niche but an increasingly affordable investment embraced by working class communities as a no-brainer solution to wildfires, blackouts, and rate increases. Utilities see this trend and want to end it by coming after the most powerful policy driving rooftop solar: net metering.

**AB 1139 will kill rooftop solar by establishing, as the default policy of the State of California:**

- A monthly fee estimated at \$70/month for an average home solar system. [1]
- An 80% reduction in the credit given to solar users for surplus energy sent back to the grid. [2]
- Drastic rule changes applied to all existing solar users within 1 to 10 years, reversing a well-established principle protecting consumer investments for 20 years. Such a policy not only harms existing consumers, including schools, low-income affordable housing, and farms, but it erodes consumer confidence in government-backed programs on clean energy. [3]

**AB 1139 hurts working families the most**

- The fastest growing segment of California's rooftop solar market is in working class communities. Today, over 150,000 solar roofs serve customers in the CARE discount program. An additional 30,000 rental units serving more than 100,000 people at multifamily affordable housing projects are under development thanks to net metering. These low-income consumers will be greatly harmed by AB 1139, in some cases paying more for their energy than if they had never invested in solar. [4]

**CARE Solar Customer Monthly Savings Before and After AB 1139 [5]**

|                                               | SDG&E        | SCE        | PG&E       |
|-----------------------------------------------|--------------|------------|------------|
| <b>Today</b>                                  | \$178        | \$122      | \$139      |
| <b>Under AB 1139</b>                          | \$56         | \$37       | \$45       |
| <b>Percentage Drop</b>                        | 69%          | 70%        | 68%        |
| <b>Years to pay off solar in bill savings</b> | 40-50+ years | > 50 years | > 50 years |

**AB 1139 is premised on a utility-invented falsehood - the rooftop solar "cost shift". The real cost shift is wildfires, power outages, the long-distance transmission lines that cause them, as well as the lack of government accountability on those responsible.**

- This year alone, ratepayers will be charged more than \$9 billion for power line maintenance and wildfire prevention.
- PG&E's transmission charges to ratepayers increased 68% from 2016 to 2021. Half of these charges were self-approved by PG&E.
- Utilities profit by building more and more expensive power lines. The state's investor-owned utilities charged ratepayers nearly \$20 billion in transmission line projects between 2010 and 2019 and collected more than \$20 billion in profits over a similar time period. [6]

**Rooftop solar reduces costs for all ratepayers. This saves everyone money, but also cuts utility profits. That's what this is all about.**

- In 2018 alone, rooftop solar and energy efficiency prompted the state to scale back more than 20 power line projects, saving \$2.6 billion.
- Maximizing rooftop solar could save American households nearly \$500 billion over the next thirty years, while doubling down on our overreliance on long-distance power lines could cost Americans \$350 billion. [7]
- Reducing grid costs cut against utility profits, even if it saves all ratepayers. As the CPUC recently outlined, "IOUs are inherently incentivized to make investments to drive an increase in their rate base and therefore, their profitability." [8]

**Utilities care about profits, not equity.**

- Utilities have lobbied against every major proposal to help more marginalized communities adopt solar and battery storage: affordable housing solar incentives, community solar, microgrids, on-bill financing and more. [9]

**More solar, not less**

- Lawmakers can best help working communities by rejecting AB 1139 and embracing proposals to bring rooftop solar and battery storage to millions more Californians. More affordable rooftop solar, not less, is the path to helping Californians struggling under the burden of skyrocketing energy bills, power outages and wildfires. [10]

[1] Link to [AB 1139](#); Section 3(b)(4) would require the state to charge solar users a "fixed charges based on the cost to...serve the eligible customer-generator". The precedent for how the CPUC would calculate this fee is to charge transmission and distribution charges for all the energy generated and consumed on-site by the solar user. In other words, the solar user who becomes more energy efficient, consuming less energy from the grid, would be charged a fee to cover what they would otherwise have bought from the utility. We estimate this fee to be approximately \$70/month for a typical 6 kW solar system. The larger the system, the higher the fee. Non-residential customers would be charged the fee as well as residential.

Net Metering Bill credit: Section 3(b)(5)

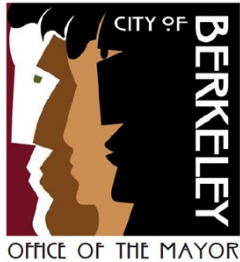
[2] Section 3 (b)(5) The average credit for surplus solar power is valued at 23 cents per kilowatt-hour. The bill would require "Credits ... for any electricity exported to the electrical grid at a rate equal to the hourly wholesale market rate..." The average hourly wholesale market rate for electricity is around 3 cents.

[3] Section 2(b)(6) & 2(d)(B)(2)

- [4] Neighborhood level adoption data: The Berkeley Lab: [Solar Demographics Tool](#) and [Income Trends among U.S. Residential Rooftop Solar Adopters](#); [CARE data](#)
- [5] Based on a 6 kWh system and a reduction in NEM credits from 17 cents to 3 cents per kWh
- [6] CA Public Utilities Commission: [Utility Costs and Affordability of the Grid of the Future](#) (\$20 billion in transmission costs from 2010-19 pp. 39, Table 11; \$4.336 in 2021 transmission spending and rate of increase p. 36; 1\$/3.50 profit p. 37). \$20B profit figure from utility 10-K filings, [itemized here](#).
- [7] [Utility Dive](#) breakdown of this CA Independent Systems Operator report; Vibrant Clean Energy: [Why Local Solar for All Costs Less](#)
- [8] The Averch-Johnson effect described on page 24 of the CPUC's "Utility Costs and Affordability of the Grid of the Future."
- [9] Partial list of initiatives utilities lobbied to kill or defang: Affordable housing solar incentives ([AB 693](#) - Eggman, 2015); Low-income feed in tariff ([AB 1990](#) - Fong); Community solar ([SB 843](#) - Wolk, 2013; [SB 43](#) - Wolk, 2013; CPUC implementation); Microgrids (SB 1339, CPUC implementation)
- [10] Save California Solar: [Building Blocks to Equitable Solar & Storage Growth](#)





CONSENT CALENDAR

June 1, 2021

To: Members of the City Council

From: Mayor Jesse Arreguín (Author), Councilmember Hahn (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor)

Subject: Referral to the FY 22 Budget Process: Continuing Anti-Displacement Programs

RECOMMENDATION

Refer to \$900,000 to the FY 2022 Budget Process for continued funding of the following anti-displacement programs (launched in 2017) with the proposed funding source from General Fund tax receipts from the Measure U1 gross receipts tax:

- 1) Housing Retention Program (administered by the Eviction Defense Center EDC): \$250,000
- 2) Legal Counseling, Services and Problem Solving for Extremely-Low, Very-Low, Low and Moderate Income Tenants (\$275,000 each to the East Bay Community Law Center and EDC): \$550,000
- 3) Flexible Housing Subsidies for Homelessness Prevention: \$100,000

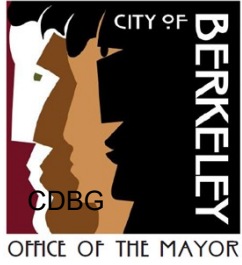
BACKGROUND***Housing Retention Program/COVID Emergency Rental Assistance***

The Housing Retention Program is an essential tool in preventing tenant displacement and preserving Berkeley's racial, economic and cultural diversity. In 1993, the City of Berkeley began the Homeless Prevention Grants Program, which in 2008 became the Housing Retention Program (HRP).

The program was reconstituted and bolstered in 2017 with an increased allocation of \$250,000 annually which was continued in the FY 2019, FY 2020 and FY 2021 budgets.

At the onset of the COVID-19 pandemic and resulting shelter in place, the City Council launched the Berkeley Relief Fund and allocated \$3 Million to initially capitalize the fund, to be split three ways between rental assistance, grants for arts non-profits and grants to small businesses. Tenant rent assistance was additionally funded \$1,000,000 to expand the Housing Retention Program during this emergency with an additional \$900,000 added as private donations came in through the East Bay Community Foundation. Approved households were eligible to receive up to \$5,000 as a one-time grant, and an additional one-time grant of up to \$10,000 during the specified COVID-19 emergency. Additional funding was provided through CBDG funding from the Federal Government. The fund has been exhausted and to date the program has helped:

|                         |             |                |
|-------------------------|-------------|----------------|
| Initial Funding:        | \$1,018,654 | 173 households |
| EBCF private donations: | \$ 933,610  | 142 households |



\$1,800,000 124 households (135 total, 124 unduplicated)

**Total:** 439 unduplicated households as of 4/29/2021

## CONSENT CALENDAR

Referral to the FY 22 Budget Process:  
Continuing Anti-Displacement Programs

June 1, 2021

There is currently an extensive waiting list of households that require assistance.

The pandemic has left low-income households in massive debt that has accrued over a 15-month period, with no end in sight. Additionally, funding from the Alameda County ERAP that pays overdue utility bills and wifi, will be exhausted. Utilizing Tenant Preservation Fund funds to pay these other related COVID-19 impact costs, that could lead to eviction, can help tenants retain their housing.

***Legal Counseling, Services and Problem Solving for Extremely-Low, Very-Low, Low and Moderate Income Tenants***

The unprecedented rental housing crisis has resulted in increased displacement and eviction of low-income residents in Berkeley. One of the priorities of the City Council is to provide services to low-income households to prevent displacement.

At the June 25, 2019 City Council Meeting, the FY 2020-21 Biennial Budget was approved, allocating \$900,000 each year for anti-displacement programs. Of this, \$550,000 will be used for eviction defense and housing counseling each year. Council initially authorized an annual funding of \$300,000 for this purpose for both the 2018 and 2019 Fiscal Years at its July 25, 2017 meeting. These funds were transferred to the Rent Board whose staff administered, monitored, and reported to Council regarding the program funding during those years.

When this item was initially considered in 2017, Council expressed interest in expanding the scope of services provided by Eviction Defense Center (EDC) and East Bay Community Law Center (EBCLC) under their existing Rent Board Contracts to provide counseling and advocacy to tenants seeking to avoid displacement by exercise of rights afforded by local law other than the Rent Ordinance. The funding provided by the Rent Board is not adequate to achieve the Council's objective of fully preventing displacement during the current housing emergency, when low and middle-income tenants are particularly vulnerable to displacement if not provided with sufficient and competent legal defense. There is also a need for additional funding to provide counseling and representation to tenants relating to city ordinances such as the Tenant Protection Ordinance and Tenant Buyout Ordinance. Both EDC and EBCLC have once again requested \$275,000 to cover this expanded scope of work to serve the broadest number of Berkeley tenants.

***Flexible Housing Subsidy Pool***

In June 2017, the City Council established the Flexible Housing Subsidy Pool as a new anti-displacement tool. These funds can be used for a variety of purposes, including emergency rental subsidies for people who are facing an eviction. Since the fund was established it has helped tenants with emergency funding of up to \$1,500 per incident and \$5,000 maximum per household in grants. The continuation of this pool of funds will help those tenant that have a need for emergency help to keep them from losing their home.

CONSENT CALENDAR

Referral to the FY 22 Budget Process:  
Continuing Anti-Displacement Programs

June 1, 2021

FINANCIAL IMPLICATIONS

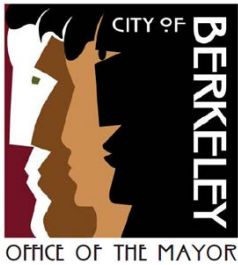
Total allocation of \$900,000 from General Fund revenues. It is projected that at least \$6 Million in General Fund tax revenues will be coming from the Measure U1 gross receipts tax on rental property. Since 2017, the City has funded these three programs out of Measure U1 tax receipts, and it is recommended that the Council continue this funding for another fiscal year.

ENVIRONMENTAL SUSTAINABILITY

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

CONTACT

Mayor Jesse Arreguín      510-981-7100



CONSENT CALENDAR

June 1, 2021

To: Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Kate Harrison, Councilmember Rashi Kesarwani, Councilmember Terry Taplin

SUBJECT: Referral to the FY 22 Budget Process: Landlord Incentives for Section 8 Participation

RECOMMENDATION

Refer to the Fiscal Year 2022 Budget Process, \$100,000 of General Fund revenues to replenish and augment funding for the Section 8 Landlord Incentive Program currently offered by the Berkeley Housing Authority.

BACKGROUND

During the FY 2018 budget process, the City Council authorized \$50,000 to the Berkeley Housing Authority (BHA) to be used to provide incentives to Landlords to lease units to Section 8 tenants. The funds were disbursed to BHA in June of 2020. This funding could *only* be used for repairs to ready a unit for occupancy by a Section 8 tenant, either letting or re-letting of units to those searching for housing in Berkeley utilizing a Housing Choice Voucher (Section 8). The funds are not used to incentivize units in luxury buildings, or those with institutional ownership, or with long term contracts with BHA, guaranteeing HAP subsidy, such as the Project-based or Mod Rehab./SRO properties.

Beginning July 1, 2020, BHA began promoting the Landlord Incentive Unit Turnover program. BHA reached out to the Berkeley Property Owners Association (BPOA), and landlords currently participating with BHA who may have additional vacancies, to promote these incentives. Over the past ten months this program will have assisted 33 landlords by expanding the pool of units that house families with Section 8 housing subsidy in the City of Berkeley. BHA is working on processing and reviewing applications/receipts and expects the funds from the initial \$50,000 to be fully depleted by the end of June 2021.

CONSENT CALENDAR

June 1, 2021

Referral to the FY 21/22 Budget Process:  
Landlord Incentives for Section 8 Tenants

Currently there are 58 Section 8 families/tenants that are seeking housing within Berkeley, with more new voucher holder households coming online regularly. Providing additional funds to the Landlord Incentive pool would expand the Section 8 opportunities within the City for those with incomes between 0% - 50% of the Area Median Income, and who would not be able to afford living in Berkeley without the benefit of deep rental subsidy that BHA's Housing Choice Vouchers provide.

The maximum award for the Unit Turnover Program is \$1,500; with a \$100,000 allocation to BHA, an additional 66 units could be incentivized to house our most vulnerable populations.

FINANCIAL IMPLICATIONS

\$100,000 from the General Fund

ENVIRONMENTAL SUSTAINABILITY

The Housing Choice Voucher Program (Section 8) is instrumental in helping our unhoused population off of our streets and into long term subsidized housing.

CONTACT

Mayor Jesse Arreguín, 510-981-7100



Office of the Mayor

CONSENT CALENDAR

June 1, 2021

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín (Author), Councilmembers Ben Bartlett, Kate Harrison, and Terry Taplin (Co-Sponsors)

Subject: Support – SB 617, the Solar Access Act

RECOMMENDATION

Adopt a Resolution in support of SB 617 (Wiener): Residential solar energy systems: permitting. Send a copy of the Resolution to Senators Wiener and Skinner, Assemblymember Wicks, and Governor Newsom

BACKGROUND

Last year, the National Renewable Energy Laboratory (NREL), under contract to the federal Department of Energy, developed software called SolarAPP+ that processes permits for solar and solar-plus-storage systems. SolarAPP+ asks the contractor a series of questions to verify the solar system's design is safe, and then issues a permit automatically. SolarAPP+, developed in partnership with building safety experts and the solar industry, helps local governments and installers operate more efficiently without compromising the safety or quality of solar systems. SolarAPP+ is free for cities and counties, integrates with their existing software systems, and can be adjusted to the characteristics of the area (e.g., snowfall). Jurisdictions, such as San Jose and Los Angeles have deployed automated permitting software similar to SolarAPP+, with great success. San Jose saw a six-fold increase in solar systems installed after they adopted automated permitting.

California needs to accelerate its transition to clean energy in order to increase local resilience and meet its climate emissions targets by 2045. While rooftop solar systems have been a major driving force behind California's ongoing transition, the potential growth of these systems has been diminished by administrative burdens. Across the state, rooftop solar and storage permitting processes are often inefficient and time-consuming, and can add thousands of dollars to the cost of installing solar. As a result, fewer Californians add solar to their roofs who otherwise would. Meanwhile, the workload for building department officials continues to increase, and government staff are increasingly unable to manage the permitting application process in a timely fashion. Relief is needed across the board, and the technology to accomplish that is now widely available, and should be implemented as quickly as possible.

SB 617 is supported by numerous environmental and other community organizations, including SPUR, Environment California, the Sierra Club, the Center for Sustainable

Energy, the Local Government Commission, the Housing Action Coalition, and Grid Alternatives.

FINANCIAL IMPLICATIONS

Limited staff time associated with sending a letter to designated recipients.

ENVIRONMENTAL SUSTAINABILITY

No direct identifiable environmental sustainability savings are associated with this item. However, the passage of SB 617 is likely to lead to a more rapid deployment of rooftop-scale solar and storage in the City of Berkeley, which is a key strategy in the realization of Berkeley's Climate Action goals.

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

- 1: Resolution
2. Text of SB 617
3. SB617 Fact Sheet



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

IN SUPPORT OF SB 617, THE SOLAR ACCESS ACT

WHEREAS, Last year, the National Renewable Energy Laboratory (NREL), under contract to the federal Department of Energy, developed software called SolarAPP+ that processes permits for solar and solar-plus-storage systems; and

WHEREAS, SolarAPP+ asks the contractor a series of questions to verify the solar system's design is safe, and then issues a permit automatically; and

WHEREAS, SolarAPP+, developed in partnership with building safety experts and the solar industry, helps local governments and installers operate more efficiently without compromising the safety or quality of solar systems; and

WHEREAS, SolarAPP+ is free for cities and counties, integrates with their existing software systems, and can be adjusted to the characteristics of the area (e.g., snowfall); and

WHEREAS, California needs to accelerate its transition to clean energy in order to increase local resilience and meet its climate emissions targets by 2045; and

WHEREAS, While rooftop solar systems have been a major driving force behind California's ongoing transition, the potential growth of these systems has been diminished by administrative burdens; and

WHEREAS, Across the state, rooftop solar and storage permitting processes are often inefficient and time-consuming, and can add thousands of dollars to the cost of installing solar; and

WHEREAS, As a result, fewer Californians add solar to their roofs who otherwise would; and

WHEREAS, Meanwhile, the workload for building department officials continues to increase, and government staff are increasingly unable to manage the permitting application process in a timely fashion; and

WHEREAS, Relief is needed across the board, and the technology to accomplish that is now widely available, and should be implemented as quickly as possible.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports SB 617, the Solar Access Act.

BE IT FURTHER RESOLVED that that copies of this Resolution be sent to Governor Gavin Newsom, State Senators Nancy Skinner and Scott Wiener, and Assemblymember Buffy Wicks.

AMENDED IN SENATE MAY 4, 2021  
AMENDED IN SENATE APRIL 19, 2021  
AMENDED IN SENATE APRIL 12, 2021  
AMENDED IN SENATE APRIL 5, 2021  
AMENDED IN SENATE MARCH 18, 2021

**SENATE BILL**

**No. 617**

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**Introduced by Senator Wiener**  
(Principal coauthor: Assembly Member Chiu)  
**(Coauthors: Senators Becker, Newman, and Stern)**  
(Coauthor: Assembly Member Robert Rivas)

February 18, 2021

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An act to add Section 65850.52 to the Government Code, relating to solar energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 617, as amended, Wiener. Residential solar energy systems: permitting.

Existing law requires a city or county to administratively approve applications to install solar energy systems through the issuance of a building permit or similar nondiscretionary permit. Existing law requires every city, county, or city and county, to develop a streamlined permitting process for the installation of small residential rooftop solar energy systems, as that term is defined. Existing law prescribes and limits permit fees that a city or county may charge for a residential and commercial solar energy system.

Existing law grants the Public Utilities Commission (PUC) regulatory authority over public utilities, including electrical corporations, as

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defined. Decisions of the PUC adopted the California Solar Initiative, which is administered by electrical corporations and subject to the PUC's supervision. Existing law requires the PUC and the State Energy Resources Conservation and Development Commission (Energy Commission) to undertake certain steps in implementing the California Solar Initiative. A violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

~~Existing law specifies that the financial components of the California Solar Initiative include, among other programs, programs for the installation of solar energy systems on new construction, which collectively are known as the New Solar Homes Partnership Program. Existing law requires the program, which is administered by the Energy Commission, to be funded by charges in the amount of \$400,000,000 collected from customers of the state's 3 largest electrical corporations. If specified moneys are exhausted, existing law authorizes the PUC to require each of those electrical corporations to continue the program pursuant to guidelines established by the Energy Commission for the program until the \$400,000,000 monetary limit is reached. If the PUC requires the continuation of the program, existing law requires any funding made available to be encumbered no later than June 1, 2018, and disbursed no later than December 31, 2021. Existing law makes the provisions of the program inoperative on June 1, 2018.~~

This bill would require every city and county to implement an online, automated permitting platform that verifies code compliance and instantaneously issues permits for a solar energy system that is no larger than 38.4 kilowatts alternating current nameplate rating and an energy storage system paired with a solar energy system that is no larger than 38.4 kilowatts alternating current nameplate rating, as specified. The bill would require a city or county to amend a certain ordinance to authorize a residential solar energy system and an energy storage system to use the online, automated permitting platform. The bill would prescribe a compliance schedule for satisfying these requirements, which would exempt a county with a population of less than 150,000 and all cities within a county with a population of less than 150,000. The bill would require a city with a population of 50,000 or less that is not otherwise exempt to satisfy these requirements by September 30, 2023, while cities and counties with populations greater than 50,000 that are not otherwise exempt would be required to satisfy the requirements by September 30, 2022. The bill would require a city,

county, or a fire department, district, or authority to report to the Energy Commission when it is in compliance with specified requirements, in addition to other information. By increasing the duties of local officials, this bill would impose a state-mandated local program. The bill would prohibit the provision of specified funding sources to cities and counties not in compliance with certain provisions relating to solar energy systems and fees charged for their installation or if they are not in compliance with provisions of the bill.

The bill would ~~authorize~~ *require* the ~~Energy Commission~~ *Commission*, *upon provision of sufficient funding*, to provide technical assistance and grant funding to cities and counties in order to support the above-described requirements. The bill would require the commission to develop grant guidelines and other requirements, as specified, by May 1, 2022, and make applications available no later than ~~June~~ *July* 1, 2022. ~~The bill would require the PUC to require the Pacific Gas and Electric Company, the Southern California Edison Company, and the San Diego Gas and Electric Company to repurpose \$20,000,000 supporting the New Solar Homes Partnership Program, as specified, to providing technical assistance and grant funding and to pay the Energy Commission's program administrative costs, as specified.~~ Because this requirement would expand the definition of a crime, this bill would impose a state-mandated local program. The bill would require the Energy Commission to set guidelines for cities and counties to report to the commission on the number of permits issued for solar energy systems and an energy storage system paired with a solar energy system and the relevant characteristics of those systems.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65850.52 is added to the Government  
2 Code, to read:  
3 65850.52. (a) For purposes of this section:  
4 (1) “Energy Commission” means the State Energy Resources  
5 Conservation and Development Commission.  
6 (2) “Energy storage system” means commercially available  
7 technology, located behind a customer’s utility meter, that is  
8 capable of absorbing electricity generated from a colocated  
9 electricity generator or from the electric grid, storing it for a period  
10 of time, and thereafter discharging it to meet the energy or power  
11 needs of the host customer or for export.  
12 (3) “Solar energy system” means any configuration of solar  
13 energy devices that collects and distributes solar energy for the  
14 purpose of generating electricity and that has a single  
15 interconnection with the electric utility transmission or distribution  
16 network.  
17 (4) “SolarAPP” means the most recent version of a web-based  
18 portal, developed by the National Renewable Energy Laboratory,  
19 United States Department of Energy, that automates plan review,  
20 produces code-compliant approvals, and issues permits for solar  
21 energy systems and energy storage systems paired with solar  
22 energy systems.  
23 (b) Pursuant to the compliance schedule in subdivision (d), a  
24 city, county, or city and county, in consultation with the local fire  
25 department, district, or authority shall implement an online,  
26 automated permitting platform, such as SolarAPP, that verifies  
27 code compliance and issues permits in real time to a licensed  
28 contractor for a solar energy system that is no larger than 38.4  
29 kilowatts alternating current nameplate rating and an energy storage  
30 system paired with a solar energy system that is no larger than  
31 38.4 kilowatts alternating current nameplate rating, and is  
32 consistent with the system parameters and configurations, including  
33 an inspection checklist, of SolarAPP. Consistent with the same  
34 compliance schedule, a city, county, or city and county shall amend  
35 its ordinance adopted pursuant to subdivision (g) of Section  
36 65850.5 to authorize a residential solar energy system and an  
37 energy storage system to use the online, automated permitting  
38 platform.

1 (c) (1) A county with a population of less than 150,000, and  
2 all cities within a county with a population of less than 150,000,  
3 are exempt from subdivision (b).

4 (2) A city with a population of 50,000 or less that is not exempt  
5 pursuant to paragraph (1) shall satisfy the requirements of  
6 subdivision (b) no later than September 30, 2023.

7 (3) A city, county, or city and county with a population of  
8 greater than 50,000 that is not exempt pursuant to paragraph (1)  
9 shall satisfy the requirements of subdivision (b) no later than  
10 September 30, 2022.

11 (d) ~~The~~ *Upon provision of sufficient funding, the* Energy  
12 Commission may provide technical assistance and grant funding  
13 to city, county, or city and county, in order to support the  
14 implementation of online, automated permitting for a solar energy  
15 system and an energy storage system paired with a solar energy  
16 system and for compliance with the requirements of subdivision  
17 (b) in a timely manner.

18 (1) The Energy Commission shall develop grant guidelines and  
19 other requirements in a public process by May 1, 2022, and make  
20 applications available no later than ~~June~~ July 1, 2022.

21 (2) The Energy Commission shall prioritize processing grant  
22 applications from local jurisdictions serving low-income  
23 communities, disadvantaged communities as defined by the  
24 California Communities Environmental Health Screening Tool,  
25 also known as CalEnviroScreen 3.0, or those containing high  
26 fire-threat districts as defined in subdivision (h) of Section 3280  
27 of the Public Utilities Code.

28 ~~(3) The Public Utilities Commission shall require Pacific Gas  
29 and Electric Company, Southern California Edison Company, and  
30 San Diego Gas and Electric Company to repurpose twenty million  
31 dollars (\$20,000,000) of funds supporting the New Solar Homes  
32 Partnership Program, pursuant to paragraph (3) of subdivision (e)  
33 of Section 2851 of the Public Utilities Code, for providing the  
34 technical assistance and grant funding described in this subdivision  
35 and to provide for the Energy Commission's costs to administer  
36 the program. Notwithstanding subparagraph (B) of paragraph (3)  
37 of subdivision (e) of Section 2851 of the Public Utilities Code,  
38 these funds may be disbursed after December 31, 2021.~~

SB 617

— 6 —

1 (e) A city, county, city and county, or a fire department, district,  
 2 or authority shall report to the Energy Commission when it is in  
 3 compliance with subdivision (b).

4 (f) The Energy Commission shall set guidelines for cities and  
 5 counties to report to the commission on the number of permits  
 6 issued for solar energy systems and an energy storage system  
 7 paired with a solar energy system and the relevant characteristics  
 8 of those systems. A city, county, or city and county shall report  
 9 annually to the Energy Commission pursuant to those guidelines  
 10 within a year of implementing the automated solar permitting  
 11 system pursuant to subdivision (b).

12 (g) (1) A city, county, or city and county that is not in  
 13 compliance with Section 65850.5 or 66015 is not eligible to receive  
 14 the funding available pursuant to subdivision ~~(e)~~ (d). A city,  
 15 county, or city and county shall self-certify its compliance with  
 16 Section 65850.5 or 66015 when applying for funds from a  
 17 state-sponsored or state-administered grant or loan program.

18 (2) A city, county, or city and county that is not in compliance  
 19 with subdivision (b) is not eligible to receive funds from a  
 20 state-sponsored or state-administered solar or energy storage grant  
 21 or loan program, other than the funding available in subdivision  
 22 ~~(e)~~ (d). A city, county, or city and county shall certify its  
 23 compliance with the requirements of subdivision (b) when applying  
 24 for funds from a state-sponsored or state-administered grant or  
 25 loan program.

26 (h) Nothing in this section shall be construed to limit or  
 27 otherwise affect the generator interconnection requirements and  
 28 approval process for a local publicly owned electric utility, as  
 29 defined in Section 224.3 of the Public Utilities ~~Code~~. *Code, or an*  
 30 *electrical corporation, as defined in Section 218 of the Public*  
 31 *Utilities Code.*

32 (i) Nothing in this section shall be construed to increase or  
 33 otherwise affect the liability of a local agency pertaining to a solar  
 34 energy system or an energy storage system paired with a solar  
 35 energy system installed pursuant to this section.

36 SEC. 2. No reimbursement is required by this act pursuant to  
 37 Section 6 of Article XIII B of the California Constitution for certain  
 38 costs that may be incurred by a local agency or school district  
 39 because, in that regard, this act creates a new crime or infraction,  
 40 eliminates a crime or infraction, or changes the penalty for a crime



1 or infraction, within the meaning of Section 17556 of the  
2 Government Code, or changes the definition of a crime within the  
3 meaning of Section 6 of Article XIII B of the California  
4 Constitution.

5 However, if the Commission on State Mandates determines that  
6 this act contains other costs mandated by the state, reimbursement  
7 to local agencies and school districts for those costs shall be made  
8 pursuant to Part 7 (commencing with Section 17500) of Division  
9 4 of Title 2 of the Government Code.

O



## Senator Scott Wiener, 11<sup>th</sup> Senate District

### Senate Bill 617 – Solar Access Act

#### SUMMARY

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To increase the number of homes installing safe solar energy systems, Senate Bill 617, the Solar Access Act, would certain sized require jurisdictions to provide an online instant solar permitting process, like SolarAPP+, for residential solar and solar-plus-storage systems.

#### BACKGROUND

---

Last year, the National Renewable Energy Laboratory (NREL), a division of the federal Department of Energy, developed software called SolarAPP+ that processes permits for solar and solar-plus-storage systems. SolarAPP+ asks the contractor a series of questions to verify the solar system's design is safe, and then issues a permit automatically. SolarAPP+, developed in partnership with building safety experts and the solar industry, helps local governments and installers operate more efficiently without compromising the safety or quality of solar systems. SolarAPP+ is free for cities and counties, integrates with their existing software systems, and can be adjusted to the characteristics of the area (e.g., snowfall). Jurisdictions, such as San Jose and Los Angeles have deployed automated permitting software similar to SolarAPP+, with great success. San Jose saw a six-fold increase in solar systems installed after they adopted automated permitting.

#### PROBLEM

---

California needs to accelerate its transition to clean energy in order to increase local resilience and meet its climate emissions targets by 2045. While rooftop solar systems have been a major driving force behind California's ongoing transition, the potential growth of these systems has been diminished by administrative burdens. Red tape and the 'soft costs' of permitting and installing often prevents homeowners from putting solar on their roofs. Before a contractor can install a solar system, they need to apply for a permit from the local building department. These permitting processes are often inefficient and time-consuming, and can add thousands of dollars to the cost of installing solar. As a result, fewer Californians add solar to their roofs who otherwise would. Meanwhile, the workload for building department officials continues to increase, and government staff are increasingly unable to manage the permitting application process in a timely fashion. Relief is needed across the board, and the technology to accomplish that is now widely available, and should be implemented as quickly as possible.

#### SOLUTION

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SB 617 will allow more homeowners to install solar by streamlining the permitting and inspection processes. The bill will require counties with populations over 150,000 to allow homeowners' contractors to receive an instant online permit for standard solar and solar-plus-storage

systems, via software such as the SolarAPP+. Further, the bill will create a program at the California Energy Commission that provides technical assistance and grants to help cities and counties comply with these requirements. The funds would come from leftover money in the now-defunct New Solar Homes Partnership Program (subsidies for new homes to install solar).

Overall, the bill would increase the number of households installing solar and storage systems, help California meet its greenhouse gas emissions reduction goals, increase the resiliency of homes (especially during public safety power shutoffs), reduce electricity costs to homeowners, reduce administrative costs for local governments, and create solar installation jobs.

---

#### SUPPORT

- **SPUR (Sponsor)**
- **Environment California (Sponsor)**
- Sierra Club
- Center for Sustainable Energy
- Local Government Commission
- Housing Action Coalition
- Grid Alternatives
- Vote Solar
- Solar Rights Alliance
- SunPower Corporation
- Solar United Neighbors
- Natural Resources Defense Council
- Environmental Defense Fund
- NextGen California
- The Climate Center
- Habitat for Humanity – Greater San Francisco Chapter
- Local Solar for All
- Solar and Fire Education (SAFE)
- Advanced Energy Economy
- Town of Windsor

- Gabriel Quinto, Mayor Pro Tem of El Cerrito
- Dianne Martinez, Mayor of Emeryville
- Tom Butt, Mayor of Richmond
- Michael Vargas, Mayor of Perris
- Dan Kalb, Oakland City Councilmember
- Bay Area Council
- Elders Climate Action Norcal Chapter
- Elders Climate Action SoCal Chapter
- Silicon Valley Youth Climate Action
- California Solar & Storage Association
- Sunrun
- Tesla

---

#### FOR MORE INFORMATION

Tate Hanna, Legislative Aide

Email: [tate.hanna@sen.ca.gov](mailto:tate.hanna@sen.ca.gov)

Phone: (916) 651-4011





Office of the Mayor

CONSENT CALENDAR

June 1, 2021

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín

Subject: Berkeley Housing Authority Board of Commissioners Re-Appointments

RECOMMENDATION

Adopt a Resolution re-appointing Dan Rossi, Christine Schildt, and Adolph Moody to the Berkeley Housing Authority Board of Commissioners.

BACKGROUND

On May 22, 2007, the Berkeley City Council established a Berkeley Housing Authority (BHA) Board of Commissioners. State law mandates BHA commissioners, including successors be appointed by the Mayor and confirmed by the City Council. State law also states that the length of a commissioner's term shall be four years and can be reappointed.

Currently, there are three members of the BHA Board that have either terms that have expired or will be expiring soon. Specifically, they are:

**Dan Rossi** – Expires in July 2021

Mr. Rossi is the current chair of the BHA Board and was first appointed in September 2013 (Resolution No. 66,313-N.S.) and was reappointed in July 2017 (Resolution No. 68069-N.S.). Mr. Rossi has served with distinction on the Housing Authority Board, bringing his experience as a municipal attorney and former Housing Advisory Commissioner to assist BHA in policy and personnel matters. He has extensive experience with affordable housing.

**Christine Schildt** – Expires in September 2021

Ms. Schildt is the current vice-chair of the BHA Board and was first appointed in September 2017 (Resolution No. 68,155-N.S.). She is a Senior Associate with PolicyLink, a member of the Berkeley Planning Commission, and South Berkeley community leader who has advocated for affordable housing and worked with public housing residents.

**Adolph Moody** – Expired on September 2020

Mr. Moody is one of the two tenant Commissioners on the BHA Board. He was first appointed in September 2005 (Resolution No. 63,066-N.S.) and most recently in September 2016 (Resolution No. 67,665-N.S.). With 16 years of experience, he brings extensive institutional knowledge to the board and the perspective as a BHA voucher holder. He has experience in accounting support, public housing programs, self-sufficiency programs, and neighborhood programs.

All three commissioners have expressed verbally their request to serve another term.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

1: Resolution

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

RE-APPOINTMENT OF DAN ROSSI, CHRISTINE SCHILDT, AND ADOLPH MOODY  
TO THE BERKLEY HOUSING AUTHORITY BOARD OF COMMISSIONERS

WHEREAS, the Council of the City of Berkeley, as the governing body of the City of Berkeley, declared itself to the Commissioners of the Berkeley Housing Authority (BHA) and appointed two tenant Commissioners pursuant to Health and Safety Code Section 34290; and

WHEREAS, on May 22, 2007 the Mayor appointed and the City Council by a majority vote confirmed the appointment of 5 Commissioners and 2 tenant Commissioners to the BHA Board pursuant to Health and Safety Code Section 34270; and

WHEREAS, there are currently three commissioners – Dan Rossi, Christine Schildt, and Adolph Moody, whose terms have either expired or will be expiring soon; and

WHEREAS, all three commissioners have expressed verbally their request to serve another term.

NOW THEREFORE, BE IT RESOLVED by the Mayor of the City of Berkeley that Dan Rossi and Christine Schildt are re-appointed to serve as a Commissioner of the Berkeley Housing Authority Board; and

BE IT FURTHER RESOLVED by the Mayor of the City of Berkeley that Adolph Moody is re-appointed to serve as a tenant Commissioner on the Berkeley Housing Authority Board; and

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that it supports the Mayor's determination regarding the qualifications of Dan Rossi, Christine Schildt, and Adolph Moody and hereby confirms the Mayor's reappointment; and

BE IT FURTHER RESOLVED that by the Mayor of the City of Berkeley that, pursuant to Health and Safety Code Section 34272(a), Dan Rossi and Christine Schildt are appointed to serve a four-year term; and

BE IT FURTHER AND FINALLY RESOLVED by the Mayor of the City of Berkeley that, pursuant to Health and Safety Code Section 34272(a), Adolph Moody is appointed to serve as a tenant Commissioner for a two-year term.







Office of the Mayor

CONSENT CALENDAR

June 1, 2021

To: Members of the City Council

From: Mayor Jesse Arreguín and Councilmember Sophie Hahn

Subject: Budget Referral: \$200,000 to the Bay Area Community Land Trust for capacity building to support the Small Sites Program

RECOMMENDATION

Refer to the Fiscal Year 2022 Budget process an allocation of \$200,000 to the Bay Area Community Land Trust (BACLT) for capacity building for the purpose of adding staffing to complete small property purchases for conversion from rental to deed restricted affordable housing or limited-equity cooperatives. Funds would be appropriated from Measure U-1 tax receipts with \$165,000 designated for staff capacity building and \$40,000 for a consultant to engage in strategic planning and project management.

BACKGROUND

The Small Sites Program was created in 2018 and the City Council has allocated \$3.5 Million from Measure U1 revenues and the Housing Trust Fund to help initially capitalize the fund and support projects. Additionally the City Council has provided \$50,000 to Bay Area Community Land Trust to be used for capacity building to support their ability to complete acquisition/cooperative conversion projects. In March 2020, the City Council voted to accept the Housing Advisory Commission's (HAC) recommendations for the allocation of U1 General Fund revenues including the following amendments: 1. Addition of \$100K in FY 2022 and FY 2023 in organizational capacity building (BACLT); and 2. Add \$150K in 2021-2023 for new programs under the category of development of new housing programs.

BACLT provides invaluable experience in organizing and educating tenants and working with City staff and neighborhood organizations to locate buildings with long-term tenants. They oversee inspections of the buildings to determine condition and cost of renovations; secure financing and provide project management and construction expertise. They provide a valuable service and institutional knowledge to a process otherwise unfamiliar to a City agency.

As the City staff continues to implement City Council policies related to affordable housing it is important that organizations, who contract with the city to support affordable housing can scale up to meet demand. In the past, City coordinated with and funded capacity building for non-profit housing developers such as SAHA and RCD which allowed those organizations to grow to be self-sustaining. The objective is to generate developer and project and property management fees in order for BACLT to join SAHA and RCD as self-sustaining organizations. Moving forward with a strategic plan will ensure this result.

Budget Referral: Allocate \$200,000 to the  
Bay Area Community Land Trust to continue  
funding for capacity building to support the Small Sites Program

CONSENT CALENDAR  
June 1, 2021

FINANCIAL IMPLICATIONS

\$200,000 from General Fund Revenues from Measure U-1 tax receipts

ENVIRONMENTAL SUSTAINABILITY

Converting existing rental housing to deed restricted affordable housing is the most cost-effective way to provide low to moderate income housing while promoting social equity, preventing displacement and gentrification and preserving existing housing stock.

CONTACT

Jesse Arreguin, Mayor, 510-981-7100



Office of the Mayor

CONSENT CALENDAR

June 1, 2021

To: Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Kate Harrison, Councilmember Susan Wengraf, and Councilmember Sophie Hahn

Subject: Budget Referral: Phase 2 of Civic Center District Visioning

RECOMMENDATION

Refer to the Fiscal Year 2022 Budget process \$200,000 in General Fund revenues for Phase 2 of planning for the Civic Center Visioning Project.

FINANCIAL IMPLICATIONS

\$200,000 in General Fund revenues. Funding sources could include excess property transfer tax revenues which per Council Budget policy go into the Capital Improvement Fund and must be prioritized for one-time expenses.

BACKGROUND

After a robust community process, on September 22, 2020, the Berkeley City Council adopted Resolution No. 69,579-N.S. approving Berkeley's Civic Center Visioning and Implementation Plan and striking reference to any preferred design concept. Approval of the Civic Center Visioning Plan was the first step in a multi-year process to develop a design concept and implementation plan for rehabilitating Old City Hall, the Veterans Memorial Building and Civic Center Park to meet seismic retrofit standards and reflect community priorities for open space, performance space, recreation, historic preservation, arts and culture and economic development. During Council discussion, there was a commitment to engage the community in evaluating design alternatives and developing a preferred design concept for future planning.

Funding is now needed for additional public process, planning and design to develop a preferred design concept and a funding plan. This item requests \$200,000 for additional planning and design with the goal of developing a design concept for the Civic Center District, based on input from the community, city commissions and City Council.

CONTACT PERSON

Jesse Arreguín, Mayor, 510-981-7100

## Attachments:

1. Resolution No. 69,579-N.S. "APPROVING BERKELEY'S CIVIC CENTER VISION AND IMPLEMENTATION PLAN"

RESOLUTION NO. 69,579-N.S.

APPROVING BERKELEY'S CIVIC CENTER VISION AND IMPLEMENTATION PLAN

WHEREAS, the Berkeley voters passed *Measure T1 Bond Funding for Infrastructure and Facilities*, to repair, renovate, replace, or reconstruct the City's aging infrastructure and facilities, including important City facilities and buildings; and

WHEREAS, the Veterans Memorial Building and Old City Hall were slated for structural analysis and visioning of possible conceptual design alternatives, in concert with Civic Center Park, to help determine a direction for future capital improvements to restore and secure these facilities to maximize their community benefit; and

WHEREAS, on January 22, 2019 City Council approved this solicitation at its regular meeting and approved the engagement of a qualified project consultant team to assist in the completion of this project at its regular July 16, 2019 meeting; and

WHEREAS, the City of Berkeley's project team has conducted an inclusive and transparent community process, engaged meaningfully with stakeholders, and provided a compelling and shared vision for the Civic Center area that supports current and future community needs while respecting and celebrating the area's rich past and historically significant structures; and

WHEREAS, *Berkeley's Civic Center Vision and Implementation Plan* determines a direction for future capital improvements to restore and secure these facilities to maximize their community benefit.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council approves and adopts *Berkeley's Civic Center Vision and Implementation Plan* (Exhibit A) and declares its intent to support the vision articulated in the plan.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to further the implementation of the plan and its ambitious vision for the future of Berkeley's Civic Center:

*"Civic Center will be the heart of Berkeley's community. Civic Center will be the prime space for civic life, culture, and the arts. It will reflect the city's diverse identities, celebrating its history, and contributing to shaping its future. A place of shared resources and a platform for free expression accessible to all, Civic Center aims to manifest the city's values, advance social justice, and demonstrate the power of true public space."*

The foregoing Resolution was adopted by the Berkeley City Council on September 22, 2020 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, and Arreguin.

Noes: None.

Absent: Davila and Wengraf.



Jesse Arreguin, Mayor

Attest:

  
Mark Numainville, City Clerk



July 10, 2020

# Berkeley's Civic Center

## Vision and Implementation Plan

**Gehl** + **STIEGEL & STRAIN** Architects | +  **STRATEGICECONOMICS** + **TAECKER** PLANNING & DESIGN +  **Neighborland**

# A Vision for Berkeley's Civic Center

**Civic Center will be the heart of Berkeley's community. Civic Center will be the prime space for civic life, culture, and the arts. It will reflect the city's diverse identities, celebrating its history, and contributing to shaping its future. A place of shared resources and a platform for free expression accessible to all, Civic Center aims to manifest the city's values, advance social justice, and demonstrate the power of true public space.**



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Cathy Garrett, Landscape Architect, PGAdesign

Matt Taecker, Taecker Planning & Design

Dena Belzer, Strategic Economics

Andy Beyer, TBD Cost Consultants  
Asia Kan, TBD Cost Consultants

Dan Parham, Neighborland

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# Reimagining the heart of Berkeley

## Developing a bold yet pragmatic vision for the future of Berkeley’s Civic Center.

When it comes to community building and civic engagement, there are few places that compare to Berkeley. Arguably, few cities have championed so passionately and unconditionally the fundamental values that make a city a city — namely the sharing of collective resources and a true respect for individual expression. A laboratory of new political ideas since its founding, Berkeley has always advanced our understanding of the word Community. Yet, unlike other cities that play a similar role on the world stage, Berkeley lacks an updated civic space that truly embodies the values its community lives by.

Certainly, Berkeley doesn’t lack great public spaces. Tilden Park provides wonderful recreation in nature. The Berkeley Marina grants breathtaking views of the Bay and connects us with its waterfront. Indian Rock and the Rose Garden offer special places for respite and contemplation.

Even if mostly for “gown not town”, The UC Berkeley campus itself is in fact a grand, world-class, public place, and People’s Park speaks of our understanding of public space as a space of solidarity. Yet, we couldn’t point to any of these places as the center of Berkeley’s Public Life. We are left with the question: Where is Berkeley’s Heart? Where’s the public space of prime community identity that all Berkeleyans use, the place that gathers us as one, weaving together our daily lives? Thinking of it, many central squares in other cities we might travel to are exactly that— the thriving heart of their community. Why shouldn’t Berkeley have something similar? Why can’t Civic Center, which was designed 100 years ago with that idea in mind, serve this very purpose for the next 100 years?

We know that, in its current condition, the site comes with challenges that prevent it from realizing its full potential. (1) The site is slightly off-center from the most active

part of downtown, enough to be just off the beaten path. (2) Some of its buildings are not only in need of capital intensive restoration, but they also give their back to the central open space, with ground floors that are not active or permeable. (3) As a consequence to these two first points, with the exception of the Farmers' Market and a few other periodic events, Berkeley residents have organized their daily public life around other spaces and destinations and, as of today, Civic Center doesn't make the list of the places people like to go. In day to day life, the park remains underutilized therefore prone to accommodate socially undesirable behaviors. Yet the opportunities outplay the challenges. The site features some of the most historically significant buildings in the city, all of which revolve around a central open space that has been patiently waiting to be further activated by the community for years, like a canvas awaits the final strokes of paint to become a distinguished work of art.

With this project, Berkeley's community has been presented with a once-in-a-generation opportunity. Members of the public from all walks of life came together to reimagine the identity and function of Civic Center and reaffirm it as the beating heart of its tight-knit community. Berkelyans have shown a true desire to transform this place and the commitment to work together to make it happen. All stakeholders donated their time generously to help us understand what the unmet needs and undiscovered possibilities of the place are. Members of the community turned up in very high numbers in each and every public event organized throughout the arc of the project and demonstrated they know how to work collaboratively for a common purpose.

The result is a bold yet pragmatic vision for the future of the place, one that gives Berkeley the Heart of the City it deserves, matching the unique identity and the larger-than-life spirit of its people.



# Existing Conditions

## **1.1 Introduction, Site & Context**

## **1.2 Site Assessment**

1.2.1 Historic Structures

1.2.2 Policy Context

1.2.3 Public Space Public Life study results

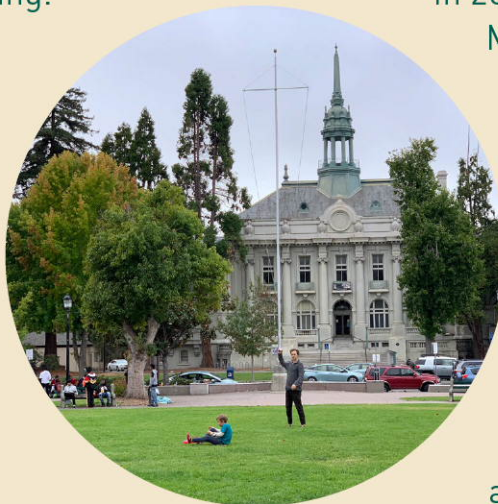
## 1.1

# Project Background

## The Berkeley Civic Center Vision Project

The purpose of this project has been to develop a shared community vision, design concepts and implementation plan for Berkeley's Civic Center area, with a transparent public process rooted in analysis of how people use Civic Center today, community needs, site analysis, and historic structures analysis. The planning area includes Martin Luther King Civic Center Park, the Veterans Memorial Building, and City Hall — the Maudelle Shirek Building.

The Berkeley Civic Center Historic District (the same geographic area as the Civic Center Overlay Zone) was listed on the National Register of Historic Places in 1998 and includes multiple local Landmarks *(please refer to the Historic Structure*



*Report in the appendix for additional information).* The Veterans Building and the Maudelle Shirek Building are in need of seismic upgrading, American Disabilities Act compliance, and show signs of deferred maintenance. The Park, although successful as a gathering space during events and rallies, does not attract an everyday intensity of use that matches its central location and symbolic status.

In 2016, Berkeley voters passed Measure T1, which authorized the City to sell \$100 million of general obligation bonds to repair, renovate, replace, or reconstruct the City's aging infrastructure, including important City facilities and buildings. The Civic Center Vision and Implementation Plan is funded as a T1 Phase 1 project.

The T1 funding is for the structural analysis and visioning of possible conceptual design alternatives for the Veterans Memorial Building, the Maudelle Shirek Building and Civic Center Park, along with streets and adjacent structures necessary for context-sensitive solutions. The Vision Plan aim to help the City and the community clarify what their Civic Center can become, and to determine capital improvement priorities for this area.



The T1 bond program is administered by Parks, Recreation & Waterfront and Public Works departments. The Office of Economic Development (situated within the City Manager’s Office) is managing the project across multiple City Departments

and with the consultant team led by Gehl.

The Vision Project addresses planning, development, historic preservation, transportation, and arts programming issues, and has seen involvement from Landmarks, Parks, Public Works and Civic Arts Commissions. Other important bodies — such as Berkeley Unified School District, and local stakeholders — such as the Ecology Center, YMCA, the Berkeley Historical Society, existing tenants, including the Veterans organizations themselves and local Arts organizations, have been engaged with *(see chapter 2)* and have informed the shaping of the Vision and Implementation Plan.

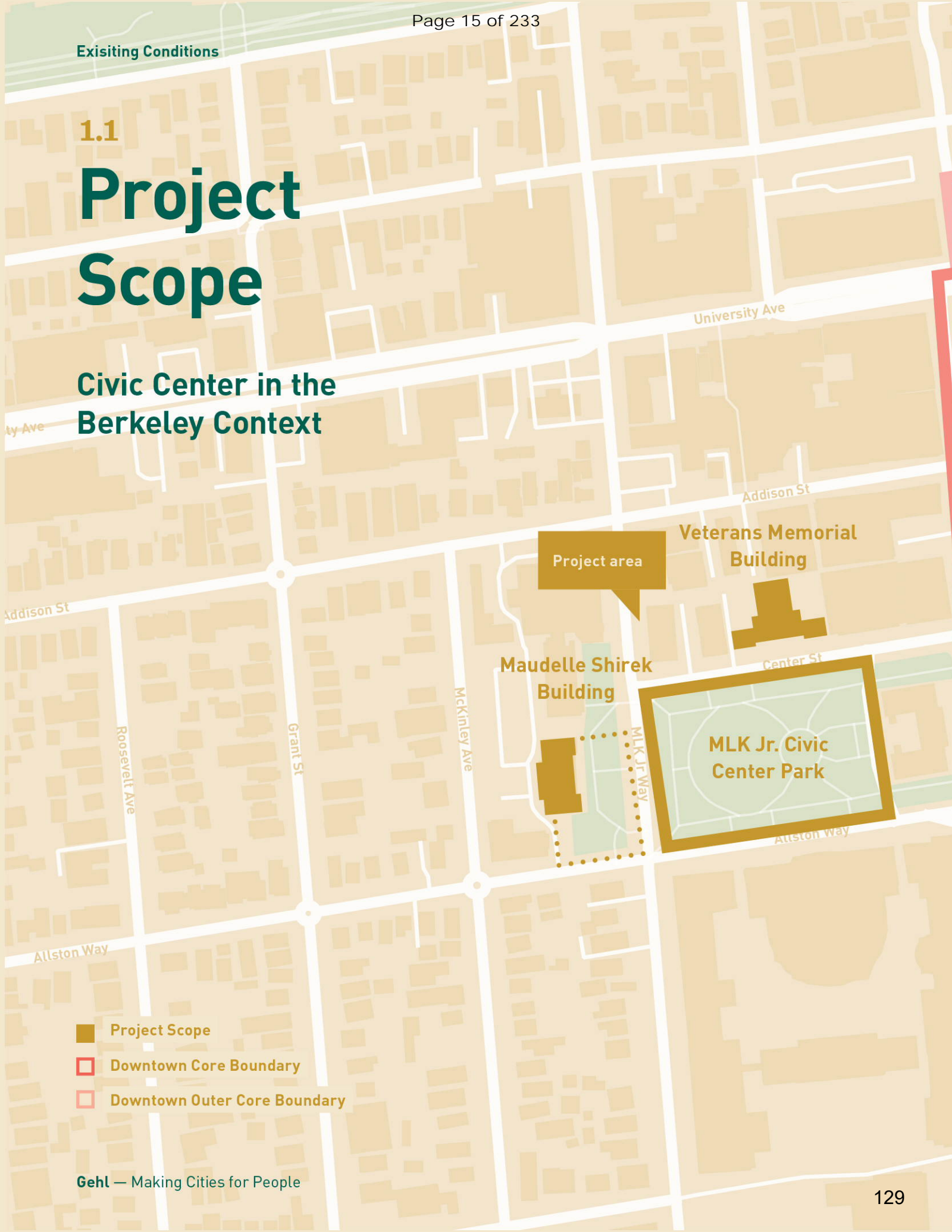


Existing Conditions

# 1.1

# Project Scope

## Civic Center in the Berkeley Context



- Project Scope
- Downtown Core Boundary
- Downtown Outer Core Boundary

Berkeley Downtown  
Outer Core

Berkeley  
Downtown Core



**BART**

Shattuck Ave

Addison St

Center St

Allston Way

Oxford St

Frank Schlessinger Way

University of  
California  
Berkeley

Berkeley Downtown  
Outer Core

Bancroft Way

Bancroft Way

1.1

# Project Timeline

Where are we in the process?



2019 ..... 2020

SEP — OCT — NOV — DEC — JAN — FEB — MAR —

Tour

PSPL

Historic Structures Research

Concept Design

TAC

TAC

Community Meeting

Community Meeting

SSC

SSC

City Council

Tour

Focus group interviews

Draft Report

Historic Structure Reports

■ Research / Design

■ Engagement

■ Deliverables

TAC= Technical Advisory Committee

SSC= Super Subcommittee of the Commissions (Including: T1 Public Works, Parks Recreation & Waterfront, Landmarks, and Civic Arts)

PSPL= Public Space and Public Life studies

## Design Concepts

MAR —||— APR —||— MAY —||— JUN —||— JUL —||— AUG —||— SEP

TAC Community Meeting

SSC

City Council

Website

Final Draft

Final Report

## 1.2

# Site Assessment

Although surrounded by varied architecture, just a block away from the bustling BART Plaza and with great views up Center Street into campus, Civic Center is a challenging public space.

## Issues summary

- 2180 Milvia — the only building in the park — turns its back to the park (opens up to a parking lot)
- Blank façades surround the park
- Central lawn is often too wet to sit on, few public benches
- Certain groups, although small in number, negatively impact the sense of security
- Lack of good night lighting
- Lack of sense of safety
- Lack of maintenance and lots of litter
- No food or beverage offer
- Play provision is inadequate
- Restrooms are inadequate
- Shaded and dark spaces around the main seating areas (near fountain)
- The green is too large and empty
- The main buildings don't have a ground floor that opens onto the street or the park
- The park's pedestrian paths compete with the sidewalks
- There is extensive on-street parking
- Traffic dominated environment of surrounding streets

## Opportunities summary

- 3,000 students at Berkeley High School daily
- Center Street connects the BART to the Park — opportunity to create a terminus
- Further green and landscape
- High quality buildings
- Large residential community to the west
- Location adjacent to Arts District
- On the edge of but also part of downtown
- Opportunity to remove parking and traffic on Center and Allston Streets
- Provide food and beverage in the park
- Re-orient facades toward the park, potentially subdividing interior spaces for various tenants to have a front-door onto the park and providing multiple entry points to buildings
- Walking distance to public transit

**Berkeley Civic Center**

**Protection**

Got to have these ...



Feeling safe - protection against traffic & accidents



Feeling secure - protection against crime & violence



Protection against unpleasant sensory experiences

**Comfort**

... without these no one will stay



Opportunities to walk/cycle



Opportunities to stop & stay



Opportunities to sit



Opportunities to see



Opportunities to talk & listen



Opportunities for play & exercise

**Delight**

These make the difference between good & great places



Dimensioned at a human-scale



Opportunities to enjoy the positive aspects of climate



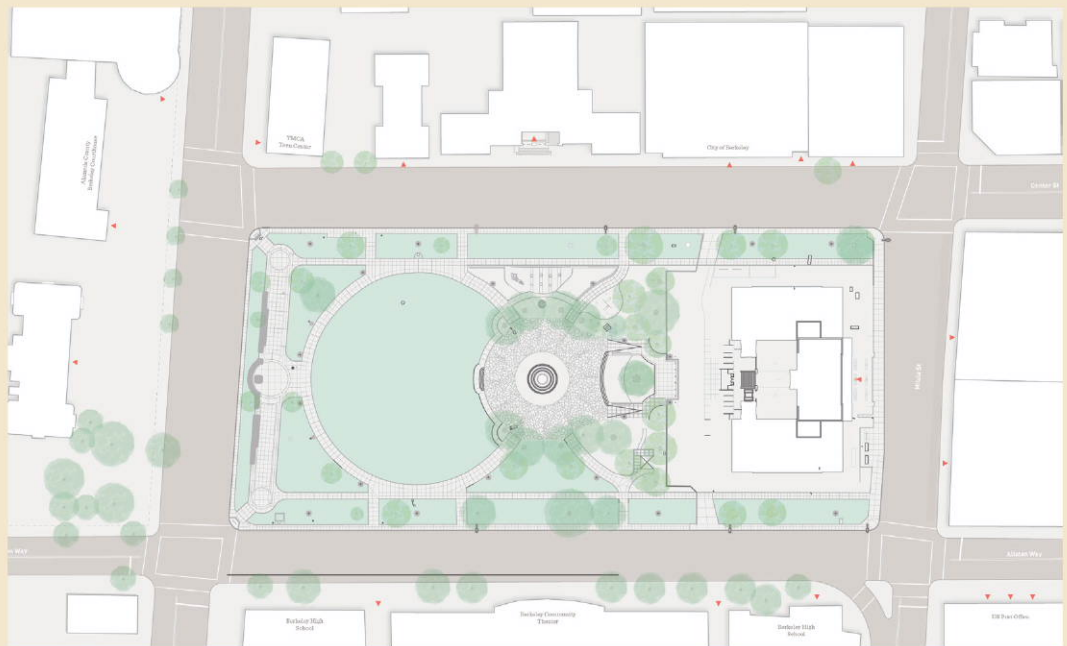
Aesthetic qualities and positive sensory experience

**12 Quality Criteria**

Berkeley's Civic Center was assessed using the Twelve Quality Criteria, a Gehl tool for researching how public spaces are experienced by their users. The tool was used to evaluate whether different features of the public space are protective, comfortable and enjoyable for people spending time there.

← 12 Quality Criteria Civic Center Assessment

Civic Center, Existing Conditions →



## 1.2.1

An overview\*

# Historic Structures

## Rehabilitation of Historic Structures

*\*For a more detailed look at the historical context, please refer to the Historic Structure Reports in the appendix.*

An implementable vision plan for the Berkeley Civic Center should be firmly rooted in an understanding of not only its current configuration and uses, but also its past context, associated important persons and pivotal events which have influenced the design and development of Berkeley's premier civic space. To that end, the project team has completed a historic structure report for both City Hall (Maudelle Shirek Building) and the Veterans Memorial Building. Additionally, a Historic Landscape Analysis has been completed for Martin Luther King Jr. Civic Center Park.

The two Historic Structures Reports include a historical narrative, building and site descriptions, chronology of development and use, identification of character-defining features, integrity analysis, conditions assessment, and treatment recommendations. The Historic

Landscape Analysis includes identification of character-defining features, chronology of development and change, conditions assessment, and treatment recommendations. These documents are intended to help guide and inform future projects at both buildings and future improvements to the park.

The Berkeley Civic Center Historic District was listed on the National Register of Historic Places in 1998 and is also a City of Berkeley designated Landmark District. The Civic Center Park and nine nearby buildings, including City Hall and the Veterans Building, are contributing resources to the historic district. These resources, when considered collectively, create a distinct sense of place; each resource valued for a different historical association and contribution to the district and to Berkeley as a whole.

Additionally, City Hall is recognized as individual City Landmark #7 (1975) and the Veterans Memorial Building is individual City Landmark #89 (1985). Civic Center Park is included in the Historic District (Landmark #208, 1998), but is not individually designated.

It is important to remember that any proposed changes to these resources are subject to compliance with The Secretary of Interior Standards for the Treatment of Historic Properties and are under the purview of the Berkeley Landmark Preservation Commission (LPC). In addition, should any Federal funding be secured, any project that makes use of those monies, would be subject to review under Section 106 of the National Historic Preservation Act.

- 1 Maudelle Shirek Building
- 2 Martin Luther King Jr Civic Center Park
- 3 The Veterans Memorial Building
- 4 The Federal Land Bank Building/ Martin Luther King Jr. Civic Center Building
- 5 Berkeley Community Theater
- 6 Young Men's Christian Association Building
- 7 United States Post Office
- 8 State Farm Insurance Companies Building
- 9 City Hall Annex
- 10 Hall of Justice (*demolished*)

↓ Civic Center Historic Resources





## Existing Conditions

## Maudelle Shirek Building, (aka) Old City Hall

**The Maudelle Shirek Building**, also known as Old City Hall, is a local and national landmark constructed in 1906, has an architectural grandeur and prime location at Civic Center Park that commands a use that is commensurate with the building's significance. The building contains several character-defining features, including the main entry hall and central spiral staircase, that must be retained. The north and south wings on the main and upper floors, however, have been heavily renovated over time and offer large open spaces that may be rehabilitated to accommodate any number of uses. The parking lot to the building's south offers an ideal location for an addition.

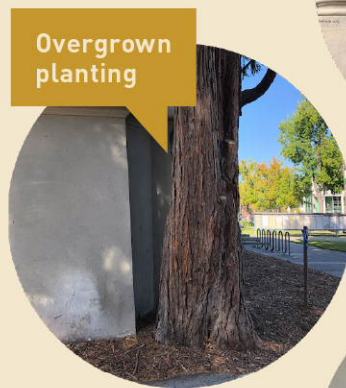
The building's original main formal entry is raised 11 feet above grade, posing a challenge, but not an insurmountable one, for universal access. A number of additional building material surveys, including ones for water intrusion and roof slab condition, must be completed to understand the full extent of repair required for the reuse of this building.



Inappropriate building material



Deferred maintenance



Overgrown planting



Damage

## Veterans Memorial Building

**The Veterans Memorial Building** retains a remarkable amount of original interior building materials and decorative finishes that require careful conservation. The primary character-defining space, and heart of the building, is the auditorium, offering a highly sought-after mid-size performance space. The large rooms in the wings of the main and upper floors offer additional space for gathering, performance or practice. The first and second floors should remain in their historical configuration, while the basement could be divided into smaller spaces. The courtyards to the north and south of the auditorium and the roof present potential locations for additions or public outdoor space. The largest and most expensive challenge to rehabilitating this building is a seismic retrofit, a result of the building's unique combination of construction types, concrete and wood. Significant water damage at the north and south stairways must also be immediately addressed to ensure the building's future reuse.



The building **INTERIOR** shows signs of excessive water damage



The building **EXTERIOR** has consistent cracking and staining



## Seismic Upgrade

Both Old City Hall and the Veterans Memorial Building were constructed prior to any comprehensive seismic building standards and must be seismically retrofitted. Two options have been considered for each building;

A **Basic Performance Objective for Existing Buildings (BPOE)** scheme is built to code and allows safe egress from the building and prevents the building from collapse during a seismic event, however, the building may incur damages that are exceedingly expensive to repair.

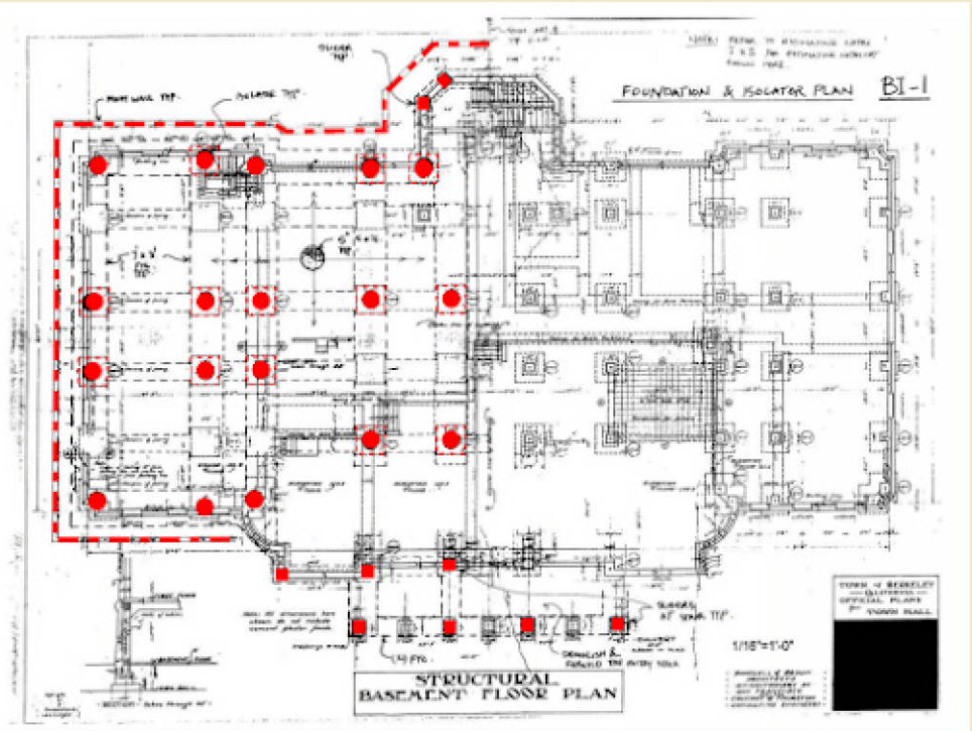
An **Immediate Occupancy (IO)** scheme allows safe egress and provides enhanced protection to the building such that it could be reoccupied almost immediately following a seismic event.

A BPOE retrofit scheme is very common for existing buildings and can accommodate any number of building uses. An IO scheme is typically undertaken for buildings that house “essential services,” such as hospitals and emergency services, that must remain open in the case of community crisis.



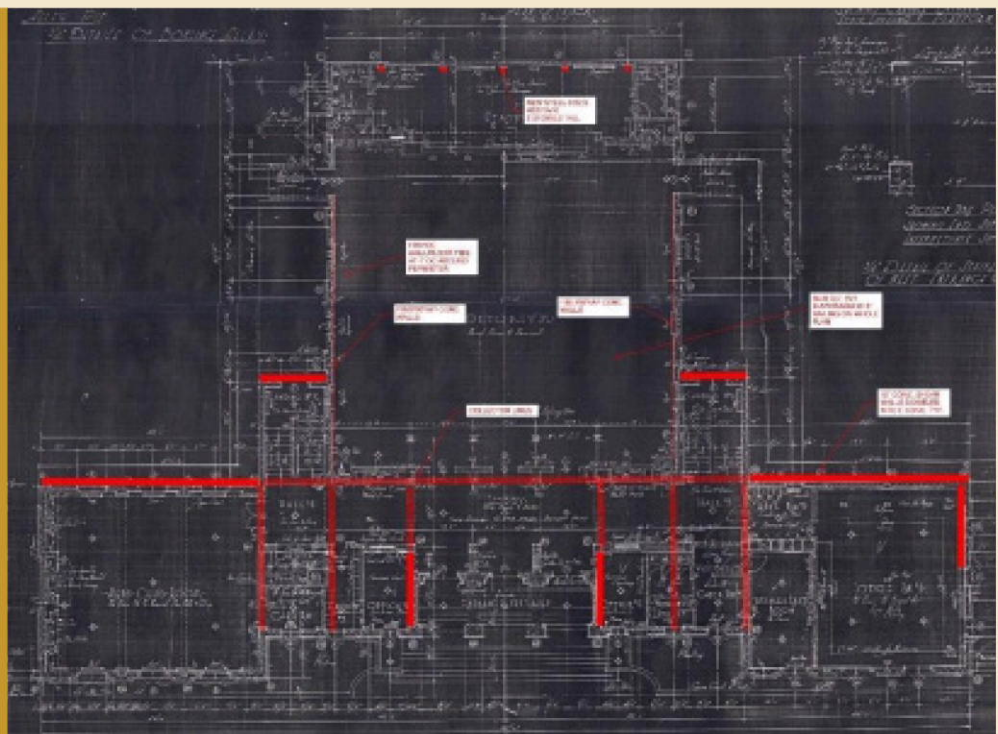
### Maudelle Shirek Building, Old City Hall

Preferred Seismic Upgrade: IO (Enhanced) →



### Veterans Memorial Building

Preferred Seismic Upgrade: BPOE (Code) →



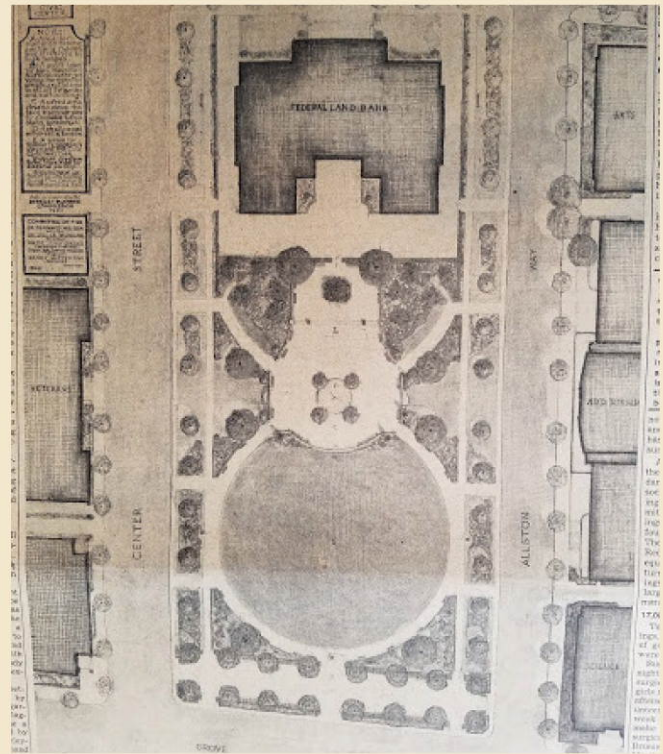
Reference: Seismic Evaluation report by IDA Structural Engineers, April 2019

## Existing Conditions

## Martin Luther King Jr. Civic Center Park

As a contributing resource to the Berkeley Civic Center National Register District, the Martin Luther King Junior Civic Center Park is afforded a high level of protection by the State Office of Historic Preservation. Any proposed revisions to the Park are subject to review and approval through local and state approval processes. The Historic Landscape Assessment (*See Appendix*) was written in accordance with The Secretary of the Interior's Standards for the Treatment of Historic Properties and the Guidelines for the Treatment of Cultural Landscapes. The treatment recommendations are consistent with these standards. Each states a preferred approach per preservation best practices, acknowledging that while some proposed alterations may be more strident than recommended, they are worthy of consideration given the City's goals for the Park and its future.

The City of Berkeley has challenged the design team to imagine schemes that push the limits of the existing Civic Center District, schemes that are



justified by a collective desire for change. Through an extensive outreach effort, the design team has accumulated input from many residents, user groups, organizations, City department and agency representatives, and elected and appointed officials within the City of Berkeley. The collected evidence speaks to both the lost potential of the Park and the desire to see it brought back to life through physical and programmatic interventions.

Most agree that the Civic Center Park has functioned significantly below its potential for quite some time. Several design elements of the Park, including the indirect circulation paths, the oversized central lawn, and the shady fountain terrace, act as deterrents to would-be Park users. A lack of

cleanliness and maintenance to the Park, its plantings and physical urban fabric, the non-functional fountain, and the removal of places for seating also contribute an uninviting Park experience. Given the public underutilization of the Park by most residents except during planned events or high school lunch times, the most visible users are unhoused individuals who have come to regard the Park as their home, which has regrettably changed the community's perception of the Park.

It is unclear how aware Berkeley residents are of this Park's status as a historic landmark and perhaps an awareness of the role the Park has played in the City's history would shift public opinion and help grow a deeper appreciation for it as a place. Civic Center Park, and indeed the entirety of the Civic Center Historic District, is awaiting its next act. A careful balance between



↑ Civic Center Park viewed from 2180 Milvia Street in 2019

preservation principles and powerful new design ideas is required to create a welcoming, usable and lively Park that meets the project goals and anchors the historical Park in the lives and hearts of Berkeley for generations to come.

We encourage and welcome a healthy conversation about respect for history and the vitality of new ideas. This is a crucial next step. Let's dive in!

*For a more detailed look at the historical context, please refer to Appendix.*



↑ Civic Center Park viewed from 2180 Milvia Street in the 1940s

## 1.2.2

# Policy Context

The Civic Center Area Vision Plan considers the general Civic Center Area and focuses specifically on the Veterans Memorial Building, Maudelle Shirek Building, and Martin Luther King (MLK) Jr. Civic Center Park. Guiding planning documents include:

- Berkeley’s General Plan (2002)
- The Downtown Area Plan & EIR (2012)
- The Street & Open Space Improvement Plan (2012)
- The Downtown Design Guidelines,
- Berkeley’s Pedestrian Master Plan (2010)
- Berkeley’s Bicycle Plan (2017)
- Berkeley Municipal Code (BMC updated through 2020).

## Overarching Themes

A review of policies in the guiding policy documents reveals common high-level aspirations distilled here as overarching themes.

### Community Participation

Berkeley’s General Plan’s underscores the importance of community participation in

decisions relating to land use, community character, and open space.

### Government, Education & Culture

The General Plan and the Downtown Area Plan (DAP) recognize the Civic Center as a valuable opportunity to bring together complementary government, education and cultural uses.

#### (Figure 1.1) Allowable Uses & Development Standards →

The Civic Center Zoning Overlay District (2014) reserves the area for community-oriented activities and uses and encompasses the Veterans Memorial Building, Maudelle Shirek Building, and MLK Jr. Civic Center Park. Construction on the Veterans Memorial and Maudelle Shirek sites would also need to conform with underlying development standards for the “C-DMU Corridor” and “Residential R-2” districts respectively.

Historic Preservation & Context-Sensitive Design

The DAP calls for conservation of district subareas with strong historic identity, while encouraging context-sensitive design to allow for changes to the built environment over time.

Pedestrian Priority

When considering Civic Center Area improvements, vehicular traffic should be calmed and pedestrian-friendly environments should take priority.

An Inclusive Vibrant Place

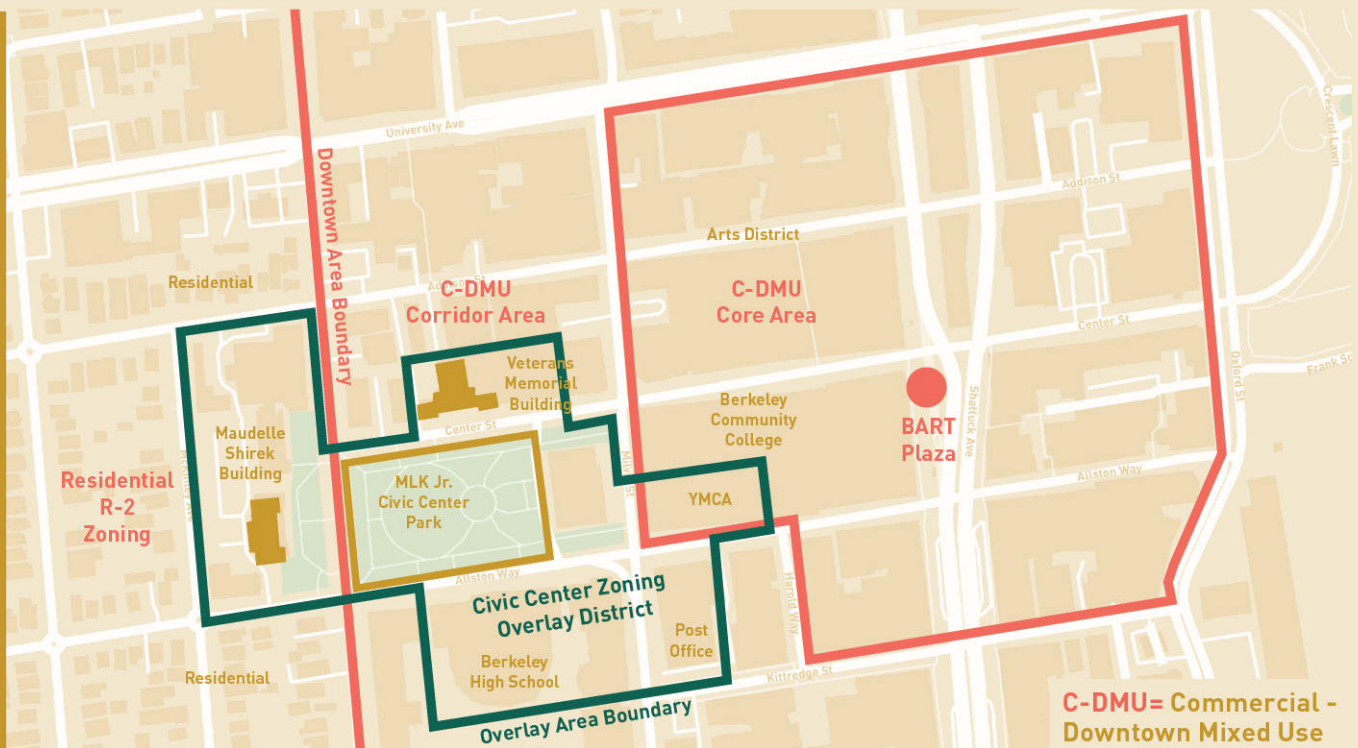
Multiple planning documents cite the Downtown and Civic Center Area as the “heart of Berkeley” to be enjoyed by everyone in the community, regardless of age or ability.

**Civic, Cultural, Educational & Community Uses**

Adopted policies and regulations emphasize community-oriented uses in the Civic Center Area. Berkeley’s 2002 General Plan Policy Land Use Number 22 (LU-22) stipulates:

*Maintain the Civic Center as a cohesively designed, well-maintained, and secure place for community activities, cultural & educational uses, and essential civic functions & facilities.*

The DAP Policy Land Use Number 1.4 underscores that the importance of civic uses to the area. For example government, education and recreation uses and community and social service functions are made more accessible to





## Existing Conditions

all given superior transit access and the central location within the city.

The Veterans Memorial Building, Maudelle Shirek Building, and Civic Center Park are within Berkeley's "Civic Center District Overlay" area and subject to a 50-foot height limit and restrictions on use (BMC Chapter 23E.98). The Overlay District was established in 2014 to preserve and promote the area as a place of cultural heritage, historic preservation, civic and community activity, and cultural and education uses. Overlay District boundaries and allowable uses are noted in Figure 1.1 and below.

### Uses Permitted in Civic Center Overlay District (BMC Chapter 23E.98.030)

- Libraries
- Judicial Courts
- Museums
- Parks and Playgrounds
- Public Safety and Emergency Services
- Government Agencies and Institutions
- Public Schools / Educational Facilities
- Non-Profit Cultural, Arts, Environmental, Community Service, and Historical Organizations
- Live Performance Theatre
- Public Market

East of Martin Luther King (MLK) Jr. Way, most of the Overlay District falls within the Downtown Area Plan (DAP) boundary and C-DMU Downtown Mixed Use District (BMC Chapter 23E.68). Unless superseded by the Civic Center Overlay District, improvements east of MLK Jr. Way must conform to DAP policies and C-DMU "Buffer Area" regulations.

West of Martin Luther King (MLK) Jr. Way, the Maudelle Shirek Building conforms with Overlay District provisions but is otherwise a non-conforming use within Berkeley's "R-2 Restricted Two-Family Residential District" (BMC Chapter 23D.28).

### Circulation Improvements →

Existing and planned pedestrian and bicycle circulation improvements include: MLK Jr. Way signal & crosswalk improvements at Center Street and Allston Way (connecting west), separated bike-way improvements along Milvia (connecting north/south), and landscape & pedestrian amenities along Center Street & Allston Way (connecting east).

### Martin Luther King Jr. Civic Center Park

While MLK Jr. Civic Center Park occupies a central place in Berkeley, the Downtown Street & Open Space Improvement Plan (SOSIP) did not address the design of or funding of MLK Jr. Civic Center Park improvements. Comprehensive planning for Civic Center Park has not been undertaken since the 1990s. Only general guidance is provided by the Open Space Element of Berkeley’s General Plan (2002) to:

*involve the community in “every aspect” of park design (Policy OS-5),*

*give high priority to disadvantaged and underserved populations (Policy OS-7), and*

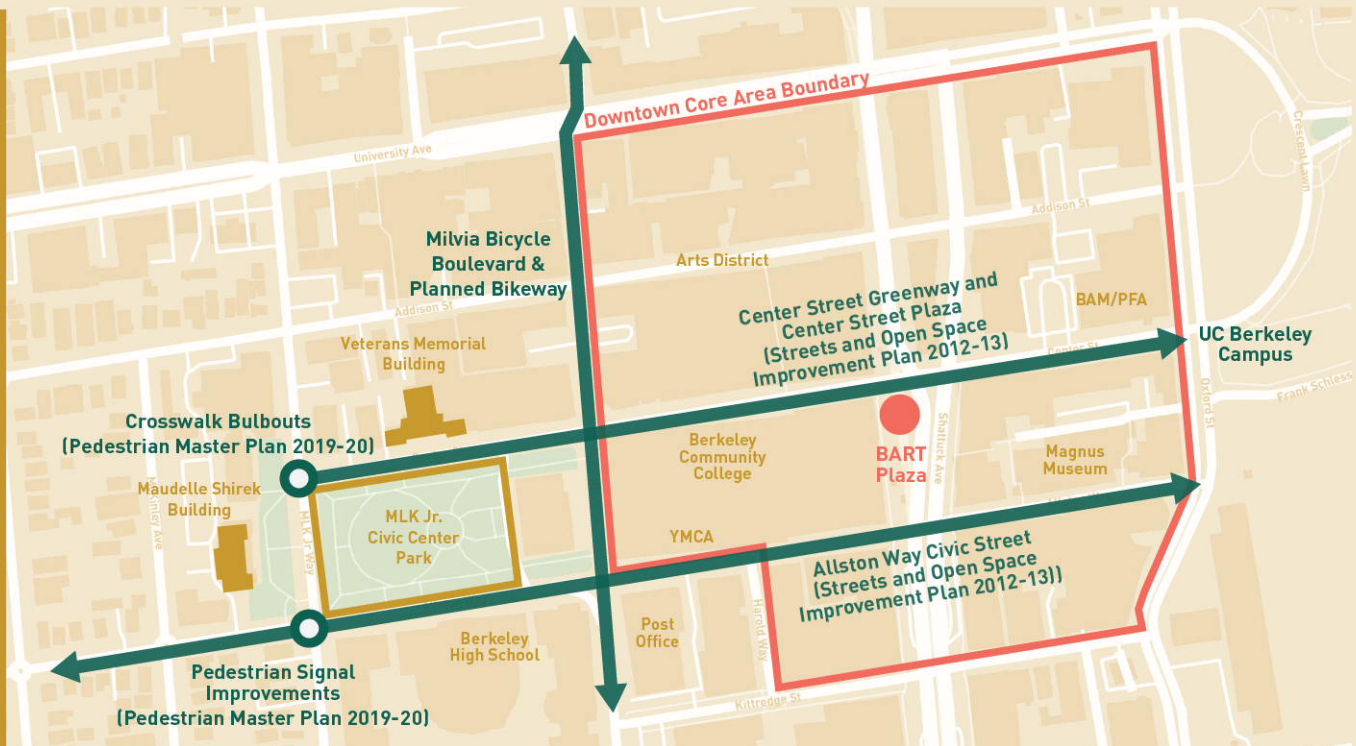
*prioritize limited fiscal resources to maintaining and improving existing open space and recreation facilities.*

### Circulation Improvements

Berkeley’s General Plan, DAP, and SOSIP emphasize pedestrian-friendly environments, bicycle connectivity, and traffic calming. The DAP states explicitly to “give pedestrians priority,” and the General Plan says to consider

*the partial or complete closure of Center Street .... to promote pedestrian ... vitality and enhance Civic Center Park use and appearance. (Policy LU-20)*

Regarding Center Street, the SOSIP says:



## Existing Conditions

*Create a continuous green corridor and pedestrian connection between Civic Center Park, BART and Center Street Plaza. (Policy OS-1.6)*

Allston Way also connects to BART and Shattuck Avenue, and is one of few streets that extends without interruption from West Berkeley to UC Berkeley. While Allston's narrow right-of-way limits options, SOSIP says Allston should become a "civic street" that uses light standards, paving, and other special features to make Allston more recognizable and to support pedestrian activity (OS-1.15). Additionally, Allston is a principal point of entry to Berkeley High School, and is a major automobile drop-off zone and place of students coming and going. In 2014, permeable brick pavers were installed on Allston from MLK Jr. Way to Milvia Street to capture urban run-off (stormwater carrying oil and other street related pollutants) and calm traffic.

The Milvia Bicycle Boulevard is an important bicycle facility that connects to North and South Berkeley. Milvia is slated for improvement from being a bicycle route (where bikes mix with traffic north of Allston) to having a "bike track" (separated from traffic) for its entirety in Downtown.

## Environmental Sustainability

The Downtown Area Plan promotes buildings, streets and open space that model best practices for sustainability (Goal ES-2). Relevant to the Civic Center,

DAP calls for sustainability by calling for:

- *re-use of buildings or portions of buildings (ES-4.1),*
- *green (LEED Gold or equivalent) building performance (ES-4.1-4.9),*
- *giving priority to pedestrians over vehicles (ES-3.5), and*
- *green streets and green infrastructure (ES-3.2 & ES-5.1-5.3).*

## Building Re-Use & Context-Sensitive Design

Alterations to and new construction associated with the Veterans Memorial Building, Maudelle Shirek Building, and MLK Jr. Civic Center Park will be subject to design review by the Landmarks Preservation Commission, which will implement DAP policies including:

*Preserve historic buildings and sites of Downtown, and provide where appropriate for their adaptive reuse and/or intensification. (LU-1.1)*  
*Encourage continuity and harmony*

### Center Street Greenway Connection →

Center Street connects the Civic Center area to BART, Shattuck businesses, Berkeley Community College, and UC Berkeley's campus. Berkeley's Downtown Street & Open Space Improvement Plan illustrates how landscape improvements and pedestrian amenities might be added to Center to better integrate the Civic Center area with the rest of Downtown.

*between old and new construction ...[such as through] materials, cadence/modulation, color, fenestration & entry patterns, cornice lines, massing, roof form, building “build-to lines,” and other architectural devices. (HD-3.1) [R]ecruit a community-serving use for [the Veterans Memorial Building’s] main floor. (LU-1.4)*

DAP policies and BMC zoning regulations do not require that historic building re-use and intensification provide the same amount of on-site parking and open space as new construction.

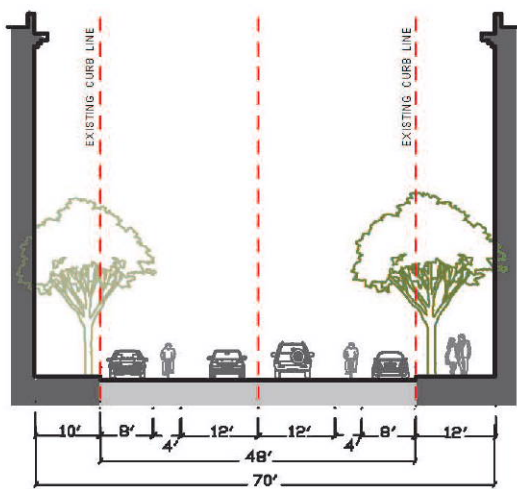
The Veterans Memorial Building and MLK Civic Center Park are in the Commercial – Downtown Mixed Use (C-DMU) zoning district which comes with the following pertinent parking requirements; only substantial net additional floor area would

be subject to parking requirements. If net new floor area exceeds the existing floor area, plus 1,000 square feet or up to 25% of existing floor area whichever is less, the parking requirement can be modified with a Use Permit because the building is within one-third mile of BART and within one-quarter mile of a publicly-accessible parking facility. Alternatively, a fee may be paid in lieu of required parking on-site.

The Maudelle Shirek building lies within the Restricted Two-Family Residential (R-2). For development on the Maudelle Shirek parcel, R-2 explicit off-street parking requirements are limited to: dwellings, community care facilities, libraries, and rooming houses. The Zoning Adjustment Board is to determine on-site parking requirements for all other uses, including community and civic uses envisioned by the Civic Center Vision Plan.

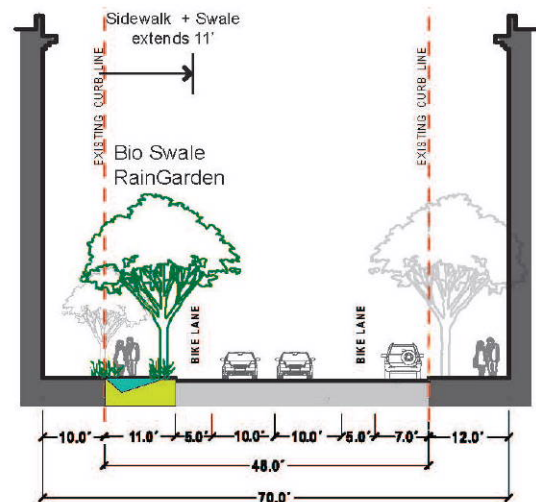
↓ Center St, Existing Condition

Source: Berkeley’s Streets and Open Space Improvement Plan (SOSIP 2012-13)



↓ Center St, Greenway Concept

Source: Berkeley’s Streets and Open Space Improvement Plan (SOSIP 2012-13)



Existing Conditions



### 1.2.3

# Public Space Public Life Study



## 1.2.3

# Public Space, Public Life Study

## A Gehl-developed method focused on putting people at the center of urban change – measure what you care about!

As a fundamental component of the site assessment, a Public Life, Public Space Study was conducted in Berkeley Civic Center to better understand how people use the space today. The daily rhythms and patterns of public life were measured and recorded as part of a people-first approach to design.

As a matter of course, all cities conduct detailed analyses of traffic and parking. Motor vehicles are ever-present in the planning process. It is unsurprising then that many plans and policies are oriented around the behavior of cars, instead of people. However, a growing number of cities now count and observe how people actually use the city, how they move through the city and what they do when they spend time there.

Measuring how people use space allows cities to optimize public space for human comfort and active mobility, allowing for holistic solutions that take all users of the public realm into account.

### Why study public life?

Collecting public life data allows us to:

- Identify opportunities to increase quality of life for people
- Tell stories and make evidence-based arguments for change
- Measure and re-measure to understand and visualize the impact that our work has on people



**Public Life** is the social activity that takes place in everyday public spaces – on streets, in parks and plazas, and in the spaces between buildings. It's what people create together when they live their lives outside of their homes, schools, workplaces and cars.





# Public Life data collected in and around Civic Center

## Mode Movement Counts

Measures how many people pass through a space and by what means. These counts note whether people are moving as a pedestrian, cyclist, mobility-impaired person, or on an e-scooter/skateboard.



## Age & Gender Movement Counts

Measures how many people pass through a space while also noting the age and gender representation of each person. Age and gender representation data gives us a better sense of who is using a particular space, who does not feel welcome to do so, or who is unable to access it at all. As this tool provides observational data, it will not always accurately reflect the gender identities of people in the space.



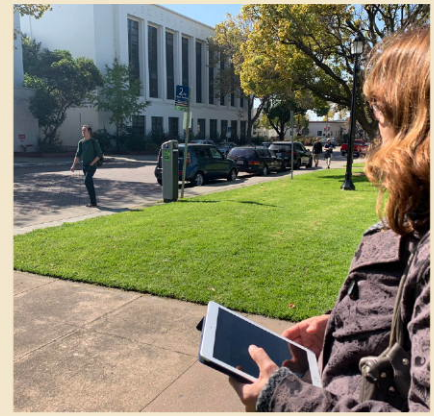
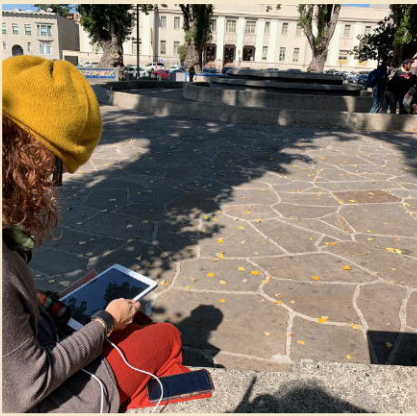
## Stationary Activity Mapping

Provides insights into where people are spending time, what they are doing, and how they are occupying space. It provides a snapshot of all the activities happening in the survey area at a given time and records people's observed age and gender representation.



## Our Survey's Guiding Questions

- What are the daily patterns of life in Civic Center?
- Who does Civic Center invite and who is missing?
- How are the surrounding buildings supporting (or hindering) Public Life?
- How is Civic Center connected to the pulse of activity on Shattuck Avenue?



The Berkeley Public Space, Public Life Survey was conducted in October 2019. The survey occurred over the course of a weekday (October 15) and weekend (October 19) and enlisted the help of 21 volunteers including local residents and university students, who surveyed on site alongside Gehl team members.

↑ Survey Volunteers



↑ Public Space, Public Life Survey  
Survey locations, volunteer field guide and digital data collection platform

# Public Space, Public Life Key Findings

Overall, Civic Center isn't performing so well ...

**1** Civic Center is not in the center, it's on the sidelines

**2** Civic Center is not a destination

**3** Civic Center does not attract

**4** During Farmers' Markets, there's not much spillover into the park

**5** There aren't many park activities in Civic Center Park

**6** A few dominant activities negatively impact the perception of safety

**BUT, the right ingredients are there ...**

**7**

**Civic Center is surrounded by a high density of life and a legacy of gathering**

**9**

**With the right invitations people do want to spend time here**

**8**

**Civic Center is surrounded by public buildings awaiting their next act**

**10**

**Civic Center is a multi-generational space**

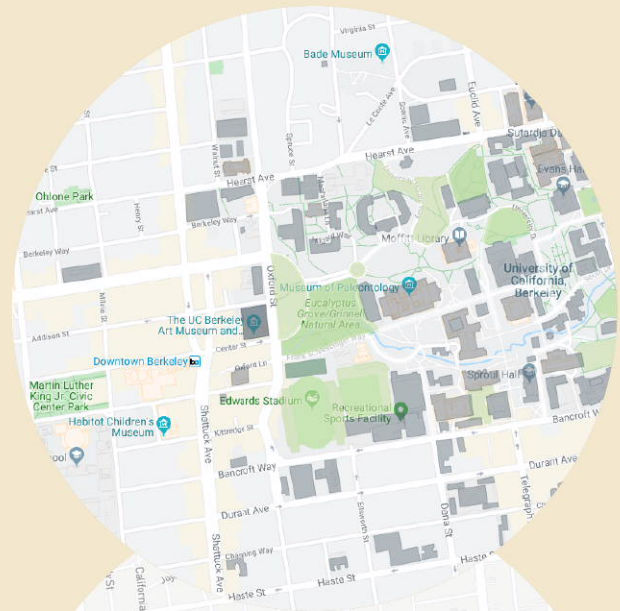
Existing Conditions

# 1 Civic Center is not in the center, it's on the sidelines

↓ UC Berkeley Campus Map  
Civic Center Park just barely makes it onto UC Berkeley's map

## People aren't choosing Civic Center

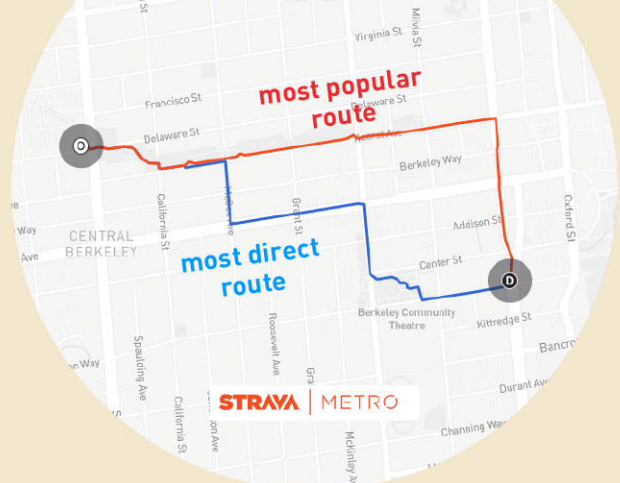
Despite the proximity to the downtown commercial core, UC Berkeley, and other major destinations, people aren't moving through Civic Center.

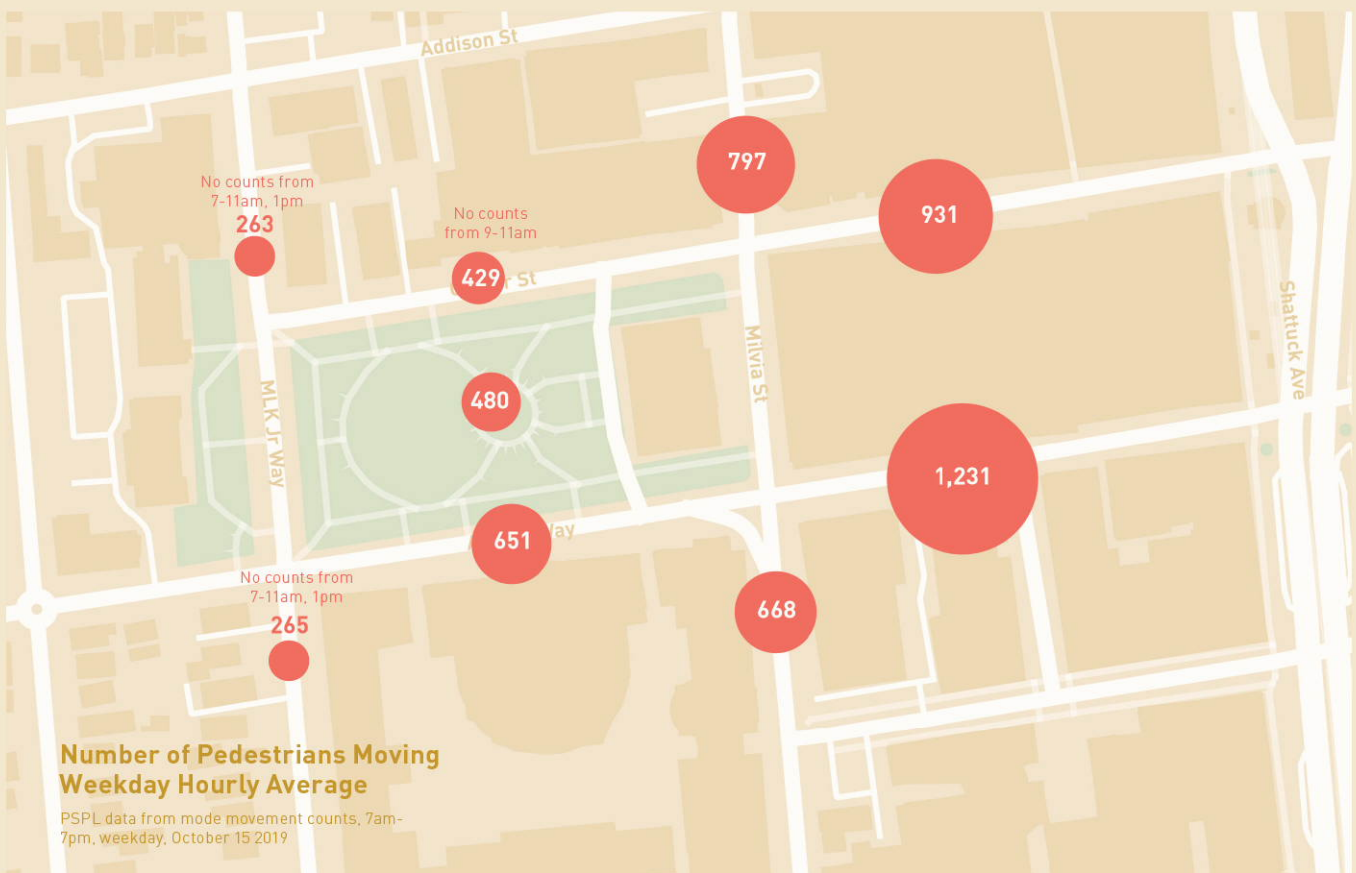
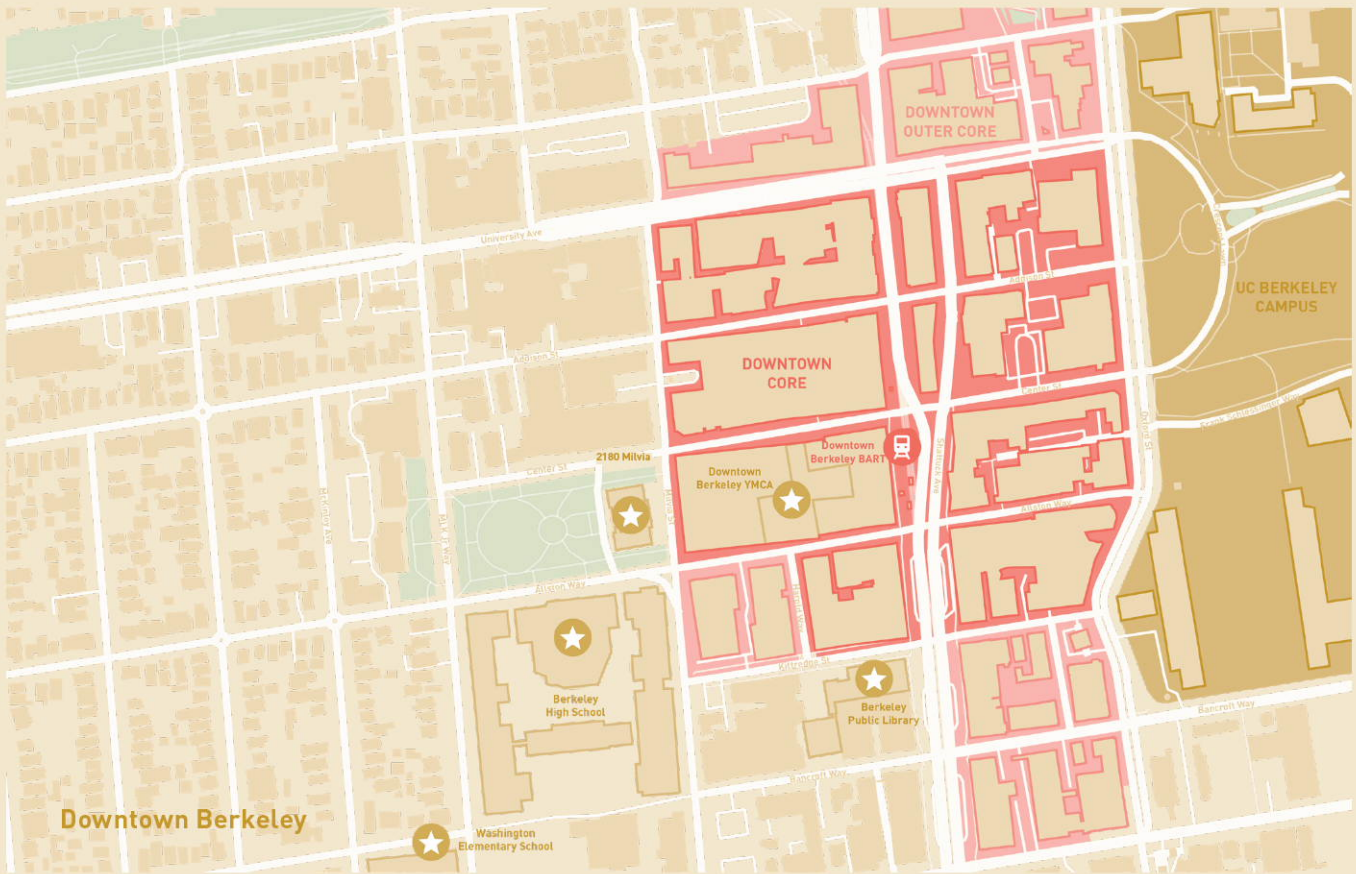


### Direct vs. Popular Routes, Strava\* Metro Data →

The Strava community chooses running routes that avoid Civic Center Park, even when it's the most direct route.

\*Strava is a social fitness network, that is primarily used to track cycling and running exercises, using GPS data.





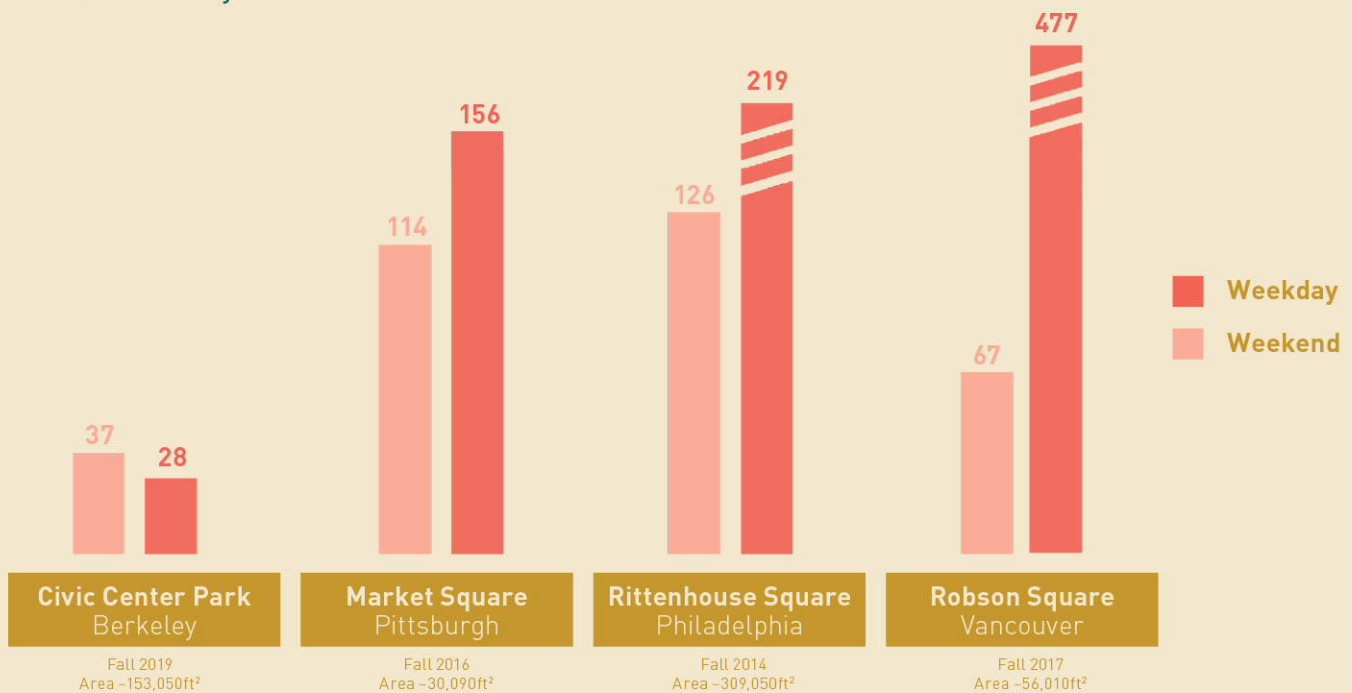
**Number of Pedestrians Moving Weekday Hourly Average**

PSPL data from mode movement counts, 7am-7pm, weekday, October 15 2019

# 2 Civic Center is not a destination

## People aren't choosing to spend time in Civic Center

Civic Center Park isn't inviting people to spend time. Especially when compared to other civic spaces and public squares, Berkeley's Civic Center is falling short of its potential to act as a center of public life and activity.



### Stationary Activity, Hourly Average

PSPL data for the number of people staying in MLK Jr. Park from Stationary Mapping Activity, 7am-7pm, weekday + weekend, October 15 + 19 2019





## 3 Civic Center does not attract

### Monumental buildings give their backs to the park

Several buildings around the edge of Civic Center have inactive facades and treat the park as their 'back of house' with blank walls, loading entrances and exit doors facing the public space.



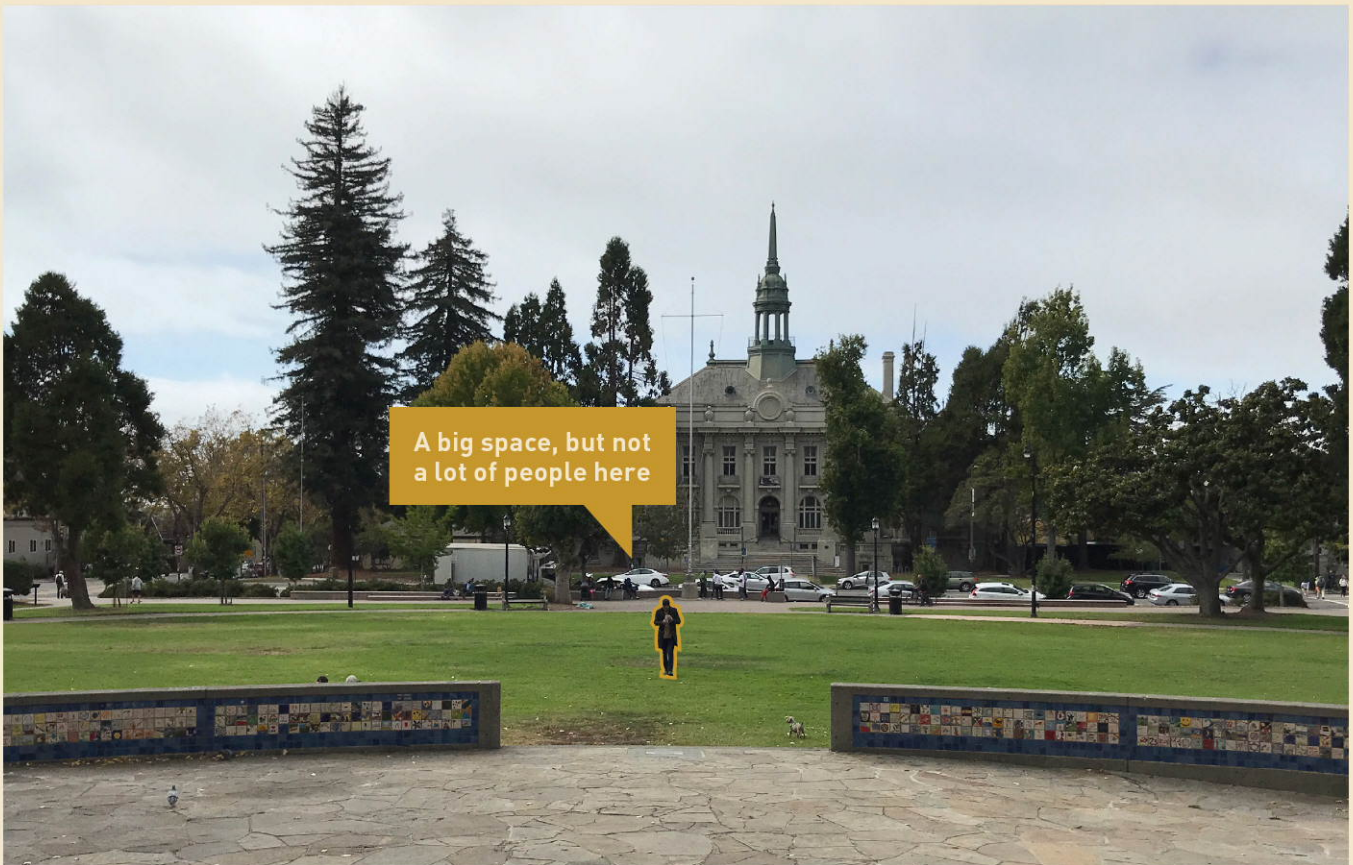
#### **2180 Milvia**

With its entrance on Milvia St, 2180 gives its back to the park



#### **Berkeley Community Theater**

The facade facing the park is a blank wall with a service entry



## 4 During Farmers' Markets, there's not much spillover into the park

### The influx of people during the Farmer's Market doesn't bring more people to Civic Center Park

The number of people who are spending time in Civic Center Park doesn't change much over the course of the day despite the increased number of people coming to Center Street for the Farmer's Market midday.



**Farmer's Market**  
**1,092**  
hourly moving  
peak  
weekend, 11am

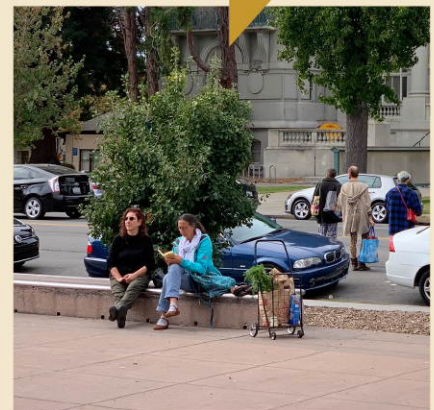
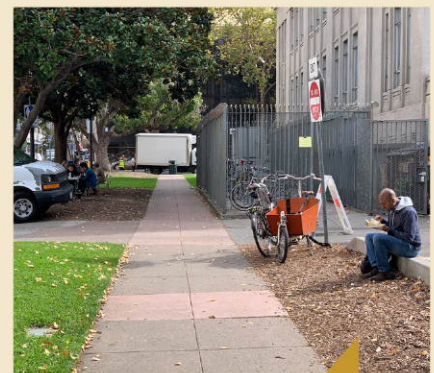
VS



**BART Plaza**  
**930**  
hourly moving  
average  
weekend

#### **Farmer's Market vs. BART Plaza**

At its peak hour, the flow of pedestrians moving through the Farmer's Market on Center Street is about the same as the hourly average for the BART plaza.



↑ Little spillover activity into the park from the Farmers Market

# 5 There aren't many park activities in Civic Center Park

## People aren't engaged in many cultural or recreational activities

The activity breakdown of people in Civic Center shows that people aren't spending time playing, exercising or participating in cultural events or performances – all activities that you would expect to happen in a park!

## There aren't many little kids spending time in the park

Civic Center Park isn't very sticky for toddlers and kids! Stickiness is the ratio of people moving through (pedestrian counts) per person spending time (stationary activities). The 'stickiness' ratio for toddlers and kids shows that this age group isn't choosing to spend time in Civic Center Park.



### Weekend Stickiness, 0-4 & 5-14 year olds Civic Center Park

PSPL data from age and gender movement counts, 7am-7pm, weekend, October 19 2019 (peak for toddlers & kids at 3pm)

Stickiness is the ratio of people moving through (pedestrian counts) per person spending time (staying activities)

weekday



weekday



Stationary Activity Breakdown  
Civic Center

PSPL data from stationary mapping,  
7am-7pm, overall, October 15 + 19 2019



# 6 A few dominant activities negatively impact the perception of safety

## The gender breakdown in Civic Center Park is unbalanced

Generally, public spaces that have a balanced (or higher) ratio of women indicates that the space has a high perception of safety. In the park in Civic Center, the low ratio of women could indicate an underlying sense that the space doesn't feel safe or welcoming.



### ↑ Representation of Women

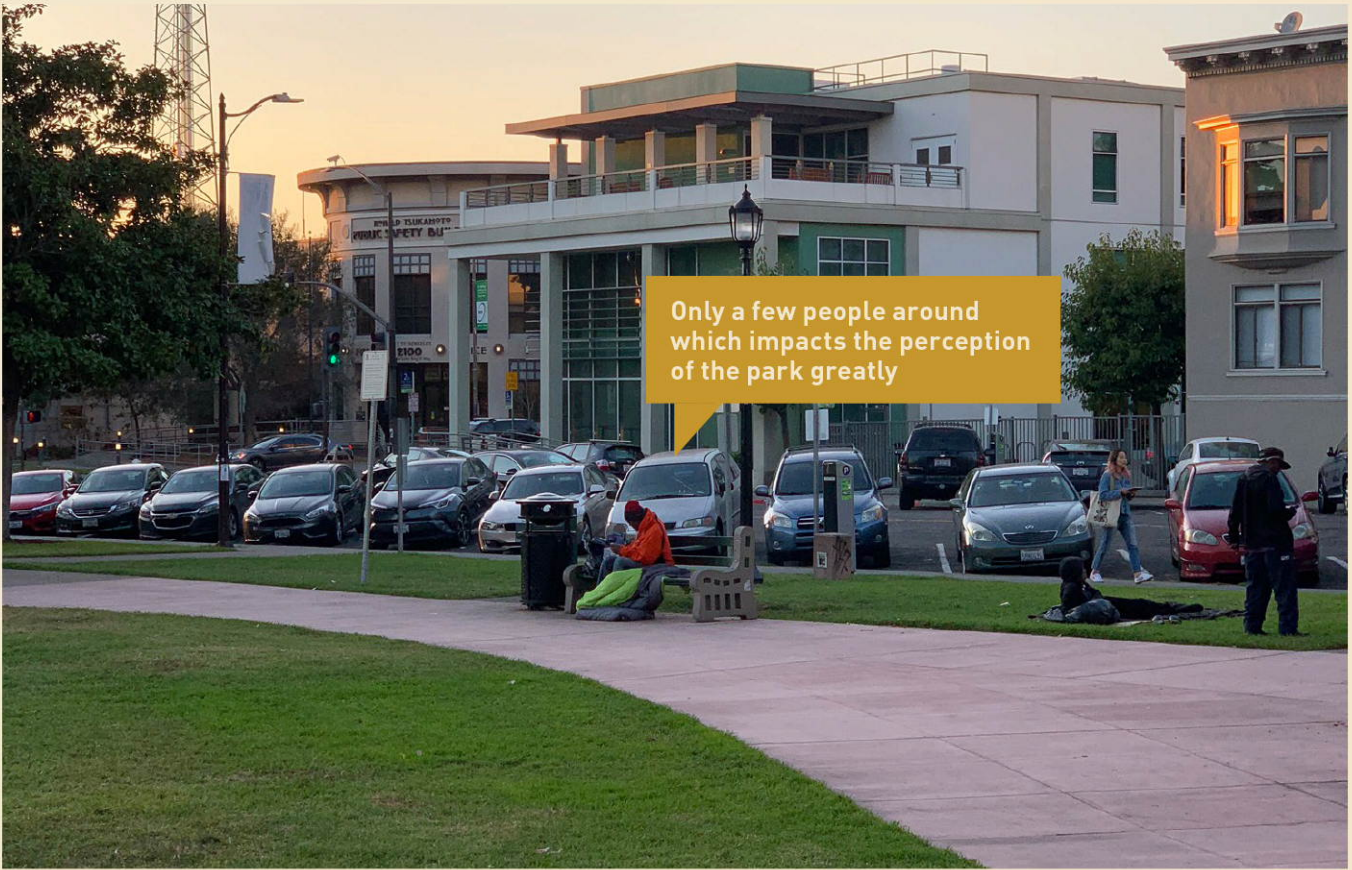
A higher percentage of women generally indicates a higher perception of safety. While the BART Plaza on Shattuck has a relatively balanced gender representation, fewer women spend time in the park.



### ↑ People Encamped/Sleeping

While not many in number (3 people), certain activities take up a lot of mental space.

PSPL data from stationary mapping,  
7am - 7pm, OVERALL, October 15 + 19 2019



Only a few people around which impacts the perception of the park greatly

↑ Civic Center, Berkeley

↓ Patricia's Green, San Francisco



Patricia's Green in Hayes Valley, San Francisco, is an example of an open space that invites a range of uses and users, where one single activity doesn't dominate the space.

If there are many activities happening, a single activity (like 'encamped'), doesn't impact the space very much

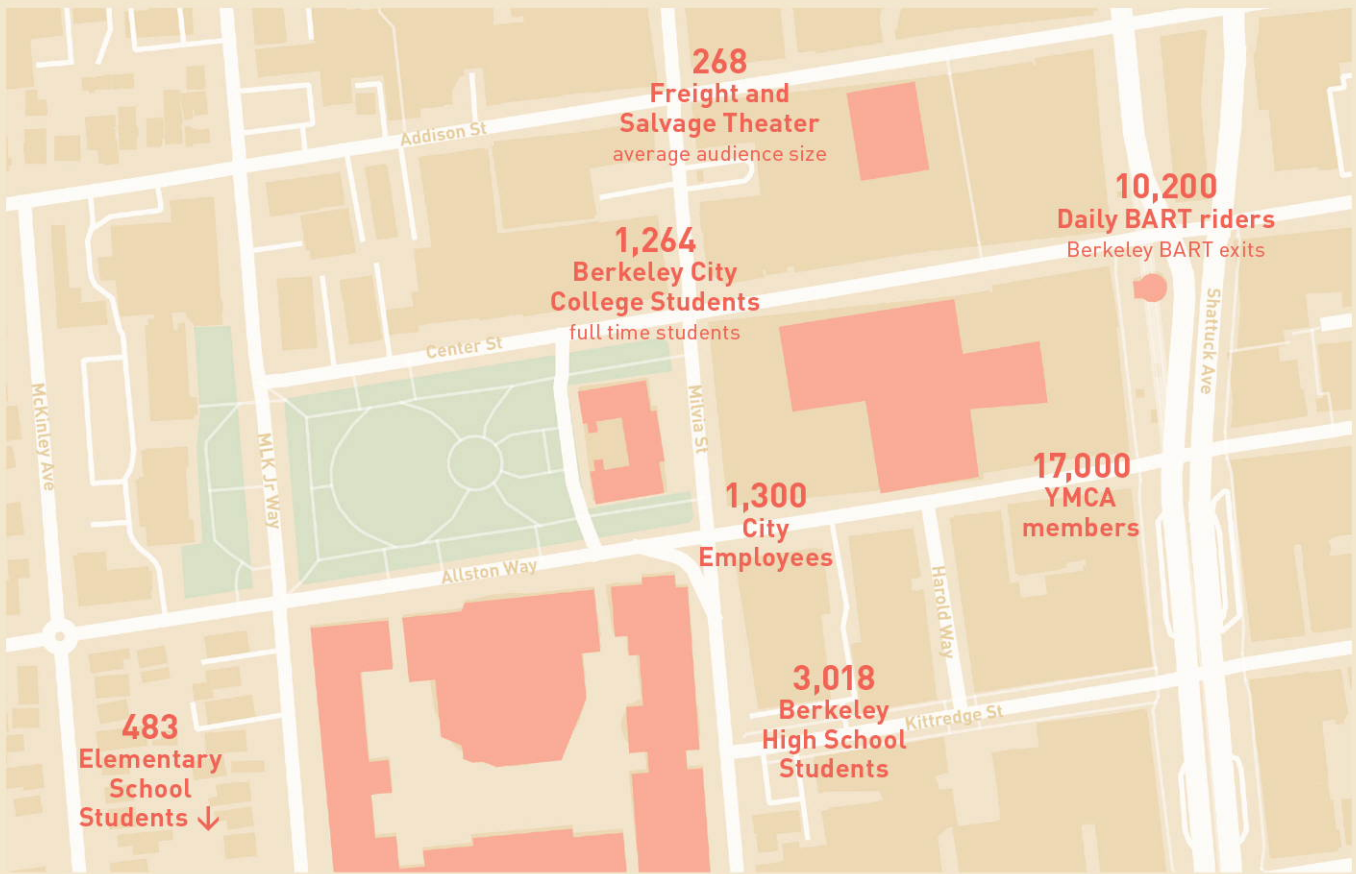


So important, yet so  
difficult to achieve

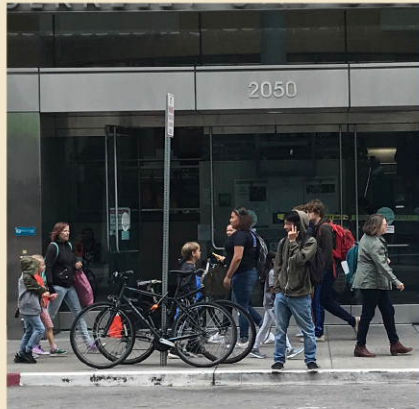
# 7 Civic Center is surrounded by a high density of life + legacy of gathering

## People are already around Civic Center

A challenge for any public space is attracting people to the area but in the case of Berkeley's Civic Center, the park is already surrounded by numerous institutions and downtown destinations with high volumes of people.



↑ Berkeley High School



↑ Center Street

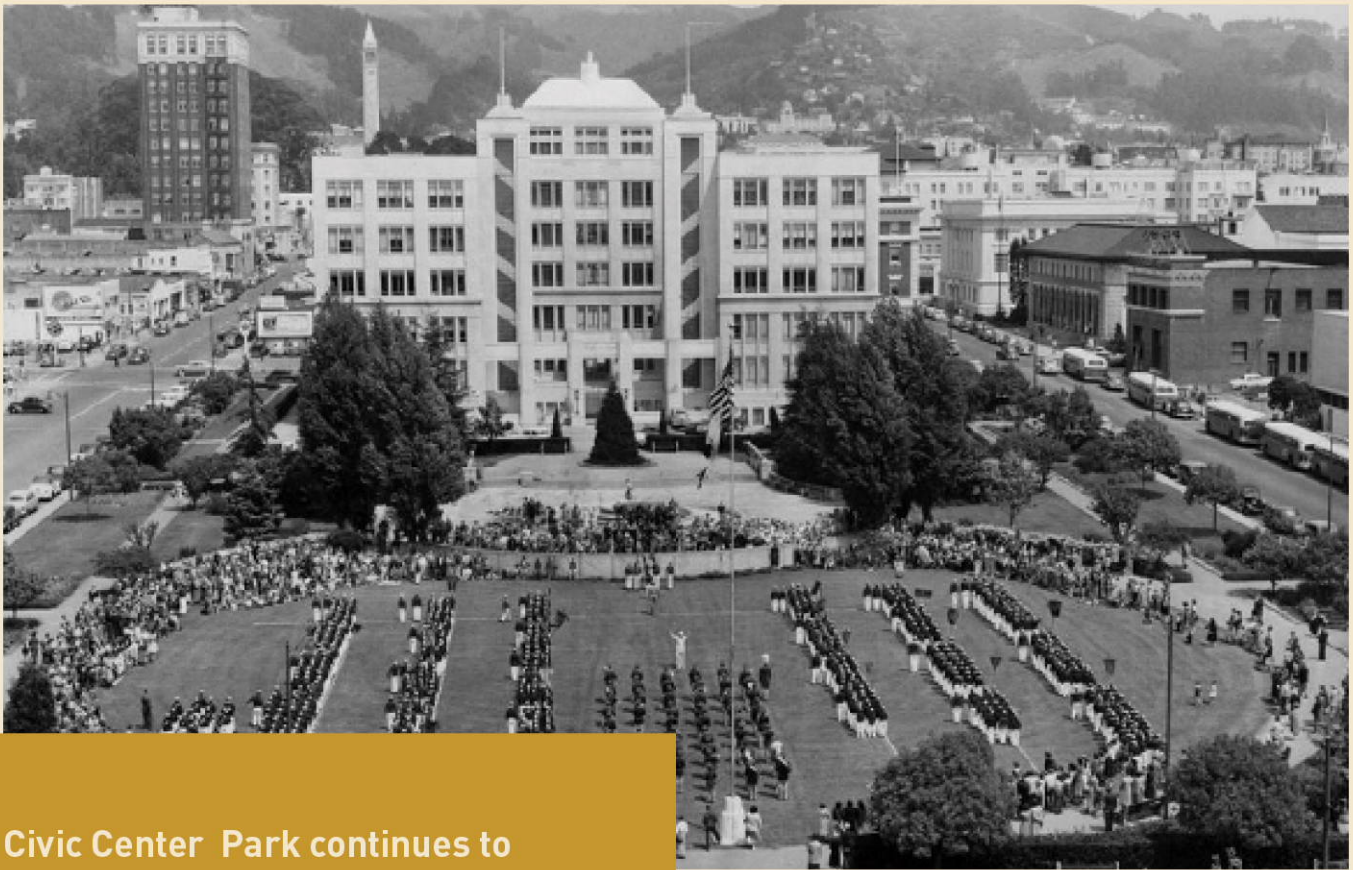


↑ YMCA



On Saturdays, the **Farmers' Market** attracts a large number of people and transforms Center Street.

Existing Conditions



Civic Center Park continues to work well as a gathering space for civic and festive special events.

↑ Civic Center Park<sup>1</sup>, 1952



↑ Civic Center Park<sup>2</sup>, 1971



↑ Civic Center Park<sup>2</sup>, 1971

1 - Berkeley Historical Plaque Project Photo, BAHA Archives  
2 - Photos used with permission, courtesy of the Nick DeWolf Foundation © the Nick DeWolf Foundation



↑ PowWow, Oct 2019



↑ Old Time Music Festival, SEP 2019



↑ Old Time Music Festival, SEP 2019



↑ Half Marathon, 2019



↑ Black Lives Matter Movement, JUN 2020



↑ Black Lives Matter Movement, JUN 2020

# 8 Civic Center is surrounded by public buildings awaiting their next act

The architecture is interesting and varied – lots of potential!

There are several public buildings surrounding Civic Center park that are architecturally very interesting and varied in character. A diverse cast of architectural characters frame the park, each with its own legacy and potential.



↑ Public Buildings, Berkeley Civic Center



↑ Maudelle Shirek Building



↑ YMCA Teen Center

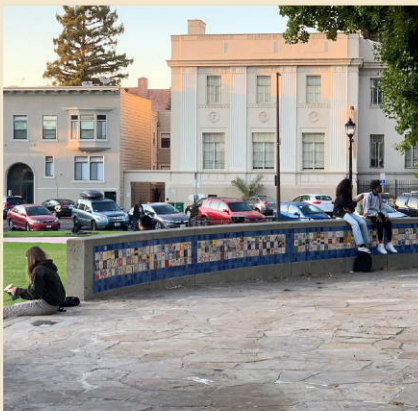


↑ Veteran's Memorial Building

# 9 With the right invitations, people do want to spend time here

2180 Milvia's edges and ledges are magnetic – people spend time where they're comfortable

There may not be a lot of people spending time in Civic Center Park but, when they are there, they spend time on the edges and ledges. These hot-spots are human-scaled and provide invitations to enjoy the positive aspects of the climate, like soaking up the sun.

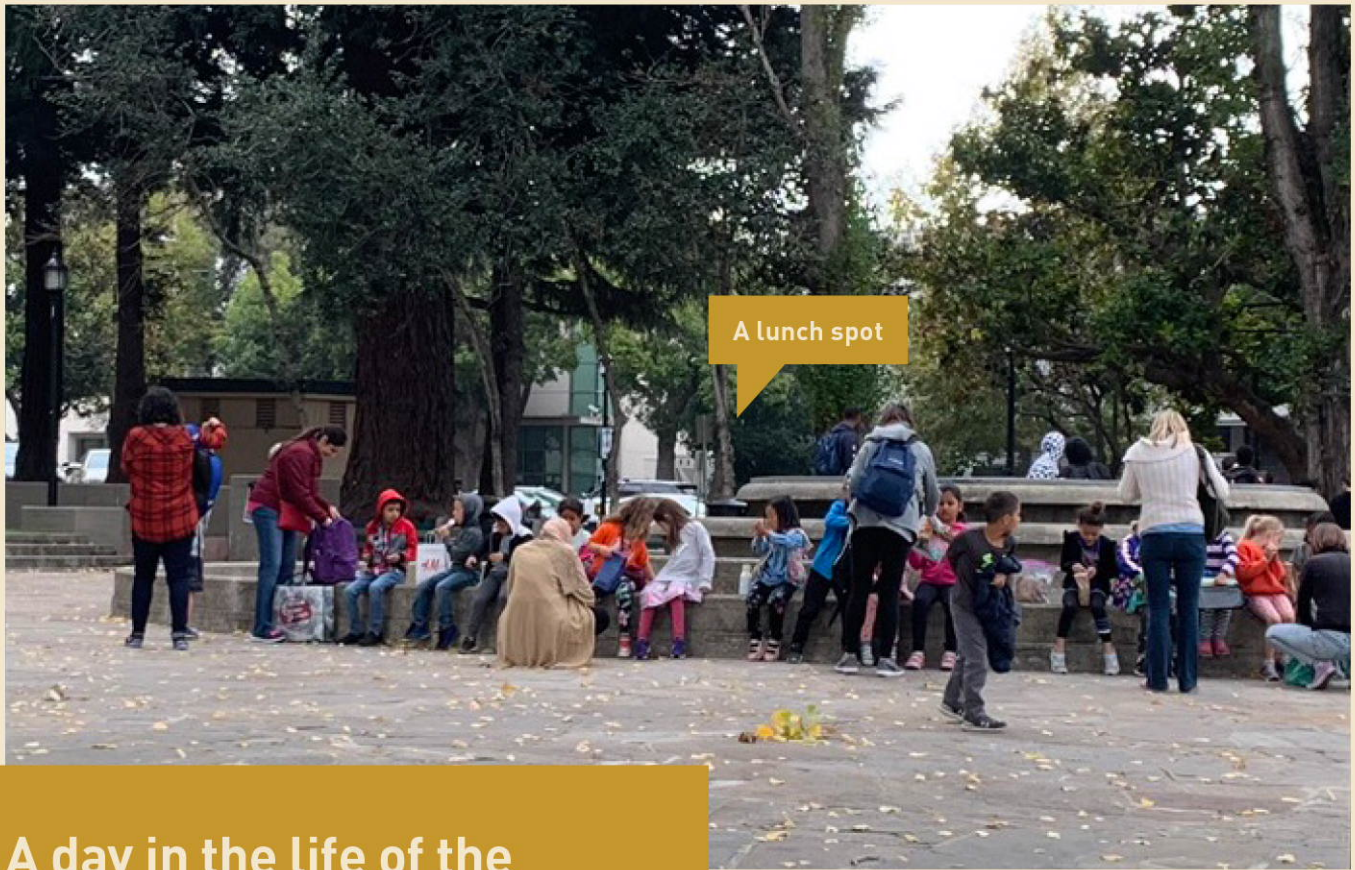


Human-scaled spaces with comfortable micro-climates give people a reason to spend time on the edges and ledges.

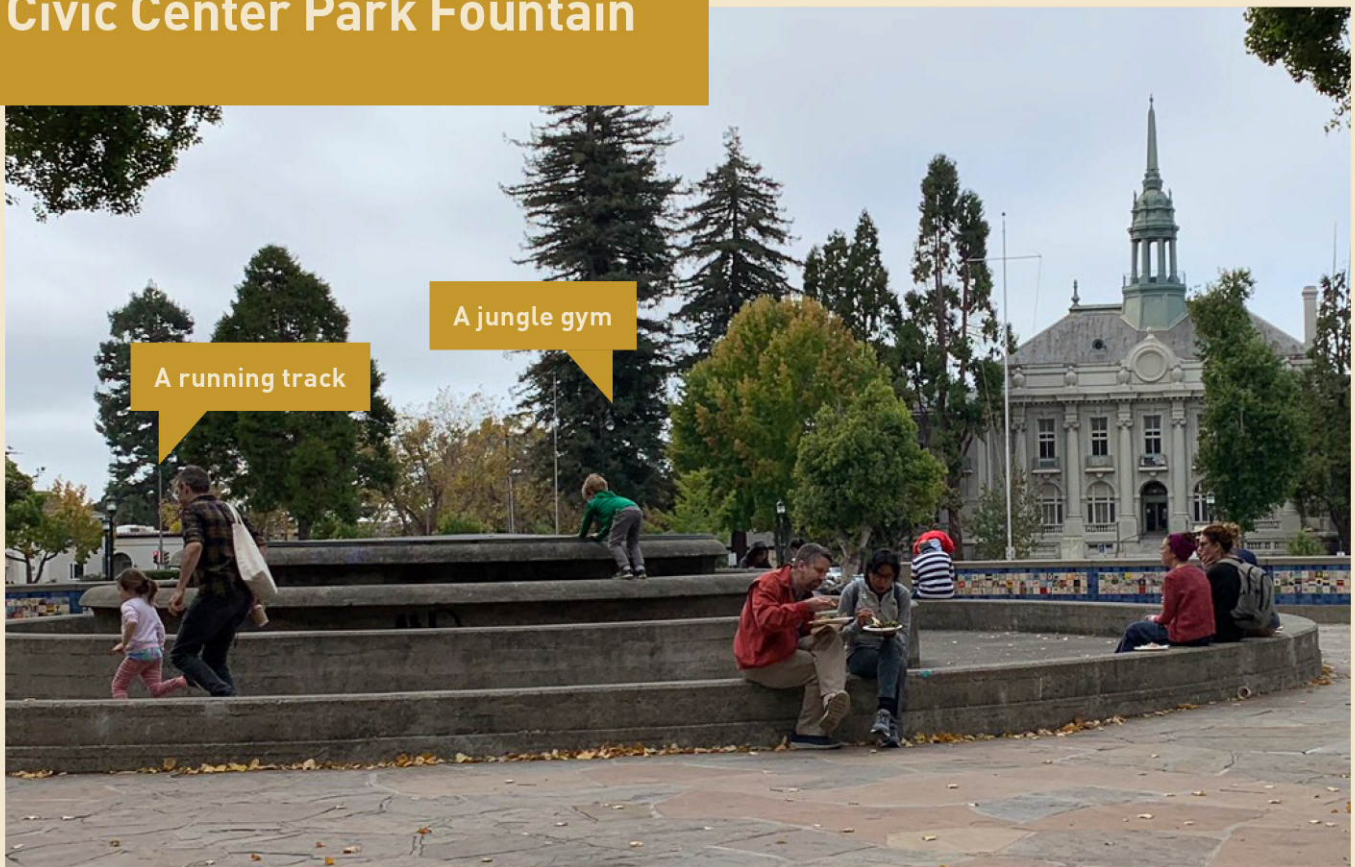




Existing Conditions



A day in the life of the  
Civic Center Park Fountain





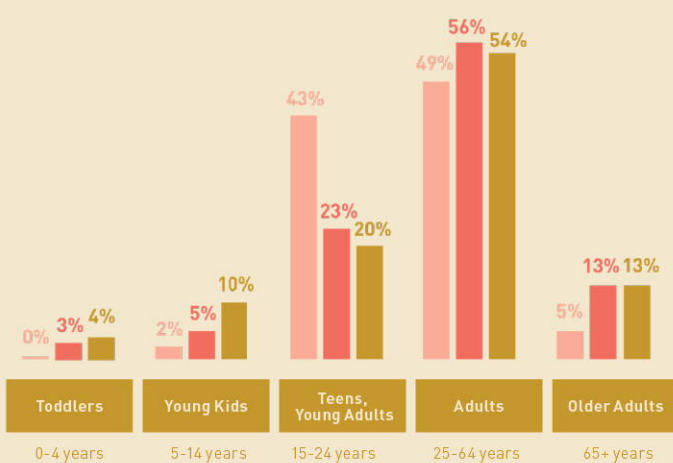
A performance stage

The Civic Center fountain hasn't been in working order for decades, and the area around it is mostly in the shade. However, because the fountain is **scaled to the human body**, it does attract numerous people and activities throughout the day. We observed that this location is where people tend to stay for longer periods of time.

# 10 Civic Center is a multi-generational space

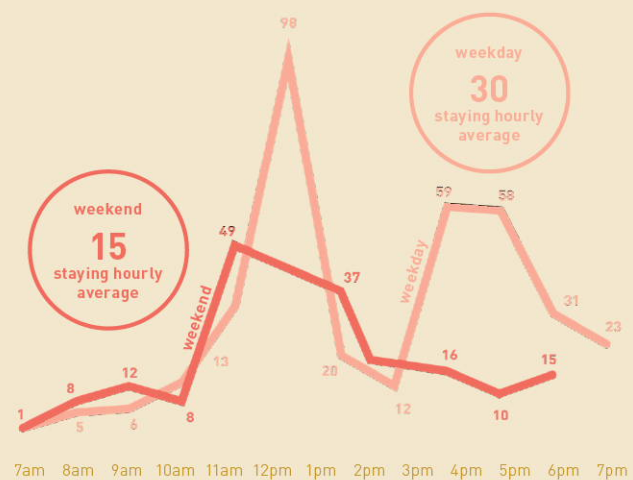
## People of all ages are at Civic Center

A breakdown of people’s observed ages in Civic Center shows that all age groups are represented in the public space, especially teens. However, when compared to Berkeley’s census data, certain groups could be more present, specifically, toddlers and kids whose weekday and weekend representation is quite low.



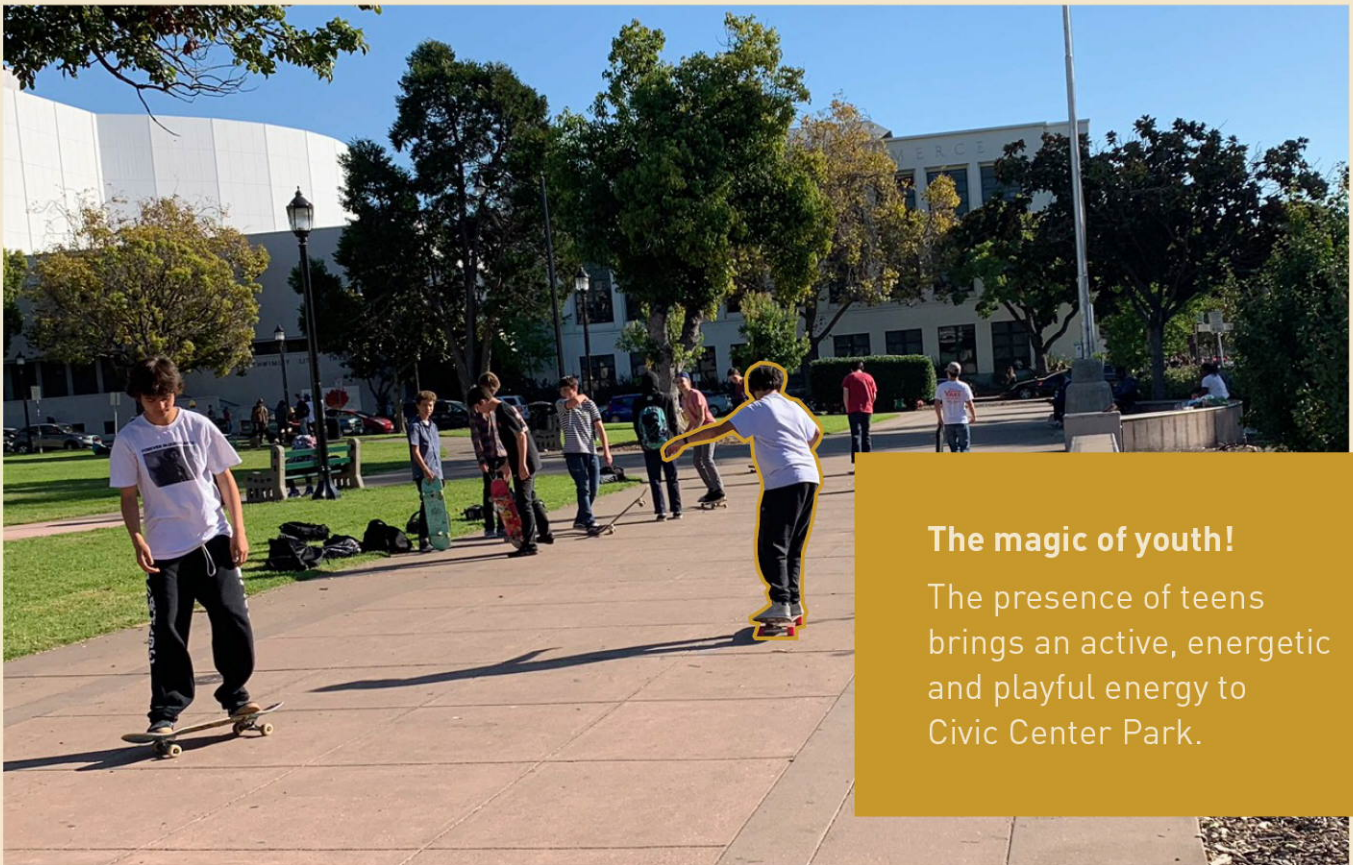
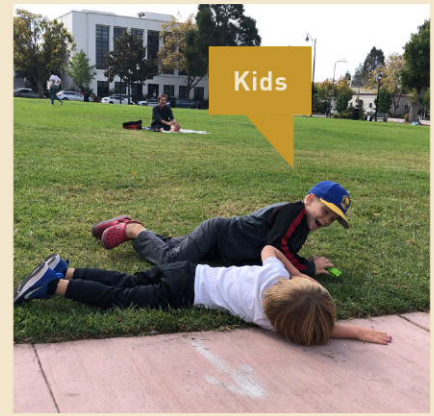
**People Moving, Age Breakdown Berkeley Civic Center**

PSPL data from age and gender movement counts, 7am-7pm, Overall, October 15 + 19 2019



**People Staying, Daily Rhythm, 15-24 yr olds Berkeley Civic Center**

PSPL data from stationary mapping, 7am-7pm, Overall, October 15 + 19 2019



Outreach and engagement



# Community Engagement

- 2.1 Engagement and Outreach Plan
- 2.2 Public Space Public Life Survey
- 2.3 Stakeholder Focus Groups
- 2.4 Vision and Values Community Meeting
- 2.5 Berkeley High School
- 2.6 Farmers Market Pop-up
- 2.7 Building Tours
- 2.8 Online Engagement
- 2.9 Engagement Overview

## 2.1

# Engagement and Outreach Plan

From project inception our intention has been to develop a vision for Berkeley's Civic Center, including Martin Luther King Jr. Civic Center Park, the Veterans Memorial Building, and the Maudelle Shirek Building that is a community vision. Our main goals have been to conduct an inclusive and transparent community process, to identify and engage meaningfully with stakeholders, and to provide an actionable vision and achievable plan for the Civic Center area. This was outlined in an Outreach and Engagement Plan submitted to the City in October 2019, which included stakeholder mapping and a proposed timeline for the engagement of stakeholders and the community in a variety of ways.



### Goal #1:

To reach to a broad representation of the community — to hear many diverse voices. In a spirit of creative collaboration, we listened and engaged with a variety of stakeholders, informed community groups, service-providers and organizations, and aligned research and thoughts with key City of Berkeley departments and Commissions.

# Vision

A shared vision is only achieved through inclusive participation and engagement.

Conceptual designs for adaptive reuse of the park and buildings



### Goal #2:

To run a transparent, creative and participatory visioning and co-creation process that contributes to shaping the future of Berkeley's Civic Center in an imaginative and equitable way.



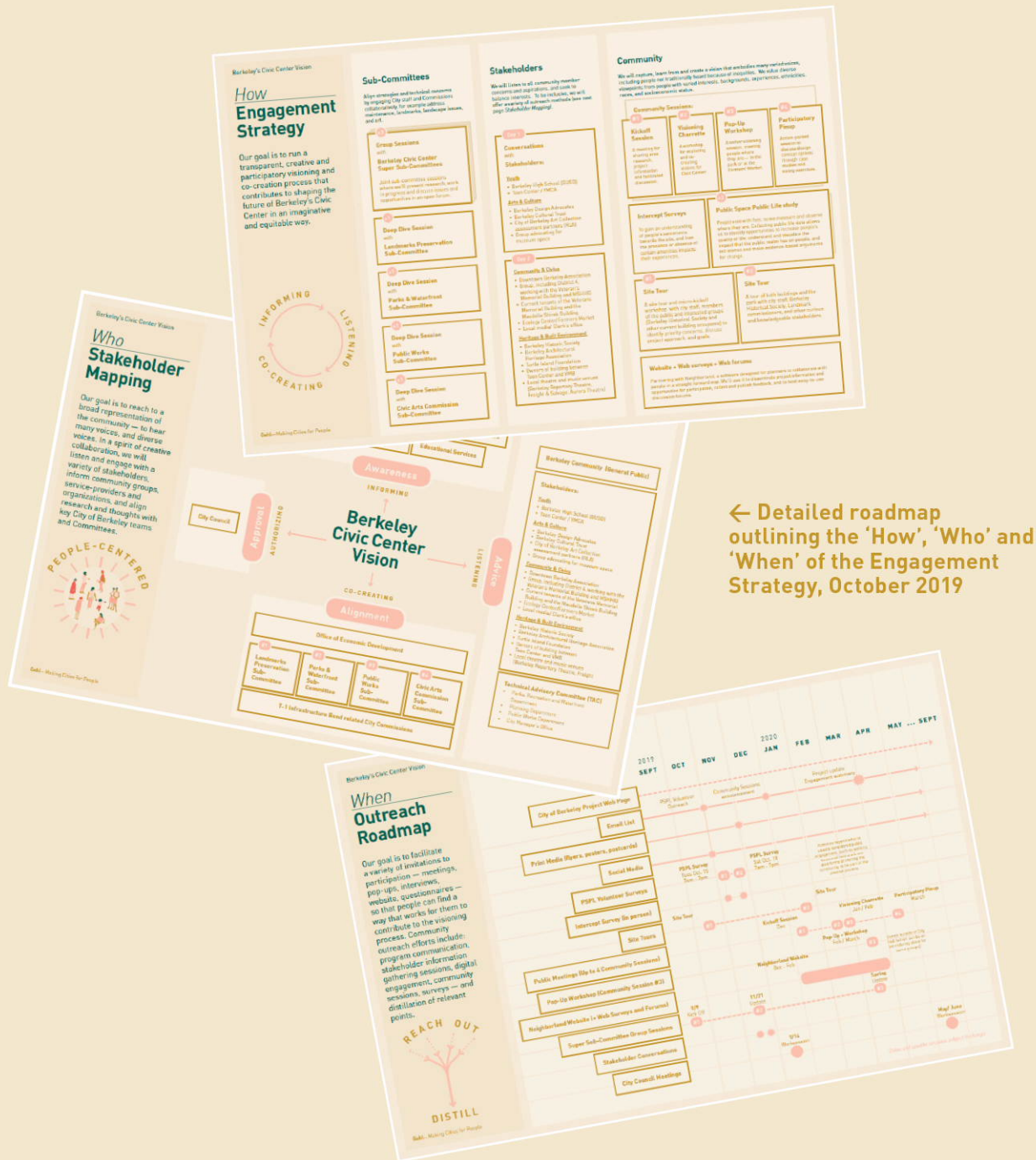
### Goal #3:

To facilitate a variety of invitations to participation — meetings, pop-ups, interviews, website, questionnaires — so that people can find a way that works for them to contribute to the visioning process. Community outreach efforts have included: program communication, stakeholder information gathering sessions, digital engagement, community sessions, surveys — and distillation of relevant points into relateable themes.



# Engagement and Outreach Plan

# Engagement & Outreach Strategy



← Detailed roadmap outlining the 'How', 'Who' and 'When' of the Engagement Strategy, October 2019



**What we're doing**

Developing a community vision and design concepts for Berkeley's Civic Center. Our study area includes Martin Luther King Jr. Civic Center Park, the Veterans Memorial Building, aka Old City Hall, the Maudie Shirek Building (aka Old City Hall) funded by the T-1 bond for infrastructure upgrades.

**Your role**

The City is at the beginning of a concept design process and we want you! The vision for the Civic Center is shared and developed with the Berkeley community. We want you to be a part of the process by envisioning Civic Center and public community spaces for all of Berkeley.

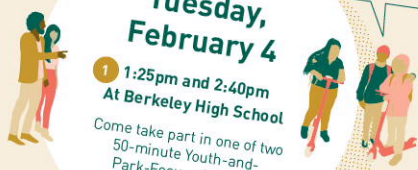
**Help Envision the Future of Berkeley's Civic Center!**

Attend one of our upcoming workshops where we'll discuss ideas for Civic Center Park, The Veterans Memorial Building and Old City Hall. Everyone is welcome and we are looking forward to seeing you there!



Tours begin at 11am and 2pm. Meet outside 1921 Center St!

All are welcome to join! Please RSVP to the email below by 2pm on 2/2.



**Tuesday, February 4**

**1:25pm and 2:40pm**  
**At Berkeley High School**

Come take part in one of two 50-minute Youth-and-Park-Focused Design Charrettes.

**Saturday, March 7**

**11:00am and 2:00pm**  
**Farmer's Market pop up + Building Tours**

Join us on a tour of Old City Hall and the Veterans Memorial Building.



**Thursday, March 26**

**5:30pm - 7:00pm**  
**At 2180 Milvia St, Cypress Room**

Presentation of Civic Center Conceptual Design Options. Come tell us what you think!



To engage with the project online, please visit: [neighborland.com/berkeleycc](http://neighborland.com/berkeleycc)

For questions or to add your email to the project mailing list, reach out to the project manager Eleanor Hollander [EHollander@cityofberkeley.info](mailto:EHollander@cityofberkeley.info) (510) 981-7536

↑ Flyers distributed throughout the Berkeley Community to communicate engagement sessions

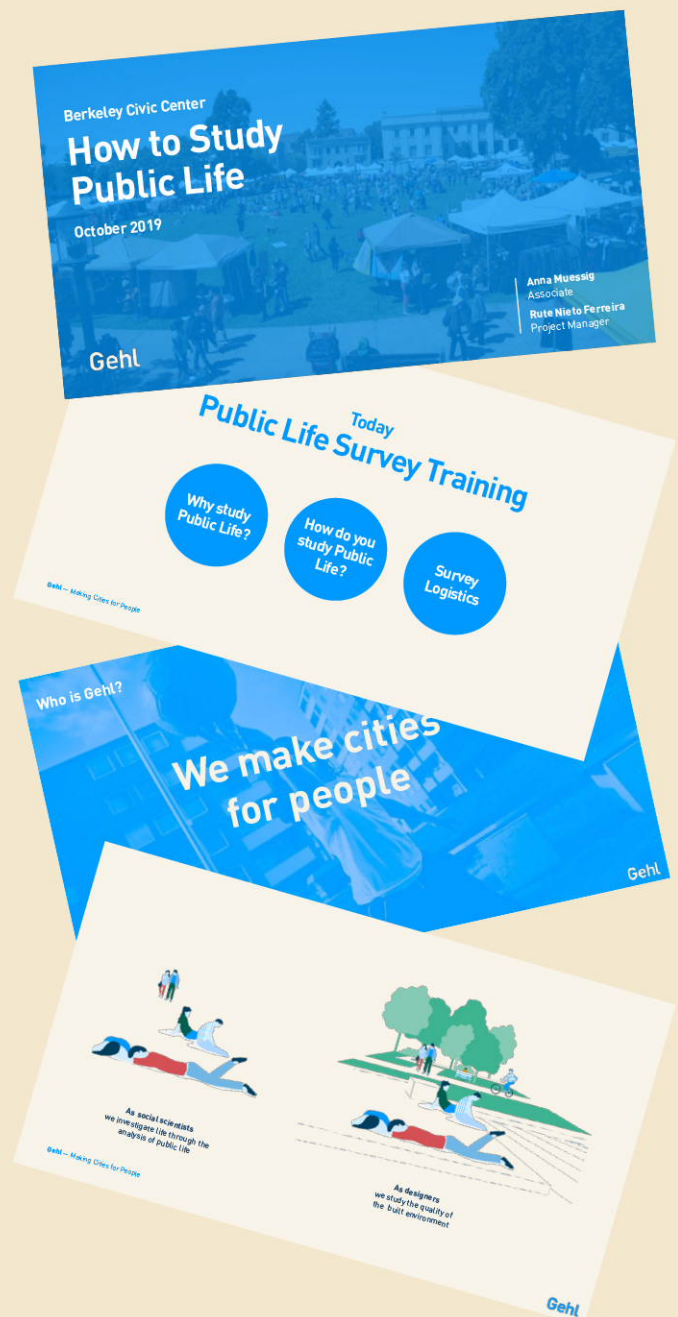
## 2.2

# Public Space, Public Life Survey

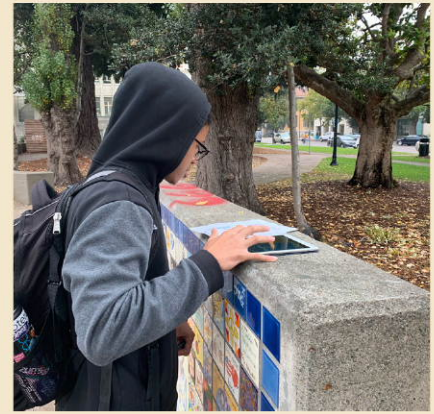
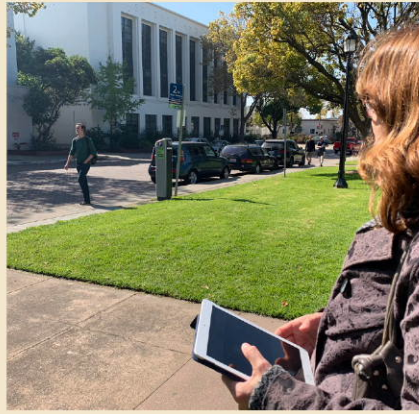
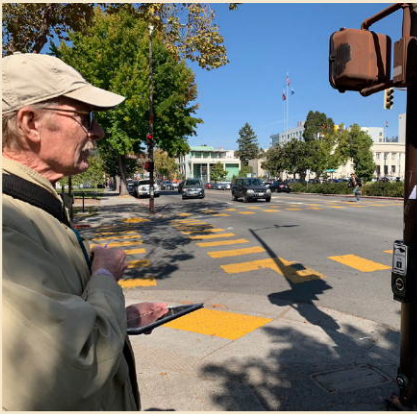
## Decode the Everyday

One of the first engagement efforts was to advertise and recruit community volunteers to study the Berkeley Civic Center area. In the Fall of 2019, volunteers were trained on how to undertake a Public Space, Public Life Survey (PSPL). This was a great way for community members to play an active role in future changes to Civic Center and to learn about the Gehl approach to people-first urban planning and design.

The Public Space, Public Life Survey uses empirical survey and mapping methodologies pioneered by Jan Gehl to develop a comprehensive understanding of how people move, how people use the public realm, and the character, quality and programming of spaces. Public Life Studies have been putting people first in the city-change process for over 50 years, from Shanghai to Times Square to San Francisco Civic Center.



↑ Survey Training Presentation for Volunteers



**The Berkeley Public Space, Public Life Survey** was conducted in October 2019. The survey occurred over the course of a weekday (October 15) and weekend (October 19) and enlisted the help of 21 volunteers including local residents and university students.



↑ Survey Volunteers participated in the survey over a two-day period from 7am to 7pm.

**Berkeley's Civic Center**

## Help Envision the Future of Berkeley's Civic Center!

**Volunteer for a mini-Public Life Survey** organized by Gehl

What we're doing  
Developing a community vision, design concepts and implementation plan for Berkeley's Civic Center. Our study area includes Martin Luther King Jr. Civic Center Park, the Veterans Memorial Building, and the Maudelle Shirek Building (aka Old City Hall).

What's a Public Life Study?  
Understanding patterns of life and activity for Berkeley's Civic Center will form the basis for a design vision that puts people first. We will be outside studying how people move to and through this area and how the built environment impacts how people use the space. Volunteering for this survey is a great way to play an active role in future changes to Civic Center and to learn about the Gehl approach to people-first urban planning and design. Public Life Studies have been putting people first in the city-change process for over 50 years, from Shanghai to Times Square to San Francisco Civic Center. To learn more visit: [www.gehlpeople.com/story](http://www.gehlpeople.com/story)

Survey Dates  
Pick one or more shift on Tuesday, October 15 and/or Saturday, October 19. We invite you to do a Tuesday and a Saturday shift.

| Tuesday, October 15 | Saturday, October 19 |
|---------------------|----------------------|
| 7:00am - 11:00am    | 7:00am - 11:00am     |
| 11:00am - 3:00pm    | 11:00am - 3:00pm     |
| 3:00pm - 7:00pm     | 3:00pm - 7:00pm      |

Recommended video training session  
Thursday, October 10  
11:00AM - 12:00PM  
Online video call via <https://tinyurl.com/y5n2mrpt>  
(no camera necessary, but web access required)

What you'll need to bring  
A curiosity about how people use space, water and comfortable shoes and clothes. We'll provide the rest: clipboards, pens, iPads, clickers etc. Letters to supervisors, professors or teachers available upon request.

To confirm your participation and for questions, email Aja: [Aja@gehlpeople.com](mailto:Aja@gehlpeople.com)

Can't survey but want to know more about the Berkeley's Civic Center project? Visit: <https://tinyurl.com/yxmxwvwh>

↑ Flyer distributed to recruit volunteers

## 2.3

# Stakeholder Focus Groups

From October 2019 to January 2020 the team met with stakeholder groups for thirty to sixty-minute conversations where we listened to people's wishes and concerns about the Civic Center area. We sat down in person with approximately 40 people, over 27 focus group sessions. To guide these conversation, we used a questionnaire, but the purpose of these immersion interviews (or informal conversations) was to allow the team to hear directly, and learn from, key project stakeholders in order to gain a richer understanding of the project area and its challenges and opportunities. These sessions, alongside the Community Workshop on vision and values were instrumental in the shaping of the Vision Statement.

## Immersion: Stakeholder Conversations

### *Questions asked to interviewees*

#### *Big Open Question*

- What's your relationship to the Civic Center, and what should we know about your mission?

#### *Short Questions - Concise Responses*

- In your opinion what is special about the Civic Center?
- What are your concerns/issues with the Civic Center today?
- What 3 words would you use to describe Civic Center?
- If Civic Center is to become the heart of Berkeley, what future transformations would you like to see happen?
- Rank in order of priority:
  - 1) Nature and Biodiversity
  - 2) Arts and Culture
  - 3) Sports and Play
  - 4) Amenities [public restrooms, water fountains, benches]
  - 5) Food and Beverage services
  - 6) Institutional Buildings and Services
  - 7) Stores
  - 8) Other; If you selected "Other", tell us what you mean.

### Arts & Culture

- Berkeley Cultural Trust
- Berkeley Symphony
- City of Berkeley, Civic Arts
- Freight & Salvage
- RLA Conservation (Arts Collection Assessment)
- Shawl-Anderson Dance Center
- Turtle Island Foundation
- Visit Berkeley

### Community + Services

- Berkeley Community Media (OCH tenants)
- Berkeleyside
- City of Berkeley Clerk
- City of Berkeley, Special Events
- Dorothy Day House (VMB tenants)
- Downtown Berkeley Association
- Ecology Center
- Former Elected Officials of Berkeley
- Options Recovery (VMB tenants)
- American Legion Post 7 (VMB tenants)

### Elected Officials and/ or Representatives

- Berkeley City Council Member, District 1
- Berkeley City Council Member, District 2
- Berkeley City Council Staff, District 3
- Berkeley City Council Member, District 4
- Berkeley City Council Member, District 5
- Berkeley City Council Member, District 6
- Berkeley City Council Member, District 7
- Berkeley City Council Member, District 8
- Berkeley Mayor's office staff
- Berkeley Unified School District Board Director

### Heritage + Built Environment

- Berkeley Architectural Heritage Association (BAHA)
- Berkeley Design Advocates
- Berkeley Historical Society (VMB tenants)
- Landmarks Preservation Commissioners
- McGee-Spaulding Hardy Historical Interest Group (MSHHIG)

### Youth

- Berkeley High School Principal
- Berkeley Unified School District Superintendent
- Berkeley Unified School District Director of Facilities
- YMCA

## Stakeholder Focus Groups

# Key Takeaways

### Arts & Culture

- Location! In central Berkeley and near: residences, schools, work, the Y, services, public transportation, strong cultural & arts institutions, downtown hotels
- A great opportunity to support and strengthen the local performing arts community. Not enough evening classroom spaces, and performance spaces (especially for smaller groups)
- An arts and cultural component needs strong management
- Concerned that people who are struggling will be displaced. No desire to push anyone out.

### Community + Services

- Berkeley has been a place where things tend to begin
- Most people in Berkeley haven't been to Old City Hall and don't notice the Park
- Park and buildings should be used by the community
- Purpose and need of who occupies the buildings, mission alignment, creative focus
- We want everyone to feel comfortable at Civic Center: no matter who you are and where you're from, you fit in here
- The Farmer's Market is not just a place to buy food but a placemaking event
- It's important to Veterans to be in the Veterans Building, ours has very low participation
- Civic Center Park is a key space during a disaster

*Note: For a complete transcript of the 25 recorded sessions, please refer to the engagement transcripts in the appendix.*

### Elected Officials and/ or Representatives

- It is the heart of the city and it feels empty now
- Not a place to go or be, not enough of a draw
- Civic Center is the cornerstone of our democracy: a place that we should defend and also glorify
- We need better and more accessible meeting spaces
- Bring City Council Chambers back to Civic Center
- Huge potential, wonderful opportunity: this is our commons!

### Heritage + Built Environment

- Everything could come together in this one space
- Civic Center Park needs a focus
- Old City Hall and The Veterans Memorial Building are jewels, must be protected and should be public buildings
- Landscape updates will attract people and pollinators
- Let's make a plaza that's brilliant from the recreation standpoint

### Youth

- An extension to the school, not always positive
- Concerns about homeless population, drug use, inappropriate interactions, safety of children and students
- Need School-City-Police to work together
- A positive kids culture around the Park: teen spaces that feels legit
- A better community shared space: involving kids in the design and stewardship



## Stakeholder Focus Groups

# Engagement Summary

Today

Civic Center is not a destination  
and is not on people's mental map.  
There's not enough of a draw.

We have concerns about the  
conditions and safety of the  
buildings.

The park is underused, uninviting

## Tomorrow

A city needs a central civic space: this is our commons.

Everyone should feel comfortable at Civic Center.

The Park and the buildings should be used by the community.

City Council meetings should happen in Civic Center.

The presence of youth is positive.

We want a Civic Center that welcomes civic participation, cultural events, community interaction, and where one can sit and relax.

## 2.4

# Vision and Values Community Meeting

On December 12, 2019, we hosted a Vision and Values Workshop at the YMCA Teen Center. Approximately 40 community members attended the session, which was designed to generate thoughts about the underlying purposes and functions of our Civic Center, and to inform the project's Vision Statement. The session consisted of fast-paced group exercises, with opportunities for discussion in small groups and 'share-backs' with the whole group.

We noted a strong spirit of collaboration among the attendees, and broad consensus around core values for the future of Civic Center. This session, alongside the stakeholder focus group sessions, was instrumental in the crafting of the Vision Statement for Civic Center that was presented to City Council on January 14, 2020.

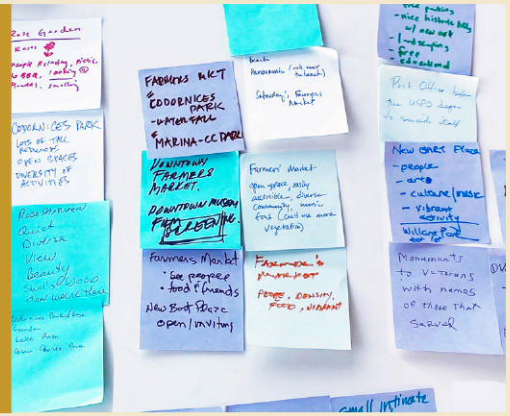
Community Meeting →  
December 12, 2019





## Outreach and engagement

When asked to articulate qualities about a favorite place in Berkeley, participants described public spaces for commerce, like the Farmer's Market, and cited many other Berkeley parks that draw diverse users and have diverse activities available.



← Workshop participants were also asked to select and rank images of civic activities in other cities that “most resonated with the group,” and describe the qualities depicted in the photographs as desirable or not. Top vote getters included images with green space, fountains, trees to hang out under, and trees with canopies for shade. Other top images showed people gathering in open spaces that are inclusive, with outdoor communal activities and performance. Images that depicted play, including kids entertainment, distinctive play equipment, and intergenerational activities, were also popular.

Workshop participants were also asked to send a postcard from Civic Center in 2030. The team collected over 30 postcards and 8-10 community members read their postcard aloud. Enshrined in the text of the cards, is a deep spirit of optimism, a sense of community, descriptions of opportunities to come together, appreciation of historic buildings, modern amenities, and space for gathering, celebrating, and reveling in the performing arts. →



← When asked to select and rank values that should be at the core of a future Civic Center, Inclusion and Gathering got the most votes, followed by Equity, Accessibility and Diversity.



← Finally, participants were asked to identify essential programs, uses, events, or features of a future Civic Center. The most responses were for Culture and Amenities, emphasizing a desire for performance spaces that can accommodate a variety of events (music, festivals, theater, and speakers) and improved amenities like restrooms, water fountains, and seating.

## 2.5

# Berkeley High School

With over 3,000 students enrolled, and the park at their doorstep, the Berkeley High School community is a key stakeholder of the Civic Center project. In February 2020 we took the opportunity to engage with two classes of Berkeley High juniors and seniors, where we facilitated design charrettes with a focus on the Park design concepts and the students' ideas for improving their everyday interaction and use with the public space closest to their school.

The project team introduced the students to Public Life and its importance, and heard from the students how they engage with the park, what was missing and what they liked and disliked. In groups, the students came up with design concepts and described features, spaces and amenities they would like to see in the park. Group design proposals included:

- **Fun! - An all-around playground**
- **Better with Food**
- **Social, Relaxing, Biophilic**
- **Homeless-Friendly Park & Community**
- **Lights, Ledges & Liquidity**
- **A Social Space Multigeneration Park**

### Popular ideas:

- Active areas for sports, skating
- Being allowed to sit on the ledge
- More seating (seats with tables, in the sun)
- Car free Allston Way
- Food Trucks during lunchtime
- Illumination of the trees
- Open other schoolgates between the School and the park
- Amphitheaters/ changes in elevation.

### What is missing at the Civic Center Park?

- Seating and tables, outdoor furniture, places to sit in the sun (that's not wet grass)
- Seating for groups
- Water (drinking fountains, visual features), a working fountain
- School garden (gardening project)
- Cross walkway, bigger pedestrian area
- Activities, such as: basketball, rock climbing, Farmers Market, flea market, book fair.

### What do you dislike at the Civic Center Park?

- The toddler's playground (nobody is playing there, it seems unused)
- Riding a bike through Civic Center is complicated
- The open grass area in the center is not very popular – it's wet most of the time
- The Ford bikesharing system is rarely used by school kids – takes too much space and blocks passage into the park from the main gate
- Shady fountain area.



↑ Project Opening & What is Public Life discussion



↑ Groups working on their design concepts



↑ Students describing their Park design ideas



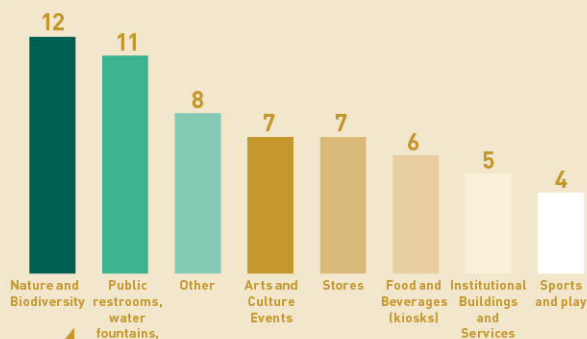
## Outreach and engagement

# Berkeley High School Questionnaire and Survey Results

Following the Civic Center designed charrettes with Berkeley High School we asked the students to complete a survey. Their answers helped us assess the students' sentiment about the park and the Civic Center area in general, as well as gain a better understanding of how students use the park today and what they would envision a transformed Civic Center might include. We collected 40 responses. A transcript of the engagement can be found in the Appendix.

## What transformations would you like to see happen at Civic Center?

### Highest priority



Nature was top on the students' list

Closely followed by park amenities

## Overview of students' responses

### Favorite things about Civic Center

- The ledge
- The grass
- The skate park

### Least favorite thing about Civic Center

- There's a lot of trash
- It smells
- It's dark around the fountain

### Words that describe Civic Center

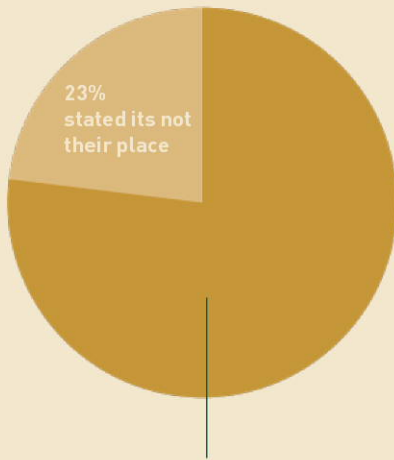
- Green, grassy, sunny
- Shady, dirty, unused
- Berkeley, social, open

### What would make you go there more often?

- More events, craftspeople, food
- More seating, less mud
- Less homeless people
- More skate ledges
- Cleaner spaces
- A working restroom
- Barbecue grills

## Survey findings

### Is Civic Center your place?



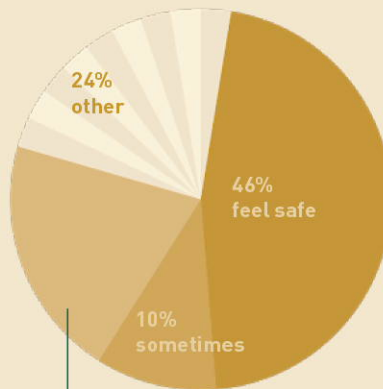
**77% told us Civic Center is *their place***

“

I don't really identify with it at all or choose to go there other than to eat lunch.”

I don't have any particular affinity to the space.”

### Do you feel safe?



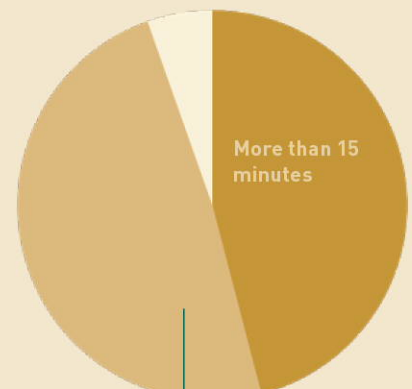
**20% of students said they feel unsafe at Civic Center Park**

“

I can see why others find the environment unsafe. The park tends to have homeless or drug-addict populations.”

Because it's not well lit.”

### How long do you typically spend at Civic Center Park?



**Less than 15 minutes**

“

I would go there if other people went there. In other words, if it was a commonly enjoyed area, a meeting place.”

All quotes from Berkeley High School students

## Outreach and engagement

## 2.6

# Farmers Market Pop-up

On Saturday March 7th, 2020 members of the project team went out to meet the community at the Farmers Market. Displays were set up and shoppers stopped by for conversation about what they would like to see in Civic Center. We asked people to write down their ideas on postcards and distributed flyers announcing a future design workshop and the project website.

Overall, we collected 26 comments written down on postcards with ideas ranging from cafes along the park, to space for forest school activities, improved lighting, movie nights, better bike storage. These ideas have informed the conceptual design of the landscape and public realm options. Please refer to the Appendix for a transcript of the community ideas collected at the Farmers Market Pop Up.

Many thanks to the Ecology Center who facilitated a table, shelter and a great spot, right opposite the Veterans Memorial Building.



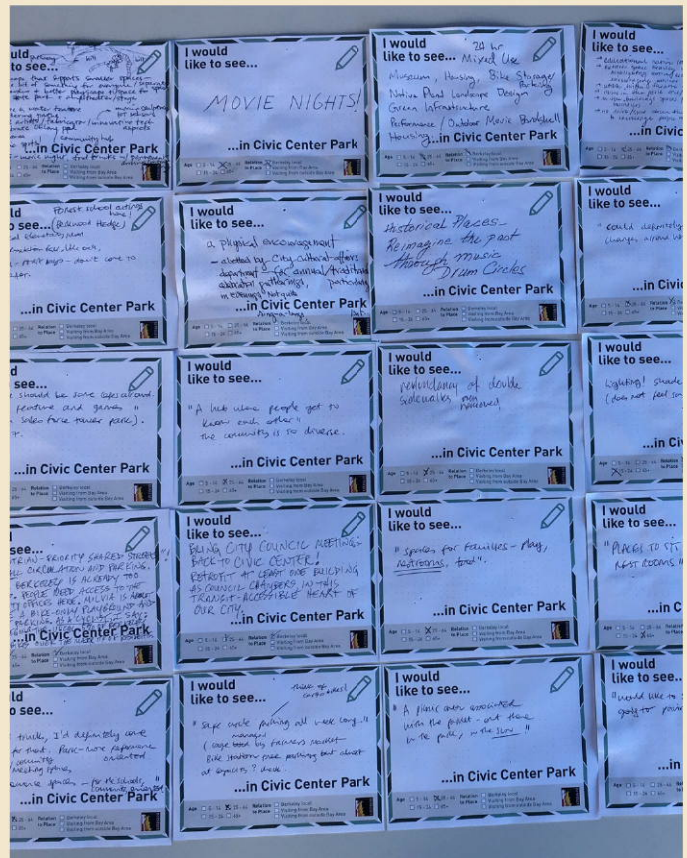
↑ Community Feedback Cards



↑ Farmers Market Pop-up



↑ Pop-up boards



↑ A record of community ideas

## 2.7

# Building Tours

On two stages of the Vision project —at project inception, in September 2019 and in March 2020, when the Vision Statement had already been presented to City Council — the City and design team organized Building Tours open to the public. This was a great opportunity for the community to see inside these great buildings, assess their current state and imagine their future.

The first tour took place at the start of the project, and members of the Technical Advisory Committee composed of city staff, members of the Berkeley Historical Society, Commissioners from the T1 Bond Subcommittee (Public Works and Parks) as well as Landmarks and Civic Art groups joined this tour, where we were able to visit all accessible spaces in the Veterans Memorial Building and the Maudelle Shirek building. This was also an important moment for the design team to see the buildings inside for the first time and ask questions to members of the Landmarks commission and City staff.

The second day of public tours took place on Saturday, March 7th, 2020, and two tours at different times of the day were offered. Members of the community were able to see inside the Veterans Building and Old City Hall. Concurrently with the tours, the project vision statement, urban design concepts and design ideas were set up on boards at the Farmers Market for community input.

Approximately 30 people attended both the September and March tours. Many thanks to the Berkeley Historical Society who advertised the tours, opened up the whole building and acted as co-guides — answering many questions, and setting up relevant materials from part of their extensive archive.



↑ The first tour on September 9th, 2019



↑ One of the Veterans Memorial Building tours on March 7th, 2020

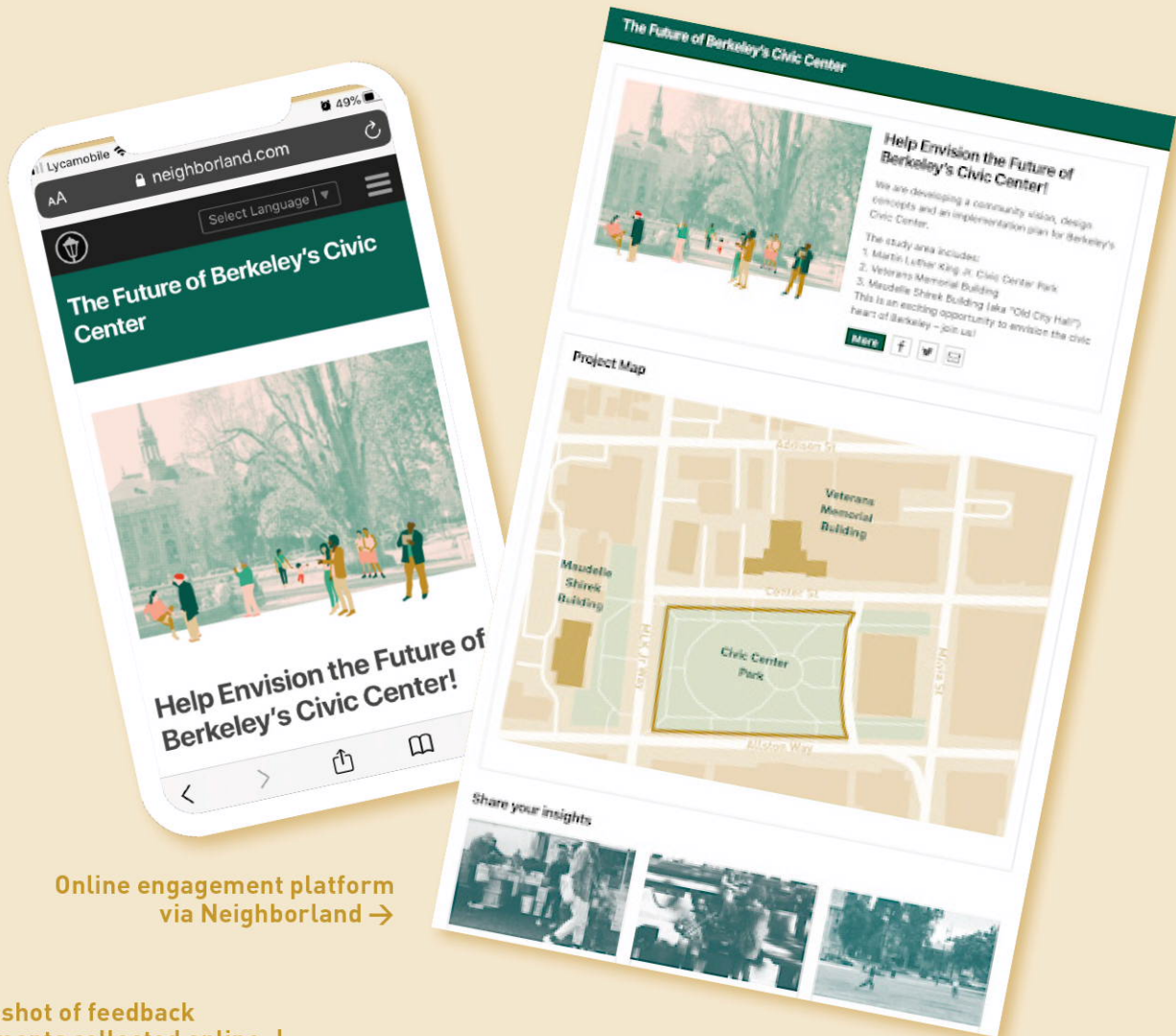
## 2.8

# Online Engagement

With help from digital engagement specialists Neighborland, a project website was set up in early February 2020. The first iteration of the website included project information, scope and timeline, as well as an overview of community events and project milestones. It also included invitations for people to tell us what works well today at Civic Center, to map their favorite parks and community places, and to share ideas of what they would like to see.

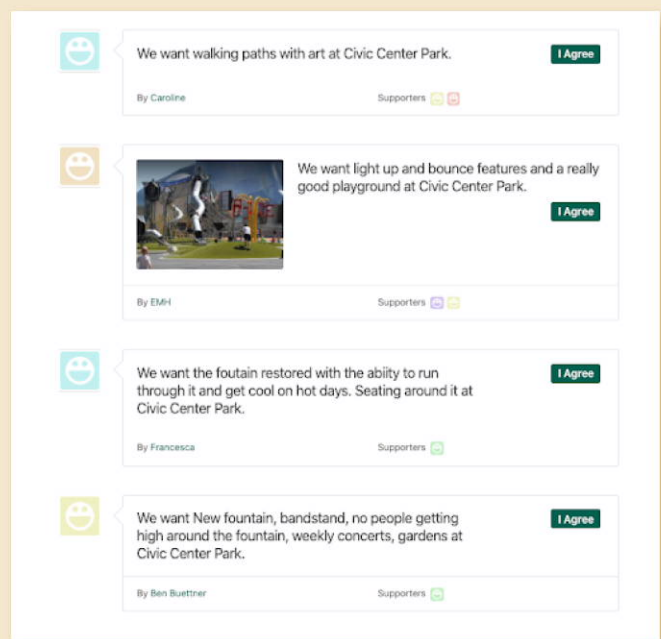
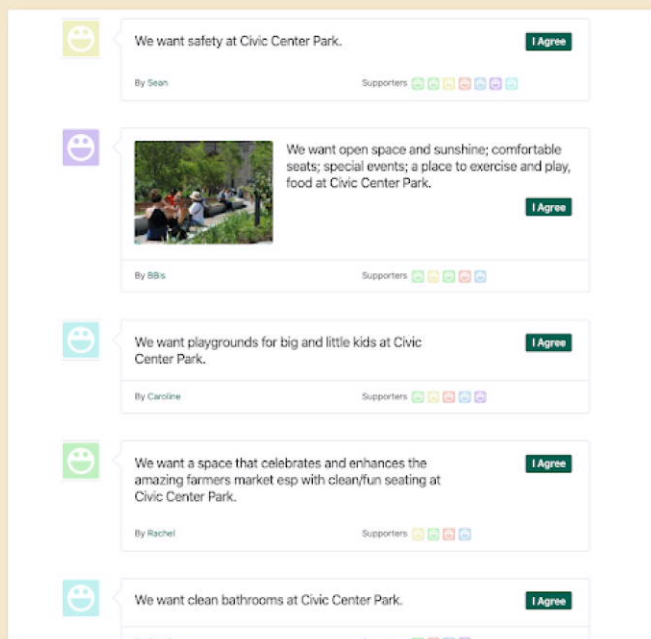
The second iteration of the online engagement, that went live on March 22, 2020, included the Vision Statement, the ‘big design moves’ germane to all the design options and a description of the three emerging conceptual design options. Our last community workshop was canceled due to the COVID-19 pandemic emergency, so the website became a key communication tool. Videos — where the project team explains the design process and goes through various design elements, program distribution and the conceptual options — were quickly added.

*For an overview of the community opinions collected online please refer to the end of Chapter 5; in the Appendix you will find the full report on the online engagement.*



Online engagement platform via Neighborland →

Snapshot of feedback comments collected online ↓





## Outreach and engagement

## 2.9

# Engagement Overview

## At-a-glance

Our goal has been to reach to a broad representation of the community — to hear many voices, and diverse opinions — and we're proud to have achieved it! In a spirit of creative collaboration, we have listened and engaged with a variety of stakeholders in varied forms.

Over the last seven months, through workshops, events, design charrettes and comments that got to us via email and the project website\*, we've engaged with over 600 individual community members.

\*Project website views: 2,395 unique users, reported by Google Analytics.






The Future of Berkeley's Civic Center

**Help Envision the Future of Berkeley's Civic Center!**

We are developing a community vision, design concepts and an implementation plan for Berkeley's Civic Center. The study area includes:

1. Martin Luther King Jr. Civic Center Park
2. Veterans Memorial Building
3. Maudelle Shirek Building (aka "Old City Hall")

This is an exciting opportunity to envision the civic heart of Berkeley — join us!

More   

Project Map

387 Contributors on the project website February - April 2020



2 Two Community Site Tours, in September and February 2020

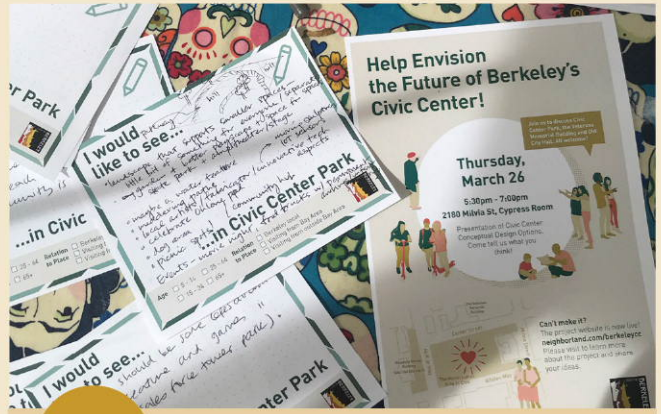


3 Commissions Meetings  
Parks & Waterfront, Public Works, Landmarks and Civic Arts – Sept and Nov 2019, and March 2020



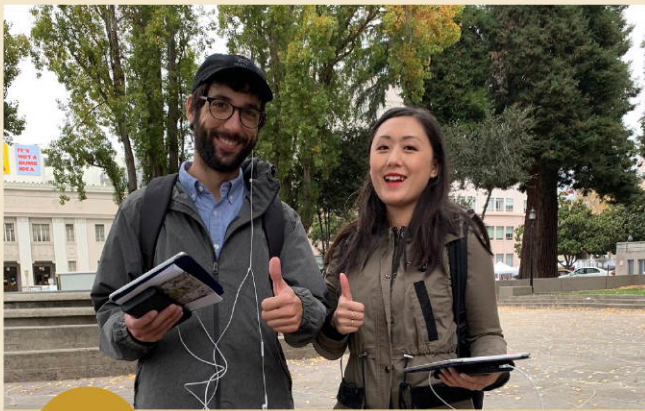
40

Community members participated in the Vision and Values workshop



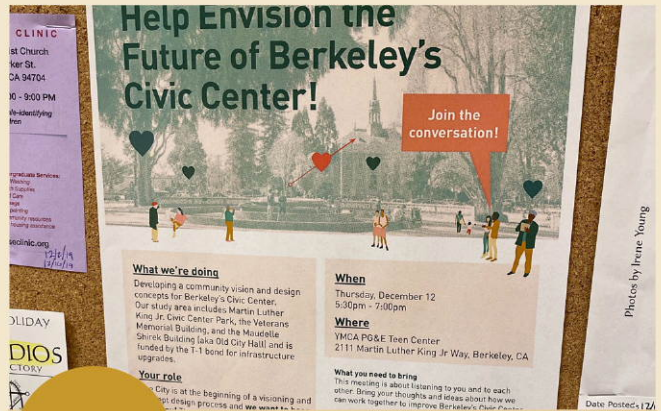
26

Ideas on postcards collected during a Pop Up at the Farmers Market



21

Community Volunteers took part in the Public Space Public Life Survey



300+

Flyers distributed in and around Berkeley



27

Focused engagement sessions, where we spoke to more than 40 stakeholders



50

Berkeley High School students took part in Design Charrettes



# Vision

## 3.1 Vision Statement

# Crafting a Shared Vision

A shared vision is only achieved through inclusive participation and engagement with the community — the people who know Berkeley’s Civic Center well, who will rally to make it better, and who will enjoy it for generations to come.

As described in the previous chapter, the Berkeley community has been incredibly interested and participative — engaged with the big picture and the detailed thinking. By listening to stakeholders, drawing with Berkeley High School students, chatting with farmers market shoppers and reading hundreds of online comments, we invited the community to be part of the creative process.

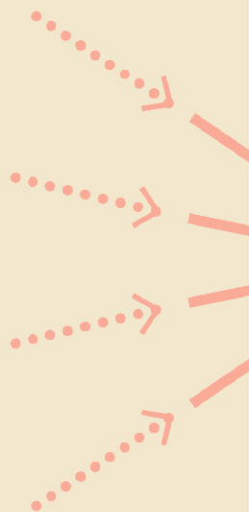
Setting a project Vision that is aspirational and reflects what the community values is the first step in setting a clear and collective purpose. The vision statement, described in this chapter, is the project’s north star — what we go back to as we iterate on design scenarios, and what keeps us all aligned, clear and motivated to take this project to implementation.

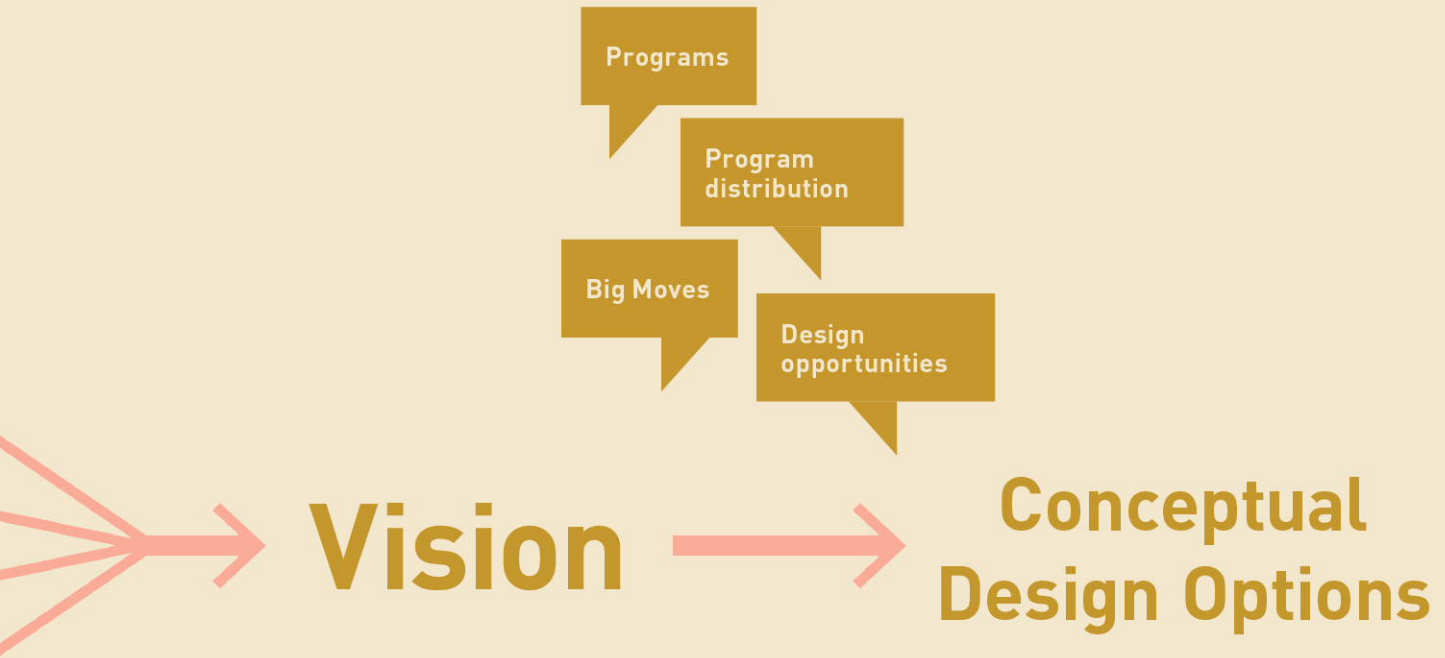
**Public Space,  
Public Life Survey**

**Historic Structures  
Research**

**Community &  
Stakeholder  
Engagement**

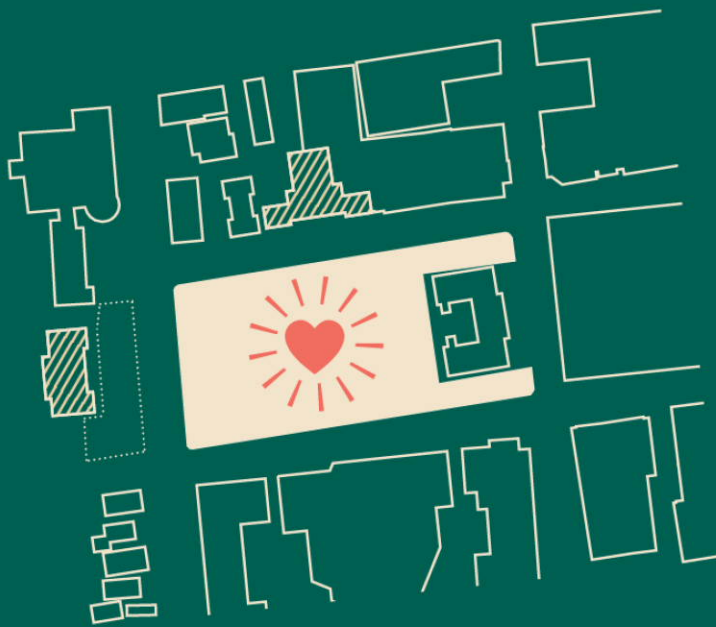
**Policy Research**





### 3.1

# A Vision for Berkeley's Civic Center



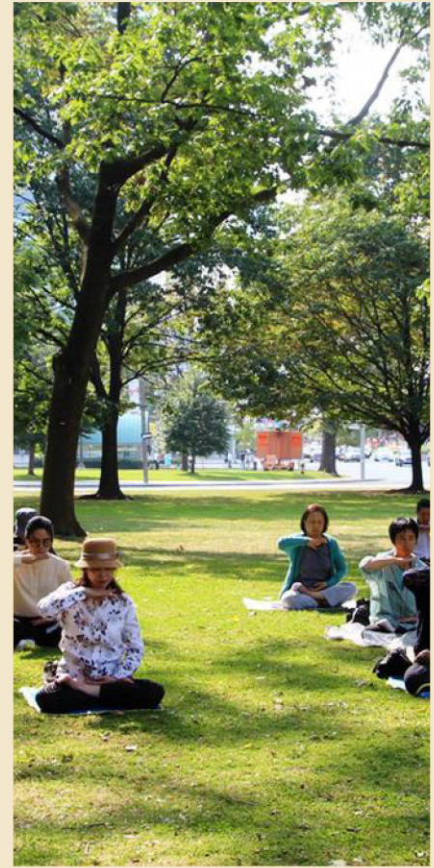
**Civic Center will be the heart of Berkeley's community. Civic Center will be the prime space for civic life, culture, and the arts. It will reflect the city's diverse identities, celebrating its history, and contributing to shaping its future. A place of shared resources and a platform for free expression accessible to all, Civic Center aims to manifest the city's values, advance social justice, and demonstrate the power of true public space.**



## Vision Dimension **1**

# The heart of Berkeley's community

Civic Center will be an epicenter of Berkeley's public life— enlivened by activity day and night, and a preferred center stage for all important civic occasions. A place where all members of the community will have a chance to meet with one another, Civic Center will represent Berkeley's diversity and foster social cohesion.



## Vision Dimension **2**

# Prime space for civic life, culture and the arts

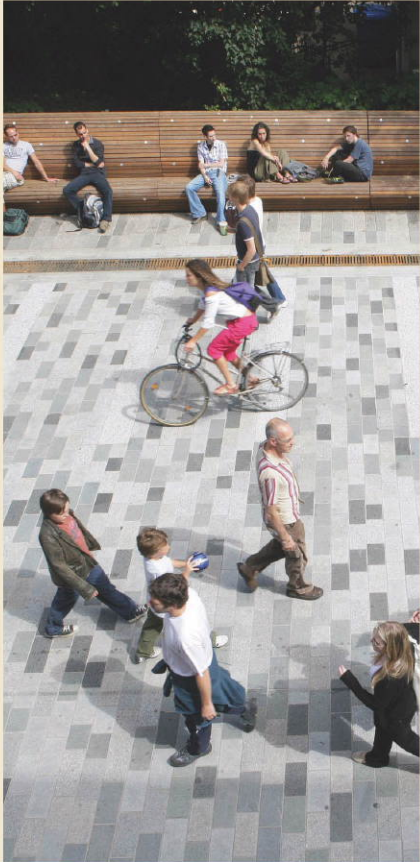
The Civic Center will concentrate some of Berkeley's most important civic functions, it will harness the pulse of Downtown activity on Shattuck Avenue and connect with the adjacent Arts District through new art and culture programming. Heritage will be preserved while shaping the city's future.



## Vision Dimension **3**

# Expression of the city's values

Civic Center will respect and build upon the area's natural systems, and demonstrate Berkeley's commitment to environmental sustainability in all aspects of its transformation — from the energy consumption of its buildings, to the mobility patterns it will encourage. A true commons, the Civic Center will be both a place of collective assets, readily accessible to all members of the community, and a platform for self-expression.





# Design Development

4.1 Design Opportunities

4.2 Programs Matrix

4.3 Big Moves



## 4.1

# Design Opportunities

Following the site analysis, public life study, historical research, and engagement, the design team started to identify high level design opportunities and concepts. Three ideas emerged as key project components:

## Berkeley's Cultural Hive

Civic Center is adjacent to the Arts District and Berkeley High School. The Veterans Memorial Building lends itself to a great mixed arts venue, with performance spaces and educational arts programs — a link between the High School, a major youth stakeholder, and the Arts District.

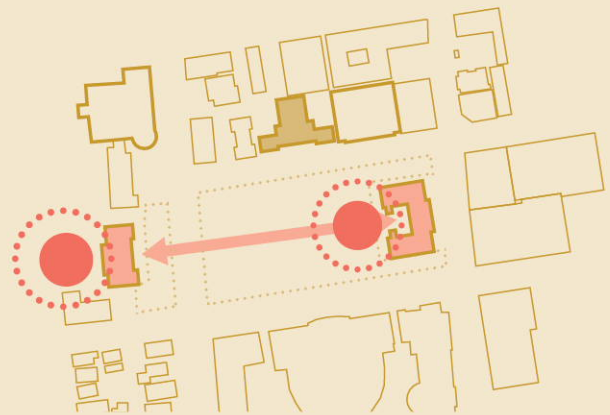
## The Berkeley Center

A hybrid museum/cultural/educational facility focusing on a constellation of local history, social justice, food... including the Berkeley Historical Society and spaces for community meetings and events.

## Council Chambers

A Civic Center needs a meeting place for the Council, but where is the best place for it? Extending Old City Hall could be a

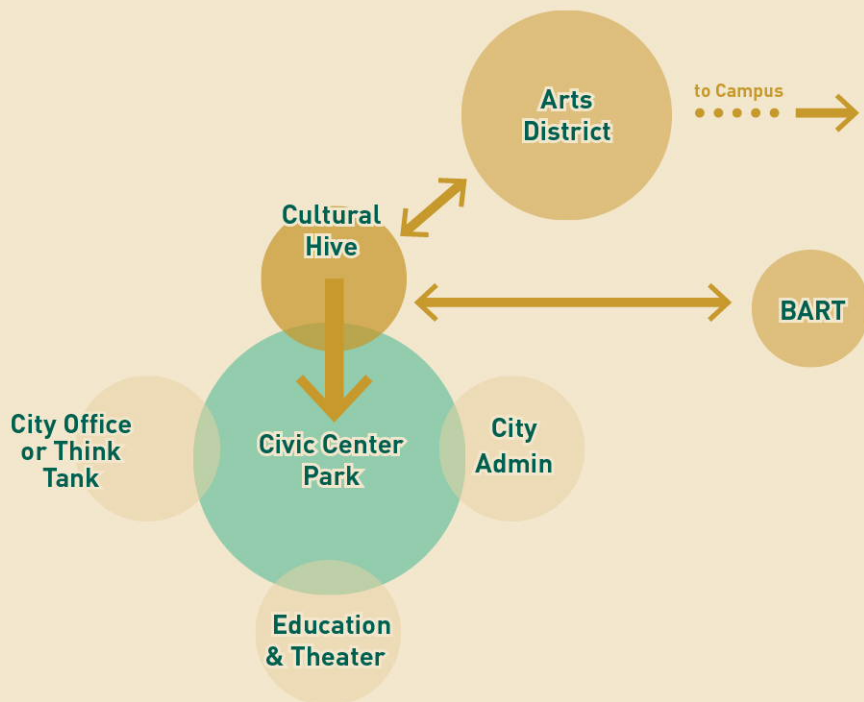
possibility, as could the west side of 2180 Milvia — providing a new front door on the park.



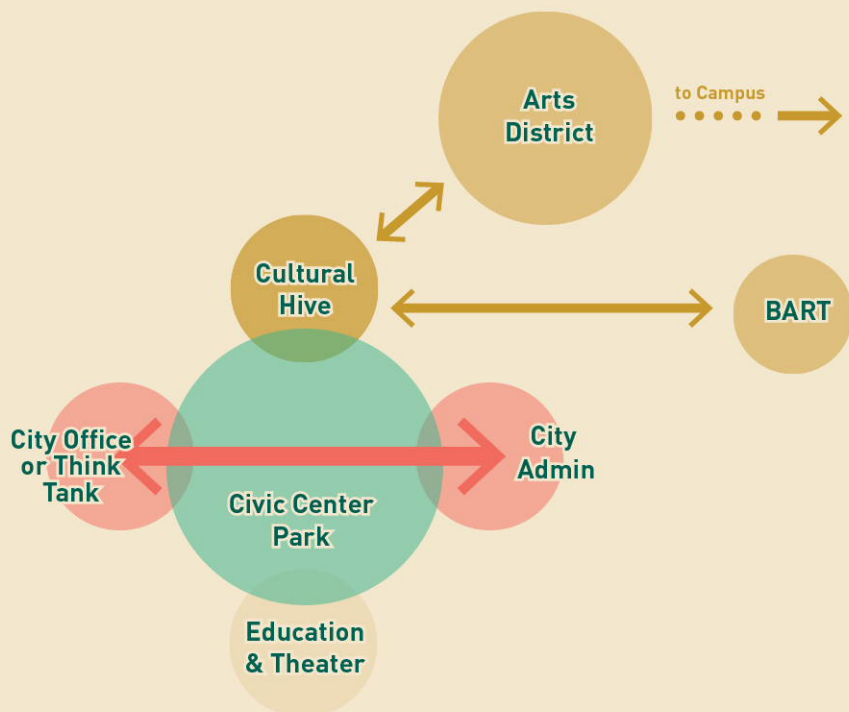
↑ An opportunity for Council Chambers to return to the heart of Berkeley's Civic Center

## Civic Center Park

Alongside a great suite of programs, the transformation of the Park and its surrounding streets will make the Civic Center the heart of the community and a great public space. A place of gathering, concerts, evening events, everyday lunch meeting, family picnics ... It will be flexible, green and lush.



↑An opportunity to transform the Veterans Memorial Building into Berkeley's Cultural Hive



↑An opportunity for Civic Center Park to be activated by a higher concentration of programs – from performing arts and cultural events, to a food venue and community gathering spaces

These initial ideas or design hunches' were presented at the January 14, 2020 City Council Worksession and were well received by council and the public present. The conceptual design options in Chapter 5 further build on these key concepts.

## 4.2

# Programs Matrix

Successful activation of Civic Center depends on the amount and mix of uses and programs in its buildings, and how much those programs help enliven the public realm. During our engagement process, many desired programs were identified, and overwhelmingly we heard about Arts and Culture as a great complement program to Civic functions. This is where the idea of a Cultural Hive in the Veterans Memorial Buildings started to take place. Flexible meeting spaces, for both government and community uses were widely mentioned. The lack of a large meeting hall, where Council meetings could take place became an important, (currently non-existing), program desire voiced by many. The need for better park amenities, such as restrooms, and a yearning for a friendlier, much improved public realm for pedestrians and cyclists came up as a key point in making Civic Center the place it deserves to be.

***Civic Center must be a place of great civic and cultural significance in Berkeley, nothing less than any of the great public spaces around the world.***

## EXISTING PROGRAMS

|                                 |                           |
|---------------------------------|---------------------------|
| The Berkeley Historical Society | Options Recovery Services |
| Farmers Market                  | Berkeley Community Media  |
| Veterans Meeting Space          | Emergency Shelter         |
| Dorothy Day House               | Park Restrooms            |

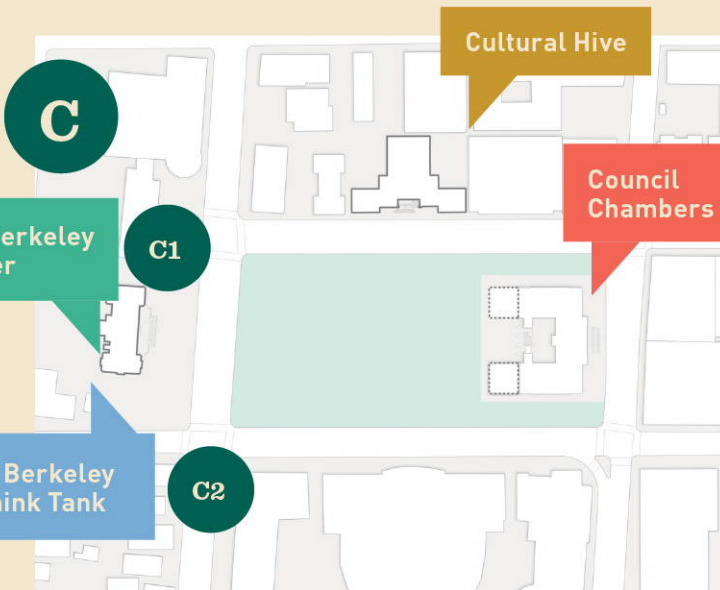
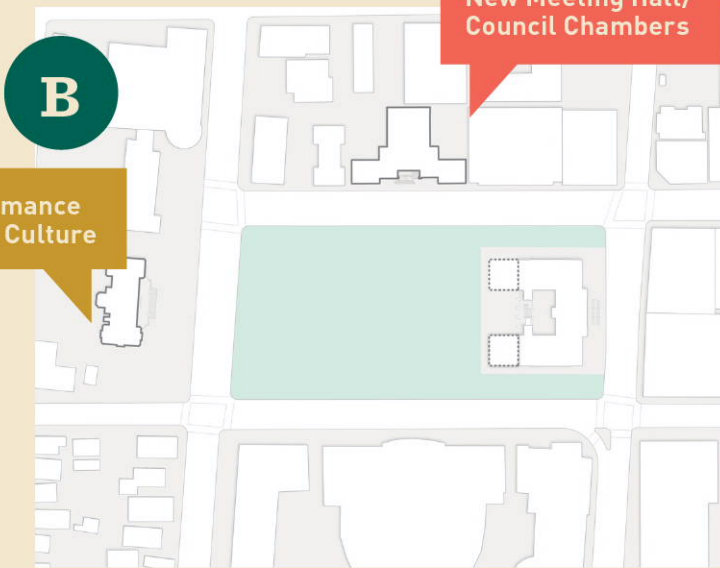
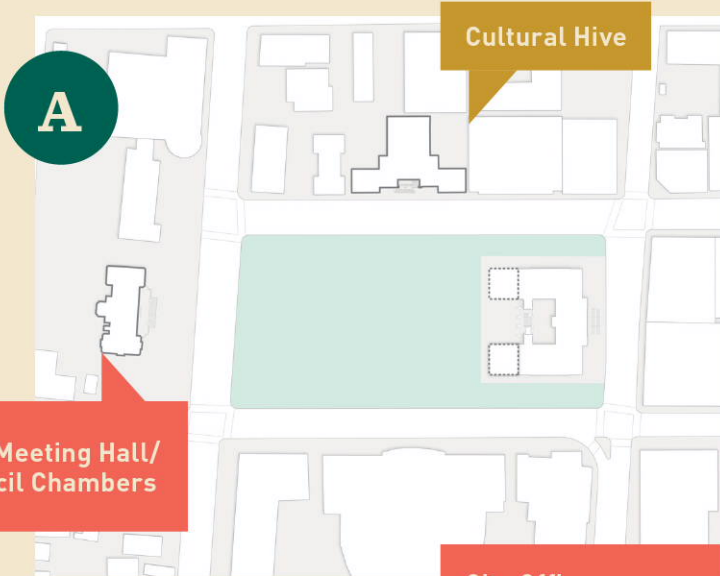
## ADDITIONAL DESIRED PROGRAMS

|                          |                           |
|--------------------------|---------------------------|
| ★ Berkeley Cultural Hive | ☆ Community Meeting Space |
| ★ City Council Chambers  | ☆ Food & Beverage         |
| Berkeley Think Tank      | Community Care            |
| Berkeley First Center    | Day Care                  |
| City Offices             | ☆ New Park Restrooms      |

★ Priority program

☆ Important program

*Identified during the engagement process*



**All options consider/ include:**

- Adaptive reuse of the historic buildings and the Park
- A large meeting hall with space for Council Chambers at Civic Center
- Activation of the west side of 2180 Milvia, removing parking and turning its current back into an active frontage toward the park
- Public realm improvements beyond the Park, to include Center St, Milvia Street, MLK Jr Way and key intersections.

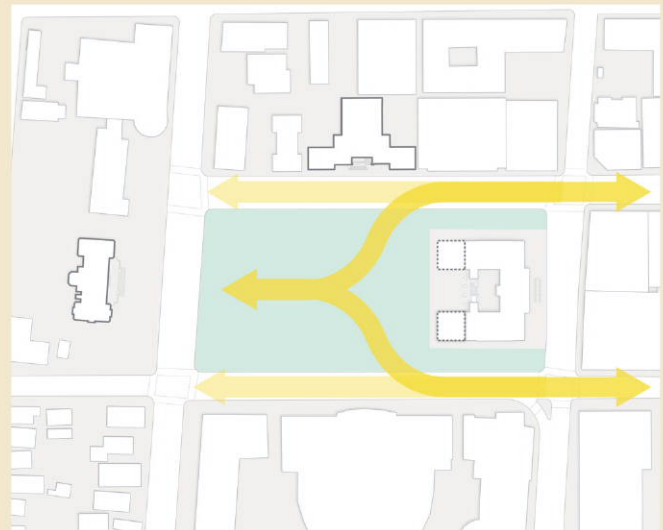
- Performance Arts & Culture
- The Berkeley Center
- Council Chambers
- Social Services
- Think Tank (incl. City Offices)

## 4.3

# Big Moves

### Spatializing the Vision

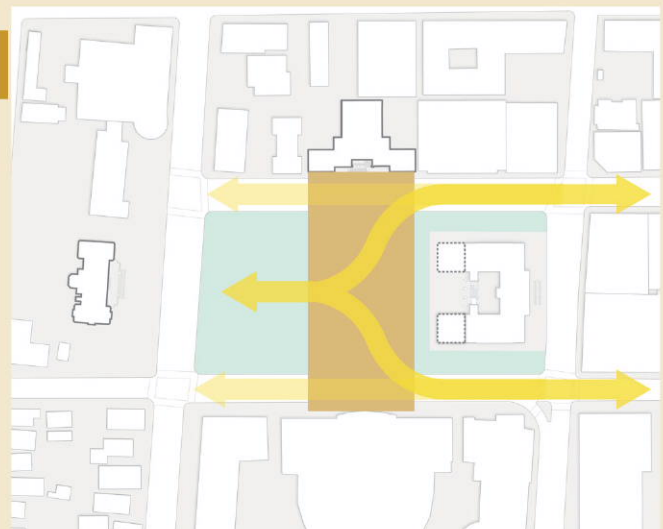
Stemming from the Vision statement, the Civic Center urban design concept can be summarized in seven big moves. These key spacial objectives anchor all the iteration and conceptual design options that follow.



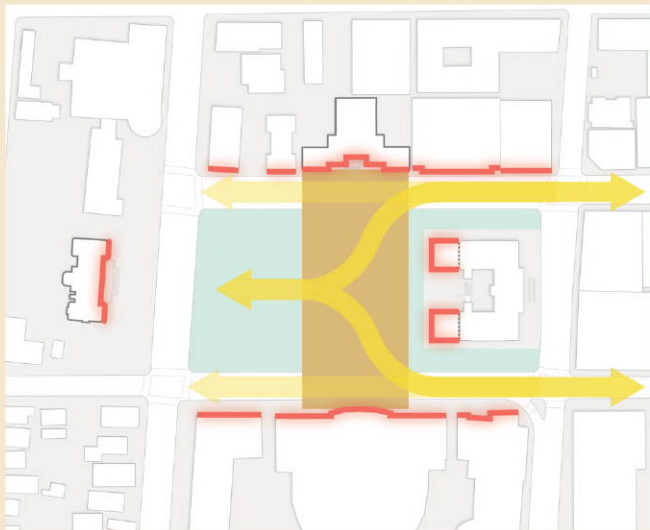
**2** Bring people here from Shattuck Ave and beyond.  
BART to Park!



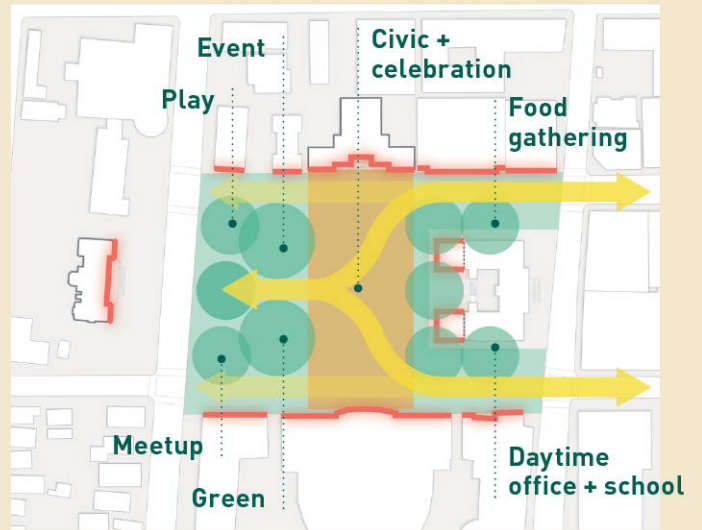
**1** Activate the space with a suite of programs  
More programs will bring more people and life to Civic Center!



**3** Create a dignified plaza at the terminus of a green Center St.  
A strong sense of arrival!



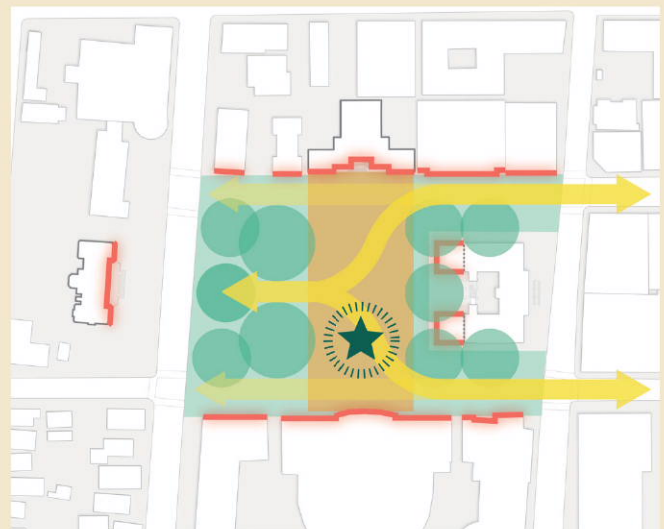
**4** Energize the space with all of the surrounding buildings.  
Face the park!



**6** Subdivide the park into human-scaled spaces.  
Right-size the room!



**5** Consider the park as a space from building edge to building edge.  
Wall to wall green carpeting!



**7** Create a draw.  
A distinct, regional attractor!



# Conceptual Design Options

**5.1 Options Overview**

**5.2 Option A**

**5.3 Option B**

**5.4 Option C**

**5.5 Landscape and Public Realm**

**5.6 City and Commission Subcommittee Engagement**

**5.7 Community Feedback – Website**

**5.8 Design Options Appraisal**

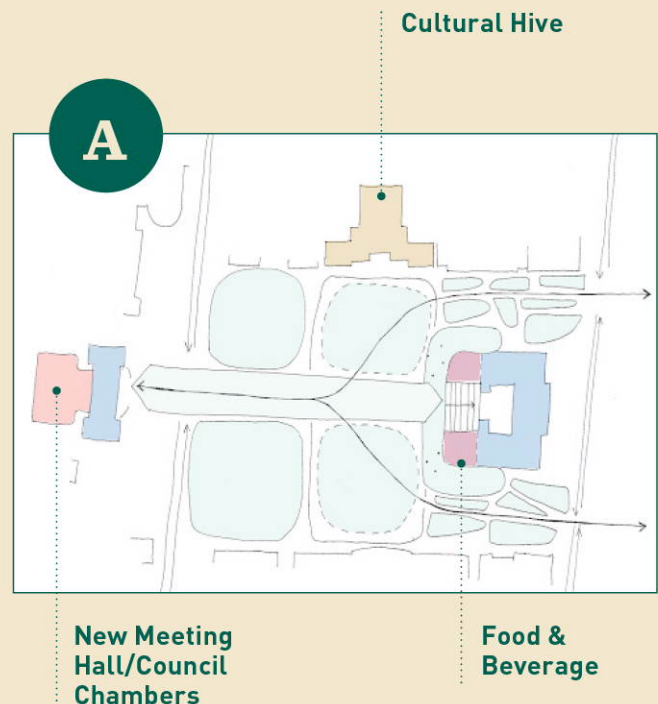


## 5.1

# Overview of Options Considered

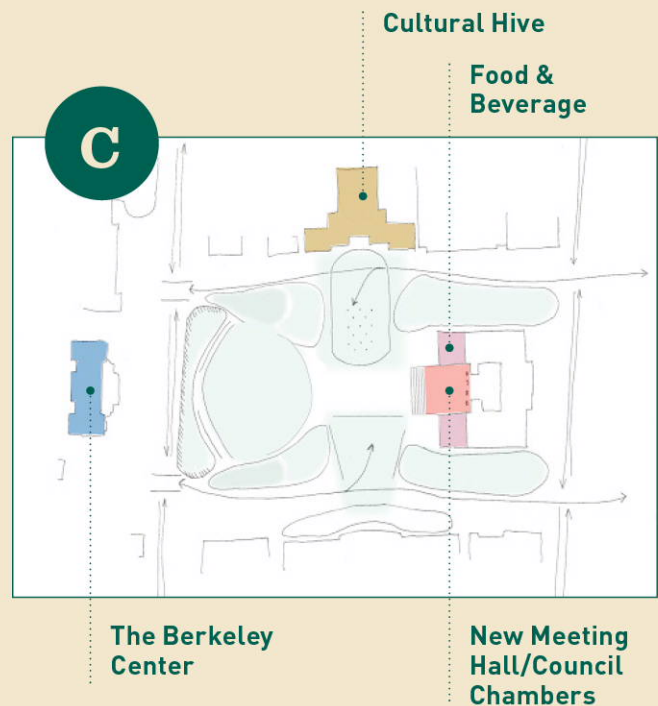
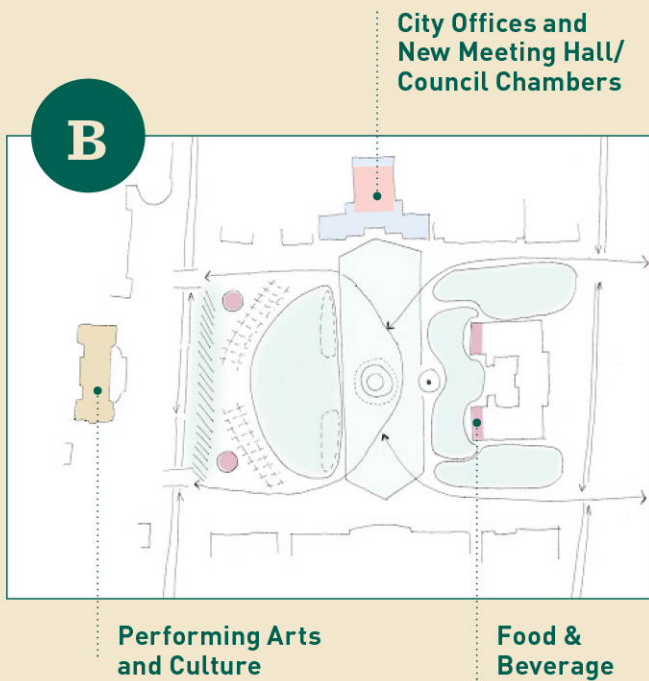
In this chapter we describe three conceptual design options for the park and the two buildings considered in our scope of work. Based on the findings from the site analysis, the historic structures studies and the engagement process, the different options describe three future scenarios for the transformation of Civic Center. Each option considers building programs, how programs are distributed, and a conceptual street design and landscape vision. Case studies and image references are used to help paint a picture of three possible futures for Civic Center.

These options were presented to the Technical Advisory Committee, to the project Sub Committee group and the community for their input; you will find a summary of their feedback at the end of this chapter. In Chapter 7 you will find our recommendations and the proposed Civic Center Vision.



## Design Option A

Old City Hall is restored for use as a new City Hall with council chambers, the Veterans Memorial Building is converted into a “Cultural Hive” and the existing restrooms and storage spaces on the west side of 2180 Milvia are replaced with larger additions for food and beverage services.



**Design Option B**

Old City Hall is renovated as a Performing Arts & Culture Center, the Veterans Memorial Building houses a meeting hall for council and other public entities, select city offices and uses. Storage spaces on the west side of 2180 Milvia are converted into food and beverage kiosks.

**Design Option C**

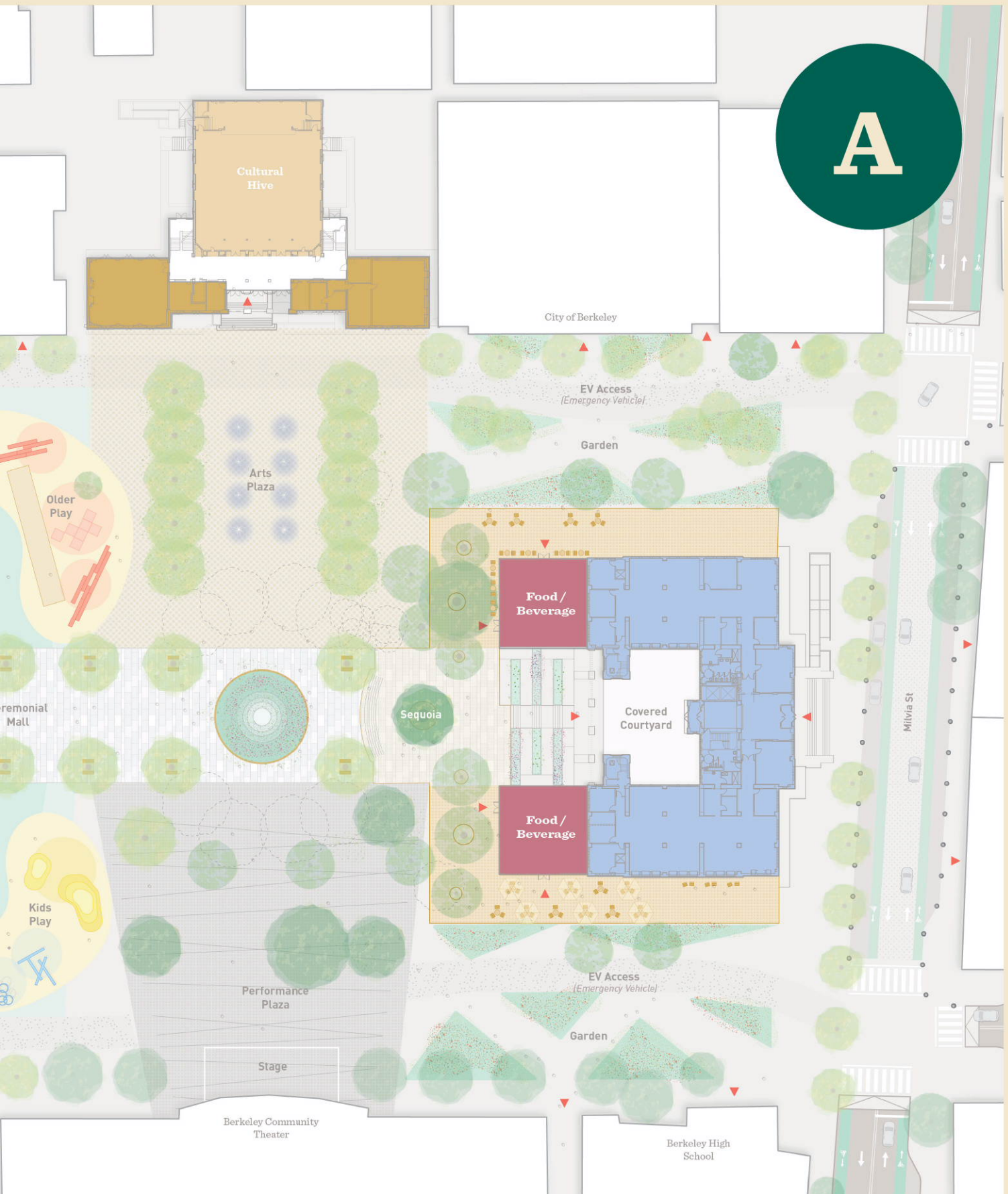
Old City Hall is renovated as ‘The Berkeley Center,’ housing the historical society, a bookstore, and exhibit halls. Alternatively Old City Hall is renovated and rented to a small institution or a Think Tank. The Veterans Memorial Building is, as in Option A, transformed into a Cultural Hive. 2180 Milvia is expanded to house a new meeting chamber – for council and other public entities.

### Conceptual Design Options

#### Option A

A gracious ceremonial plaza acts as the defining feature of the park, and links government and community meeting spaces and Council Chambers, at the Maudelle Shirek Building, to an activated porch at 2180 Milvia. Beyond the plaza, human-scaled 'outdoor rooms' provide invitations for play, people-watching, and engaging with the new Berkeley Cultural Hive (home to performance & rehearsal spaces) within the historic Veterans Memorial Building.





## A Design Option

# Old City Hall: City Offices & New Council Chambers

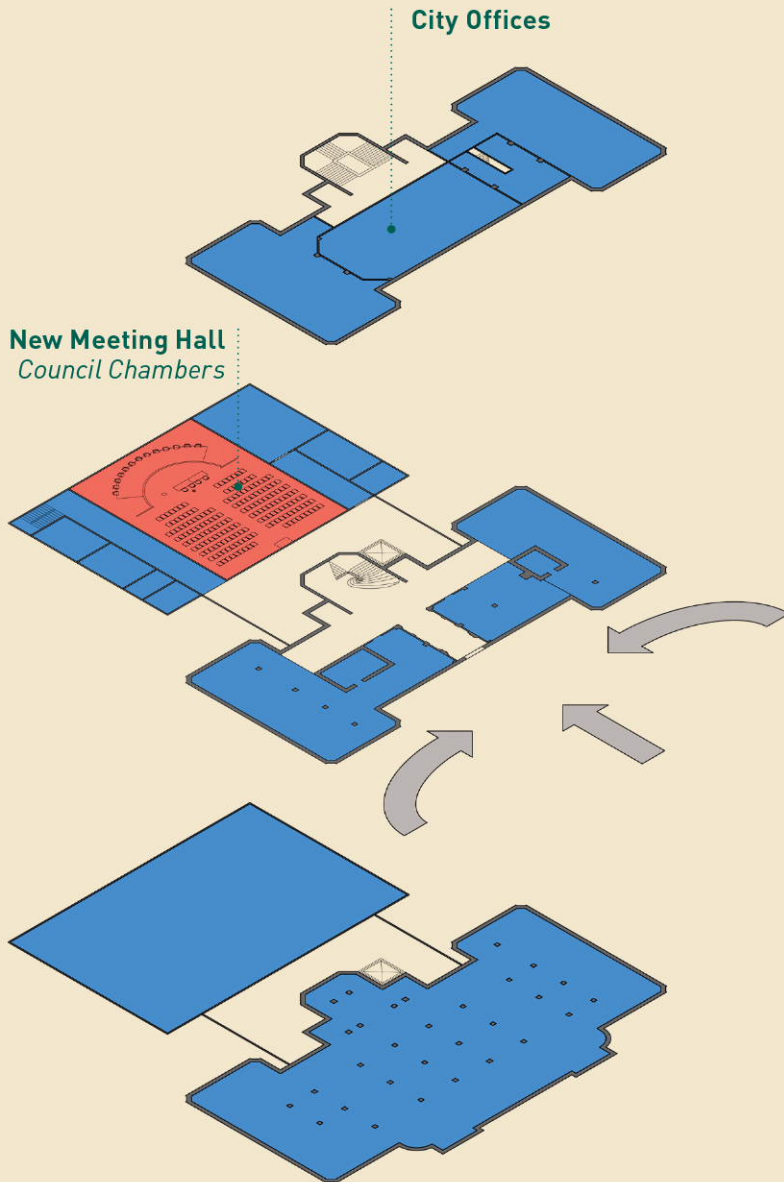
**Old City Hall** is restored for use as a new City Hall, housing select city offices, meeting rooms and support spaces on the main and upper floors. An addition west of City Hall houses a new meeting hall - for council and other public entities - which is directly accessible from the main floor. The lower floors (or ground levels) of both the existing building and new addition house additional meeting, support spaces and storage.



↑ Children's Museum, Pittsburgh PA



↑ Daniels Building at University of Toronto, Canada



**2nd Floor:**

---

**Offices**

**1st Floor: New Accessible Entry**

---

**Offices  
Council Chambers  
Auxiliary Spaces**

**Ground Floor:**

---

**Berkeley Community Media  
Offices  
Meeting Rooms**

- City Offices
- Council Chambers

## Old City Hall

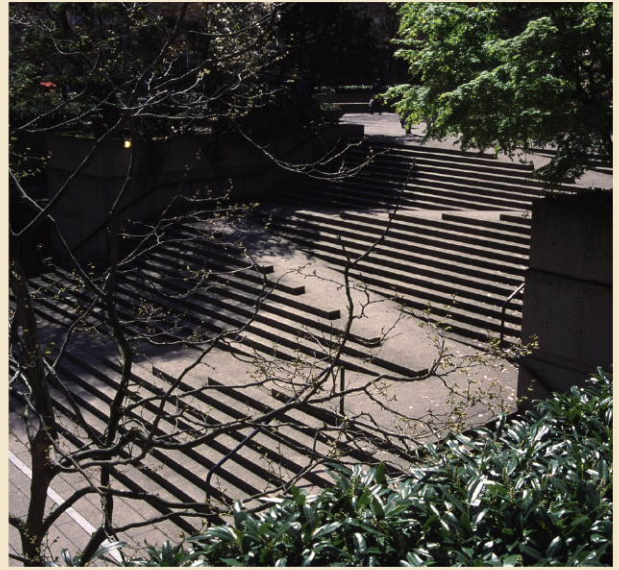
# Designing for Universal Access

City Hall's main entrance should be upgraded to accommodate universal access so that everyone may enter through the same front door. Sloped walkways provide access to the existing

entry terrace and symmetrical ramps would bring everyone to a single main entry. This approach could be implemented whatever the future use of City Hall.

Sketch of City Hall new universal access entrance ↓





↑ Universal design access stairs and ramps →



## A Design Option

# Veterans Memorial Building: Performing Arts & Culture

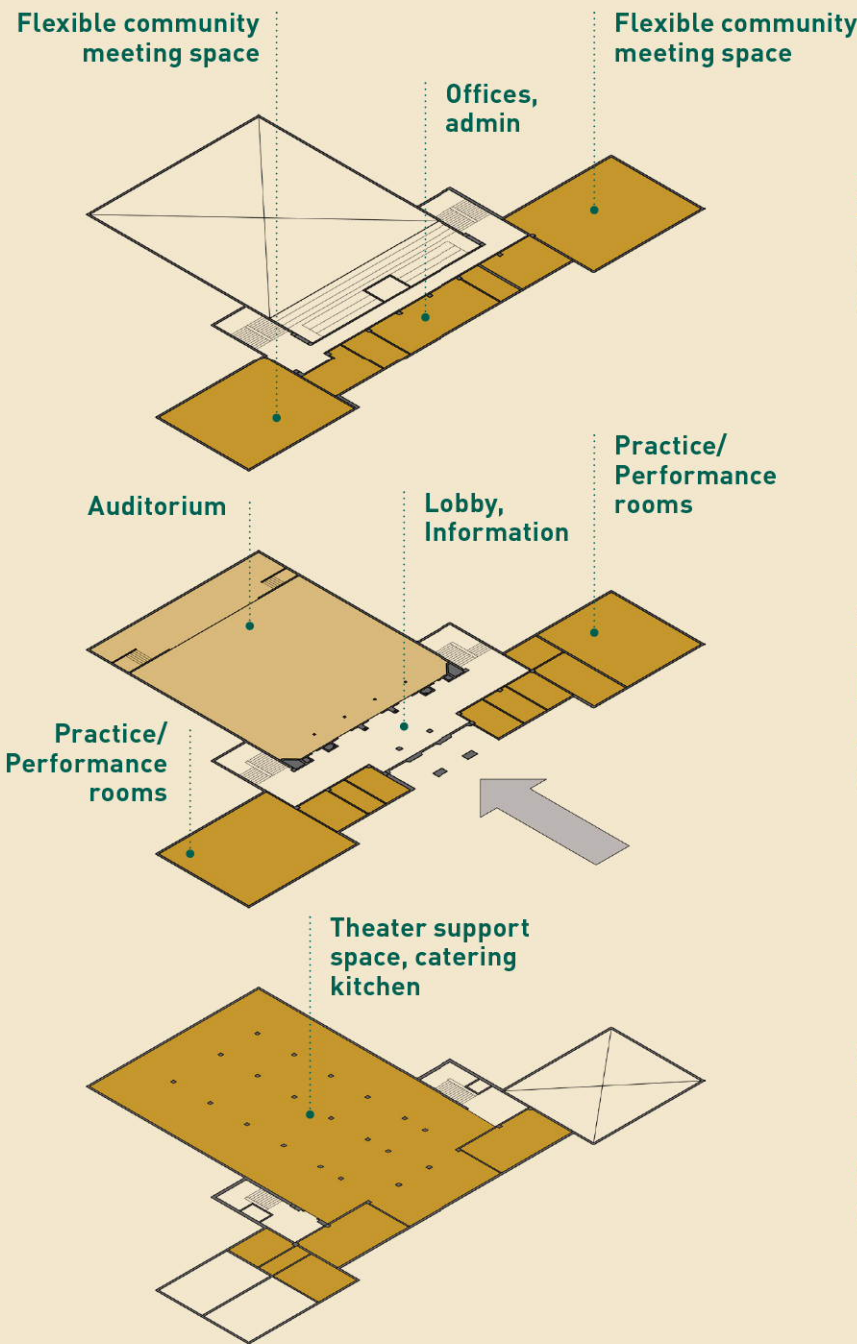
**Veterans Memorial Building** is converted into a Center for the Performing Arts & Culture (or Cultural Hive) with the auditorium and stage as the main performance venue and the sizable corner rooms as practice spaces and small performance venues. The lower level houses administration and support spaces, storage, and other program needs. A new public space could be added above the auditorium with a south-facing rooftop patio overlooking Civic Center Park.



↑ East Bay Performing Arts Center, Richmond



↑ Malonga Casquelourd Center for the Arts, Oakland



**2nd Floor:**

**Offices/Administration  
Classrooms**

**1st Floor:**

**Lobby/Information  
Auditorium  
Classrooms**

**Ground Floor:**

**Theater Support Space  
Storage  
Catering Kitchen**

- Performing Arts
- Auditorium / Performance Space

## Veterans Memorial Building

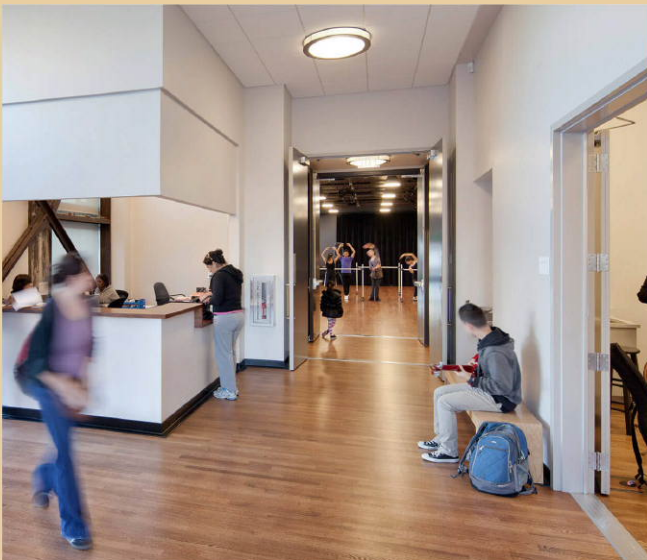
# Learning from other Arts & Culture Centers

### Malonga Casquelourd Center for the Arts, Oakland

The Malonga Casquelourd Center for the Arts is a “multicultural, multidisciplinary performing-arts complex” sponsored by the city of Oakland. The Malonga Center is housed in a rehabilitated turn-of-the-century building. The center offers a variety of arts programs and dance classes, as well as has rentable spaces for arts events and activities.

The Malonga Casquelourd Center is particularly relevant as a case study as its core intent of providing both “physical and education activities, as well as cultural awareness and enrichment” aligns with the values of the community of Berkeley as a whole.





## East Bay Performing Arts Center, Richmond

The East Bay Center for Performing Arts, located in Richmond, California, is both a center for performance arts and also a 501(c)(3) charitable organization of the same name. It serves, “youth and young adults in imagining and creating... world performance traditions.” The Center is located in a historic building; the Winters Building was constructed in 1923 as a two-part building with commercial use on the ground level and a ballroom-theater above. The Center is primarily supported through donor contributions.

This Center serves as a particularly relevant case study for the Cultural Hive as both a model for the type of organization that might innovate and fund a cultural center, but also fits the visions many Berkeley citizens expressed for the intersection of education and arts which are both very present and active in the Berkeley Civic Center neighborhood.

## **A** Design Option *Alternative*

# Veterans Memorial Building: Performing Arts & Culture

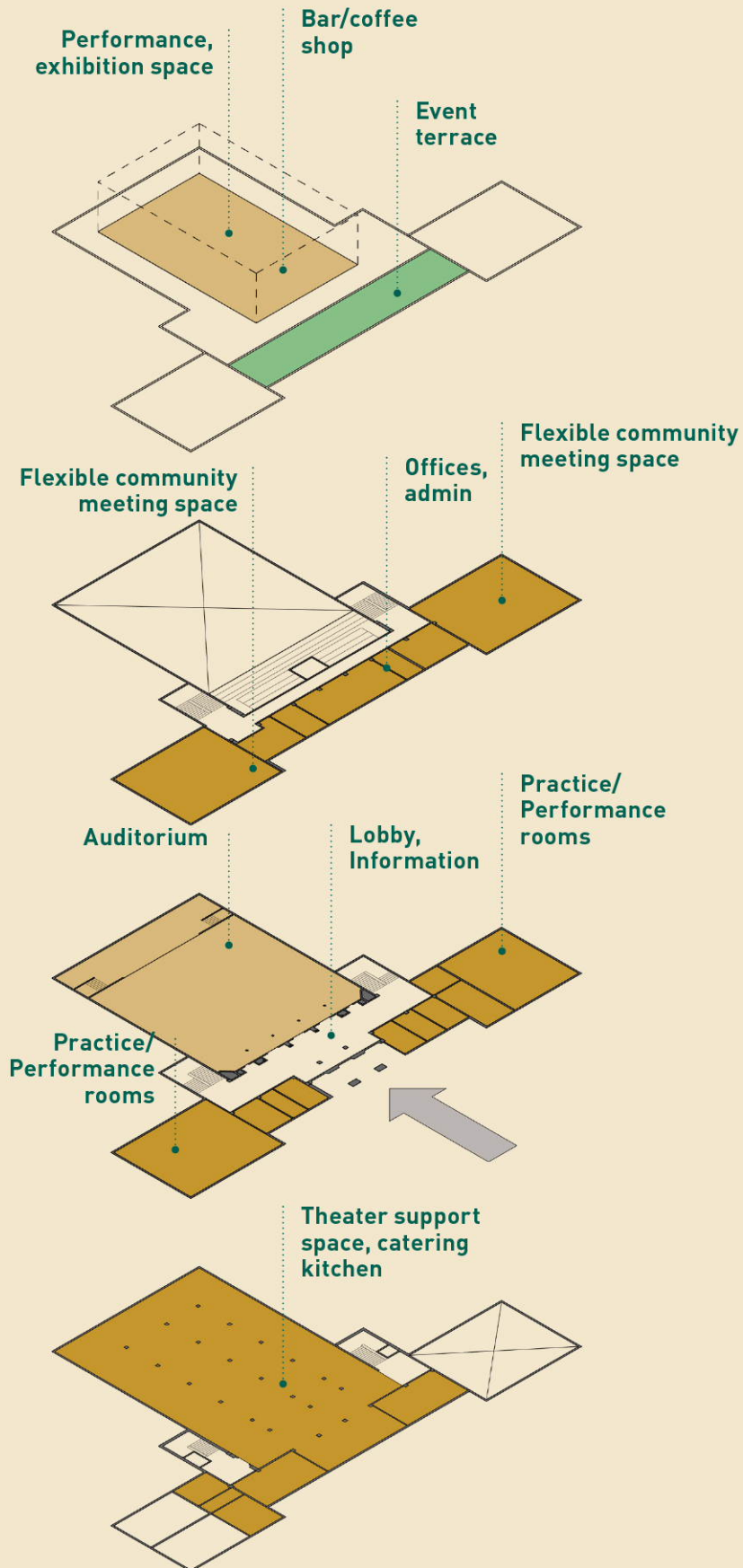
**Veterans Memorial Building** is converted into a Center for the Performing Arts & Culture (or Cultural Hive) with the auditorium and stage as the main performance venue and the sizable corner rooms as practice spaces and small performance venues. The lower level houses administration and support spaces, storage, and other program needs. A new public space could be added above the auditorium with a south-facing rooftop patio overlooking Civic Center Park.



↑ Island in the Sky, Studio Gang, Chicago



↑ Island in the Sky, Studio Gang, Chicago



## Rooftop Addition

### Performance Space Event Venue & Deck

- Performing Arts
- Auditorium / Performance Space
- Green Space / Outdoor Deck

## A Design Option

# 2180 Milvia: Park Additions & Universal Access

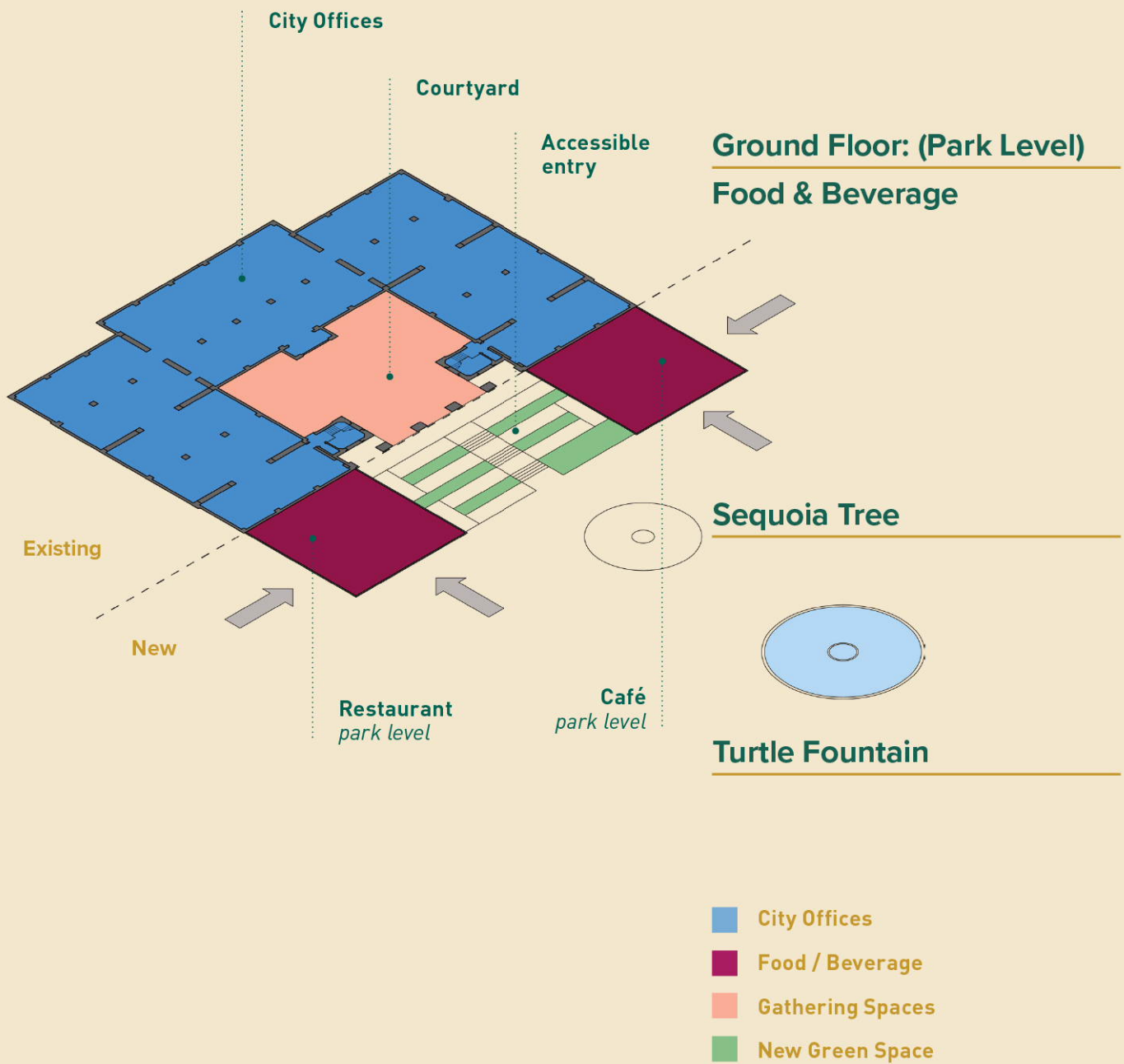
As a way to promote activities on the east end of Civic Center Park, the existing restrooms and storage spaces on the west side of **2180 Milvia** are replaced with larger additions for food and beverage service, new restrooms with access right at grade. A new sloped walkway links the Park and the 2180 Milvia courtyard, which could be covered to create a lobby and reception hall.



↑ St Johns Library, Winnipeg, Canada



↑ Palega Recreation Center, San Francisco





Conceptual Design Options

**Option B**

Anchored by the presence of Council Chambers in the Veterans Memorial Building, the park is defined by a central ceremonial plaza and a performance green. A pavilion structure celebrates the presence of the Berkeley's Farmers Market and invites for temporary, and semi-permanent, outdoor market space. The Maudelle Shirek Building is reconceived as a Performing Arts space, supporting arts and culture within Berkeley Civic Center.





## **B** Design Option

# Old City Hall: Performing Arts & Culture

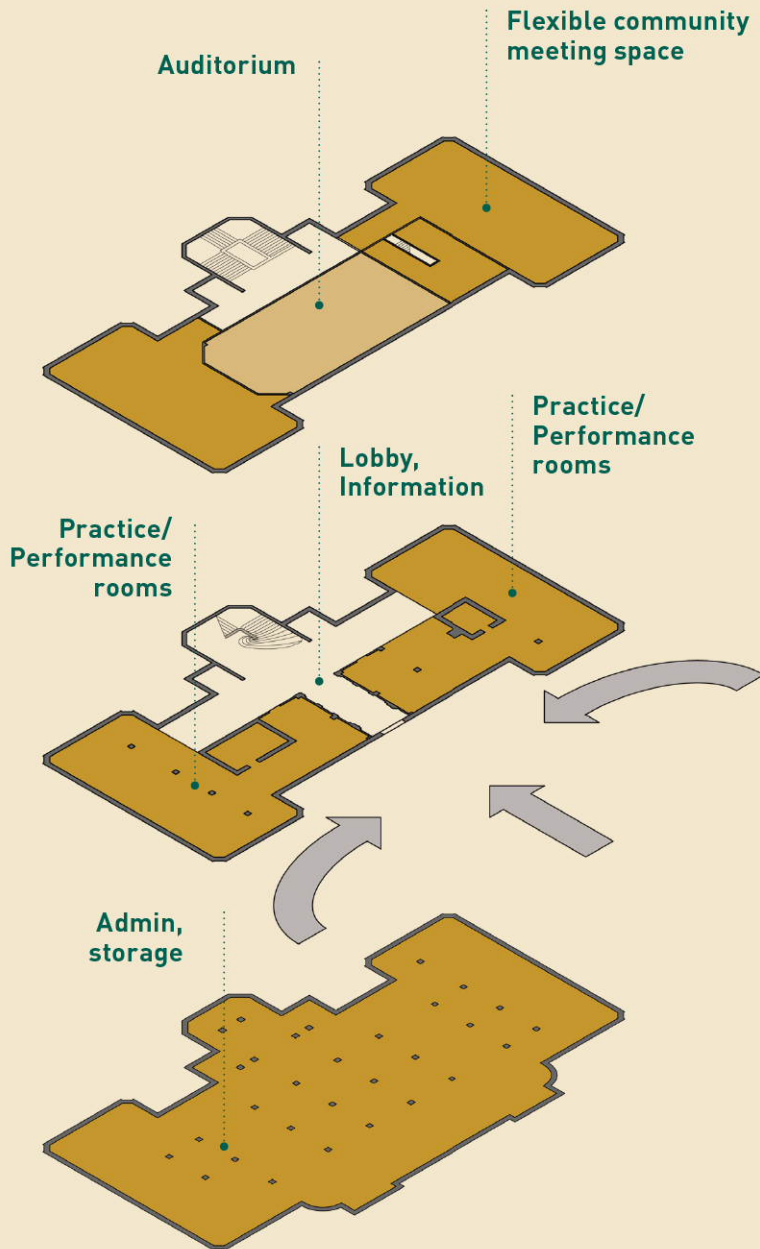
**Old City Hall** is renovated as the Performing Arts & Culture Center. Information and perhaps a small café occupy the main floor along the central corridor with practice rooms and small venues on the main and upper floors. The ground floor could accommodate support, administrative spaces, storage and classrooms. As in Option A, the building's original entry is reconfigured for universal access.



↑ East Bay Performing Arts Center, Richmond



↑ Malonga Casquelourd Center for the Arts, Oakland



**2nd Floor:**

**Practice Rooms/Classrooms  
Small Performance Venues**

**1st Floor: New Accessible Entry**

**Lobby / Information  
Practice Rooms / Small Venues**

**Ground Floor:**

**Classrooms / Practice Rooms  
Admin / Storage**

- Performing Arts
- Auditorium / Performance Space

## **B** Design Option

# Veterans Memorial Building: City Offices & Council Chambers

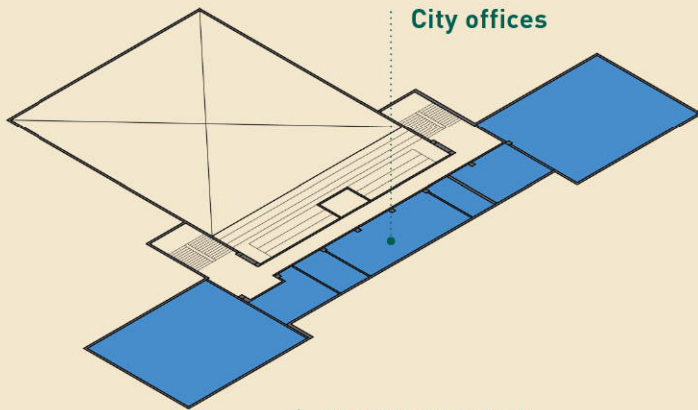
**Veterans Memorial Building** houses a meeting hall for council and other public entities, select city offices and uses, conveniently locating them adjacent to other city uses at 1947 Center St and across Center Street to 2180 Milvia.



↑ St Johns Library, Winnipeg, Canada



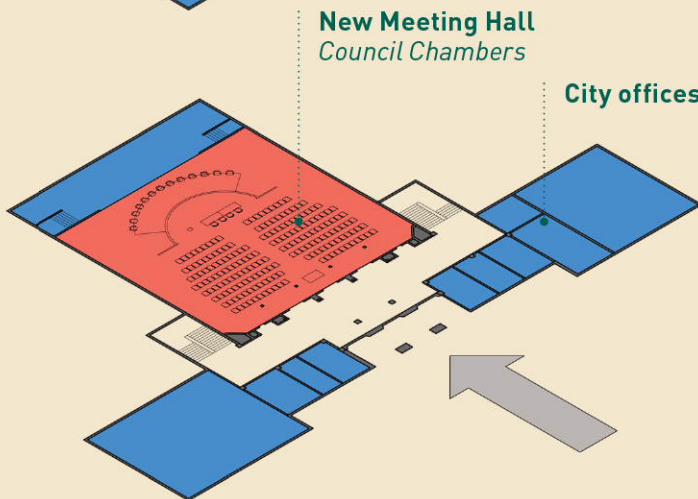
↑ Palega Recreation Center, San Francisco



**2nd Floor:**

---

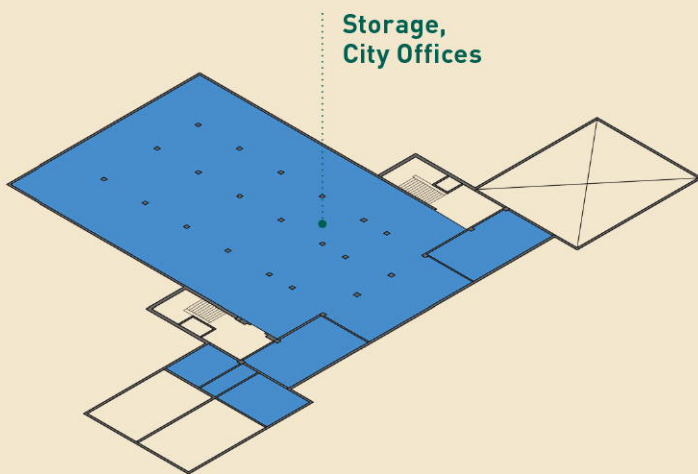
**Offices**



**1st Floor:**

---

**Offices  
Council Chambers**



**Ground Floor:**

---

**Offices  
Storage**

- City Offices
- Council Chambers

## **B** Design Option

# 2180 Milvia: Park Additions

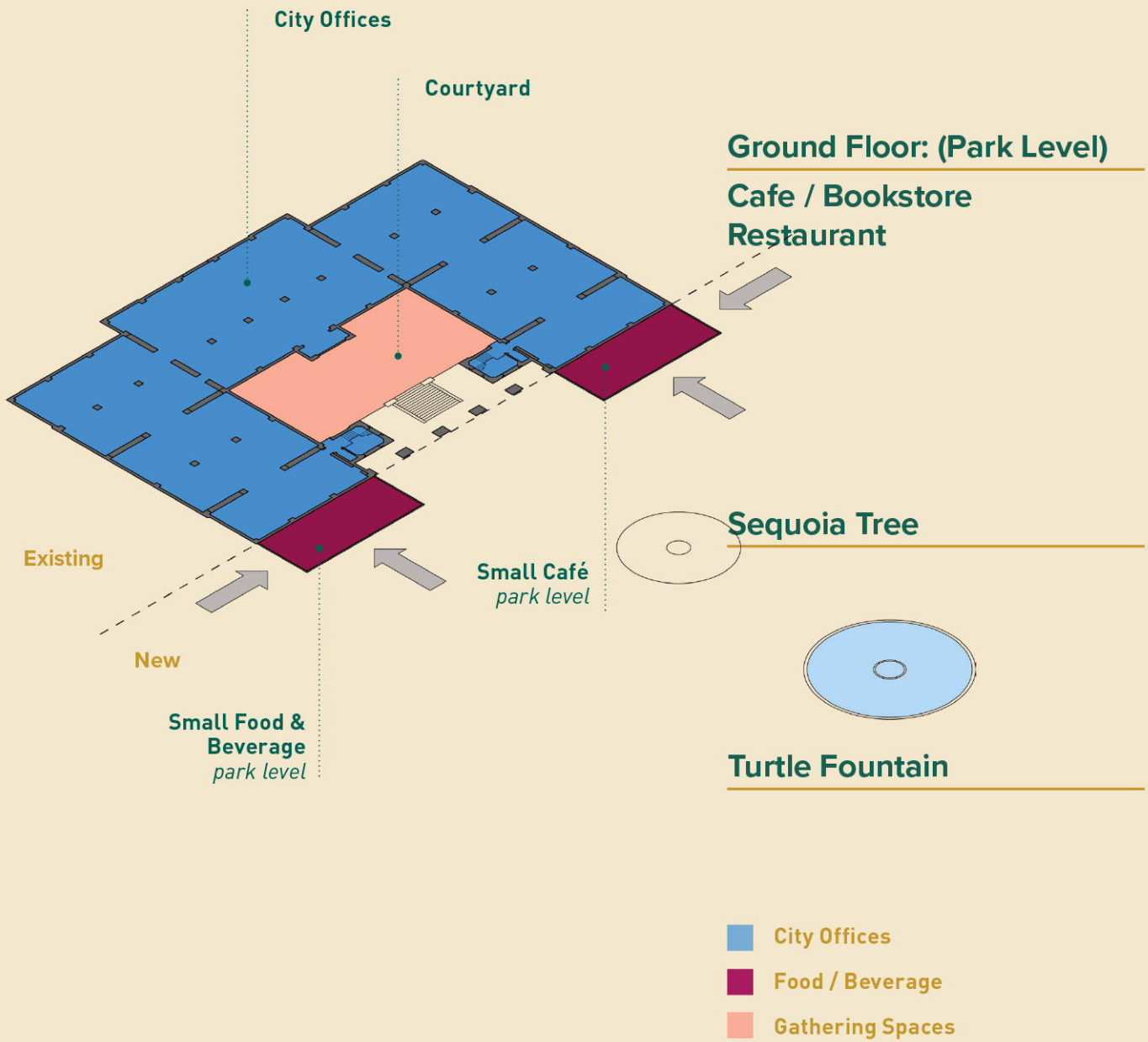
The proposed alterations to **2180 Milvia** are similar to those in the previous scheme (replacing existing storage and restrooms) but scaled down with remodeled or new additions (replacing existing storage and restrooms) such as kiosks with food and beverage services provided as take-out and with improved restrooms.



↑ Food & Beverage Pavilion, Novo Hamburgo, Brazil



↑ Blum Pavilion, Mexico City



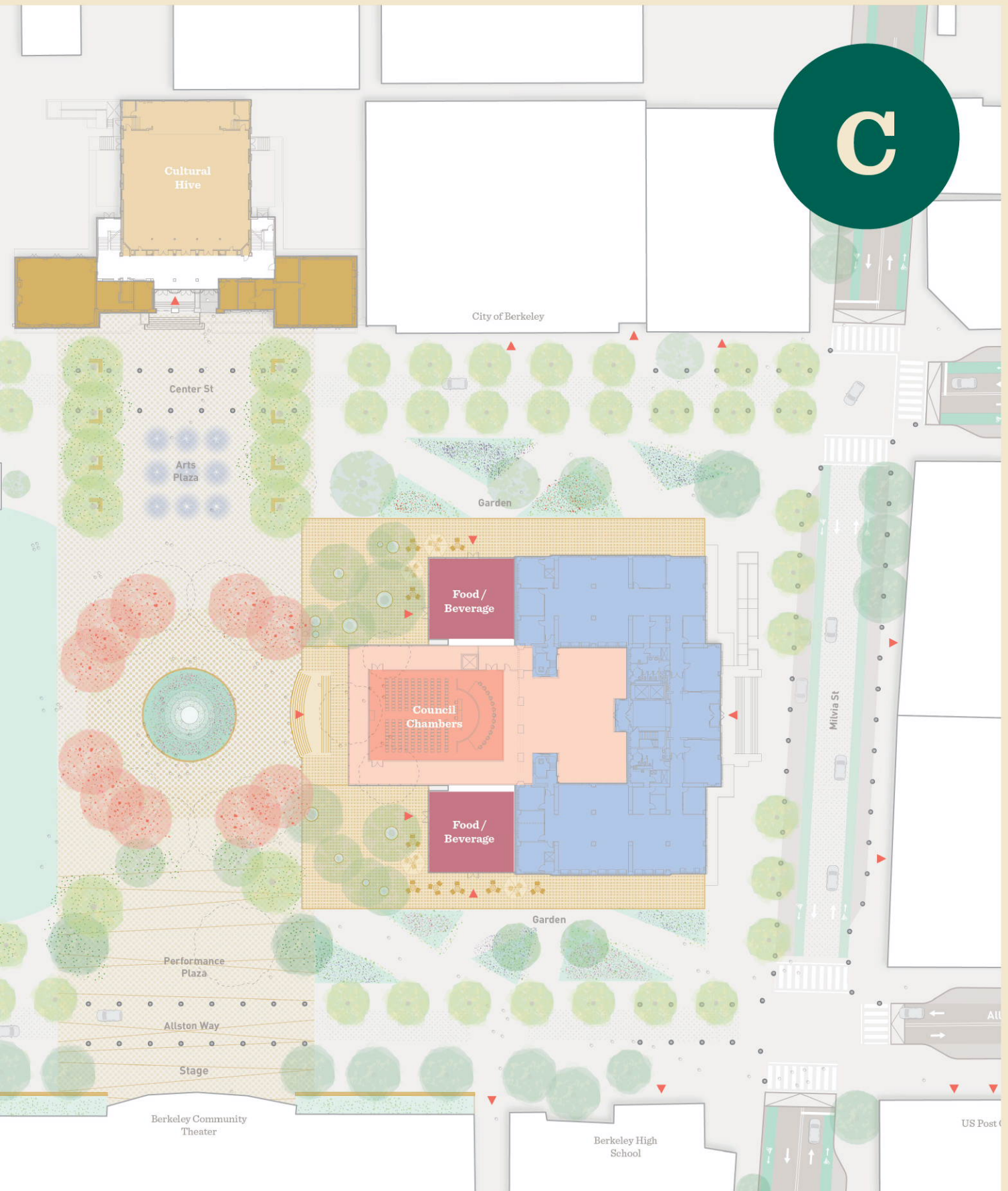


Conceptual Design Options

**Option C**

Council Chambers returns to the heart of Berkeley's Civic Center, redefining the relationship of the park to 2180 Milvia. An open and flexible green defines the park, providing opportunities for everyday activities and special events to unfold. Supporting the Berkeley Cultural Hive, positioned within the Veteran's Memorial Building, the Arts and Performance Plazas provide platforms for culture and the arts in the public realm.





## C Design Option

# Old City Hall: Berkeley Think

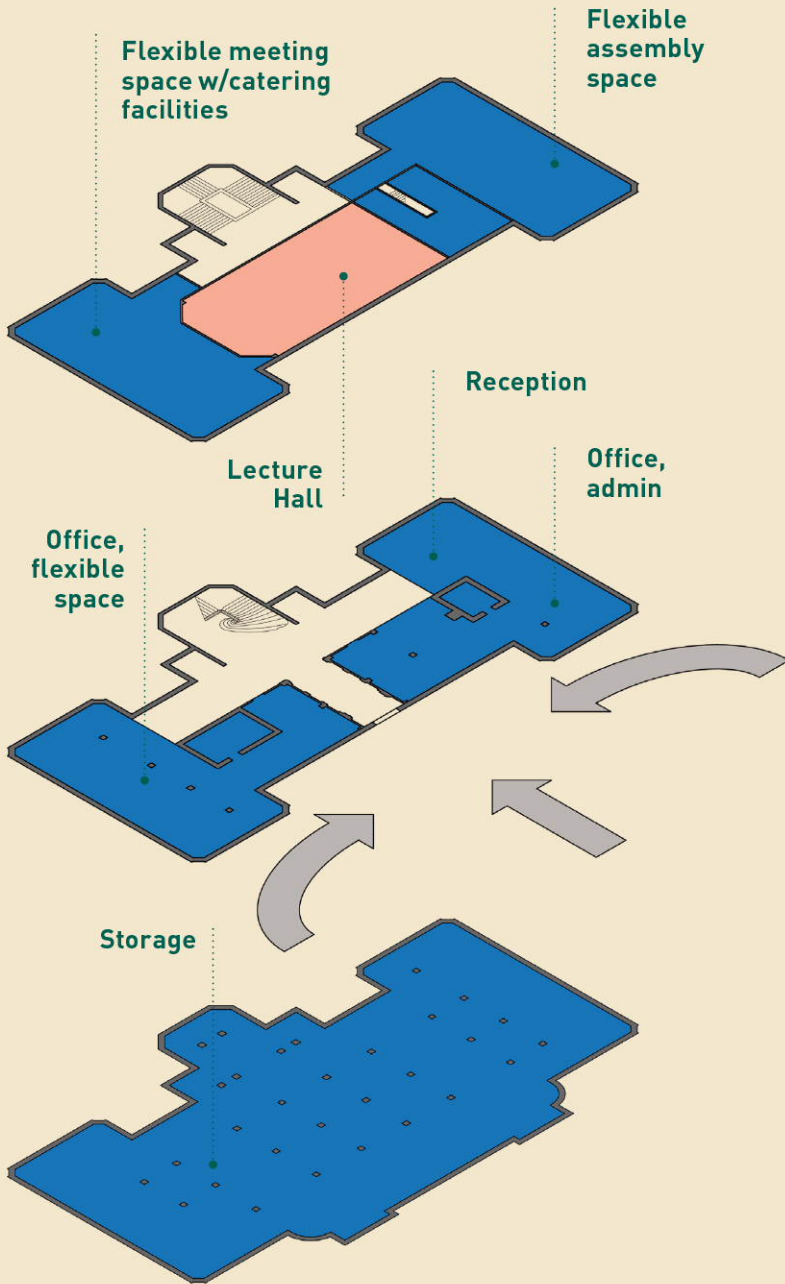
**Old City Hall** is renovated such that it could be rented to a small institution or a think tank or mission-driven organizations. The majority of the spaces would house offices and support spaces with the existing council chamber used as a small auditorium for speaking engagements and similar events. The building's original entry is reconfigured for universal access.



↑ MAD Architects Office, Beijing



↑ Vidal Office, Madrid



**2nd Floor:**

---

**Non-Profit(s) / Offices**  
**Rentable Public Event Space**

**1st Floor: New Accessible Entry**

---

**Non-Profit(s) / Offices**

**Ground Floor:**

---

**Non-Profit(s) / Offices**  
**Storage**

- Non-Profit(s) / Offices
- Rentable Public Meeting Space

## C Design Option *Alternative*

# Old City Hall: The Berkeley Center

**Old City Hall** is renovated as a 'Berkeley Center,' housing the historical society, a bookstore, and exhibit halls (similar to the California Historical Society in San Francisco) depicting various notable times in Berkeley's history and with space for mounting traveling exhibits. The existing council chambers could be rented out as event space.

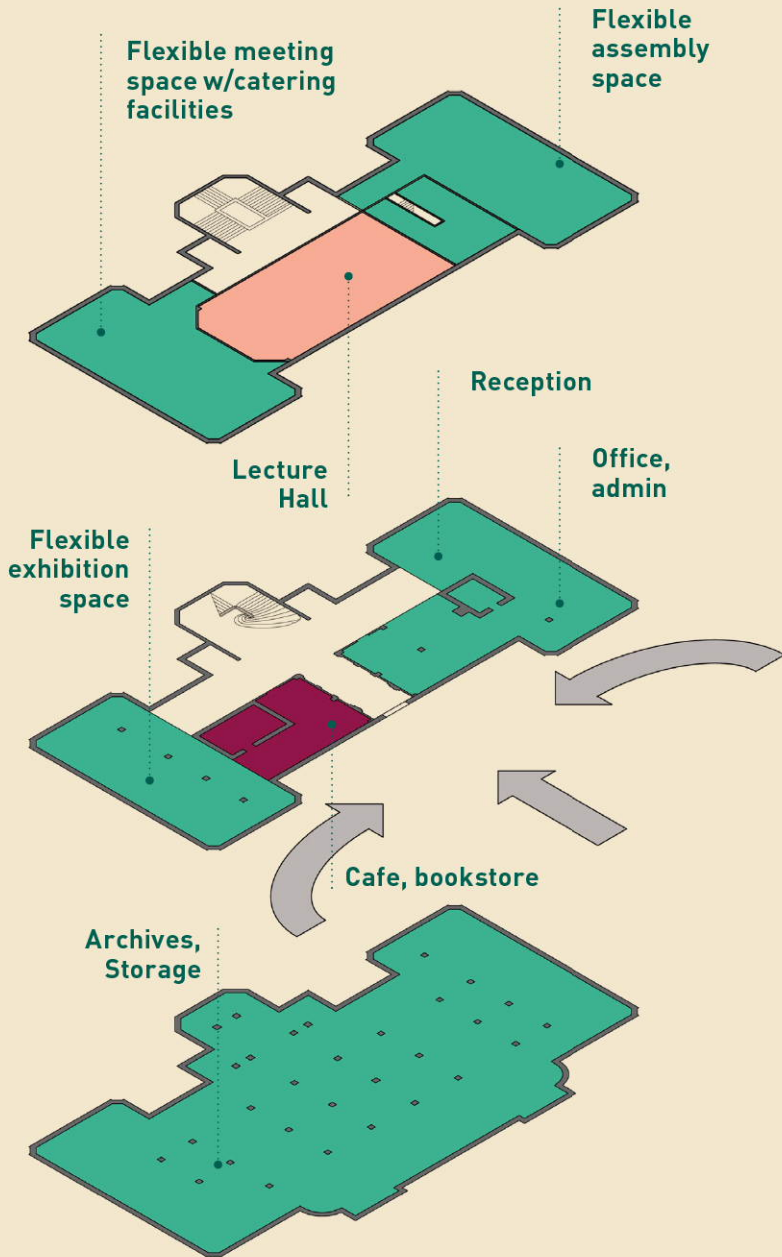
The building's original entry is reconfigured for universal access.  
*Please see illustration in Option A.*



↑ California Historical Society, San Francisco



↑ African American Museum & Library, Oakland



**2nd Floor:**

**Berkeley Historical Society Exhibits**  
**Rentable Event Space**

**1st Floor: New Accessible Entry**

**Reception/Information**  
**Exhibits**  
**Bookstore**

**Ground Floor:**

**Archives/Storage**

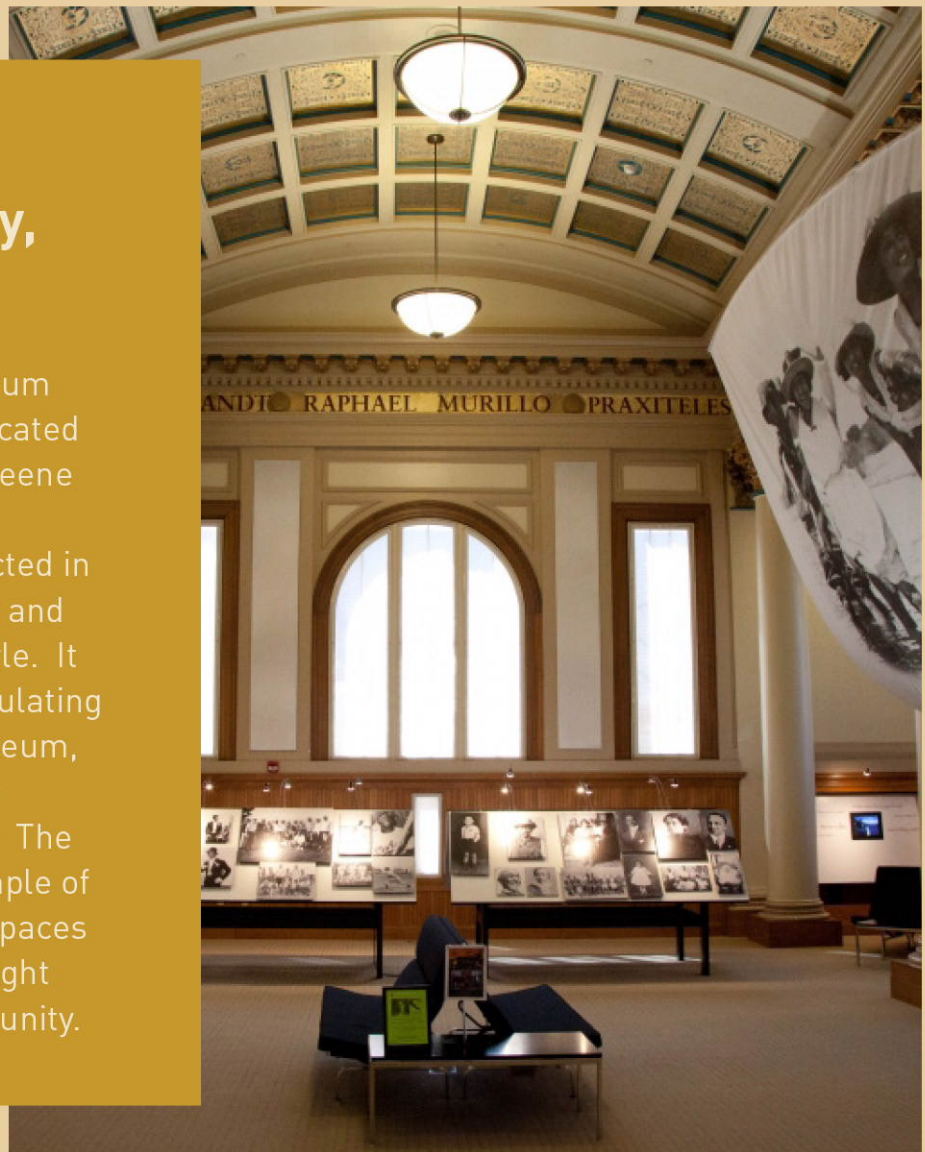
- Berkeley Center
- Bookstore / Retail
- Rentable Public Meeting Space

## Old City Hall

# Learning from other Historical Societies

## African American Museum & Library, Oakland

The African American Museum and Library of Oakland is located in the historic Charles S. Greene Library Building; a National Register landmark constructed in 1902, and designed by Bliss and Faville in the Beaux Arts style. It houses archives, a non-circulating reference library and a museum, and hosts public events and lectures for the community. The Museum is a poignant example of the size, feel, and types of spaces that the Berkeley Center might offer to the Berkeley Community.





## California Historical Society, San Francisco

The California Historical Society is the official state historical society of California. The Society purchased 678 Mission Street in San Francisco to serve as their offices, a museum and as a portal for their growing historical collection. The Society offers space for rotating exhibits, provides education tours and public lectures, and houses a gift shop. It provides an excellent example of the types of programs and spaces that a Berkeley Center might include.





## C Design Option

# Veterans Memorial Building: Performing Arts & Culture

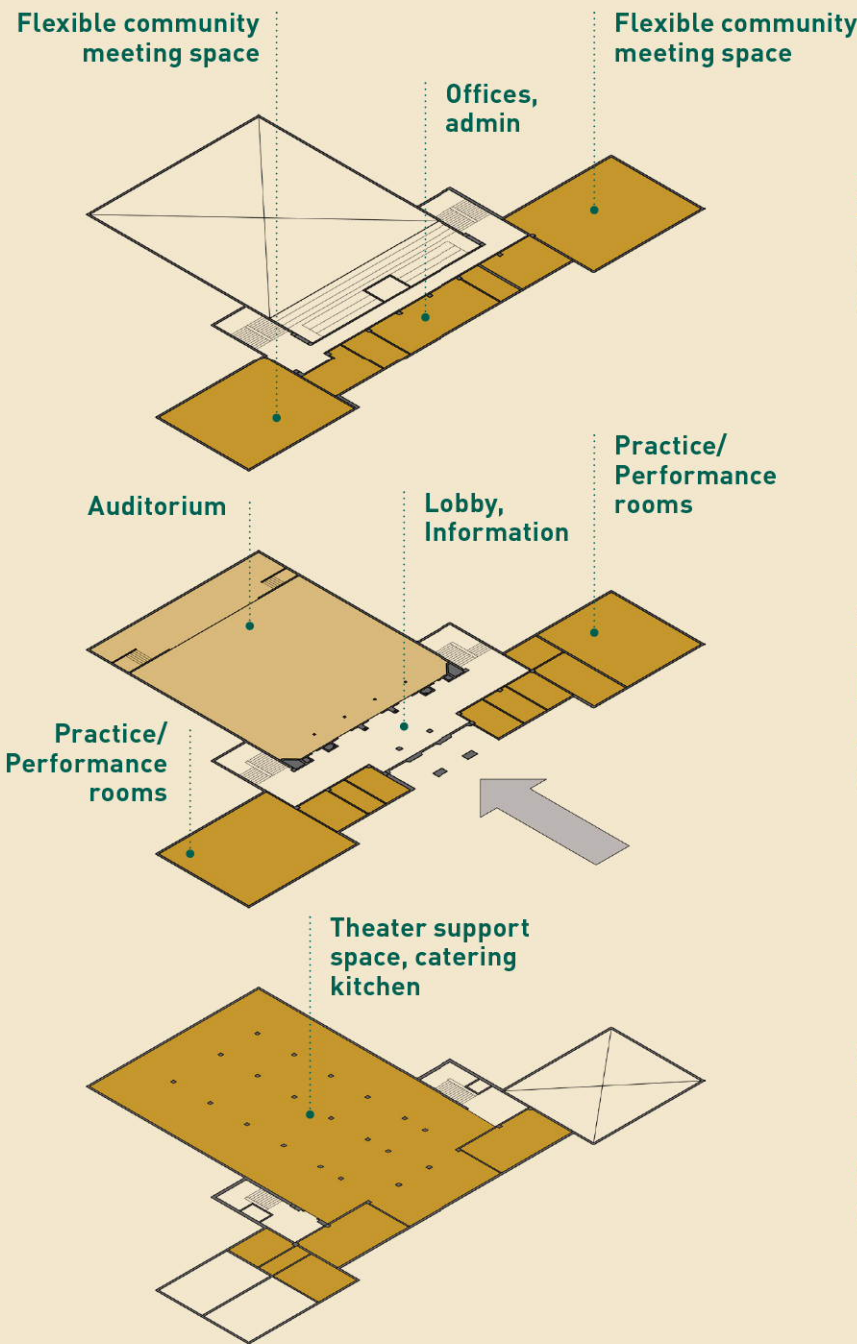
As in Design Option A, the **Veterans Memorial Building** is converted into a Center for the Performing Arts & Culture (or Cultural Hive) with the auditorium and stage as the main performance venue and the sizable corner rooms as practice spaces and small performance venues. The lower level houses administration and support spaces, storage, and other program needs. A new public space could be added above the auditorium with a south-facing rooftop patio overlooking Civic Center Park.



↑ East Bay Performing Arts Center, Richmond



↑ Melonga Casquelourd Center



## 2nd Floor:

Offices/Administration  
Classrooms

## 1st Floor:

Lobby/Information  
Auditorium  
Classrooms

## Ground Floor:

Theater Support Space  
Storage  
Catering Kitchen

## C Design Option

# 2180 Milvia: Council Chambers & Park Additions

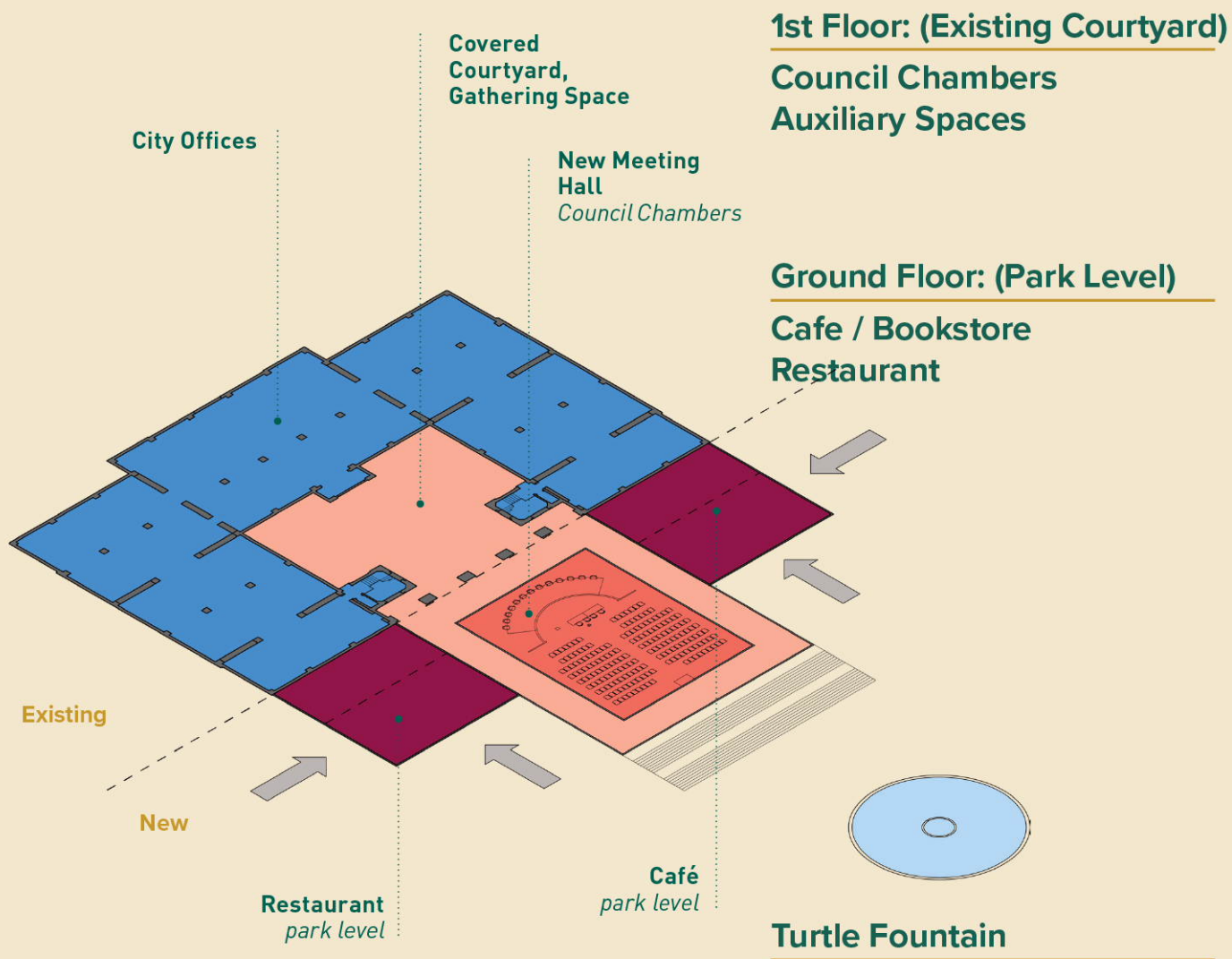
**2180 Milvia** is expanded to house a new meeting chamber – for council and other public entities – located on the main level courtyard of 2180 Milvia. Generous stairs connect to the Park serving as a public entry into the meeting chamber. As in Option A, new additions to 2180 Milvia would replace the existing storage and restrooms and would house food and beverage services and new restrooms at the east end of the Park.



↑ Historic DC Courthouse, D.C..



↑ National Museum of American Diplomacy, D.C.



## 2180 Milvia

# Learning from other Historical Additions

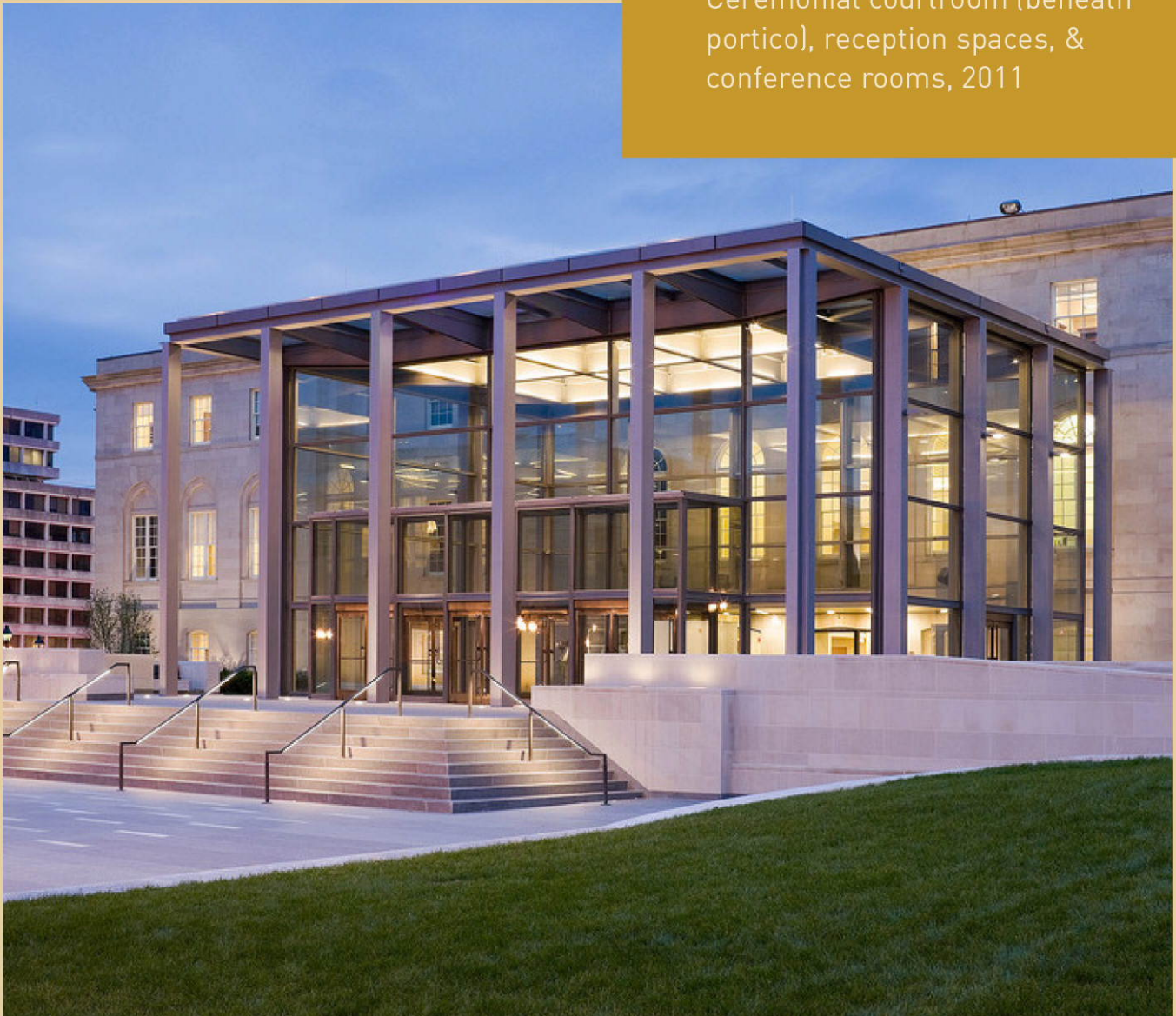


## National Museum of American Diplomacy, Washington D.C.

Exhibition pavilion and gallery  
spaces, 2016

## Historic DC Courthouse, Washington D.C.

Ceremonial courtroom (beneath portico), reception spaces, & conference rooms, 2011

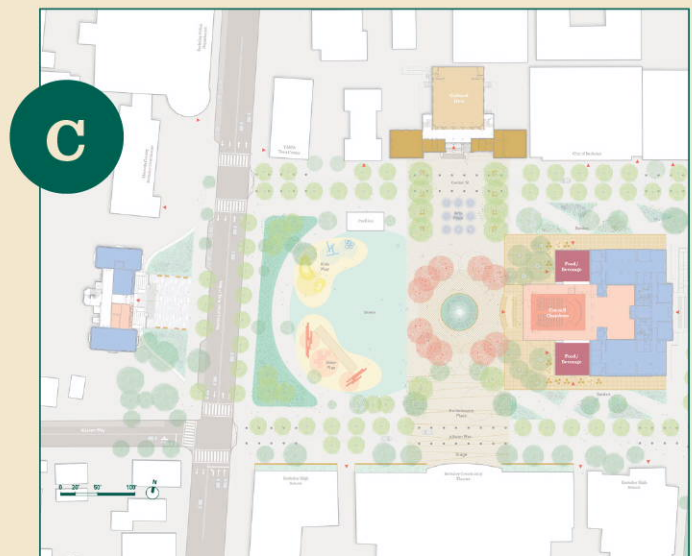
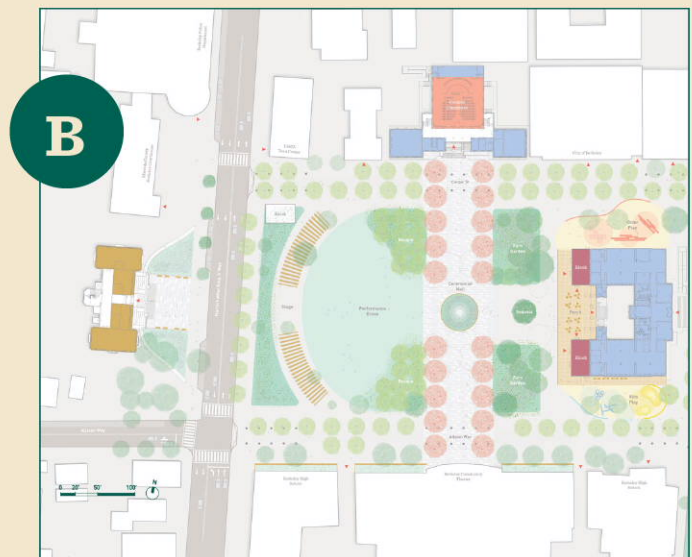


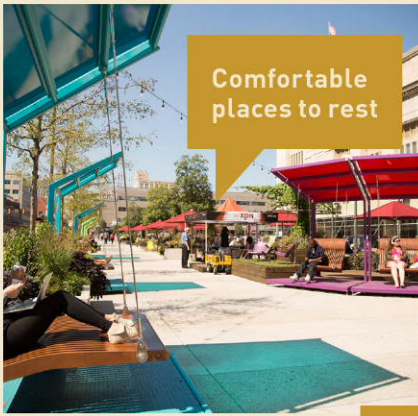
## 5.5

# Landscape and Public Realm

The three options share key elements, such as working with the “bones” of the original park design, but softening, further defining and human-scaling spaces within the park. Spaces for performances, events and markets are included in all options, as well as generous playscapes (even if in different locations). Although of varying sizes, a food and beverage element is present on all options. Shared street concepts on Allston and Center Streets and improved crossings are also common features.

**Option A** sees the biggest change to the current park layout, by introducing a strong east-west plaza that connects 2180 Milvia with the Maudelle Shirek Building (New City Hall) and subdivides the green space. **Option B** describes a more formal north-south pedestrian mall, a larger green, and the smallest of the food and beverage programs. **Option C** combines the most successful concepts from the other two options and has a larger food deck area wrapping around the new meeting hall on the park.





Comfortable places to rest



Natural play for all ages



Varied active play



Events, gathering and art



Evening activities like movie nights and concerts



Interactive and dynamic features



Flexible and adaptable furnishings



Pedestrian priority shared streets

↑ Inspiration images for different spaces that can exist in Civic Center Park and were selected as top resonate images in the Vision and Values Community Workshop



**Conceptual Design Options**

Conceptual Design Options

# Feedback from the Community & Project Stakeholders

## 5.6

# City and Commission Engagement

## Technical Advisory Committee and Commission Subcommittees

During the development of the Vision Plan, the consultants team met with the project's Technical Advisory Committee (composed of city staff) and a "super" subcommittee with representation from the: Civic Arts, Landmarks (Planning), Parks and Waterfront, and Public Works Commissions.

The focus of each meeting was as follows:

**Kick off meeting, September 2019 —** Presentation of the Team's approach, workplan and schedule, introduction to Gehl's Public Space, Public Life survey methodology and discussion on the research questions the survey should try to address.

**Project update, December 2019 —** Existing conditions summary, engagement summary, draft Vision Statement and initial design opportunities — prior to presenting to City Council in January 2020.

**Conceptual Design Options, March 2020 —** During this meeting the team presented a brief update on the engagement process and on the historic structures assessment, with a particular focus on the challenges of the different seismic upgrade options and their implications on the historic fabric. The majority of the presentation focused on discussing the urban design principles that underlie the conceptual design options. A first iteration of each of the three conceptual scenarios was presented, including program distribution, landscape and public realm illustrative plans. A summary of costs for each option was presented, as well as a draft funding and financing strategy, alongside example projects (case studies).

## Summary of feedback from the Technical Advisory Committee TAC session on March 11, 2020:

- Positive comments on the conceptual design development
- Strong desire to have Arts programs in the Veterans Memorial Building
- Opportunity to consolidate City's programs in a few buildings in Civic Center should be explored
- Need survey of performance space needs in the area
- Most people liked that Alston and Center Streets are described as integral parts of the Park's public realm; want to see safety considerations addresses, particularly on special events (for example, security and retractable bollards and traffic calming measures); also, want to see operational considerations added to our evaluation criteria (when considering removing the streets)
- The preservation or not of the Giant Sequoia divided opinions; some strongly advocating for its removal (mentioning obstruction of views and shading), while others voiced that it was an important feature that should be maintained
- Support for rooftop additions, for outdoor spaces for Art events and "breaking down" the spaces into smaller park "rooms"
- Need to consider other buildings surrounding Civic Center park and how they can contribute to activating the park and provide more program, such as 1947 Center Street and the Post Office building
- Support for space for the farmers Market, potentially spilling into the Park, and with permanent, designated elements
- Consider moving social services elsewhere, it doesn't work with a fantastic park and destination playground; make the space more desirable for families.
- Concerns about the feasibility of the financial model of the Historical Society as the main user of one of the buildings; support for the Cultural Hive idea with several tenants and rentable performance space.
- Want to see a bigger, stronger connection to the school, and play for high schoolers
- Three speakers voiced a preference for Option A, two for option C and one for option B; others meeting participants did not clearly state a preference.

## Other creative ideas put forward by TAC members (CoB Staff in various departments):

- Electronic display board to replace pinboard in front of Old City Hall
- Test closing off Allston St to traffic during lunch – 11:30 to 1:00 during weekdays
- Relocate memorial trees (SW corner of the park)
- Free tutoring for all ages – this can infuse the area with more energy, a good addition to the teen center)
- Lights in the ground, light up for different events (like SF City Hall) - and outward display of the city
- All time park steward and security
- Arts Market, more events
- Resource centre for the unhoused population-somewhere can get directed to services
- Tool library and makerspace added to the idea of cultural and historical center
- Integrating youth programs with city programs and economic development: i.e. early childhood development programs for teenagers and a pre-school on site (children's daycare program was voiced by several meeting participants).
- Gateway to nature center – a partnership between 2-3 entities, a small kiosk or a larger space – the first stop to regional parks in the vicinity
- Reorganization of plaques in the area in front of Old City Hall, support for sculpture, as well as digital art and sensory experiences to be included in this area or elsewhere as part of the area's public realm.
- Invest in accessibility, seniors' needs, wayfinding.

# City and Commissions Subcommittee Feedback

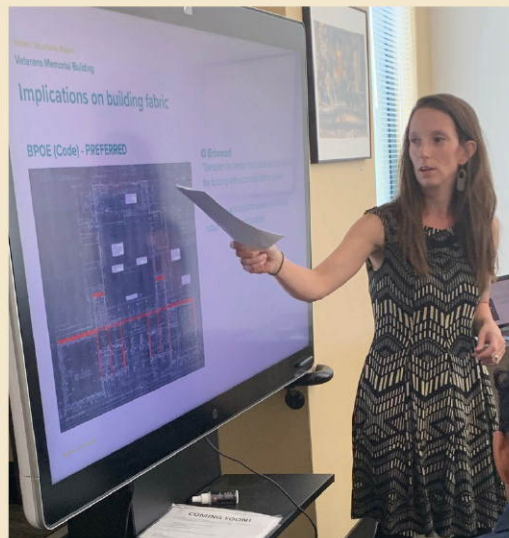
## Feedback from the Subcommittee working meeting on March 12, 2020.

Our third Super Subcommittee meeting had representation from Landmarks, Public Works, Parks & Waterfront and Civic Arts Commission members. This meetings focused primarily on presenting and discussing the design team's translation of the vision statement into three conceptual design options, prior to these options being presented to the community for comments. The team also shared preliminary cost analysis for each option, and a funding and financing strategy.

Of the five subcommittee members that spoke, two expressed a clear preference for Option C, while the others did not state a clear preference for a particular scenario presented. The subcommittee members' feedback has been summarized on the following page.



↑ Gehl presenting the key urban design moves that are common on all three options



↑ Siegel & Strain Architects describe the implications of different levels of seismic retrofit on the historic building fabric

## Comments from Public Works Commission members

- Strong support for incorporating the street adjacent to Civic Center Park — “Without incorporating the streets we have three buildings and no Civic Center”; MLK should be a transit corridor and not a car corridor; Milvia should be a primary bike way; Pedestrian principles on Center and Allston Streets – make it part of vision zero
- Yes to collaboration with BART plaza; Yes to “edge to edge” – Milvia and MLK are much more important than BART
- Find a way for the design to acknowledge the presence of Strawberry Creek running under the Park
- Would have liked to see consideration of housing, particularly affordable housing for teachers and city staff
- Preference for the park and Civic Center to become a destination for Berkeleyans
- Support for a civic meeting place, big enough to accommodate all sorts of meetings/ events. Would like to see collaboration between BUSD and City Hall to develop a single location for chambers and BUSD meetings at Civic Center
- Support for the idea of expanding options for social services
- Turning Center Street into a pedestrian mall might allow City offices to be connected as part of the same microgrid (currently cannot due to PUC right of way designation) – might we be able to change the designation of Center?
- Preferred Option is C

## Comments from Parks and Waterfront Commission members

- Appreciate looking into philanthropy, speaks to thinking big and to more programming — we have a role to play in how we engage with our community
- Strong support for Council Chambers attached to the 2180 Milvia building, only caveat is that more office space (shown in the other options) would be good; good if we can stop renting in other places and centralize offices.
- The park looks beautiful
- It’s about our ability to keep that vision and more programming – and find the money for it.
- Preferred Option is C

## Comment from Landmarks Preservation Commission members

- The Park is a distinctive gathering space, a massive asset; the park is malleable while the buildings are rooted. Support for the Farmers Markets to take place in the Park.
- Challenge the predominance of Council Chambers on all options
- More interested in spaces that are permeable and usable for government meetings and community meetings — 35-40 person, part of a suite meeting spaces in Central Berkeley — all sharable; if one of them can be large enough for council meetings, great.
- Would like to see opportunities for conferencing - all these buildings could be rented and hold a big event (work with the Berkeley Downtown Association)
- Emergency preparedness and response (fires, earthquakes, civic disobedience) - how would the options function for public safety; what happens if thousands of people are homeless after an earthquake?
- Big community events (Book Festival example) indoor/ outdoor - huge potential; the park broken down loses the opportunity to host big events.
- Sobering to hear the Veterans Memorial Building seismic analysis; there needs to be a base isolation analysis - neither of the seismic upgrade scenarios [presented in the structural engineers’ reports commission by the City in 2019] are palatable. Base isolation needs to be costed out. We want buildings that are survivable after several earthquakes.
- What happens if the City gets the post office; this should be an asterisk in the report
- Continue engaging with the school district
- Other city offices could move into programmed space in these buildings; economies of scale and cost savings. Renovate City Hall, consolidate.
- Streets are an important component. I worry if the streets go away, you cannot cross downtown. Support for Center St as the place that becomes more pedestrian-friendly, and Alston more of a street; revisit concept of Shirley Dean to put MLK underground — if doing conferences the ability to join the park with Old City Hall is important
- Would like to see rotating art work like in Patricia’s Green

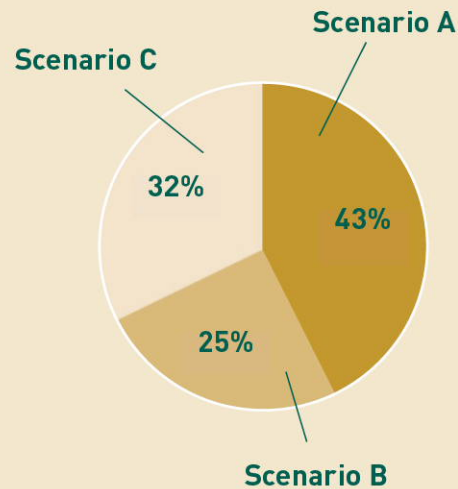
*A Civic Arts commission member voiced their opinion during the TAC presentation the previous day.*

## 5.7

# Community Feedback – Website

The online engagement (extended from what was originally planned) — attracted extensive comments. The site included graphics, videos and invited people to comment in an easy way. We recorded close to 400 participants on the project website, who commented, voted, shared an idea or took a survey. 203 of those left as a comment on the Options page and 12 people sent us detailed feedback by email. The volume of participation in the discussions around options for Civic Center has gone beyond our expectations — the engagement numbers are much higher than what we would have been able to capture during a single community meeting.

Unsurprisingly, scenario A (the one presented first) had the most comments — 87 in total; scenario B had 51 comments and scenario C had 65 comments.



Website developer Neighborland whom we've partnered with to develop the platform and consolidate the engagement data, uses a natural language processing API tool to interpret sentiment analysis values. This helps quickly assess the overall emotion of a comment, indicating differences between positive and negative emotion in a comment; a comment with a neutral score may feature mixed emotions, with both high positive and negative values which cancel each out.

From an equity perspective, it was critical that we give all residents an equal voice in the process, regardless of their familiarity or relationship with Civic Center. Our commenting tools supported this principle of “equal share of voice,” de-duplicating repeated comments by participants in our sentiment analysis tools and reporting.

***A detailed data set of the online engagement can be found in the Appendix.***

**2,369**

## Total participants online

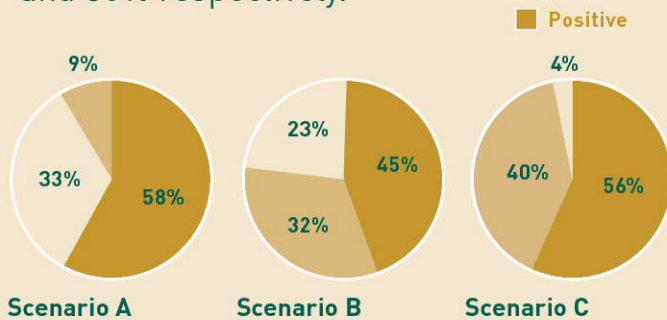
unique users reported by Google Analytics

**350**

## We collected 350 insights

ideas, votes, comments, survey responses

The results show an extremely positive sentiment toward the project. Options A and C had more positive comments —58% and 56% respectively.



The Gehl team has looked more closely at the data and assessed how many participants explicitly stated a preference for an option, how many suggested a preference, and how many expressed dislike for an option.

|                              | Option A | Option B | Option C |
|------------------------------|----------|----------|----------|
| Total comments per option    | 82       | 51       | 65       |
| Stated preference explicitly | 45       | 16       | 25       |
| Suggested preference         | 27       | 25       | 34       |
| Expressed dislike            | 10       | 10       | 6        |

### Engagement data from Neighborland and Google Analytics

2,369 total participants online

Collected 350 insights (ideas, votes, comments, survey responses)

12,500+ page views

40% traffic on mobile or tablet

97% referrals from Berkeleyside

<https://www.berkeleyside.com/2020/03/03/can-berkeleys-civic-center-become-the-heart-of-the-city-gehl-studio-thinks-so>

<https://www.berkeleyside.com/2020/04/15/last-chance-pick-your-favorite-design-now-for-berkeleys-civic-center-park>

75% social media referrals from Facebook, 20% from Twitter

We delivered 700+ notification emails



## Community Feedback – Website

**Strong themes and subjects that were mentioned often are the following:**

- Berkeley Historical Society is an important part of the city’s cultural fabric, and must be preserved and prominently featured.
- The closure of Allston/Center to car traffic will be key to inviting people in and activating the space.
- Veteran’s Memorial Building should house the arts, and be used as a community performance space.
- Concerns of recreating SF Civic Center, with too much pavement.
- Integration/expansion of the farmer’s market with the plaza/park.
- Many prefer a preserved, large, open, central green/grassy space.
- Many indicated that a small ground floor café(s) would positively increase daytime activity.
- Strong support for Kiosks for food/beverage would be great, to serve employees in the surrounding buildings, and high school students.
- Skateboarding infrastructure is an important community asset.
- The play areas should be adjacent or near one another to allow families to stay together, and should not be so close to the high school, and not separated by a building.

|                 | Positive Quotes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Negative Quotes                                                                                                                                                                                                                                                                                                                                                                          | Idea Quotes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Option A</b> | <p>Option A seems to me to be the most like a true civic center.</p> <p>This option seems the most dynamic.</p> <p>Feels the most inviting for neighbors.</p> <p>By joining Berkeley government buildings with a strong "movement," it is far more visible that there IS government in Berkeley!</p> <p>I love this mall and intentionally connecting the different uses of this space, which can hopefully activate much of it.</p> <p>I strongly prefer Option A. It takes full advantage of the potential strengths of both Old City Hall and the Veterans Building. It is elegant and makes sense in its design sensibility and civic function.</p> <p>Of all the options, I like this one the best. It really feels like grand public space.</p>                                                                        | <p>This option doesn't seem to have an area that can be used for a large gathering, such as today's park use for the pow wow, which seems like a loss to me. It feels too broken up of a design.</p> <p>Too formal and too much pavement, for my taste.</p> <p>Too much like SF civic center. Misses the mark on properly scaled, friendly, usable spaces. Lacks hierarchy of space.</p> | <p>Any plan for the Civic Center Area that does not include The Berkeley Historical Society is completely inadequate. Communities everywhere, large and small, value and share their history. How shameful it would be if Berkeley cannot find a way to honor and protect our precious historical record.</p> <p>This is the main BHS pick-up drop off zone, where does that go?</p> <p>There should be consideration given to provide for a skating area to replace the ledges that they currently use in front of city hall.</p> <p>The only way that the paved spaces can be positive is if the City of Berkeley develops a VERY active series of programmed events – several times a week.</p> |
| <b>Option B</b> | <p>I like that this one has a bit less ceremonial flourish to it than Option A</p> <p>This option balances the needs of the high-school students, families with children and the farmer's market crowd</p> <p>Option B is my favorite I really like the centralized park I think it's the best layout!</p> <p>Having 2180 Milvia open towards the park will make a huge difference towards the friendly and inviting ambiance of the park</p>                                                                                                                                                                                                                                                                                                                                                                                | <p>It does not make sense to have the kids play and older play far away from each other. Makes it really difficult for parents with various ages of children!</p> <p>The way the three buildings are utilized in relationship to each other will not bring the same level of animation to the site.</p>                                                                                  | <p>Lack of adequate crossing here isolates the building from the rest of the park</p> <p>This feels like the least cohesive of the three options</p> <p>B is the worst option as play areas get shaded by building and more importantly, parents have to choose one or the other.</p>                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Option C</b> | <p>Option C seems to be the most functional and aesthetically pleasing...allowing for some public lawn to remain while also combining the whole block and its adjoining buildings</p> <p>Seems not only the most practical but also offers maximum usage for a variety of civic and community events.</p> <p>I think this choice is the best of the three options. It retains the green space and is the option that can be done incrementally.</p> <p>The whole scheme is well resolved and I can see how I and our community would use and enjoy the space. It creates an invigorated heart in our downtown core.</p> <p>Option C is the best design, in large part because it intimately links the city council offices and chambers and therefore creates a destination and hub of activity at all hours in the park</p> | <p>None of the building options lend themselves to attracting the public to the park, unlike other options</p> <p>I can't imagine chopping down a Sequoia to build City Council chambers in a park. That, to me, disqualifies this approach entirely.</p> <p>Option C throws away Old City Hall as well as the Veterans Building.</p>                                                    | <p>Adult exercise equipment</p> <p>I'm for whichever one will preserve historic buildings and also preserve the most trees. Both are endangered "species" in Berkeley.</p> <p>Would love to see this design integrated with Option B's pavilion and stage space, and Option A's redesign of the back of 2180 Milvia.</p>                                                                                                                                                                                                                                                                                                                                                                           |

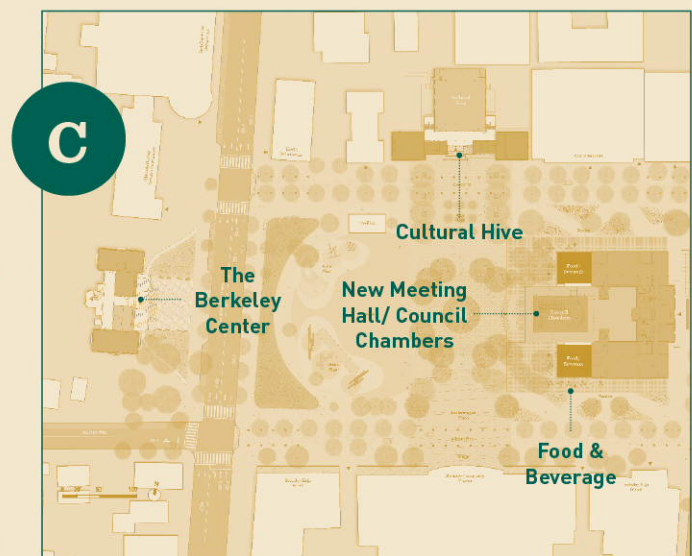
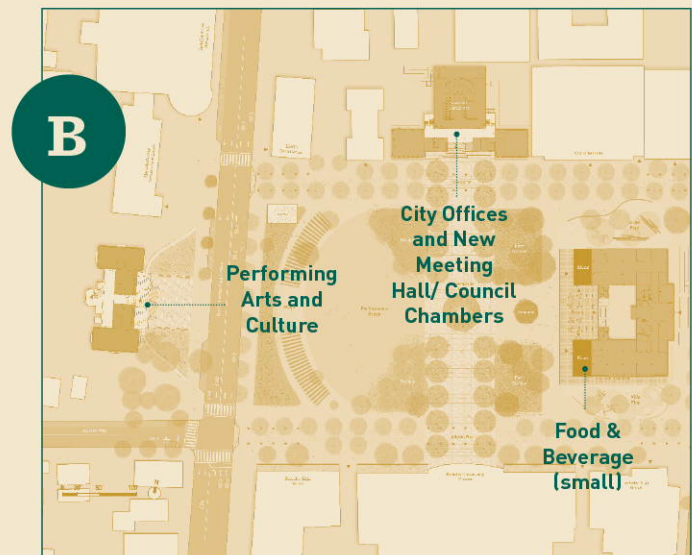
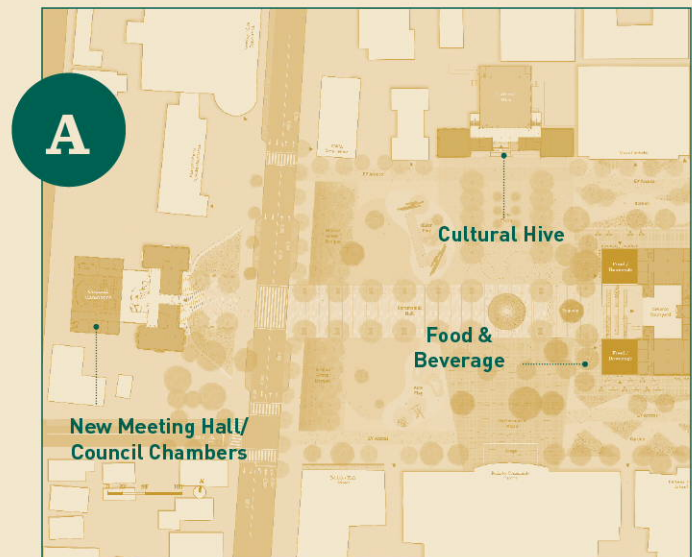
*A detailed data set of the online engagement can be found in the Appendix.*

## 5.8

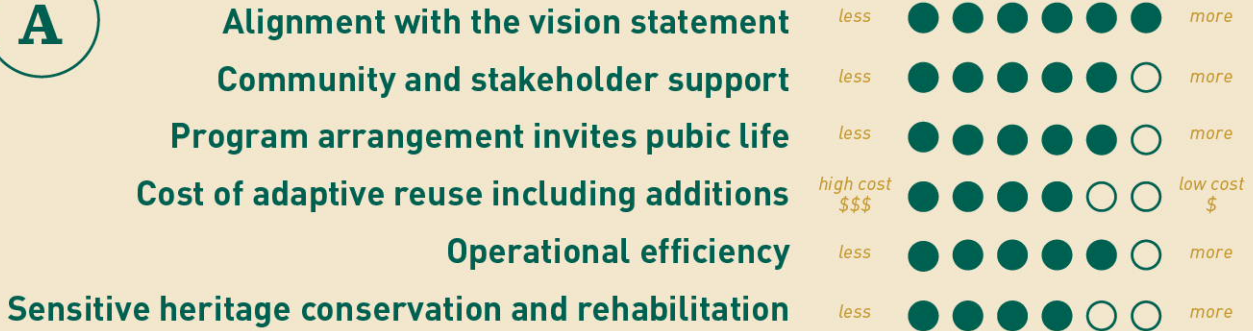
# Design Options Appraisal

As we developed and presented different iteration of the design concepts it became important to establish a criteria for analyzing how options compare to each other on key criteria. Developing the criteria itself is challenging and we welcomed feedback received from the Technical Advisory Committee (TAC).

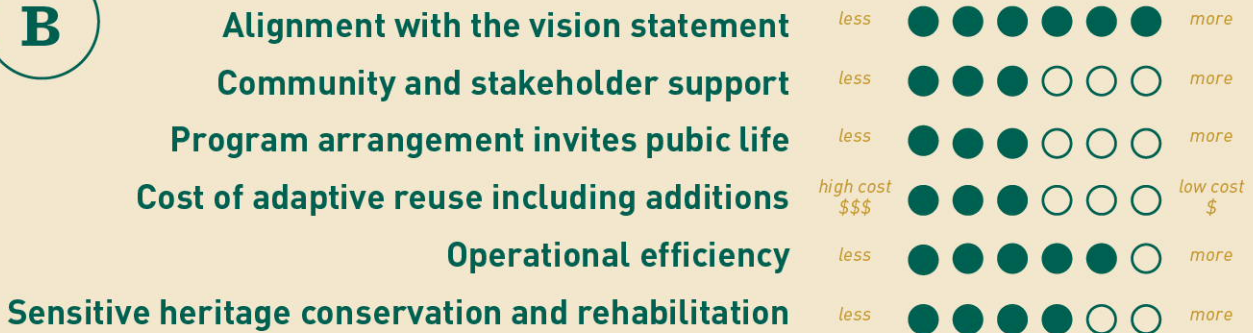
All options successfully translate the vision statement into a spacial configuration. However, there are differences in the costing of each option and on the community and stakeholder support they received. Consolidating civic uses sees a higher operational efficiency score. As an example, sensitive heritage and conservation, although a design driver on all options, has a lower score in option C, the boldest option that considers a new building in the park and the removal of the Giant Sequoia. However, this particular option scores highest in public life invitations — it has an access to the new hall from the park, steps to sit on and human-scaled areas in front of the cafes.



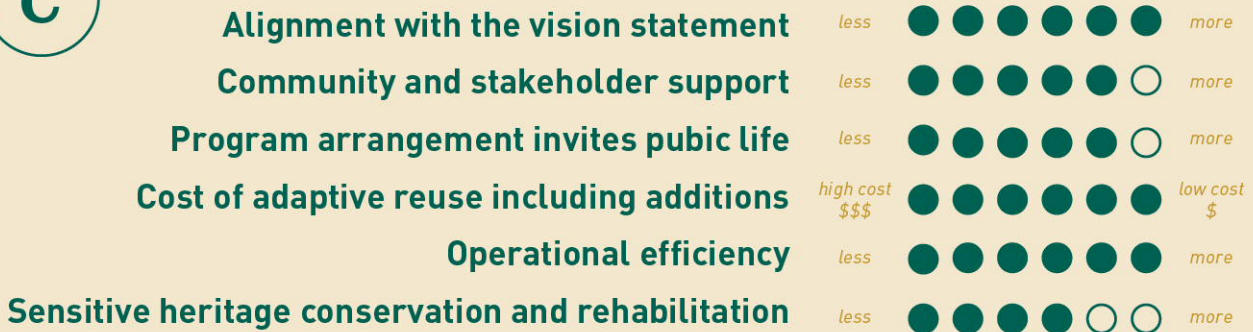
**A**



**B**



**C**





# Funding Strategy

**6.1 Funding Strategy**

**6.2 Case Studies**

**6.3 Summary Cost**

## 6.1

# Funding and Financing Strategy

When a community adopts a bold new vision, like the Vision Statement for the Berkeley Civic Center, questions immediately arise regarding how much will the Vision’s implementation cost, and where will the money come from. But it is impossible to answer either of these questions accurately or with any great specificity at the time when a Vision is adopted. Instead, community members, policy makers, and city staff need to recognize that implementation, or project delivery, involves many steps in a process that takes time. There will be no grand funding solution or single funding source that can deliver any one major piece of this implementation vision. No one funding source will be able to pay for an entire project and most projects will be funded slightly differently. However, there is a general set of funding sources that can be used for different types of projects and at different points in the implementation process. This section will present a brief definition of funding versus financing, define; the major funding

sources available to pay for projects associated with the Vision, and present three case studies illustrating various approaches to funding, and a more detailed description of which funding sources are most relevant to the major project types presented in this Vision document.

## Funding Versus Financing

The term “funding” refers to a revenue source that can be used to pay for any improvement to a building or public space. Funding is something that flows to a project from an outside source or is generated by the project itself, often in the form of rent payments and/or tax revenues such as property or sales tax revenues. Figure 1 shows the most common sources of funding used to pay for different kinds of projects by the basic project elements included in the Berkeley Civic Center Vision Statement. Note that the project elements have been “compressed into these three

general categories. Although each project element involves more detailed parts or component, the funding sources and relevance will be the same for each component within a basic project element, even though each element might be funded separately and/or might use a different combination of the same funding sources.

Fund sources should not be conflated with financing mechanisms. Financing refers specifically to different ways to borrow money against future revenues by borrowing money from a bank, issuing bonds or other debt instruments that are paid back over time through taxes or fee payments. Public private partnerships (P3) are a form of debt financing in that the private partner is raising capital to build a public project, but that partner expects to pay the money raised to be pay back with interest. As the case studies included below will show, there are a range of “private” partners working with cities on a variety of projects types. Although the terms funding and financing are often used interchangeably, the distinction is important because financing mechanisms require a dedicated funding source be used for debt repayment. Public private partnerships.

### **Funding Sources**

Preparing a funding strategy using these

sources must be strategic, opportunistic, and iterative. Some funding sources, such as some grants or citywide bond funding, may only be available periodically. Other funding sources, such as value capture mechanisms, require various legal steps to enable the city to collect the intended revenues. Sometimes planned revenue sources do not materialize or amounts are lower than anticipated. Or, unanticipated funding sources, including money left over from other projects, may suddenly materialize to help close a funding gap. Each general funding source is briefly described below.

**Public Agency Grants** –The most common public agency grants in the Bay Area are for transportation related improvements. These grant sources typically come through the Alameda County Transportation Commission. These grants are targeted at a wide range of transportation related projects and have already been identified as potential opportunities to fund improvements to both Milvia Street and MLK Jr Way as identified in the Berkeley Strategic Transportation Plan, 2016.

The City of Berkeley has also successfully used grants from the Federal Emergency Management Agency (FEMA) to renovate both James Kenney Community Center and the North Berkeley Community Center. The FEMA grants are only



## Funding Strategy

available when there has been a natural disaster in the state, such as a fire, earthquake, or flood, and funds are made available to mitigate against similar future disasters. The grants can only be used for seismic upgrades, are typically in the \$3-5 million range, and require a 25 percent match from the City. It can take as many as two years to receive final approval on these grants, so City staff should be applying for this funding as soon and as often as it becomes available.

There are also various grant sources available for arts programming at the state and federal level, however, these grants are not typically used for funding building rehabilitation.

**Philanthropic Grants** – An essential reason for preparing the Vision Statement, to be followed by more detailed planning for the Civic Center area buildings is to establish a clear purpose and use for each building. Once this “story” has been established, it will be possible to pursue grant funding from private philanthropic sources whose goals are aligned with the building’s final use. Philanthropists appear to be particularly interested in buildings targeting the arts and providing programming for underserved youth.

**Tax Credits** — Over the years, Congress has authorized several tax credit programs that could be utilized to pay for some of the rehabilitation costs for the

buildings in the Civic Center area. These programs include the New Markets Tax Credits and Historic Tax Credits. Each tax credit program has its own rules for eligibility, and both are complicated financial instruments that require specialized expertise in both evaluating the feasibility for using the credit, and for preparing the tax credit applications. In addition, the City cannot apply for these tax credits, only a for-profit entity can use the tax credit funds. Given the importance of being able to access funds through both programs for the case study projects presented below, this suggests that the City may want to work with a developer to renovate and manage either one or both the buildings.

**Rent Payments** – Rental payments are a critical funding source for buildings because this revenue stream can be used to pay back any type of loan that could be required to finance part or all of the capital required to the project. Expected rental rates establish the amount of supportable debt the building can take on, establishing an integral relationship between rents as a funding sources and loans as a financing mechanism. Loans can take many forms and will carry varied interest rates.

In renovating publicly owned historic buildings to be used by non-profit organizations, one goal might be to keep rents as low as possible. But this goal

could work at cross-purposes to lining up any financing mechanisms required to cover renovation costs. One way to address this challenge is to raise as much revenue as possible from grants and other sources that do not require repayment to keep loans and therefore rents, at a lower amount.

**Developer Equity** – Most real estate projects involve two general sources of funding: debt and equity. Debt is a loan made to the project and is paid back through proceeds generated by the project (typically rents or unit sales) over a set time period and involving a set interest rate. Loans are usually used to pay for construction costs, but not for other predevelopment costs. Equity is the money invested in the project by the “owner” who can be the developer and/or other parties, including tax credit investors. This money is more flexible and can be used to pay for predevelopment costs as well as construction costs. Projects are expected to repay equity investors as well as lenders and equity investors often expect a higher interest rate than lenders because an equity investment is higher risk. Once the equity investors and the project debt have been repaid, the equity investors are entitled to any future revenues from the project. If the project is successful, these returns can be significant. Developer equity is one important source of predevelopment funding for building construction or

rehabilitation.

**Citywide Bond Measures** — Cities often borrow money for major projects by issuing bonds. The bond investors are then paid back through some revenue stream including an increase in property tax rates, user fees, or other stable revenue sources. The Measure T1 Bond money being used to pay for the Civic Center Vision process is a general obligation bond to be repaid with increased property tax rates where the increased tax rate amount can only go to repaying this specific bond. The money raised from bond sales can be used as an internal “grant” mechanism within the City to pay for improvements that in and of themselves do not generate a revenue stream that can be used for debt repayment. Therefore, bond proceeds are typically used for projects like transportation infrastructure, parks, and other community facilities. A significant portion of the Measure T1 bond monies have been committed to other projects, but it is possible that some of this revenue could be used to pay for specific items in support the Civic Center Vision, including additional technical studies and/or funds to stabilize the Veterans Memorial Building and Old City Hall so that they do not deteriorate further before the larger amounts can be raised to paid for the necessary seismic retrofitting and building rehabilitation.

## Funding Strategy

**Value Capture Mechanisms** – Public investments in community improvements including parks, better streets and other infrastructure tend to increase values for existing nearby property owners. The term “value capture” refers to any strategy whereby a public agency “captures” a portion of the increased property values to help pay for the infrastructure itself. Value capture mechanisms include various kinds of assessment districts, infrastructure financing districts, impact fees, and parcel taxes. While these kinds of funding mechanisms have been considered for Berkeley’s Downtown (see the Downtown Streets and Open Space Improvement Plan), the amount of revenue that these funding sources can raise tends to be very limited. In the Civic Center area where the majority of properties are owned by public agencies, who do not pay property taxes and would not benefit from increase property values, there is no real source of support for these traditional value capture mechanisms. However, if it is possible that certain street improvements or smaller-scale landscaping projects could be funded through a value capture mechanism, such as a lighting and landscaping district, if the Civic Center area were included within a larger district that could include Downtown with more properties across which to spread the cost.

For purposes of this discussion, business improvement districts (BID) will also be treated as a value capture mechanism. BIDs can levy an ongoing charge against businesses and sometimes property owners, to pay for certain services beyond what the City might provide, as well as paying for capital improvements. The kinds of activities a BID pays for range depending on the size of the BID its annual budget. Small BIDs like the Downtown Berkeley Association focus on keeping their area clean and safe, conducting marketing activities to promote the area, and programming events to attract people to the area. Some BIDs are very large and include major corporate members, so their operating revenues are extensive. For example, Bryant Park in New York City is operated by a BID, although the Park is owned by the City. In 2014, the Park has operating expenses of almost \$14 million of which only about \$1 million came from BID assessment. The rest of the Park’s revenues came from corporate sponsors and park usage for events. This suggests that value capture is not a viable option for improving or operating Civic Center Park.

**Corporate Sponsorships** - Corporations will contribute money on an annual basis to a high visibility facility or event to gain name recognition and to be associated with whatever they are sponsoring. Examples include naming rates for

sports arenas or underwriting major events. Most corporate sponsors tend to be large corporations, but small and mid-sized companies can potentially sponsor projects or events as well. As was described above, Bryant Park is partially funded through corporate sponsorship, which pay for a variety of programs and amenities in the Park, i.e. Pepsi who sponsors ping pong tables. Sponsorship differs from philanthropic giving by corporations in that sponsorship deals are often made over an extended period of time and are explicitly about advertising for the sponsor; whereas grants tend to be a one-time occurrence and are tied to a mission or goal.

relatively small. But depending on fund availability and community priorities, projects from the Civic Center could start to be programmed into the City's capital budget. This source is particularly appropriate for the Park and street improvements which have more limited financing options than the buildings.

**City Revenues** - In fiscal year 2020 the City of Berkeley had a total budget of \$197 million including both operating and capital funds . Although most of this money is programs for public safety (police and fire) and general government services, there are discretionary funds within any budget year that can be allocated by the City Council or the City Manager to cover some of the additional costs associated with implementing the Civic Center Vision, including but not limited to the necessary staff resources to continue to actively manage the implementation process, apply for grants, etc. This budget also includes a two-year capital improvement program, which is

## 6.2

# Case Studies

The following case studies illustrate the funding and financings approaches to rehabilitating two publicly owned historic buildings and one park in the Bay Area. These demonstrate the many different ways that cities approach this process, and the ways in which the public sector can work with private and nonprofit partners to fund projects like the Veterans Memorial Building, Old City Hall, and the MLK Jr. Civic Center Park.

## Building Case Studies

The two building case studies include the Geneva Car Barn and Powerhouse located in San Francisco and Oakland's Civic Auditorium. These two buildings are vastly different in their size, original purpose, community visibility, and extent of damage caused by the Loma Prieta earthquake. However, both buildings are being rehabilitated by mission-driven developers and will deliver significant community benefits related to arts

programming and non-profit use when completed.

### Geneva Car Barn and Powerhouse

The Geneva Car Barn and Powerhouse (GCBPH) is in southern San Francisco near the Balboa Park BART station in what has historically been a working-class part of the City with few public amenities or community facilities. Built in 1901 to house San Francisco's first electric railroad, the GCBPH facility operated as part of the City's municipal rail system (MUNI) until 1989 when the Loma Prieta earthquake rendered the buildings in this complex unusable. The complex sat vacant for about ten years, at which time MUNI decided to demolish it. However, a passionate group of community members created the Friends of the Geneva Car Barn to protest the proposed demolition. The group successfully lobbied the Mayor's Office to save the Car Barn and Powerhouse, some of the only historic buildings in District 11, and hoped to find a community use for it.



← Geneva  
Car Barn and  
Powerhouse

Although the Friends group had successfully stopped the GCBPH demolition, the group lacked the political clout or social networks to raise the funds necessary to begin the process of rehabilitating this derelict set of buildings. After many successive rounds of outreach to elected officials and City staff, the project caught the interest of the San Francisco Recreation and Parks Department leadership who saw the building complex's potential to house arts-related job training programs in a neighborhood that lacked any significant community facilities. At that point, GCBPH ownership was transferred to the Recreation and Parks Department and an initial investment was made to stabilize the buildings so they would not continue to deteriorate.

At the same time the Friends group

received about \$1.5 million in predevelopment funding from the City to hire a full-time executive director who could move the project forward. The first step the new executive director took was to work with the community to establish a clear vision for the building and to run a design competition to select an architect who could prepare a preliminary design for the buildings' reuse. This design also became the basis for a preliminary construction cost estimate. Once a preliminary project cost was established, based on the buildings' future use and its current condition, the City also funded various studies necessary to continue to develop a funding and financing strategy for the rehabilitation. These additional studies included more detailed architectural drawings, a market consultant to evaluate the potential rents the building could achieve, and an

## Funding Strategy

expert in working with both New Markets Tax Credits and Historic Tax Credits to evaluate whether the project could qualify for the credits, and approximately how much capital each of these sources could raise.

Eventually, the decision was made to split the rehabilitation project into two phases. The first phase would include on the 5,000 square foot Powerhouse building only. Cost estimates indicated that rehabilitating this building alone would cost approximately \$16 million dollars, and this amount could be financed using a range of sources. The Car Barn building costs were estimated to be in the \$40 million range, a price that was deemed infeasible to finance with available resources.

Establishing the focus on the Powerhouse building with clear project costs provided the basis for local politicians, including the district supervisor and State Assembly member Phil Ting, to help secure additional local and state funding so the project team could finally cobble together multiple funding sources to cover the project costs, that had, by this time, escalated to almost \$18 million (a cost of approximately \$3,500 per square foot).

Assembling the capital for the GCBPH project had been a long and arduous process and most of the work was done by one individual who played many roles over

the many years involved. This person, Nicole Avril, started as the executive director for the Friends group, she then held several different positions within the Recreation and Parks Department which enabled her to continue to both advocate for and work on the various predevelopment steps in making the project a reality. But the long-term plan was never for San Francisco to operate the Powerhouse building once it was renovated. The plan had always been to have a non-profit arts organization perform this function. Therefore, when the project was ready to move into the final phases of design and construction, the City issued a request for proposals and selected a development team that included the Community Arts Stabilization Trust (CAST) acting as the project's developer and master tenant, with Performing Arts Workshop as the main subtenant and building operator.

CAST is an organization dedicated to the mission of acquiring or controlling properties to sustain non-profit arts organizations in the Bay Area. As the developer, CAST was able to create the necessary financing structures and find the money necessary to fill in some final gaps in the project's funding. CAST will be responsible for managing the construction and long-term operation based on a 55-year lease. Because the capital sources for the project include grants or equity funding from sources requiring a relatively low interest rate,

CAST will be able to lease the space to Performance Arts Workshop and other subtenants at relatively low rental rates, which as a key goal throughout the project's long development process.

This case study illustrates two key points. The first is that because the project had a clear arts-driven community-based mission, it was able to garner financial support from both political and philanthropic sources with aligned priorities. Second, it took many years and considerable investment on the part of the City of San Francisco to piece together the financing strategy for this project. One reason the project took so long was because successive planning and design steps were required to find a project that was financially feasible based on the relationship between the total project costs, the funding sources, and the project's revenue stream. A second reason this project took so long was because it initially lacked a strong public champion and it was not until the District Supervisor became fully committed to the project that it became possible to leverage more local and state funding sources. It should also be noted that many extra costs and time were incurred because of the relative inexperience of the project team in dealing with these complex financing structures.

### Selected Predevelopment Funding Sources

- City of San Francisco General

Obligation Bond: \$837,863

- Pro Bono services: design, construction estimate, tax credit consultant
- City operating budget to support staff time for the project

### Geneva Barn Development Funding Sources

|                                                      |                     |
|------------------------------------------------------|---------------------|
| 2000 CITY OF SF GO BOND                              | \$837,863           |
| 2012 CITY OF SF GO BOND (COMMUNITY OPPORTUNITY FUND) | \$3,000,000         |
| STATE OF CA GENERAL FUND GRANT                       | \$3,500,000         |
| CCSF GENERAL FUND                                    | \$2,500,000         |
| SUPERVISOR SAFAI - MAYOR'S BUDGET                    | \$200,000           |
| CAST DEVELOPER CONTRIBUTION                          | \$1,000,000         |
| GCBPH SF PARKS ALLIANCE ACCOUNT                      | \$35,612            |
| HISTORIC PRESERVATION TAX CREDITS                    | \$1,842,967         |
| NEW MARKETS TAX CREDITS                              | \$4,058,340         |
| NEIGHBORHOOD ASSET ACTIVATION                        | \$306,000           |
| SF REC AND PARKS CAPITAL BUDGET                      | \$226,610           |
| <b>TOTAL FUNDS</b>                                   | <b>\$17,507,392</b> |



## Funding Strategy

### Geneva Barn Timeline

- 1901** Geneva Office Building and Car Barn built by San Francisco and San Mateo Electric Railway Company.
- 1903** A Powerhouse building is added to provide electricity to the streetcar line.
- 1944** The older streetcar company is absorbed by San Francisco Municipal Railroad (MUNI) and this site becomes the core for San Francisco's streetcar operation
- 1989** Loma Prieta earthquake renders the buildings unusable and they are abandoned.
- 1999** MUNI tries to demolish the Car Barn and Powerhouse, but the neighborhood gets the Mayor to intervene.
- 2002** Neighbors form the Friends of the Geneva Car Barn and Powerhouse to lobby the City for funds to renovate the building for community use.
- 2004** Building ownership is transferred from MUNI to the San Francisco Recreation and Parks Department. The office building stabilized and gets a new roof. Community members start working with the City to establish a youth center. City staff and elected officials start securing funding for the project from multiple sources.
- 2009** The City hires a staff person to manage the Car Barn project.

- 2010** The City hires an architect to work with the community and the state historic preservation office to create a plan for the Powerhouse's reuse only. The Car Barn is currently too expensive to reuse.
- 2017** City announces it has secured \$14 million in funds from various sources for the Powerhouse project and selects Performing Arts Workshop to operate the building. Community Arts Stabilization Trust (CAST) will act as project developer and master tenant.
- 2018** Renovation of the Powerhouse begins.
- 2020** Car Barn renovation plans still unclear.

### Oakland Civic (Formerly Oakland Kaiser Auditorium)

The Oakland Civic was built in 1914 as a general-purpose entertainment venue and has been continuously owned and operated by the City of Oakland until it closed in 2006. At the time it closed, the building was operating at a loss and needed a major renovation. The City had made no significant investments in the facility since the mid-1980s when among other things, some basic seismic upgrades were made. Although the seismic upgrades were not extensive, they were enough to get the building through the Loma Prieta earthquake without any major damage. The building



← Oakland Civic (Formerly Oakland Kaiser Auditorium)

is situated on the south side of Oakland's downtown adjacent to Lake Merritt and encompasses about 214,000 square feet with a 1,900-seat theater, an arena, and several other large spaces for events.

After the Auditorium closed, the City of Oakland proposed a bond measure that would have paid to convert the building into the City's main library, but the voters rejected this proposal. The City also tried unsuccessfully to sell the building. Then, in 2015 the City issued Request for Proposals (RFP) to solicit proposals from developers who would take on the responsibility for financing, renovating and operating the building. After an outreach process involving approximately 500 developers, the City only received two viable proposals and Orton Development was selected. The City's RFP specified that Oakland was interested in seeing

an adaptive reuse for the building and identified a potential mix of public and private uses that could be included in the development program, such as cultural and office uses. But the final program was up to the developer to determine, subject to final approval from the City.

Future use and design constraints directly influenced the financing for the project. And the City did eventually stipulate an arts focus for the building, with a renovated theater and below-market rate rental space for arts nonprofits. The building's historic designation required that Orton retain much of the original arena structure, which cut down on the amount of office space feasible. To accommodate these constraints, Orton adjusted its interior design to a less expensive co-working design, in which market-rate office rents could still

## Funding Strategy

subsidize the below-market rents.

One major boon to the project was no extra seismic costs necessary, as the essential retrofits from the 1980s were deemed acceptable, since the building was not undergoing a major change in use. The project team also created a unique governance structure, where the Calvin Simmons Theater will become a separate nonprofit entity to be funded primarily by corporate sponsorships and a capital campaign. From the time that Orton Development was selected as the developer until the company had a final development program, their financing in place, and had received final development approval from the City took about four years. As shown below, total construction costs are estimated at approximately \$67 million, or \$296 per square foot. Orton will enter into 99-year lease with the City for the building at a rent of \$1.0 per year. Rents from building occupants will be used to pay down both the debt and equity portions of the project financing. After both have been paid back, in 15-20 years if all goes according to plan, Orton will split the building proceeds with the City on a 50/50 basis.

The Oakland Civic case study is a stark contrast to the GCBPH project. Other than a relatively small contribution from former Redevelopment Agency funds, the City of Oakland made no major financial contribution to this project in terms of capital or staff support. Instead,

conducting the detailed predevelopment studies, engaging with community members and potential users, and assembling the appropriate funding and financing was solely the developer's responsibility. Despite moving forward more quickly than the GCBPH project, it still took four years and considerable developer resources. Although Orton is a "for-profit" developer, like CAST, the company is also mission driven with a strong commitment to adaptive reuse of historic buildings and supporting non-profit and community-based organizations. But, as was the case for the GCBPH project, the final funding/financing package was iterative and had to respond to many issues and constraints, not the least of which was the building's historic status and the preservation requirements mandated by the state historic preservation office (SHPO).

An additional consequence related to Orton's approach to funding, which included relying on an equity investment and some conventional bank financing is that the rent levels required to carry these costs are likely higher than they would have been had there been more grant money involved. On the other hand, the final development program will focus on non-profit and community-based tenants and will charge what are considered below market rents. Orton's original concept had been to provide high quality office space for technology related companies combined with non-profit

space. But the construction costs to improve the space for market rate office tenants were too high to make this work, causing Orton to adopt a less expensive rehabilitation approach, but also making it possible to charge lower rents.

### Predevelopment Funding Sources

- Developer Equity

#### Oakland Civic Development Funding/Financing Sources

|                                            |                     |
|--------------------------------------------|---------------------|
| CITY OF OAKLAND FORMER REDEVELOPMENT FUNDS | \$3,100,000         |
| DEVELOPER EQUITY                           | \$10,000,000        |
| NEW MARKETS TAX CREDITS                    | \$16,000,000        |
| HISTORIC PRESERVATION TAX CREDITS          | \$3,800,000         |
| DEBT                                       | \$8,800,000         |
| CAPITAL CAMPAIGN                           | \$22,000,000        |
| <b>TOTAL FUNDS</b>                         | <b>\$63,700,000</b> |

#### Oakland Civic Timeline

- 1914** Oakland Civic Auditorium built as a general-purpose entertainment venue, owned and operated by the City of Oakland. The structure includes an arena, theater, banquet rooms, ballroom, lobby, and basement.
- 1984** \$15 million major renovation, including seismic work, renamed Henry J. Kaiser Convention Center.
- 2006** Auditorium closed by the city, as it was losing money. Voters rejected a \$148 million bond measure to convert the building into the main public library.
- 2005-12** City makes multiple attempts to sell the building for other uses.
- 2010** Peralta Community College District considers buying building for \$9 million, realizes it's too expensive to rehab for their purposes.
- 2011** City considers hiring a broker to market the property, but fee was too high.
- 2014** City issues a request for proposals, canvases over 500 developers, receives 2 viable proposals.
- 2015** City selects Orton Development, local for-profit developer with deep experience in adaptive building reuse.
- 2019** City Council approves final plans for project, call the Oakland Civic.
- 2020** Construction scheduled to begin.

## Park Case Study

### San Francisco Parks Alliance

The San Francisco Parks Alliance is an independent nonprofit that works closely with the City of San Francisco to “champion, transform and activate parks and public spaces.” The Alliance’s work includes building and operating parks/ public spaces, community greening programs that engage community members around greening their neighborhoods, and event programming in public spaces which the Alliance often does with other community partners. Functionally, the Alliance operates as a partnership with multiple city departments, including Recreation and Parks, Office of Economic and Workforce Development, Public Works, the Public Utilities Commission, and the Port of San Francisco. This partnership works because the Alliance is a private non-profit entity, and as such, is often able to complete projects more quickly than city agencies. The Alliance is not bound by the City’s procurement rules, allowing it to be more nimble in its approach to project delivery than the City can be. In addition, as a non-profit entity, the Alliance can do its own fund raising enabling the organization to secure donations or reimbursable grants from private funders or other sources that may not be available

to the City. These sources can then be used to close a final funding gap and enable a project to move forward more quickly.

The Alliance uses a large range of funding and financing structures on their projects, including leveraging strong relationships with private donors on a project by project basis, the ability to issue bonds (borrow money) that can be repaid from revenue generated by public parking garages and conventional bank loans. In 2019, the Alliance had an operating budget of approximately \$25 million, with only about 15 percent going to park development. Most of the Alliance’s expenditures (70 percent) are associated with its community partnerships. Almost 84 percent of the Alliance’s revenues come from individual, corporate, or philanthropic sources, while 16 percent come from government grants.

This case study demonstrates that in a large community, like San Francisco, there is enough philanthropic support to fund a large non-profit organization that supports the City’s parks and public spaces. There are other models for conservancies or other kinds of non-profit entities that support large parks or other major public facilities such as



← San Francisco  
Parks Alliance,  
Larsen  
Playground

Central Park in New York or the San Francisco Conservancy of Flowers. Unlike the San Francisco Parks Alliance, these conservancies typically operate a specific facility with its own operating budget which is primarily funded by entrance fees, individual and corporate memberships, grants, and other philanthropic sources. Such facilities tend to be large, iconic, and generate repeat visits from their membership base.

## Case Study Key Findings

### Funding And Financing

- Rehabilitating historic buildings is expensive, especially when seismic retrofits are required.
- There is often a long lead time involved in building reuse, which may necessitate public support for additional studies or plans and baseline building stabilization.
- Working through the rehabilitation costs and financing options is often an iterative process.
- Future uses and users of a building affect both the costs of rehabilitation and the array of funding sources available and feasible for rehabilitation.

### Partnerships

- Dedicated city staff time can be essential to managing these projects especially during the predevelopment phase.
- Assembling the financing to rehabilitate historic buildings is extremely complex and typically requires working with a “private” developer (could be non-profit).
- There is a wide range of public-private partnership arrangements, each of which has different implications for the public partner.
- Under a partnership, a developer will require a long-term lease for the property so they can control the

building long enough to pay back their debt and equity.

- End-users are not always identified before developer selection, but cities can specify uses and governance structures in an RFP.
- Changing partners partway through a project inevitably leads to higher costs and a longer timeline.

### Community Benefits

- The more grant or low-cost loan money a project can garner help to deliver lower rents for the project’s end users.
- Although activating publicly owned historic buildings can be an expensive proposition, and might not be “feasible” as a private real estate deal, restoring these buildings should be considered a major community benefit.
- Projects with an arts and culture orientation can draw significant support from philanthropic institutions for both grants and low-cost loans.

### Parks

- Parks improvements are not funded through public-private partnerships because there is no dedicated funding source to pay back developer debt or equity. Nonprofit partners, however, can deliver both capital improvements and can operate the facility if there is sufficient capacity to raise the appropriate funds through user fees/ membership dues, public grants, and

philanthropic sources.

- Parks may be funded through philanthropy, but most philanthropic support comes from large corporate sponsors, or a few wealthy individual donors. Not all communities have sufficient philanthropic capacity to support a parks program.
- Nonprofit stewardship of a park can open up access to private grants and donors, while allowing the park to still be publicly owned.

## Civic Center Vision Funding Strategy

The Civic Center Vision can be distilled into three primary project types requiring funding: buildings, the MLK Jr. Civic Center Park, and street/mobility improvements. These project types can be further disaggregated into smaller parts, such as by building, and into implementation phases including predevelopment, construction or project delivery, and ongoing operations and maintenance. It is impossible at this point to identify a specific funding/financing strategy for each individual project because there are still many decisions yet to be made about the scope, scale, and use for each project; and, future funding/financing approached will be directly linked to those more detailed decisions determining overall project direction. However, there are generally

typical funding sources associated with each project type and implementation phase as shown in Figure 1 (*see p.188*). The sources and uses vary considerably by project type and phase, as is discussed below.

Although understanding these funding sources and their potential for implementing the Vision is important, the other essential components of this implementation process are strong public leadership and a robust structure for making the many incremental decisions required to advance these projects. Unlike a conventional area plan that a city might adopt to direct future investment in a particular location, this Vision focuses on an area dominated by public facilities and with a vision for future public use. Therefore, private market investment can not be relied upon to deliver the Vision's goals. Instead, the City of Berkeley will have to take an active and long-term role in project delivery. This is why this Implementation Plan includes a clear governance structure to make the necessary implementation decisions by being both strategic and opportunistic, while also ensuring transparency and community accountability.

### Historic Buildings

**Predevelopment** – A key predevelopment decision for both historic buildings is the appropriate level of the seismic retrofit. These costs vary considerable



## Funding Strategy

depending on each building's structural elements, the desired level of durability in the event of an earthquake, the trade-off of cost against future durability, and other factors discusses elsewhere in this Implementation Strategy. However, as the GCBPH case study illustrates, seismic costs can drive overall project costs above a sustainable level, given other funding sources. This suggests that the City should consider seeking funding just to pay for the retrofits. **One immediate potential funding source for seismic retrofits is a Housing Hazard Mitigation Grant. This source was discussed above. As of April 2020, these grants are available, and the initial application is due in June 2020. The City should give serious consideration as to completing this initial application now as it is not clear when this money would be available again, and there can be a multi-year lag between making an initial grant, being awarded the grant, and receiving the money.**

Generally, funding sources as well as project costs are driven by building uses. Therefore, the specific purpose and use of each building must be determined as part of the predevelopment process. This decision also determines who might develop the building; who would occupy the building and pay for the space; and what potential rent levels align with the potential future tenants. The predevelopment phase covers the costs

to conduct whatever process is necessary to arrive at these decisions, and to fund any additional more detailed design and/or feasibility studies. Funding sources that can cover these costs include T1-Bond money, and the City's own operating revenues. It is possible that there may be some other source of state grants or discretionary funds or federal grant funding, including from the National Endowment for the Arts, but these sources would need to be explored on a case by case basis.

The Veterans Memorial Building as cultural hub/art-oriented facility will both determine the appropriate level of the necessary seismic retrofit; and will make this project appealing to grants and philanthropic organizations, who are specifically in arts related projects. Participation from these groups can help lower overall development costs, and thus lower rents for the end-users who might be non-profits with low operating budgets, and thus requiring below market rental rates. Also, because tax credits could be an important funding source, this building would be a good candidate for a public-private partnership where a developer assembles the final funding/financing package, manages the construction, holds the master lease, and manages the building over the term of the lease. In considering who should be responsible for developing this building, it should be noted that assembling the necessary

funding/financing and managing a construction project of this size is a highly specialized process and should be undertaken either by the City whose Public Works Department has experience managing complex construction projects, or by a developer, not by an arts or non-profit organization who might be a tenant in the building, but lacks the experience or capacity to be a developer.

More detailed feasibility analysis is going to be required for the Old City Hall building to determine which option is the most feasible from a funding/financing perspective. On the one hand, if this building becomes a non-profit office space with some exhibition space, then some investigation would need to be done as to the level of philanthropic support for the proposed uses, the rent levels the potential users could pay, which might be higher than what small community arts organizations could pay, and what the total rehabilitations cost would be relative to the potential income stream. If the City is not going to occupy this building for its own uses or programs, then this building is another good candidate for a public-private partnership.

If the City decides to use the Old City Hall building for its own offices and for expanded meeting space, then the City would take on the full responsibility to fund, financing, develop, and operate the building. There are multiple financing scenarios the City could pursue for

this kind of improvement including but not limited to lease revenue bonds, certificates of participation, or a different form of privately led financing structure which would also be repaid through rent revenues or some kind of “availability payment” which is specified payment amount that the City agrees to pay out over time to pay back the financing “loan.” This kind of financing arrangement is also referred to as a public private partnership, or P3.

Each option has different costs and implications and the City would need to do a detailed study to determine the best solution. However, key benefits to borrowing against a future payment could include not requiring a public vote, as would be required for a bond to be secured against property tax revenues; this project would not divert money from other much needed capital improvement projects currently funded through some combination of infrastructure bonds and capital improvement budgeting,; and by consolidating City offices and meeting space into one building, the City might be able to reduce its current operating costs, even with the new facility. This same approach could be used if the decision is made to add new meeting space to the 2180 Milvia building. Another option is to issue a future infrastructure bond, like the T1 bond, which would be repaid based on property tax revenues. Such a bond would require a two-thirds majority voter approval.

## Funding Strategy

**Construction Costs** – Because construction costs are tied to the building use and user, appropriate construction funds sources will be determined during each building's predevelopment phase. Again, it is important to note that certain sources, like tax credits and developer equity, are only available if a for-profit developer is involved. The City and other government entities could contribute funds to any of these projects through several sources, including grants, discretionary funds, and bond funds. These sources could be deployed with either a for-profit developer or if the City develops any of these buildings itself.

**Operation and Maintenance** – Each building's operating expenses should be covered by its tenants or users. If the buildings are occupied by non-profit organizations, these groups themselves often use grants and philanthropy to cover their own operating expenses. If the City were to occupy any new space as a result of the Vision Implementation, it would pay for the cost out of its own operating budget.

### **MLK Jr Civic Center Park Improvement**

**Predevelopment** – Predevelopment activities related to the Park will include preparing a more detailed plan developing a construction cost estimate or estimates by construction phase if this is relevant. This phase could also be used to explore the extent to which there might be

sufficient philanthropic and/or corporate interest in supporting some kind of non-profit structure, like the San Francisco Parks Alliance, that could take on raising money to both improve and operate the Park. Big cities like San Francisco and New York clearly have used these models very successfully to address their parks and public space needs. Neighboring (and smaller) Oakland has a corporate community that is large enough to potentially support city activities. However, given that Berkeley's main employer is the University of California, it is unclear as to whether some kind of parks related non-profit would be viable, even if this organization were to take on managing and maintaining several other iconic Berkeley parks and other public landmarks such as the Rose Garden or the fountain at the Marin Circle.

However, because park improvements are very hard to fund because there is no revenue stream for repayment, the City is likely going to have to bear most or all of the Park's predevelopment costs through locally generated sources including future bond monies, City revenues, or other sources. Occasionally there are also parks related grants available at the regional or state level. For example, in 2008 the East Bay Regional Parks District had a bond measure (Measure WW) approved by the voters that, among other things, provided \$4.876 million in grant money to Berkeley. That money was used to pay for multiple improvements at

existing City parks.

It should be noted that some park/public space facilities, like the Hall of Flowers in San Francisco or Bryant Park in New York generate a significant revenue stream from renting out the facility for private events. However, to date, it has been the City of Berkeley's policy to charge only nominal rates for holding events at Civic Center Park. Whether this policy could or should change is another decision to be discussed as part of the predevelopment process for the Park.

**Construction** – If it is feasible to form some type of non-profit or conservancy to support Civic Center Park, then this entity will be leveraging grants and contributions from philanthropic sources, including individual donors for construction. Corporate sponsors might also be interested in supporting construction costs for certain park elements in exchange for advertising rights. Regional grant monies could also be used for Park construction if they are available. But the most likely sources to support Park construction are local bond proceeds and/or capital improvement program funds.

**Operation and Maintenance** – Civic Center Park is currently operated and maintained by the City's Parks, Recreation, and Waterfront Department. Funds for operation could be supplemented by establishing some form of area or district-based assessment district or

tax increment district. However, it is uncertain how much money such a district could generate unless Civic Center Park is included in a larger financing district that incorporates Downtown and/or a larger area of central Berkeley.

## **Street and Mobility Improvements**

**Predevelopment/Construction** – The Downtown Streets and Open Space Improvement Plan (SOSIP) and the Berkeley Strategic Transportation (BeST) Plan already incorporate some level of planning for the major streets in the Civic Center Vision area. However, funding for further design is limited. Allocating additional resources to these projects will depend on whether there are funds available and if the City Council decides to prioritize Civic Center related projects over other projects. The BeST Plan already includes the Downtown area as a priority funding, and the SOSIP has established a development impact fee for projects in the Downtown area that can pay for street and open space improvements. Additional funding sources are identified in the BeST Plan.

**Operation and Maintenance** – Berkeley's public works department is responsible for street maintenance. If additional funds are required for this purpose in the future, street maintenance could be bundled with Park maintenance and included in a district-based funding program.

Figure 1: **Common Funding Sources by Project Type and Implementation Phase**

| Project Type                                  | Funding Sources      |                      |             |               |
|-----------------------------------------------|----------------------|----------------------|-------------|---------------|
|                                               | Public Agency Grants | Philanthropic Grants | Tax Credits | Rent Payments |
| <b>Historic Building Rehabilitation</b>       |                      |                      |             |               |
| Predevelopment                                | ✗                    |                      |             |               |
| Construction                                  | ✗                    | ✗                    | ✗           | ✗             |
| Operation and Maintenance                     |                      | ✗                    |             | ✗             |
| <b>MLK Jr. Civic Center Park Improvements</b> |                      |                      |             |               |
| Predevelopment                                | ✗                    | ✗                    |             |               |
| Construction                                  | ✗                    | ✗                    |             |               |
| Operation and Maintenance*                    |                      |                      |             |               |
| <i>*Includes programming</i>                  |                      |                      |             |               |
| <b>Street/Mobility Improvements</b>           |                      |                      |             |               |
| Predevelopment                                | ✗                    |                      |             |               |
| Construction                                  | ✗                    |                      |             |               |
| Operation and Maintenance*                    |                      |                      |             |               |

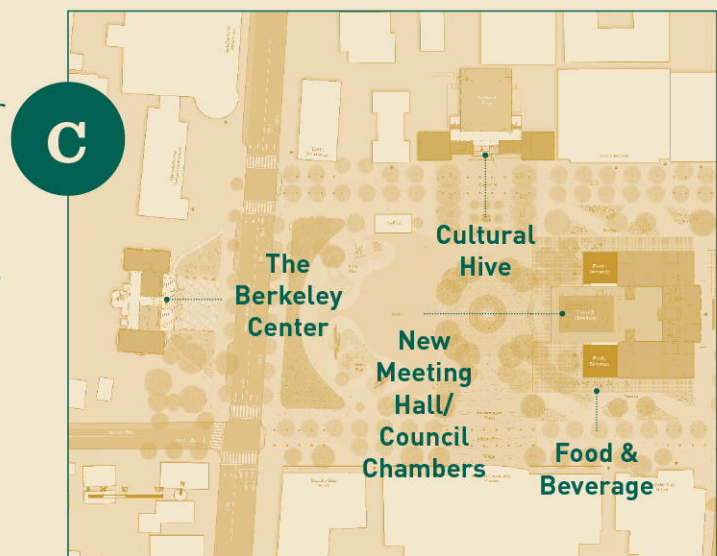
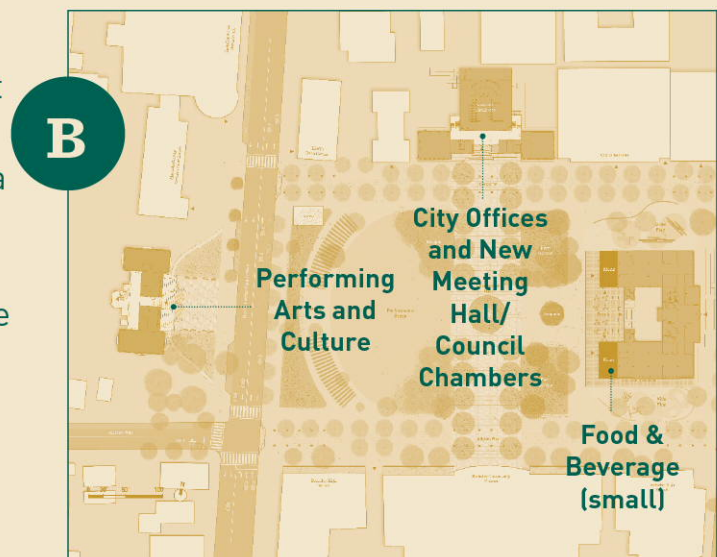
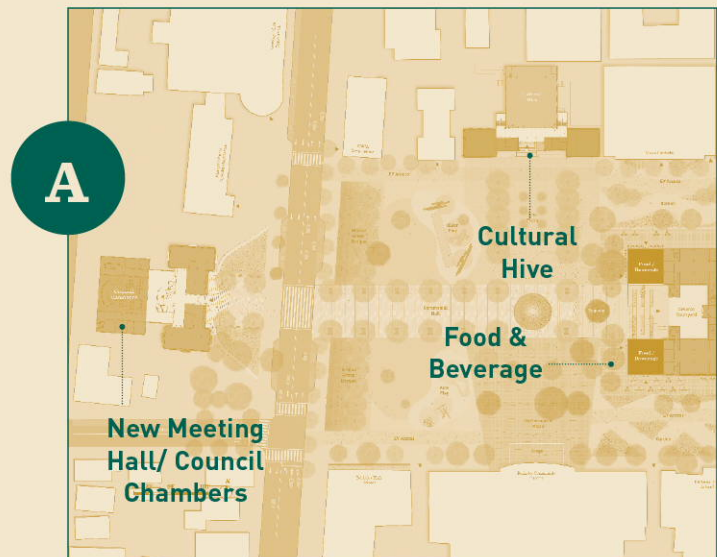
| Developer Equity | Citywide Bond Money | Value Capture Mechanism | Corporate Sponsorships | City Revenues |
|------------------|---------------------|-------------------------|------------------------|---------------|
|------------------|---------------------|-------------------------|------------------------|---------------|

|   |   |   |   |   |
|---|---|---|---|---|
|   | X |   |   | X |
| X | X |   |   | X |
|   |   |   |   | X |
|   | X |   |   | X |
|   | X |   | X | X |
|   |   | X | X | X |
|   | X |   |   | X |
|   | X |   |   | X |
|   |   | X |   | X |

## 6.3

# Cost Summary

A critical component of the cost plan is the level of seismic upgrade. Both Old City Hall and the Veterans Memorial Building were constructed prior to any real seismic building standards and must be seismically retrofitted. Two options have been considered for each building: a Basic Performance Objective for Existing Buildings (BPOE) scheme allows safe egress from the building and prevents the building from collapse during a seismic event, however, the building may incur damages that are exceedingly expensive to repair. An Immediate Occupancy (IO) scheme allows safe egress and provides enhanced protection to the building such that it could be reoccupied almost immediately following a seismic event. A BPOE retrofit scheme is very common for existing buildings and can accommodate any number of building uses. An IO scheme is typically undertaken for buildings that house “essential services,” such as hospitals and emergency services, that must remain open in the case of community crisis. Depending on selected use we recommend that further seismic studies are undertaken.



### Summary of preliminary program cost plan

#### Option A:

Maudelle Shirek (IO): \$46,749,000

Veterans Memorial Building/ Cultural Hive (BPOE): \$21,381,000

2180 Milvia addition : \$3,373,000

Civic Center Park (all public realm including streets): \$8,183,000

**Total: \$79,686,000**

*Excludes rooftop addition to VMB and new structure adjacent to the City Hall Annex*

---

### Summary of preliminary program cost plan

#### Option B:

Maudelle Shirek (BPOE): \$18,240,000

VMB (IO): \$64,983,000

2180 Milvia: \$1,840,000

Civic Center Park (all public realm including streets): \$7,506,000

**Total: \$92,569,000**

*Excludes rooftop addition to VMB and new structure adjacent to the City Hall Annex*

---

### Summary of preliminary program cost plan

#### Option C:

Maudelle Shirek (BPOE): \$17,082,000

Veterans Memorial Building (BPOE): \$21,182,000

2180 Milvia: \$9,985,000

Civic Center Park (all public realm including streets): \$7,895,000

**Total: \$56,144,000**

*Excludes rooftop addition to VMB and new structure adjacent to the City Hall Annex*

*Seismic costs reference the Seismic Evaluation report by IDA Structural Engineers, April 2019*



Recommendations



# Recommendations

# Recommended Conceptual Design Option

The engagement and visioning process that led to the creation of the conceptual design plans has identified the main programs and features that need to be present in the new Civic Center.

The process has been instrumental in clarifying complex questions — such as what programs people want to see in Civic Center, and what kind of public realm will make Civic Center a real commons for all Berkeleyans.

The preferred conceptual design falls somewhere between option A and option C. One key topic of discussion is the location of the proposed new large meeting hall, large enough for council meetings (200+ seats). Option A, which shows such space as an addition to the Maudelle Shirek Building, and Option C, which explores a new volume connected to the west side of 2180 Milvia, facing the park — both had a lot of positive support. It's clear to the design team that both options present good opportunities, however, the extension of 2180 Milvia toward the park is the design team's recommendation.

The recommended concept, which is aligned with the Vision statement and with the community and stakeholders input, includes the following key components:

## **A new structure on the Park — Meeting Hall, Park Café and Restrooms**

This new volume on the park will:

- Give the park a much needed active edge, a building right on the park
- Offer a home to new programs that will contribute to the activation of the park — a park café, restaurant and restrooms
- Enable the Council and other groups to meet (several meetings a week and late into the evening\*) in a central location, without having to cross M.L.K. Jr Way
- Offer an opportunity for a contemporary architectural addition that complements the sensitive rehabilitation of important historic structures.

*\*In 2019 there were 67 council meeting dates (24 regular meetings, 43 special and work session meetings). To use the BUSD board room CoB currently pays \$91,200 (annually) or ~\$1,200 per use*

*or about ~\$91,200(annually). More comprehensive engagement with the City Clerk’s office and other stakeholders will be needed to understand precise needs, as well as studying projected occupancy numbers and their effect of the activation of the public realm.*

Veterans and Community Meeting Spaces at Civic Center

**The Berkeley Historical Society and other tenants in a retrofitted Old City Hall**

The Historical Society is a key tenant and we support their presence at Old City Hall. Additional tenants should extend or complement the historical and education mission of celebrating the history and stories of Berkeley. Spaces for indoor gatherings — such as receptions and talks, as well as exhibition spaces, will ensure the building is open to the public. Subject to programmatic needs and funding opportunities, the scenario of extending Old City Hall toward the west should be explored.



**The Berkeley Cultural Hive at the Veterans Memorial Building**

The Cultural Hive houses community meeting spaces, places for performing arts and arts education (after school programs for high schoolers, ballet classes, performances). It is a bridge between the Berkeley High School and the Arts District. A retrofitted auditorium, smaller performing arts studios and teaching spaces will mean more people and activity in the building. The idea of a rooftop addition, set back from the main façade, and a terrace, should be explored.

**Meeting spaces for the Veterans groups and the community**

Veterans groups should have access to one of the multi-purpose meeting rooms in the Veterans Memorial Building, granting them special access in perpetuity to use the space for meetings

## Recommendations

and events. In our meetings with the two Veterans groups that currently use a space at the Veterans Memorial Building they expressed a desire to make use of the building and were open to the idea of sharing a space with other community groups.

### A new landscape

The new landscape of Civic Center Park celebrates its history and includes bold, ambitious and people-centered moves to make the park more accessible, comfortable and used. The preferred design alternative considers the removal of the Giant Sequoia. Although the tree is a significant landscape feature of the park and has an important history, its current size means that it significantly blocks axial view and its location is incompatible with the full integration of a new meeting hall at 2180 Milvia. Careful consideration has been taken and several strategies have been identified to mitigate for the loss of this feature, including;

- Relocation of the tree elsewhere in the park or immediate context of the National Register District
- Preparing a Historic American

Landscape Survey (HALS) documentation for the Berkeley Civic Center National Historic Register District

- Planting clones that are propagated from this tree and grown in an appropriately qualified nursery with the intent of creating the next generation of the Giant Sequoia
- Repurposing wood from the tree to be respectfully used for fine furniture in the new Council Chambers

*Refer to the Appendix for more details and mitigation recommendations.*

Civic Center Park is a place for civic events — evening concerts, rallies and fairs; but also for the big days in one’s life — it’s where you take your wedding photo; and where everyday memories are made — lunch with friends on a sunny bench, meetings at the Farmers Market, laughs at the climbing structure, outdoor classrooms, picnics, birthday parties, tai chi, community gardening. The Turtle Fountain and other sculptures and public art will celebrate people and events that have contributed to Berkeley’s collective history.

### Access point for Civic Support

All people should feel welcome in Civic

Green, Play, Food and Events at Civic Center



Center, therefore it is imperative to provide a physical space within the Civic Center area that helps connect the most vulnerable community members with the help they need — be it shelter, medical or other. Further studies are needed to assess the spatial requirement of this program and consider the scope and the appropriate location for these services.

### **Beyond the Old City Hall and the Veterans Memorial Building — The Civic Center Market**

In collaboration with Berkeley High School and the Ecology Center, Berkeley’s celebration of locally-grown food as a cornerstone of local culture can be given a permanent home at Civic Center. This idea needs further study but the design team found strong support among educators, political leaders and public commenters for an all-week expansion of the Farmer’s Market. Possible locations might include a pavilion in Civic Center Park or the Berkeley’s Main Post Office building.

Inevitably the preferred vision goes beyond this project’s scope and includes other nearby buildings — including the Post Office as mentioned above — that should be considered during the next stages when developing a masterplan or precinct plan for Civic Center. Matters relating to the precise location, sizing and configuration of new programs should be further studied, alongside the seismic implications, detailed cost analysis and

projected occupancy numbers and their effect on the activation of the public realm. These studies will help further detail the conceptual option presented here, and inform the development of a precinct plan that is made up of different project tracks, phasing, and/or project groups ( specifying what building projects goes with what public realm project, and how each project can be funded) — each with its own critical path.

*See Chapter 8 — Implementation.*

#### **Summary of Preliminary Program Cost Plan — Option C**

|                                                        |                     |
|--------------------------------------------------------|---------------------|
| Maudelle Shirek (BPOE)                                 | \$17,082,000        |
| Veterans Memorial Building (BPOE)                      | \$21,182,000        |
| 2180 Milvia                                            | \$9,985,000         |
| Civic Center Park (all public realm including streets) | \$7,895,000         |
| <b>Total</b>                                           | <b>\$56,144,000</b> |

*Note: Excludes rooftop addition to the Veterans Memorial Building and the new structure adjacent to the City Hall Annex*

*Seismic costs reference the Seismic Evaluation report by IDA Structural Engineers, April 2019*

## Recommendations

## The heart of Berkeley

The Civic heart of Berkeley is green, inviting, lively, human-scaled. A new lease of life is given to its historic buildings, and additions to these structures provide much needed government and community meeting spaces, places for performing arts and arts education. The Cultural Hive is a bridge between the Berkeley High School and the Arts District. Civic Center Park is a place for civic events and everyday interactions — lunch, play, outdoor classrooms, meetings with friends, picnics, birthday parties, tai chi, community gardening. Civic Center is part of Downtown and part of a neighborhood — it's your space.

Potential for Maudelle Shirek Building extension, program TBD



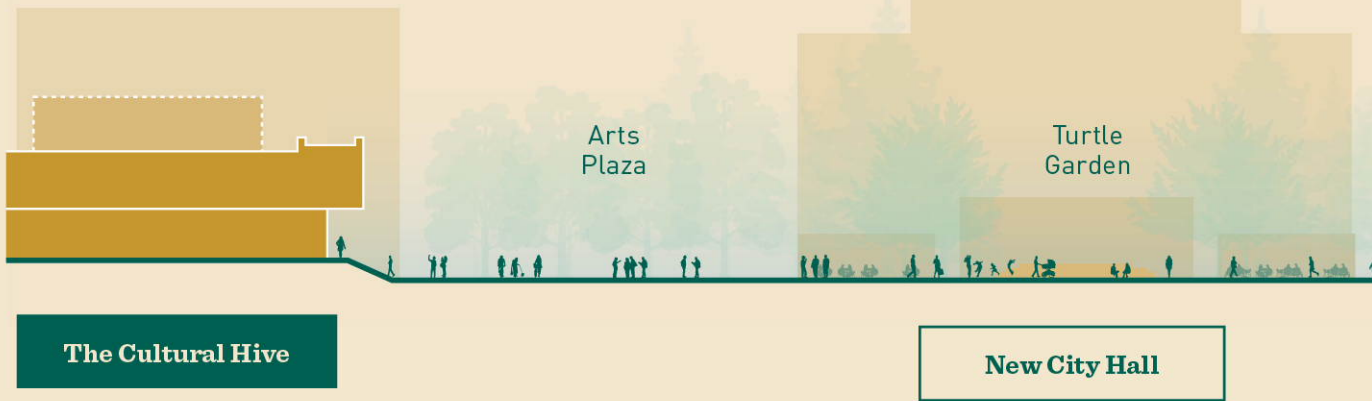


*Note: Diagram is illustrative and conceptual. It is not representative of architectural expression.*



# Site Sections

## section A

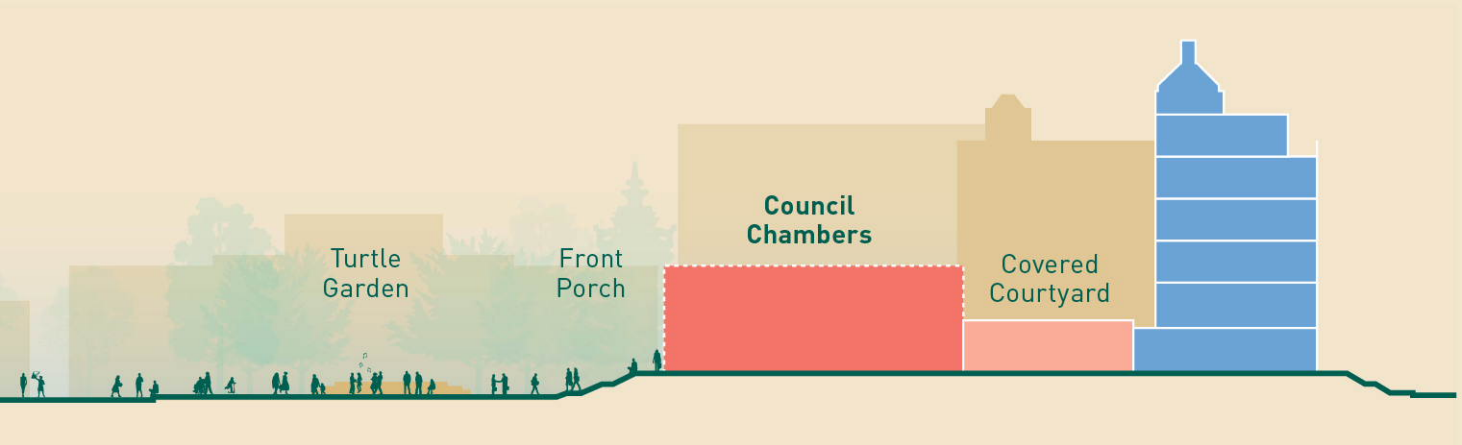
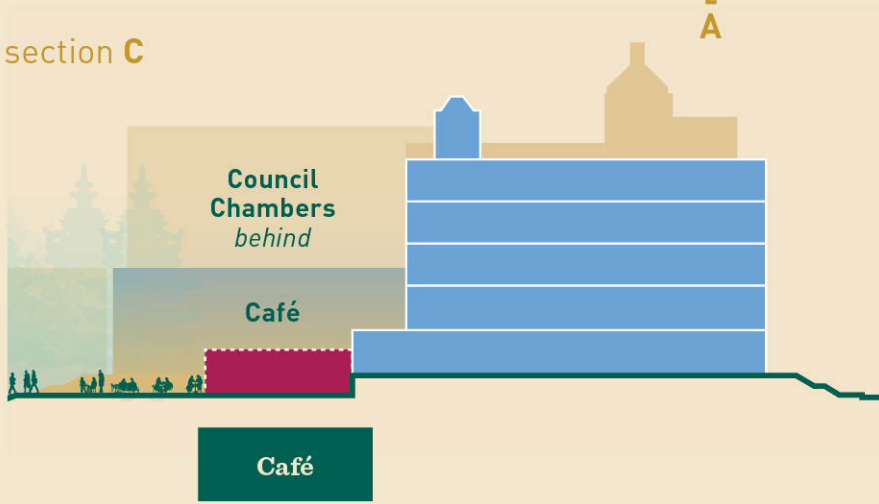


## section B





section C



The Cultural Hive

New City Hall

## Program Overview





**The Cultural Hive**

Veterans Memorial Building



**New Meeting Hall/Chambers**

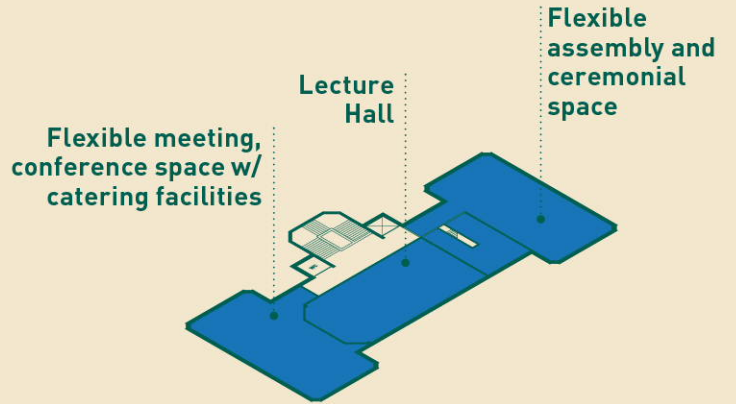
2180 Milvia Extension

Recommendations

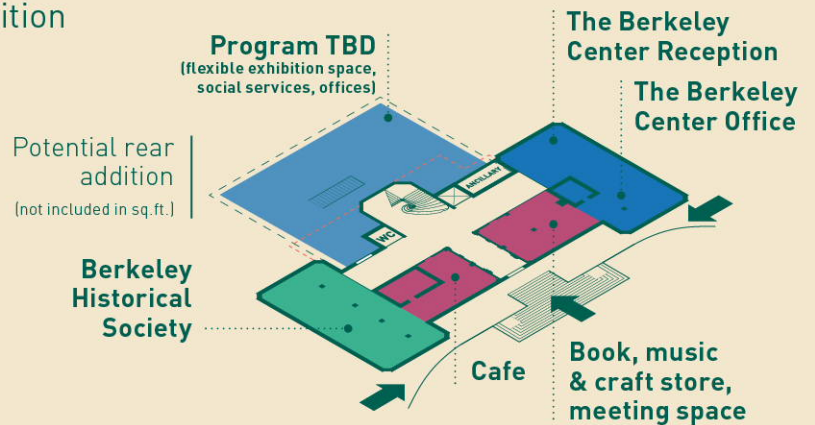
# Program Overview by Building

These diagrams give an overview of the distribution of programs across the Maudelle Shirek Building, the Veterans Memorial Building and 2180 Milvia, and an approximation of the total area by program. Existing City office space in 2180 Milvia, the potential Old City Hall extension and the Veterans Building rooftop addition have not been accounted for.

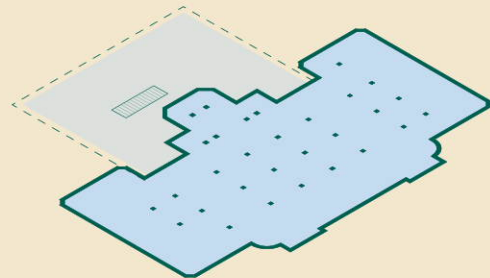
- The Berkeley Historical Society**  
1,675 sq. ft.
- The Berkeley Center**  
7,185 sq. ft.
- Archives / Storage**  
8,600 sq. ft.
- Office: City**
- Performing Arts**  
15,327 sq. ft.
- Auditorium**  
4,950 sq. ft.
- Terrace**  
~1,300 sq. ft.
- Meeting Hall / Council Chambers**  
10,200 sq. ft. (and courtyard)
- Small Retail / Food & Beverage**  
5,310 sq. ft.
- Primary Entrance**



ASSEMBLY + CEREMONY



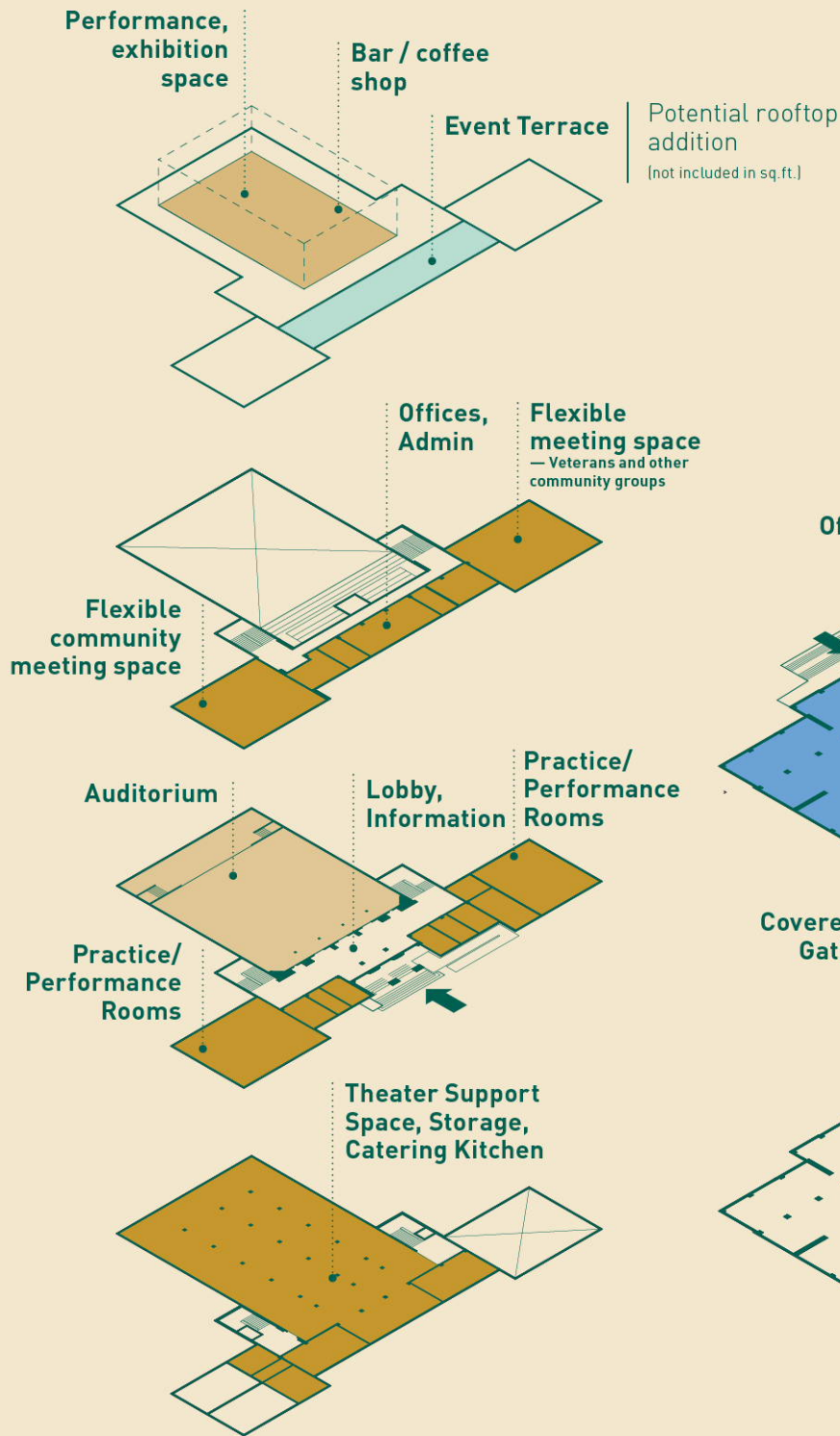
OFFICES + CAFE + EXHIBITION



ARCHIVES + STORAGE

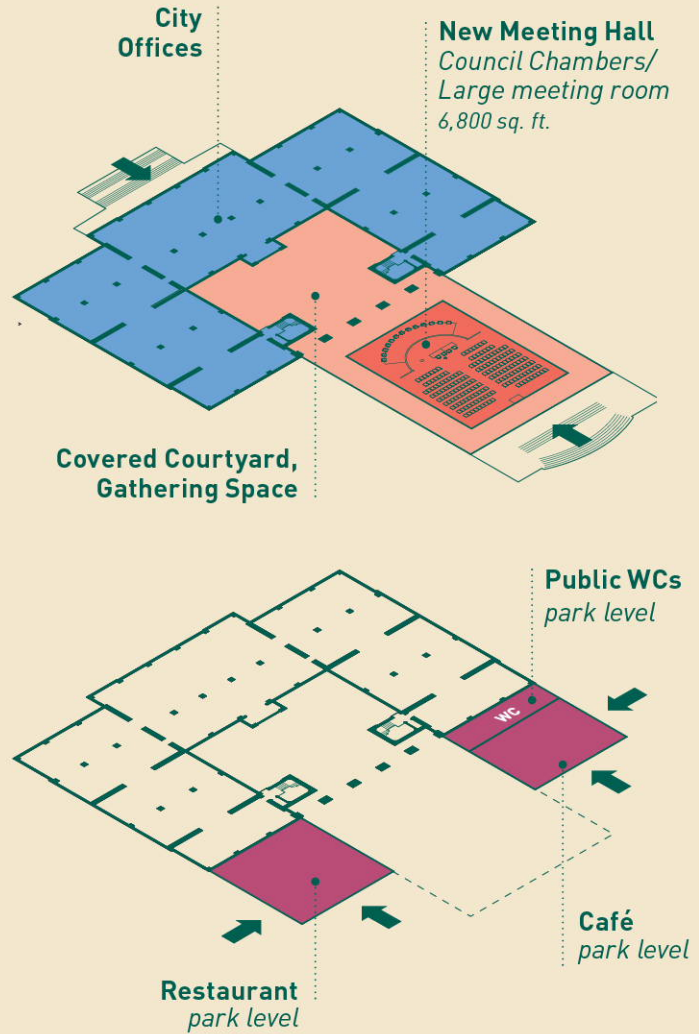
## The Berkeley Center

Maudelle Shirek Building



**The Cultural Hive**

Veterans Memorial Building

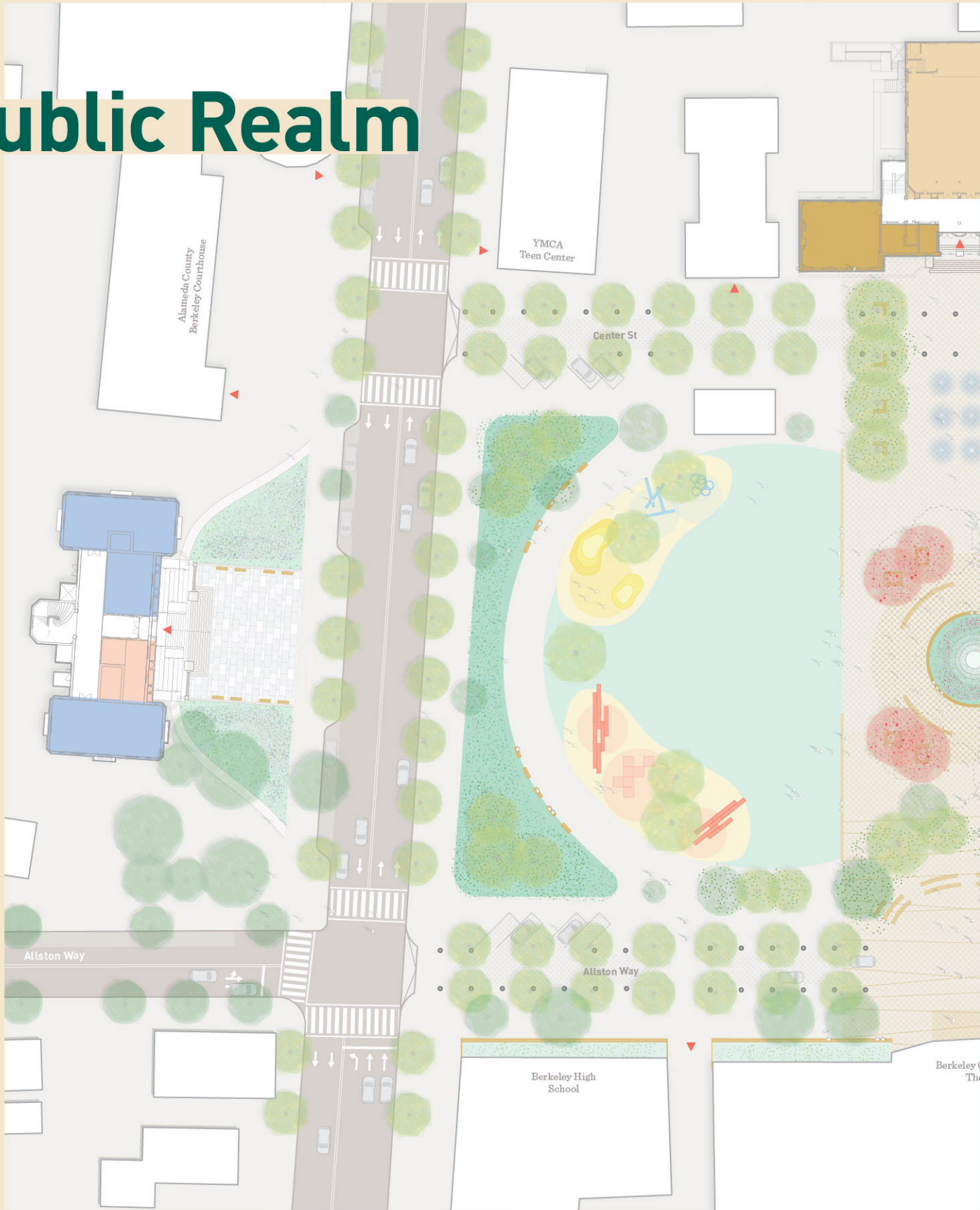


**New Meeting Hall/Chambers**

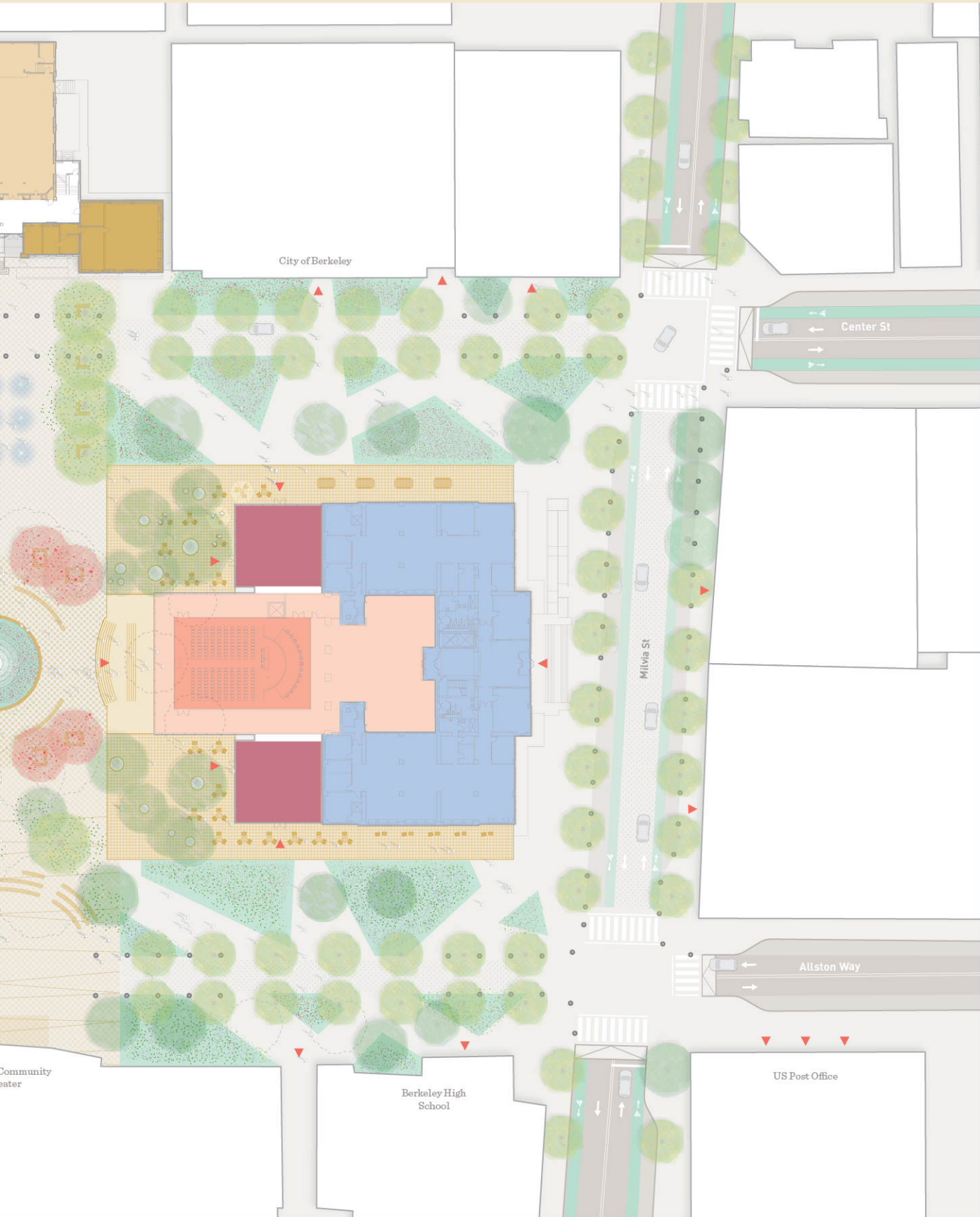
2180 Milvia Extension

Recommendations

# Public Realm

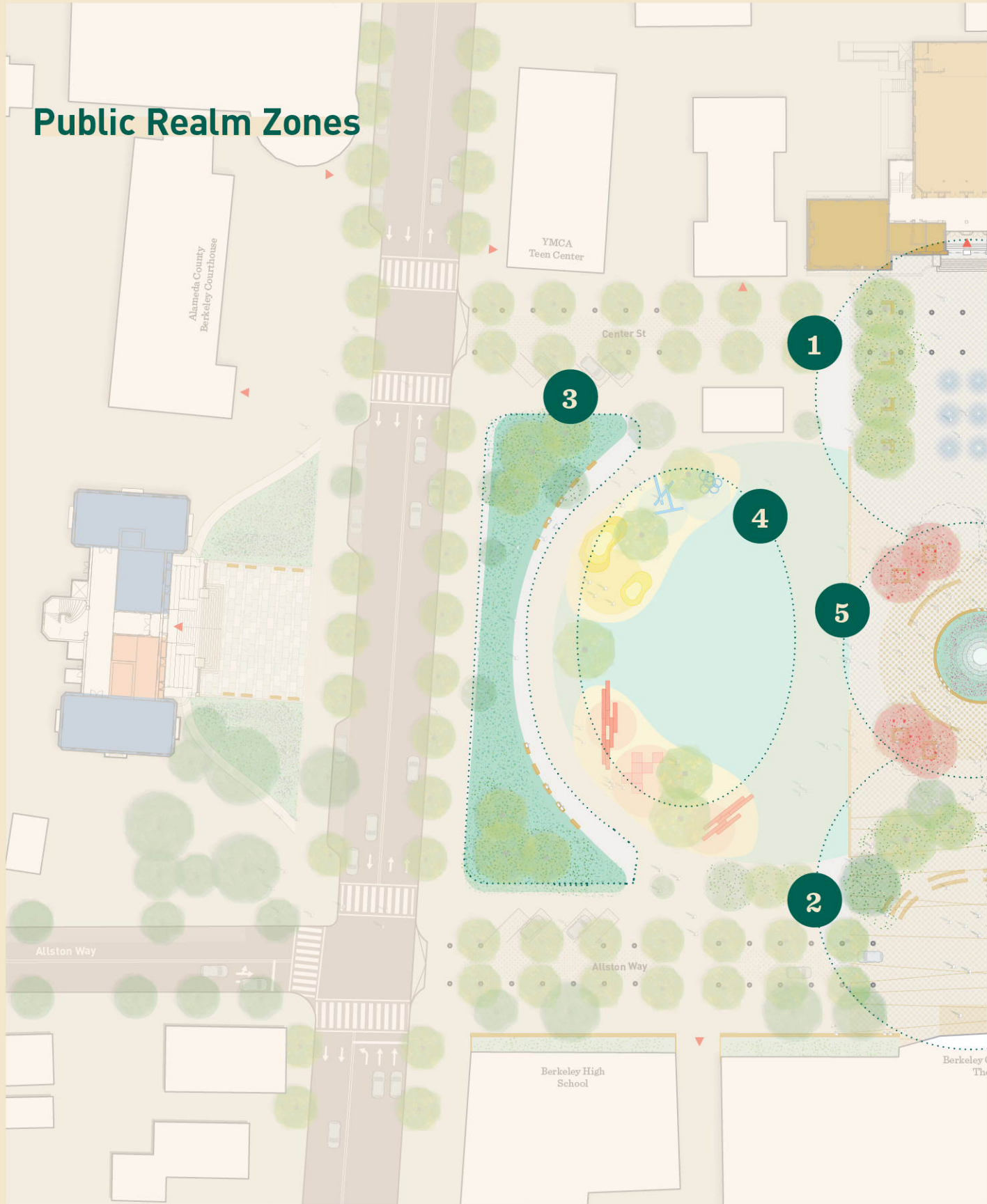


*Note: All drawings are illustrative and conceptual, further landscape design is required.*

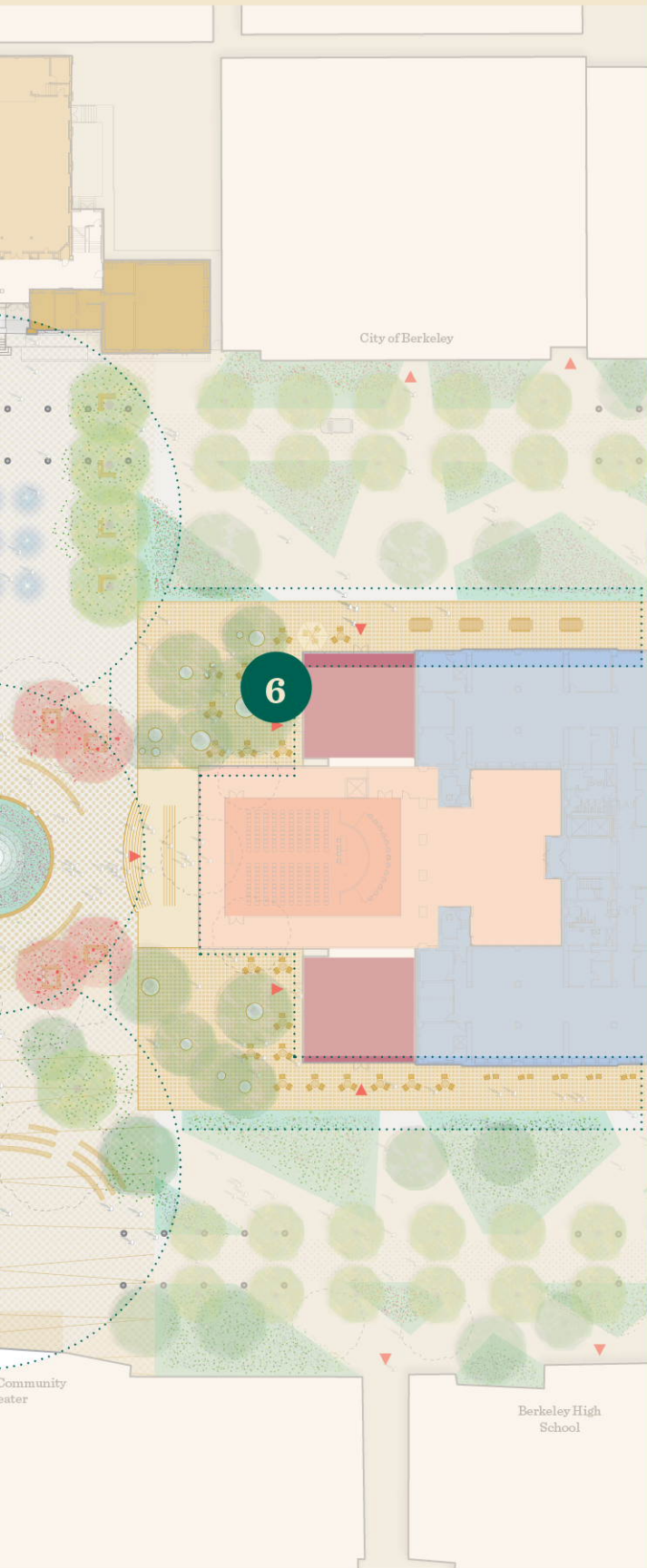




Recommendations



*Note: All drawings are illustrative and conceptual, further landscape design is required.*



1

**Arts Plaza**

An extension of the Cultural Hive in the Veterans Memorial Building, the Arts Plaza is a platform for cultural events and people watching, with a variety of seating and a flush water feature.

2

**Performance Plaza**

A comfortable gathering space that complements the green as a performance area and uses the Berkeley Community Theater as a backdrop for the stage, reimagining the blank wall as a great new feature!

3

**Leafy Ledge**

Lush vegetation provides opportunities for sitting in green “living rooms” and provides a buffer between the park and MLK Jr. Way.

4

**Playscapes**

Two dynamic play areas provide invitations for all ages to spend time, with one tailored to younger kids and the other to older kids and adults.

5

**Turtle Garden**

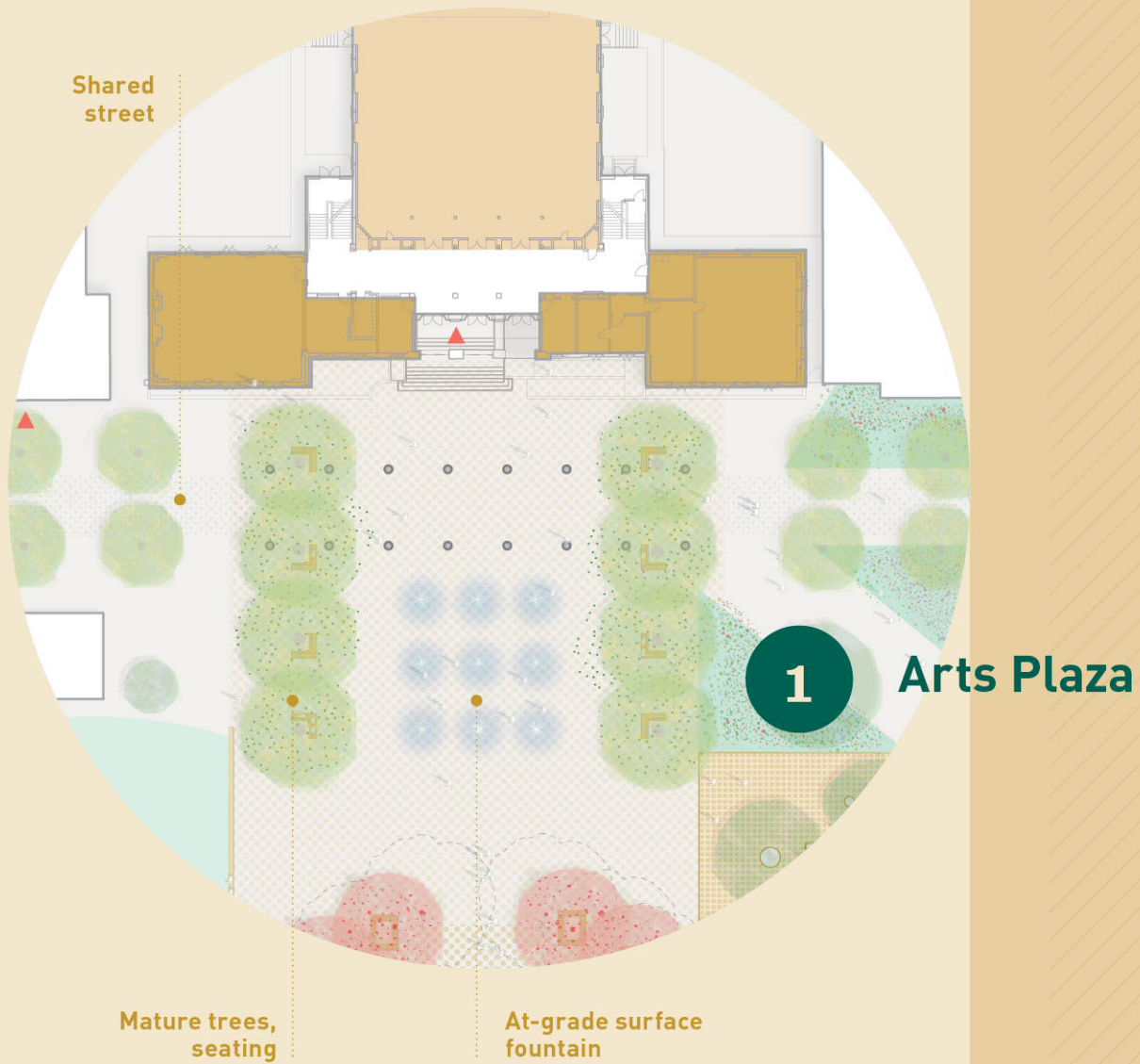
The original fountain becomes a central meeting point in Civic Center with a variety of seating and vegetation.

6

**Front Porch**

A generous patio space that serves the new food and beverage offerings and Council Chambers.

## Recommendations

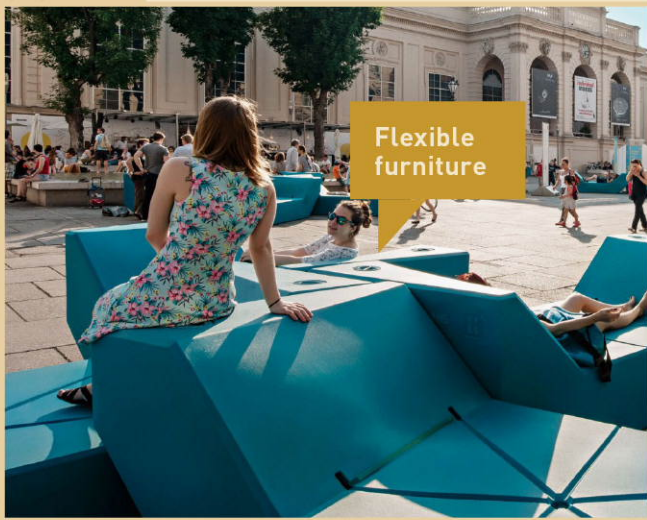


↑ The Porch at 30th, Philadelphia

*Note: All drawings are illustrative and conceptual, further landscape design is required.*



↑ Place de Republique, Paris



Flexible furniture

↑ Leopold Museum, Vienna

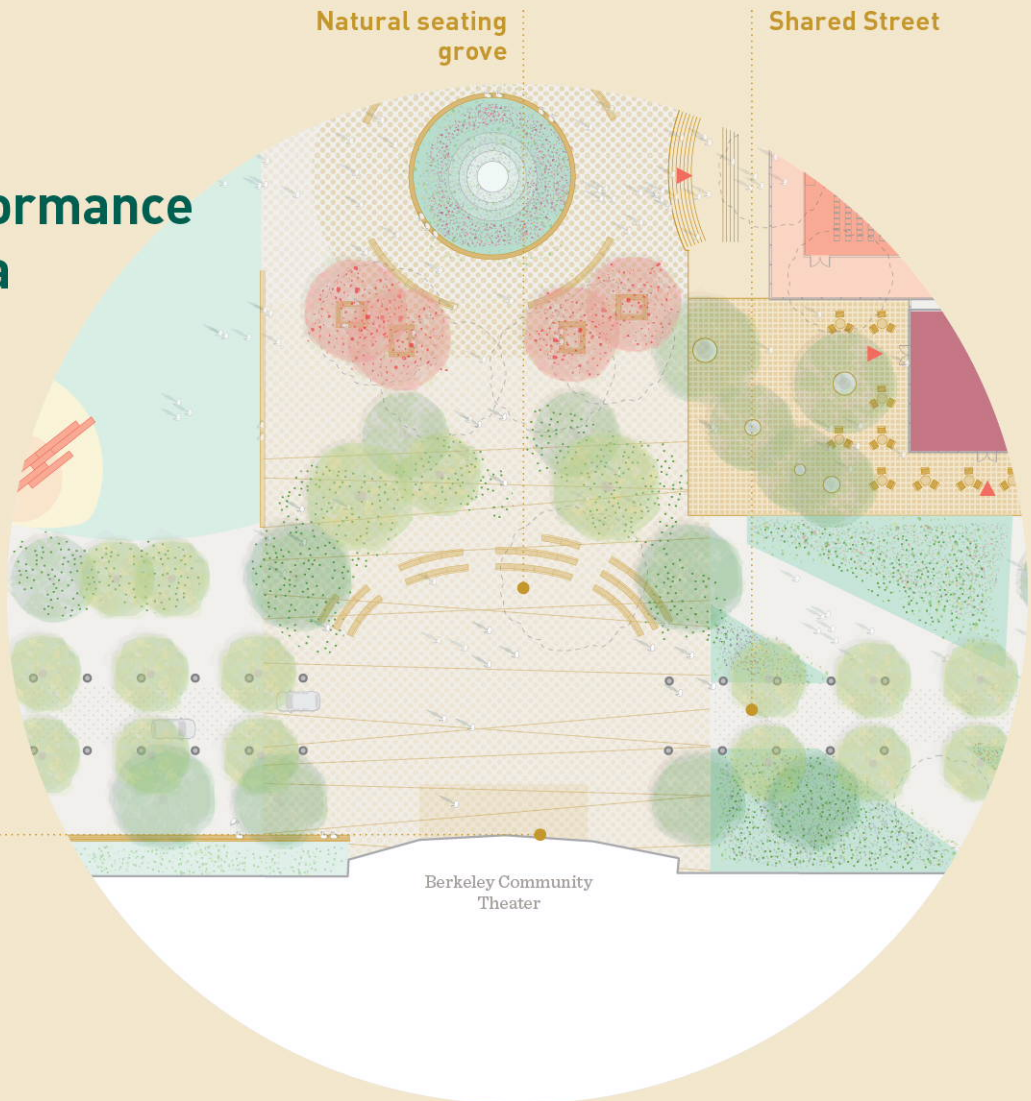


Shady places to sit

↑ The MET Plaza, New York

2

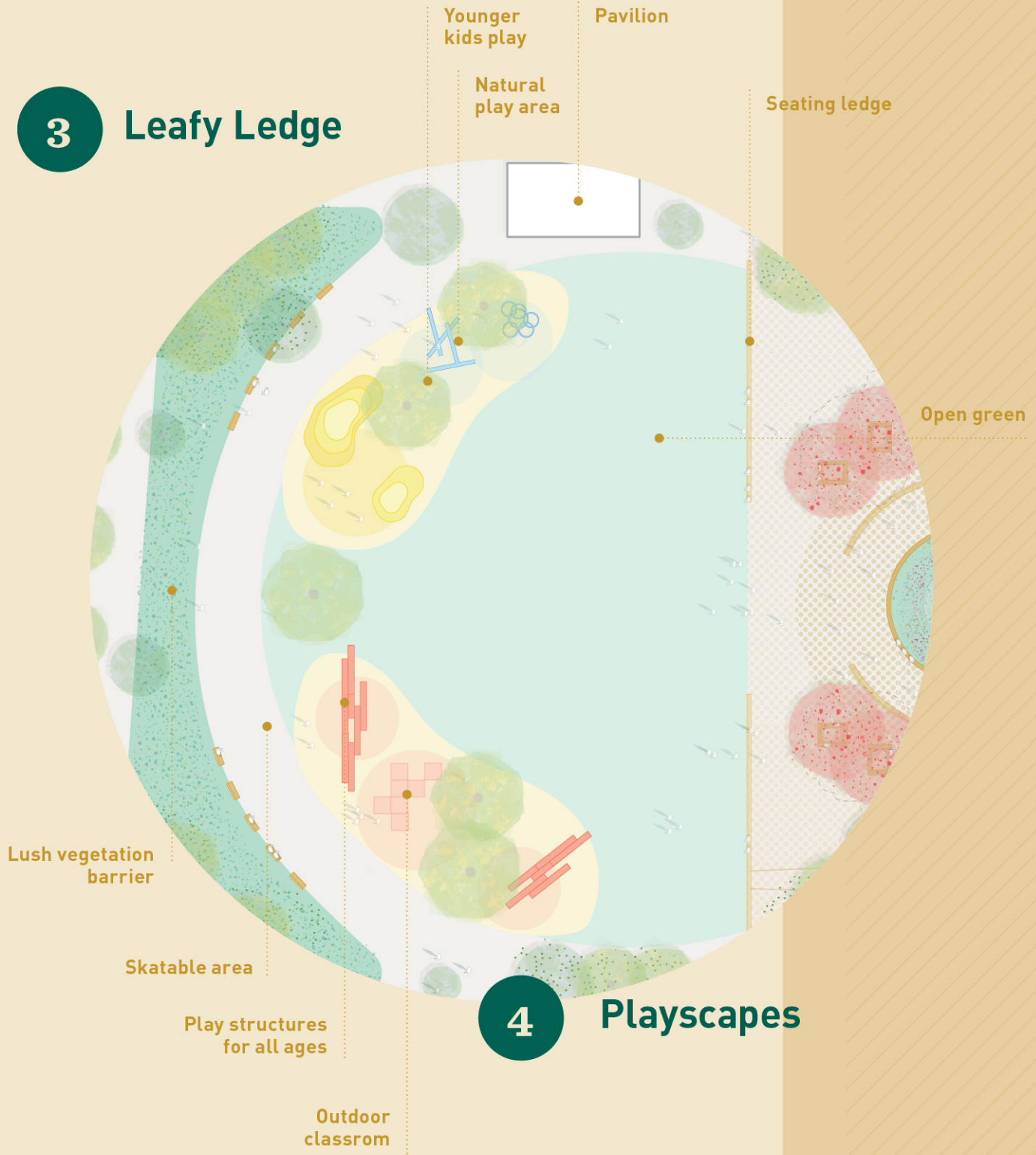
# Performance Plaza



Stage with backdrop of Berkeley Community Theater Relief

Berkeley Community Theater

### 3 Leafy Ledge

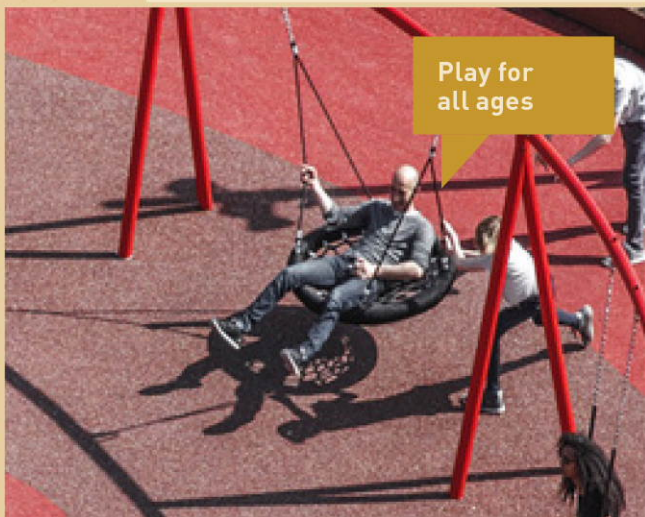


### 4 Playscapes

*Note: All drawings are illustrative and conceptual, further landscape design is required.*



↑ Grevelingenveld, Den Haag, Netherlands

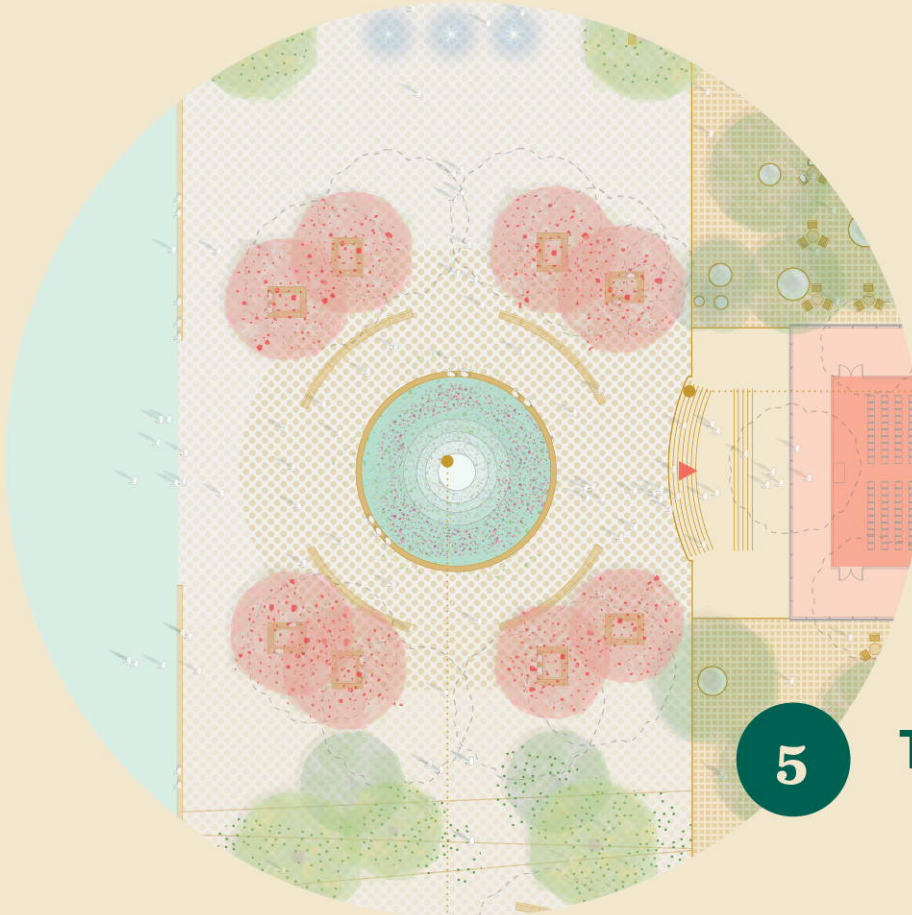


↑ Park 'n' Play, Copenhagen



↑ Madrid Rio, Madrid

Recommendations

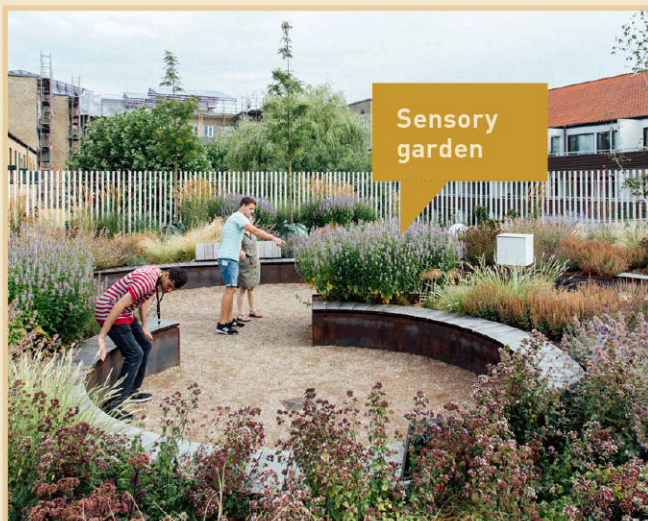


Inhabitable stairs and porch ledge

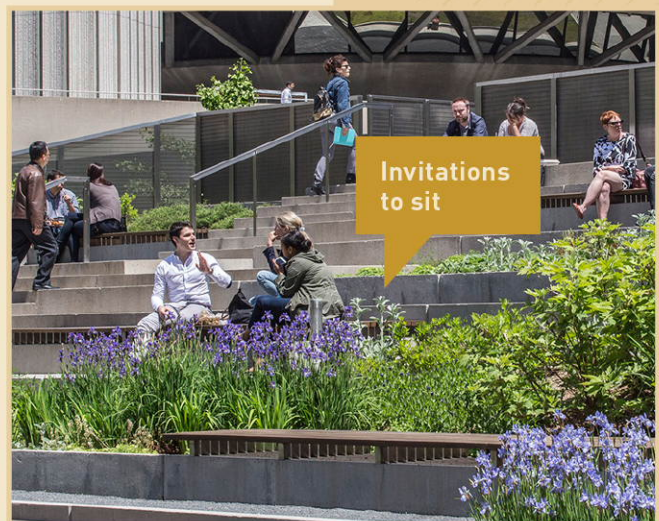
5

# Turtle Garden

Turtle Garden



↑ Frederiksberg, Copenhagen



↑ Nathan Philips Square Peace Garden, Toronto

*Note: All drawings are illustrative and conceptual, further landscape design is required.*



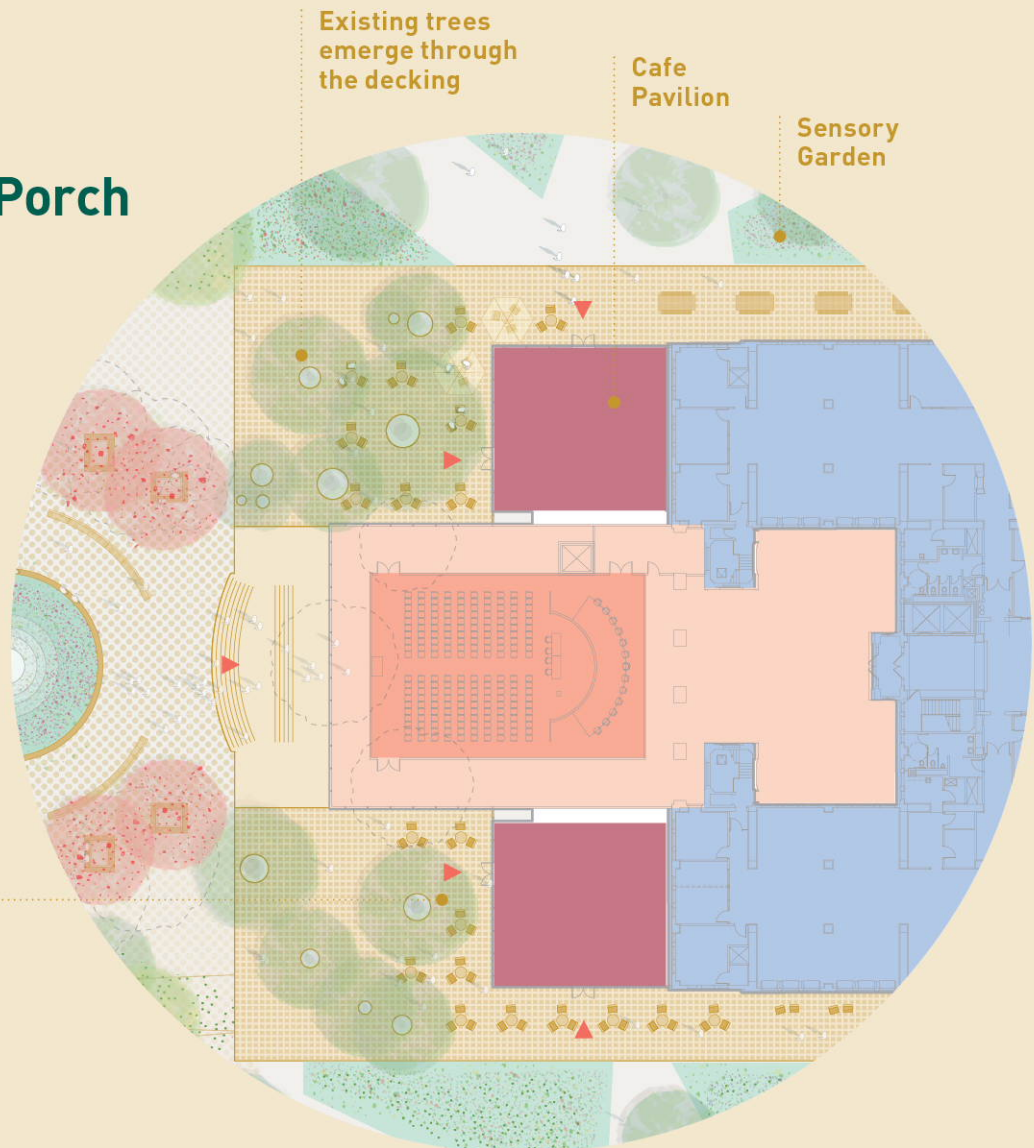
↑ Kensington Gardens, London



↑ Monash University, Caulfield, Australia

6

## Front Porch



Generous seating areas



## Recommendations

# The Civic Center Food Market

Berkeley has been a leader in both the modern culinary movement and educational programs related to growing and preparing food. Defined by success stories like the Edible Schoolyard Project founded by Alice Waters and local gardening projects led by Karl Linn, Berkeley's celebration of locally-grown food as cornerstone of local culture can be given a permanent home at Civic Center. The design team found strong support among educators, political leaders and public commenters for an all-week expansion of the Farmer's Market currently run by the Ecology Center using some version of a pavilion where fresh produce and prepared foods could be sold, alongside a classroom kitchen serving Berkeley High School's vocational programs. We recommend that BHS, the Ecology Center, and the City create a partnership program using students to staff the pavilion under the supervision of a market manager.

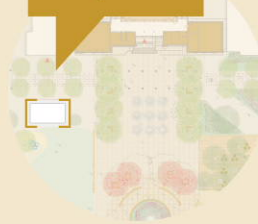


←Community and Public Health & Nutrition Programs at Berkeley High School

## Food Market

### Potential Locations\*

#### Pavilion in the park



#### Option: Market Pavilion in Civic Center Park

A pavilion building and/or lightweight canopy structure could be integrated within the park that provides storage and restrooms for an indoor/outdoor food market and serves as a more permanent presence for fresh, local produce in Civic Center.

#### Berkeley Post Office



#### Option: Market in Berkeley's Main Post Office

The United States Post Office building on Allston Way is a historic building with great potential to be transformed into an indoor public market. The spacious ground floor lends itself well for a market adaptation and the building is already equipped with storage facilities and a loading/unloading area.

*\*Note: The two locations shown above are for the purpose of illustrating potential. Further study is required.*

#### Berkeley Post Office Building →

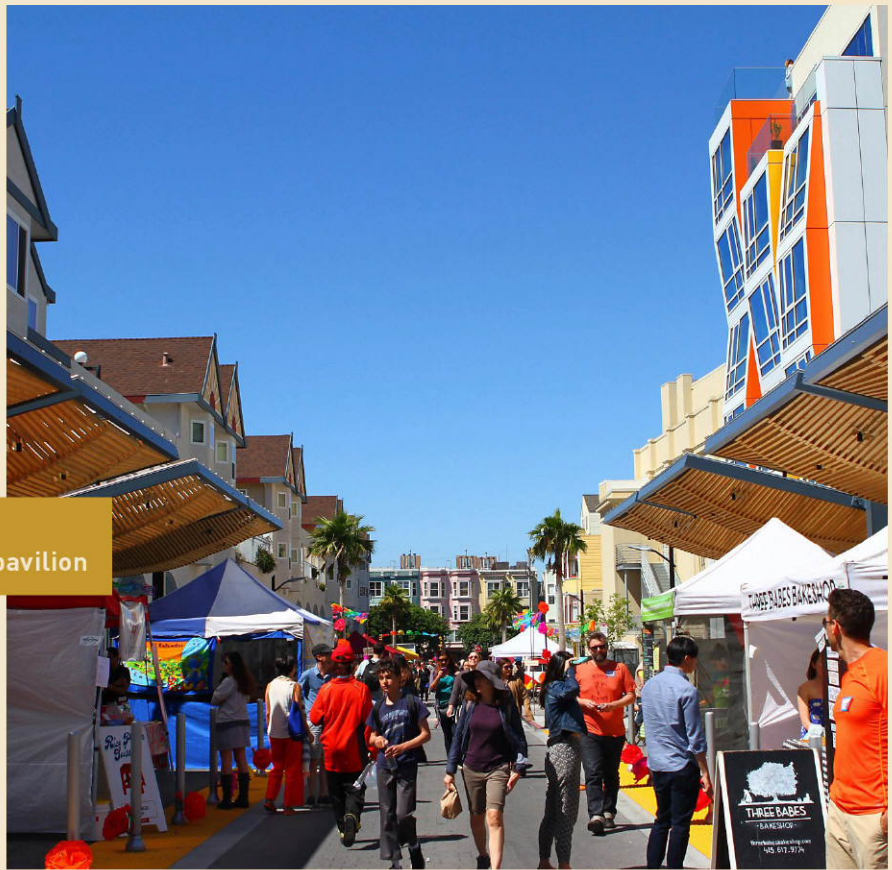




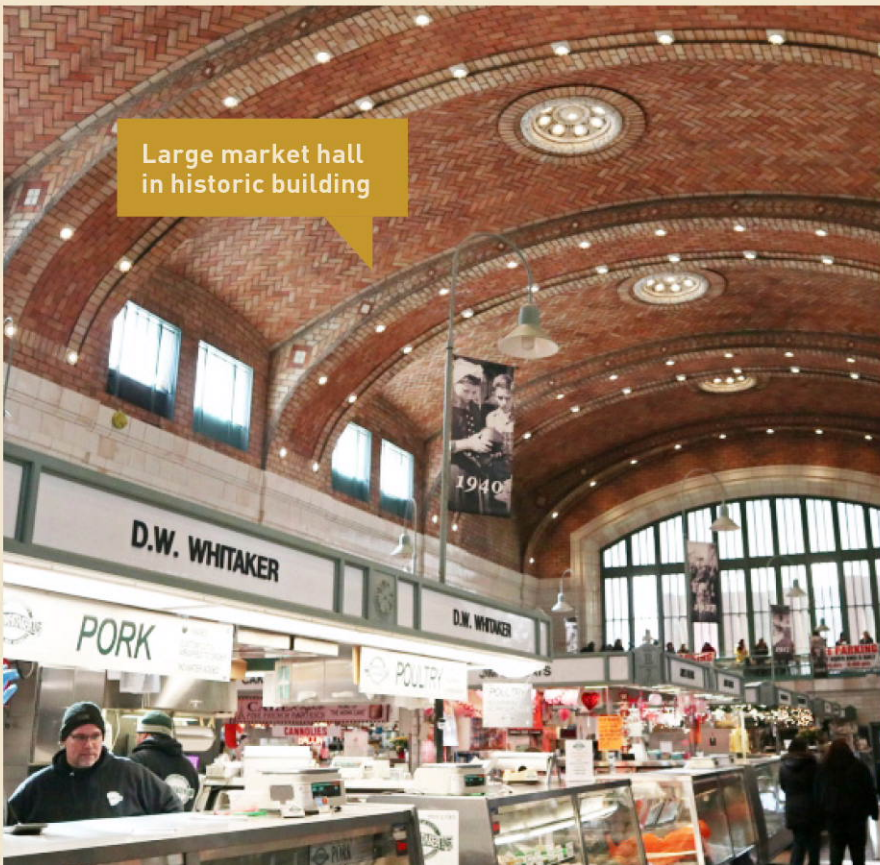
↑ Vineyard Farmers Market, Fresno



Outdoor market pavilion



↑ Overland Park Market, Kansas City    ↑ "La Placita" Mission Community Market, San Francisco



Large market hall in historic building

↑ West Side Market, Cleveland



↑ Findlay Market, Cincinnati



Simple, modern overhead pavilion

↑ Torvehallerne Market, Copenhagen

Recommendations



# Implementation

# Implementation and Next Steps

An ambitious vision needs a solid implementation plan. The outline implementation plan described here is a first iteration — it starts to identify immediate next steps and more long-term tasks and actions needed to implement the vision. At this early, visioning stage, there are many unknowns, and many possibilities —relating to funding streams, programs and design. On a project of this complexity the implementation matrix must be developed collaboratively with a City of Berkeley Civic Center project manager.

## Next steps should include the following;

- Establish a Civic Center Project Stewardship Group to manage all next steps
- Align with other City projects and efforts
- Define list of first City Projects in the Civic Center area.
- Seek funding for implementation of City Projects. Types of City Projects include: City buildings and associated sites, Civic Center Park, and City streets.
- Define the “Civic Center Precinct Plan” area
- Define Scope of Early Activation Strategy and Initiatives
- Green light additional studies/planning work required.
- Explore a partnership opportunity between Berkeley High School and the Ecology Center to operate a food market with a student staff under the supervision of a market manager
- Secure funding for development of “Civic Center Precinct Plan”, solicit proposals by qualified consultants, and commission assignments.
- Secure funding for the development of an Early Activation Strategy and Initiatives, solicit proposals by qualified consultants, and commission assignments.

## Berkeley Civic Center Vision

## Draft Implementation Matrix

July 2020

## Phase 0: Adopt Civic Center Vision

Adopt vision statement, vision goals and conceptual design, including future uses, character of streets and other features integral to the implementation of the Civic Center vision.

## Phase 1: Establish the Civic Center Stewardship Group, Develop the Precinct Plan, and Safeguard Historic Structures

## Task A: Establish the Civic Center Stewardship Group

## Objectives:

- A1 Objectives: Establishing a working group to address how decisions about Vision Plan implementation should be made, align with other City projects and efforts, green light additional studies required.
- A2 Define the masterplan / Precise Plan planning area (see Task C)
- A3 Establish the Working Group— City staff, commissions, partners and community members
- A4 Secure funding for development of masterplan, solicit proposals by qualified consultants, and commission assignments.
- A5 Define list of first City Projects in the Civic Center area (in tandem with C1). Begin to seek funding for implementation of City Projects. Types of City Projects include: Early Activation, City buildings and associated sites, Civic Center Park, and City streets.

**Refer to Next Steps chapter for Phase 0, Continued Stakeholder and Community Engagement and Project Procurement**

## Task B: Stabilize Historic Buildings

Objectives: Protect historic resources by making near-term interventions to avoid irreparable damage and/or escalating future costs.

- B1 Review recommended interventions to avoid damage to historic resources, such as from weather and/or vandalism (see "Near-Term Stabilization")
- B2 Assign City staff responsibility to further define Near-Term Stabilization needs, secure funding for repairs, and ensure all necessary maintenance.
- B3 Commission additional reports identified in HSRs.  
Priority additional investigations required at both historic buildings center around the need to trace water intrusion pathways to their source.
- B4 **See Implementation chapter**  
Define projects  
Repair solutions for active building deficiencies should be designed and implemented immediately following additional investigations in order to ensure the long term stability of the building envelopes. Solutions should be permanent where possible, but temporary repairs may be advisable. Multiple repair solutions may be grouped together into larger projects, however a number of factors will affect how these projects are implemented including the location and extent of damage, the materials and number of building trades required to complete the repairs, and the availability and capacity of local contractors. **See Implementation chapter for projects that are likely to move forward.**

## Task C: Develop the Civic Center Precinct Plan

## Objectives:

- C1 Develop a detailed Master Plan informed by the Vision Plan; this will include further program definition, detailed project definition, architectural design guidelines, public realm and landscape guidelines, and street guidelines. *Structural studies and others relating to conservation of historic buildings should be done prior.*
- C2 Master plan to include Funding strategy, governance models, financial modeling, tenant mix studies
- C3 Engage the community during the development of the Masterplan
- C4 Work with the Civic Center Stewardship Group to prepare a Precise Plan consistent with Vision Plan goals, with detailed guidance for: City buildings and building sites, Civic Center Park improvements, and City street improvements. The Precise Plan will provide guidance for spaces and structures in the planning area, setting parameters on programming, density, design and funding for City project and non-City project in the Precise Plan Area.
- C5 Identify project(s) to be implemented in advance of Precise Plan adoption. **See Phase 0**
- C6 Adopt the Civic Center Precise Plan

## Phase 2: Project Development and Project Delivery

## Task x: Seek funding

## Objectives:

Identify and pursue available public funds  
**See Financial Strategy chapter**

## Task x: Plan, set goals, set timeline

## Objectives:

Develop a work plan for project delivery to implement Precise Plan recommendations. Assign priority/time frame, major milestones, and responsibilities.

## Task x: Partner on specific projects

## Objectives:

Develop Requests for Qualifications and/or Requests for Proposals (RFPs) to solicit: development partners with technical consultants for City buildings/sites, consulting firms for Civic Center Park detailed design and engineering, and consulting firms for City street design and engineering. Items to be considered in partnership agreements include: programming, historic preservation, building stabilization and level of seismic upgrade.

Select partners  
Enter into relationship with partners (long lease, etc)  
Define and agree what are City and partner obligations.

## Task x: Detailed Planning, Design and Projects Procurement

## Objectives:

City Projects: design, engineering, permitting, etc  
Developer partner projects: design, permitting, etc  
Park and public space projects  
Street projects  
Explore partnership opportunity between Berkeley High School and the Ecology Center to operate a food market

## Task x: Physical implementation

## Objectives:

Break ground, oversee as needed  
Assign responsibilities for operations and maintenance, do O&M plan and budget, including historic buildings maintenance  
**See Implementation chapter for details**  
Complete implementation

## Phase 3: Post-Occupancy Ongoing Operations and Maintenance

## Task A: Put the O&amp;M plan in action

Objectives: maintain optimal use of City facilities through building/site operations and maintenance.

## Task B: Measure and Evaluate

Objectives: Measure success, continue to test and refine based on the Vision Plan

Re-do the Public Space Public Life survey  
Measurement of project results to be continuous/iterative

### ← The Civic Centre Vision Implementation Matrix, July 2020.

The Matrix is a "live" document that will be adapted and further detailed over time. A spreadsheet was submitted to the City of Berkeley.

## Recommendations

## Implementation and Next Steps

# Historic Structures

## — Next Steps

### Additional Studies

Priority additional investigations required at both historic buildings center around the need to trace water intrusion pathways to their source.

These investigations include the following:

#### **City Hall**

1. Building Enclosure Investigation
2. Concrete Roof Slab Investigation
3. Roof and Water Conveyance
4. Concrete Entry Terrace Investigation

#### **Veterans Memorial Building**

1. Building Enclosure Investigation
2. Roof Technology and Water Conveyance Survey
3. Parapet Investigation

Additionally, structural concerns at both buildings require further study.

#### **City Hall**

Spire Structural Study

#### **Veterans Memorial Building**

Alternate Seismic Retrofit Scheme Study

### Projects

Repair solutions for active building deficiencies should be designed and implemented immediately following additional investigations in order to ensure the long term stability of the building envelopes. Solutions should be permanent where possible, but temporary repairs may be advisable. Multiple repair solutions may be grouped together into larger projects, however a number of factors will effect how these projects are implemented including the location and extent of damage, the materials and number of building trades required to complete the repairs, and the availability and capacity of local contractors. Projects that are likely to move forward, if required, and that may be grouped if logical include:

#### **City Hall**

- Repair of concrete roof deck, flashing and roof tiles (Additional stabilization, replacement or removal of the deck to be coordinated with seismic stabilization project)
- Gutter, and wall and roof intersection repairs

- Sealant and flashing repairs
- Correction of previously-executed, inappropriate water leak repairs
- Removal of electrical service in basement space below entry terrace
- Repair of leaking at spaces below concrete entry terrace (Other changes in conditions at sidewalk lites and larger revisions to the concrete entry terrace to be coordinated with future building reuse)
- Temporary structural stabilization of roof spire (overall structural repair to be coordinated with seismic retrofit)

### **Veterans Memorial Building**

- Through-wall scupper or localized roof failure repairs
- Roofing replacement
- Stabilization or removal of plaster finish in stairwells (Repair or replacement of wall framing or concrete stem walls to be coordinated with seismic rehabilitation)
- Repair of flashing and connection deficiencies at parapet
- Repair solutions that require more invasive removal or repair of the building interior, in particular the seismic retrofits, should be designed in conjunction with the overall building adaptive reuse projects.

## **Operations and Management of Historic Structures**

Periodic and cyclical maintenance of historic resources plays a crucial part in ensuring that historic fabric remains intact and reliable for generations to come. Maintaining cleanliness and consistent lighting on both building sites and in urban spaces is critical to creating a sense of welcome and safety for would-be users.

A straightforward, implementable maintenance plan that is both funded and staffed must be developed for the near future of not only the Maudelle Shirek Building and the Veterans Memorial Building, but also Civic Center Park. Periodic building maintenance routines should include inspection of roofing, flashing, scuppers and parapets for wear or failure, cleaning of the building exterior, replacement of bulbs in exterior light fixtures, and the assurance of obstacle free, accessible routes with smoothly functioning entry components, to name a few.

Cyclical tasks should include, among other things, clearing of building gutters, site drains, and balconies, trimming of trees to avoid contact with the building, and the clearance of soil and organic matter at building base to maintain adequate clearances to building finishes and to ensure proper drainage away from the building.

Park maintenance should include not only care for plant life, but also cleaning of site hardscape, furniture, and equipment, removal of site garbage and accumulated detritus, and the routine maintenance of lighting fixtures and mechanical and built features.



**Gehl**



# Appendix

**Martin Luther King Junior Civic Center Park**  
Cultural Landscape Assessment

**Berkeley Veterans Memorial Building**  
Historic Structure Report

**Berkeley City Hall - Maudelle Shirek Building**  
Historic Structure Report

**Engagement Transcripts**

**Program Cost Plan**



**SOPHIE HAHN**

Berkeley City Council, District 5  
 2180 Milvia Street, 5th Floor  
 Berkeley, CA 94704  
 (510) 981-7150  
 shahn@cityofberkeley.info

CONSENT CALENDAR

June 1, 2021

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Sophie Hahn (Author), Councilmember Terry Taplin (Co-Sponsor), Councilmember Susan Wengraf (Co-Sponsor), and Mayor Jesse Arreguín  
 Subject: Berkeley Rep's OVATION: *Imagine* Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$250 from Councilmember Hahn, to the Berkeley Repertory Theatre, a 501(c)(3) non-profit organization, to support OVATION: *Imagine*, an event to support Berkeley Rep's productions and arts education programs, with funds

relinquished to the City's general fund for this purpose from the discretionary Council office budget of Councilmember Hahn, and any other Councilmembers who would like to contribute.

BACKGROUND

Since 1968, Berkeley Repertory Theatre has provided a welcoming home for emerging and established artists, growing from a storefront stage to an international leader in innovative theatre. Berkeley Rep's mission is to create ambitious theatre that entertains and challenges its audiences, provokes civic engagement, and inspires people to experience the world in new and surprising ways.

Berkeley Rep is known for its ambition, relevance, and excellence, as well as its adventurous audience. Over 5.5 million people have enjoyed nearly 500 shows at Berkeley Rep, which have gone on to win six Tony Awards, seven Obie Awards, nine Drama Desk Awards, one Grammy Award, one Pulitzer Prize, and many other honors. Berkeley Rep received the Tony Award for Outstanding Regional Theatre in 1997.

To formalize, enhance, and expand the processes by which Berkeley Rep makes theatre, The Ground Floor: Berkeley Rep's Center for the Creation and Development of New Work was launched in 2012. The Berkeley Rep School of Theatre engages and educates some 20,000 people a year and helps build the audiences of tomorrow with its nationally recognized teen programs. Berkeley Rep's bustling facilities — which also include the 400-seat Peet's Theatre, the 600-seat Roda Theatre, and a spacious campus in West Berkeley — provide vitality to the City.

On June 5, 2021, Berkeley Rep will host OVATION: *Imagine*, a night to revel in the Theatre's anticipated reopening this fall, as well as to celebrate the 20th anniversary of Berkeley Rep's School of Theatre. Hosted by *SNL* star and Berkeley Rep School of Theatre alum Chloe Fineman and featuring sneak peeks from the 2021 season and appearances by The Avett Brothers, Jocelyn Bioh, Raúl Esparza, John Gallagher, Jr., and others, OVATION is the Theatre's only fundraising event of the year and provides critical support for their productions and arts education programs. This year's virtual event begins at 6pm with virtual cocktails followed by tributes, performances and an online auction. The event is free to all who register.

More information can be found at the following link: [Berkeley Rep's OVATION: \*Imagine\*](#).

#### FISCAL IMPACTS

A total of up to \$4,500 from Councilmembers' discretionary budgets.

#### ENVIRONMENTAL SUSTAINABILITY

This item is consistent with the City's vision on sustainability.

CONTACT: Councilmember Sophie Hahn, District 5, 510-682-5905 cell

#### ATTACHMENT:

1: Resolution

RESOLUTION #####-N.S.

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM  
THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS  
FOR A GRANT TO PROVIDE SUPPORT FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Berkeley Repertory Theatre (Berkeley Rep) is a nonprofit organization dedicated to creating ambitious theatre that entertains and challenges its audiences, provokes civic engagement, and inspires people to experience the world in new and surprising ways; and

WHEREAS, over 5.5 million people have enjoyed nearly 500 shows at Berkeley Rep, which have gone on to win six Tony Awards, seven Obie Awards, nine Drama Desk Awards, one Grammy Award, one Pulitzer Prize, and many other honors; and

WHEREAS, to formalize, enhance, and expand the processes by which Berkeley Rep makes theatre, The Ground Floor: Berkeley Rep's Center for the Creation and Development of New Work was launched in 2012; and

WHEREAS, the Berkeley Rep School of Theatre engages and educates some 20,000 people a year and helps build the audiences of tomorrow with its nationally recognized teen programs; and

WHEREAS, Berkeley Rep's bustling facilities — which also include the 400-seat Peet's Theatre, the 600-seat Roda Theatre, and a spacious campus in West Berkeley — provide vitality to the City; and

WHEREAS, on June 5, 2021, Berkeley Rep will host OVATION: *Imagine*, a night to revel in the Theatre's anticipated reopening this fall, celebrate the 20th anniversary of Berkeley Rep's School of Theatre; and provide critical support for their productions and arts education programs;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by Councilmember Hahn of \$250 and any funds, up to \$500 per Council Office Budget, from the Mayor and other Councilmembers shall be granted to the Berkeley Repertory Theatre to OVATION: *Imagine* and to support Berkeley Rep's productions and arts education programs and to celebrate their many decades of

providing a welcoming home for emerging and established artists as an international leader in innovative theatre.





**Fiscal Year 2022  
Proposed Budget  
Public Hearing #2**

Please refer to the following Agenda Packet for the material for this item:

May 25, 2021 Agenda Packet – Item #38

[https://www.cityofberkeley.info/Clerk/City\\_Council/2021/05\\_May/City\\_Council\\_05-25-2021\\_-\\_Regular\\_Meeting\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/05_May/City_Council_05-25-2021_-_Regular_Meeting_Agenda.aspx)

This material is also on file and available for review at the City Clerk Department, or can be accessed from the City Council website.

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

City Council website: [www.cityofberkeley.info/citycouncil](http://www.cityofberkeley.info/citycouncil)

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**FISCAL YEAR 2022 PROPOSED BUDGET PUBLIC HEARING #2**

The City Manager’s Office is proposing a public hearing for the FY 2022 Proposed Budget which is being presented to the City Council.

The hearing will be held on June 1, 2021 at 6:00 p.m. The hearing will be held via videoconference pursuant to Governor’s Executive Order N-29-20.

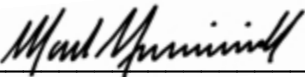
A copy of the agenda material for this hearing will be available on the City’s website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of May 20, 2021. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact **Rama Murty** at (510) 981-7044.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to [council@cityofberkeley.info](mailto: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. 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 (510) 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

~~~~~  
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 May 20, 2021.



Mark Numainville, City Clerk



Office of the City Manager

PUBLIC HEARING

June 1, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Jordan Klein, Director, Planning & Development Department
 Subject: ZAB Appeal: 2421 Fifth Street, Use Permit #ZP2020-0043

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision and approving Use Permit #ZP2020-0043 to demolish a single-family dwelling and construct two residential buildings: a three-story triplex and a three-story single-family dwelling, for a total of four new dwellings, and dismiss the appeal.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On May 22, 2020, Amber Baker of Gunkel Architecture submitted an application on behalf of the property owner, Properties 180, LLC for Use Permit #ZP2020-0043 to demolish a single-family dwelling and construct a three-story triplex and a three-story single-family dwelling, for a total of four new dwellings.

On January 28, 2021, the ZAB conducted a public hearing for the use permit application. After hearing public comments and holding discussion, the ZAB approved the use permit by a vote of 7-0-1-0-1 (Yes: Clarke, Kahn, Kim, Olson, Pinkston, Selawsky, Tregub; No: None; Abstain: O'Keefe; Absent: None; Recused: Gaffney).

On February 9, 2021, staff issued the ZAB Notice of Decision.

On February 23, 2021, Sonja Kassuba, the neighbor and owner of 2413 Fifth Street, Unit C, immediately north of the project site, filed an appeal of the ZAB decision with the City Clerk.

On May 18, 2021, staff posted the public hearing notice at the site and three nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area.

The Council must conduct a public hearing to resolve the appeal.

BACKGROUND

On March 16, 2020, by order of the Berkeley Health Officer, the City was placed under an emergency shelter-in-place, which restricted public activities and gatherings. Shortly after the order was issued, the Land Use Division instituted temporary waivers of the standard application submittal requirements for Pre-Application Neighborhood Outreach and the Pre-Application Yellow Poster for all new land use permit applications. In lieu of these requirements during the emergency health order period, for Use Permit with Public Hearing applications, staff mails a Notice of Received Application postcard to all residents within 300 feet of the site, and installs posters at locations near the site. The postcards have the address, project description, links to online application materials, and contact information for the applicant and the staff project planner. This permit application was submitted in May 2020, and Notices of Received Application were mailed and posted on June 11, 2020.

The project site is located in the MU-R, Mixed Use-Residential District, in a neighborhood that consists of warehouses, offices, live/work, and single-family and multiple-family dwellings. Parcels in the immediate neighborhood are primarily developed with one- and two-story buildings, with three-story, live/work developments immediately adjacent and north of the site and southeast of the site across Fifth Street. The appellant resides in the southmost live/work unit on the parcel to the north abutting the site.

Although the project proposes a different site impact than the existing, vacant, single-family dwelling on the site that would be demolished – increased Floor Area Ratio, density, height, lot coverage, and parking, and reduced setbacks and usable open space – the project would be compliant with all development standards, and would also meet non-detriment findings for the requested use permits. In addition, staff level Design Review was conducted for the project and concluded with a favorable recommendation to the ZAB.

For additional project background and analysis, please see Attachment 3, the ZAB staff report for this project.

ENVIRONMENTAL SUSTAINABILITY

The proposed project is in compliance with all state and local environmental requirements.

RATIONALE FOR RECOMMENDATION

The issues raised in the appellant's letter and staff's responses follow. For the sake of brevity, the appeal issues are not re-stated in their entirety. Please refer to the attached appeal letter (Attachment 2) for the full text.

Issue 1: The appellant asserts that there was not adequate opportunity to discuss the project, concerns and privacy impacts.

Response 1: As mentioned in the Background section, postcard notices and posters were sent and posted near the site in early June, 2020. The ZAB public hearing for the project did not occur until late January, 2021, giving the public a period of nearly eight months to raise concerns or initiate conversation about the proposed project. No public comments or concerns were received by staff or the applicant until January 22 and 25, 2021, during the week before the ZAB hearing. One of the letters was from the appellant, expressing concerns over privacy, screening and solar access. The other letter discussed concerns over permit streamlining and was not related to physical impact from the project. The concerned neighbors spoke at the ZAB public hearing, and the appellant was amongst those who initiated a discussion of their concerns before the ZAB, which considered those concerns as part of its deliberations.

Issue 2: The appellant states that privacy issues between Units 3 and 4 of the proposal at 2421 Fifth Street and their Unit C at 2413 Fifth Street remain unaddressed.

Response 2: The appellant raised the issue of privacy concerns at the January 28, 2021 ZAB public hearing. The ZAB discussed the privacy issue at length, including ideas on how to mitigate the impact from the project. The ZAB added and approved Condition of Approval #11 to the permit to address the appellant's privacy concerns:

11. *Privacy Screening.* *The applicant shall submit plans for building permits that include translucent glass in the second and third floor window openings on the north elevation of Unit 3, and screening material (not solid) in the north balcony opening of Unit 4.*

Since the appeal letter was submitted, the applicant team has met with the appellant several times to negotiate further revisions to the project to further lessen potential impact on the appellant's privacy. As of the writing of this report, staff was informed that an agreement between the applicant and appellant upon specific project revisions for privacy impact mitigation was being finalized.

ALTERNATIVE ACTIONS CONSIDERED

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

Action Deadline:

Pursuant to BMC Section 23B.32.060.G, if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council

(not including Council recess), then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

CONTACT PERSONS

Jordan Klein, Director, Planning & Development Department, (510) 981-7534
Steven Buckley, Land Use Planning Manager, (510) 981-7411
Sharon Gong, Project Planner, (510) 981-7429

Attachments:

1. Draft Resolution
 - Exhibit A: Findings and Conditions
 - Exhibit B: Project Plans, received November 4, 2020
2. Appeal Letter, postmarked February 23, 2021
3. January 28, 2021 ZAB Hearing Staff Report
4. Index to Administrative Record
5. Administrative Record
6. Public Hearing Notice

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

AFFIRMING THE ZONING ADJUSTMENTS BOARD DECISION AND APPROVING USE PERMIT #ZP2020-0043 TO DEMOLISH A SINGLE-FAMILY DWELLING AND CONSTRUCT TWO RESIDENTIAL BUILDINGS: A THREE-STORY TRIPLEX AND A THREE-STORY SINGLE-FAMILY DWELLING, FOR A TOTAL OF FOUR NEW DWELLINGS, AND DISMISSING THE APPEAL.

WHEREAS, on May 22, 2020, Amber Baker of Gunkel Architecture (“applicant”) submitted an application on behalf of the property owner, Properties 180, LLC for Use Permit #ZP2020-0043 to demolish a single-family dwelling and construct a three-story triplex and a three-story single-family dwelling, for a total of four new dwellings (“project”); and

WHEREAS, on December 4, 2020, staff deemed this application complete and determined that the project is categorically exempt from the California Environmental Quality Act (“CEQA”) under Section 15303 of the CEQA Guidelines (“New Construction or Conversion of Small Structures”); and

WHEREAS, on January 14, 2021, staff mailed and posted a Notice of Public Hearing for the project in accordance with BMC Section 23B.32.020; and

WHEREAS, on January 28, 2021, the staff level design review appeal period expired, and the ZAB held a public hearing in accordance with BMC Section 23B.32.030, and approved the project; and

WHEREAS, on February 9, 2021, staff issued the notice of the ZAB decision; and

WHEREAS, on February 23, 2021, Sonja Kassuba, the neighbor and owner of 2413 Fifth Street, Unit C, filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on or before May 18, 2021, staff mailed and posted a Notice of Public Hearing for the project in accordance with BMC Section 23B.32.020; and

WHEREAS, on June 1, 2021, the Council held a public hearing to consider the ZAB’s decision, and in the opinion of this Council, the facts stated in, or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Council hereby adopts the findings made by the ZAB in Exhibit A to affirm the decision of the ZAB and to approve Use Permit #ZP2020-0043, adopts the conditions of approval in Exhibit A, adopts the project plans in Exhibit B, and dismisses the appeal.

Exhibits

A: Findings and Conditions

B: Project Plans, received November 4, 2020

ATTACHMENT 1, EXHIBIT A

FINDINGS AND CONDITIONS

JUNE 1, 2021

2421 Fifth Street

Use Permit #ZP2020-0043 to demolish a single-family dwelling and construct two residential buildings: a three-story triplex and a three-story single-family dwelling, for a total of four new dwellings. This residential project abuts manufacturing uses.

PERMITS REQUIRED

- Use Permit under BMC §23C.08.010.B to demolish a dwelling unit;
- Administrative Use Permit under §BMC 23E.84.030 to construct one to four dwelling units; and
- Use Permit under BMC §23E.84.060.G to establish a dwelling unit within 150 feet of a property containing a construction product manufacturing or primary production manufacturing use.

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15303 (“New Construction or Conversion of Small Structures”) of the CEQA Guidelines.
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. FINDINGS FOR APPROVAL

1. As required by Section 23B.32.040.A of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
 - A. Shadow impact from the project is found not to be substantially detrimental. Although shadow conditions would increase notably for the south-most neighboring dwelling (live/work building at 2413 Fifth Street), with new shadows occurring all day for much of the year, the shadow impacts generally affect living areas on the south side of the building. The two live/work buildings just north of it experience similar shading from the respective building to their south on their own property. The amount of shading from proposed project is expected in the MU-R District, where residential buildings are allowed to up to 35 feet and three stories in height, and side yards can be as little as 10% of the lot width (3'-9" for the subject site);
 - B. The siting of the proposed buildings on the lot satisfy all minimum setback requirements, and would provide adequate air space on all sides. The proposed front building would be approximately 48'-6" from the office/duplex to the north (2415/2417 Fifth Street). The proposed rear building would be 7'-5" from the south-most live/work building to the north

- (2413 Fifth Street), comparable to the typical 8'-0" minimum separation between dwellings in residential districts. The proposed buildings would be 2'-5" from the warehouse to the south and 2'-4" from the warehouse to the east, but no windows are proposed on those façades;
- C. The project would not be substantially detrimental with respect to views. The relatively flat topography of the project site, along with existing one-, two-, and three-story buildings in the vicinity, does not offer significant views as defined in BMC Chapter 23F.04 (Definitions); and
- D. Privacy impacts from the project would be reasonable and not substantially detrimental. The office/duplex to the north (2415/2417 Fifth Street) would not experience significant privacy impacts, due to the ample separation that would be between the buildings and a fence on the north property line. The south-most live/work building to the north (2413 Fifth Street), would experience some privacy impacts, but a combination of sufficient separation between the buildings, and window placement will minimize the impact on this neighbor's privacy.

III. OTHER FINDINGS FOR APPROVAL

1. The Housing Accountability Act §65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that:

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

Because the project would comply with applicable, objective general plan and zoning standards, §65589.5(j) does apply to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified by staff. The project includes construction of four dwelling units on a lot that permits four dwelling units in a mixed-use residential district.

2. Government Code Section 66300(d) prohibits the demolition of residential dwelling units unless the project will create at least as many residential units as will be demolished; prohibits the demolition of occupied or vacant protected units, unless replaced according to replacement provisions therein, and does not supersede any local ordinance that reserves greater protections/provisions for lower income households or displaced households. The project proposes replacing one demolished dwelling with four new dwellings; the existing unit is not considered a "protected" unit as defined in §66300(d); and compliance with this section also satisfies the findings to approve the demolition of the dwelling unit under BMC §23C.08.010.B. The dwelling proposed to be demolished is vacant, and is not subject to tenant displacement provisions pursuant to §66300(d).
3. As required by Section 23E.84.090.B of the BMC, the Zoning Adjustments Board must make the following required findings to approve any Use Permit in the district. The proposed use or structure must:

A. *Be compatible with the purposes of the District;*

The project is consistent with the following purposes of the Mixed Use Residential District (MU-R):

- *Implement the West Berkeley Plan's designation of a Mixed Residential District.*
- *Support the continued development of a mixed use District which combines residential, live/work, light industrial, arts and crafts and other compatible uses.*

- *Strengthen residential concentrations which exist within the District.*
- *Support the development of businesses of all types which contribute to the maintenance and improvement of the environment.*
- *Protect residents from unreasonably detrimental effect of nonresidential uses, such as noise, vibration, odors, smoke, fumes, gases, dust, heat and glare, to the extent possible and reasonable within a mixed use West Berkeley context.*

The project would add four new dwellings to neighborhood that has a residential concentration comprised of single-family dwellings, duplexes, live/work buildings, and other multi-family dwellings, and would bring new residents who would be potential patrons in close proximity to local businesses (art/craft studios, retail, professional office, food service).

The project would incorporate measures to screen the new dwellings from the adjacent existing industrial uses to the east and south: eight-foot tall walls with sound absorbent material at the south and east property lines, and acoustic wall construction along the south and east building walls that are directly on the property lines.

- B. *Be consistent with the normal use and operation of surrounding uses and buildings, including residential and industrial buildings;*
- C. *Not be likely, under reasonably foreseeable circumstances, to either induce or contribute to a cumulative change of use in buildings away from residential; live/work; light industrial, or arts and crafts uses; and*
- D. *Be designed in such a manner to be supportive of the character and purposes of the District.*

The proposed four-unit residential project would add to the residential development already in the area, and would reinforce the existing mixed pattern of commercial/industrial/residential development in the neighborhood. The proposed low-medium-density, three-story residential buildings would continue the existing pattern of similar residential development in the vicinity.

IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

1. Conditions and Shall be Printed on Plans

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

2. Applicant Responsible for Compliance with Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Indemnification Agreement

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

V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

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

Prior to Submittal of Any Building Permit:

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

Please designate the name of this individual below:

Project Liaison _____
Name Phone #

11. Privacy Screening. The applicant shall submit plans for building permits that include translucent glass in the second and third floor window openings on the north elevation of Unit 3, and screening material (not solid) in the north balcony opening of Unit 4.

- 12. Address Assignment.** The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City's database prior to the applicant's submittal of a building permit application.
- 13. Geotechnical Plan Review.** The applicant's geotechnical consultant shall review and approve all geotechnical aspects of the project building and grading plans (i.e., site preparation and grading, including site surface and subsurface drainage improvements, and design parameters for foundations and associated improvements) to ensure that their recommendations have been properly incorporated and to ensure that the project concept has not changed significantly. The geotechnical consultant shall discuss and estimate the anticipated total and differential liquefaction induced settlement magnitude based on the final layout and design of proposed structures, to assist the Structural Engineer in designing a structure that conforms to the presently adopted code requirements. If the consultant concludes that the final pier design will be impacted by groundwater conditions then they should consider providing specific mitigative recommendations of for the contractor to use during construction. The results of the plan review shall be summarized by the geotechnical consultant in a letter and submitted to the City Engineer for review and approval prior to issuance of building permits.

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

- 14. Demolition.** Demolition of the existing building cannot commence until a complete application is submitted for the replacement building. In addition, all plans presented to the City to obtain a permit to allow the demolition are subject to these conditions.
- 15. Construction and Demolition Diversion.** Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.
- 16. Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
- A. Environmental Site Assessments:
- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 6 months old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at: http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
 - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
 - 3) If the Phase I is over 6 months old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

B. Soil and Groundwater Management Plan:

- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

- 1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

Prior to Issuance of Any Building (Construction) Permit

- 17. Solar Photovoltaic (Solar PV).** A solar PV system, on the solar zone specified in Section 110.10 of the 2019 Energy Code, shall be installed (subject to the exceptions in Section 110.10) as specified by the Berkeley Energy Code (BMC Chapter 19.36). Location of the solar PV system shall be noted on the construction plans.
- 18. All-Electric or Efficient Mixed-Fuel Construction.** The project shall comply with the Berkeley Energy Code (BMC Chapter 19.36). As such, the building design shall either 1) incorporate all-electric systems (no natural gas or propane plumbing installed within the building) or 2) incorporate mixed-fuel systems and exceed the energy efficiency requirement of the Energy Code by at least 10% or meet a set of prescriptive requirements, with equivalent efficiency savings, in place of these

performance thresholds, and provide electrical panel space, conductors or raceways, and bus bar capacity to support future electrification of any natural gas appliances.

19. Electric Vehicle (EV) Charging. At least 20% of the project parking spaces for residential parking shall be "EV Charger Ready": equipped with raceway, wiring, and power to allow for future Level 2 (240 Volt/40 amp) plug-in electric vehicle (EV) charging system installation, and at least 80% of the project parking spaces for residential parking shall be "EV Spaces Raceway Equipped": equipped with a raceway between an enclosed, inaccessible, or concealed area and an electrical service panel/subpanel as specified by the Berkeley Green Code (BMC Section 19.37.040). Any Level 2 EV charging systems installed at parking spaces will be counted toward the applicable readiness requirement. Readiness for EV charging and EV charging station installations shall be noted on the construction plans.
20. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELo). MWELo-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET_o) for Berkeley is 41.8.
21. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).
22. Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.
23. Parking for Disabled Persons. Per BMC Section 23E.28.040.D of the Zoning Ordinance, "Notwithstanding any reduction in off-street parking spaces that may be granted for mixed-use projects in non-residential districts listed in Sub-title 23E, the requirement for off-street parking spaces for disabled persons in the project shall be calculated as if there had been no reduction in total parking spaces."

During Construction:

24. Construction Hours. Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
25. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
 - A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.

- E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- 26. Construction and Demolition Diversion.** Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
- 27. Low-Carbon Concrete.** The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
- 28. Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
 - Storage of building materials, dumpsters, debris anywhere in the public ROW;
 - Provision of exclusive contractor parking on-street; or
 - Significant truck activity.

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

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding

neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

- 29. Avoid Disturbance of Nesting Birds.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.
- 30. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction).** Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:
- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
 - B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
 - C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
 - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
 - E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
- 31. Human Remains (Ongoing throughout demolition, grading, and/or construction).** In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to

subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

- 32. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).** In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
- 33. Halt Work/Unanticipated Discovery of Tribal Cultural Resources.** In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
- 34. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
 - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
 - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review

with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.

- E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
 - G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
 - H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge of soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - I. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - J. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 35. Public Works.** All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
- 36. Public Works.** The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
- 37. Public Works.** The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
- 38. Public Works.** Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
- 39. Public Works.** The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.

- 40. Public Works.** If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Final Inspection or Issuance of Occupancy Permit:

- 41. Geotechnical Construction Inspections.** The geotechnical consultant shall inspect, test (as needed), and approve all geotechnical aspects of the project construction. The inspections shall include, but not necessarily be limited to: site preparation and grading, site surface and subsurface drainage improvements, and excavations for foundations and slab-on-grade prior to the placement of steel and concrete. The results of these inspections and the as-built conditions of the project shall be described by the geotechnical consultant in a letter and submitted to the City Engineer for review prior to final (granting of occupancy) project approval.
- 42. Compliance with Conditions.** The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
- 43. Compliance with Approved Plan.** The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **November 4, 2020**, except as modified by conditions of approval.

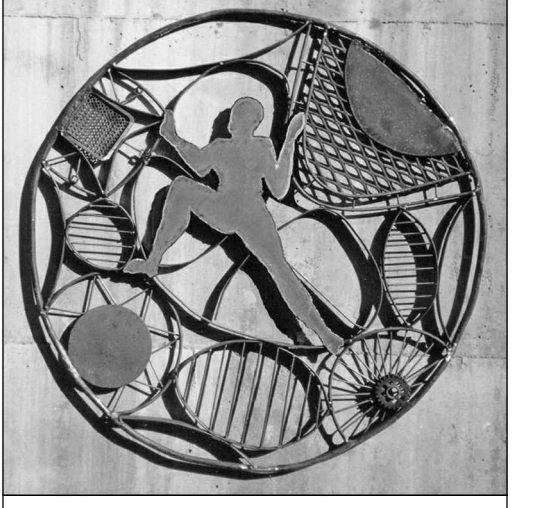
At All Times:

- 44. Exterior Lighting.** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
- 45. Rooftop Projections.** No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.
- 46. Design Review.** Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review approval.
- 47. Drainage Patterns.** The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
- 48. Electrical Meter.** Only one electrical meter fixture may be installed per dwelling unit.
- 49. Tenant Notification.** The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service and entertainment uses, and that each occupant shall not seek to impede their lawful operation.

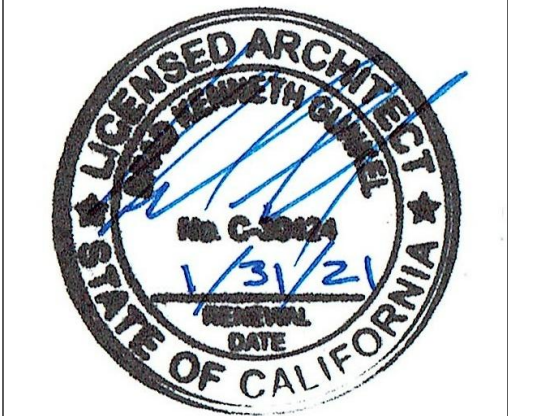


SHEET INDEX

ARCHITECTURAL				
SHEET NUMBER	SHEET NAME	DESIGN REVIEW	REVISION 1	REVISION 2
T0.1	TITLE SHEET	●	●	●
T0.2	GREEN POINT CHECKLIST	●	●	●
T0.3	SHADOW STUDY	●	●	●
T0.4	SHADOW STUDY & RENDER	●	●	●
T0.5	STREET STRIP ELEVATION	●	●	●
T0.6	NEIGHBORHOOD NOTIFICATION MAP	●	●	●
SURVEY				
A0.1	SITE PLAN	●	●	●
A0.2	LANDSCAPE PLAN	●	●	●
A1.0	FIRST FLOOR PLAN	●	●	●
A1.1	SECOND FLOOR PLAN	●	●	●
A1.2	THIRD FLOOR PLAN	●	●	●
A1.3	ROOF PLAN	●	●	●
A2.0	ELEVATIONS	●	●	●
A2.1	ELEVATIONS	●	●	●
A3.0	SECTION	●	●	●
A4.0	WINDOW SCHEDULE	●	●	●



GUNKEL ARCHITECTURE
 2295 SAN PABLO AVENUE
 BERKELEY CA 94702
 GUNKELARCHITECTURE.COM
 PHONE: (510) 984 - 1112



NOT FOR CONSTRUCTION

MULTIFAMILY DEVELOPMENT
 2421 FIFTH STREET, BERKELEY, CA 94710

DESCRIPTION OF WORK
 NEW CONSTRUCTION OF A 4-UNIT RESIDENTIAL CONDOMINIUM BUILDING. EXISTING BUILDING TO BE DEMOLISHED.

SYMBOLS

HEIGHT		DETAIL	
SECTION		GRIDLINE	
EXTERIOR ELEVATION		DEMOLITION NOTE	
INTERIOR ELEVATION		IMPROVEMENT NOTE	
ROOM TAG		FINISH NOTE	
WALL TAG		DOOR TAG	
WINDOW TAG			

PROJECT INFORMATION

APN: 56-1943-20
 ZONING: MUR
 LOT SIZE: 5,100 SF
 (SEE A0.1 SITE PLAN FOR TABULATION FORM)

PARKING & DRIVE AISLE COORDINATED W/ PETER CHUN ON 1/16/20
 SITE LAYOUT COORDINATED W/ ANNELISE DOHRER ON 1/29/20

THE PROPOSED PROJECT WILL NOT INCLUDE ANY NATURAL GAS INFRASTRUCTURE IN COMPLIANCE WITH BMC CHAPTER 12.80.

THE PROPOSED PROJECT IS DESIGNED TO COMPLY WITH THE BERKELEY ENERGY CODE (BMC CHAPTER 19.36) AND BERKELEY GREEN CODE (BMC CHAPTER 19.37), ADOPTED BY CITY COUNCIL ON DECEMBER 3RD, 2019. THIS PROJECT INCLUDES A SOLAR PV SYSTEM, ELECTRIC VEHICLE CHARGING, AND LOW-CARBON CONCRETE REQUIREMENTS. BUILDING IS TO HAVE ALL-ELECTRIC SYSTEMS.

CODE COMPLIANCE

2019 CALIFORNIA BUILDING CODE (INCORPORATES BY ADOPTION AND REPRINTS THE 2018 INTERNATIONAL BUILDING CODE WITH CALIFORNIA AMENDMENTS. PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, ICC)

2019 CALIFORNIA RESIDENTIAL CODE - APPLIES TO ONE AND TWO FAMILY HOUSES AND TOWNHOMES LESS THAN 3 STORIES IN HEIGHT. (INCORPORATES BY ADOPTION AND REPRINTS THE 2018 INTERNATIONAL RESIDENTIAL CODE)

2019 CALIFORNIA ENERGY CODE - CHECK THE CALIFORNIA ENERGY COMMISSION'S WEBSITE AT [HTTP://WWW.ENERGY.CA.GOV](http://www.energy.ca.gov) FOR A DOWNLOADABLE VERSION. (PUBLISHED BY ICC).

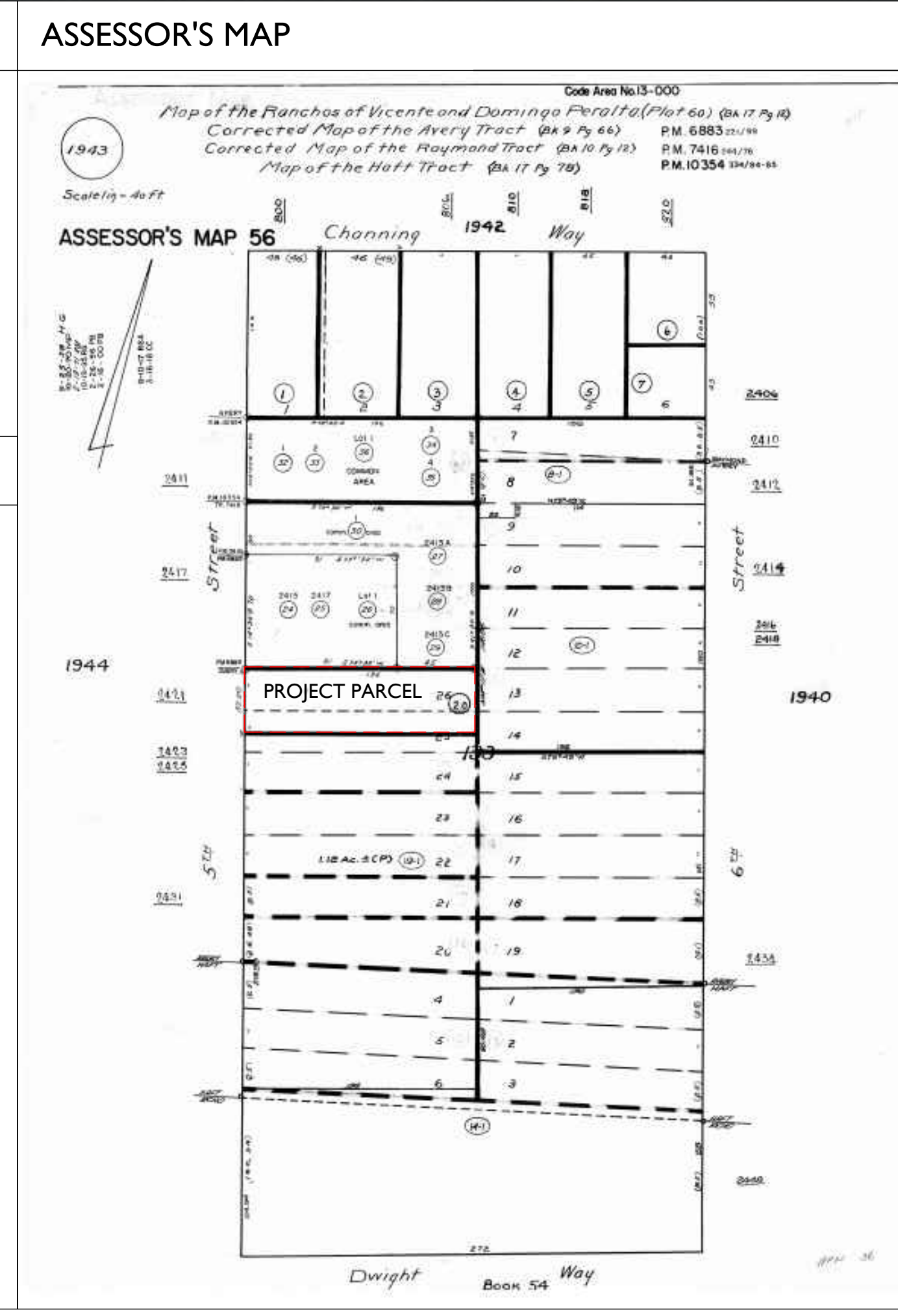
2019 CALIFORNIA ELECTRICAL CODE (INCORPORATES BY ADOPTION AND REPRINTS THE 2017 NATIONAL ELECTRICAL CODE WITH CALIFORNIA AMENDMENTS. PUBLISHED BY THE NATIONAL FIRE PROTECTION AGENCY, NFPA)

2019 CALIFORNIA PLUMBING CODE (INCORPORATES BY ADOPTION AND REPRINTS THE 2018 UNIFORM PLUMBING CODE WITH CALIFORNIA AMENDMENTS. PUBLISHED BY THE INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL OFFICIALS, IAPMO)

2019 CALIFORNIA MECHANICAL CODE (INCORPORATES BY ADOPTION AND REPRINTS THE 2018 UNIFORM MECHANICAL CODE WITH CALIFORNIA AMENDMENTS. PUBLISHED BY THE INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL OFFICIALS, IAPMO)

2019 CALIFORNIA FIRE CODE (INCORPORATES BY ADOPTION AND REPRINTS THE 2018 INTERNATIONAL FIRE CODE WITH CALIFORNIA AMENDMENTS. PUBLISHED BY ICC)

2019 CALGREEN CODE - APPLIES TO CERTAIN NEW BUILDINGS ONLY - ALL NEW RESIDENTIAL BUILDINGS 3 STORIES OR LESS AND ALL NEW NON-RESIDENTIAL BUILDINGS. HERS VERIFICATION REQUIRED BY T-24 ENERGY REPORT.

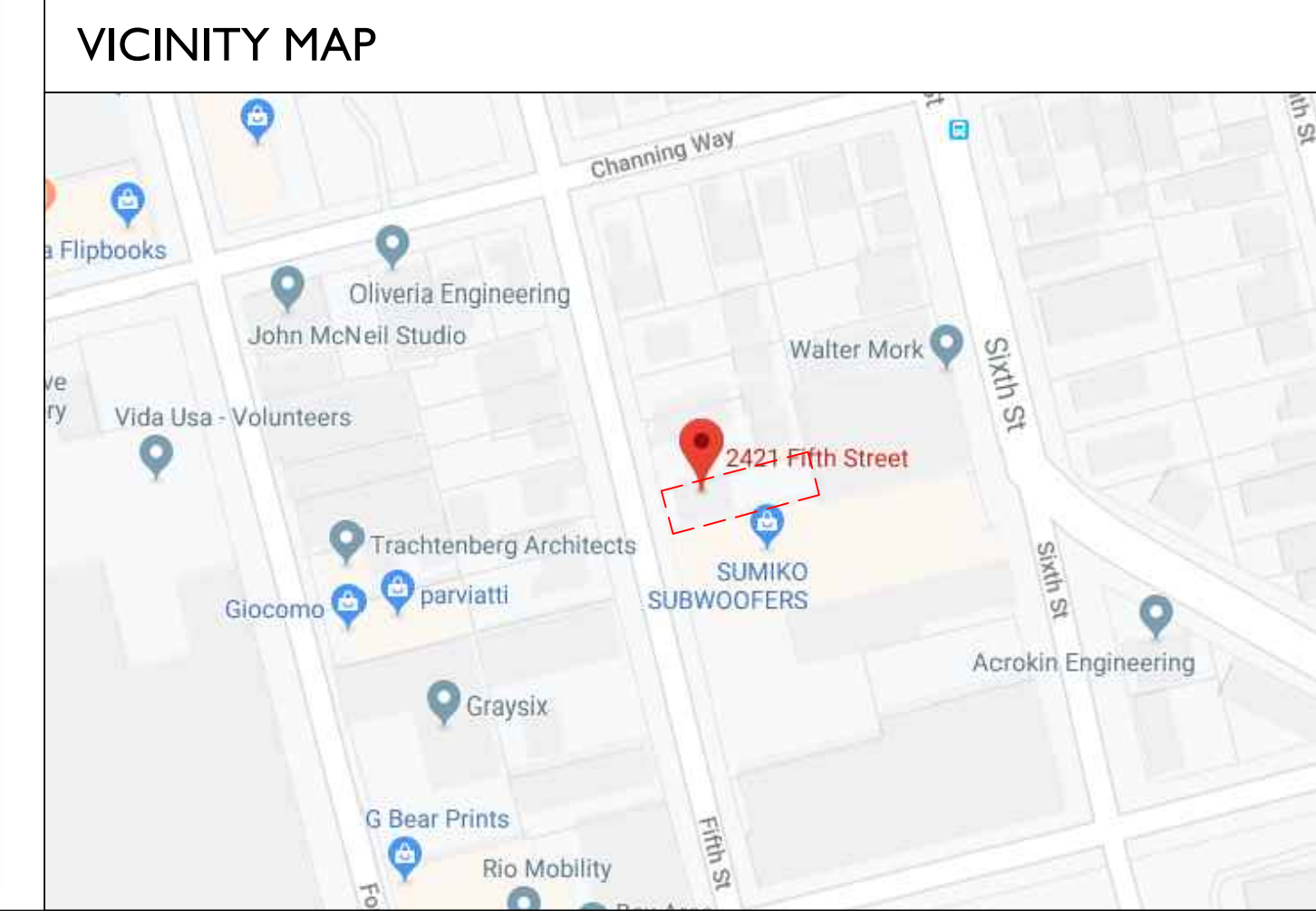


PROJECT TEAM

OWNER
 PROPERTIES 180 LLC
 (209)774-9045

ARCHITECT
 GUNKEL ARCHITECTURE
 2295 SAN PABLO AVENUE
 BERKELEY, CA, 94702
 (510) 984-1112

GREEN POINT RATER
 LISA SWEET
 SWEET SUSTAINABLE SOLUTIONS
 SWEET203K@GMAIL.COM



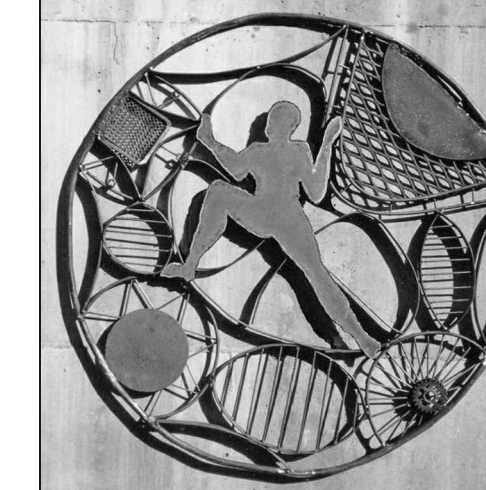
MULTIFAMILY DEVELOPMENT
 2421 FIFTH STREET
 BERKELEY, CA 94710

TITLE SHEET

DESIGN REVIEW

1	REVISION 1 : 8/18/20
2	REVISION 2 : 9/18/20
3	REVISION 3 : 11/3/20

10.1



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MULTIFAMILY DEVELOPMENT
 2421 FIFTH STREET
 BERKELEY, CA 94710

GREEN POINT RATING

DESIGN REVIEW

- 1 REVISION 1 : 8/18/20
- 2 REVISION 2 : 9/18/20
- 3 REVISION 3 : 11/3/20

TO.2



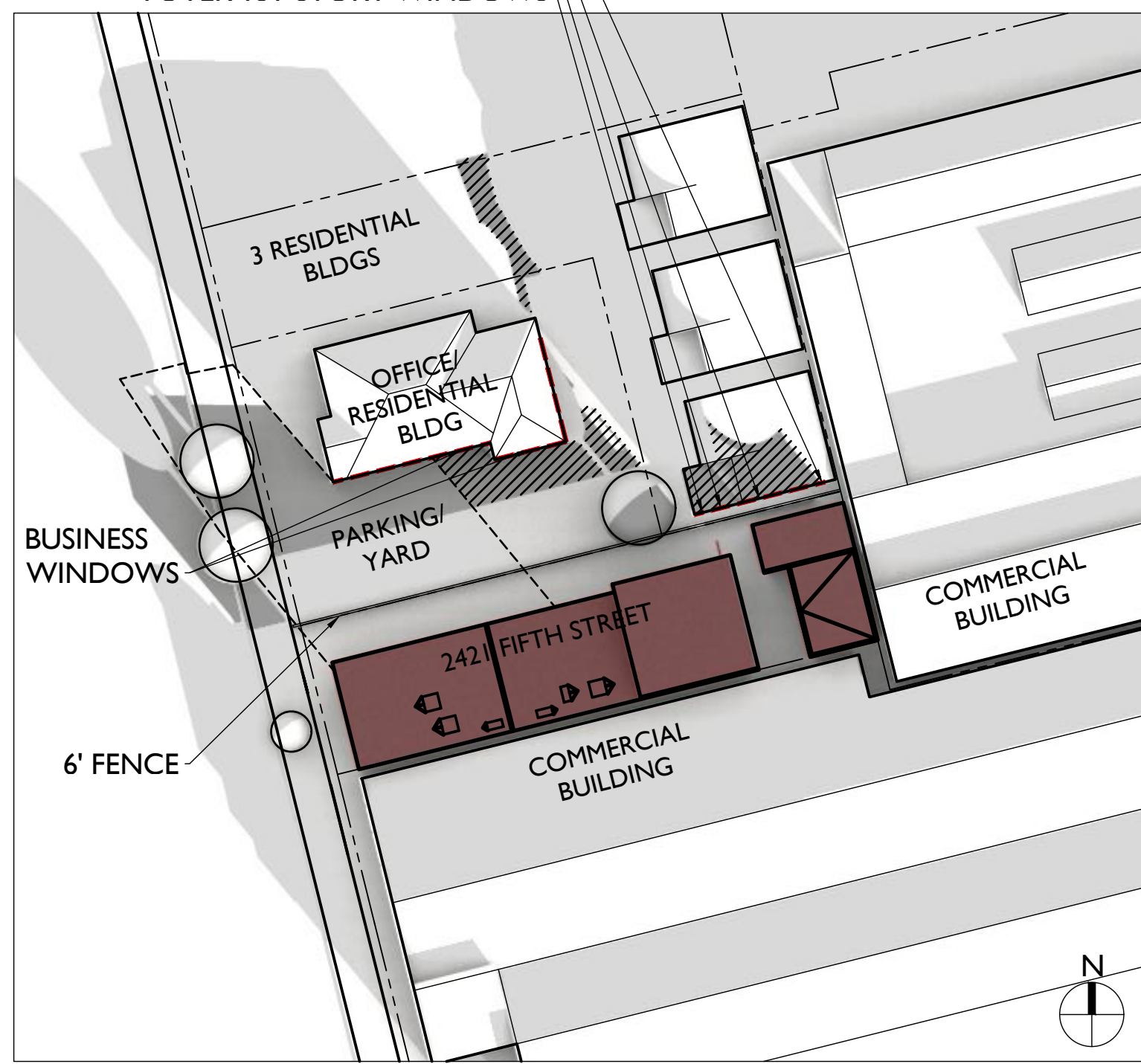
Planning Scoresheet
Total: 93.5

2421 5th St Berkeley 94710		Points Targeted	Possible Points				
Multi-Family New Home v. 7.0.2			Community	Energy	IAQ/Health	Resources	Water
CALGreen							
Yes	CALGreen Res (REQUIRED)	4	1	1	1	1	1
A. SITE							
Yes	A1. Construction Footprint	1			1		
≥85%	A2. Job Site Construction Waste Diversion	2			2		
Yes	A3. 65% C&D Waste Diversion (Excluding Alternative Daily Cover)	1			1		
	A3. Recycled Content Base Material	1			1		
	A6. Stormwater Control: Prescriptive Path					1	
TBD	A6.2 Filtration and/or Bio-Retention Features					1	
TBD	A6.3 Non-Leaching Roofing Materials					1	
B. FOUNDATION							
TBD	B1. Fly Ash and/or Slag in Concrete					1	
TBD	B4. Moisture Controlled Crawlspace			1			
Yes	B5. Structural Pest Controls						1
Yes	B5.2 Plant Trunks, Bases, or Stems at Least 36 Inches from the Foundation	1				1	
C. LANDSCAPE							
4.78%	Enter the landscape area percentage						
Yes	C1. Plants Grouped by Water Needs (Hydrozoning)	1				1	
Yes	C3. Resource Efficient Landscapes	1				1	
Yes	C3.1 No Invasive Species Listed by Cal-IPC					1	
Yes	C3.3 Drought Tolerant, California Native, Mediterranean Species, or Other Appropriate Species	3				3	
Yes	C4. Minimal Turf in Landscape						2
Yes	C4.1 No Turf on Slopes Exceeding 10% and No Overhead Sprinklers Installed in Areas Less Than Eight Feet Wide	0					2
No	C4.2 Turf on a Small Percentage of Landscaped Area	0					2
	C12. Environmentally Preferable Materials for Site						

Yes	C12.1 Environmentally Preferable Materials for 70% of Non-Plant Landscape Elements and Fencing	1			1		
Yes	C13. Reduced Light Pollution	1	1				
D. STRUCTURAL FRAME AND BUILDING ENVELOPE							
Yes	D1. Optimal Value Engineering				1		
Yes	D1.2 Non-Load Bearing Door and Window Headers Sized for Load	1					
	D3. Engineered Lumber						
Yes	D3.1 Engineered Beams and Headers	1			1		
TBD	D3.2 Wood I-Joists or Web Trusses for Floors				1		
Yes	D3.5 OSB for Subfloor	0.5			0.5		
TBD	D3.6 OSB for Wall and Roof Sheathing				0.5		
	D9. Reduced Pollution Entering the Home from the Garage						
Yes	D9.1 Detached Garage	2			2		
Yes	D11. Moisture-Resistant Materials in Wet Areas (such as Kitchen, Bathrooms, Utility Rooms, and Basements)	2		1	1		
E. EXTERIOR							
Yes	E1. Environmentally Preferable Decking	1			1		
Yes	E5. Durable Roofing Materials						
Yes	E5.1 Durable and Fire Resistant Roofing Materials or Assembly	1			1		
F. INSULATION							
Yes	F1. Insulation with 30% Post-Consumer or 60% Post-Industrial Recycled Content						
Yes	F1.1 Walls and Floors	1			1		
Yes	F2. Insulation that Meets the CDPH Standard Method—Residential for Low Emissions						
Yes	F2.1 Walls and Floors	1			1		
G. PLUMBING							
	G1. Efficient Distribution of Domestic Hot Water						
Yes	G1.1 Insulated Hot Water Pipes	1		1			
Yes	G2. Install Water-Efficient Fixtures						
Yes	G2.1 WaterSense Showerheads with Matching Compensation Valve	2			2		
Yes	G2.2 WaterSense Bathroom Faucets	1			1		
Yes	G2.3 WaterSense Toilets with a Maximum Performance (MaP) Threshold of No Less Than 500 Grams	1			1		
H. HEATING, VENTILATION, AND AIR CONDITIONING							
Yes	H1. Sealed Combustion Units						
Yes	H1.1 Sealed Combustion Furnace	1			1		
Yes	H1.2 Sealed Combustion Water Heater	2			2		
Yes	H3. Effective Ductwork						
Yes	H3.1 Duct Mastic on Duct Joints and Seams	1		1			

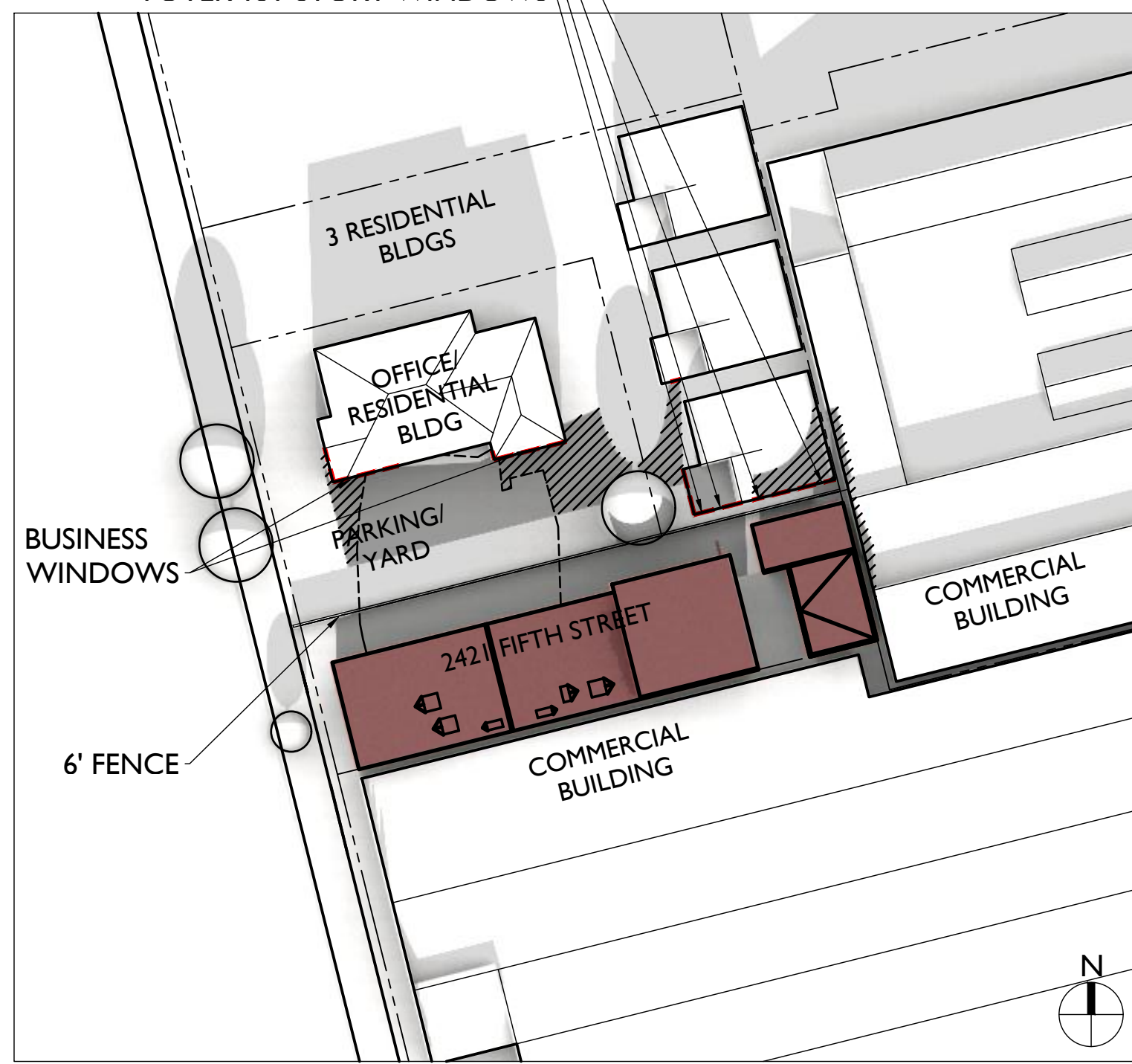
Yes	H4. ENERGY STAR® Bathroom Fans Per HVI Standards with Air Flow Verified	1			1		
Yes	H6. Whole House Mechanical Ventilation Practices to Improve Indoor Air Quality						
Yes	H6.1 Meet ASHRAE 62.2-2010 Ventilation Residential Standards	Y	R	R	R	R	R
Yes	H7. Effective Range Hood Design and Installation						
Yes	H7.1 Effective Range Hood Ducting and Design	1			1		
Yes	H8. No Fireplace or Sealed Gas Fireplace	1					
TBD	H11. High Efficiency HVAC Filter (MERV 8+)				1		
J. BUILDING PERFORMANCE AND TESTING							
TBD	J3. Mechanical Ventilation Testing and Low Leakage					1	
	J5. Building Performance Exceeds Title 24 Part 6						
3.26%	J5.1 Home Outperforms Title 24 Part 6	0		60			
K. FINISHES							
Yes	K2. Zero-VOC Interior Wall and Ceiling Paints	2			2		
Yes	K3. Low-VOC Caulks and Adhesives	1			1		
Yes	K4. Environmentally Preferable Materials for Interior Finish						
Yes	K4.5 Countertops	1			1		
L. FLOORING							
≥75%	L1. Environmentally Preferable Flooring	3				3	
≥75%	L2. Low-Emitting Flooring Meets CDPH 2010 Standard Method—Residential	3			3		
M. APPLIANCES AND LIGHTING							
TBD	M1. ENERGY STAR® Dishwasher						1
TBD	M3. Size-Efficient ENERGY STAR Refrigerator				2		
Yes	M4. Permanent Centers for Waste Reduction Strategies						1
Yes	M4.1 Built-In Recycling Center	1					1
TBD	M4.2 Built-In Composting Center						1
Yes	M5. Lighting Efficiency						
Yes	M5.1 High-Efficacy Lighting	2		2			
N. COMMUNITY							
	N1. Smart Development						
	N1.5 Home Size Efficiency	9				9	
	Enter the area of the home, in square feet	3					
	Enter the number of bedrooms						
	N3. Pedestrian and Bicycle Access						
	N3.1 Pedestrian Access to Services Within 1/2 Mile of Community Services	2	2				
	Enter the number of Tier 1 services	8					
	Enter the number of Tier 2 services	8					
	N5. Social Interaction						
Yes	N5.1 Residence Entries with Views to Callers	1	1				
TBD	N5.3 Porches Oriented to Street and Public Space		1				
O. OTHER							
Yes	O1. GreenPoint Rated Checklist in Blueprints	Y	R	R	R	R	R
Yes	O2. Pre-Construction Kickoff Meeting with Rater and Subcontractors	2		0.5		1	0.5
Yes	O7. Green Appraisal Addendum	Y	R	R	R	R	R
Summary							
Total Available Points in Specific Categories		342	26	131	54	83	48
Minimum Points Required in Specific Categories		50	2	0	6	8	5
Total Points Targeted		93.5	9.0	10.5	25.0	36.5	10.5

BEDROOM 2ND STORY WINDOWS
LIVING ROOM 3RD STORY WINDOWS
BEDROOM 2ND STORY WINDOWS
FOYER 1ST STORY WINDOWS



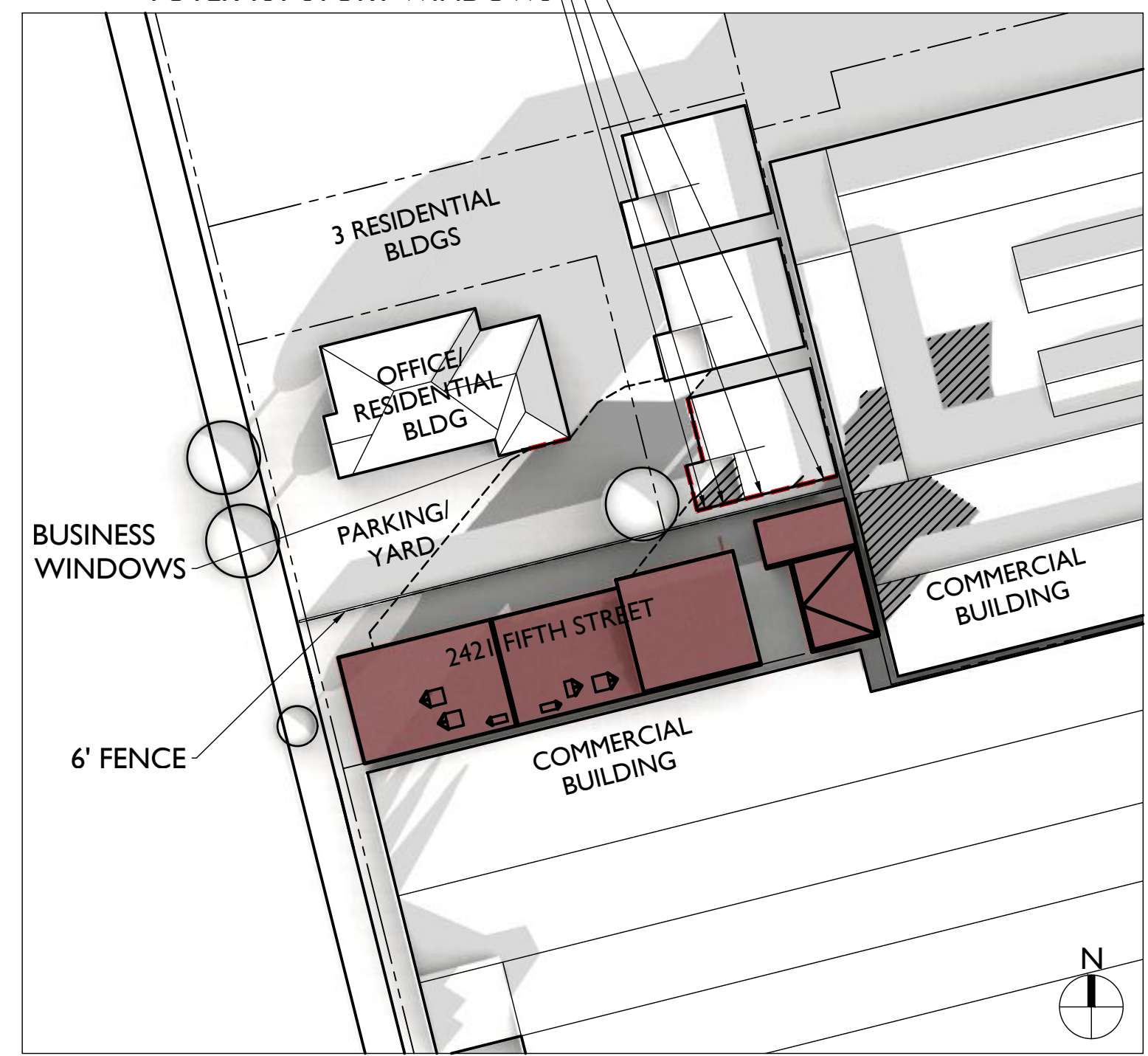
DECEMBER 21ST 2 HR AFTER SUNRISE

BEDROOM 2ND STORY WINDOWS
LIVING ROOM 3RD STORY WINDOWS
BEDROOM 2ND STORY WINDOWS
FOYER 1ST STORY WINDOWS



DECEMBER 21ST NOON

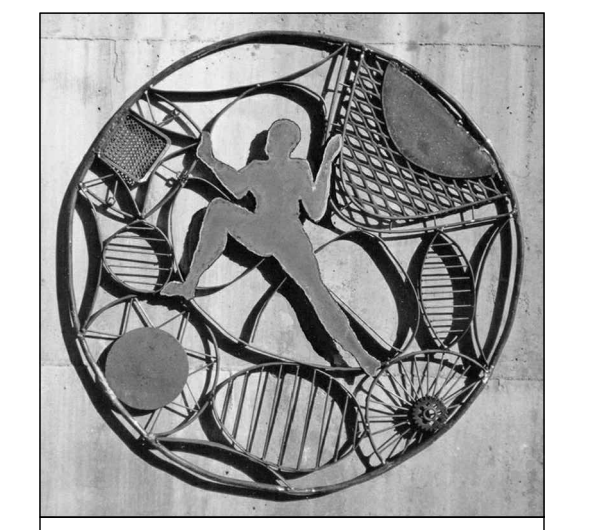
BEDROOM 2ND STORY WINDOWS
LIVING ROOM 3RD STORY WINDOWS
BEDROOM 2ND STORY WINDOWS
FOYER 1ST STORY WINDOWS



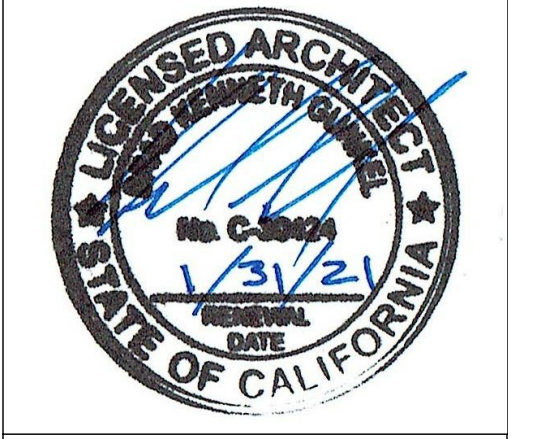
DECEMBER 21ST 2 HR BEFORE SUNSET

LEGEND

- SHADOWS CAST BY ADJACENT BUILDINGS
- (N) SHADOWS CAST BY PROPOSED DEVELOPMENT
- OUTLINE OF (E) HOUSE SHADOW
- (N) SHADOW AT RESIDENTIAL BUILDING
- (N) SHADOW CREATED ON ADJACENT PROPERTIES BY PROPOSED DEVELOPMENT



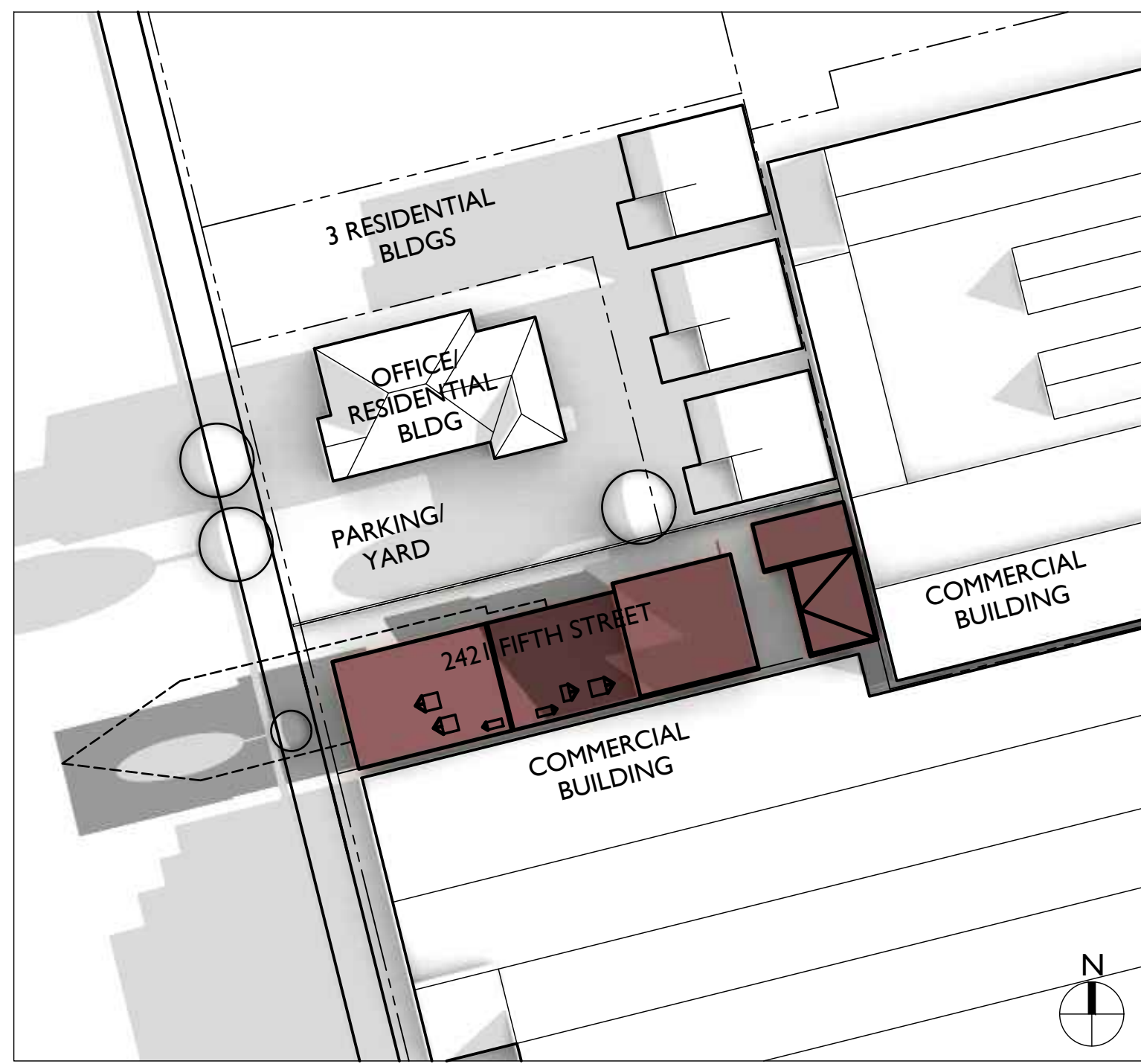
GUNKEL ARCHITECTURE
2295 SAN PABLO AVENUE
BERKELEY CA 94702
GUNKELARCHITECTURE.COM
PHONE: (510) 984 - 1112



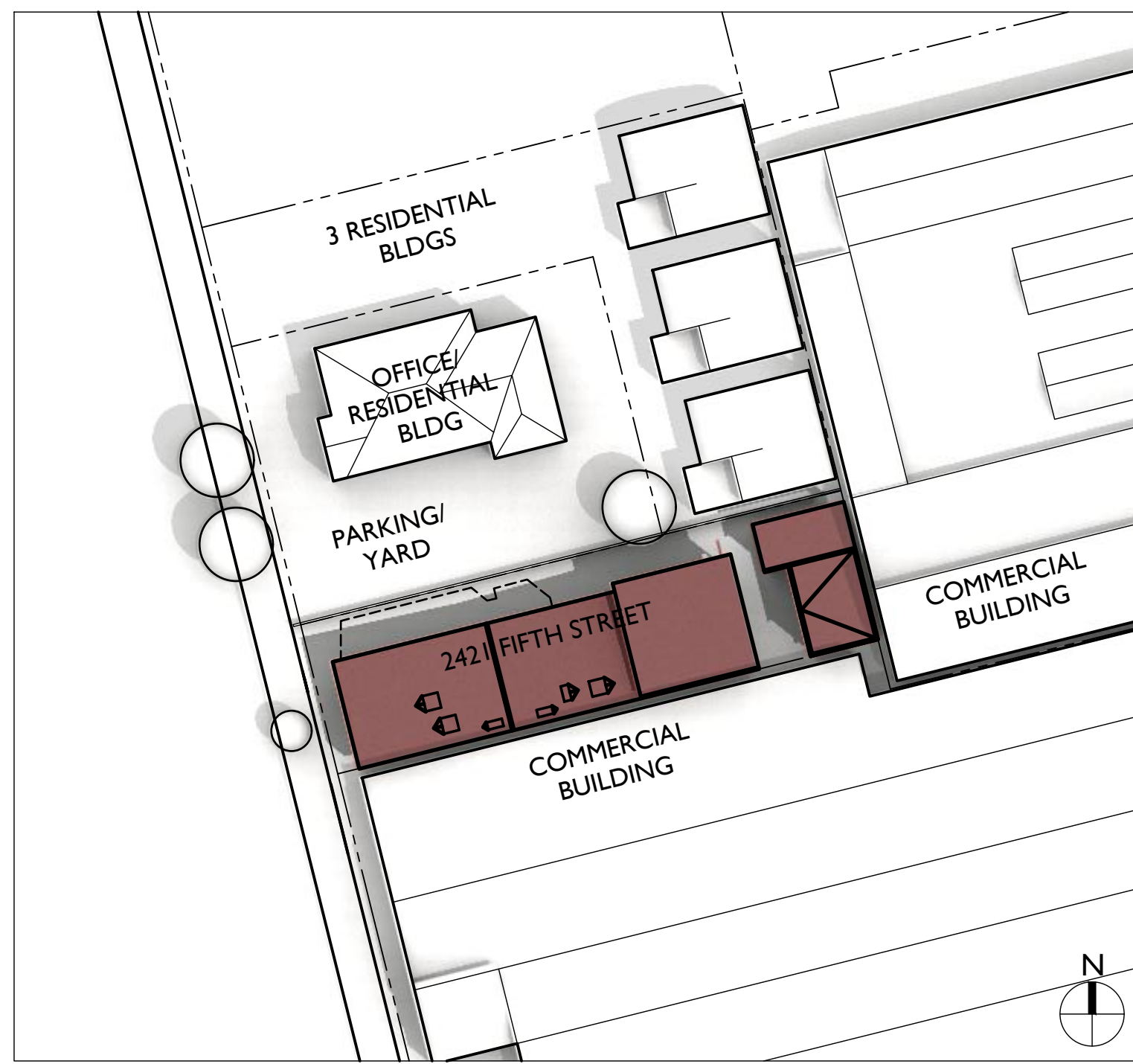
NOT FOR CONSTRUCTION

WINTER SOLSTICE

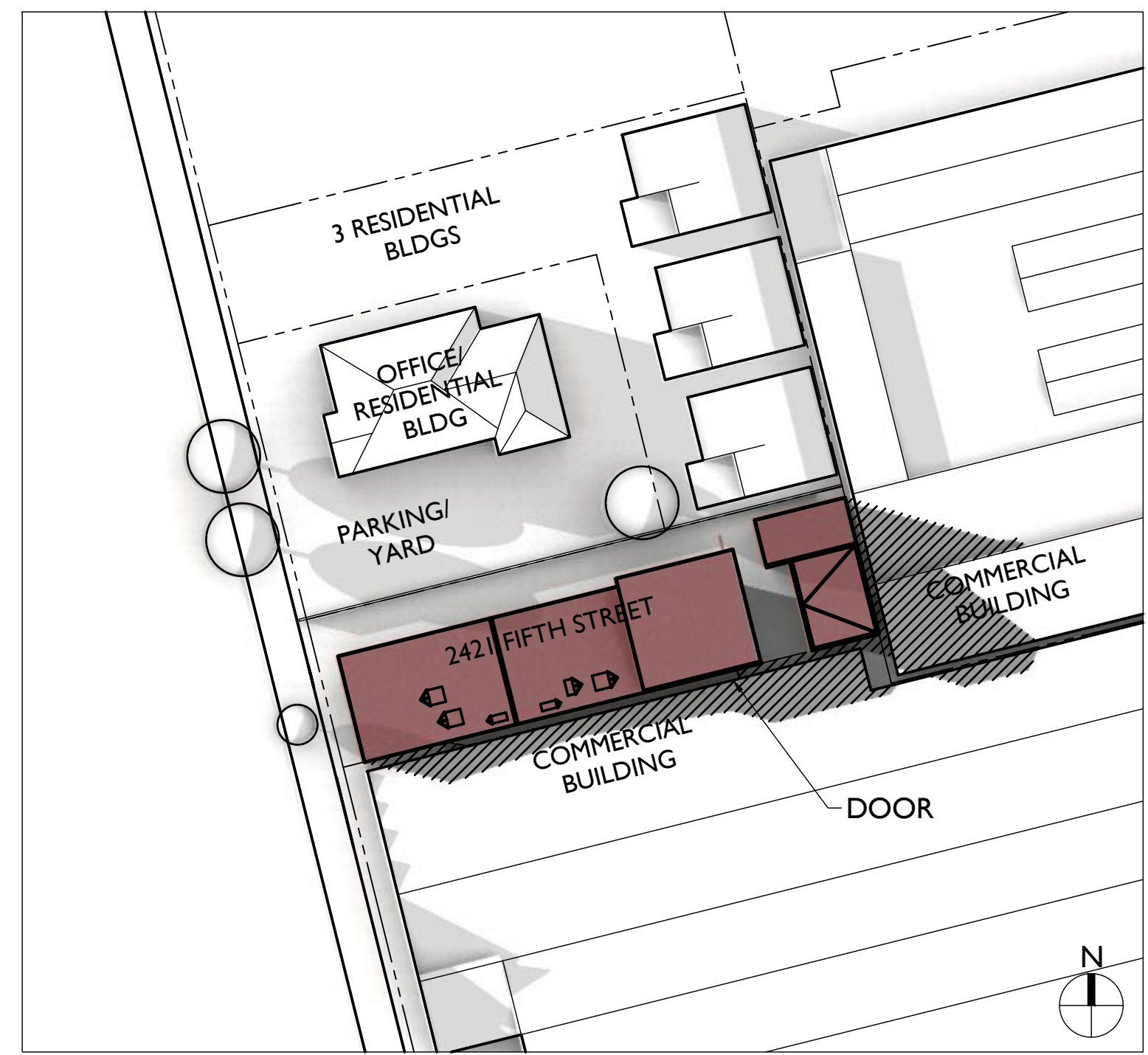
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JUNE 21ST 2 HR AFTER SUNRISE



JUNE 21ST NOON



JUNE 21ST 2 HR BEFORE SUNSET

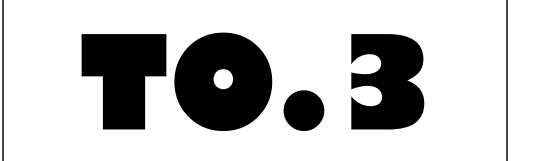
SUMMER SOLSTICE

1

MULTIFAMILY DEVELOPMENT
2421 FIFTH STREET
BERKELEY, CA 94710

SHADOW STUDY

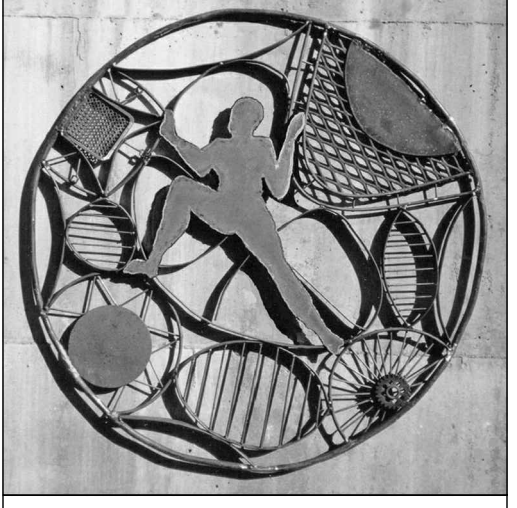
DESIGN REVIEW	
1	REVISION 1 : 8/18/20
2	REVISION 2 : 9/18/20
3	REVISION 3 : 11/3/20





LEGEND

- SHADOWS CAST BY ADJACENT BUILDINGS
- (N) SHADOWS CAST BY PROPOSED DEVELOPMENT
- OUTLINE OF (E) HOUSE SHADOW
- (N) SHADOW AT RESIDENTIAL BUILDING
- (N) SHADOW CREATED ON ADJACENT PROPERTIES BY PROPOSED DEVELOPMENT



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NOT FOR CONSTRUCTION

MULTIFAMILY DEVELOPMENT
 2421 FIFTH STREET
 BERKELEY, CA 94710

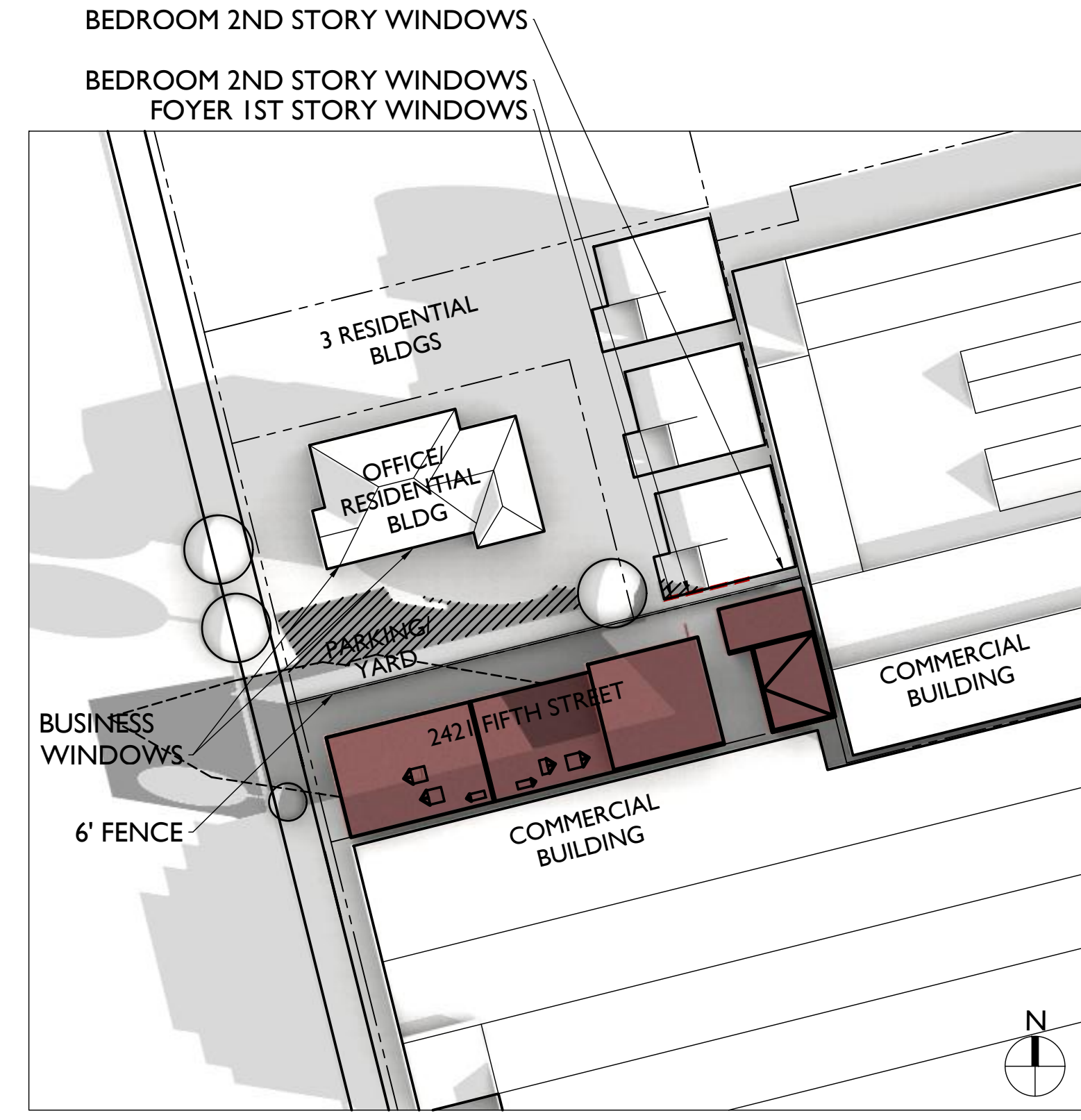
SHADOW STUDY & RENDER

- DESIGN REVIEW
- 1 REVISION 1 : 8/18/20
 - 2 REVISION 2 : 9/18/20
 - 3 REVISION 3 : 11/3/20

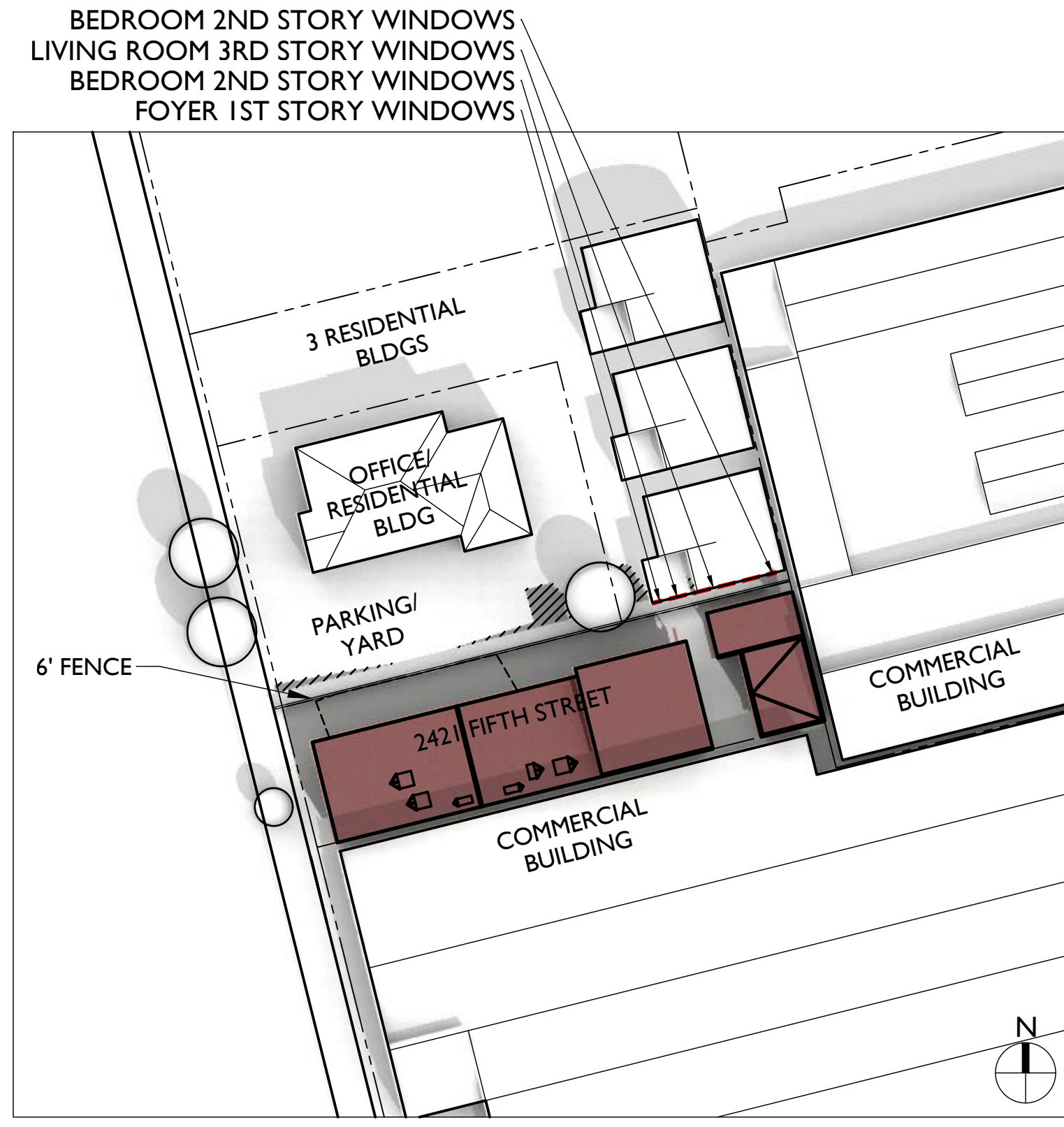
TO.4

RENDER FROM SOUTHWEST

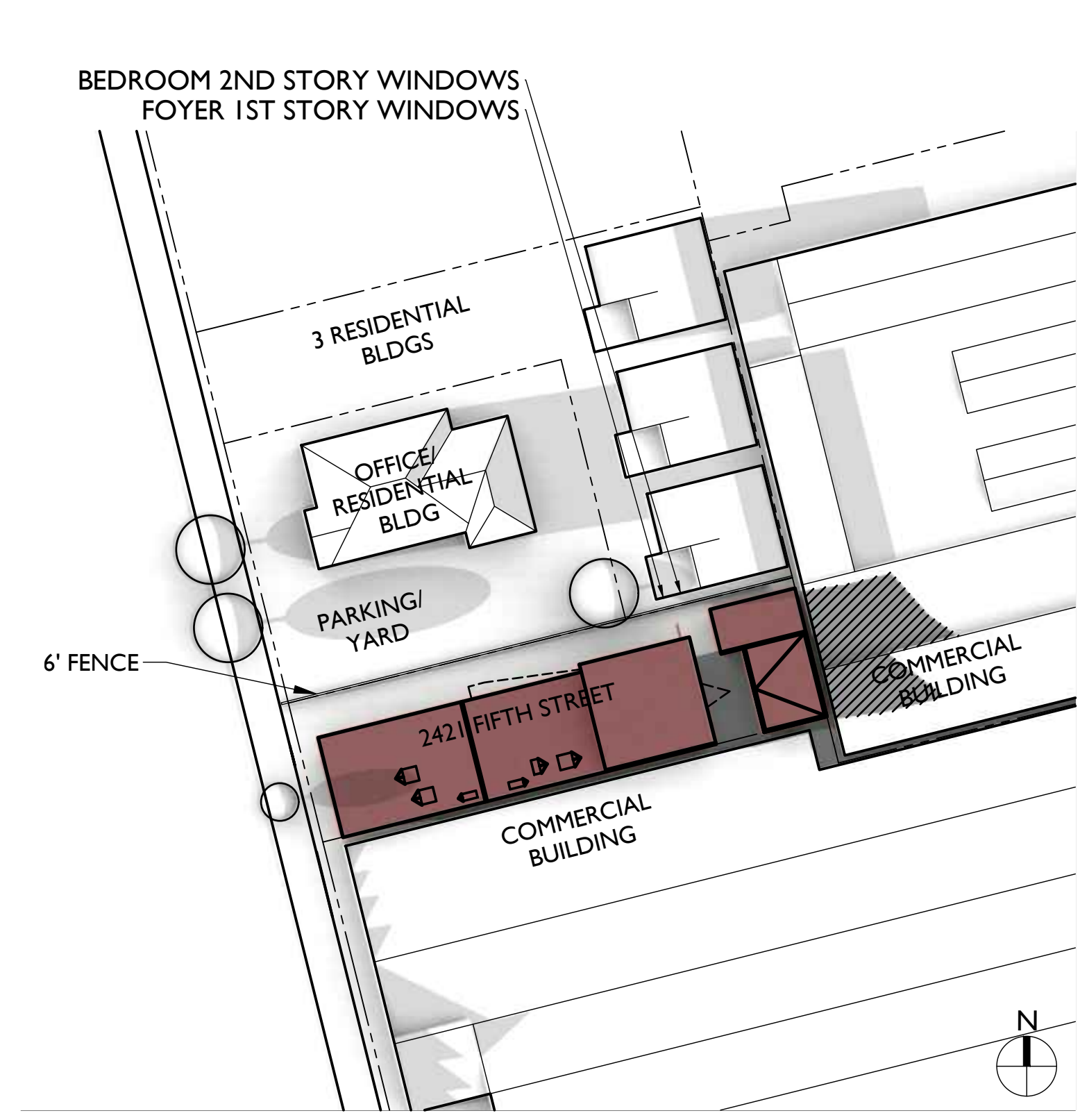
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APRIL 7TH 2 HR AFTER SUNRISE



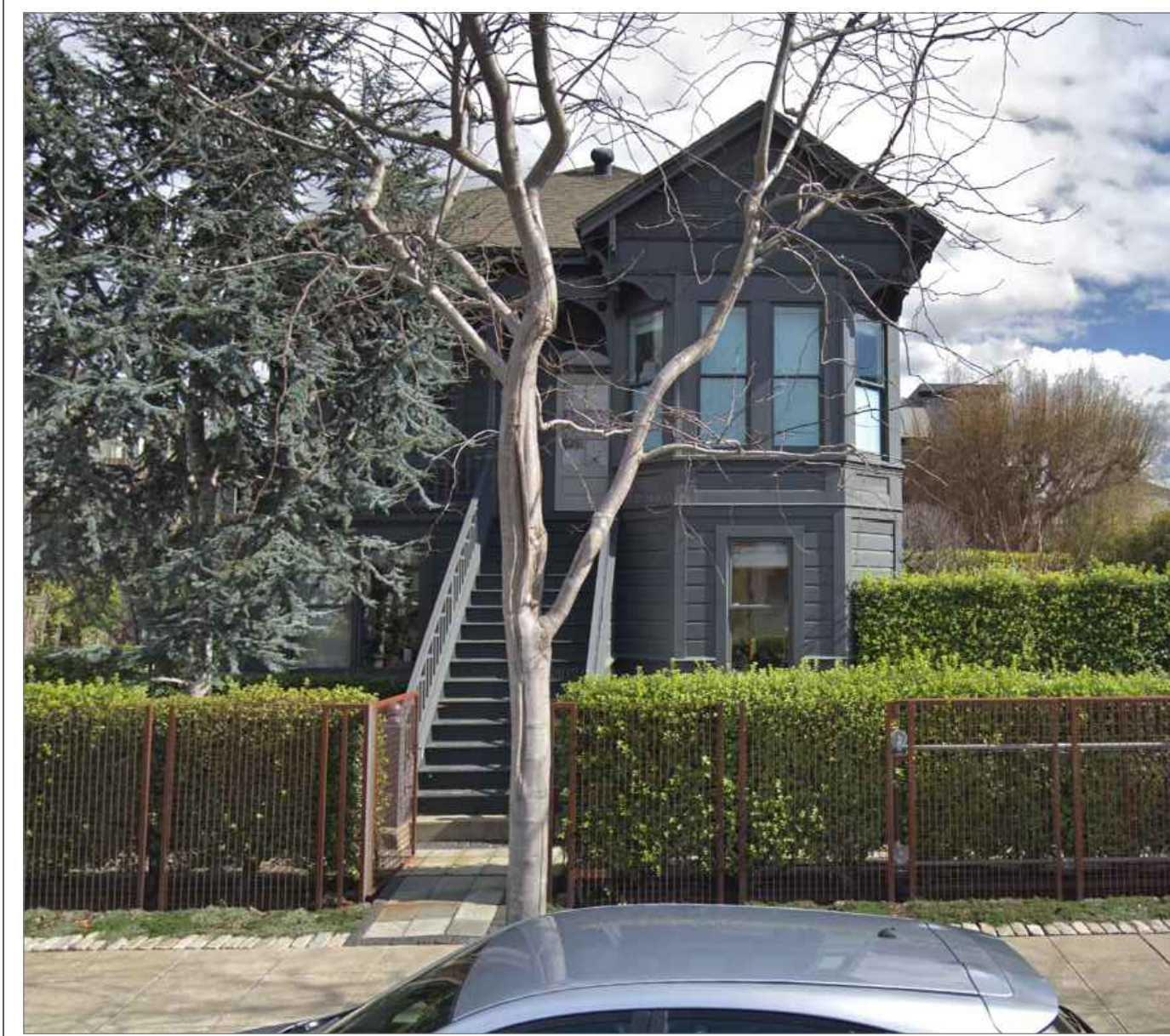
APRIL 7TH NOON



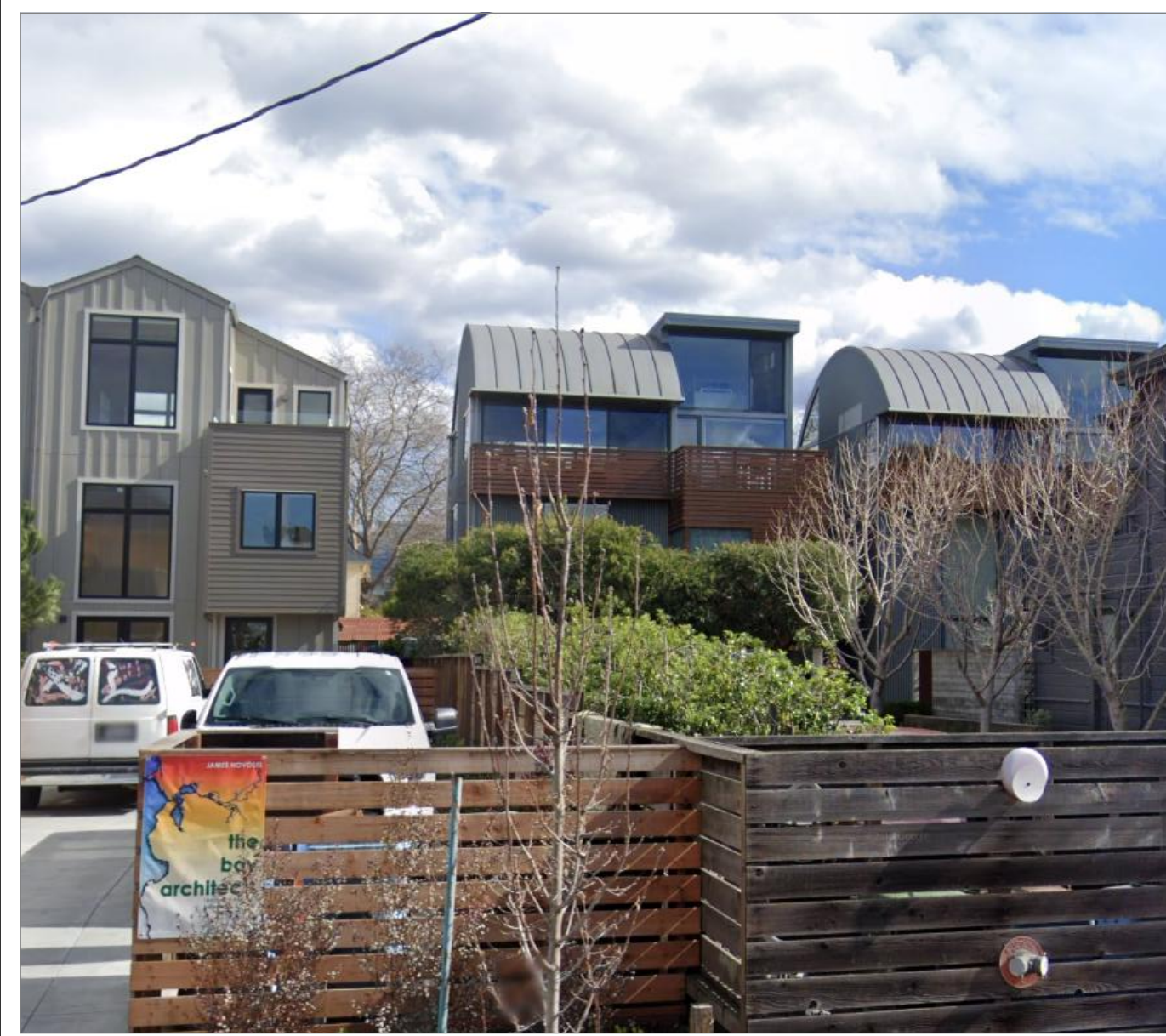
APRIL 7TH 2 HR BEFORE SUNSET

SUBMITTAL DATE

1



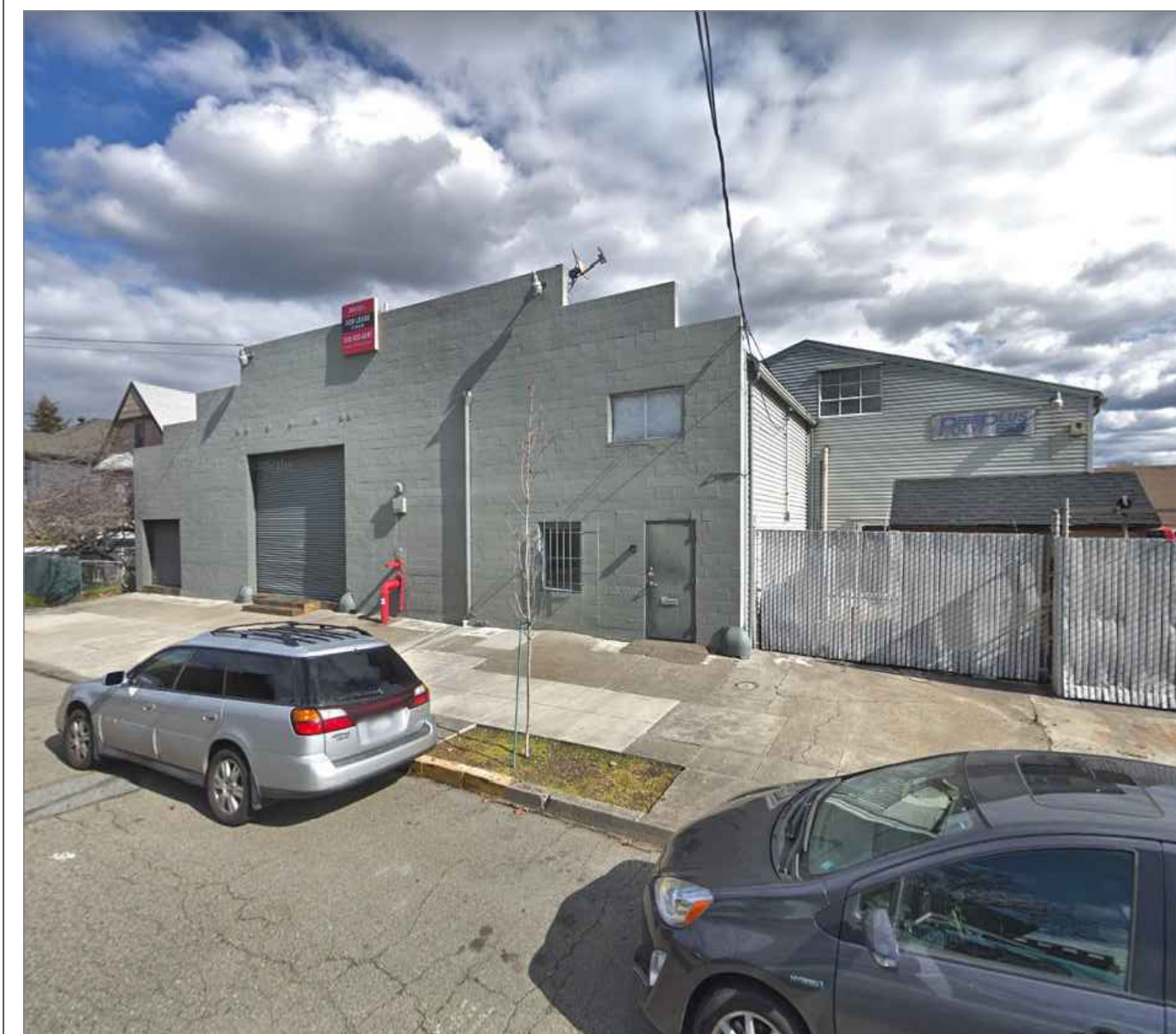
2415 / 2417 FIFTH STREET



2413 FIFTH STREET



2421 FIFTH STREET, TO BE DEMOLISHED



2431 FIFTH STREET, COMMERCIAL



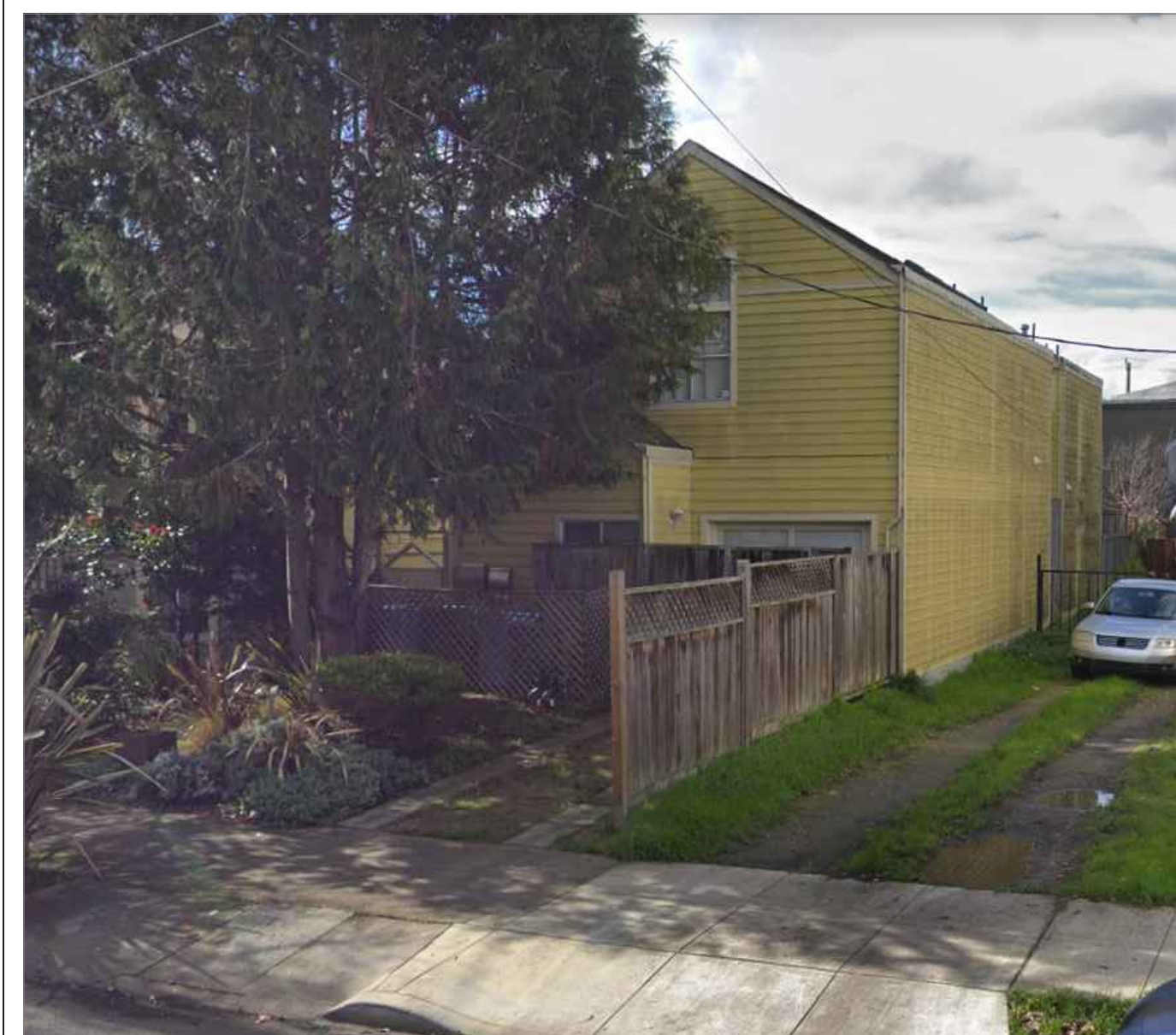
2418 SIXTH STREET, COMMERCIAL



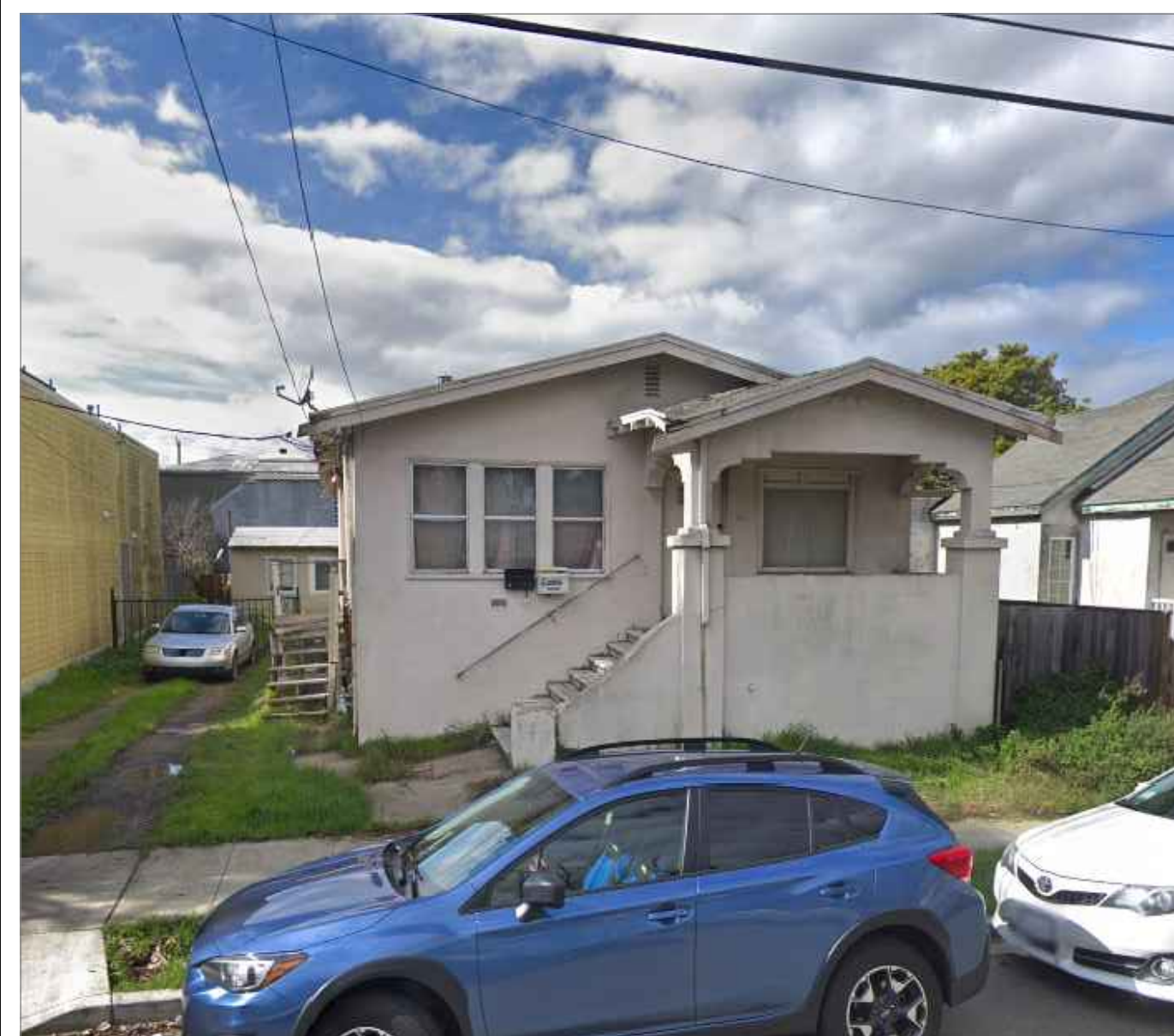
2422 FIFTH STREET



6



2418 FIFTH STREET



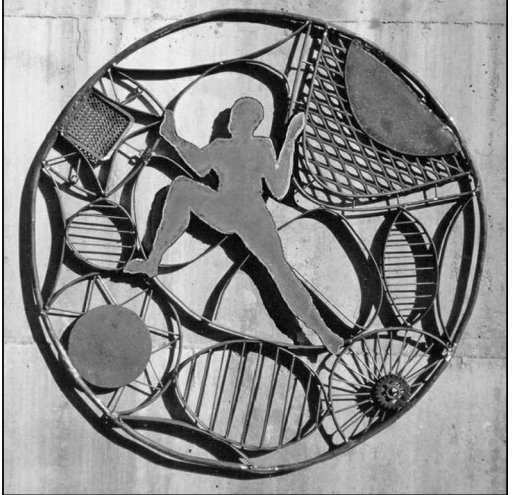
2416 FIFTH STREET



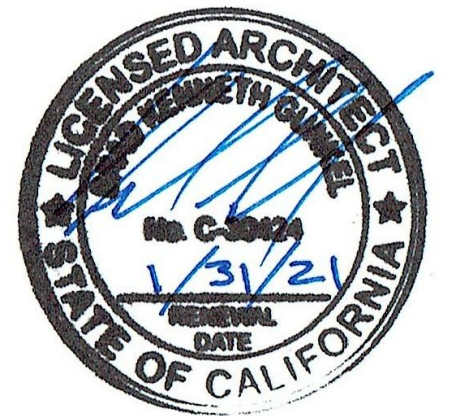
8



KEY MAP



GUNKEL ARCHITECTURE
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BERKELEY CA 94702
GUNKELARCHITECTURE.COM
PHONE: (510) 984 - 1112



NOT FOR CONSTRUCTION

MULTIFAMILY DEVELOPMENT
2421 FIFTH STREET
BERKELEY, CA 94710

NEIGHBORHOOD NOTIFICATION MAP

- DESIGN REVIEW
- 1 REVISION 1 : 8/18/20
- 2 REVISION 2 : 9/18/20
- 3 REVISION 3 : 11/3/20

TO.6

NUMBER	ADDRESS	UNIT	OWNER OR RENTER	HAVE NO OBJECTIONS	HAVE OBJECTIONS (PLEASE STATE BRIEFLY)	NAME (PRINTED)	SIGNATURE	DATE
1	2415 FIFTH STREET							
1	2417 FIFTH STREET							
2	2413 FIFTH STREET	A						
2	2413 FIFTH STREET	B						
2	2413 FIFTH STREET	C						
3	2421 FIFTH STREET	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4	2431 FIFTH STREET	N/A	COMMERCIAL*	N/A	N/A	N/A	N/A	N/A
5	2418 SIXTH STREET	N/A	COMMERCIAL*	N/A	N/A	N/A	N/A	N/A
6	2422 FIFTH STREET							
7	2418 FIFTH STREET							
8	2416 FIFTH STREET	A						
8	2416 FIFTH STREET	B						

*ONLY ABUTTING RESIDENTIAL OCCUPANTS ARE REQUIRED TO BE NOTIFIED



PLANNING & DEVELOPMENT
 Land Use Planning, 1947 Center Street, Berkeley, CA 94704
 Tel: 910.981.7410 TDD: 910.981.6900 Fax: 910.981.7420 Email: Planning@CityofBerkeley.info

TABULATION FORM

Project Address: 2421 Fifth Street, Berkeley, CA 94710 Date: 2/6/2020

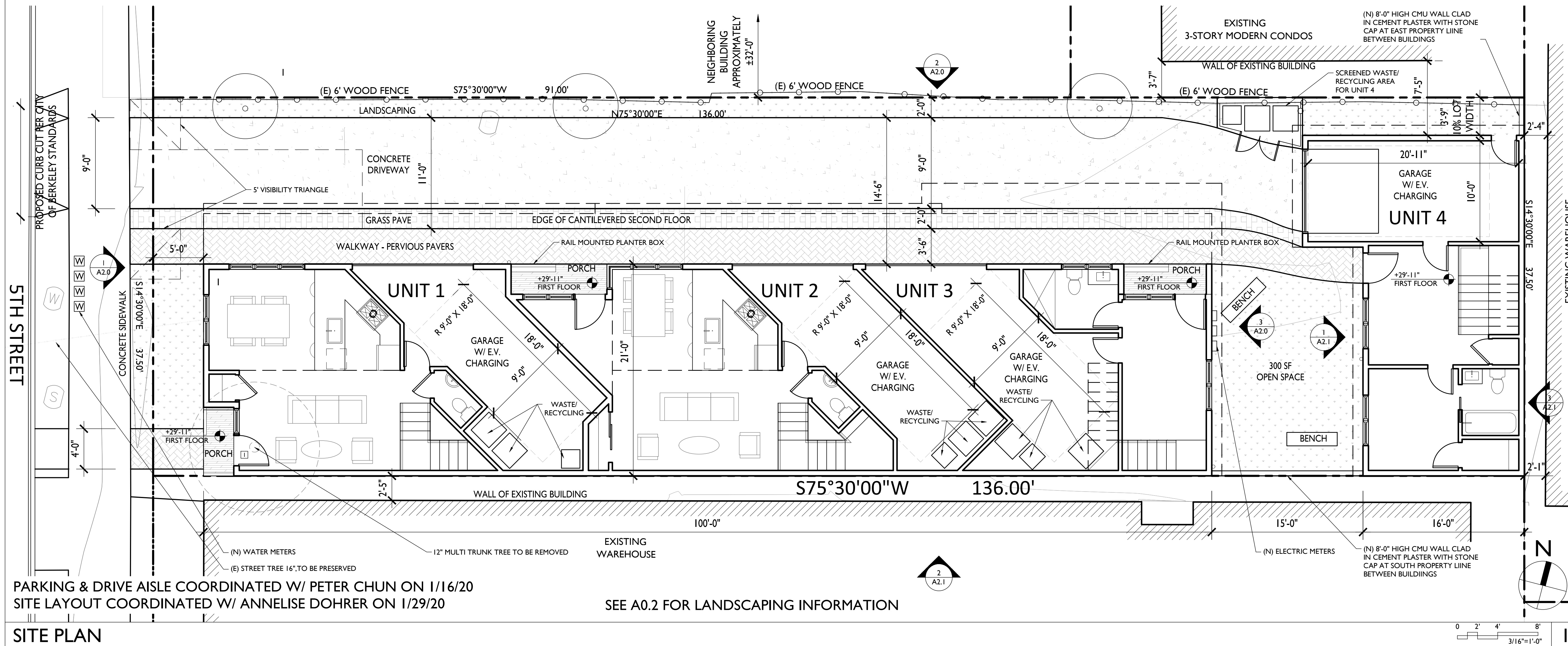
Applicant's Name: Brad Gunkel

Zoning District: MUR

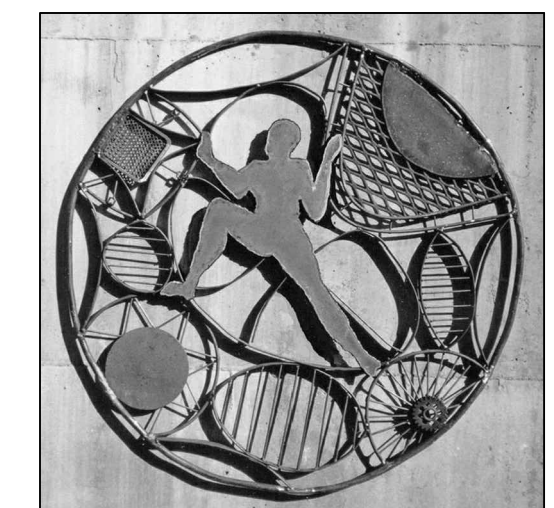
Please print in ink the following numerical information for your Administrative Use Permit, Use Permit, or Variance application:

	Existing	Proposed	Permitted/ Required
Units, Parking Spaces & Bedrooms			
Number of Dwelling Units (#)	1	4	4
Number of Parking Spaces (#)	2	4	4
Number of Bedrooms (#) (R-1, R-1A, R-2, R-2A, and R-3 only)	N/A	N/A	N/A
Yards and Height			
Front Yard Setback (Feet)	14'-5"	Units 1-3: 5'-0" Unit 4: 114'-0"	0'-0" 5'-0"
Side Yard Setbacks (facing property)	Left: (Feet) 6'-10" Right: (Feet) 6'-5"	Units 1-3: 11'-6" Unit 4: 3'-9" Units 1-3: 0'-0" Unit 4: 0'-0" Units 1-3: 31'-0" Unit 4: 0'-0"	3'-9" (10% lot width, where adjacent to residential) 0'-0"
Rear Yard Setback (Feet)	75'-5"	Units 1-3: 29'-11" Unit 4: 33'-11"	0'-0"
Building Height* (# Stories)	1.5	Units 1-3: 3 Unit 4: 3	3
Average* (Feet)	22'-9"	Units 1-3: 29'-11" Unit 4: 33'-11"	35'-0"
Maximum* (Feet)	28'-9"	Units 1-3: 34'-9" Unit 4: 34'-9"	35'-0"
Areas			
Lot Area (Square-Feet)	5,100 SF	5,100 SF	N/A
Gross Floor Area* (Square-Feet)	1,383 SF	Units 1-3: 4,103 SF Unit 4: 1,400 SF	7,650 SF
Total Area Covered by All Floors (Square-Feet)	1,016 SF	Units 1-3: 2,800 SF Unit 4: 606 SF	N/A
Lot Coverage* (%)	19.9%	62.9%	N/A
Useable Open Space* (Square-Feet)	3,175 SF	620 SF	600 SF
Floor Area Ratio* Non-Residential only (Except ES-R)	.3	1.1	1.5

*See Definitions - Zoning Ordinance Title 23F. Revised: 05/15



SITE PLAN



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MULTIFAMILY
 2421 FIFTH STREET
 BERKELEY, CA 94710

SITE PLAN

- DESIGN REVIEW
- 1 REVISION 1 : 8/18/20
 - 2 REVISION 2 : 9/18/20
 - 3 REVISION 3 : 11/3/20

A0.1

WELO CALCULATIONS

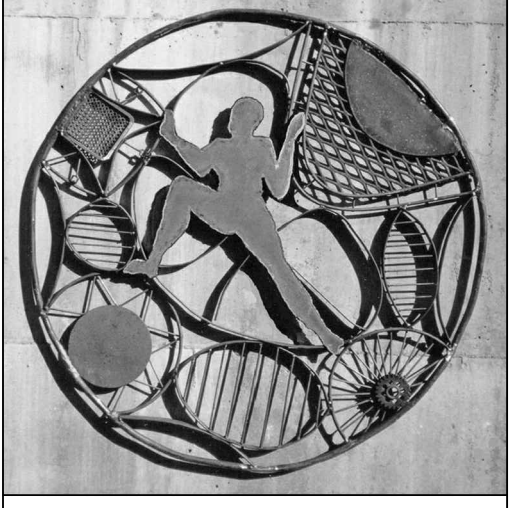
TOTAL LANDSCAPE AREA: 946 SF, 19%
 4 YD³ / 1000 SF LANDSCAPE
 3.8 YD³ COMPOST REQ'D

WELO REQUIREMENTS

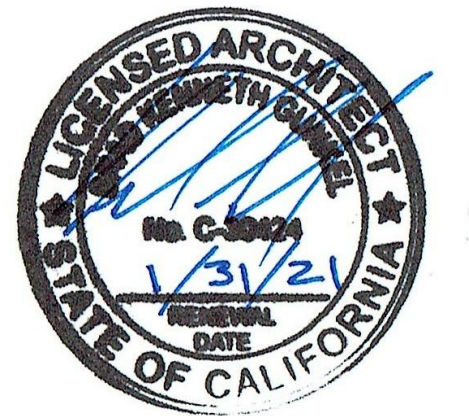
1. COMPLY W/ ALL MEASURES OF WELO PRESCRIPTIVE CHECKLIST
2. DRIP IRRIGATION SYSTEM TO BE INSTALLED TO PROVIDE WATER FOR (N) TREES & SHRUBS AS INDICATED ON SITE PLAN. AIRBORNE ACCEPTABLE ONLY AT TURF AREAS > 10' WIDE
 - 2.1. PRESSURE REGULATORS ARE INSTALLED ON THE IRRIGATION SYSTEM TO ENSURE DYNAMIC PRESSURE OF THE COMPONENTS ARE WITHIN THE MANUFACTURER'S RECOMMENDED PRESSURE RANGE
 - 2.2. MANUAL SHUTOFF VALVES (SUCH AS GATE, BALL, OR BUTTERFLY VALVES) ARE INSTALLED AS CLOSE AS POSSIBLE TO THE POINT OF CONNECTION OF THE WATER SUPPLY
- 2.3. ALL IRRIGATION EMISSION DEVICES MUST MEET THE REQ'S SET IN THE ANSI STANDARD ASABE/ICC 802-2014 "LANDSCAPE IRRIGATION SPRINKLER AND EMITTER STANDARD." ALL SPRINKLER HEADS INSTALLED MUST HAVE A DISTRIBUTION UNIFORMITY LOW QUARTER OF 0.65 OR HIGHER USING THE PROTOCOL DEFINED IN ASABE/ICC 802-2014
- 2.4. AUTOMATIC IRRIGATION CONTROLLERS ARE REQUIRED AND MUST USE EVAPOTRANSPIRATION OR SOIL MOISTURE DATA AND UTILIZE A RAIN SENSOR
3. ANY PLANT SUBSTITUTION MUST MEET WUCOLS LOW (PF-3) STANDARD. NO INVASIVE SPECIES MAY BE USED. SEE CALIFORNIA INVASIVE PLANTS COUNCIL "DON'T PLANT A PEST" BROCHURE FOR SF BAY AREA
4. INCORPORATE COMPOST AT A RATE OF AT LEAST 4 YD³ PER 1,000 FT² TO A DEPTH OF 6" INTO THE LANDSCAPE AREA (UNLESS CONTRA-INDICATED BY A SOIL TEST).
5. A MIN 3" LAYER OF RECYCLED MULCH SHALL BE APPLIED ON ALL EXPOSED SOIL SURFACES OF PLANTING AREAS EXCEPT TURF AREAS, OR DIRECT SEEDING APPLICATIONS WHERE MULCH IS CONTRAINDICATED
6. TURF, HIGH WATER USE PLANTS, AND WATER FEATURES SHALL, COMBINED NOT EXCEED 25% OF THE LANDSCAPE AREA. TURF SHALL NOT BE PLANTED ON SLOPES WHICH EXCEED A SLOPE OF 1' VERTICAL ELEVATION CHANGE FOR EVERY 4' OR HORIZONTAL LENGTH. TURF IS PROHIBITED IN PARKWAYS LESS THAN 10' WIDE. EXCEPTION: PARKWAY IS ADJACENT TO A PARKING STRIP AND USED TO EXIT AND ENTER VEHICLES AND TURF IS IRRIGATED W/ SUBSURFACE IRRIGATION

LANDSCAPE PLAN SCHEDULE

- (S) SHRUB: ARTOSTAPHYLOS EMERALD CARPET (CARPET MANZANITA)
 - (S) SHRUB: SALVIA LEUCANTHA (MEXICAN BUSH SAGE) (PF: LOW)
 - (S) SHRUB: CEANOTHUS JULIA PHELPS (JULIA PHELPS) (PF: LOW)
 - (S) SHRUB: ABUTILON PALMERI (INDIAN MALLOW) (PF: LOW)
 - (S) SHRUB: CEANOTHUS 'BLUE JEANS' (PF: LOW)
 - (N) (N) TREE: PAPER BARK MAPLE (ACER GRISEUM)
 - (E) (E) TREE TO BE REMOVED & PERMIT ID
 - (R) (R) TREE TO BE REMAIN & PERMIT ID
 - (G) GROUND COVER: CONVOLVULUS MAURITANICUS (GROUND MORNING GLORY) (PF: LOW)
 - (G) GROUND COVER: DICHONDRA SERICEA (SILVERLEAF PONYFOOT) (PF: LOW)
- MIX INTERSTITIAL SPACES BETWEEN SHRUBS W/ PLANTINGS OF GROUND COVER
 EXACT SHRUB LOCATION AND MIX TO BE DETERMINED BY LANDSCAPE CONTRACTOR



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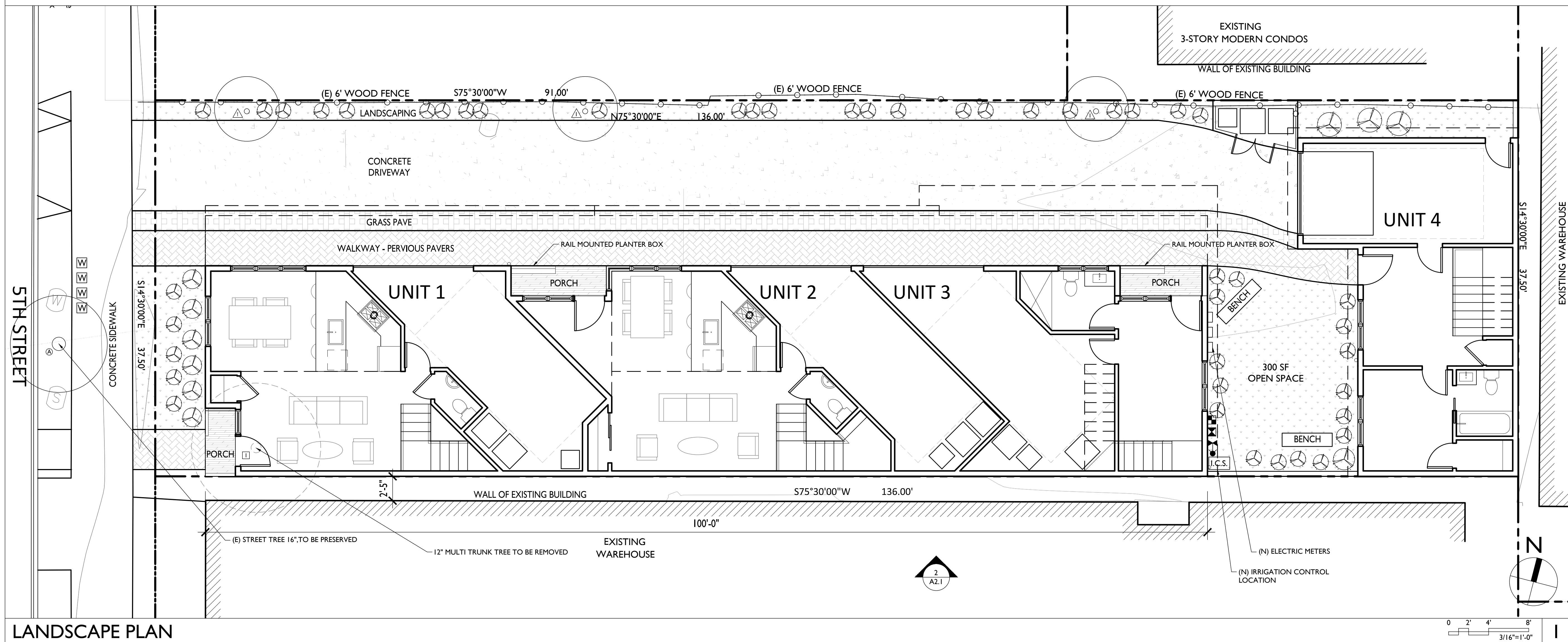
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MULTIFAMILY DEVELOPMENT
 2421 FIFTH STREET
 BERKELEY, CA 94710

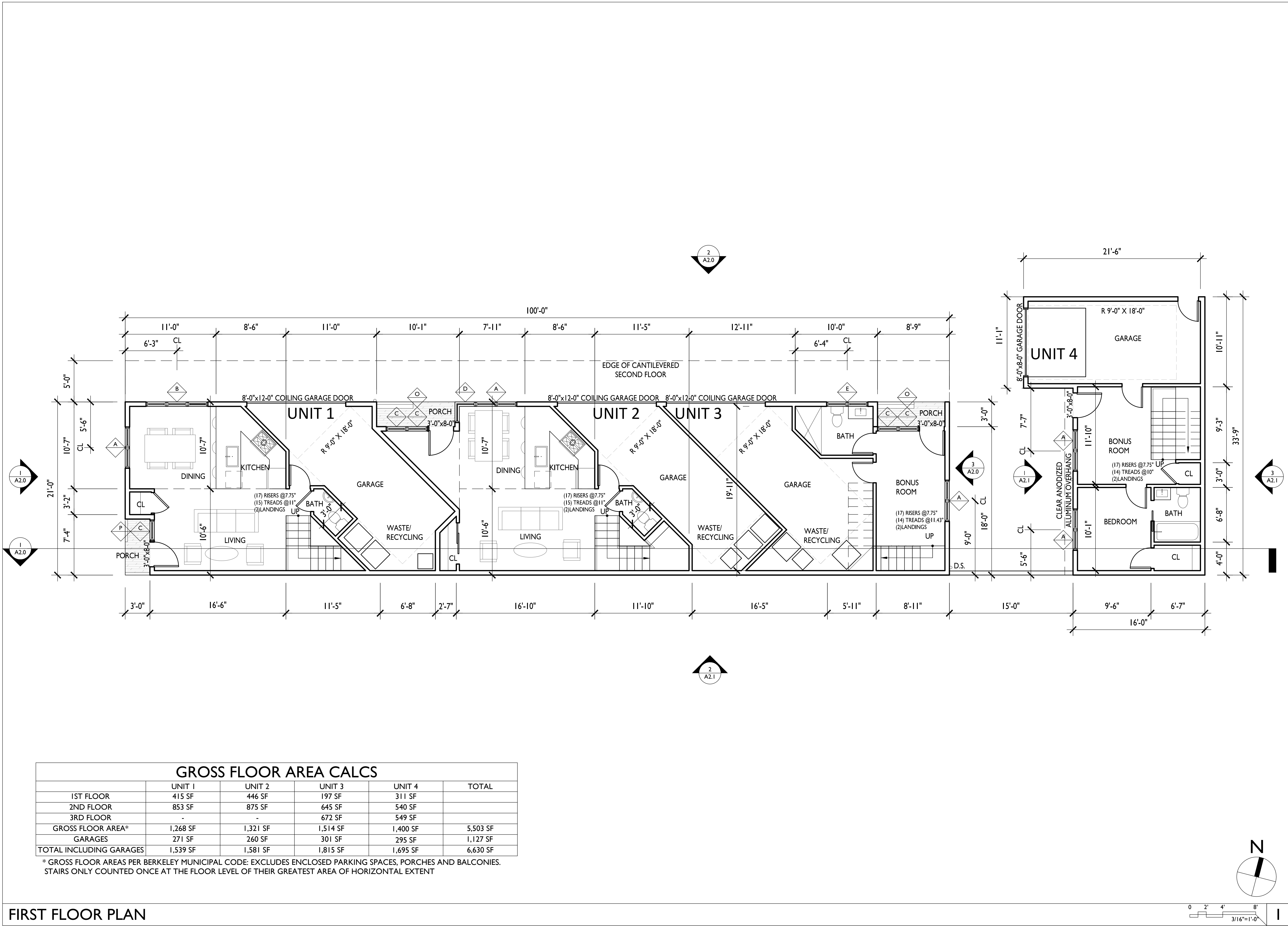
LANDSCAPE PLAN

- DESIGN REVIEW
- 1 REVISION 1 : 8/18/20
 - 2 REVISION 2 : 9/18/20
 - 3 REVISION 3 : 11/3/20

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LANDSCAPE PLAN

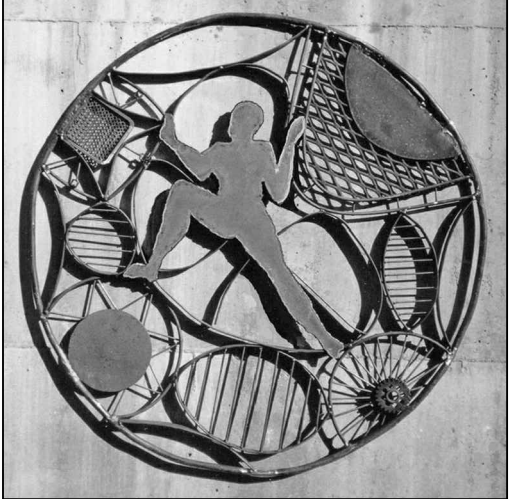


GROSS FLOOR AREA CALCS

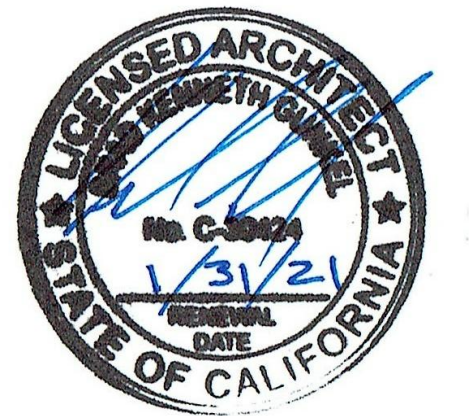
	UNIT 1	UNIT 2	UNIT 3	UNIT 4	TOTAL
1ST FLOOR	415 SF	446 SF	197 SF	311 SF	
2ND FLOOR	853 SF	875 SF	645 SF	540 SF	
3RD FLOOR	-	-	672 SF	549 SF	
GROSS FLOOR AREA*	1,268 SF	1,321 SF	1,514 SF	1,400 SF	5,503 SF
GARAGES	271 SF	260 SF	301 SF	295 SF	1,127 SF
TOTAL INCLUDING GARAGES	1,539 SF	1,581 SF	1,815 SF	1,695 SF	6,630 SF

* GROSS FLOOR AREAS PER BERKELEY MUNICIPAL CODE: EXCLUDES ENCLOSED PARKING SPACES, PORCHES AND BALCONIES. STAIRS ONLY COUNTED ONCE AT THE FLOOR LEVEL OF THEIR GREATEST AREA OF HORIZONTAL EXTENT

FIRST FLOOR PLAN



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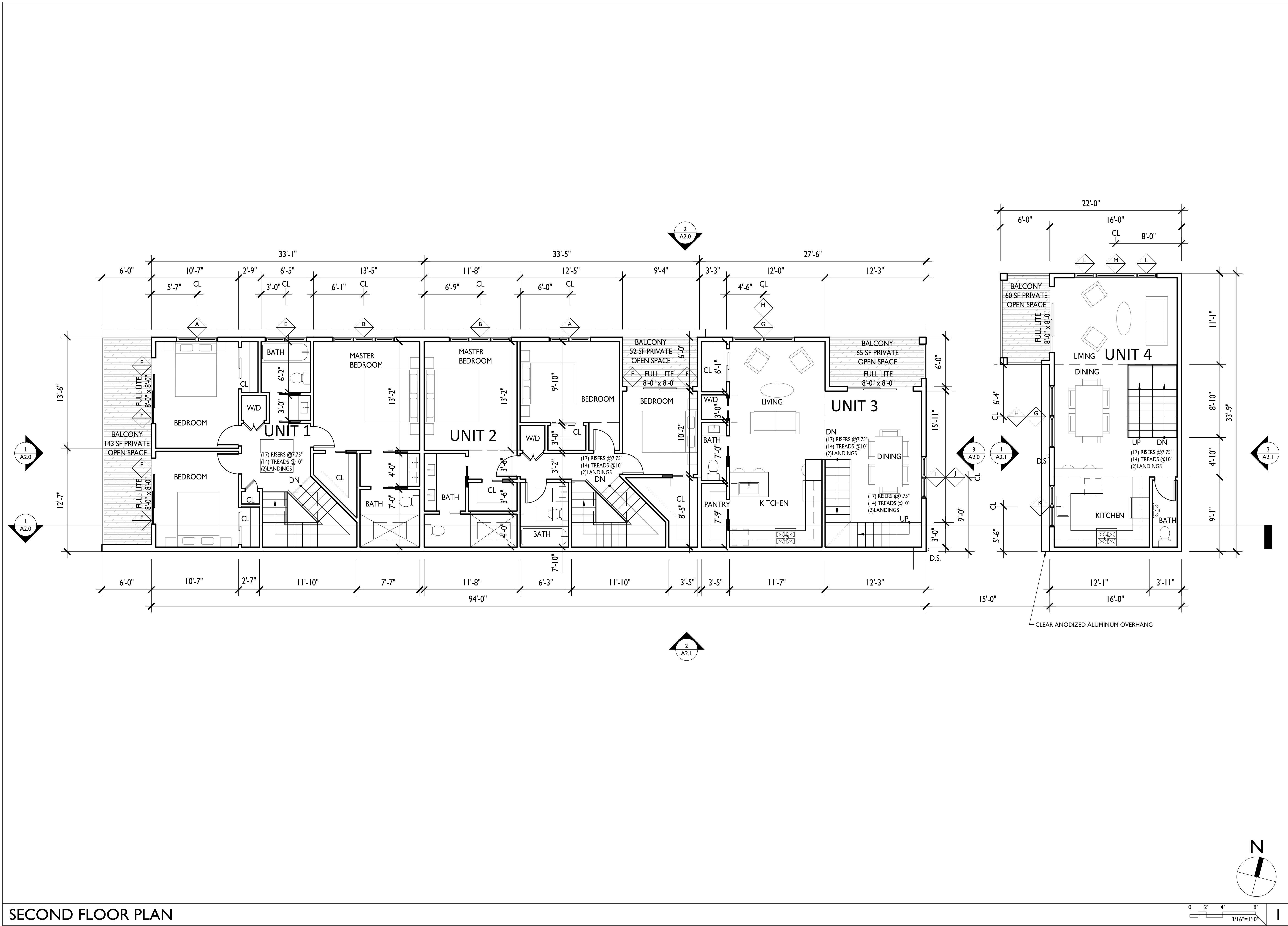
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MULTIFAMILY DEVELOPMENT
 2421 FIFTH STREET
 BERKELEY, CA 94710

FIRST FLOOR PLAN

- DESIGN REVIEW
- 1 REVISION 1 : 8/18/20
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 - 3 REVISION 3 : 11/3/20

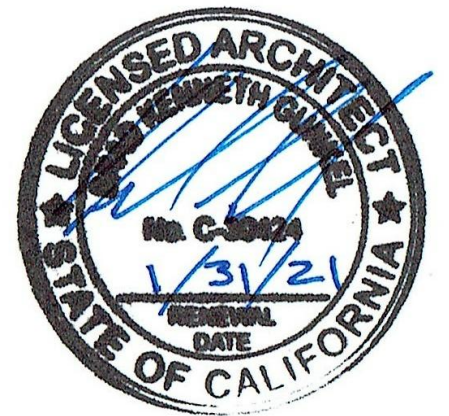




SECOND FLOOR PLAN



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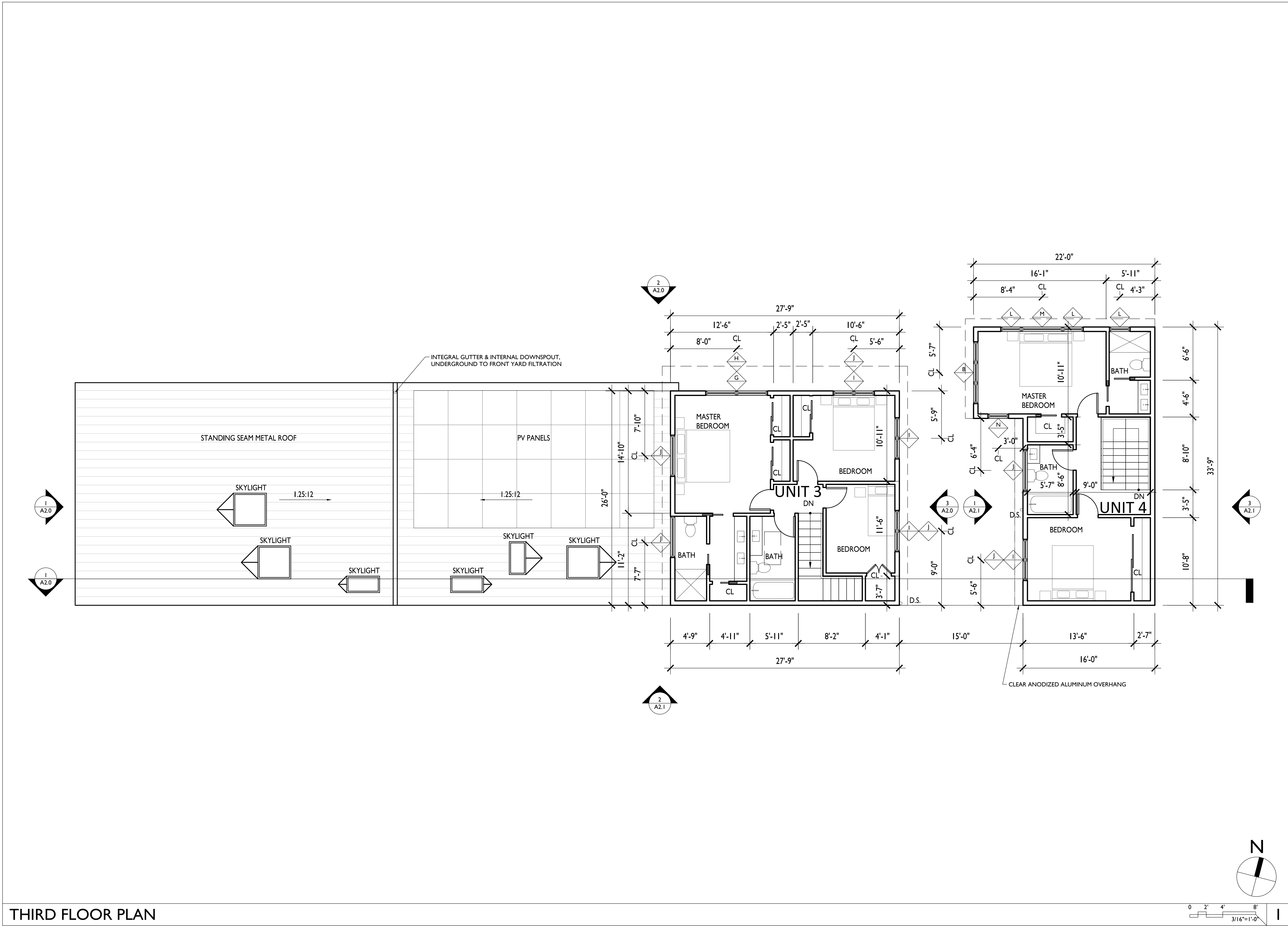
MULTIFAMILY DEVELOPMENT
 2421 FIFTH STREET
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SECOND FLOOR PLAN

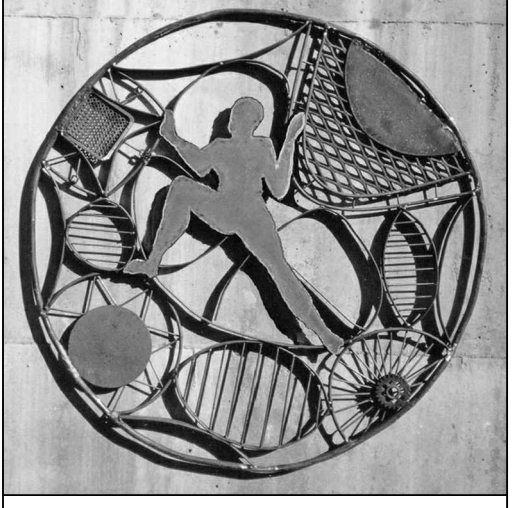
DESIGN REVIEW

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THIRD FLOOR PLAN



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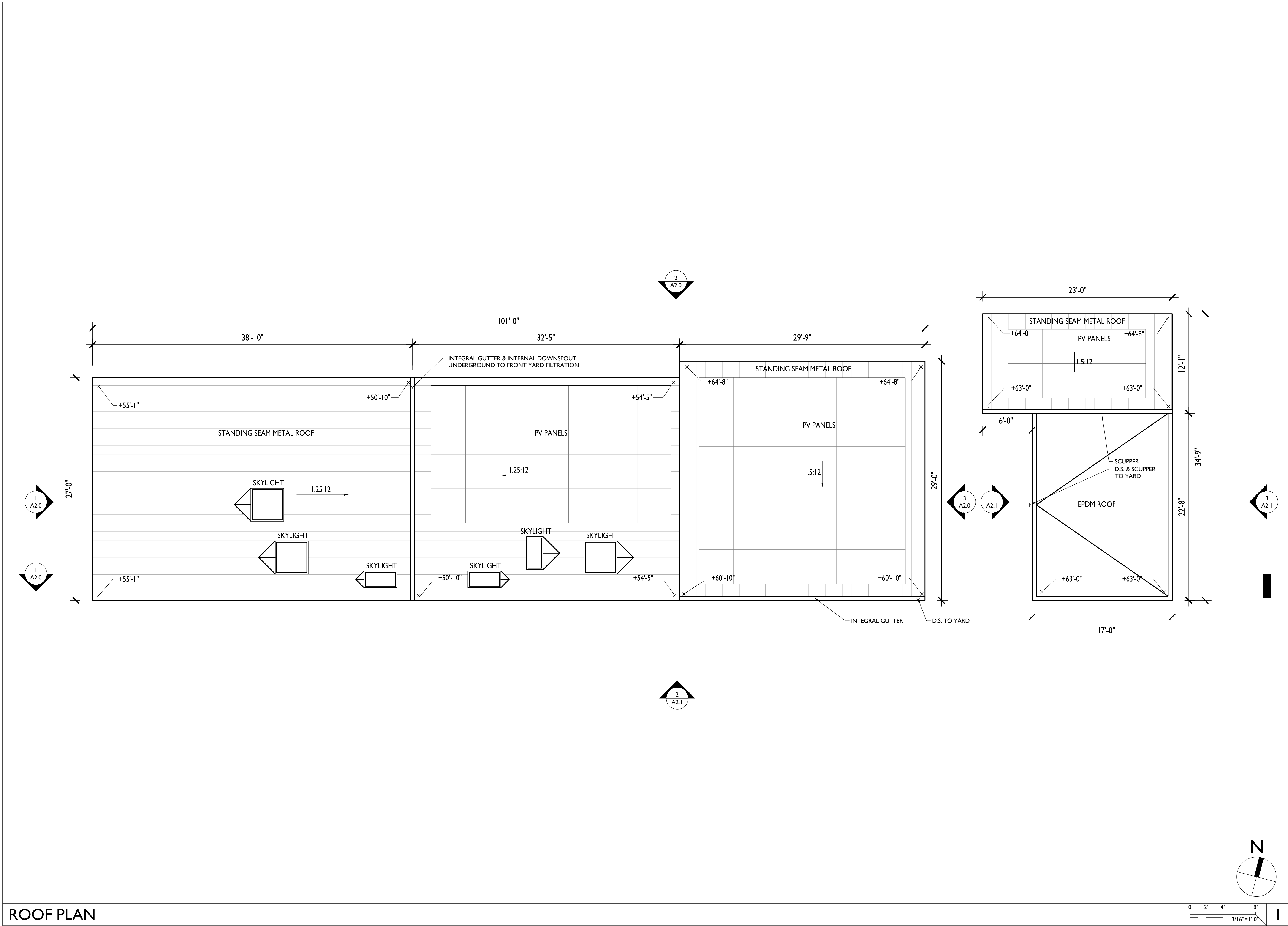
MULTIFAMILY DEVELOPMENT
 2421 FIFTH STREET
 BERKELEY, CA 94710

THIRD FLOOR PLAN

DESIGN REVIEW

1	REVISION 1 : 8/18/20
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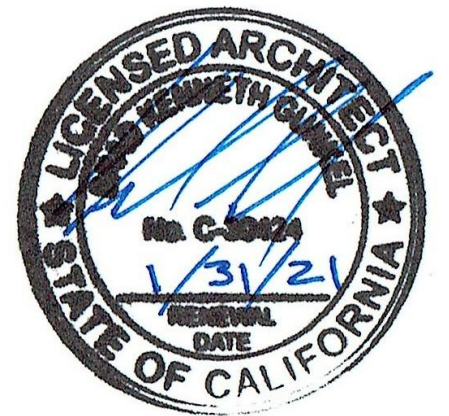
A1.2



ROOF PLAN



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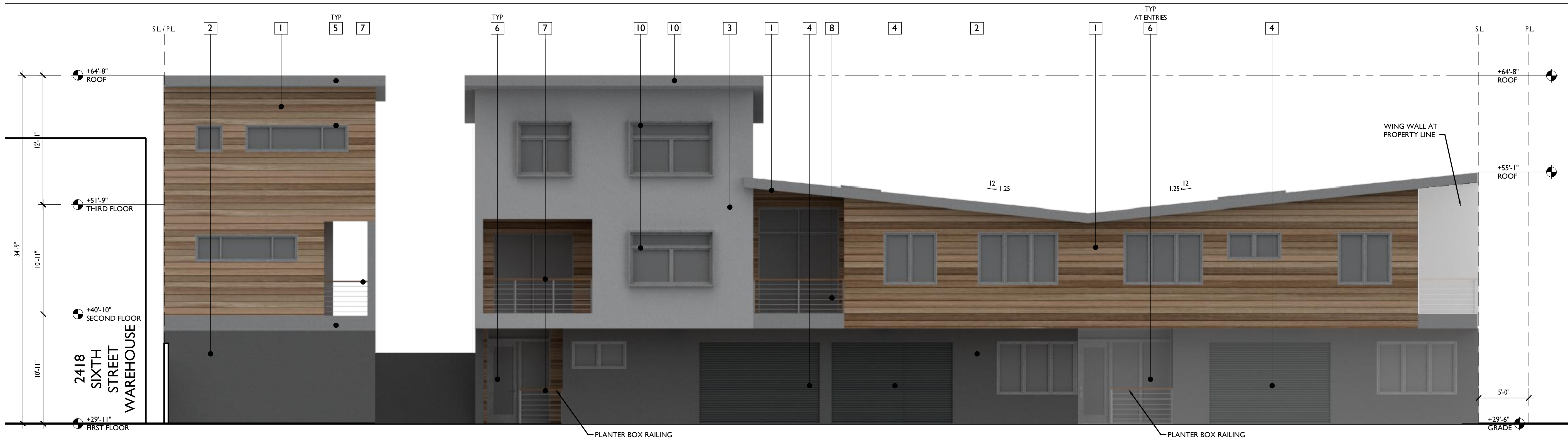
MULTIFAMILY DEVELOPMENT
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 BERKELEY, CA 94710

ROOF PLAN

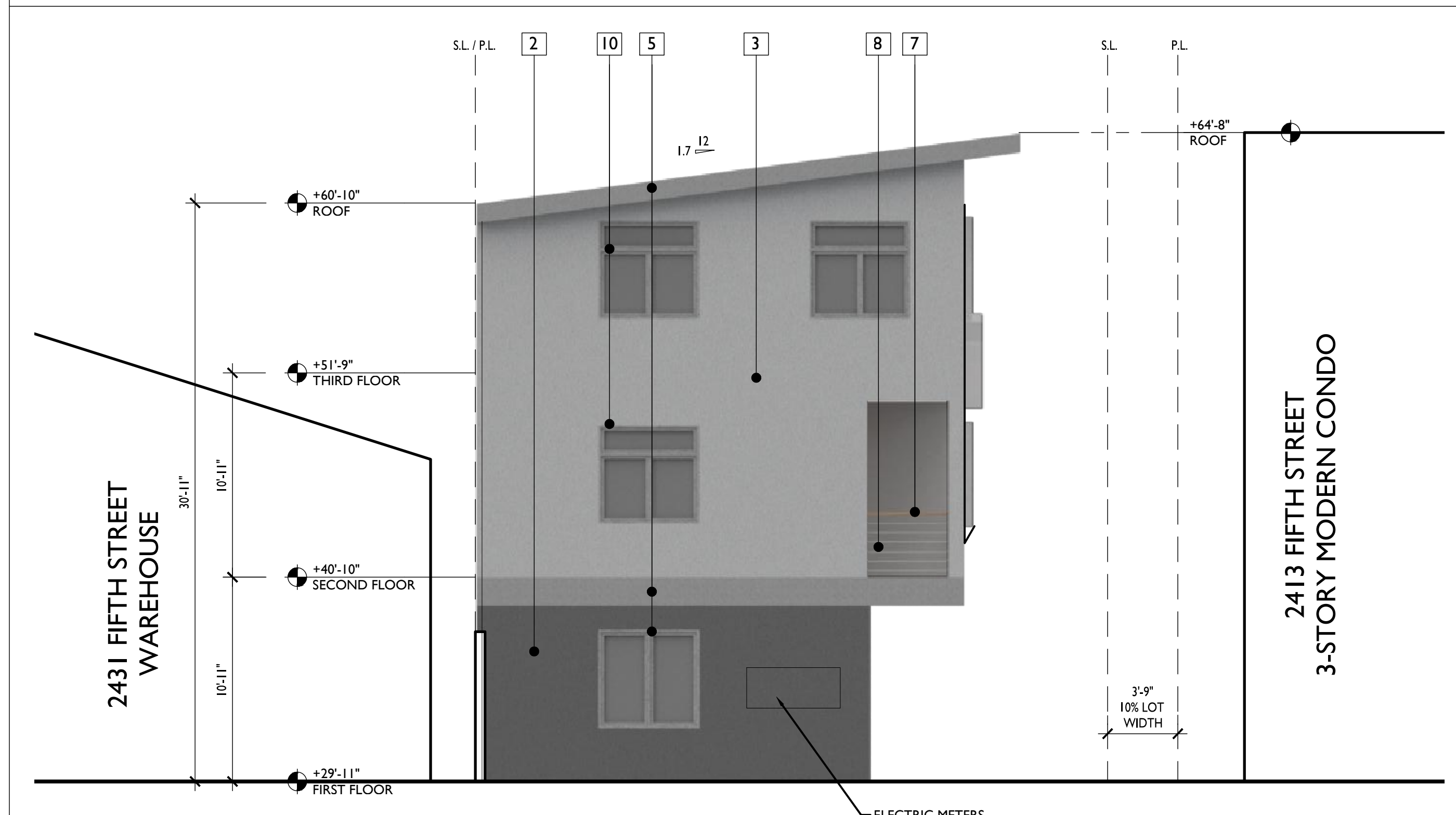
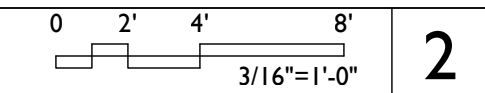
DESIGN REVIEW

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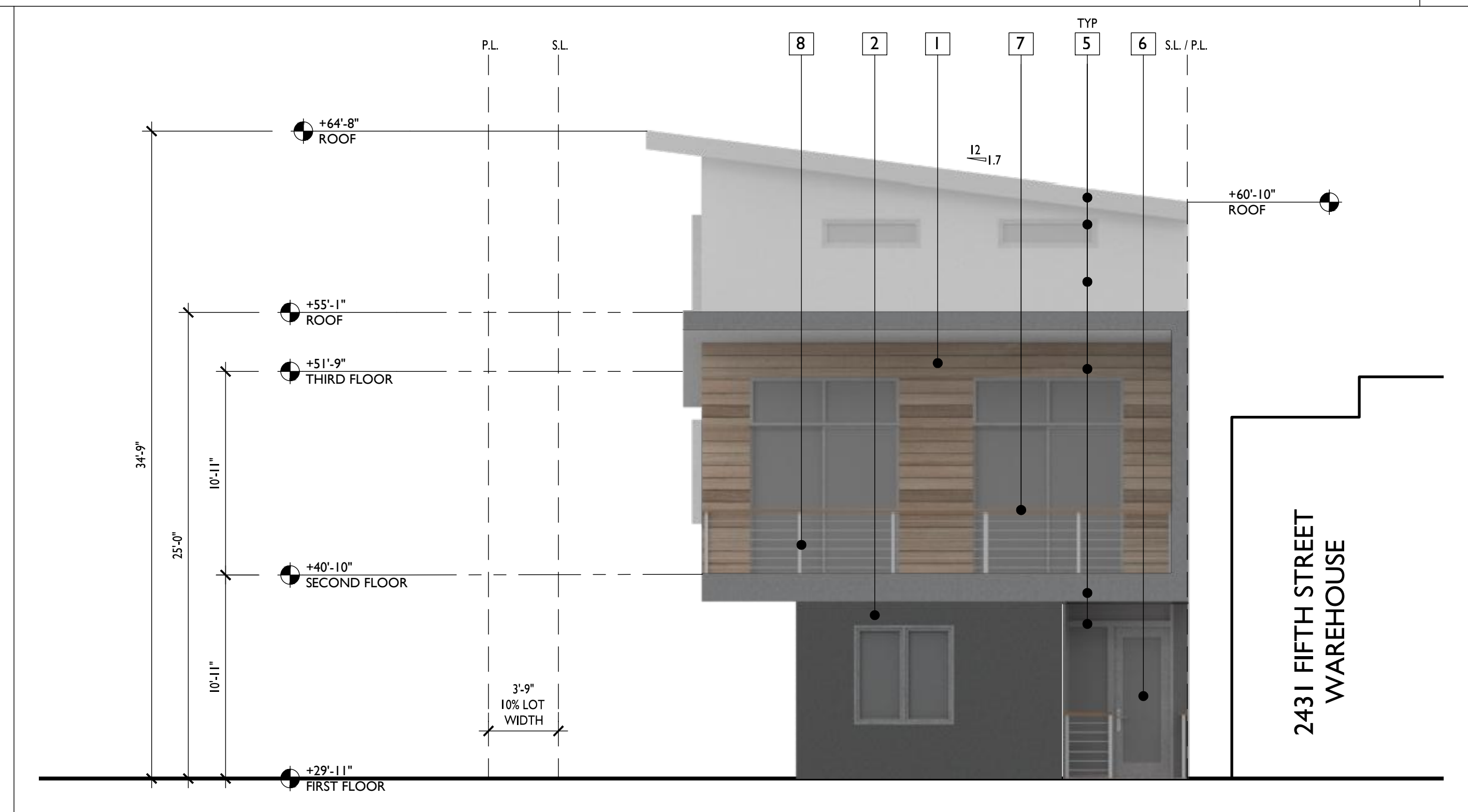
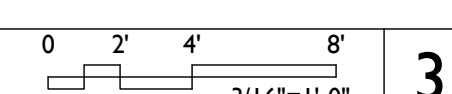
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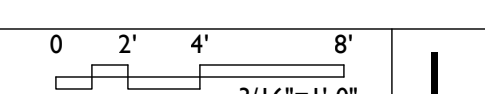
NORTH ELEVATION


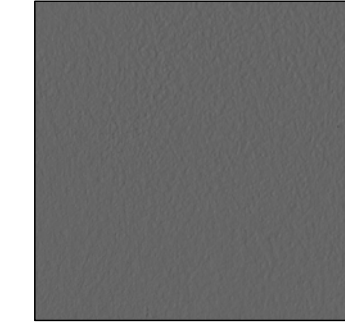
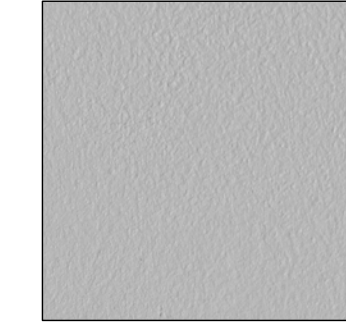





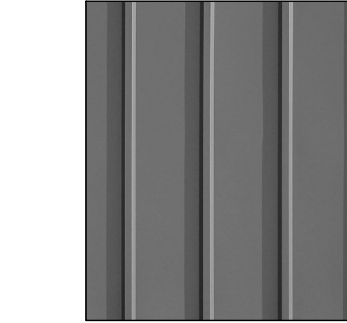



EAST ELEVATION - UNIT 1, 2 & 3



WEST ELEVATION - UNIT 1, 2 & 3

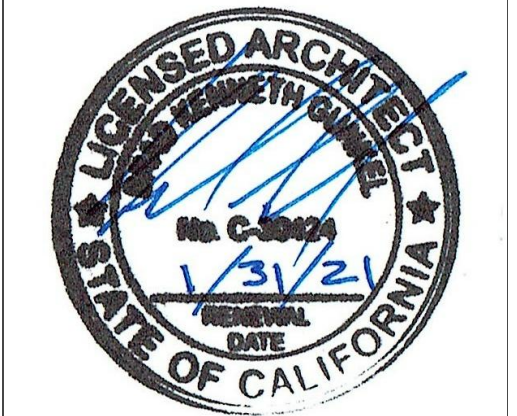


- | | | | | | | | | | |
|---|---|---|--|---|---|---|---|---|---|
|  |  |  |  |  |  |  |  |  |  |
| 1 NATURAL OR FAUX WOOD SIDING | 2 MEDIUM GREY INTEGRAL COLOR CEMENT PLASTER | 3 LIGHT GREY INTEGRAL COLOR CEMENT PLASTER | 4 COILING GARAGE DOOR, DARK GRAY | 5 CLEAR ANODIZED ALUMINUM FASCIA, WINDOWS & DOORS | 6 OBSCURED GLASS | 7 NATURAL WOOD, RAIL | 8 STAINLESS STEEL POSTS & CABLE | 9 MEDIUM GRAY STANDING SEAM METAL | 10 CLEAR ANODIZED ALUMINUM WINDOWS W/ PROJECTING FINIS |

MATERIALS



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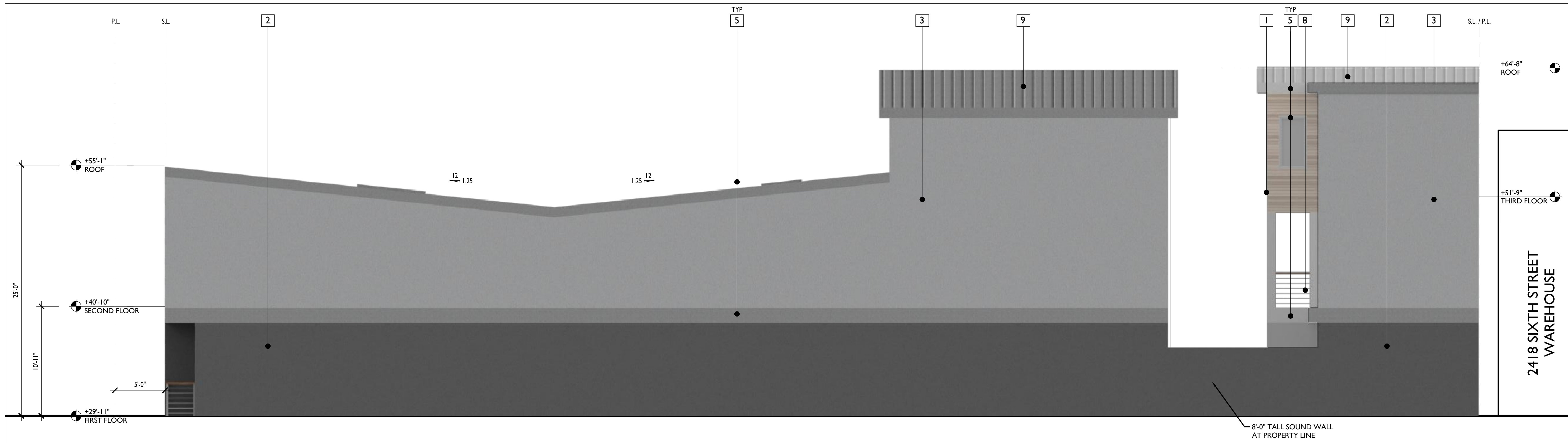
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MULTIFAMILY DEVELOPMENT
 2421 FIFTH STREET
 BERKELEY, CA 94710

ELEVATIONS

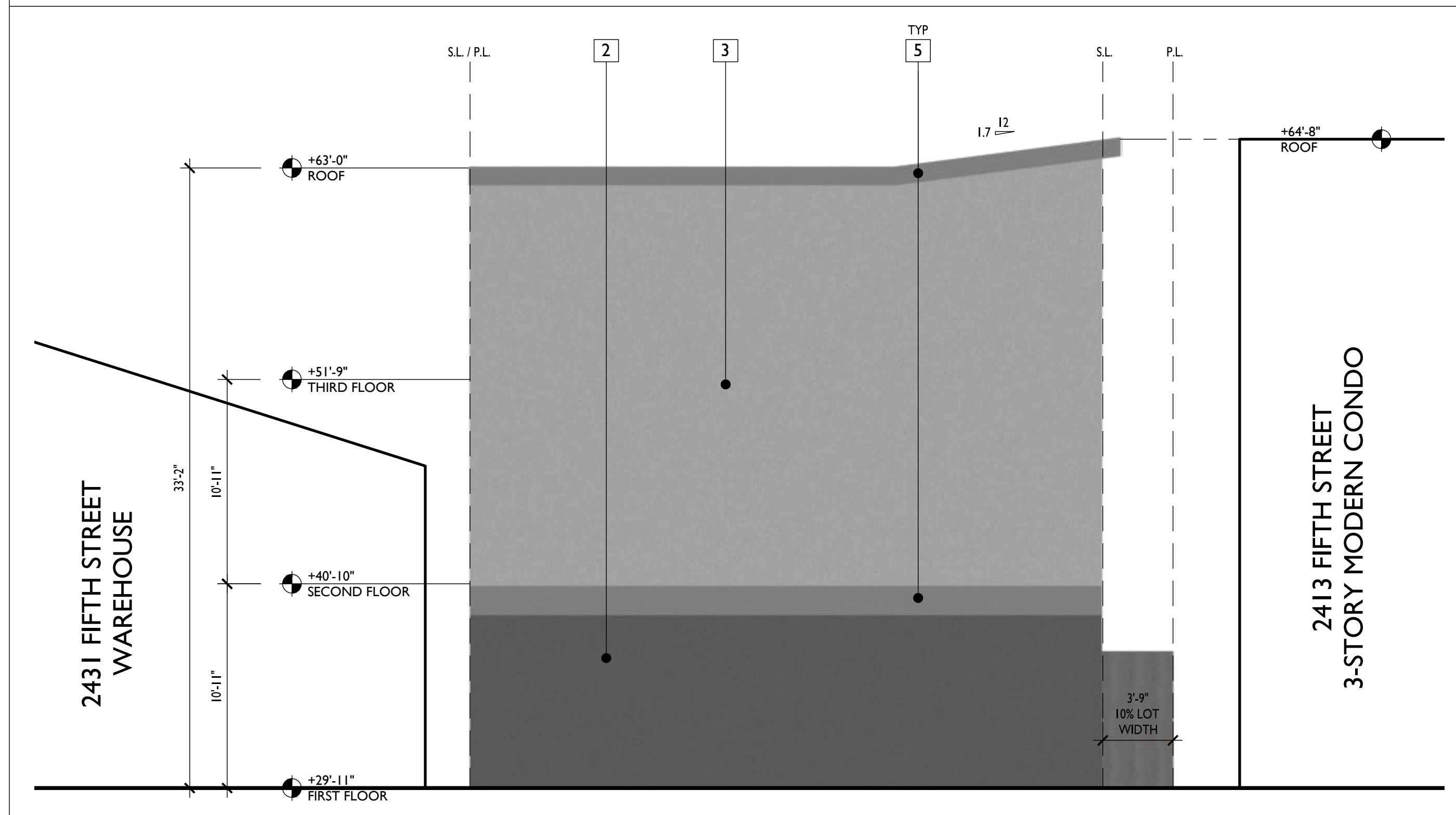
- DESIGN REVIEW
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A2.0



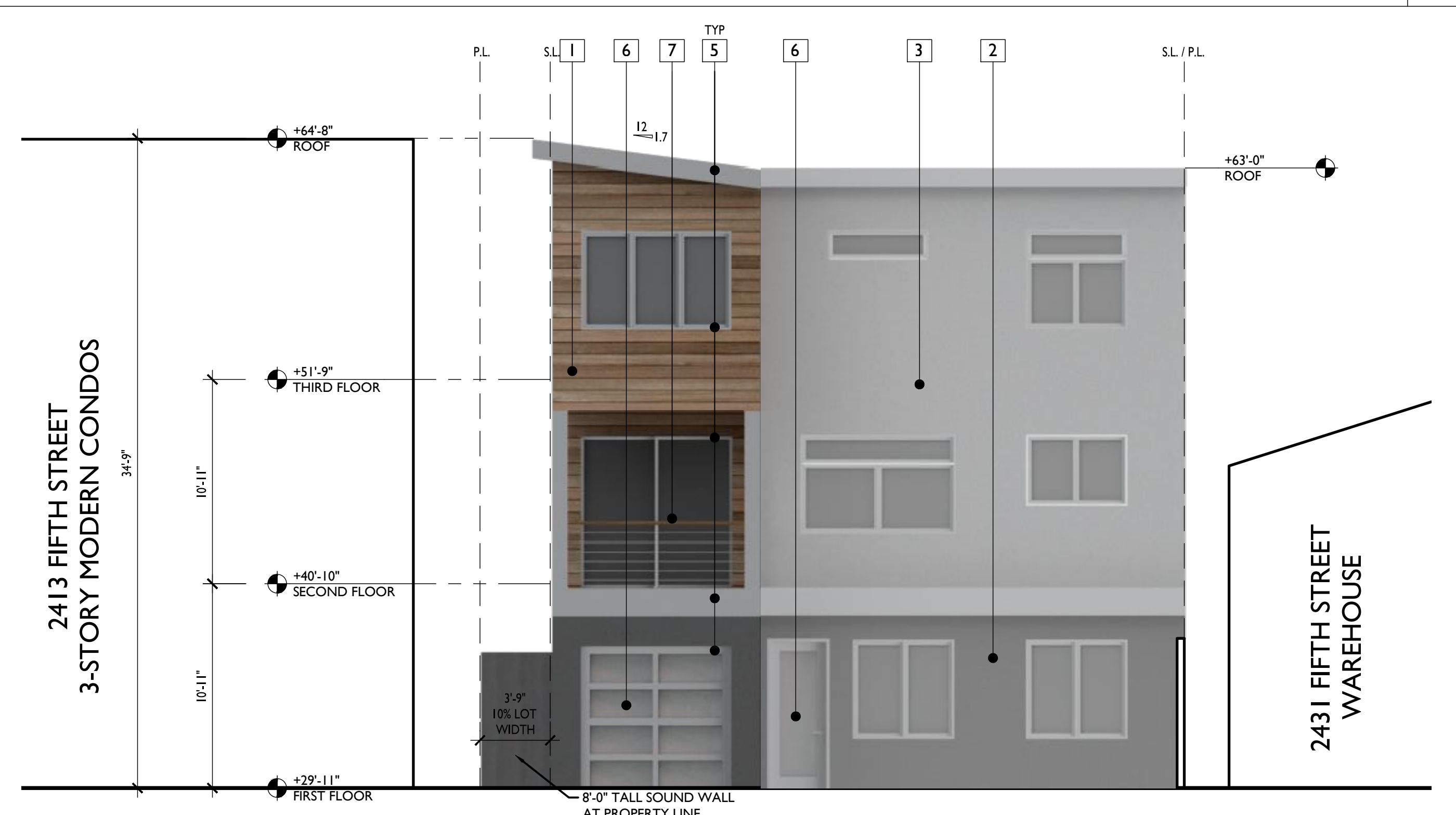
SOUTH ELEVATION

0 2' 4' 8'
3/16"=1'-0" 2




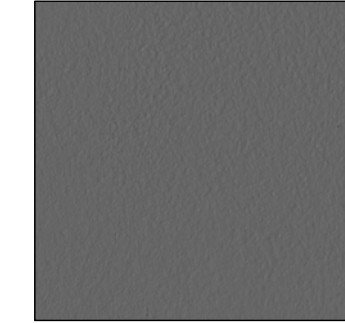
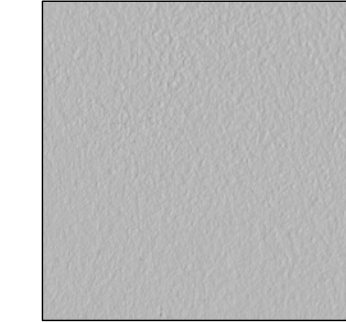





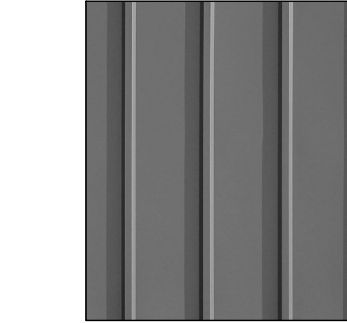

EAST ELEVATION - UNIT 4

0 2' 4' 8'
3/16"=1'-0" 3

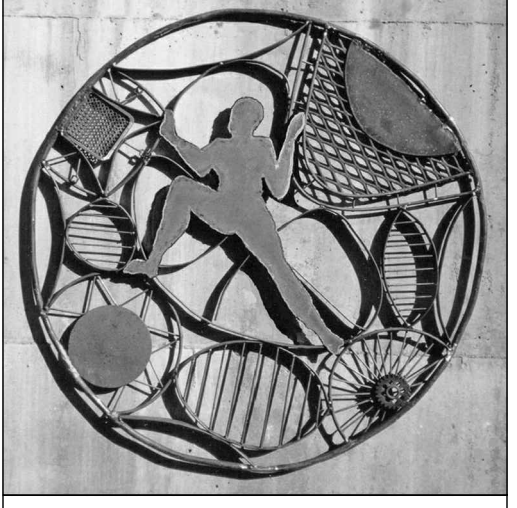


WEST ELEVATION - UNIT 4

0 2' 4' 8'
3/16"=1'-0" 1

- | | | | | | | | | | |
|---|---|---|--|---|---|---|---|---|---|
|  |  |  |  |  |  |  |  |  |  |
| 1 NATURAL OR FAUX WOOD SIDING | 2 MEDIUM GREY INTEGRAL COLOR CEMENT PLASTER | 3 LIGHT GREY INTEGRAL COLOR CEMENT PLASTER | 4 COILING GARAGE DOOR, DARK GRAY | 5 CLEAR ANODIZED ALUMINUM FASCIA, WINDOWS & DOORS | 6 OBSCURED GLASS | 7 NATURAL WOOD, RAIL | 8 STAINLESS STEEL POSTS & CABLE | 9 MEDIUM GRAY STANDING SEAM METAL | 10 CLEAR ANODIZED ALUMINUM WINDOWS W/ PROJECTING FINIS |

MATERIALS



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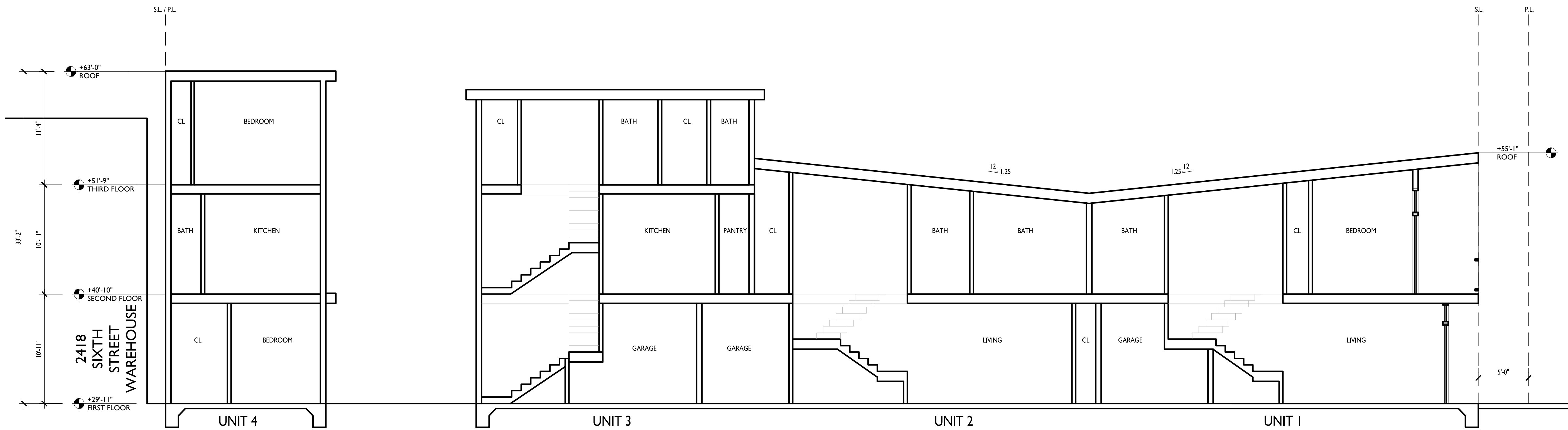
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MULTIFAMILY DEVELOPMENT
 2421 FIFTH STREET
 BERKELEY, CA 94710

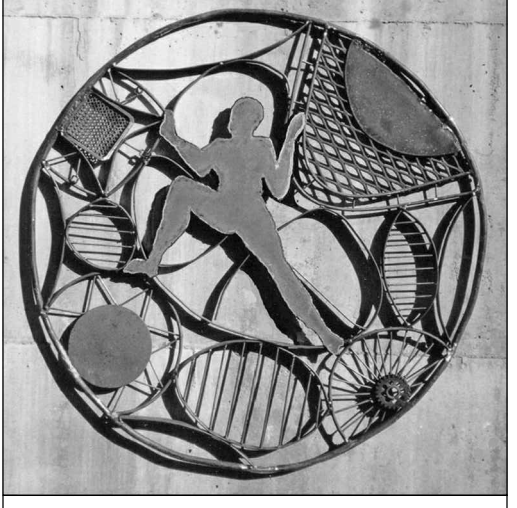
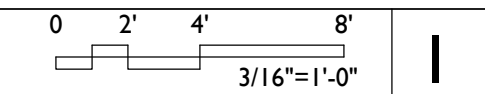
ELEVATIONS

- DESIGN REVIEW
- 1 REVISION 1 : 8/18/20
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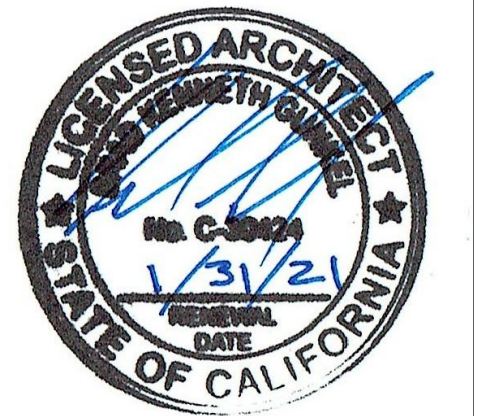
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SITE SECTION



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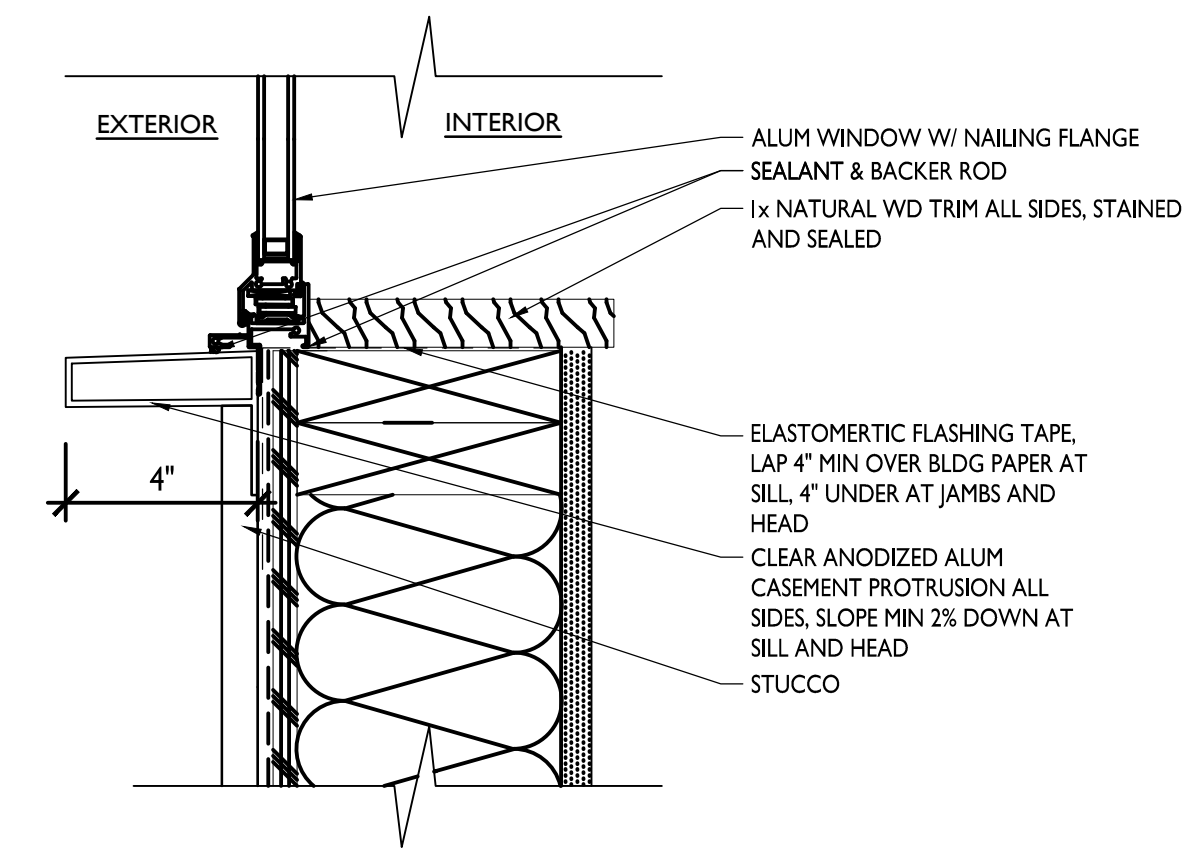
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MULTIFAMILY DEVELOPMENT
 2421 FIFTH STREET
 BERKELEY, CA 94710

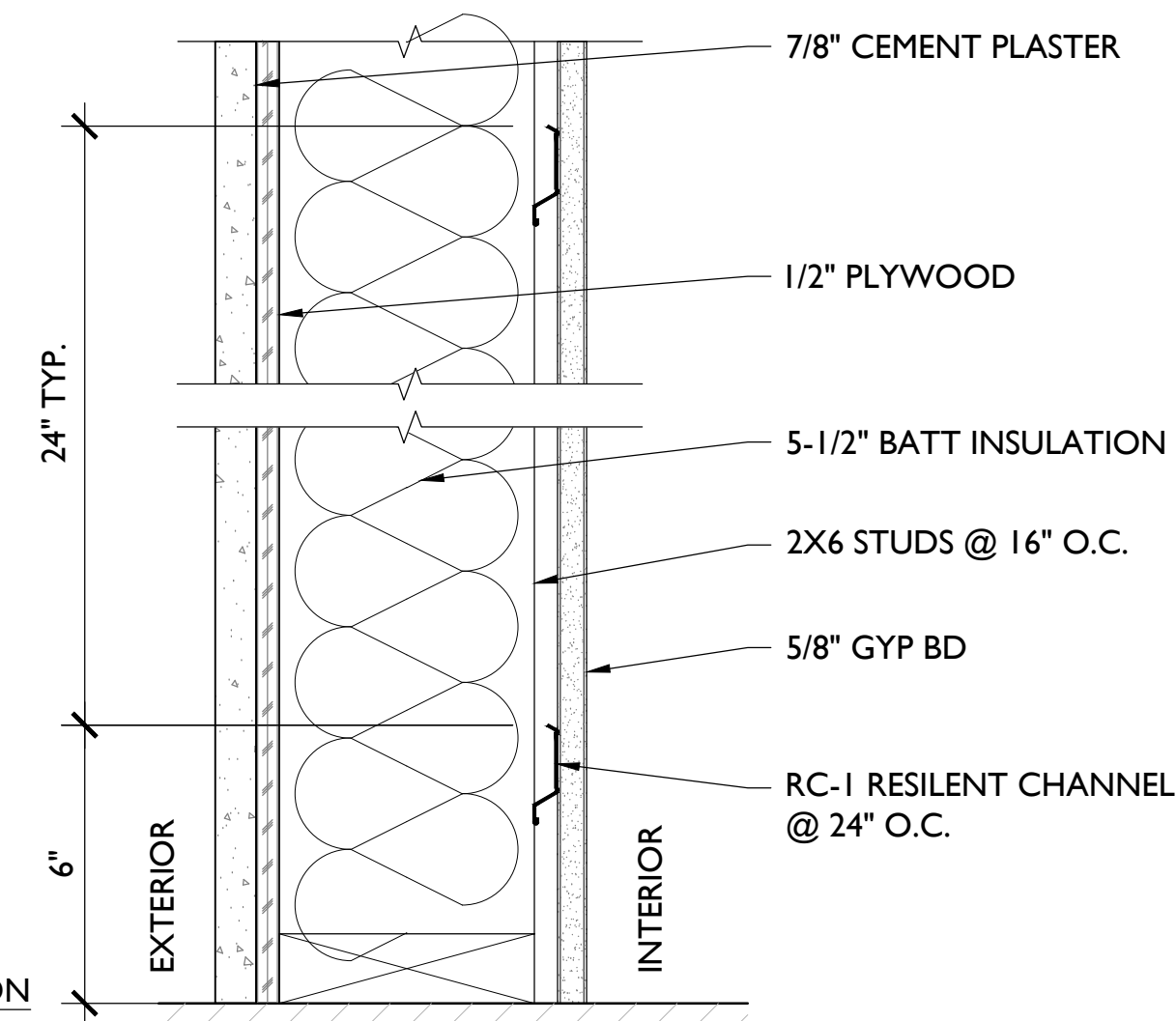
SECTION

- DESIGN REVIEW
- 1 REVISION 1 : 8/18/20
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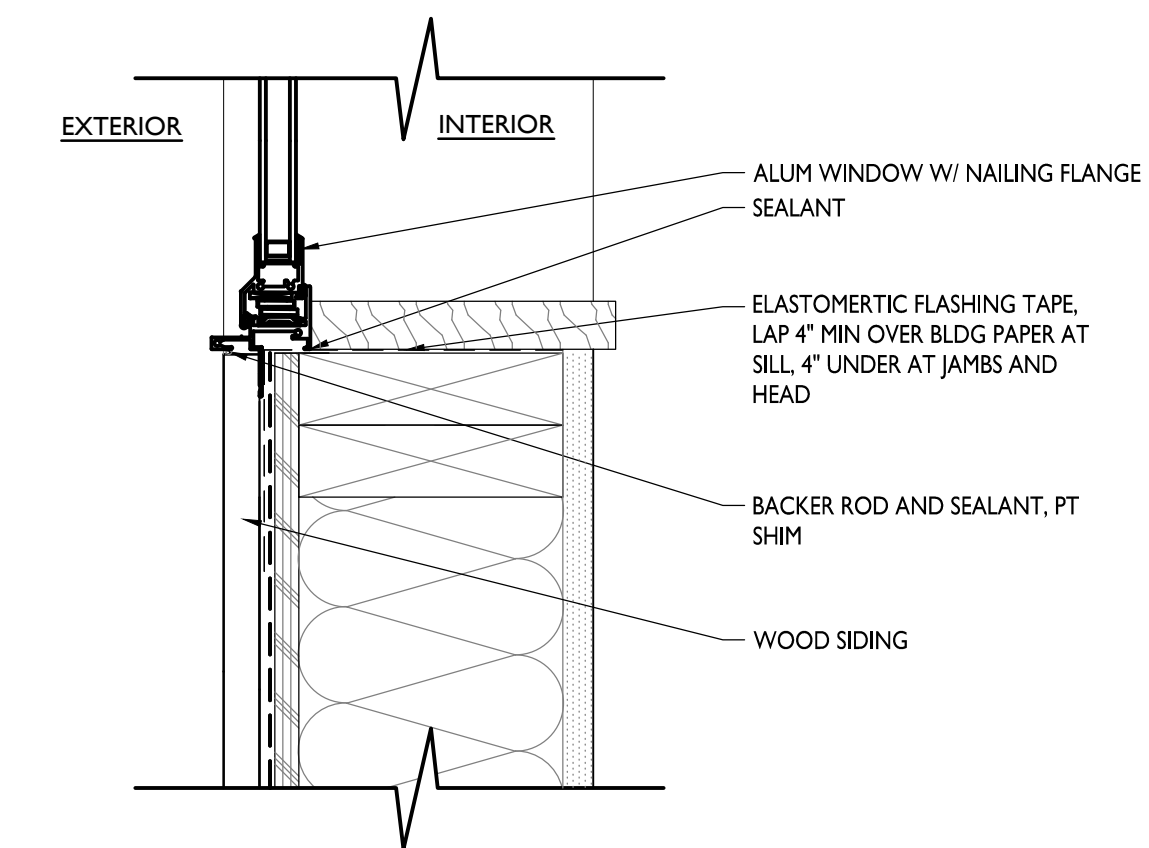


WINDOW JAMB & SILL @ STUCCO 3"=1'-0" 3



NOTE: MINIMUM 50 STC FOR EXTERIOR WALL TO ENSURE INTERIOR NOISE LEVELS NO MORE THAN 45 LDN

1-HR EXTERIOR WALL ASSEMBLY 3"=1'-0" 5



WINDOW JAMB & SILL @ WOOD 3"=1'-0" 2

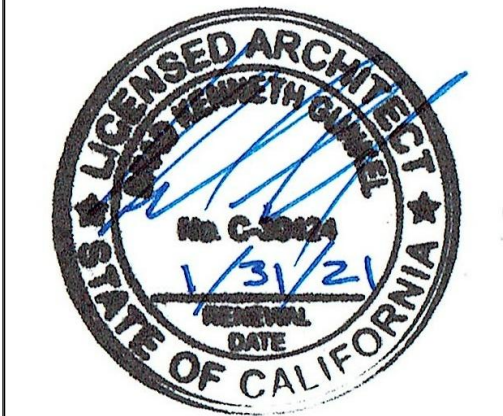
WINDOW AND FRAME SCHEDULE

WINDOW	WINDOW				RATING	SASH		FRAME		NOTES
	SIZE (WxH)	TYPE	GLAZING TYPE	HEAD HEIGHT (A.F.F.)		FIRE (MIN)	MATL	FIN	MATL	
A	5'-0"X5'-0"	FRENCH CASEMENT	CLEAR	8'-0"	-	-	-	-	-	
B	7'-6"X5'-0"	FRENCH CASEMENT + FIXED	CLEAR	8'-0"	-	-	-	-	-	
C	2'-6"X8'-0"	FIXED SIDE LITE	FROSTED	8'-0"	-	-	-	-	-	
D	5'-0"X5'-0"	FIXED CORNER	CLEAR	8'-0"	-	-	-	-	-	
E	5'-0"X2'-6"	AWNING	CLEAR	8'-0"	-	-	-	-	-	
F	4'-0"X2'-6"	FIXED	CLEAR	11'-0"	-	-	-	-	-	
G	8'-0"X3'-6"	FRENCH CASEMENT	CLEAR	6'-6"	-	-	-	-	-	
H	8'-0"X1'-6"	FIXED TRANSOM	CLEAR	8'-0"	-	-	-	-	-	
I	5'-0"X3'-6"	FRENCH CASEMENT	CLEAR	6'-6"	-	-	-	-	-	
J	5'-0"X1'-6"	FIXED TRANSOM	CLEAR	8'-0"	-	-	-	-	-	
K	5'-0"X3'-6"	AWNING	CLEAR	8'-0"	-	-	-	-	-	
L	2'-6"X2'-6"	CASEMENT	CLEAR	8'-0"	-	-	-	-	-	
M	4'-0"X2'-6"	FIXED	CLEAR	8'-0"	-	-	-	-	-	
N	2'-6"X5'-0"	CASEMENT	CLEAR	8'-0"	-	-	-	-	-	
O	8'-0"X1'-0"	FIXED	FROSTED	9'-0"	-	-	-	-	-	
P	5'-6"X1'-0"	FIXED	FROSTED	9'-0"	-	-	-	-	-	

WINDOW AND FRAME SCHEDULE 1



GUNKEL ARCHITECTURE
 2295 SAN PABLO AVENUE
 BERKELEY CA 94702
 GUNKELARCHITECTURE.COM
 PHONE: (510) 984 - 1112



NOT FOR CONSTRUCTION

MULTIFAMILY DEVELOPMENT
 2421 FIFTH STREET
 BERKELEY, CA 94710

WINDOW SCHEDULE

DESIGN REVIEW

1	REVISION 1 : 8/18/20
2	REVISION 2 : 9/18/20
3	REVISION 3 : 11/3/20

A4.0

Sonja Kassuba
2413 Fifth Street, Unit C
Berkeley, CA. 94710
Skassubal2@gmail.com ~ (415) 290-1963

February 22, 2021

City Clerk
2180 Milvia Street
Berkeley, CA.
Via Fax (510) 981-6901

To Whom it May Concern:

The grounds for the appeal include the following:

- There was not an adequate opportunity to discuss the project, our concerns, and the impact of privacy.
- The lack of unaddressed issues to address privacy between units 3 and 4 of the proposed development, and my unit C at 2413 Fifth Street.
- Our hope is for further discussion between the architect, developer, and neighbors.

Sincerely,



Sonja Kassuba

cc: Zachary and Tiffany Sinclair, 2413 Fifth Street, Unit A
Skip, 2414 Fifth Street, Berkeley
Glenda Beamon, 2412 Fifth Street, Berkeley
Gordon Silvera and Barbara Anderson, 2415 Fifth Street, Berkeley
Girls, 2411 Fifth Street, Berkeley

Eric Mason
2430 5th St #F
Berkeley CA 94710

Susan Berston
2413 Fifth Street, C
Susan Berston

Signature Page

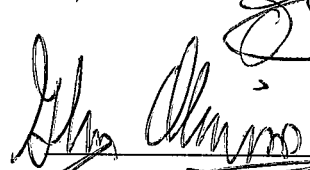
Zachary and Tiffany Sinclair,
2413 Fifth Street, Unit A.

Skip, 2414 Fifth Street, Berkeley

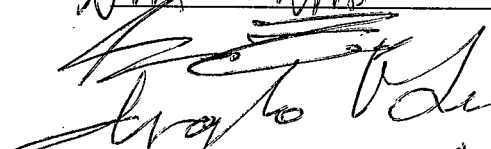
Glenda Beamon, 2412 Fifth Street, Berkeley

Gordon Silvera and Barbara Anderson,
2415 Fifth Street, Berkeley

Tenants, 2411 Fifth Street, Berkeley


 Eleonora CERCATORE 2326 Fifth St

Glenn Oliveria 732 CHANNING WAY
SEAMUS BARLEY ~~800 FIFTH ST~~ 105


(Ivo Ljner) 2430 5th St, Unit E
- Edward Ortiz 736 Channing Way

Rowena M Carlson 2430 5th St. Unit G
Berkeley, CA 94710

Alexis M. Wachtel 2311 Berkeley, CA 94710
5th St.
ROBB M. WALKER 2430 5th ST UNIT G
BERKELEY, CA 94710

 Ke-Sock Lee 2430 5th ST STE C, Berkeley CA 94710

E. Bodme 2430 5th St STE B - Berkeley CA 94710

Ellen Fullman 2430 5th St. Ste N - Berkeley CA 94710

Theresa Wong 2430 5th St. Ste N - Berkeley CA 94710

Edward Dean 2430 5th St Ste M Berkeley, CA 94710

Dakota Tmy 2430 5th St Ste M Berkeley, CA 94710

Signature Page

Zachary and Tiffany Sinclair,
2413 Fifth Street, Unit A.

T. V. Tiffany Sinclair

Skip, 2414 Fifth Street, Berkeley

Glenda Beamon, 2412 Fifth Street, Berkeley

Gordon Silvera and Barbara Anderson,
2415 Fifth Street, Berkeley

Barbara Anderson B. Anderson

Tenants, 2411 Fifth Street, Berkeley

X. D. [Signature]

2413 Fifth Street Unit B

E. Boltz E. Boltz

E. Boltz

[Signature]

2411 D

Chris Goodwin

[Signature]

2411 D

Savanna Murphy

[Signature]

2411 5th Street

Neil Shah

[Signature]

2411 A

ERICA RIPPPE

[Signature]

800 Channing

Brian Levitch

[Signature]

806 Channing

Sigga Tuomacinen

[Signature]

810 Channing

Jessie [Signature]

Jennifer Ring

2335 5th St.

Laura Diven

[Signature]

742 Channing

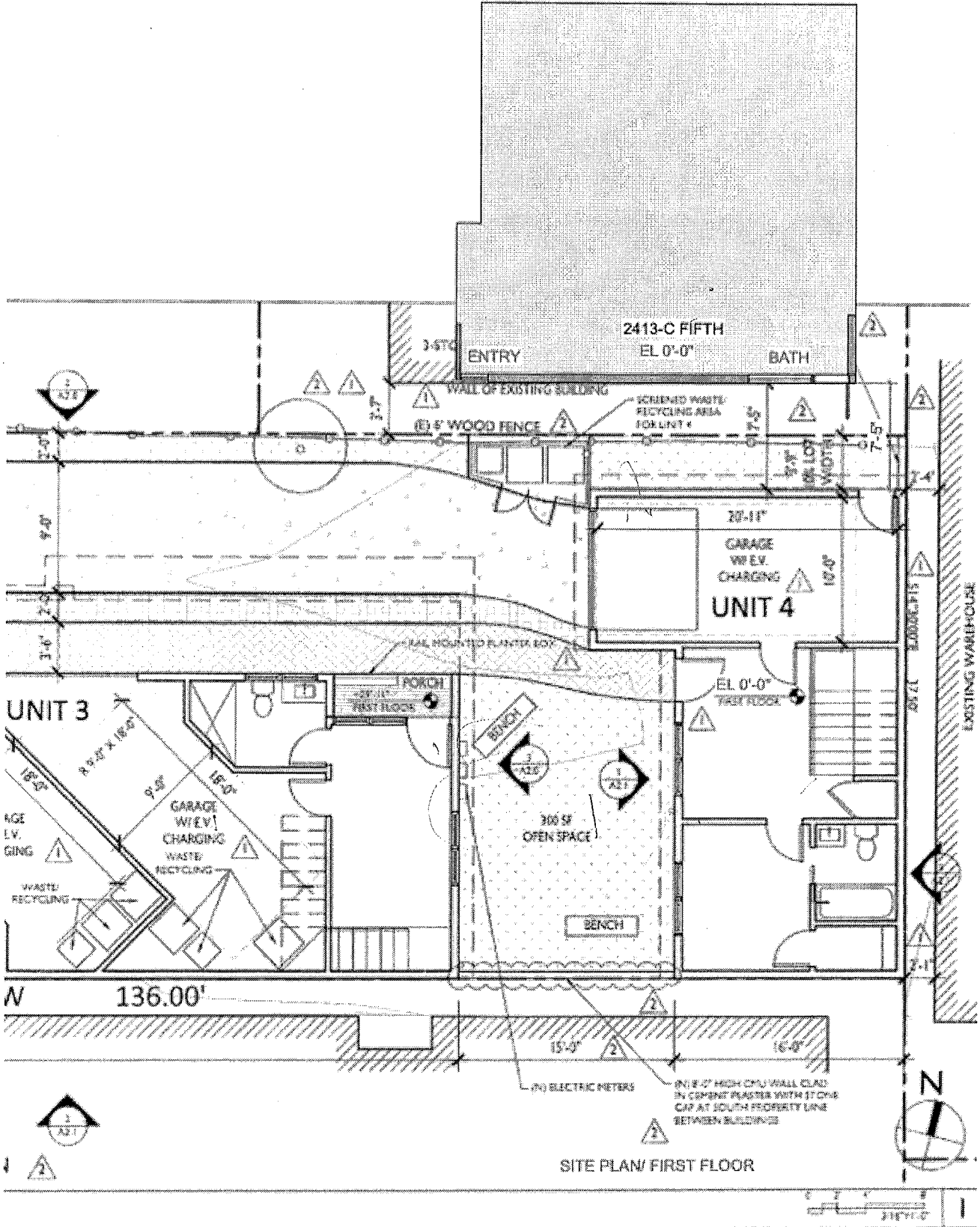
Echo Lee

[Signature]

2418 5th St.

JEILA SAIDI

[Signature]



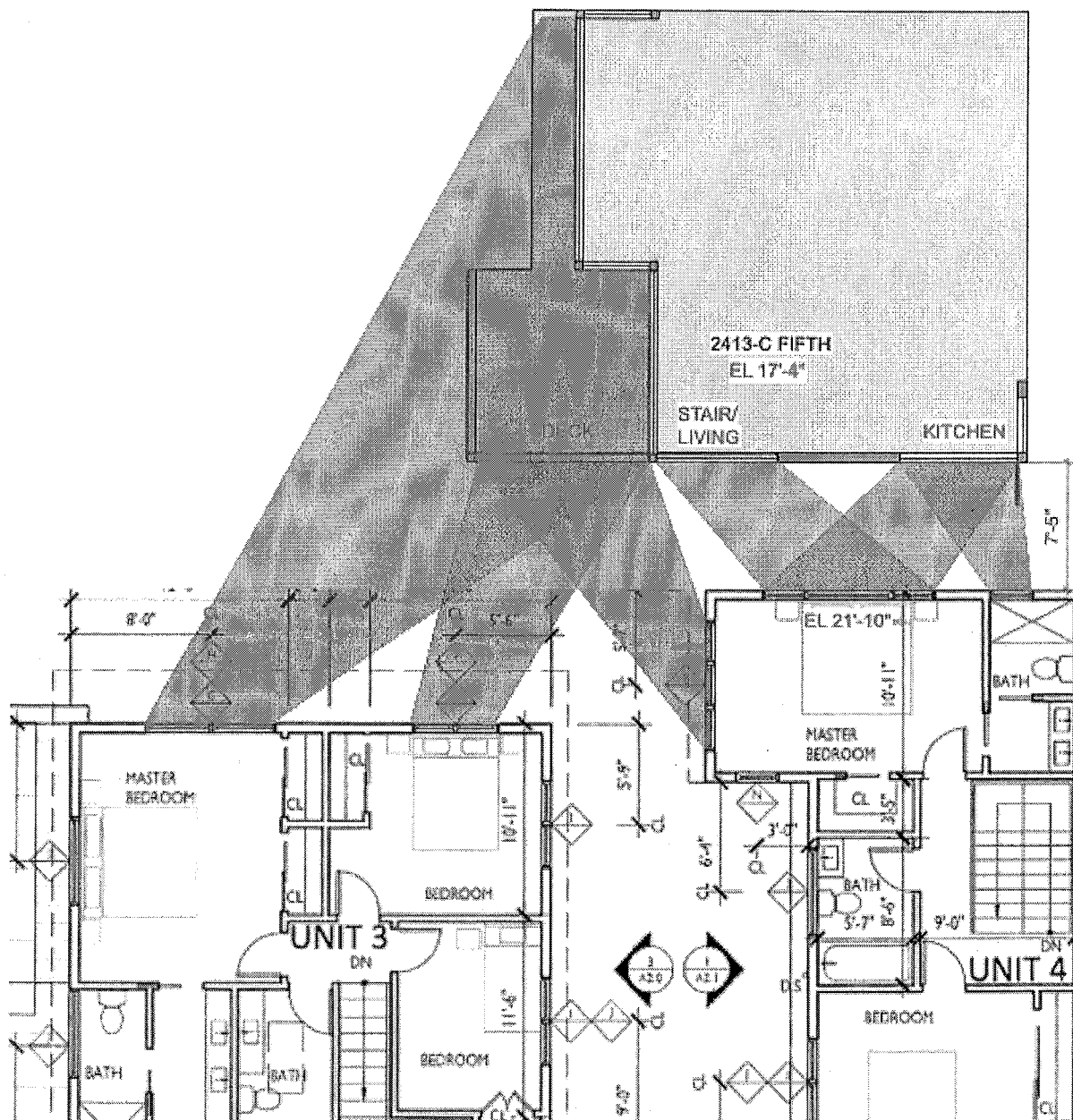
From: Patrick Sheahan pksarchitect@mac.com
Subject: ZAB 1/28/21: 2421 FIFTH ST
Date: January 28, 2021 at 5:51 PM
To: Sonja Kassuba skassuba123@gmail.com, Barbara Anderson barbaraanderson@comcast.net, Gordon Silvera gsilvera@comcast.net



SENT TO ZAB TODAY:

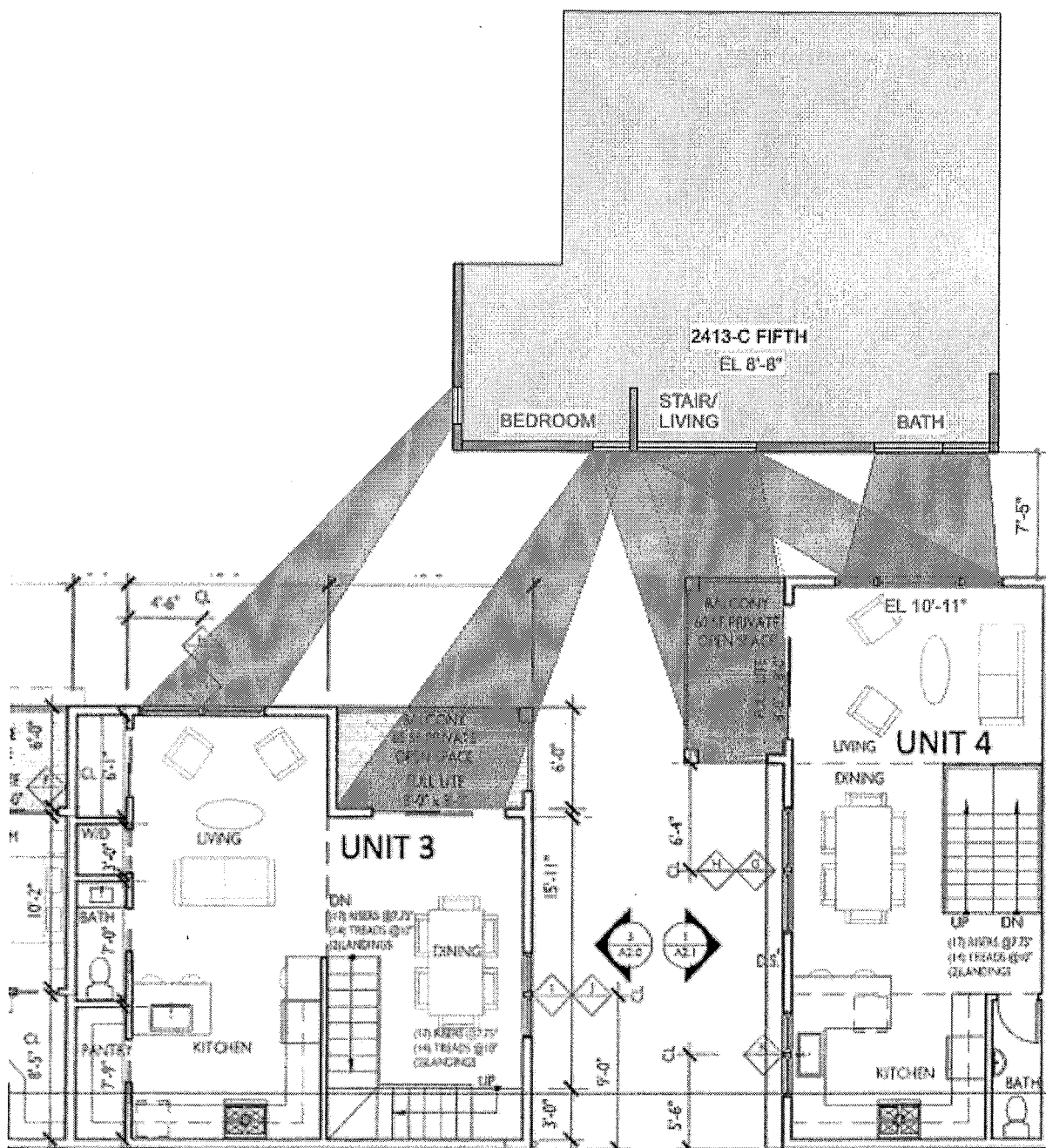
Please see attached Privacy Diagrams: 2412 Fifth / 2413 Fifth.

Patrick Sheahan





THIRD FLOOR



SECOND FLOOR



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

FOR BOARD ACTION
JANUARY 28, 2021

2421 Fifth Street

Use Permit #ZP2020-0043 to demolish a single-family dwelling and construct two residential buildings: a three-story triplex and a three-story single-family dwelling, for a total of four new dwellings. This residential project abuts manufacturing uses.

I. Background

A. Land Use Designations:

- General Plan: MU – Mixed Use
- Zoning: MU-R – Mixed Use Residential District

B. Zoning Permits Required:

- Use Permit under BMC §23C.08.010.B to demolish a dwelling unit;
- Administrative Use Permit under BMC §23E.84.030 to construct one to four dwelling units; and
- Use Permit under BMC §23E.84.060.G to establish a dwelling unit within 150 feet of a property containing a construction product manufacturing or primary production manufacturing use.

C. CEQA Recommendation: It is staff’s recommendation to ZAB that the project is categorically exempt from the provisions of the California Environmental Quality Act pursuant to §15303 (“New Construction or Conversion of Small Structures”) of the CEQA Guidelines. The determination is made by ZAB.

D. Parties Involved:

- Applicant Amber Baker, Gunkel Architecture, 2295 San Pablo Avenue, Berkeley, CA 94702
- Property Owner Properties 180, LLC, PO Box 1340 Ceres, CA 95307

E. Project Background

On January 21, 2021, the staff report and hearing materials for Use Permit #ZP2020-0043 were sent to ZAB members and published to the project web page on the City's website. Section I.B of the staff report listed the following zoning permits required for the project:

- Use Permit under BMC §23C.08.010.B to demolish a dwelling unit;
- Administrative Use Permit under BMC §23E.84.030 to construct one to four dwelling units;
- Use Permit under BMC §23E.84.060.G to establish a dwelling unit within 150 feet of a property containing a construction product manufacturing or primary production manufacturing use; and
- Administrative Use Permit under BMC §23E.84.070.F.2 to use an alternative method of providing sound buffering between the residential and the manufacturing use (other than an 8' fence) if a building which will contain a residential use is constructed on a lot where the side or rear abuts a lot in the MU-R District used for manufacturing purposes.

In the staff report, the project was deemed *not* compliant with the Housing Accountability Act (HAA), California Government Code Section 65589.5(j), because it did not comply with all objective standards. Section V.A listed the following standards which were not met by the project:

- Establishment of a dwelling unit within 150 feet of a property containing a construction product manufacturing or primary production manufacturing use (Use Permit under BMC §23E.84.060.G); and
- Use of an alternative method of providing sound buffering between the residential and the manufacturing use (other than an 8' fence) if a building which will contain a residential use is constructed on a lot where the side or rear abuts a lot in the MU-R District used for manufacturing purposes (Use Permit under BMC §23E.84.070.F.2)

Subsequently, an inconsistency in staff's interpretation of the HAA was brought to staff's attention. Staff has re-evaluated the required permits, associated findings, and language of the HAA, and as a result is issuing this clarification of its analysis.

V. Issues and Analysis

A. Zoning Permits Required. Staff finds that the Administrative Use Permit under BMC §23E.84.070.F.2 is not applicable to the project, as the building's east and south acoustic walls serve as the "fence" described in the BMC, it is not an "alternative method", and provides sufficient sound buffering against the adjacent manufacturing uses. Therefore, this permit has been deleted from the list of required permits, and from the list of objective standards not met by the project in section V.A of the staff report.

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

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

The application requires a Use Permit under BMC §23E.84.060.G, to build an otherwise an allowable use (residential) within 150 feet of a property containing a manufacturing use. (The site is 91 feet deep, and is adjacent to manufacturing uses; any dwelling on the parcel would be within 150 feet of manufacturing.) However, only the non-detriment finding for approval of this use permit applies; the non-detriment finding does not include objective standards. Therefore, this permit has been deleted from the list of objective standards not met by the project in section V.A of the staff report. Staff has deemed the project compliant with the HAA, and Section 65589.5(j) **does apply** to the Proposed Project.

The analysis in the staff report on compatibility with the purposes of the MU-R District; sunlight/shadow, air, views and privacy; and General Plan Consistency are provided for informational purposes only because they are not applicable to HAA-compliant projects.

C. Modifications to the Findings and Conditions. To implement the changes above, the following edits to the Findings and Conditions are necessary:

- Under Permits Required: Strike Administrative Use Permit under BMC §23E.84.070.F.2
- Under Findings for Approval: Strike Number 3, Findings for BMC §23E.84.070F.2
- Under Findings for Approval: Insert first
 1. The Housing Accountability Act §65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that:
 - A. The development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density; and
 - B. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.
 Because the project would comply with applicable, objective general plan and zoning standards, §65589.5(j) does apply to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been

identified by staff. The project includes construction of four dwelling units on a lot that permits four dwelling units in a mixed-use residential district.

Staff's recommendation of approval of Use Permit #ZP2020-0043 remains unchanged.

Staff Planner: Sharon Gong, sgong@cityofberkeley.info, (510) 981-7429



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

FOR BOARD ACTION
JANUARY 28, 2021

2421 Fifth Street

Use Permit #ZP2020-0043 to demolish a single-family dwelling and construct two residential buildings: a three-story triplex and a three-story single-family dwelling, for a total of four new dwellings. This residential project abuts manufacturing uses.

I. Background

A. Land Use Designations:

- General Plan: MU – Mixed Use
- Zoning: MU-R – Mixed Use Residential District

B. Zoning Permits Required:

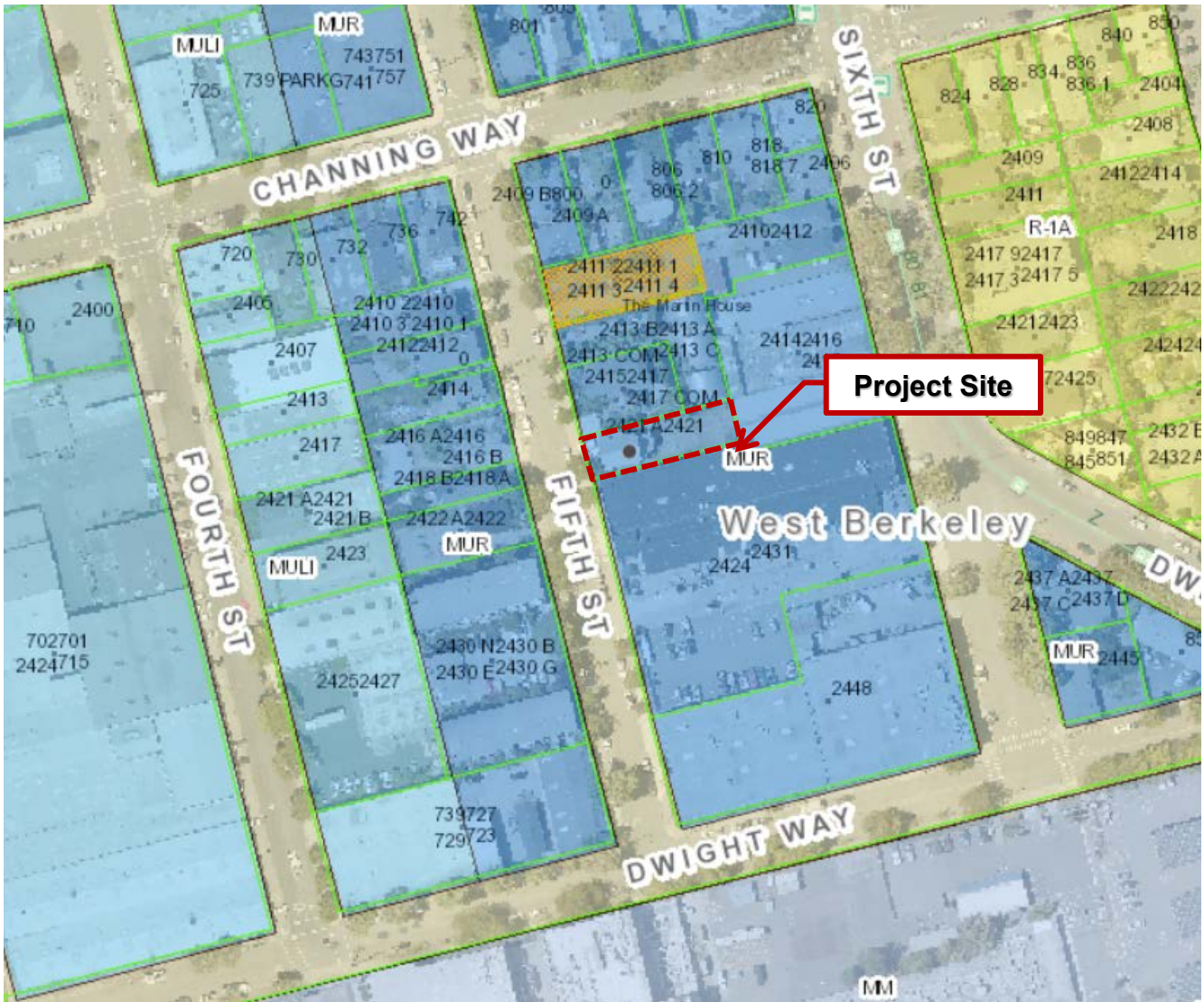
- Use Permit under BMC §23C.08.010.B to demolish a dwelling unit;
- Administrative Use Permit under §BMC 23E.84.030 to construct one to four dwelling units;
- Use Permit under BMC §23E.84.060.G to establish a dwelling unit within 150 feet of a property containing a construction product manufacturing or primary production manufacturing use; and
- Administrative Use Permit under §BMC 23E.84.070.F.2 to use an alternative method of providing sound buffering between the residential and the manufacturing use (other than an 8’ fence) if a building which will contain a residential use is constructed on a lot where the side or rear abuts a lot in the MU-R District used for manufacturing purposes.

C. CEQA Recommendation: It is staff’s recommendation to ZAB that the project is categorically exempt from the provisions of the California Environmental Quality Act pursuant to §15303 (“New Construction or Conversion of Small Structures”) of the CEQA Guidelines. The determination is made by ZAB.


D. Parties Involved:

- Applicant Amber Baker, Gunkel Architecture, 2295 San Pablo Avenue, Berkeley, CA 94702
- Property Owner Properties 180, LLC, PO Box 1340 Ceres, CA 95307

Figure 1: Zoning Map



Legend

-  AC Transit Bus Route
- MU-LI: Mixed Use-Light Industrial District
- MU-R: Mixed Use-Residential District
- MM: Mixed Manufacturing District
- R-1A: Limited Two-Family Residential District

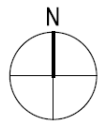


Figure 2: Proposed Site Plan

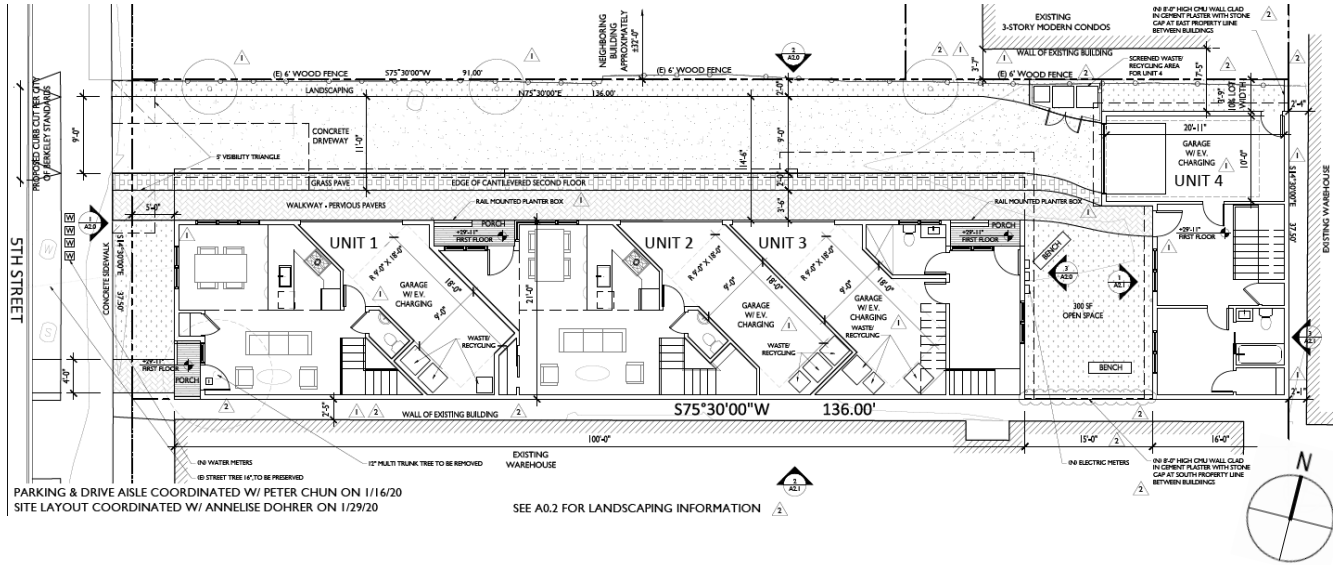


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Single-Family Dwelling	MU-R	Mixed Use (MU)
Surrounding Adjacent Properties	North	Office and duplex/Three-unit condo		
	East	Office and Sheet Metal Manufacturing		
	South	Cannabis Product Manufacturing		
	West	Duplex (B2020-02038 for new office and 2 units)/Office/Glass Manufacturing and Multi-Family Dwelling		

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	The project is not subject to BMC Section 22.20.065 Affordable Housing Mitigation Fee (AHMF) or BMC Section 23C.12 Inclusionary Housing Requirements, because it is a stand-alone development of four dwelling units and is below the five-unit threshold for applicability for both ordinance sections.
Inclusionary Unit Requirements for ownership housing projects (Per BMC 23C.12.020)		
Coast Live Oaks	No	There are no oak trees on the project site.
Creeks	No	The project site is not within a creek buffer.

Characteristic	Applies to Project?	Explanation
Green Building Score	Yes	The Greenpoint Checklist minimum score is 50, and the maximum is 342. The project achieves a score of 94.
Historic Resources	No	The existing dwelling was built in 1910 and is more than 40 years old. However, the property is not a City Landmark or Structure of Merit and the historical evaluation (DPR) submitted concludes that the property is not historically significant under any of the four California Register evaluative criteria, and is therefore not eligible for listing in the California Register.
Housing Accountability Act (Govt. Code 65589.5(j))	No	The project is a "housing development project" consisting of residential units only; however, modifications to development standards are requested. See Section V.C for discussion.
Public Art on Private Projects (BMC Chapter 23C.23)	No	The project does not create five or more new dwelling units, and is therefore not subject to the Percentage for Public Art on Private Projects ordinance.
Rent Controlled Units	No	The existing single-family dwelling proposed to be demolished is not subject to BMC Chapter 13.76 (Rent Stabilization and Eviction for Good Cause Program).
Residential Preferred Parking	No	The site is not located in an RPP zone.
Seismic Hazards (SHMA)	Yes	The project site is located in an area susceptible to liquefaction, as defined by the State Seismic Hazards Mapping Act (SHMA). The applicant has submitted a geotechnical report that has been peer reviewed by the City's consultant. Conditions of approval have been included in the permit to ensure oversight by the applicant's geotechnical consultant.
Soil/Groundwater Contamination	No	The project site is located within the City's Environmental Management Area. The applicant has submitted a Phase I Environmental Report. The report was reviewed by the City Toxics Management Division, and no further study was required. Standard Conditions for toxics are applicable to the project.
Transit	Yes	The project site is served by multiple bus lines (local and transbay) that operate one block away on Sixth Street, and is approximately 0.6 miles from the Berkeley Amtrak station and transit hub.

Table 3: Project Chronology

Date	Action
May 22, 2020	Application submitted
June 19, 2020	Application deemed incomplete
August 18, 2020	Revised application submitted
September 9, 2020	Application deemed incomplete
September 24, 2020	Revised application submitted
October 20, 2020	Application deemed incomplete
November 4, 2020	Revised application submitted
December 4, 2020	Application deemed complete
January 14 2021	Public hearing notices mailed/posted
January 28, 2021	ZAB Hearing

Table 4: Development Standards

MU-R Standards BMC Sections 23E.84.070-080		Existing	Proposed	Permitted/Required
Lot Area (sq. ft.)		5,100	5,100	n/a
FAR		0.3	1.1	1.5 max.
Dwelling Units		1	4	4 max. (1,250 sf min./du)
Building Height	Average	22'-9"	Front Bldg: 28'-5" Rear Bldg: 33'-11"	35
	Maximum	28'-9"	Front Bldg: 34'-9" Rear Bldg: 34'-9"	n/a
	Stories	2	Front Bldg: 3 Rear Bldg: 3	3
Building Setbacks	Front	14'-5"	5'-0"	5' min.
	Building Separation	0	9'-0"	n/a
	Rear	0'	0'-0"	0' min.
	Left Side (north)	6'-10"	3'-9"	3'-9" min. (10% of 37.5' width)
	Right Side (south)	6'-5"	0'-0"	0' min.
Lot Coverage (%)		20	63	n/a
Usable Open Space (sq. ft.)		3,175	620	600 min. (150 per du)
Parking		2	4	4 min. (1 per du)

II. Project Setting

A. Neighborhood/Area Description: The subject site is located on the east side of Fifth Street, in a mixed-use neighborhood that consists of warehouses, offices, live/work, and single-family and multiple-family dwellings. Parcels in the immediate neighborhood are primarily developed with one- and two-story buildings, with three-story, live/work developments immediately adjacent and north of the site and southeast of the site across Fifth Street. (See Figure 1: Zoning Map.)

The site is 4-1/2 blocks south of the University Avenue commercial corridor and six blocks west of the San Pablo Avenue commercial corridor (both areas in the C-W District). Both University Avenue and San Pablo Avenue, as well as Dwight Avenue, are well served by transit bus lines. The site is approximately 0.6 miles from the Berkeley Amtrak station and transit hub.

B. Site Conditions: The subject lot is rectangular, with a 37.5' front along Fifth Street and 136' depth, and is generally flat. The lot is occupied by a two-story, 1,383-square-foot, single family dwelling. The dwelling is vacant.

III. Project Description

The applicant proposes to demolish the existing single family dwelling and construct: 1) a three-story triplex: Unit 1 – 1,268 square feet, Unit 2 – 1,321 square feet, Unit 3 – 1,514 square feet; and 2) a three-story single-family dwelling: Unit 4 – 1,400 square feet; for a total of four new dwellings, each with a ground-floor, one-car garage.

IV. Community Discussion

A. Neighbor/Community Concerns: After receiving the application on May 22, 2020, the City mailed New Land Use Application notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations. The project applicant shared with staff that they received email contact from owner of the adjacent property to the north (2415/2417 Fifth Street) describing concerns over the effect of shadows and massing from the height of the proposed front building in the project. In response, the applicants lowered the slope of the front half of the butterfly roof, after which the neighbor had no further concerns. No further communications were received as of the writing of this report.

On January 14, 2021, the City mailed public hearing notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations, and the City posted notices within the neighborhood in three locations. No further communications regarding the project were received as of the writing of this staff report.

B. Staff-Level Design Review: As with all exterior improvements proposed in a non-residential district, this project was subject to Design Review. On January 14, 2021, Staff Level Design Review was completed in accordance with BMC Section 23E.12.040.C. The Design Review Committee Chair concurred with Staff's

recommendation for Staff Level Design Review, instead of the Design Review Committee, as the project is well-scaled for its adjacent neighborhood. The appeal and comment period for the favorable Staff-level decision will end at 4:00 p.m. on January 28, 2021.

V. Issues and Analysis

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

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

The project has elements that do not comply with applicable, objective general plan and zoning standards in the zoning ordinance, including:

- Establishment of a dwelling unit within 150 feet of a property containing a construction product manufacturing or primary production manufacturing use (Use Permit under BMC Section 23E.84.060.G); and
- Use of an alternative method of providing sound buffering between the residential and the manufacturing use (other than an 8' fence) if a building which will contain a residential use is constructed on a lot where the side or rear abuts a lot in the MU-R District used for manufacturing purposes (Use Permit under BMC Section 23E.84.070.F.2)

Therefore, Section 65589.5(j) **does not apply** to the Proposed Project.

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

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

any of the five hearings consistent with applicable timelines under the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920)).

As discussed in section V.A, the project would not comply with residential/manufacturing use adjacency and noise buffering standards. Therefore, this section does not apply to the project.

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

As discussed in an historic resource evaluation prepared in April, 2020, there is no indication of historical significance on the parcel, and none are considered eligible for listing on the California Register of Historical Resources or as a City of Berkeley Landmarks or Structures of Merit. Therefore, it was determined that the site is not an historic resource. Standard conditions of approval have been included to halt work if any unanticipated discovery of archeological, paleontological, or tribal cultural resources.

3. Government Code Section 65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. The project was deemed complete on December 4, 2020. Should ZAB determine the application is categorically exempt from CEQA at the January 28, 2021 public hearing, the application must be approved or disapproved by March 29, 2021.
4. Government Code Section 66300(d) prohibits the demolition of residential dwelling units unless the project will create at least as many residential units as will be demolished. The project proposes to demolish one housing unit and replace it with four housing units. Therefore, the requirements of this section are satisfied.

C. Findings for Use Permit in MU-R District: Pursuant to BMC Section 23E.84.090.B, in order to approve any Use Permit in the district, the Board must make the following required findings. The proposed use or structure must:

1. *Be compatible with the purposes of the District;*

The project is consistent with the following purposes of the Mixed Use Residential District (MU-R):

- *Implement the West Berkeley Plan's designation of a Mixed Residential District.*
- *Support the continued development of a mixed use District which combines residential, live/work, light industrial, arts and crafts and other compatible uses.*
- *Strengthen residential concentrations which exist within the District.*

- *Support the development of businesses of all types which contribute to the maintenance and improvement of the environment.*
- *Protect residents from unreasonably detrimental effect of nonresidential uses, such as noise, vibration, odors, smoke, fumes, gases, dust, heat and glare, to the extent possible and reasonable within a mixed use West Berkeley context.*

The project would add four new dwellings to neighborhood that has a residential concentration comprised of single-family dwellings, duplexes, live/work buildings, and other multi-family dwellings, and would bring new residents who would be potential patrons in close proximity to local businesses (art/craft studios, retail, professional office, food service).

The project would incorporate measures to screen the new dwellings from the adjacent existing industrial uses to the east and south: eight-foot tall walls with sound absorbent material at these property lines, and acoustic wall construction along the south and east building walls that are directly on the property lines.

2. *Be consistent with the normal use and operation of surrounding uses and buildings, including residential and industrial buildings;*
3. *Not be likely, under reasonably foreseeable circumstances, to either induce or contribute to a cumulative change of use in buildings away from residential; live/work; light industrial, or arts and crafts uses; and*
4. *Be designed in such a manner to be supportive of the character and purposes of the District.*

The proposed four-unit residential project would add to the residential development already in the area, and would reinforce the existing mixed pattern of commercial/industrial/residential development in the neighborhood. The proposed low-medium-density, three-story residential buildings would continue the existing pattern of similar residential development in the vicinity.

D. Findings for Use Permits and Administrative Use Permits: Pursuant to BMC Section 23E.84.090.A, in order to approve any Use Permit in the district, the Board must make the non-detriment finding. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City. Staff believes that this finding can be made.

A discussion of the project's impact on sunlight/shadows, air, privacy, and views as they relate to potential detriment follows:

1. **Sunlight/shadow:** According to the shadow studies submitted by the applicant (see Attachment 1, Sheets T0.3 and T0.4 for Shadow Studies), new shadows would be cast by the proposed dwellings onto the three-story, live/work buildings on the east side of the property to the north (2413 Fifth Street), primarily on the south-most building of the three buildings on the site. Shadows would affect the

first-floor foyer, second-floor bedroom, and third-floor living room windows, from sunrise to sunset during the months near the winter solstice and during the spring months. According to the studies, new shadows would be cast onto the first-floor foyer window of next live/work building at noon during the months near the winter solstice only.

New shadows would be cast onto the south-facing windows of the property to the north (2415/2417 Fifth Street), but these are windows to the office portion of the property and no residential areas would be affected

Although shadow conditions would increase notably for the south-most neighboring dwelling, with new shadows occurring all day for much of the year, the shadow impacts generally affect living areas on the south side of the building. Because of the proximity of the three-story live/work buildings to each other (on 2413 Fifth Street), the two neighboring live/work buildings just north of this building experience similar shading from the respective building to their south on their own property. The amount of new shading from proposed project is to be expected in the MU-R District, where residential buildings are allowed to up to 35 feet and three stories in height, and side yards can be as little as 10% of the lot width (3'-9" for the subject site). Therefore, the shadow impact from the project would not be detrimental.

2. **Air:** The proposed front building would be approximately 48'-6" from the office/duplex to the north (2415/2417 Fifth Street). The proposed rear building would be 7'-5" from the south-most live/work building to the north (2413 Fifth Street), comparable to the typical 8'-0" minimum separation between dwellings in residential districts. The proposed buildings would be 2'-5" from the warehouse to the south and 2'-4" from the warehouse to the east, but no windows are proposed on those façades, and are instead provided on the other façades. Thus, the siting of the proposed buildings satisfy all minimum setback requirements, and would provide adequate air space on all sides.
3. **Views:** The relatively flat topography of the project site, along with existing one-, two-, and three-story buildings in the vicinity, does not offer significant views as defined in BMC Chapter 23F.04 (Definitions). Therefore, staff believes that this project would not be substantially detrimental with respect to views.
4. **Privacy:** The proposed dwelling would not cause significant privacy impacts to the properties to the south and east of the project site, as they are no windows or doors on these façades in the project, and the adjacent uses are non-residential buildings. The office/duplex to the north (2415/2417 Fifth Street) would not experience significant privacy impacts, due to the 48'-6" separation that would be between the buildings, and a 6-foot tall fence on the north property line. The south-most live/work building to the north (2413 Fifth Street), would experience some privacy impacts. A third-floor balcony and second- and third-floor windows on this building would have sightlines from a second-floor balcony and third-floor bedroom window of the proposed front building, which would be approximately 20' away, and sufficient distance to mitigate the impact. The south-most neighboring building

would also have sightlines from a second-floor balcony, living room windows, and third-floor bedroom window on the proposed rear building, which would be 7'-5" away. However, the windows on the proposed rear building are designed to be above average eye level on each floor (approximately 5.5' to the sills), a feature which would minimize the impact on the neighbor's privacy. Thus, privacy impacts from the project would be reasonable and not substantially detrimental.

E. Findings for Use Permit to Eliminate/Demolish One Dwelling Unit: Government Code Section 66300(d) prohibits the demolition of residential dwelling units unless the project will create at least as many residential units as will be demolished; prohibits the demolition of occupied or vacant protected units, unless replaced according to replacement provisions therein; and does not supersede any local ordinance that reserves greater protections/provisions for lower income households or displaced households. The project proposes replacing one demolished dwelling with four new dwellings; the existing unit is not considered a "protected" unit as defined in Section 66300(d); and compliance with this section also satisfies the findings to approve the demolition of the dwelling unit under BMC Section 23C.08.010.B. The dwelling proposed to be demolished is vacant, and is not subject to tenant displacement provisions pursuant to Section 66300(d).

F. Findings for Alternate Sound Buffering Against Manufacturing Use: Pursuant to BMC Section 23E.84.070.F.2, if a building which will contain a residential use is constructed on a lot where the side or rear abuts a lot in the MU-R District used for manufacturing purposes, a fence of not less than eight feet which incorporates sound absorbent material shall be erected between the manufacturing and residential use. A more appropriate alternative method of buffering may be approved by the Board. The project would use acoustic walls along the south and east property lines, where the two buildings have walls that are directly on the property line. Walls of this type would include resilient channels to absorb vibrations and a multiple layers of sheet-rock on the interior side as buffering against noise and vibrations from the manufacturing activities on the abutting lots to the south and east. Eight-foot-tall walls with sound absorbent material would be constructed on the remainder of these property lines where there would be no building walls.

G. General Plan Consistency: Based on the foregoing project description and analysis, staff concludes that the project will comply with the following 2002 General Plan goals and policies:

1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy LU-7–Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
3. Policy LU-23–Transit-Oriented Development: Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking

requirements in areas with above-average transit service such as Downtown Berkeley.

4. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
5. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.

The project would add three net new dwelling units to a property in a developed neighborhood located in mixed-use district, in close proximity to transit. As discussed in section V.B, V.C, and V.E, the proposed building is consistent with the character of the neighborhood and the project will meet all of the zoning standards for the MU-R District. The project is compatible with the existing uses in the neighborhood, which consists of a blend of mixed-use, residential-only, commercial, and industrial developments. Furthermore, the proposed low-medium-density, three-story residential buildings would continue the existing pattern of similar residential development in the vicinity. Design Review staff has reviewed the project, and has found it to be architecturally compatible with the surrounding developments.

6. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

As discussed in section V.D.1 above, shadow impacts resulting from the proposal would be localized to one or two neighboring dwellings which already experience some shading from existing development. Also, the amount of new shading from the proposed project is expected in the MU-R District, where development standards allow low-medium density residential development. Thus, impact to solar access and shadows would not be detrimental.

7. Policy UD-33–Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.
8. Policy EM-5–“Green” Buildings: Promote and encourage compliance with “green” building standards. (Also see Policies EM-8, EM-26, EM-35, EM-36, and UD-6.)

The project would promote sustainable design standards, as demonstrated by its goal to meet a score of 94 on the GreenPoint Rated Checklist, New Home Multifamily Checklist.

9. Policy H-19–Regional Housing Needs: Encourage housing production adequate to meet the housing production goals established by ABAG’s Regional Housing Needs Determination for Berkeley.

The project would add three net new dwelling units to the City’s housing stock, furthering this Housing Element policy to expand the City’s existing housing supply.

VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board **APPROVE** Use Permit #ZP2020-0043, pursuant to BMC Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received November 4, 2020
3. Notice of Public Hearing

Staff Planner: Sharon Gong, sgong@cityofberkeley.info, (510) 981-7429



Index &
Administrative Record
ZAB Appeal:
2421 Fifth Street

These attachments are on file and available for review upon request from the City Clerk Department, or can be accessed from the City Council Website.

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

or from:

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

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

ZAB APPEAL: 2421 FIFTH STREET, USE PERMIT #ZP2020-0043

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, JUNE 1, 2021** at **6:00 P.M.** a public hearing will be conducted to consider an appeal of the decision by the Zoning Adjustments Board to approve Use Permit #ZP2020-0043, to demolish a single-family dwelling and construct two residential buildings: a three-story triplex and a three-story single-family dwelling, for a total of four new dwellings.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **MAY 20, 2021**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Sharon Gong, Project Planner at (510) 981-7429, or sgong@cityofberkeley.info. Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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

Mark Numainville, City Clerk

Mailed: May 18, 2021

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

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available by request from the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.



Office of the City Manager

ACTION CALENDAR

June 1, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Mark Numainville, City Clerk
 Subject: Police Accountability Board – Appointment of Members

RECOMMENDATION

Adopt a Resolution appointing nine members to the Police Accountability Board nominated by the Mayor and City Councilmembers, and appointing one alternate member.

FISCAL IMPACTS OF RECOMMENDATION

All commissioners are eligible to receive a stipend of \$100 per meeting.

CURRENT SITUATION AND ITS EFFECTS

The City Charter provides for the appointment of members to the newly created Police Accountability Board. Article XVIII, Section 125, Part 6 states, “The Mayor and each City Councilmember shall nominate one candidate from an applicant pool at a meeting of the City Council and that each individual nominee must be approved by a majority vote of the City Council.”

Members of the Police Accountability Board must:

- Be a resident of the City;
- Be at least 18 years of age
- Not be an employee, officer, or contractor with the City, a current sworn police officer from any agency, or a current employee, official, or representative of an employee association representing sworn police officers; and
- Be fair minded and objective with a demonstrated commitment to community service.

The City Charter indicates that desirable qualities of a Board member are familiarity with human resources, law, police procedures, police oversight, or involvement in civil rights or community organizations and that the City Council shall endeavor to establish a Board that is broadly inclusive and reflective of race, ethnicity, age, gender identity, sexual orientation, economic status, neighborhoods, and various communities of interest in the City.

The Mayor and Members of the City Council were provided with a pool of eligible applicants that submitted applications by the March 29, 2021 deadline. From this pool of applicants, the following nominations were submitted to the City Clerk to present to the City Council for approval.

Nominee	Nominated By
Ismail Ramsey	Mayor Arreguin
Cheryl Owens	Councilmember Kesarwani
Regina Harris	Councilmember Taplin
John Moore	Councilmember Bartlett
Kitty Calavita	Councilmember Harrison
Michael Chang	Councilmember Hahn
Juliet Leftwich	Councilmember Wengraf
Nathan Mizell	Councilmember Robinson
Deborah Levine	Councilmember Droste

The appointments to the Board represent a diverse group from the Berkeley Community. Demographic data obtained from the applications is as follows.

<u>Gender</u>	<u>Age Range</u>
Female – 5	18-25 – 1
Male – 4	36-55 – 1
	46-55 – 2
<u>Race/Ethnicity</u>	56-65 – 3
Black – 5	66+ – 2
White – 3	
Asian/Pacific Islander – 1	<u>Sexual Orientation</u>
	Gay or Lesbian – 1
	Heterosexual or Straight – 8

Pursuant to the recently adopted amendment to Section 3.02.035 of the Berkeley Municipal Code, at the time that City Council appoints the initial nine (9) commissioners to the Board, the City Council will also approve an alternate commissioner. This alternate will be required to undergo the same 40-hour training requirement as the regular Board members.

BACKGROUND

Measure II was adopted on November 3, 2020 by the voters of Berkeley to establish an Office of the Director of Police Accountability and create a new Police Accountability Board (hereafter “Board”), both of which are independent of the City Manager. The members of the Board are approved by vote of the full Council.

The City received a total of 37 applications for the Mayor and City Council to consider. These applications were reviewed and the eligibility of the applicants was verified by city staff against the requirements of the Charter.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable effects on sustainability or the environment associated with the recommendation in this report.

RATIONALE FOR RECOMMENDATION

The appointments are directed by the City Charter and pursuant to the nominations submitted by the Mayor and Councilmembers.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mark Numainville, City Clerk, (510) 981-6900
Dave White, Deputy City Manager, (510) 981-7000

Attachments:

1: Resolution

RESOLUTION NO. -N.S.

APPOINTMENT OF NINE MEMBERS TO THE POLICE ACCOUNTABILITY BOARD AND ONE ALTERNATE MEMBER

WHEREAS, Measure II was adopted on November 3, 2020 by the voters of Berkeley to create a new Police Accountability Board; and

WHEREAS, Article XVIII, Section 125, Part 6 provides for the Council’s appointment of board members; and

WHEREAS, the Mayor and Councilmembers have submitted nominees for appointment by the full council; and

WHEREAS, the Municipal Code provides for the appointment of an alternate board member.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that the following applicants are hereby appointed to the Police Accountability Board:

Nominee	Nominated By
Ismail Ramsey	Mayor Arreguin
Cheryl Owens	Councilmember Kesarwani
Regina Harris	Councilmember Taplin
John Moore	Councilmember Bartlett
Kitty Calavita	Councilmember Harrison
Michael Chang	Councilmember Hahn
Juliet Leftwich	Councilmember Wengraf
Nathan Mizell	Councilmember Robinson
Deborah Levine	Councilmember Droste

BE IT FURTHER RESOLVED that <<<First Last>>> is hereby appointed as the alternate board member to the Police Accountability Board.



Office of the City Manager

ACTION CALENDAR

June 1, 2021

To: Honorable Mayor and Members of the City Council
 From: Sugar Sweetened Beverage Product Panel of Experts (SSBPPE)
 Submitted by: Poki Namkung, Chairperson, SSBPPE Commission
 Subject: Recommendation that the City Council Pass a Resolution Regarding Procurement, Sales and Serving of Sugar-Sweetened Beverages.

RECOMMENDATION

The Sugar Sweetened Beverage Product Panel of Experts recommends that the Berkeley City Council adopt a Resolution that City of Berkeley departments and City food services contractors shall not:

- 1) Serve sugar-sweetened beverages at City meetings and events on City property;
- 2) Procure sugar-sweetened beverages with City funds; or,
- 3) Sell sugar-sweetened beverages on City property, including in vending machines.

POLICY COMMITTEE RECOMMENDATION

On February 24, 2020, the Health, Life Enrichment, Equity & Community Committee moved an item to Council recommending approval of the Sugar Sweetened Beverage Product Panel of Experts Resolution regarding procurement, sales and serving of sugar-sweetened beverages with the following changes in the resolved clause:

Therefore be it resolved that the City of Berkeley shall not:

1. Procure sugar-sweetened beverages with City funds; and
2. Serve or sell sugar-sweetened beverages on City property, including in vending machines.

And be it further resolved that the City discourages sugar-sweetened beverages at events on City property that receive City of Berkeley funding, and mandate that these events be required to provide options other than sugar-sweetened beverages.

And be it further resolved that in areas or facilities where employees regularly work beyond the core business hours of 8 a.m. – 6 p.m., the City of Berkeley shall provide refrigerators in good working order and of adequate size for the number of employees in

that area, to bring and store their own beverages.

In addition, ask the City Council to make a referral to the Sugar-Sweetened Beverage Product Panel of Experts to consider how to regulate sugar sweetened beverages at events held on City of Berkeley Property hosted by non-City entities who receive City of Berkeley funds.

M/S/C (Hahn/Bartlett). All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

Cost of promulgating information, notifying City Departments and revising clauses in City contracts.

CURRENT SITUATION AND ITS EFFECTS

Currently, the City of Berkeley has no policy regarding either the procurement of sugar-sweetened beverages with City funds or the sales or distribution of sugar-sweetened beverages at City meetings and events or on City property.

On September 19, 2019, the SSBPPE Commission voted as follows:

Moved to approve and adopt the SSB Resolution (version #13) and the accompanying Council Report and forward to the City Council.

M/S/C: Commissioners Scheider/Rose

Ayes: Commissioners Browne, Crawford, Moore, Rose, Ishii, and Scheider

Noes: None

Abstain: None

Absent from vote: None

Recused: None

Excused: Commissioners Morales and Namkung

Definitions: Sugar-sweetened beverages or SSBs refer to all beverages with added caloric sweeteners with a minimum of 2 calories per fluid ounce, as defined in Chapter 7.72 of the City of Berkeley Municipal Code.ⁱ SSBs include juices with added sweetener, sodas, energy drinks, sweetened teas and coffee drinks, and sport drinks. These drinks offer little or no nutritional value, but include massive quantities of added sugar. For instance, a single 20-ounce bottle of soda typically contains the equivalent of approximately 16 teaspoons of sugar.

In BMC Chapter 7.72, SSBs exclude 100% juice, diet drinks, waters, and milk drinks as well as medical drinks and baby formula.

BACKGROUND

In November of 2014, the Berkeley voters passed Measure D with 76% of the vote, which requires both the collection of a 1 cent-per-ounce tax on the distribution of SSBs in the City of Berkeley and the convening of the Sugar Sweetened Beverage Products

Panel of Experts (SSBPPE) to recommend investments to both reduce the consumption of SSBs as well as to address the health consequences of the consumption of SSBs including diabetes, dental caries, heart disease and obesity.ii

To accomplish these goals, the SSBPPE recommended that the City create the Healthy Berkeley program to reduce the consumption of sugar-sweetened beverages (“SSB”) in Berkeley and to address the effects of SSB consumption. The City Council unanimously adopted this recommendation on November 29, 2016 and awarded a \$1.5 million per year investment to be granted to community agencies and the Berkeley Unified School District garden and nutrition program. \$225,000, or 15%, of this funding is allocated to the City Public Health Division to administer and evaluate the Healthy Berkeley Program. See November 29, 2016, Council agenda items 33a and 33b.iii

The City of Berkeley requires that all Healthy Berkeley funded programs (including the school district) adopt an organizational policy curtailing the service, procurement and sale of SSBs. The purpose of these organizational policies is to change norms in our community about consuming sugary drinks and support the educational work of these programs.

We know from the public health campaigns to reduce tobacco use, that institutional policies that change norms have a powerful impact on behavior and are a vital tool to improving health in our communities. Education and media campaigns are not enough to change behaviors, especially when pervasive and persuasive marketing by corporations influence choices that people make, and when there is an addictive aspect to the behavior as is the case with both tobacco and sugar.iv

ENVIRONMENTAL SUSTAINABILITY

None

RATIONALE FOR RECOMMENDATION

In 2014, Berkeley voters overwhelmingly passed Measure D and since then the City of Berkeley has led the effort to reduce the consumption of sugary drinks and resulting health impacts and disparities, not only in Berkeley but also in the Bay Area and nationwide. Sales of sugary beverages have decreased and school and community groups have been funded to continue the effort to reduce sugary drink consumption and improve health. Now is an opportune time for the City to once again provide leadership for City employees and the community by enacting a healthy beverage policy for the City that restricts procurement of sugary drinks as well as the serving and sales of sugary drinks at City events. This policy would be responsive to the will of the voters, supportive of school and community efforts to improve Berkeley residents' health, and a model to other cities. This policy will align the City with Healthy Berkeley grantees who have already adopted similar policies. The SSBPPE encourages the City to take this step to set an example and demonstrate its own commitment to the further reducing sugary drink consumption and improvement in community health.

ALTERNATIVE ACTIONS CONSIDERED

In January 2018, the SSSBPPE voted to recommend that the Berkeley City Council adopt an Ordinance amending the Administrative Code to direct the City of Berkeley departments and City food services contractors to refrain from: 1) Procuring sugar-sweetened beverages with City funds; 2) Selling sugar-sweetened beverages on City property, including in vending machines; and, 3) Serving sugar-sweetened beverages at City meetings and events on City property. On March 27, 2018, the City Council voted to refer the recommendation to the City Manager and request that the City Manager draft an ordinance for consideration by the City Council. In June 2018, the City Council ranked this ordinance around 32 among items to develop for the City. No further action was taken until May of 2019, when Council Member Harrison reached out to Holly Scheider, her appointee on the SSBPPE Commission, and suggested that the Commission put forward a Resolution in place of an Ordinance with the same content.

CITY MANAGER

See the City Manager companion report.

CONTACT PERSON

Dechen Tsering, SSBPPE Commission Secretary (510) 981-5394

Attachments:

1: Resolution

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

RESOLUTION ESTABLISHING CITY POLICY / AMENDING THE ADMINISTRATIVE CODE TO DIRECT CITY OF BERKELEY DEPARTMENTS TO REFRAIN FROM PROCURING, SERVING OR SELLING SUGARY DRINKS

WHEREAS, the City of Berkeley is known for its commitment to reducing inequities in diet and disease and in promoting access to healthy food and beverages.

WHEREAS, drinking just **one** serving of sugar-sweetened beverage per day poses a **30 percent or higher risk** of becoming diabetic.

WHEREAS, drinking just **one** serving of sugar-sweetened beverage per day poses a **30 percent or higher risk** of early death from cardiovascular disease.

WHEREAS, city employees deserve a healthy work environment, with an increased variety of healthier low-sugar alternative beverages such as flavored waters, plain or carbonated water, 100% juice, milk drinks, diet drinks, unsweetened or artificially sweetened iced teas and coffee drinks.

WHEREAS, it is recognized that city staff are free to bring and consume their own sugary beverages at work.

WHEREAS, other public institutions that have completely eliminated the sales of sugar sweetened beverages on their premises and have demonstrated that as a result, positive changes have been documented in the staff's metabolic disease indicators associated with lower risk of diabetes and heart disease

WHEREAS, giving City employees access to healthier beverages in the workplace will increase healthy beverage consumption and reduce the impact of diet-related disease, thus reducing the City's health care expenses.

WHEREAS, the City of Berkeley requires that *all* organizations receiving funding from Healthy Berkeley not serve or sell sugar sweetened beverages on their premises.

WHEREAS, the Berkeley Unified School District does not serve or sell soda to students of all ages and students on their premises and this contributes to positive adult role modeling regarding healthy beverage consumption.

WHEREAS, Chapter 7.72 of the City of Berkeley Municipal Code^v has already defined sugar-sweetened beverages as all beverages with added caloric sweeteners with a minimum of 2 calories per fluid ounce, including juices with added sweetener, sodas, energy drinks, sweetened teas and coffee drinks, and sport drinks which offer little or no nutritional value, but include massive quantities of added sugar and in addition, Berkeley Municipal Code Chapter 7.72 also defines exemptions and thus excludes waters, 100% juice, milk drinks, diet drinks, as well as medical drinks and baby formula.

THEREFORE BE IT RESOLVED that the City of Berkeley and City food services contractors **shall not**:

- 1) Procure sugar-sweetened beverages with City funds; and,
- 2) Serve or sell sugar-sweetened beverages on City property, including in vending machines.

BE IT FUTHER RESOLVED that the City discourages sugar-sweetened beverages at events on City property that receive City of Berkeley funding, and mandate that these events be required to provide options other than sugar-sweetened beverages.

BE IT FUTHER RESOLVED that in areas or facilities where employees regularly work beyond the core business hours of 8 a.m. – 6 p.m., the City of Berkeley shall provide refrigerators in good working order and of adequate size for the number of employees in that area, to bring and store their own beverages.

BE IT FUTHER RESOLVED to ask the City Council to make a referral to the Sugar-Sweetened Beverage Product Panel of Experts to consider how to regulate sugar sweetened beverages at events held on City of Berkeley Property hosted by non-City entities who receive City of Berkeley funds.

ⁱ B.M.C. 7388-NS § 7.72, 2014, City of Berkeley

ⁱⁱ B.M.C. 7388-NS § 7.72, 2014, City of Berkeley

ⁱⁱⁱ Berkeley Nov. 29, 2016 agenda:

https://www.cityofberkeley.info/Clerk/City_Council/2016/11_Nov/City_Council_11-29-2016_-_Regular_Meeting_Agenda.aspx Language in the Nov. 29, 2016

Resolution, Agenda item 33a, pages 9 and 11, follows:

“BUSD will not sell or serve sugar-sweetened beverages (as defined by the SSB tax) at any BUSD schools or campuses.”

“Funded organizations must have in place or agree to adopt prior to being funded an organizational policy prohibiting serving SSBs at organization sponsored events or meetings.”

^{iv} <https://www.theatlantic.com/health/archive/2014/01/the-sugar-addiction-taboo/282699/>

^v B.M.C. 7388-NS § 7.72, 2014, City of Berkeley



Office of the City Manager

ACTION CALENDAR

June 1, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, HHCS

Subject: Companion Report: Recommendation that the City Council Pass a Resolution Regarding Procurement, Sales, and Serving Sugar-Sweetened Beverages

RECOMMENDATION

Recommend that the City Council adopt an amended resolution that recognizes the important principles in the Commission recommendation, clarifies the intent of the measure and provides some flexibility for City programs and staff while still emphasizing availability of healthy options. This amended resolution would require that the majority of all beverages provided or sold at any City event or on any City property (including vending machines) be non-sugar sweetened beverages (as defined in chapter 7.72 of the Berkeley Municipal Code) and education materials be provided to all COB staff to actively discourage the consumption of sugar-sweetened beverages and encourage the consumption of water.

POLICY COMMITTEE RECOMMENDATION

On February 24, 2020, the Health, Life Enrichment, Equity & Community Committee moved an item to Council recommending approval of the Sugar Sweetened Beverage Product Panel of Experts Resolution regarding procurement, sales and serving of sugar-sweetened beverages with the following changes in the resolved clause:

Therefore be it resolved that the City of Berkeley shall not:

1. Procure sugar-sweetened beverages with City funds; and
2. Serve or sell sugar-sweetened beverages on City property, including in vending machines.

And be it further resolved that the City discourages sugar-sweetened beverages at events on City property that receive City of Berkeley funding, and mandate that these events be required to provide options other than sugar-sweetened beverages.

And be it further resolved that in areas or facilities where employees regularly work beyond the core business hours of 8 a.m. – 6 p.m., the City of Berkeley shall provide refrigerators in good working order and of adequate size for the number of employees in that area, to bring and store their own beverages.

In addition, ask the City Council to make a referral to the Sugar-Sweetened Beverage Product Panel of Experts to consider how to regulate sugar sweetened beverages at events held on City of Berkeley Property hosted by non-City entities who receive City of Berkeley funds.

M/S/C (Hahn/Bartlett). All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

Potential impacts on programs could include increased staffing capacity across Departments to monitor or enforce the recommended resolution and/or impacts on participation in certain events and programs.

CURRENT SITUATION AND ITS EFFECTS

The Sugar Sweetened Beverage Product Panel of Experts has recommended that the Berkeley City Council adopt a resolution to prohibit City of Berkeley departments and City food services contractors, from:

- 1) Procuring sugar-sweetened beverages with City funds;
- 2) Selling sugar-sweetened beverages on City property, including in vending machines; and,
- 3) Serving sugar-sweetened beverages at City meetings and events on City property.

The City of Berkeley has steadily reduced the purchase of sugar sweetened beverages throughout its Departments and has promoted healthy options at functions and program activities. The City Manager supports the goals of this effort and agrees to continue working to reduce the consumption of SSBs on City properties and at City sponsored events. An initial survey of City Departments indicates that adoption of the resolution as presented would have potential negative impacts on some programs and staff, most particularly those that work in jobs where they are unable to leave the worksite during their shifts, such as police dispatchers. Additionally,

- 1) The prohibition of procuring sugar sweetened beverages cannot be tracked through the City's procurement process, as many of these purchases are not listed item by item in the electronic system for requisitions. This would require staff to review all food and beverage purchases both on the program level as well as the fiscal level. As many food purchases are made via a blanket purchase order process, there is no internal mechanism in place to monitor the purchasing process for any specific item.
- 2) The prohibition of selling of sugar-sweetened beverages on City property, including vending machines may impact staff in some Departments, such as the Police Department, who provide 24-hour, 7-day of week operations. Although offering a majority of healthy options would promote and encourage the choice of

healthy beverage options, eliminating sugar-sweetened beverages entirely, may not offer a choice to staff who cannot leave their worksites and did not bring the desired beverage with them to work.

- 3) The prohibition of “serving sugar-sweetened beverages at City meetings and events on City property” is not well defined and does not have clear guidelines regarding who is providing the beverages or the manner in which it is provided (i.e. a staff member at a City hosted holiday potluck). This language, as it is written, cannot be reasonably monitored and would be unenforceable.
- 4) Additionally, some City programs, such as family camps, serve lemonade and other such drinks which are a part of the fabric of the experience. Banning such drinks could limit people choosing these programs and presumes that people cannot make informed choices.

Finally, the City of Berkeley Public Health Division is piloting a program of locating Refillable Hydration Stations in some of our public facilities to encourage the consumption of water and use of refillable bottles. These environmental changes will make it easier for people to choose water over other beverages.

BACKGROUND

In November of 2014, Berkeley voters passed Measure D, requiring both the collection of a 1 cent per ounce tax on the distribution of sugary drinks in the City of Berkeley and the convening of a Panel of Experts (the Sugar Sweetened Beverage Products Panel of Experts--SSBPPE) to recommend general fund investments to both reduce the consumption of sugary drinks as well as to address the health consequences of the consumption of sugary drinks.

Since FY 2019, the City Council has passed resolutions allocating over \$9 million in budget code 010-9703-410.35-10 between FY2015 through FY2021 for minigrants, branding and education campaigns, and funding of community agencies as per SSBPPE Commission’s recommendations. The resolutions included allocation of overhead funding to pay for staff support and evaluation and education campaigns from the public health division.

A previous recommendation submitted on March 27, 2018 that included language for City departments and City food service contractors “to refrain” from these activities was referred to the Health, Housing and Community Services Department via the Re-Weighted Rank Voting list and is in the queue to be addressed by priority. The Commission’s proposed resolution strengthens this further by prohibiting such actions.

ENVIRONMENTAL SUSTAINABILITY

This recommendation has no direct environmental sustainability effects.

RATIONALE FOR RECOMMENDATION

The prohibitive language of “shall not” places a burden on internal systems to monitor and enforce activities that may not be possible. It also impacts choice options for staff as well as community members who engage in services provided by City run programs.

ALTERNATIVE ACTIONS CONSIDERED

The City could replace the “shall not” to language to “promote healthy beverage options and refrain from.” The City could also remove the “serving sugar-sweetened beverages at City meetings and events on City property” language from the proposed resolution.

The City could adopt the resolution language as recommended by the Commission, with the understanding that it is cost prohibitive to monitor, track, or enforce any violations of this resolution based on the constraints stated above.

CONTACT PERSON

Janice Chin, Division Manager, Public Health Division, HHCS, (510) 981-5121
Dechen Tsering, Secretary, SSBPPE Commission, (510) 981-5394

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

RESOLUTION ESTABLISHING CITY POLICY / AMENDING THE ADMINISTRATIVE CODE TO DIRECT CITY OF BERKELEY DEPARTMENTS AND CONTRACTORS TO REFRAIN FROM PROCURING, SERVING OR SELLING SUGARY DRINKS

WHEREAS, the City of Berkeley is known for its commitment to reducing inequities in diet and disease and in promoting access to healthy food and beverages.

WHEREAS, drinking just **one** serving of sugar-sweetened beverage per day poses a **30 percent or higher risk** of becoming diabetic.

WHEREAS, drinking just **one** serving of sugar-sweetened beverage per day poses a **30 percent or higher risk** of early death from cardiovascular disease.

WHEREAS, city employees deserve a healthy work environment, with an increased variety of healthier low-sugar alternative beverages such as flavored waters, plain or carbonated water, 100% juice, milk drinks, diet drinks, unsweetened or artificially sweetened iced teas and coffee drinks.

WHEREAS, it is recognized that city staff are free to bring and consume their own sugary beverages at work.

WHEREAS, other public institutions that have made efforts to decrease or eliminated the sales of sugar sweetened beverages on their premises and have demonstrated that as a result, positive changes have been documented in the staff's metabolic disease indicators associated with lower risk of diabetes and heart disease

WHEREAS, giving City employees access to healthier beverages in the workplace will increase healthy beverage consumption and reduce the impact of diet-related disease, thus reducing the City's health care expenses.

WHEREAS, the City of Berkeley strongly encourages *all* organizations receiving funding from Healthy Berkeley not serve or sell sugar sweetened beverages on their premises.

WHEREAS, the Berkeley Unified School District does not serve or sell soda to students of all ages and students on their premises and this contributes to positive adult role modeling regarding healthy beverage consumption.

WHEREAS, Chapter 7.72 of the City of Berkeley Municipal Codeⁱ has already defined sugar-sweetened beverages as all beverages with added caloric sweeteners with a minimum of 2 calories per fluid ounce, including juices with added sweetener, sodas, energy drinks, sweetened teas and coffee drinks, and sport drinks which offer little or no nutritional value, but include massive quantities of added sugar and in addition, Berkeley Municipal Code Chapter 7.72 also defines exemptions and thus excludes waters, 100% juice, milk drinks, diet drinks, as well as medical drinks and baby formula.

THEREFORE BE IT RESOLVED that the City of Berkeley and City food services contractors promote healthy beverage options by:

- 1) Promoting that the majority of beverages offered are always non-sugar sweetened beverages
- 2) Providing educational materials to City of Berkeley staff to encourage consumption of water and reduction of consumption of sugar sweetened beverages, and;
- 3) Provide as much as possible an environment that makes consumption of water an easier choice, such as through the placement of Refillable Hydration Stations.

ⁱ B.M.C. 7388-NS § 7.72, 2014, City of Berkeley



Kate Harrison
Councilmember District 4

ACTION CALENDAR
June 1, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison, Councilmember Bartlett, and Councilmember Taplin

Subject: Adopt a Resolution Updating City of Berkeley Street Maintenance and Rehabilitation Policy

RECOMMENDATION

1. Adopt a Resolution updating the City's Street Maintenance and Rehabilitation Policy dated June 1, 2021.
2. Refer the exploration of potential bonding and funding opportunities for improving the PCI of streets and creating a Paving Master Plan back to the FITES Committee for further review.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

Resolution No. 55,384-N.S. (1990) as subsequently updated by Resolution No. 64,733-N.S. (2009) authorized the Public Works Commission to work with staff to submit an annual update to the Street Repair Policy. However, the Street Paving Plan has been updated every year but the Street Repair Policy has not been updated for many years. The Public Works Department maintains 214 miles of streets in the City of Berkeley, with a replacement value of over \$793 million and Berkeley's current Pavement Condition Index is at 57, which means that the condition of our streets is very much "At-Risk." The new policy included in this item seeks to achieve improvements to PCI while ensuring equity.

It is in the public interest to adopt a new paving policy, which includes best practices and new strategies, as developed by the Public Works Commission, Public Works Department and the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee.

It is also important for the Committee to continue its work on opportunities for improving the PCI of streets and creating a Paving Master Plan back to the FITES Committee for further review.

POLICY COMMITTEE RECOMMENDATION

Action: 1 speaker. M/S/C (Robinson/Harrison) move the Public Works supplemental item “City of Berkeley Street Maintenance and Rehabilitation Policy to Council” with a positive recommendation including amendments made during the meeting today, and ask Council to refer the exploration of potential bonding and funding opportunities for improving the PCI of streets and creating a Paving Master Plan back to the FITES Committee for further review.

Vote: All Ayes

BACKGROUND

A sub quorum of the Public Works Commission and the Public Works Department have been working intensively over the past year to revise the City of Berkeley Street Maintenance and Rehabilitation Policy to conform to best practices in other cities and to enhance equity and outcomes. The initial policy was adopted by the Council in 1990 and was subsequently updated in 2006 (see attached). For example, the current policy includes an outdated conception of equity based on Council districts, lacks PCI targets for major street types and Performance Metrics, and a “Dig Once” policy.

Amidst the backdrop of significantly deteriorating street conditions and the climate emergency, Councilmember Harrison concurrently submitted a referral to the FITES Committee to explore potential bonding and funding opportunities for improving the Paving Condition Index (PCI) of streets during the 2020 5-year paving plan adoption process. FITES spent a number of meetings discussing with Public Works staff and members of strategies to improve PCI and funding options. The Council subsequently agreed to extend the mandate of the Committee and also to expand their role to consider:

- the Public Works Commission Paving Policy, which sets criteria for determining *how* to pave streets;
- a paving master plan, which will set out *long-range financing plan* for doing so; and
- continue working with the Public Works Department and the Commission to explore potential bonding and funding opportunities to make the paving master plan a reality.

These efforts are in addition to a rolling five-year *short term paving plan* adopted by the Council to allow staff to bid out specific street segments for the next year’s work. Therefore, the Council designated the FITES committee with the task of reviewing the final version of the new Paving Policy.

The prior Paving Policy:

- is the basis of the rolling a 5-year Street Rehabilitation Plan;
- aims to maintain a safe surface conveyance system in the public right-of-way for vehicles, bicycles, transit and pedestrians;
- breaks streets into three categories: Arterials; Collectors and Residentials
- provides that federal, state, regional and local transportation funds are to be invested as follows:
 - 10% for Arterials
 - 50% for Collectors
 - 25% for Residentials
 - 15% for Discretionary and Demonstration Projects;
- provides for direction regarding water conveyance systems, other public utilities and trenching practices.

The Public Works Commission and FITES Committee framed their work around the following key principles, including but not limited to:

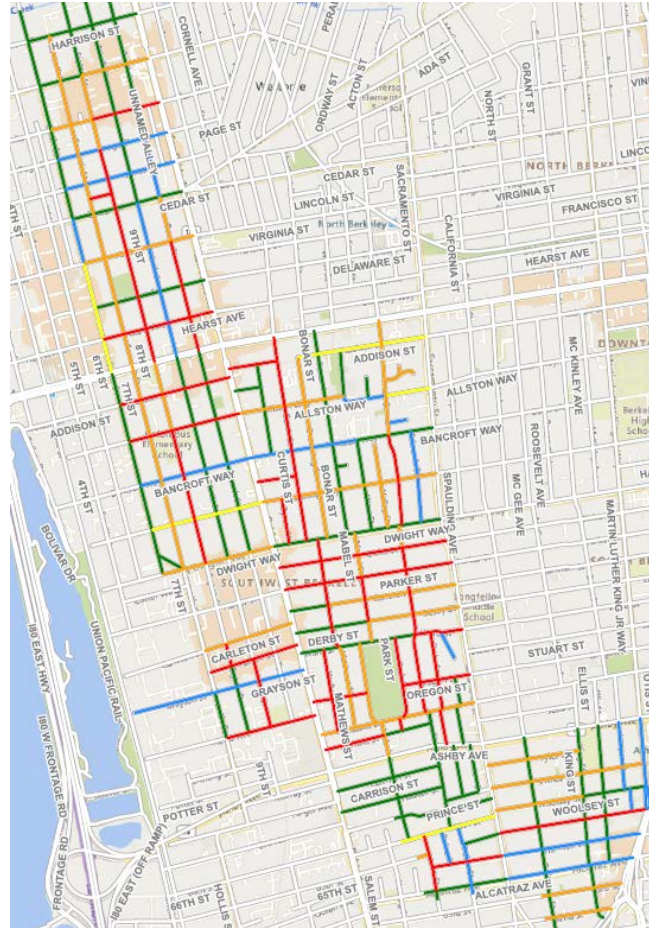
- The City's climate goals, especially its transportation goals (60% of City emissions are from transport); the importance of shifting away from traditional asphalt approaches to paving in order to reduce emissions and ensure longevity;
- Issues of equity, distribution of paving and addressing that certain commercial uses have a disproportionate impact on road conditions;
- The imperative of maintaining baseline lifecycle street conditions amidst a severe lack of funding for paving maintenance.
- A more comprehensive approach to paving with regard to utility upgrades as we begin to phase out natural gas and build advanced internet communication networks;
- Rapid deployment of pedestrian, bicycle and mobility improvements, i.e., the evolving street;
- Water management best practices (permeable pavers) or landscaping that is visually pleasing, human health supportive, and plant, insect, and animal sustaining.

The updated paving policy included in this item incorporates the following assumptions:

- That there is currently not enough paving funding to stabilize PCI across all neighborhoods, especially with regard to residential streets. Rather, the policy attempts to achieve short-term stabilization of citywide arterials, collectors, bus routes, existing and proposed low-stress bikeway network. Concurrently, the Commission, staff and FITES are working on a paving master plan and funding opportunities that will adequately fund residential streets. Therefore, it is expected that the paving policy will be updated again in conjunction with the availability of new funding.
- Adopts an expanded emphasis on climate and sustainability and expanded conformance to the City's Climate Action Plan, Green Infrastructure Plan, Resilience Strategy, Vision Zero Policy and Action Plan, Phase 3 Undergrounding Study, Complete Streets Policy, Vision 2050 framework, Pedestrian Plan, Transit First Policy, Strategic Transportation Plan, public realm and/or other localized transportation plans, and Bicycle Plan;
- Recognizes that poorly maintained streets have a disproportionate impact on certain members of the community, including low-income residents; those with mobility or visual impairments who face greater access and safety challenges; bicyclists and pedestrians, who face greater danger than those driving; and dense, more populous neighborhoods with thoroughfares;
- Emphasizes using life cycle cost analysis to evaluate different road surfacing options;
- Promotes the rehabilitation of contiguous sections of roadway, rather than one block at a time, shall be preferred, when feasible;
- States that bond funds shall strive to be used for long-lasting capital improvements (projects with a useful life that meets or exceeds the duration of the bond repayment schedule) or to accelerate road work that will result in long-term cost savings for ratepayers;
- Asserts that street trees are valuable part of the landscape, as they sequester carbon, soak up stormwater, improve land values, and add greenery;
- Asserts that tree removals shall only be permitted as a last resort consistent with BMC 12.44.020, with the approval of both the Director of Parks and Waterfront and Director of Public Works. If tree removal is necessary, replacement trees shall be planted where and when feasible in accordance with BMC 12.44.010.

In addition, the new policy incorporates the following new policies:

- **Planning**
 - The *5-year Street Rehabilitation Plan* shall be supported by a 30-year road surfacing projection, where roadway improvement projects are forecast over a long-term planning period. The first five years of the projection will become the first draft of the *5-year Plan*.
- **Equity**
 - The benefits of good infrastructure shall be distributed equitably throughout the entire community regardless of the income, or demographic characteristics of the residents in each area. Equity means equity of outcomes as opposed to equity of inputs, and that disadvantaged residents with more pressing needs experience benefits sooner than others, as defined by the City within the adopted *5-Year Plan*.
 - A new *Equity Zone* shall be established according to Attachment 1. This Zone shall be prioritized to meet an average PCI of 70 sooner than the remainder of the City. This Zone contains historically underserved neighborhoods that have experienced decades of underinvestment, and the residents in this zone experience more pressing needs.



- Over the longer term, road surfacing activities shall be planned within Pavement Analysis Zones. A Pavement Analysis Zone shall consist of a logical set of street segments, excluding the arterials, collectors, bus routes, bicycle boulevards and non-representative demonstration projects.
 - The department may revise the pavement analysis zone boundaries from time to time, consistent with the other goals of this policy. Any changes to pavement analysis units shall be proposed within the biannually updated 5-year *Street Rehabilitation Plan* submitted to City Council.
 - It shall be the goal of the City to seek parity of street condition between pavement analysis zones, except in regards to the *Equity Zone*.
- **Performance Metrics**

- The City will strive to maintain all roads within the primary transportation network at a standard no less than the following PCI targets for any stretch of roadway¹:
 - i. Arterial - 70,
 - ii. Collector - 70,
 - iii. Bus Routes - 70,
 - iv. Existing and proposed low-stress bikeway network - 70.
 - 1. Bikeways shall be surfaced with a treatment that emphasizes smoothness of the road surface.
 - v. Equity Zone- 70.
 - The biannually updated *5-year plan* shall report on these performance metrics, PCI measurements for each street segment in the City, and percent of overall funding dedicated to each of the following: arterials, collectors, bus routes, existing and proposed low-stress bikeway network, equity zone, and residential streets.
- **Dig Once**
 - Street rehabilitation shall conform with a dig once approach. This includes coordinating with sewer, water, electrical, telecom, undergrounding and other activities to minimize the cost and maintain the quality of the street surface.
 - In order to protect the City's investment on street improvements, the City shall place a moratorium on recently paved streets that prohibits digging through them for up to five years, excluding emergency work.
 - **Demonstration Projects and Use of New Technologies**
 - To the extent practical, the City shall evaluate the use of permeable pavement, concrete pavement, and other street surface technologies using life cycle cost analysis.
 - The use of new technologies that provide enhanced durability, lower cost, and more environmentally beneficial impacts shall be evaluated and reviewed in the biannually adopted *5 Year Street Rehabilitation Plan*.

¹ PCI of 70 is the lower threshold of what is considered "Good." Streets that fall below a "good" condition require much more expensive repair process.

- **Plan and Policy Development and Update**

- Every two years, in line with the City's budgeting process, the *5-year Street Rehabilitation Plan* adopted by City Council shall include a funding sufficiency analysis based on the existing deferred maintenance at that point to determine what level of funding is required to maintain our streets in safe, good condition that protects our environment and properly maintains the existing investment in City assets.
- Identify new funding sources such as:
 - Heavy vehicles, which have a disproportionate impact on the degradation of paved assets, and
 - Transportation Network Company (TNC) vehicles.
- At a minimum, this *Street Maintenance and Rehabilitation Policy* shall be reviewed and adopted by the City Council every five years, with advice of the Public Works Commission.

It is the public interest to adopt these updates through the attached Resolution to improve the lives of Berkeleyans, protect the environment and promote equitable outcomes.

FINANCIAL IMPLICATIONS

Staff time will be necessary to implement the new paving policy.

ENVIRONMENTAL SUSTAINABILITY

Supporting low-carbon paving policies will complement and accelerate Berkeley's ongoing efforts to reduce carbon emissions at an emergency and equitable pace in line with the Climate Action Plan and Climate Emergency Declaration.

CONTACT PERSON

Councilmember Kate Harrison, Council District 4, 510-981-7140

ATTACHMENTS

1. Resolution
2. 2006 Street Maintenance and Rehabilitation Policy

RESOLUTION NO. -N.S.

ADOPTING THE 2021 STREET MAINTENANCE AND REHABILITATION POLICY UPDATE

WHEREAS, Resolution No. 55,384-N.S. (1990) as subsequently updated by Resolution No. 64,733-N.S. (2009) authorized the Public Works Commission to work with staff to submit an annual update to the Street Repair Policy and the annual Street Paving Plan; and

WHEREAS, the Street Paving Plan has been updated every year but the Street Repair Policy has not been updated for many years; and

WHEREAS, the Public Works Department maintains 214 miles of streets in the City of Berkeley, with a replacement value of over \$793 million; and

WHEREAS, Berkeley's current Pavement Condition of Index is 57, which means that the condition of our streets is very much "At-Risk"; and

WHEREAS, the Public Workers Commission and Public Works Department established a working group to consider updates to the paving policy to improve planning outcomes, ensure equity, identify new funding sources, better align with environmental goals, implement performance metrics, establish a "Dig Once" policy, and leverage demonstration projects and use of new technologies; and

WHEREAS, on April 21, 2021 Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee moved the updated policy including amendments to the Council; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following Street Repair Policy update dated June 2021 is hereby adopted:

City of Berkeley Street Maintenance and Rehabilitation Policy

Section 1. General Policy

It is the policy of the City of Berkeley to maintain our streets in safe, good condition that protects our environment and to properly maintain the existing investment in City assets. Staff will implement a Citywide road resurfacing plan that will ensure street maintenance and repair in a timely manner, reduce long term-replacement costs, and provide for the safe and efficient use of our streets. The users of the street surface in the public right-of-way include powered vehicles, bicycles, transit, and pedestrians. The right-of-way also provides for storm water conveyance and is the location of many public utilities.

The policy requires that a *5-year Street Rehabilitation Plan* for the entire City be prepared and adopted biannually in line with the City's budget process. Any changes to the *5-year Plan* made in the interim shall be reported to City Council. Streets and their surfacing treatment shall be prioritized using a multi-criteria adaptive planning framework to achieve sustainable, resilient, and integrated solutions for the City's right-of-way and the downstream environments. The criteria shall consider equity, quality of life, safety, opportunities for leadership, resource allocation, environmental impacts, and climate and resilience.

Section 2. Assumptions

This section of the policy defines basic assumptions that inform the goals, objectives, and outcomes of the *5-year plan*.

1. This policy defines the priorities for managing the road surface infrastructure from curb to curb. This policy does not provide guidance on how to prioritize sidewalks or other infrastructure associated with complete streets planning.
2. Streets include arterial, collector, residential, and commercial/industrial streets as defined in Berkeley's General Plan.
3. Consistency with the City's General Plan policy of encouraging use of forms of transportation other than automobiles.
4. Conformance with the Regional Water Quality Control Board's stormwater permit requirements.
5. Support of the City's plans and updates thereto, including the City's Climate Action Plan, Green Infrastructure Plan, Resilience Strategy, Vision Zero Policy and Action Plan, Phase 3 Undergrounding Study, Complete Streets Policy, Vision 2050 framework, Pedestrian Plan, Transit First Policy, Strategic Transportation Plan, public realm and/or other localized transportation plans, and Bicycle Plan.
6. Poorly maintained streets have a disproportionate impact on certain members of the community:
 - a) Low-income residents are more seriously impacted by higher vehicle repair costs than higher income residents;
 - b) Those with mobility or visual impairments face greater challenges of unequal access and safety compared to those without such challenges;
 - c) Bicyclists and pedestrians face greater danger than those driving; and
 - d) Poorly maintained streets in dense, more populous neighborhoods are detrimental to more users than poorly maintained streets in less dense neighborhoods.
7. Utility trench and pothole repair work shall be done in accordance with permit conditions, standard details, and/or standard operating procedures adopted by the Public Works Department.
8. To the extent practical, the City shall use life cycle cost analysis to evaluate different road surfacing options.
9. Runoff from roadways carry pollutants that negatively impact public health, creeks and streams, and the Bay.
10. Street trees are valuable part of the landscape, as they sequester carbon, soak up stormwater, improve land values, and add greenery.
11. The Metropolitan Transportation Commission requires the use of a Pavement Management Tool (such as StreetSaver). Pavement Management Tools are used to optimize road surface conditions through the use of a Pavement Condition Index (PCI) performance metric.

Section 3. Funding

The *Five-year Street Rehabilitation Plan* shall identify all available funding and the sources used to deliver the proposed road improvement projects. This shall include Federal, State, County and City funding sources. In the event that the planned projects are not able to achieve the City's desired roadway condition level of service, the *Five-year Plan* should identify the level of funding and activities needed to expand roadway improvements to achieve the stated goals of this policy. Bond funds shall strive to be used for long-lasting capital improvements (projects with a useful life that meets or exceeds the duration of the bond repayment schedule) or to accelerate road work that will result in long-term cost savings for ratepayers.

Section 4. Specific Policy

The Street Rehabilitation Program shall be based on the following objectives:

1. Planning

- a) The *5-year Street Rehabilitation Plan* shall be supported by a 30-year road surfacing projection, where roadway improvement projects are forecast over a long-term planning period. The first five years of the projection will become the first draft of the *5-year Plan*.
- b) To the extent financially practical, implementation of the paving plan shall advance plans identified in section 2.5.
- c) Rehabilitation of contiguous sections of roadway, rather than one block at a time, shall be preferred, when feasible.
- d) Tree removals shall only be permitted as a last resort consistent with BMC 12.44.020, with the approval of both the Director of Parks and Waterfront and Director of Public Works. If tree removal is necessary, replacement trees shall be planted where and when feasible in accordance with BMC 12.44.010.

2. Equity

- a) The benefits of good infrastructure shall be distributed equitably throughout the entire community regardless of the income, or demographic characteristics of the residents in each area. Equity means equity of outcomes as opposed to equity of inputs, and that disadvantaged residents with more pressing needs experience benefits sooner than others, as defined by the City within the adopted *5-Year Plan*
- b) A new *Equity Zone* shall be established according to Attachment 1. This Zone shall be prioritized to meet an average PCI of 70 sooner than the remainder of the City. This Zone contains historically underserved neighborhoods that have experienced decades of underinvestment, and the residents in this zone experience more pressing needs and receive benefits sooner.
- c) Over the longer term, road surfacing activities shall be planned within Pavement Analysis Zones. A Pavement Analysis Zone shall consist of a logical set of street segments, excluding the arterials, collectors, bus routes, bicycle boulevards and non-representative demonstration projects.
 - a. The department may revise the pavement analysis zone boundaries from time to time, consistent with the other goals of this policy. Any changes to pavement analysis units shall be proposed within the biannually updated *5-year Street Rehabilitation Plan* submitted to City Council.
 - b. It shall be the goal of the City to seek parity of street condition between pavement analysis zones, except in regards to the *Equity Zone*.

3. Performance Metrics

- a) The City will strive to maintain all roads within the primary transportation network at a standard no less than the following PCI targets for any stretch of roadway¹:
 - a. Arterial - 70,
 - b. Collector - 70,
 - c. Bus Routes - 70,
 - d. Existing and proposed low-stress bikeway network - 70.
 - i. Bikeways shall be surfaced with a treatment that emphasizes smoothness of the road surface.
 - e. Equity Zone- 70.
- b) Funding should be prioritized towards maintenance activities to achieve the goals of item 4.2a.
- c) The biannually updated *5-year plan* shall report on these performance metrics, PCI measurements for each street segment in the City, and percent of overall funding dedicated to each of the following: arterials, collectors, bus routes, existing and proposed low-stress bikeway network, equity zone, and residential streets.

4. Dig Once

- a. Street rehabilitation shall conform with a dig once approach. This includes coordinating with sewer, water, electrical, telecom, undergrounding and other activities to minimize the cost and maintain the quality of the street surface.

¹ PCI of 70 is the lower threshold of what is considered “Good.” Streets that fall below a “good” condition require much more expensive repair process. 443

- b. In order to protect the City's investment in street improvements, the City shall place a moratorium on recently paved streets that prohibits digging through them for up to five years, excluding emergency work².

5. Demonstration Projects and Use of New Technologies

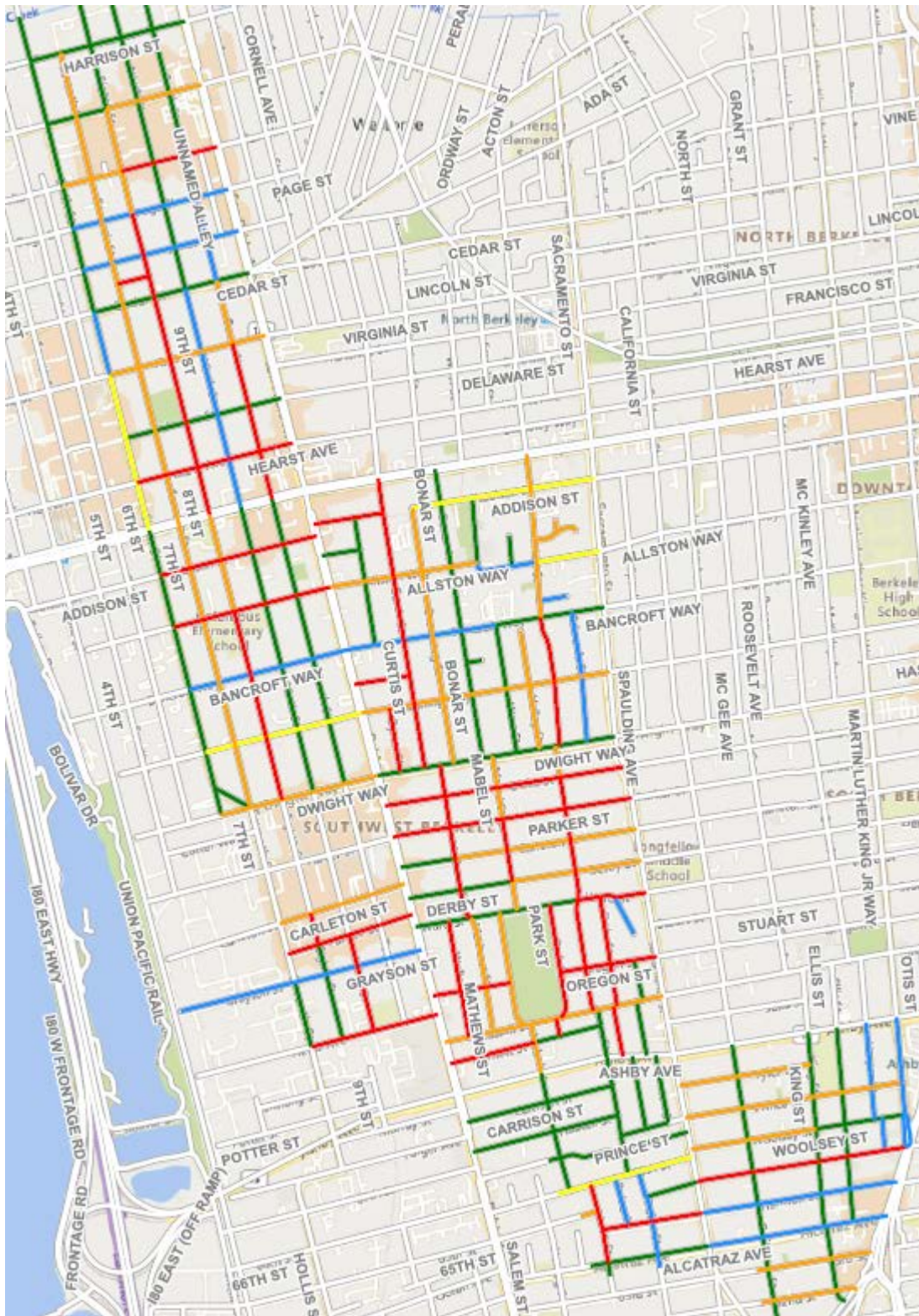
- a. To the extent practical, the City shall evaluate the use of permeable pavement, concrete pavement, and other street surface technologies using life cycle cost analysis.
- b. The use of new technologies that provide enhanced durability, lower cost, and more environmentally beneficial impacts shall be evaluated and reviewed in the biannually adopted *5 Year Street Rehabilitation Plan*.


Section 5. Plan and Policy Development and Update

The plan and policy development shall be as follows:

1. Every two years, in line with the City's budgeting process, the *5-year Street Rehabilitation Plan* adopted by City Council shall include a funding sufficiency analysis based on the existing deferred maintenance at that point to determine what level of funding is required to maintain our streets in safe, good condition that protects our environment and properly maintains the existing investment in City assets.
2. Identify new funding sources such as:
 - a. Heavy vehicles, which have a disproportionate impact on the degradation of paved assets, and
 - b. Transportation Network Company (TNC) vehicles.
3. At a minimum, this *Street Maintenance and Rehabilitation Policy* shall be reviewed and adopted by the City Council every five years, with advice of the Public Works Commission.

² As cited in Berkeley Municipal Code 16.12.030 and documented on the City [website](#)




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PUBLIC WORKS

Department of Public Works

CITY OF BERKELEY STREET REHABILITATION AND REPAIR POLICY

Updated March 2009

A. STREET REHABILITATION POLICY

Section 1. General Policy

It is the policy of the City of Berkeley that there shall be a 5-year Street Rehabilitation Plan for the entire City to be adopted by the City Council.

The primary purpose of the street rehabilitation program is to maintain a safe surface conveyance system in the public right-of-way for vehicles, bicycles, transit and pedestrians. The right-of-way also provides ancillary functions of a water conveyance system and location of public utilities.

The City shall strive to identify and implement integrated solutions that address the multiple demands on the street infrastructure that are designed for safety, environmentally sustainable and economically efficient over the long run.

The Plan shall make use of all available funding and set priorities for rehabilitation of streets in accordance with their use, as follows:

- Arterials
- Collectors
- Residentials

(Within the collectors and residential street categories, bus and bicycle routes shall be given first consideration.)

To the extent practicable, these priorities shall be consistent with:


- 1) the City's General Plan policy of encouraging use of forms of transportation other than automobiles,
- 2) the Regional Water Quality Control Board (RWQCB) goals regarding water quality, flooding potential and runoff control, and
- 3) the City's Measure G goal of an 80% reduction of greenhouse gas emissions by 2050.

Section 2. Assumptions

- 1) Emergency and interim work for trench and pothole repair will be done and funded outside this program.
- 2) Available funds for street rehabilitation include Gas Tax, Measure B Sales Tax, and other federal, state, and local funds appropriated by the City Council for this purpose during the annual budget process.
- 3) Additional sources of funding other than those above will be needed to ensure acceptable levels of effort in street rehabilitation.

Section 3. Funding

Federal and State transportation and other similar funds shall be used for repair of arterials. When all



eligible work on arterials has been completed in a certain year, these fund sources may be applied to collectors.

All Berkeley's Measure B Sales Tax funds allocated for local streets and roads, all new gas tax subventions, as much of the current gas tax subventions as available and other similar funds shall be used for street rehabilitation as follows:

- 10% for Arterials
- 50% for Collectors
- 25% for Residentials
- 15% for Discretionary and Demonstration Projects

The fees assessed to mitigate for excessive deterioration on and wear and tear of streets resulting from construction activities, public or private, shall be used for street rehabilitation.

To provide for maximizing the use of the limited funds available, the Program may provide for paving publicly owned unimproved streets in areas other than those zoned S1 (industrial and manufacturing) if at least 75% of the cost is borne by the adjacent property owners.

Section 4. Specific Policy

The Street Rehabilitation Program shall be based on the following criteria, listed in order of priority:

- 1) Street rehabilitation shall be coordinated with utility, sewer, water contamination runoff issues, and other underground activities to minimize the cost and maximize the effectiveness of rehabilitation and improve the environment.
- 2) Long term cost effectiveness, long term street pavement durability and aesthetics are important for priority setting and repair methodology selection.
- 3) In order to benefit the greatest number of residents, heavy street use (as indicated by traffic counts and bus routes designated in AC Transit's Comprehensive Service Plan) shall be given great consideration.
- 4) Demonstration and test projects for new technologies should be located in high visibility and heavily used areas. See attached document on background and recommendations for the trial permeable paver sites.
- 5) Rehabilitation of an entire street, rather than one block at a time, shall be scheduled as much as possible.
- 6) First hand assessment of streets, as well as computer based analysis, shall be a basis for street rehabilitation program development.

Section 5. Program and Policy Development and Update

The 5-year Street Rehabilitation Program shall be adopted by the City Council and the 5-year planning process shall be adopted as a City policy as follows:

- 1) Each year, the 5-year program shall be reviewed and updated formally by the City Council, with the advice of the Public Works Commission.
- 2) On an annual basis coinciding with budget preparation, the Street Rehabilitation Policy shall be reviewed and updated formally by the City Council, with advice of the Public Works Commission.
- 3) Both the 5-Year Program and the Street Rehabilitation Policy shall be reviewed and updated annually to ensure that the revolving 5-Year Street Plan is consistent with the policy stated herein and for consistency with General Plan and Area Plan policies.

B. UTILITY TRENCH AND POTHOLE REPAIR POLICY

Section 1. General Policy

It is the policy of the City of Berkeley that there shall be an annual Utility Trench and Pothole Repair Program for the most heavily used streets and in the priority order, as follows:

1. Arterials
2. Collectors
3. Residentials with bus routes

Additionally, the other residential streets shall be repaired on an area by area basis at least every five (5) years. The program shall be reviewed and updated annually to ensure adherence to the City policy.

Section 2. Assumptions

- a. Emergency work for trench and pothole repair will be done as a part of this program.
- b. Utility company created trenches will be repaired by the respective utility company, and no City resources will be used for these purposes.

Section 3. Funding

- a. Gas Tax subventions and General Funds of the City shall be used for pothole repair.
- b. Sanitary sewer funds shall be used for City created sewer trench repair.

Section 4. Specific Policy

In addition to applicable policy under Street Rehabilitation Policy, the Utility Trench and Pothole Repair Program shall be based on the following criteria:

- a. A trench or a pothole is defined as any pavement surface irregularities with a change of elevation (plus or minus) of more than one (1) inch in twelve (12).
- b. All on-going trench and pothole repair shall use the permanent repair technique, i.e., prepare the trench or pot hole into a rectangular shape, fill with hot asphalt mix, and roll to match the grade adjacent to it.

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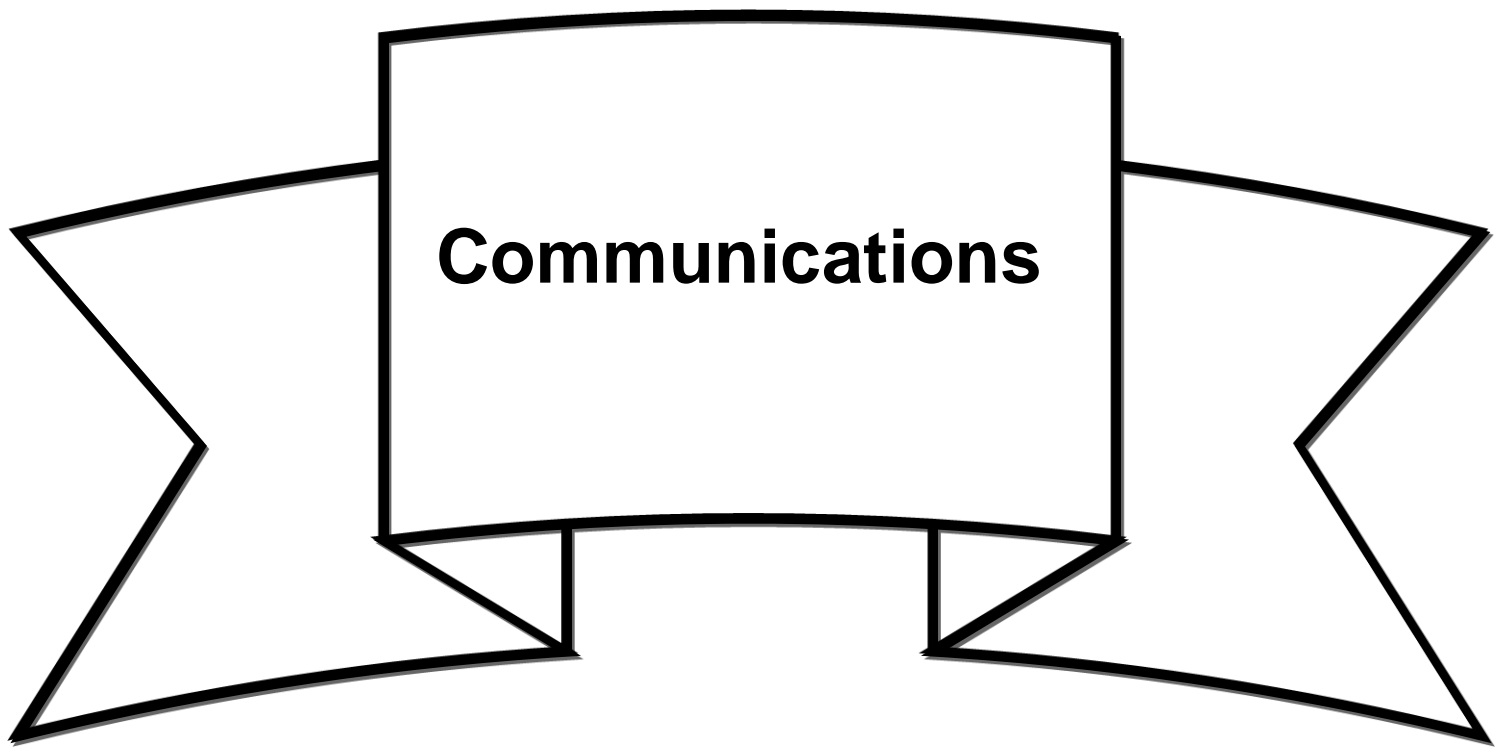
[Department of Public Works](#), 2180 Milvia Street, Berkeley, CA 94704

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