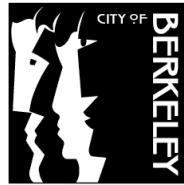


# AGENDA



## BERKELEY CITY COUNCIL MEETING

Tuesday, July 14, 2020

6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – CHERYL DAVILA

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – RIGEL ROBINSON

DISTRICT 8 – LORI DROSTE

### **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/83061922519>. 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** and enter Meeting ID: **830 6192 2519**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*To submit an e-mail comment during the meeting to be read aloud during public comment, email [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.*

*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.*

*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.*

1. Adjourn in memory of Paul Broadway, City of Berkeley Employee

**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." 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. FY 2021 Tax Rate: Fund Fire Protection and Emergency Response and Preparedness (Measure GG)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,721-N.S. setting the FY 2021 tax rate for funding Fire Protection and Emergency Response and Preparedness in the City of Berkeley at the rate of \$0.05818 (5.818 cents) per square foot of improvements for dwelling units and setting the rate for all other property at \$0.08804 (8.804 cents) per square foot of improvements with no increase in tax rate.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300; Dave Brannigan, Fire, (510) 981-5500
- 2. Amend One-Way Car Share Program: Electric Mopeds, Fees, Deposits**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,722-N.S. pursuant to Berkeley Municipal Code Chapter 14.62, renaming the One-Way Car Share Program as the One-Way Vehicle Share Program and removing obsolete references to parking permit stickers affixed to vehicles.  
**First Reading Vote:** Ayes – Kesarwani, Bartlett, Harrison, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila, Hahn.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 3. Amendments to the Berkeley Election Reform Act; Amending Berkeley Municipal Code Chapter 2.12**  
**From: Fair Campaign Practices Commission**  
**Recommendation:** Adopt second reading of Ordinance No. 7,723-N.S. amending the Berkeley Election Reform Act, BMC Chapter 2.12, regarding the public financing program.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** None  
Contact: Sam Harvey, Commission Secretary, (510) 981-6950
- 4. FY 2021 Annual Appropriations Ordinance**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,724-N.S. adopting the FY 2021 Annual Appropriations Ordinance (AAO) in the amount of \$533,318,519 (gross appropriations) and \$447,702,457 (net appropriations).  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

## Consent Calendar

- 5. Contract No. 9367 Amendment: Banking Services with Wells Fargo Bank**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to continue the work of unbundling the banking services with Wells Fargo and exercise the final three-year option period to extend Contract No. 9367 with Wells Fargo through May 31, 2023, in the amount of \$3,107,500 for a total of ten (10) year contract amount not to exceed \$10,356,000. This is to ensure business continuity and allow adequate time to continue pursuing the effort to determine alternative banking and related services solutions.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 6. Revenue Contracts: Families First Coronavirus Response Act (FFCRA) Funds for Aging Services Nutrition Programs**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions authorizing the City Manager or her designee to execute any resultant revenue agreements and amendments with Alameda County to provide congregate and home-delivered meals to seniors for the following programs for Fiscal Year 2021:  
1. Congregate Meals in the amount of \$7,500; and  
2. Home Delivered Meals in the amount of \$31,500.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400
- 7. Contract No. 32000117 Amendment: Berkeley Food & Housing Project for Administrative Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 32000117 with Berkeley Food & Housing Project (BFHP) to provide administrative services for Berkeley Mental Health (BMH) Flexible Spending Programs and the Russell Street Residence through June 30, 2021 in an amount not to exceed \$1,907,293. This will extend the existing contract by one year and add \$946,419 in funding.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400
- 8. Contract No. 10209 Amendment: Bay Area Hearing Voices Network for Hearing Voices Support Groups**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 10209 with vendor Bay Area Hearing Voices Network (BAHVN) to provide Hearing Voices Support Groups through June 30, 2021, increasing the amount of the contract by \$34,736 for a total not to exceed amount of \$103,178.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

## Consent Calendar

### 9. Local Housing Trust Fund Application

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to apply for and accept funds from the State of California's Local Housing Trust Fund program in an amount not to exceed \$5,000,000, and to apply such funds to the City's existing funding reservations for affordable housing development at 2001 Ashby Avenue and 2527 San Pablo Avenue via the City's Housing Trust Fund program.

**Financial Implications:** See report

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

### 10. Contract: Sandstone Environmental Engineering, Inc. for Aquatic Park Central Tide Tubes Maintenance Sediment Removal and Inspection Project

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the Aquatic Park Central Tide Tubes Maintenance Sediment Removal and Inspection Project (Bid Specification No. 20-11402-C); and 2. Accepting the bid of Sandstone Environmental Engineering, Inc. as the lowest responsive and responsible bidder on the Project; and 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with Sandstone Environmental Engineering, Inc., for the Aquatic Park Central Tide Tubes Maintenance Sediment Removal and Inspection Project, in an amount not to exceed \$552,862, which includes a contract amount of \$480,750 and a 15% contingency in the amount of \$72,112.

**Financial Implications:** Various Funds - \$552,862

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

### 11. Contract No. 32000114 Amendment: Redwood Engineering Construction for James Kenney Park, Picnic, and Play Area Renovation

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32000114 with Redwood Engineering, by increasing the construction contract amount by \$280,000 for a not-to-exceed amount of \$1,471,342 for the James Kenney Park, Picnic, and Play Area Renovation.

**Financial Implications:** Parks Tax Fund - \$1,471,342

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

## Consent Calendar

**12. City Consent to Declaration of Easements Between 2009 Addison and 2015 Addison**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance authorizing the City Manager to give City consent to an amended declaration of easements for safety and access between 2015 Addison Street, which is owned by the Berkeley Repertory Theater, and 2009 Addison Street, owned by the Joint Powers Financing Authority, leased by the City of Berkeley, and subleased to the Berkeley Repertory Theater.

**Financial Implications:** None

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

**13. Contract: Shaw Industries, Inc. for Civic Center Building Carpet Replacement Project**

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1. Pursuant to City Charter Article XI Section 67.2 requirements, accepting the California Multiple Award Schedule bid procedures; 2. Approving the California Multiple Award Schedule Contract with Shaw Industries, Inc. for Carpet Replacements at the Civic Center Building. 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the terms and conditions of the agreements with Shaw Industries, Inc. in an amount not to exceed \$116,635.39, which includes a contingency of \$19,439.23.

**Financial Implications:** Capital Improvement Fund - \$116,635

Contact: Phillip Harrington, Public Works, (510) 981-6300

**14. Contract No. 9730B Amendment: Fairbanks Scales, Inc. for Preventative Maintenance and Repairs on the Various Scales at the Berkeley Transfer Station**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9730B with Fairbanks Scales, Inc. for preventative maintenance and repairs on the various scales at the City's Solid Waste Management Center Transfer Station Facility to increase the contract amount by \$50,000 for a total contract amount not to exceed \$190,000, and to extend the contract term by two years to June 30, 2023.

**Financial Implications:** Zero Waste Fund - \$190,000

Contact: Phillip Harrington, Public Works, (510) 981-6300

## 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.*

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

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

### 15. Permanent Local Housing Allocation Application

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution authorizing the City Manager to apply for and accept funds from the State of California’s Permanent Local Housing Allocation program in an amount not to exceed \$7,761,504 to support local affordable housing and homeless services initiatives.

**Financial Implications:** See report

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

### 16. California Public Finance Authority Bond Financing for 1717 University Avenue

**From: City Manager**

**Recommendation:** Conduct a public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Internal Revenue Code of 1986, as amended, and upon conclusion, adopt a Resolution approving the issuance of the bonds by the California Public Finance Authority (CalPFA) for the benefit of the 1717 University Avenue rental housing development.

**Financial Implications:** See report

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

## Action Calendar – Public Hearings

**17. ZAB Appeal: 1533 Beverly Place, Administrative Use Permit #ZP2018-0153  
From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the decision of the Zoning Adjustments Board to approve Administrative Use Permit #ZP2018-0153 to enlarge an existing 1,212 square-foot, one-story single-family dwelling with a non-conforming front setback on a 4,200 square-foot lot by constructing a 1,035 square-foot addition, including a new second story that would increase the average building height from 16 feet 3½ inches to 23 feet 7½ inches, and adding a fifth bedroom, and dismiss the appeal.

**Financial Implications:** None

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

## Action Calendar

**18a. Safety for All: The George Floyd Community Safety Act - Budget Request to Hire a Consultant to Perform Police Call and Response Data Analysis**

*(Continued from June 16, 2020)*

**From: Councilmember Bartlett (Author), Mayor Arreguin (Co-Sponsor), Councilmember Harrison (Co-Sponsor)**

**Recommendation:**

1. Refer to the Thursday, 6/18/2020 Budget & Finance Policy Committee and the FY 2020-21 Budget Process the \$150,000 to: a. Hire a consultant to conduct a data-driven analysis of police calls and responses to determine the quantity and proportion of these calls that can be responded to by non-police services. The third-party consultant must be hired and engaged in work within three months of the item's passage. b. Hire a consultant to conduct an analysis of the Berkeley Police Department's budget and its expenditures by call type. The third-party consultant must be hired and engaged in work within three months of the item's passage.
2. Direct the City Manager to implement initiatives and reforms that reduce the footprint of the police department and limit the police's response to violent and criminal service calls.

**Financial Implications:** See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130



## Action Calendar

### 18b. Support Redistribution of City Resources and Operations from the Berkeley Police

**From: Councilmember Davila (Author)**

**Recommendation:** Adopt a resolution supporting Redistribution of City Resources and Operations from the Berkeley Police, and taking the following actions: 1.

Request that any function that is currently served by Berkeley Police but would be better served by trained city staff or community partners should be transferred out of the police department with all due haste 2. These functions include all non-emergency calls, mental health calls (including wellness checks), calls related to intoxication, calls related to homelessness, calls involving domestic violence, and any other calls that can be served by any other city resource, and 3. The current proposed police budget for 2021 (\$72,774,334) will be reduced by an amount of 50% (\$36,387,167) or greater and funding of community programs and non-police city agencies will be increased by a commensurate amount, and 4. Reducing the Berkeley Police Department budget by at least 50 percent will allow funding for but not limited to youth programs or community groups and programs, housing and homeless services, food security, mental health services, healthcare, creation of new city jobs, and public health services. 5. Calls involving domestic violence, homelessness, and mental health require specialized responding staff who have been trained in de-escalation and are able to provide direct services to Berkeley residents who are in crisis. The City Auditor is hereby directed to prepare a report to Council that reveals the amount of funding that will become available as a result of these reductions in police responsibilities. 6. The City Manager will identify the expertise needed for non-police responses to these calls, taking into account comparable approaches including CAHOOTS as well as existing local programs which could possibly expand with additional funding such as: the Berkeley Free Clinic, Building Opportunities for Self Sustainability (BOSS), and the Women's Daytime Drop-in Center, Consider the Homeless and others, and initiate an RFP process for community organizations to provide those services. 7. The City Manager should create a plan for a non-police hotline that can receive 911 calls and connect those calls with non-police resources as appropriate, either by expanding the 311 mandate or creating a new city agency (perhaps 811 recognizing 8 to Abolish). 8. The City Council requests the Berkeley Unified School District and all Berkeley schools. both public and private to end programs that bring police officers into the schools, and to do everything within their power to protect undocumented students and families and to safeguard their information and prevent it from being shared with from police, including ICE (Immigration and Customs Enforcement). 9. That general fund dollars are not to be expended to pay out settlements resulting from police officer negligence, brutality, or murder. Those settlements will henceforth be deducted from police department budgets. 10. That the Police Review Commission and Peace and Justice Commission are instructed to form a joint committee to annually review police responsibilities and make recommendations to the City Council regarding additional functions that could better be served by non-police staff.

**Financial Implications:** See report

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

## Action Calendar

**18c. Referral to City Manager to Re-imagine Policing Approaches to Public Safety Using a Process of Robust Community Engagement, to Develop a Path Forward to Transforming Public Safety and Policing in Berkeley**

**From: Councilmember Wengraf (Author), Councilmember Davila (Co-Sponsor)**

**Recommendation:** We must have our communities of color, particularly our African American community, at the forefront of conversations to re-imagine approaches to policing and public safety in Berkeley. The people most disparately impacted must have a vital role in the creation of new ways to enhance accountability, compassion and transparency as we move forward to address racial inequities and disparate outcomes of policing in Berkeley.

This item is an urgent referral to the City Manager to act quickly and thoughtfully in creating substantial community engagement to develop a new model for policing in Berkeley, to address racial inequities, ensure community health and safety needs are met, and to build trust within our communities of color.

This work should begin with public, transparent community forums to listen, learn and receive people's ideas about how policing should be re-imagined and transformed so that communities of color can be safer within their neighborhoods, the City of Berkeley, and trust in the Berkeley Police Department can begin to be rebuilt. The City Manager will send a list of recommendations to the full Council for review and public input.

**Financial Implications:** Staff time

Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

**18d. Transform Community Safety and Initiate a Robust Community Engagement Process**

**From: Mayor Arreguin (Author), Councilmember Hahn (Author), Councilmember Bartlett (Author), Councilmember Harrison (Author)**

**Recommendation:**

1. Adopt a Resolution expressing the City Council's commitment to:
  - a. A transformative approach to community-centered safety and reducing the scope of policing,
  - b. Equitable investment in the essential conditions of a safe and healthy community, especially for those who have been historically marginalized and have experienced disinvestment, and
  - c. A broad, inclusive community process that will result in deep and lasting change to support safety and wellbeing for all Berkeley residents.
2. Direct the City Manager to track and report progress on actions to implement this initiative, and other actions that may be identified by the Coalition and referred by Council to the City Manager. Updates shall be provided by written and verbal reports to Council and posted on a regularly updated and dedicated page on the City website.
3. Direct the City Manager to collaborate with Mayor and select Councilmembers to complete the following work, to inform investments and reallocations to be incorporated into future Budget processes:
  - a. Contract with independent subject matter experts to:
    - i. Analyze the scope of work of, and community needs addressed by, the Berkeley

## Action Calendar

Police Department, to identify a more limited role for law enforcement, and identify elements of police work that could be achieved through alternative programs, policies, systems, and community investments. Analysis should include but not be limited to: calls received by dispatch by type of complaint, stops by law enforcement generated at officer discretion (as contained in the Police Department's open data portal) or on request of other city agencies, number of officers and staff from other city agencies that respond to incidents, estimated time in response to different types of calls, daily patrol activities, organizational structure, and beat staffing. Work to include broad cost estimates of police and other city agency response to different types of calls, and other information and analysis helpful to identify elements of current police work that could be transferred to other departments or programs or achieved through alternative means. Work should be completed in time for the November 2020 Annual Appropriation Ordinance revision.

ii. Identify immediate and longer-term opportunities to shift policing resources to alternative, non-police responses and towards alternative and restorative justice models, to better meet community needs, that could be considered in the November 2020 AAO#1 budget process. Some areas to be considered include homeless outreach and services, substance abuse prevention and treatment, and mental health/crisis management, as well as alternative models for traffic and parking enforcement, "neighborhood services" and code enforcement. Provide a broad timeline and process for transitioning functions not ready for transition at this first milestone.

Deliverables should coincide with budget cycles, including the November 2020 AAO and FY 2022-2023 Budget processes, and provide a suggested timeline for transitioning functions at these and other budget opportunities, so that alternative investments may be considered for funding and launched in a timely and orderly manner.

b. Contract with independent Change Management experts to initiate and facilitate a representative Community Safety Coalition, guided by a Steering Committee, that will begin meeting no later than January 2021. The CSC and its Steering Committee should be broadly inclusive and representative of Berkeley residents and stakeholders. The Steering Committee, with the support of Change Management professionals, shall be responsible for engaging the Coalition and the broader Berkeley community and relevant City Staff in a robust process, to achieve a new and transformative model of positive, equitable and community-centered safety for Berkeley.

The work of the Coalition should include but not be limited to:

1. Building on the work of the City Council, the City Manager, the PRC and other City commissions and other working groups addressing community health and safety.
2. Research and engagement to define a holistic, anti-racist approach to community safety, including a review and analysis of emerging models, programs and practices that could be applied in Berkeley.
3. Recommend a new, community-centered safety paradigm as a foundation for deep and lasting change, grounded in the principles of Reduce, Improve and Reinvest as proposed by the National Institute for Criminal Justice Reform (Attachment 3), considering, among other things:

## Action Calendar

- a. The social determinants of health and changes required to deliver a holistic approach to community-centered safety
- b. The appropriate response to community calls for help including size, scope of operation and powers and duties of a well-trained police force.
- c. Limiting militarized weaponry and equipment.
- d. Identifying alternatives to policing and enforcement to reduce conflict, harm, and institutionalization, introduce alternative and restorative justice models, and reduce or eliminate use of fines and incarceration.
- e. Options to reduce police contacts, stops, arrests, tickets, fines and incarceration and replace these, to the greatest extent possible, with educational, community serving, restorative and other positive programs, policies and systems.
- c. The Coalition's goal/output will be a set of recommended programs, structures and initiatives to incorporate into upcoming budget processes for FY 2022-23 and, as a second phase, in the FY2024-2025 budget processes to ensure that recommended changes will be achieved. The Coalition shall return to City Council an initial plan and timeline by April 1, 2021, to ensure the first phase of changes can be incorporated into the FY2022-23 Budget Process.

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, (510) 981-7100

- 18e. BerkDOT: Reimagining Transportation for a Racially Just Future**  
**From: Councilmember Robinson (Author), Councilmember Droste (Author), Councilmember Bartlett (Author), Mayor Arreguin (Author)**  
**Recommendation:** Refer to the City Manager, the FY 2021-22 budget process, and the proposed community engagement process to reimagine public safety to pursue the creation of a Berkeley Department of Transportation (BerkDOT) to ensure a racial justice lens in traffic enforcement and the development of transportation policy, programs, & infrastructure.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 19. Animal Services Contract with the City of Piedmont** (*Continued from June 30, 2020*)  
**From: City Manager**  
**Recommendation:** Adopt a resolution authorizing the City Manager to execute a contract, with any amendments, with the City of Piedmont for animal care services for FY2021-FY2025, which increases the existing contract by up to \$180,134, with a total contract amount not to exceed \$441,984.  
**Financial Implications:** See report  
Contact: Erin Steffen, City Manager's Office, (510) 981-7000

## 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.*

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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 July 2, 2020.***

A handwritten signature in blue 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](#).*

### **Item #17: ZAB Appeal: 1533 Beverly Place, Administrative Use Permit #ZP2018-0153**

1. Igor Tregub

### **Item #18a: Safety for All: The George Floyd Community Safety Act - Budget Request to Hire a Consultant to Perform Police Call and Response Data Analysis**

2. Mary Gomes
3. Allen Kanner
4. Moni Law

### **Item #18b: Support Redistribution of City Resources and Operations from the Berkeley Police**

5. 102 identical form letters
6. 19 identical form letters
7. Annie Liu
8. Samir Doshi
9. Cheyenne Smith
10. Clara Monk
11. Lauren MacPhail
12. Madison Ordway
13. Jane Hood
14. Kristen Boney
15. Hannah Forsberg
16. Liz Combs
17. Isabelle Kavanagh
18. Gisel DeLaCerde
19. Dahlia Saba
20. Alyssa Sugarman
21. Gina Drescher
22. Andrew Mayo
23. Laurel Halvorson
24. Isabel Barbera
25. Mahader Tamene
26. Rumur Dowling
27. Maggie Camillos
28. Bailey Henderson
29. Mariah Castle
30. Rebecca Zemach-Lawler
31. Sara Bruno
32. Star Zagofsky
33. Max Ventura

34. Kate Stechschulte
35. Bill Kinder
36. Kamaile Alnas-Benson
37. Alex de Man
38. Vikram Nagarajan
39. Josie Lee
40. Knychelle Passmore
41. Marcia Ishii-Eiteman
42. Stephanie Ashton
43. Isabel Cholbi
44. Christine Garibian
45. MacKenzie Moore
46. Dan B
47. L. Darlene Pratt
48. Linda Walls
49. Dani Rozman
50. Jem Campbell
51. Gabriella Villegas
52. Eisa Al-Shamma
53. Samantha Whitty
54. Henderson Peterzell
55. Jackson Torres
56. Morgan Hubbard
57. Katie Wilson
58. Sukhmony Brar
59. Stephanie Schaudel
60. Uma Channer
61. Erika Hsu
62. Lorena Grundy
63. Sander Mack-Crane
64. Andrea Ikeda
65. Nate Bohm-Levine
66. Amy Reavis
67. Virginia Lyon
68. Miranda Mammen
69. Andres Navarro
70. May Lim
71. Garrett Shishido Strain
72. Melanie Abrams
73. Jacob Wolbert
74. Nicole Teixeira
75. Alison Lafferty
76. Naima Karczmar
77. Beebe Sanders
78. Anasuya Lyons
79. Michelle Braasch-Carman

80. Michele Foletta
81. Anthony Abel
82. Christopher Geary
83. Paige Hval
84. Kerby Lynch
85. Butch Brood
86. Helena von Nagy
87. Erin Silk
88. Rebeca Willis-Conger
89. Julia Bleier
90. Rianna Modi
91. Carly Feldman
92. Mia Redmond
93. Colin Barber
94. Opal
95. Emily Bronston-Joseph
96. Sara Fread
97. Yael Platt
98. Michelle Yiu
99. Emily Robbins
100. Jill Buckey
101. Sarah Bancroft
102. Milea Stauber
103. Natasha Geiling
104. Melissa Gomes
105. Aaron Goldstein
106. Joey Flegel-Mishlove
107. Kira Findling
108. Zach Carter
109. Nicholas Rio
110. Maize Cline
111. Ace Chen
112. Rachael
113. Suna Tamang
114. Kristin Nelson
115. Kyra Fleischman
116. Karen Shimoda
117. Kelly Shimoda
118. Anan Collymore
119. Michael Foulk
120. Melissa Gomes
121. Eli Conley
122. Allegra Mayer
123. Ian Buddy
124. Katie Knapp
125. Eliza Macy



- 126. Serina Jensen
- 127. Sonia Mistry
- 128. Maddison Pilgrim
- 129. Catherine McNelley
- 130. Chase La Piana
- 131. Anna McFall
- 132. Rico Chenyek
- 133. Ralph Leano Atanacio

#### **Covid-19**

- 134. Nadia Nashashibi
- 135. Joe Greaves, on behalf of the Alameda-Contra Costa Medical Association
- 136. Vicki Young
- 137. Thomas Lord
- 138. David Lerman

#### **Commissions**

- 139. Igor Tregub, on behalf of the Peace and Justice Commission
- 140. Lisa Bullwinkel

#### **ADU and Golden Duplex**

- 141. Jo Ann Driscoll

#### **Mini-Grants for West Berkeley Projects**

- 142. Lawrence Grown, on behalf of the West Berkeley Design Group

#### **Rename Bancroft Way**

- 143. Sean Peterson

#### **Public Comments**

- 144. Mark Numainville, City Clerk

#### **Fireworks**

- 145. Jolie

#### **5G**

- 146. Wisteria

#### **Policing Matters**

- 147. Ben Gerhardstein, on behalf of Walk Bike Berkeley
- 148. Genevieve Wilson
- 149. Holly Scheider (2)
- 150. Erwan Illian
- 151. Rebecca Weinstein
- 152. George Lippman
- 153. Russbumper (2)

**Spokes Bike Lounge**

- 154. Maya Wolf
- 155. Michael Golub
- 156. Paul Hainsworth
- 157. Meredith Nielsen
- 158. Jonathan Balaban
- 159. Tom Lent

**Brown Girls Climbing**

- 160. Ariel Winger

**Alameda County Transportation Authority – Divert \$400,000,000**

- 161. Gerald Cauthen, on behalf of Bay Area Transportation Working Group

**Rent Board**

- 162. Andrew Marowitz (2)

**Budget**

- 163. Kathryn Reasoner
- 164. Michelle Mascarenhas
- 165. Sammy Wess
- 166. Malcolm Margolin, on behalf of the California Institute for Community, Art and Nature
- 167. Rucha Kelkar
- 168. Oliver Katz
- 169. Claire Greensfelder
- 170. Lauren Hughes

**1921 Walnut Street**

- 171. Mayor Jesse Arreguin
- 172. Carol Christ, Chancellor of University of California at Berkeley

**Rent Increases**

- 173. Abderazak Mehdhkour
- 174. Steven Christopher
- 175. Tony Benado

**Berkeley Town Square Proposal**

- 176. Kate Stechschulte
- 177. Councilmember Hahn

**Bike Lanes on Ashby**

- 178. Clay Miller

## **Supplemental Communications and Reports**

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

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



ORDINANCE NO. 7,721-N.S.

SETTING THE FISCAL YEAR 2021 SPECIAL TAX RATE TO FUND FIRE PROTECTION AND EMERGENCY RESPONSE AND PREPAREDNESS (MEASURE GG) IN THE CITY OF BERKELEY

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

Section 1. The FY 2021 Tax Rate for the Fire Protection and Emergency Response and Preparedness (Measure GG) is set at:

- \$0.05818 per square foot of improvements for dwellings
- \$0.08804 per square foot of improvements for all other properties

Section 2. The cost to taxpayers during FY 2021 will be \$69.81 for a 1,200 square foot dwelling and \$174.54 for a 3,000 square foot dwelling.

Section 3. This tax rate will result in estimated total collections of \$5,210,740.

Section 4. The tax imposed by this ordinance does not apply to any property owner whose total personal income, from all sources for the previous calendar year, does not exceed that level which shall constitute a very low income, as established by resolution of City Council.

Section 5. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 30, 2020, this Ordinance was passed to print and ordered published by posting by the following vote:

- Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.
- Noes: None.
- Absent: None.



ORDINANCE NO. 7,722–N.S

AMENDING BERKELEY MUNICIPAL CODE (BMC) CHAPTER 14.62 (CAR SHARING) TO RENAME ONE-WAY CAR SHARE TO ONE-WAY VEHICLE SHARE AND TO DELETE OBSOLETE REFERENCES TO USE OF PARKING STICKERS AFFIXED TO PARTICIPATING VEHICLES

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

Section 1. That Berkeley Municipal Code Chapter 14.62 is amended to read as follows:

**Chapter 14.62  
VEHICLE SHARING**

Sections:

- 14.62.010 Findings and purpose.
- 14.62.020 Definitions.
- 14.62.030 Term.
- 14.62.040 Permit parking exemption.
- 14.62.050 Free-floating parking permit.
- 14.62.060 Master residential parking permit.
- 14.62.070 One-way vehicle share parking zone.
- 14.62.080 Modification after initial designation of one-way vehicle share parking zone.
- 14.62.090 Issuance of parking permits.
- 14.62.100 Parking permit fees.
- 14.62.110 Suspension or revocation.
- 14.62.120 Penalties, liability and enforcement

**14.62.010 Findings and purpose.**

The Council finds that the use of vehicle sharing within Berkeley has numerous benefits, including improved mobility for residents, reduced personal vehicle ownership and vehicle miles traveled and overall reduction in greenhouse gas emissions. The purpose of this Chapter is to facilitate vehicle sharing within Berkeley by establishing a program under which permitted one-way vehicle share vehicles may park in metered and unmetered spaces in which parking is allowed for up to two hours or longer. (Ord. 7508-NS § 1 (part), 2016)

**14.62.020 Definitions.**

- A. "Vehicle sharing" means a membership-based service, available to all licensed drivers, who meet the vehicle sharing organization’s eligibility requirements, which offers members access to a network of vehicles, 24 hours per day, 7 days a week, at self-service locations and allows members to reserve and use a one-way vehicle share vehicle without a separate written agreement, at rates that are proportional to usage.
- B. "One-way vehicle sharing" means a vehicle sharing model that allows members to pick up a vehicle from one location and drop it off at a different location within a

defined geographic area, as specified by the qualified car share organization that operates that vehicle.

- C. "Vehicle share organization" means an entity that provides shared-use vehicles for its members at geographically distributed locations at hourly, daily and weekly rates (or fractions thereof) with insurance coverage provided by the vehicle share organization. The Public Works Department will maintain the criteria necessary to become a qualified vehicle share organization. The Public Works Department will compile a list of qualified vehicle share organizations entitled to apply for one-way vehicle share permits. The Public Works Director or their designee may make changes to these criteria at any time.
- D. "One-way vehicle share vehicle" means a vehicle requiring a driver's license to operate it, (including, but not limited to, passenger cars, motorized sit scooters, and motorcycles) owned and operated by a qualified vehicle share organization that is clearly and distinctly branded, is constantly tracked through Global Positioning System ("GPS"), and is technologically-enabled to allow members to pick up a vehicle from one location and drop it off at a different location within a defined geographic area, as specified by the vehicle share organization.
- E. "Qualified vehicle share organization" is a vehicle share organization that has a fleet of at least twenty one-way vehicles for member use.
- F. "One-way car vehicle parking zone" is the area agreed upon by the qualified vehicle share organization permit holder and the Public Works Department, which bounds the geographic area where one-way vehicle share members may legally park one-way vehicle share vehicles within Berkeley. (Ord. 7508-NS § 1 (part), 2016)

**14.62.030 Term.**

Reserved. (Ord. 7653-NS § 1 (part), 2019; Ord. 7508-NS § 1 (part), 2016)

**14.62.040 Permit parking exemption.**

- A. A one-way vehicle share vehicle with a free-floating parking permit, parked at metered parking spaces in which parking is allowed for up to two hours or longer, that is located within the company's defined one-way vehicle share parking zone, shall be exempt from the provisions stated in Chapter 14.52, which regulate the parking or standing of vehicles, which includes time limits enforced at inoperable parking meters and pay-and-display stations except that it may not remain parked at the same location for more than 72 hours.
- B. A one-way vehicle share vehicle with a master residential parking permit shall be permitted to stand or be parked in any of the residential permit parking areas established pursuant to Chapter 14.72 Preferential Parking Program with the same rights and restrictions as RPP holders. (Ord. 7508-NS § 1 (part), 2016)

**14.62.050 Free-floating parking permit.**

- A. A free-floating parking permit entitles qualified vehicle share organization members to park one-way vehicle share vehicles in metered and unmetered spaces in which parking is allowed for up to two hours or longer, for up to 72 hours within the designated free-floating zone.



- B. This Chapter shall not exempt a member of a vehicle share organization or qualified vehicle share organization from any other traffic controls and regulations. (Ord. 7508-NS § 1 (part), 2016)

**14.62.060 Master residential parking permit.**

- A. A master residential parking permit entitles qualified vehicle share organization members to park one-way vehicle share vehicles in a residential parking permit area as if the member had a residential parking permit for that zone as designated by chapter 14.72.050, even if the member is not a resident or employee within that zone.
- B. The master residential parking permit does not guarantee or reserve a parking space for the member of the vehicle share organization.
- C. This Chapter shall not exempt a member of a vehicle share organization or qualified vehicle share organization from any other traffic controls and regulations. (Ord. 7508-NS § 1 (part), 2016)

**14.62.070 One-way vehicle share parking zone.**

The one-way vehicle share parking zone boundaries will be established by a qualified vehicle share organization in consultation with the Public Works Department. Current and updated maps of one-way vehicle share parking zones will be publicly available on the City of Berkeley's website. The GPS coordinates of one-way vehicle share parking zones shall be programmed into the navigation equipment of those vehicles in order to alert members using those vehicles where parking is permitted. Qualified vehicle share organizations shall notify their members of any modifications to the one-way vehicle share parking zones applicable to their vehicles at least three days prior to such modification. (Ord. 7508-NS § 1 (part), 2016)

**14.62.080 Modification after initial designation of one-way vehicle share parking zone.**

A qualified vehicle share organization may request up to four modifications to the one-way vehicle share parking boundary zone during the term of the parking permit. Application for such modifications shall be made to the Public Works Department. (Ord. 7508-NS § 1 (part), 2016)

**14.62.090 Issuance of parking permits.**

- A. Free-floating parking permits shall be issued by the Public Works Department in accordance with requirements set forth in this chapter.
- B. Master residential parking permits shall be issued by the Public Works Department in accordance with requirements set forth in this chapter.
- C. A vehicle share organization applying for parking permits shall provide the license plate numbers for the one-way vehicle share vehicles for which permits are sought to the Public Works Department.
- D. The Public Works Department shall issue the permits with a maximum term of one year. Permits can be granted quarterly each year through the end of the City's fiscal year.

- E. A vehicle share organization can apply for up to 700 parking permits to be used on vehicle share vehicles based within fifty miles of the Berkeley city limits. A vehicle share organization may alternatively apply for up to 500 parking permits to be used on vehicles based within fifty miles of the Berkeley city limits plus up to 300 parking permits for vehicles based more than fifty miles from the Berkeley city limits. The Public Works Department will review the quantity of parking permits requested by the vehicle share organization to balance the parking needs of the vehicle share organization with the on-street parking needs of private residents and employees.
- F. Any free-floating and master residential parking permits which are renewed shall be subject to the same conditions applicable to the permits when originally issued. The Public Works Department may attach additional conditions to a renewed permit.
- G. The Public Works Department shall issue rules and regulations consistent with this Chapter governing issuance and display of proof that a one-way vehicle share vehicle is owned by a qualified vehicle share organization with a valid free-floating and/or master residential parking permit. (Ord. 7653-NS § 2, 2019; Ord. 7508-NS § 1 (part), 2016)

**14.62.100 Parking permit fees.**

- A. Fees for master residential parking permits and free-floating parking permits, and for the implementation and administration of this Chapter may be adopted by resolution of the City Council. (Ord. 7508-NS § 1 (part), 2016)

**14.62.110 Suspension or revocation.**

- A. The City may suspend or revoke the status of any qualified vehicle share organization for any violation of the provisions of this Chapter or regulations promulgated to implement this Chapter. During the time that the permit is suspended or revoked, it shall be unlawful for the vehicle share organization to exercise any of the rights granted under this Chapter.
- B. The permit holder shall be entitled to appeal the City's decision to suspend or revoke its permit by filing a written notice of appeal with the City Manager within ten days from the date the notice of suspension or revocation is mailed.
  - a. The appeal shall clearly and concisely set forth the grounds upon which it is based.
  - b. If the permit holder files a timely request for appeal, a hearing shall be held before the City Manager or their designee. The decision of the City Manager or their designee shall be final.
- C. Pending the appeal hearing it shall be unlawful for the permit holder to exercise its rights under this Chapter. (Ord. 7508-NS § 1 (part), 2016)

**14.62.120 Penalties, liability and enforcement.**

- A. Every person who violates any provision of this chapter may be subject to administrative citations pursuant to Chapter 1.28.
- B. Each violation of this chapter and each day of violation of this chapter shall be considered a separate and distinct violation thereof and the imposition of a penalty

shall be as set forth in subsection A of this section for each and every separate violation and each and every day of violation. (Ord. 7508-NS § 1 (part), 2016)

Section 2: Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 30, 2020, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Abstain: Davila and Hahn.

Absent: None.



## ORDINANCE NO. 7,723-N.S.

AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT RELATED TO  
PUBLIC FINANCING FOR CAMPAIGNS

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

Section 1. That Berkeley Municipal Code Section 2.12.500 is amended to read as follows:

**2.12.500 Eligibility for Fair Elections campaign funding.**

A. To be eligible to be certified as a participating candidate, a candidate must:

1) During the qualifying period for the election involved, choose to participate in the Fair Elections program by filing with the City a written application for certification as a participating candidate in such form as may be prescribed by the Commission, containing the identity of the candidate, the office that the candidate seeks, and the candidate's signature, under penalty of perjury, certifying that:

a) The candidate has complied with the restrictions of this chapter during the election cycle to date;

b) The candidate's campaign committee has filed all campaign finance reports required by law during the election cycle to date and that they are complete and accurate; and

c) The candidate will comply with the requirements of this Act during the remainder of the election cycle and, specifically, if certified an eligible participating candidate, will comply with the requirements applicable to participating candidates.

2) Meet all requirements to be eligible to hold the office of Mayor or Councilmember as set forth in Sections 9 and 10 of Article V of the Charter of the City of Berkeley;

3) Before the close of the qualifying period, collect and submit at least 30 qualified contributions, from at least 30 unique contributors, of at least ten dollars (\$10), for a total dollar amount of at least five-hundred dollars (\$500).

a) Each qualified contribution shall be acknowledged by a receipt to the contributor, with a copy retained by the candidate. The receipt shall include the contributor's signature, printed name, home address, and telephone number, if any, and the name of the candidate on whose behalf the contribution is made. In addition, the receipt shall indicate by the contributor's signature that the contributor understands that the purpose of the qualified contribution is to help

the candidate qualify for Fair Elections campaign funding and that the contribution is made without coercion or reimbursement.

- b) A contribution for which a candidate has not obtained a signed and fully completed receipt shall not be counted as a qualified contribution.
- 4) Maintain such records of receipts and expenditures as required by the Commission;
- 5) Obtain and furnish to the Commission or City staff any information they may request relating to his or her campaign expenditures or contributions and furnish such documentation and other proof of compliance with this chapter as may be requested by such Commission or City staff;
- 6) Not make expenditures from or use his or her personal funds or funds jointly held with his or her spouse, domestic partner, or unemancipated children in connection with his or her election except as a monetary or non-monetary contribution to his or her controlled committee of \$250 or less. Contributions from a participating candidate to his or her own controlled committee are not eligible for matching funds.
- 7) Not accept contributions in connection with the election for which Fair Elections funds are sought other than qualified contributions, contributions not greater than fifty dollars (\$50) made by a natural person non-resident of Berkeley, or non-monetary contributions with a fair market value not greater than fifty dollars (\$50). The aggregate value of all contributions from any individual must not be greater than fifty dollars (\$50);
- 8) Not solicit or direct contributions in connection with any election during the election cycle in which Fair Elections funds are sought other than qualified contributions, contributions not greater than fifty dollars (\$50) made by a natural person non-resident of Berkeley, or non-monetary contributions with fair market value not greater than fifty dollars (\$50) to such candidate's controlled committee.
- 9) Not accept loans from any source.
- 10) The City has the authority to approve a candidate's application for public financing, despite a violation by the candidate related to participation and qualification in the public financing program, if the violation is minor in scope and the candidate demonstrates a timely, good-faith effort to remedy the violation. The Commission shall adopt regulations setting forth guidelines for what constitutes a minor violation under this provision.

B. At the earliest practicable time after a candidate files with the City a written application for certification as a participating candidate, the City shall certify that the candidate is or is not eligible. Eligibility can be revoked if the Commission determines that

a candidate has committed a substantial violation of the requirements of this Act, in which case all Fair Elections funds shall be repaid.

C. At the discretion of the Commission or at the applying candidate's request, the City's denial of eligibility is subject to review by the Commission. The Commission's determination is final except that it is subject to a prompt judicial review pursuant to Section 2.12.235.

D. If the City or Commission determines that a candidate is not eligible, the candidate is not required to comply with provisions of this Act applicable only to participating candidates.

Section 2. That Berkeley Municipal Code Section 2.12.505 is amended to read as follows:

**2.12.505 Fair Elections fund payments.**

A. A candidate who is certified as an eligible participating candidate shall receive payment of Fair Elections funds equal to six-hundred percent (600 percent) of the amount of qualified contributions received by the candidate during the election cycle with respect to a single election subject to the aggregate limit on the total amount of Fair Elections funds payments to a candidate specified in Section 2.12.505.B.

B. The aggregate amount of Fair Elections funds payments that may be made to a participating candidate during an election cycle may not exceed:

- 1) \$120,000 for a candidate running for the office of Mayor;
- 2) \$40,000 for a candidate running for the office of City Council.

C. A participating candidate's application for Fair Elections funds, including an initial request submitted with an application for certification as a participating candidate, shall be made using a form prescribed by the Commission and shall be accompanied by qualified contribution receipts and any other information the Commission deems necessary. This application shall be accompanied by a signed statement from the candidate indicating that all information on the qualified contribution receipts is complete and accurate to the best of the candidate's knowledge.

- 1) All Qualified Contributions, of any dollar amount, eligible for matching Fair Elections funds must be publically disclosed with the contributor information required under Sections 2.12.280 and 2.12.283.
- 2) All campaign filings must be current in order for a Participating Candidate to receive a disbursement of Fair Elections funds and the Participating Candidate and a Participating Candidate's controlled committee must not have any outstanding

finances related to campaign filings or violations of municipal, state or federal election law. All applications for Fair Elections funds shall include a certification by the Participating Candidate that the Participating Candidate or his or her controlled committee does not have any outstanding fines or penalties related to campaign filings. Upon submission of outstanding campaign filings and payment of any outstanding fines, withheld Fair Elections funds will be disbursed at the next regularly scheduled distribution for that election cycle.

D. The City shall verify that a candidate's qualified contributions meet all of the requirements and restrictions of this Act prior to the disbursement of Fair Elections funds to the candidate. A participating candidate who receives a qualified contribution that is not from the person listed on the qualified contribution receipt shall be liable to pay the Fair Elections Fund the entire amount of the inaccurately identified contribution, in addition to any penalties.

E. The City shall make an initial payment of Fair Elections funds within seven business days of the City's certification of a participating candidate's eligibility, or as soon thereafter as is practicable. City staff shall report a certification or denial to the Commission no later than the Commission's next regular meeting, consistent with the Brown Act.

F. The Commission shall establish a schedule for the submission of Fair Elections funds payment requests, permitting a candidate to submit a Fair Elections funds payment request at least once per month. However, the Commission shall schedule a minimum of three payment request submission dates within the thirty days prior to an election.

G. The City shall provide each participating candidate with a written determination specifying the basis for any non-payment of Fair Elections funds. The Commission shall provide participating candidates with a process by which they may immediately upon receipt of such determination petition the Commission for reconsideration of any such non-payment and such reconsideration shall occur within seven business days of the filing of such petition. In the event that the Commission denies such petition then it shall immediately notify the candidate of his or her right to seek judicial review of the Commission's denial pursuant to Section 2.12.235.

H. Unspent funds of any Participating Candidate who does not remain a candidate until the election for which they were distributed, or such funds that remain unspent by a Participating Candidate following the date of the election for which they were distributed shall be deposited into the Fair Elections Fund. A Participating Candidate shall deposit all unspent funds into the Fair Elections Fund, up to the total amount of funds that the Participating Candidate received as Fair Elections Fund distributions in that election cycle, within sixty (60) days after the date of the election.



At a regular meeting of the Council of the City of Berkeley held on June 30, 2020, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: None.



## ORDINANCE NO. 7,724-N.S.

ADOPTING THE ANNUAL APPROPRIATIONS ORDINANCE BASED ON THE ADOPTED BUDGET FOR FISCAL YEAR 2021 AS PROPOSED BY THE CITY MANAGER AND PASSED BY THE CITY COUNCIL

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

Section 1. That the Annual Appropriations Ordinance based on the budget for FY 2021 submitted by the City Manager and passed by the City Council be adopted as follows and as summarized in Exhibit A:

|                                                |                    |
|------------------------------------------------|--------------------|
| A. General Fund (Funds 001-099)                | 211,186,604        |
| B. Special Funds ( Funds 100-199)              | 84,885,214         |
| C. Grant Funds (Funds 300-399)                 | 29,972,643         |
| D. Capital Projects Funds (Funds 500-550)      | 17,221,583         |
| E. Debt Service Fund (Funds 551-599)           | 9,777,705          |
| F. Enterprise Funds (Funds 600-669)            | 127,429,541        |
| G. Internal Service Funds (Funds 146, 670-699) | 41,965,422         |
| H. Successor Agency (Funds 760-769)            | 57,120             |
| I. Agency Funds (Funds 771-799)                | 4,726,478          |
| J. Other Funds (Funds 800-899)                 | 6,096,209          |
| <u>K. Total</u>                                |                    |
| Total General Fund                             | 211,186,604        |
| Add: Total Other Than General Fund             | 322,131,915        |
| <b>Gross Revenue Appropriated</b>              | <b>533,318,519</b> |
| Less: Dual Appropriations                      | -43,650,640        |
| Less: Revolving/Internal Service Funds         | -41,965,422        |
| <b>Net Revenue Appropriated</b>                | <b>447,702,457</b> |

Section 2. The City Manager is hereby permitted, without further authority from the City Council, to make the following transfers by giving written notice to the Director of Finance:

- a. From the General Fund to the General Fund – Stability Reserve Fund; Catastrophic Reserve Fund; Paramedic Tax Fund; Health State Aid Realignment; Fair Election Fund; Capital Improvement Fund; Phone System Replacement; Equipment Replacement Fund; Public Liability Fund; Catastrophic Loss Fund; Police Employee Retiree Health Assistance Plan; Safety Members Pension Fund; and Sick Leave Entitlement Fund.
- b. To the General Fund from the General Fund – Stability Reserves Fund; Catastrophic Reserves Fund; Community Development Block Grant Fund; Street Lighting Assessment District Fund; Zero Waste Fund; Marina Operations and Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Unified Program (CUPA); IT Cost Allocation Fund; and Health State Aid Realignment Fund.
- c. To the First Source Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- d. From UC Settlement Fund to General Fund and Clean Storm Water Fund.
- e. From Capital Improvement Fund to PERS Savings Fund; Berkeley Repertory Theater Fund; and 2010 COP (Animal Shelter) Fund.
- f. To the Public Art Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- g. To CFD#1 District Fire Protection Bond (Measure Q) from Special Tax Bonds CFD#1 ML-ROOS.
- h. To Private Sewer Lateral Fund from Sanitary Sewer Operation Fund.
- i. To Catastrophic Loss Fund from Permit Service Center Fund.
- j. To Catastrophic Loss Fund from Unified Program (CUPA) Fund.
- k. To the Building Purchases and Management Fund from General Fund; Health (General) Fund; Rental Housing Safety Program Fund; Measure B Local Streets & Road Fund; Employee Training Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Health State Aide Realignment Trust Fund.
- l. To Equipment Replacement Fund from General Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation

Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.

- m. To the Equipment Maintenance Fund from General Fund; Health (General) Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Library - Discretionary Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; FEMA Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.
- n. To the Building Maintenance Fund from the General Fund; Health (General) Fund; Health (Short/Doyle) Fund; Measure B Local Street & Road Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Mental Health State Aid Realignment Fund.
- o. To the Central Services Fund from the General Fund; First Source Fund; Health (Short/Doyle) Fund; Library-Discretionary Fund; Playground Camp Fund; Rent Stabilization Board Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Mental Health State Aid Realignment Fund.
- p. To Information Technology Cost Allocation Plan Fund from General Fund; Target Case Management/Linkages Fund; Health (Short/Doyle); Library Fund; Playground Camp Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Equipment Maintenance Fund; Building Maintenance Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; and Mental Health State Aid Realignment Fund.
- q. To the Workers' Compensation Self-Insurance Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax

Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

- r. To the Sick Leave and Vacation Leave Accrual Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina

Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

- s. To the Payroll Deduction Trust Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUNDS\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 30, 2020, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: None.



**Attachment for Annual Appropriations Ordinance - Fiscal Year 2021****REVOLVING FUNDS/INTERNAL SERVICE FUNDS**

Appropriations are identified with revolving and internal service funds. Such funds derive revenue by virtue of payment from other fund sources as benefits are received by such funds, and the total is reflected in the "Less Revolving Funds and Internal Service Funds" in item I. The funds are:

**Revolving/Internal Service Funds**

|                                           |               |
|-------------------------------------------|---------------|
| Employee Training Fund                    | 1,231,292     |
| Equipment Replacement Fund                | 5,415,733     |
| Equipment Maintenance Fund                | 7,926,789     |
| Building Maintenance Fund                 | 4,304,795     |
| Central Services Fund                     | 384,569       |
| Workers' Compensation Fund                | 6,422,651     |
| Public Liability Fund                     | 1,922,551     |
| Information Technology Fund               | 14,357,042    |
| Subtotal Revolving/Internal Service Funds | \$ 41,965,422 |

**DUAL APPROPRIATIONS - WORKING BUDGET**

Dual appropriations are identified with revenues generated by one fund and transferred to another fund. Both funds are credited with the applicable revenue, and the total is reflected in the "Less Dual Appropriations" in item I. The dual appropriations are:

## Transfers to the General Fund

|                                       |              |
|---------------------------------------|--------------|
| <u>Indirect Cost Reimbursement</u>    |              |
| CDBG Fund                             | 143,373      |
| Street Light Assessment District Fund | 115,865      |
| Zero Waste Fund                       | 2,326,015    |
| Marina Enterprise Fund                | 415,427      |
| Sanitary Sewer Fund                   | 1,071,882    |
| Clean Storm Water Fund                | 252,015      |
| Permit Service Center Fund            | 1,874,805    |
| Unified Program (CUPA) Fund           | 87,242       |
| Subtotal Transfers to General Fund:   | \$ 6,286,624 |

|                                                                                               |                      |
|-----------------------------------------------------------------------------------------------|----------------------|
| Transfer to Safety Members Pension Fund from General Fund                                     | 551,804              |
| Transfer to Measure U1 Fund from General Fund                                                 | 3,575,390            |
| Transfer to Paramedic Tax Fund from General Fund                                              | 703,103              |
| Transfer to Health State Aid Realignment from General Fund                                    | 1,953,018            |
| Transfer to Fair Election Fund from General Fund                                              | 501,833              |
| Transfer to Capital Improvement Fund (CIP) from General Fund                                  | 5,100,905            |
| Transfer to Phone System Replacement - VOIP from General Fund                                 | 160,000              |
| Transfer to Equipment Replacement Fund from General Fund                                      |                      |
| Transfer to Public Liability Fund from General Fund                                           | 1,695,888            |
| Transfer to Catastrophic Loss Fund from General Fund                                          | 2,295,334            |
| Transfer to IT Cost Allocation Fund from General Fund                                         | 431,802              |
| Transfer to Police Employee Retiree Health Assistance Plan from General Fund                  | 400,136              |
| Transfer to Sick Leave Entitlement Fund from General Fund                                     | 201,501              |
| Transfer to General Fund from General Fund Stabilization Reserves Fund                        | 6,900,000            |
| Transfer to General Fund from General Fund Catastrophic Reserves Fund                         | 4,500,000            |
| Transfer to General Fund from UC Settlement Fund                                              | 907,554              |
| Transfer to Clean Storm Water Fund from UC Settlement Fund                                    | 302,519              |
| Transfer to General Fund from Health State Aid Realignment Fund                               | 2,643,280            |
| Transfer from CIP Fund to PERS Savings Fund                                                   | 151,632              |
| Transfer to Berkeley Repertory Theater Debt Service Fund from CIP Fund                        | 499,802              |
| Transfer from CIP Fund to 2010 COP (Animal Shelter) Fund                                      | 402,613              |
| Transfer to Private Sewer Lateral Fund from Sewer Fund                                        | 90,501               |
| Transfer to Catastrophic Loss Fund from Permit Service Center Fund                            | 50,555               |
| Transfer to Catastrophic Loss Fund from Unified Program (CUPA) Fund                           | 5,082                |
| Transfer to General Fund from Parking Meter Fund                                              | 1,742,288            |
| Transfer to General Fund from IT Cost Allocation Fund                                         | 1,037,439            |
| Transfer from Special Tax Bonds CFD#1 ML-ROOS to CFD#1 District Fire Protect Bond (Measure Q) | 452,759              |
| Transfer to First Source Fund from Parks Tax Fund                                             | 14,093               |
| Transfer to First Source Fund from Capital Improvement Fund                                   | 26,943               |
| Transfer to First Source Fund from Marina Fund                                                | 1,875                |
| Transfer to Public Art Fund from Parks Tax Fund                                               | 21,140               |
| Transfer to Public Art Fund from Capital Improvement Fund                                     | 40,414               |
| Transfer to Public Art Fund from Marina Fund                                                  | 2,813                |
| Subtotal Transfers to Other Funds:                                                            | <u>37,364,016</u>    |
| Sub-Total Dual Appropriations                                                                 | <u>\$ 43,650,640</u> |
| <b>Grand Total Dual Appropriations</b>                                                        | <b>\$ 85,616,062</b> |

## SUMMARY OF APPROPRIATIONS BY FUND

| <b>FUND\$</b> | <b>ERMA</b>                              | <b>FY 2021</b> |
|---------------|------------------------------------------|----------------|
| <b>Fund #</b> | <b>Fund # Fund</b>                       | <b>Adopted</b> |
| 10            | 11 General Fund Discretionary            | 194,718,710    |
| 7             | 16 Measure U1 - Housing                  | 5,067,894      |
| 8             | 98 General Fund - Stabilization Reserves | 6,900,000      |
| 9             | 99 General Fund - Catastrophic Reserves  | 4,500,000      |
| 301           | 101 Library - Tax                        | 21,567,259     |
| 304           | 103 Library - Grants                     | 64,089         |
| 306           | 104 Library - Friends & Gift             | 150,000        |
| 307           | 105 Library - Foundation                 | 100,000        |
| 14            | 106 Asset Forfeiture                     | 201,000        |
| 18            | 107 Special Tax Measure E                | 1,361,402      |
| 23            | 108 First Source Fund                    | 48,083         |
| 48            | 110 Sec 108 Loan Gty Asst.               | 553,408        |
| 89            | 111 Fund Raising Activities              | 53,557         |
| 111           | 113 Sports Field (Vendor Oper)           | 189,807        |
| 139           | 115 Animal Shelter                       | 52,480         |
| 160           | 116 Paramedic Tax                        | 4,223,699      |
| 231           | 119 Domestic Violence Prev - Vit Stat    | 26,462         |
| 249           | 120 Affordable Housing Mitigation        | 49,690         |
| 251           | 121 Affordable Child Care                | 13,275         |
| 254           | 122 Inclusionary Housing Program         | 148,044        |
| 258           | 123 Condo Conversion                     | 37,520         |
| 330           | 125 Playground Camp                      | 1,982,688      |
| 367           | 126 State-Prop 172 Pub.Safety            | 929,177        |
| 369           | 127 State Transportation Tax             | 6,041,284      |
| 370           | 128 CDBG                                 | 2,580,144      |
| 375           | 129 Rental Housing Safety Program        | 1,893,929      |
| 391           | 130 Measure B - Local St & Road          | 4,112,067      |
| 392           | 131 Measure B - Bike and Pedestrian      | 578,279        |
| 393           | 132 Measure B - Paratransit              | 490,125        |
| 397           | 133 Measure F Alameda County VRF St & Rd | 799,084        |
| 406           | 134 Measure BB - Local St & Road         | 4,651,014      |
| 407           | 135 Measure BB - Bike & Pedestrian       | 493,297        |
| 408           | 136 Measure BB - Paratransit             | 387,847        |
| 450           | 138 Parks Tax                            | 14,311,368     |
| 456           | 140 Measure GG - Fire Prep Tax           | 4,828,024      |
| 470           | 142 Streetlight Assesment District       | 2,684,633      |
| 480           | 143 Berkeley Bus Ec Dev                  | 156,387        |
| 485           | 145 Bayer (Miles Lab)                    | 8,500          |
| 488           | 146 Employee Training                    | 774,643        |
| 489           | 147 UC Settlement                        | 1,231,292      |
| 493           | 148 Private Percent - Art Fund           | 22,380         |
| 642           | 149 Private Party Sidewalks              | 100,000        |
| 657           | 150 Public Art Fund                      | 64,367         |
| 922           | 152 Vital & Health Statistics Trust Fund | 29,893         |
| 958           | 156 Hlth State Aid Realign Trust         | 4,010,244      |
| 959           | 157 Tobacco Cont.Trust                   | 334,284        |

## SUMMARY OF APPROPRIATIONS BY FUND

| <b>FUND\$</b> | <b>ERMA</b>                                 | <b>FY 2021</b> |
|---------------|---------------------------------------------|----------------|
| <b>Fund #</b> | <b>Fund # Fund</b>                          | <b>Adopted</b> |
| 960           | 158 Mental Health State Aid Realign         | 2,921,175      |
| 961           | 159 Citizens Option Public Safety Trust     | 258,921        |
| 964           | 161 Alameda Cty Abandoned Vehicle Abatement | 99,852         |
| 412           | 165 Fair Elections                          | 501,833        |
| 17            | 309 OTS DUI Enforcement Education Prg.      | 129,500        |
| 40            | 310 HUD/Home                                | 651,399        |
| 45            | 311 ESGP                                    | 568,086        |
| 55            | 312 Health (General)                        | 2,257,061      |
| 56            | 313 Target Case Management Linkages         | 869,706        |
| 61            | 314 Alameda County Tay Tip                  | 35,812         |
| 63            | 315 Mental Health Service Act               | 9,018,458      |
| 65            | 316 Health (Short/Doyle)                    | 3,823,059      |
| 66            | 317 EPSDT Expansion Proposal                | 386,235        |
| 72            | 318 Alcoholic Bev Ctr OTS/UC                | 52,804         |
| 80            | 319 Youth Lunch                             | 101,900        |
| 85            | 320 Sr. Nutrition Title III                 | 104,516        |
| 86            | 321 CFP Title X                             | 142,813        |
| 134           | 324 BUSD Grant                              | 310,992        |
| 150           | 325 Vector Control                          | 328,281        |
| 165           | 326 Alameda County Grants                   | 650,225        |
| 175           | 327 Senior Supportive Social Services       | 55,720         |
| 178           | 328 Family Care Support Program             | 68,254         |
| 181           | 329 CA Integrated Waste Management          | 5,244          |
| 340           | 333 CALHOME                                 | 363,100        |
| 351           | 334 Community Action                        | 295,338        |
| 421           | 336 One-Time Grant: No Cap Exp              | 1,554,161      |
| 613           | 338 Bay Area Air Quality Management         | 60,000         |
| 614           | 339 MTC                                     | 125,000        |
| 618           | 340 FEMA                                    | 1,238,435      |
| 645           | 341 Alameda Cty Waste Mgt.                  | 285,000        |
| 647           | 343 State Dept Conserv/Recylg               | 28,000         |
| 805           | 347 Shelter+Care HUD                        | 5,478,439      |
| 806           | 348 Shelter+Care County                     | 568,219        |
| 952           | 349 JAG Grant                               | 52,500         |
| 967           | 350 Bioterrorism Grant                      | 364,386        |
| 610           | 501 Capital Improvement Fund                | 8,214,694      |
| 608           | 502 Phone System Replacement                | 160,000        |
| 609           | 503 FUND\$ Replacement                      | 6,481,658      |
| 611           | 504 PEG-Public, Education & Government      | 100,000        |
| 607           | 511 Measure T1 - Infra & Facil.             | 2,265,231      |
| 714           | 552 09 Measure FF Debt Service              | 1,621,745      |
| 718           | 553 2015 GORBS                              | 2,604,905      |
| 720           | 554 2012 Lease Revenue Bonds BJPFA          | 502,298        |
| 723           | 555 2015 GORBS - 2002 G.O. Refunding Bonds  | 481,211        |
| 725           | 556 2015 GORBS (2007, Series A)             | 181,150        |
| 726           | 557 2015 GORBS (2008 Measure I)             | 610,791        |

## SUMMARY OF APPROPRIATIONS BY FUND

| <b>FUND\$</b> | <b>ERMA</b>                                   | <b>FY 2021</b>     |
|---------------|-----------------------------------------------|--------------------|
| <b>Fund #</b> | <b>Fund # Fund</b>                            | <b>Adopted</b>     |
| 729           | 558 2010 COP (Animal Shelter)                 | 403,685            |
| 730           | 559 Measure M GO Street & Water Imps          | 1,641,863          |
| 731           | 560 Infrastructure & Facilities Measure T1    | 1,730,057          |
| 820           | 601 Zero Waste                                | 50,012,836         |
| 825           | 608 Marina Operation                          | 6,988,739          |
| 830           | 611 Sewer                                     | 23,850,686         |
| 832           | 612 Private Sewer Lateral FD                  | 200,568            |
| 831           | 616 Clean Storm Water                         | 5,290,391          |
| 833           | 621 Permit Service Center                     | 20,855,324         |
| 845           | 622 Unified Program (CUPA)                    | 896,131            |
| 835           | 627 Off Street Parking                        | 6,484,575          |
| 840           | 631 Parking Meter                             | 9,640,151          |
| 850           | 636 Building Purchases and Management         | 3,210,140          |
| 860           | 671 Equipment Replacement                     | 5,415,733          |
| 865           | 672 Equipment Maintenance                     | 7,926,789          |
| 866           | 673 Building Maintenance Fund                 | 4,304,795          |
| 870           | 674 Central Services                          | 384,569            |
| 875           | 676 Workers Compensation                      | 6,422,651          |
| 881           | 678 Public Liability                          | 1,922,551          |
| 891           | 680 Information Technology                    | 14,357,042         |
| 938           | 762 Successor Agency - Savo DSF               | 57,120             |
| 728           | 774 Sustainable Energy Fin District           | 28,719             |
| 722           | 776 Thousand Oaks Underground                 | 98,177             |
| 490           | 777 Measure H - School Tax                    | 500,000            |
| 656           | 778 Measure Q - CFD#1 Dis. Fire Protect Bond  | 452,792            |
| 721           | 779 Spl Tax Bds. CFD#1 ML-ROOS                | 1,226,320          |
| 971           | 781 Berkeley Tourism BID                      | 422,500            |
| 972           | 782 Elmwood Business Improvement District     | 30,000             |
| 474           | 783 Solano Ave BID                            | 25,000             |
| 477           | 784 Telegraph Avenue Bus. Imp. District       | 515,637            |
| 478           | 785 North Shattuck BID                        | 182,647            |
| 451           | 786 Downtown Berkeley Prop & Improv. District | 1,244,686          |
| 440           | 801 Rent Board                                | 6,096,209          |
|               | <b>GROSS EXPENDITURE:</b>                     | <b>533,318,519</b> |
| <b>LESS:</b>  | Dual Appropriations                           | (43,650,640)       |
|               | Revolving & Internal Service Funds            | (41,965,422)       |
|               | <b>NET EXPENDITURE:</b>                       | <b>447,702,457</b> |





Office of the City Manager

CONSENT CALENDAR  
July 14, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Contract No. 9367 Amendment: Banking Services with Wells Fargo Bank

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to continue the work of unbundling the banking services with Wells Fargo and exercise the final three-year option period to extend Contract No. 9367 with Wells Fargo through May 31, 2023, in the amount of \$3,107,500 for a total of ten (10) year contract amount not to exceed \$10,356,000. This is to ensure business continuity and allow adequate time to continue pursuing the effort to determine alternative banking and related services solutions.

CURRENT SITUATION AND ITS EFFECTS

On April 25, 2017 the City Council approved a one-year extension of the Wells Fargo contract number 9367 for banking and related services. Contained in the [Information Report 4/25/17 Banking Services](#) submitted to City Council was a solicitation schedule proposed by staff to address the unbundling of services currently provided by Wells Fargo. The intent was to identify service elements that could be carved-out of the scope, bid out, and quickly transitioned to an alternate financial institution without disrupting the general financial services on which the City relies for its day-to-day financial operations.

As the work of unbundling has progressed, it has become apparent that there are a number of complex issues to be addressed, and the original timeline is not feasible.

In the summer of 2017, and upon direction from City Council, Finance department staff began working with the Mayor's Responsible Banking Task Force to begin planning for the Procurement Credit Card (P-Card), Armored Courier Service, Merchant Services and General Banking requests for proposals (RFP), and to develop submission requirements and selection criteria against which to assess RFP respondents' history of ethical (or unethical) business practices and social responsibility.

*Procurement Credit Card/P-Card*

Banking Task Force members were provided copies of RFPs for P-Card Services issued by the State of California and Alameda County. The contracts resulting from these RFPs contain cooperative purchasing provisions that would allow the City of Berkeley to "piggyback" to receive services and negotiated prices, terms and conditions without

conducting its own RFP. The Banking Task Force determined that neither the state nor county's RFPs included the specific criteria that council included in its May 2017 resolution and that the social responsibility claims of the company awarded the contracts – US Bank in both cases – could not be verified. It was further determined that the RFP for Armored Courier Services would be issued with the newly developed social responsibility language, submission requirements and selection criteria prior to the RFP for P-Card Services.

The RFP for P-Card services was initially supposed to be released in April 2018 with the social responsibility language, submission requirements and selection criteria developed by the Banking Task Force. Prior to releasing this RFP, the efforts to implement the new financial system ramped up. Phase 1 of this implementation was 'requisition-to-pay', with P-cards being slotted for phase 2. Numerous issues arose with the transition to the new ERP system which impacted the project timeline. The schedule is now revised to: phase 2 - payroll in July 2020, phase 3 - ARGB in July 2021, and phase 4 - P-card in January 2022.

#### *Armored Courier Services*

RFP No. 17-11144-C for Armored Courier Services was released to the public on October 23, 2017. Six companies serving the California market were identified and notified of the RFP, but only one company responded. The one response was vetted and evaluated by Staff, with participation of Banking Task Force members, and found lacking in specificity, especially in the area of social responsibility where the company ignored nearly all pertinent questions on the topic.

Staff spent several weeks canvassing non-respondents to determine why they did not participate in the City's RFP process. Feedback included: inability to meet City's service schedule at a competitive price; inability to make same day deposits; and notice did not reach the right person. Staff, with support of Banking Task Force members, decided to reject the one offer received and reissue the RFP for Armored Courier Service in April 2018. The reissued RFP yielded one respondent (Dunbar) who was awarded the contract but was subsequently bought out by Brinks, who was the prior incumbent service provider.

#### *Merchant Services*

The City is in the process of finalizing the schedule for phase 3 – ARGB implementation of the ERP system. Implementation is scheduled for July 2021. Once the implementation is completed, the City will commence with an RFP for Merchant services.

#### *General Banking*

The City Council previously authorized the implementation of a new Enterprise Resource Planning System ("ERP") system so as to improve business processes, gain efficiencies, simplify, and standardize use of City systems with a comprehensive ERP. The core financial components are projected to be fully functional in Fiscal Year 2022. Core



financial components should be substantially complete prior to the migration of banking services from Wells Fargo to another financial institution since data migration will be required based on the results of the solicitation process. A solicitation process in collaboration with the Banking Task Force is scheduled to begin on or about July 1, 2021. This would allow for sourcing, selection and implementation by the end of calendar year 2022, and outgoing transition requirements (for example, accounts must remain open for 9 to 12 months to allow for all transactions to terminate with the originating bank) through May 31, 2023. Resolution No. 66,106 dated May 7, 2013 authorized the City Manager to enter into a contract (#9367) with Wells Fargo Bank for banking and related services for a period of four (4) years for a not to exceed amount of \$4,142,000 with the option to extend the term for two additional three (3)-year periods, and to expend funds up to the not-to-exceed amount of \$10,356,000 for the entire ten (10) years. This is to exercise the final option of a three-year period of extension in the amount of \$3,107,500.

#### POSSIBLE FUTURE ACTION

##### *Community Banks/Credit Unions*

In furtherance of carving out segments of the City's banking services with Wells Fargo, the City is completing the process of investing in all credit unions located in the City of Berkeley. There are five (5) Credit Unions located in the City of Berkeley. The City is in the process of contacting each of them to conduct an initial assessment of their products that will allow the City to invest in their investment instruments. Prior to COVID-19, the City staff met with First United Credit Union, and staff will resume the meetings with the rest of the credit unions in Berkeley after shelter-in-place is lifted. This effort is to assist the local businesses that are serving the local community, which is one of the goals of the Mayor's Banking Task Force. The City will be investing the maximum FDIC allowable insured amount of \$250,000 in each credit union.

#### ENVIRONMENTAL SUSTAINABILITY

The City by adding the Social Responsibility Banking criteria demonstrates, directly and through its contractors, a commitment to having a positive impact on the environment.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are fiscal and operational impacts in implementing a disaggregated approach to banking services. The carving out of services has led to an increase in staff resources and cost. The lump sum price that the City enjoyed for having a complete banking service package with Wells Fargo Bank will increase. The City will need to negotiate rates or look for other options to reduce the fiscal impact. There continues to be additional staff time in order to further disaggregate services and solicit bidders. Once re-solicited, implementation will also require additional resources as the City moves assets to a new Bank that will provide day to day services. The City is considered a level 2 Merchant; level 2 Merchants are merchants with more than one million to six million total credit card transactions annually. This level of activity means the City has extensive financial needs and requirements. These requirements need to be analyzed and all risk mitigated prior to, during and after implementation.

Banking Services with Wells Fargo Bank

ACTION CALENDAR  
July 14, 2020

CONTACT PERSON

Henry Oyekanmi, Director, Finance, 981-7326

ATTACHMENT

1. Resolution

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

CONTRACT NO. 9367 AMENDMENT: BANKING SERVICES CONTRACT WITH  
WELLS FARGO BANK, N.A. FOR BANKING SERVICES

WHEREAS, on May 7, 2013 by Resolution No. 66,106-NS, City Council authorized the execution of a contract with Wells Fargo Bank for the provision of banking services; and

WHEREAS, on June 17, 2017, the City amended the contract for one additional year for a not to exceed amount of \$5,177,500; and

WHEREAS, on May 25, 2018, the City amended the contract for two additional years for a not to exceed amount of \$7,249,000.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to exercise and execute the last three (3) year option of the current agreement for a total of ten (10) years contract amount not to exceed \$10,356,000 through May 31, 2023.





Office of the City Manager

CONSENT CALENDAR  
July 14, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Revenue Contracts: Families First Coronavirus Response Act (FFCRA)  
Funds for Aging Services Nutrition Programs

RECOMMENDATION

Adopt two Resolutions authorizing the City Manager or her designee to execute any resultant revenue agreements and amendments with Alameda County to provide congregate and home-delivered meals to seniors for the following programs for Fiscal Year 2021:

- a. Congregate Meals in the amount of \$7,500; and
- b. Home Delivered Meals in the amount of \$31,500.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley will receive two grants totaling \$39,000 from Alameda County Area Agency on Aging for the period March 2020 to September 2021 for the programs listed below. The contracts require matching funds totaling \$11,750 as detailed below, and the Division will utilize General Fund in its approved FY 2021 budget to provide the match. The grant budgets will be adjusted to match the contract amounts and these changes will be included in the First Amendment to the FY 2021 Annual Appropriations Ordinance.

1. **Congregate Meals:** ERMA GL Code 011-51-505-549-2044-000-000-481110. The contract is for \$7,500 and supports staff coordination and management of home delivered meals. The contract requires a match of \$1,875.
2. **Home Delivered Meals:** ERMA GL Code 011-51-505-549-2044-000-000-481110. The contract is for \$39,500 and supports staff coordination and management of home delivered meals. The contract requires a match of \$9,875.

CURRENT SITUATION AND ITS EFFECTS

The Families First Coronavirus Response Act (FFCRA) is purposed to provide supplemental funding for older adult Congregate and Home Delivered Nutrition Services. Monies provided to us thru FFCRA are meant to address the goal of providing meal services to older adults 60 years of age or older, particularly during the

COVID-19 emergency response, with a special emphasis on low income minority older adults.

BACKGROUND

The City of Berkeley receives funding from city, county and state sources as well as private donations to serve senior residents of Berkeley, and to coordinate the Tri-City Nutrition Program. The Department of Health, Housing & Community Services is committed to providing a broad range of community services, including services to meet the needs of seniors in the community. The Aging Services Division provides nutritious meals, outreach, activities, social events, classes, and individual support and referral services to seniors and their families in the community.

ENVIRONMENTAL SUSTAINABILITY

The home-delivered and congregate meal programs composts meal waste.

RATIONALE FOR RECOMMENDATION

These funds support the City's senior centers and meals programs, and provide critical support to ensure the Aging Services Division can continue to provide services at North and South Berkeley Senior Center, and Senior Nutrition Programs.

ALTERNATIVE ACTIONS CONSIDERED

The Aging Services Division assesses each funding source to ensure that it supports the City's mission and goals. The alternative action of not seeking any of these funding sources would result in a significant reduction in services available to seniors in the community.

CONTACT PERSON

Tanya Bustamante, Manager of Aging Services, HHCS, 981-5178

Attachments:

1. Resolution: Congregate Meals
2. Resolution: Nutrition Meals

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

REVENUE CONTRACT: ALAMEDA COUNTY CONGREGATE MEAL PROGRAM

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of community services to the community; and

WHEREAS, the Aging Services Division provides a broad range of services to Berkeley seniors, and coordinates the delivery of meals to three cities – Berkeley, Albany and Emeryville – as the lead partner in the Tri-City Nutrition Program; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital senior services; and

WHEREAS, Alameda County provides funding to support the Congregate Meal programs for March 2020-September 2021 in the amount of \$7,500 (Revenue Budget Code 320-51-505-549-2044-000-000-433110-); and

WHEREAS, the City of Berkeley provides match of \$1,875 in General Funds (Expense Code 011-51-505-549-2044-000-444-various and 011-51-505-549-2044-000-444-various); and

WHEREAS, the funds will support the coordination, management and delivery of meals at two sites (North Berkeley Senior Center and South Berkeley Senior Center) (budget code 320-51-505-549-2044-000-444-various).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a contract agreement to Alameda County for funding for fiscal year 2021 for the Congregate Meal Program, and to accept the grants and to execute any resultant revenue agreements and amendments. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

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

REVENUE CONTRACT: ALAMEDA COUNTY HOME DELIVERED MEAL PROGRAM

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of community services to the community; and

WHEREAS, the Aging Services Division provides a broad range of services to Berkeley seniors, and coordinates the delivery of meals to three cities – Berkeley, Albany and Emeryville – as the lead partner in the Tri-City Nutrition Program; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital senior services; and

WHEREAS, Alameda County provides funding to support the Home Delivered Meal program for March 2020-September 2021 in the amount of \$39,500 (Revenue Budget Code 320-51-505-549-2044-000-000-433110-); and

WHEREAS, the City of Berkeley provides match of \$4,875 in General Funds (Expense Code 011-51-505-549-2044-000-444-various); and

WHEREAS, the funds will support the coordination and management of home delivered meals to the partner cities in the Tri-City Nutrition Program (Berkeley, Albany and Emeryville) (budget code 320-51-505-549-2044-000-444-various).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a contract agreement to Alameda County for funding for fiscal year 2021 for the Home Delivered Meal Program, and to accept the grants and to execute any resultant revenue agreements and amendments. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
July 14, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Contract No. 32000117 Amendment: Berkeley Food & Housing Project for Administrative Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 32000117 with Berkeley Food & Housing Project (BFHP) to provide administrative services for Berkeley Mental Health (BMH) Flexible Spending Programs and the Russell Street Residence through June 30, 2021 in an amount not to exceed \$1,907,293. This will extend the existing contract by one year and add \$946,419 in funding.

FISCAL IMPACTS OF RECOMMENDATION

Funds for the scope of work in the amount of \$946,419 will be provided from ERMA GL Code 315-51-503-526-2017-000-451-636110-. Funding is available in the FY21 budget, subject to the adoption of the Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

BMH has used BFHP as the administrator for Flexible Spending Programs and operator of the Russell Street Residence (RSR) in the past through a contract administered by the Housing & Community Services Division (HCS), and for the past six months through a contract administered by BMH. The Mental Health Division is planning to amend the contract with BFHP to improve contractual oversight and to ensure the rate paid for residents at RSR aligns with costs of operating this housing program. RSR will provide up to 17 beds per night for some of the most vulnerable members of our community. \$106,000 will be used toward a one-time funding gap for the project, and \$520,169 will be allocated toward ongoing operational expenses for RSR. The amounts allocated for the BMH Flexible Spending Programs will also change according to the needs of the respective programs, and a total of \$320,250 will be allocated for all Flexible Spending Programs. Full Service Partnership will increase from \$90,000 to \$130,000; Children's Full Service Partnership will remain unchanged at \$17,250; Comprehensive Community Treatment will remain unchanged at \$23,000; Homeless Outreach and Treatment Team will increase from \$23,000 to \$30,000; Homeless Full Service Partnership will increase

from \$23,000 to \$100,000; and Focus on Independence Team will increase from \$13,800 to \$20,000.

### BACKGROUND

On December 3, 2019 by Resolution No. 69,192-N.S., City Council approved entering into Contract No. 32000117 with BFHP to support Berkeley Mental Health's Flexible Funding programs and the Russell Street Residence. On May 26, 2020 by Resolution No. 69,404-N.S., City Council approved amending contract No. 32000117 with BFHP to increase the contract limit to \$960,874. BFHP has done a satisfactory job administering these programs, and staff would like to ensure they can continue completing this necessary work to support the Division and some of the City's most vulnerable residents.

The State of California MHSAs provide funding for local mental health services and supports. City of Berkeley MHSAs Three Year Program and Expenditure Plans (Three Year Plans) and Annual Updates, details the uses of local MHSAs funds. Development of local MHSAs Three Year Plans and Annual Updates require community program planning, writing a draft plan, providing a 30-day public review, and conducting a public hearing at the Mental Health Commission.

The development of the MHSAs FY20/21 – 22/23 Three Year Plan is currently underway and will be on the City Council Agenda in October 2020. The proposed Three Year Plan will include continued funding to BFHP for RSR and Flexible Spending programs.

Given unforeseen delays due to Covid-19, that have occurred (and may likely continue to occur in the near future), approval of this Council Item will enable contract amendments to be executed and payments to be made in a timely manner. This will assist Contractors who may be experiencing financial hardships during this time as a result of Covid-19. Funding for these services and supports has been included in the FY21 Budget.

### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the action recommended in this report.

### RATIONALE FOR RECOMMENDATION

BFHP recently experienced a major gap in their funding structure, and the allocation proposed here will help resolve that disparity, allowing a vital community organization to continue their important work. BFHP is a trusted partner in the implementation of programs to ensure the needs of our community's most vulnerable members are met in the most effective manner possible. Each of the programs funded by this contract were developed as a result of feedback from stakeholders, and went through a lengthy community input process before being presented to City Council as part of the MHSAs Plan Annual Update. Russell Street Residence provides much needed supported

housing for individuals with serious mental illness in Berkeley; the flex funds program allows for a variety of mental health programs to meet the needs of mental health consumers through the purchase of a variety of goods that support their stability and recovery.

ALTERNATIVE ACTIONS CONSIDERED

As an alternative action, Council could instead direct staff to circulate a new RFI or formal Request for Proposals (RFP) to competitively solicit a different vendor.

CONTACT PERSON

Conor Murphy, Assistant Management Analyst, HHCS, 510-981-7611

Steven Grolnic-McClurg, Manager of Mental Health Services, HHCS, 510-981-5249

Attachments:

1: Resolution

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

CONTRACT NO. 32000117 AMENDMENT: BERKELEY FOOD & HOUSING PROJECT  
FOR ADMINISTRATIVE SERVICES

WHEREAS, City Council approved the MHSA Plan FY2019-2020 Annual Update on July 23, 2019 by Resolution No. 69,033-N.S., which included funding for the programs to be included in the contract here; and

WHEREAS, City Council approved participation in the Homeless Mentally Ill Outreach and Treatment allocation funding on September 13, 2018 by Resolution No. 68,592-N.S.; and

WHEREAS, City Council approved a contract with Berkeley Food and Housing Project for Flexible Spending Programs and the Russell Street Residence on December 3, 2019 by Resolution No. 69,192-N.S.; and

WHEREAS, City Council approved a contract amendment with Berkeley Food and Housing Project for Flexible Spending Programs and the Russell Street Residence on May 26, 2020 by Resolution No. 69,404-N.S..; and

WHEREAS, community input and stakeholder feedback has determined a need for the programs being funded; and

WHEREAS, the Berkeley Food and Housing Project has been a trusted partner in the implementation of a variety of programs in collaboration with the City; and

WHEREAS, funding in the amount of \$946,419 is available in the FY21 budget, subject to the adoption of the Annual Appropriations Ordinance in ERMA GL Code 315-51-503-526-2017-000-451-636110-.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute an amendment to Contract No. 32000117 with the Berkeley Food and Housing Project for administrative services through June 30, 2021 in an amount not to exceed \$1,907,293. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.



Office of the City Manager

CONSENT CALENDAR  
July 14, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Contract No. 10209 Amendment: Bay Area Hearing Voices Network for Hearing Voices Support Groups

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 10209 and any amendments with vendor Bay Area Hearing Voices Network (BAHVN) to provide Hearing Voices Support Groups through June 30, 2021, increasing the amount of the contract by \$34,736 for a total not to exceed amount of \$103,178.

FISCAL IMPACTS OF RECOMMENDATION

Funds for the additional scope of work in the amount of \$34,736 will be provided from ERMA GL Code 315-51-503-526-2017-000-451-612990.

CURRENT SITUATION AND ITS EFFECTS

On February 2, 2016 Berkeley Mental Health (BMH) entered into Contract No. 10209 with BAHVN to provide support groups to community members who hear voices, see visions, and experience other forms of extraordinary perception. Community input informed the decision to partner with BAHVN, as stakeholders expressed concern that they or those they loved were unable to have their needs met by the existing programs in place at the time. On December 3, 2019 by Resolution No. 69,193-N.S. City Council authorized the City Manager to amend that contract to expand the scope of services to include both a new Youth support group and a Family Members/Caregivers support group. The purpose of the Youth group is to support young people who hear, see, or sense things others don't, by providing better information, advice, and support for participants. The Family Members/Caregivers group helps improve relationships and provides supports on better ways to communicate and respond about their own experiences which often include fears, anxieties, and confusions about what their loved ones are going through. The groups have been well-received by the community and are providing a service that was previously lacking. This amendment will ensure that the vendor can continue offering these groups for the next fiscal year. Recently, after the shelter-in-place was ordered as a result of COVID-19, BAHVN adjusted their work and began offering their meetings over the Zoom platform, and will continue to offer

groups in this manner as needed, allowing those who benefit from this service to maintain a sense of community and engage with others who have similar experiences.

#### BACKGROUND

BMH has partnered with BAHVN since 2016 to provide Hearing Voices Support Groups to the community. BAHVN has proven an effective vendor for this service, and continuing this partnership will provide continuity to consumers and ensure support for community members who experience extraordinary perception.

The State of California MHSAs provide funding for local mental health services and supports. City of Berkeley MHSAs Three Year Program and Expenditure Plans (Three Year Plans) and Annual Updates, details the uses of local MHSAs funds. Development of local MHSAs Three Year Plans and Annual Updates require community program planning, writing a draft plan, providing a 30-day public review, and conducting a public hearing at the Mental Health Commission.

The development of the MHSAs FY20/21 – 22/23 Three Year Plan is currently underway and will be on the City Council Agenda in October 2020. The proposed Three Year Plan will include continued funding to BAHVN for Hearing Voices Support Groups.

Given unforeseen delays due to Covid-19, that have occurred (and may likely continue to occur in the near future), we are requesting the approval of these contract amendments prior to the approval of the MHSAs FY20/21 – 22/23 Three Year Plan to prevent disruption to these important services and delays in paying contractors. This will assist Contractors who may be experiencing financial hardships during this time as a result of Covid-19. Funding for these services and supports has been included in the FY21 budget.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the action recommended in this report.

#### RATIONALE FOR RECOMMENDATION

BAHVN had demonstrated capacity and specialized practices in administering Hearing Voices Support Groups, providing an enhanced level of service to consumers.

#### ALTERNATIVE ACTIONS CONSIDERED

As an alternative action, Council could instead direct staff to circulate a formal RFP to competitively solicit a different vendor, or to not fund this service altogether.

#### CONTACT PERSON

Conor Murphy, Assistant Management Analyst, HHCS, 510-981-7611  
Steven Grolnic-McClurg, Manager of Mental Health Services, HHCS, 510-981-5249

Contract Amendment: Bay Area Hearing Voices Network for  
Hearing Voices Support Groups

CONSENT CALENDAR  
July 14, 2020

Attachments:  
1: Resolution

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

CONTRACT NO. 10209 AMENDMENT: BAY AREA HEARING VOICES NETWORK  
FOR HEARING VOICES SUPPORT GROUPS

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

WHEREAS, on July 23, 2019 by Resolution No. 69,033-N.S., City Council authorized the City Manager to approve the MHSA Plan FY2019-2020 Annual Update; and

WHEREAS, on December 3, 2019 by Resolution No. 69,193-N.S., City Council authorized the City Manager to amend Contract No. 10209C for an expenditure limit not to exceed \$68,442; and

WHEREAS, funds in the amount of \$34,736 are available in the current budget year in ERMA GL Code 315-51-503-526-2017-000-451-612990.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute an amendment to Contract No. 10209 with the Bay Area Hearing Voices Network for Hearing Voices Support Groups through June 30, 2021 in an amount not to exceed \$103,178. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.





Office of the City Manager

CONSENT CALENDAR  
July 14, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services  
 Subject: Local Housing Trust Fund Application

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to apply for and accept funds from the State of California's Local Housing Trust Fund program in an amount not to exceed \$5,000,000, and to apply such funds to the City's existing funding reservations for affordable housing development at 2001 Ashby Avenue and 2527 San Pablo Avenue via the City's Housing Trust Fund program.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley is eligible to apply for up to \$5,000,000 from the State's competitive Local Housing Trust Fund (LHTF) program. The final award will be decided as part of the competitive application. This funding would be applied to the City's Housing Trust Fund program to fund the City's existing funding reservations for the pipeline projects at 2001 Ashby Avenue and 2527 San Pablo Avenue, reducing the amount of Measure O funds that would be required for each project. As a result, Measure O funds would become available for other housing priority projects if the City receives an award.

CURRENT SITUATION AND ITS EFFECTS

Approving the City's Local Housing Trust Fund application is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

The LHTF is a newly established State funding source to finance new affordable housing construction. The program is administered by the State's Department of Housing and Community Development (HCD). The program is funded by a \$4 billion bond approved by voters in 2018.

The City is eligible to apply for between \$1 million and \$5 million with a one-to-one matching funds requirement. Applications will be scored on several criteria including the source of matching funds (prioritizing sources that do not come from residential projects like the Affordable Housing Mitigation fee), existing local funding commitments, project

readiness, and affordability. There are also points awarded for being a regional Housing Trust Fund.

The City can apply to support two eligible projects in the City's HTF development pipeline: 2001 Ashby and 2527 San Pablo Avenue.

On December 10, 2019, Council committed Measure O funds to these projects, which provides them the best position to meet the scoring criteria due to the funding mix, unit mix, and construction schedule. The City's current local commitments in these projects would potentially be offset by the LHTF award. Since 2001 Ashby is planned to be funded from the second issuance of Measure O bonds, having LHTF funds will free up Measure O funds for the Council's identified second priority for that issuance or another Council-identified housing priority.

### BACKGROUND

The LHTF was created by the Veterans and Affordable Housing Bond Act of 2018 (Proposition 1). HCD is awarding a total of \$57M to the LHTF program.

Program funds awarded must be designated to provide construction loans and/or permanent financing loans to pay for construction or rehabilitation of affordable rental housing projects, emergency shelters, permanent supportive housing, transitional housing and affordable homeowner projects.

Program funds may also be used to assist income-eligible first-time homebuyers to purchase homes and to rehabilitate houses owned by income-eligible occupants. Accessory Dwelling Units (ADUs) or Junior Accessory Dwelling Units (JADUs) construction and conversion programs are also eligible.

The City is eligible to apply as it maintains an existing Housing Trust Fund. The City of Berkeley's Housing Trust Fund program was established in 1990 to support affordable housing development and rehabilitation. It is funded by several sources including Affordable Housing Mitigation fees (AHMF), Condominium Conversion fees and federal HOME funds. Measure O was approved by voters in 2018 to provide \$135 million in additional bond funding for affordable housing development. Any LHTF funding the City receives will compliment these funding sources.

### ENVIRONMENTAL SUSTAINABILITY

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

### RATIONALE FOR RECOMMENDATION

Measure O bond supported pipeline projects provide the City with the most competitive application. The application weighs the percentage of matching funds derived from sources other than local impact fees (such as the AHMF). The Measure O bond

provides this advantage. These projects are also suited to provide unit mixes at a deeper affordability. This is another key factor to submitting a competitive application.

Competitive applications must also demonstrate project readiness and a construction timeline provided by these projects. This also provides better security that the funds will be expended in line with the NOFA requirements.

ALTERNATIVE ACTIONS CONSIDERED

HCD's scoring criteria provides points specifically for Regional Housing Trust Funds. Alameda County and the East Bay region do not have Regional Housing Trust Funds. The timing of the NOFA release and application did not allow sufficient time to organize and create a new regional body.

Staff do not recommend applying the funds to a first-time home buyer, ADU or JADU program as the application scoring criteria is designed to favor new construction affordable housing.

CONTACT PERSON

Amy Davidson, Senior Community Development Project Coordinator, HHCS, (510) 981-5406

Amanda Montez, Community Development Project Coordinator, HHCS, (510) 981-5426

Mike Uberti, Community Development Project Coordinator, HHCS, (510) 981-5114

Attachments:

1: Resolution

Resolution Attachment 1: City of Berkeley Housing Trust Fund Pipeline Projects Eligible for the California Local Housing Trust Fund

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

LOCAL HOUSING TRUST FUND APPLICATION

WHEREAS, the State of California (the "State"), Department of Housing and Community Development ("Department") is authorized to provide up to \$57 million under the Local Housing Trust Fund ("LHTF") Program from the Veterans and Affordable Housing Bond Act of 2018 (Proposition 1) (as described in Health and Safety Code section 50842.2 et seq. (Chapter 365, Statutes of 2017 (SB 3)) ("Program"); and

WHEREAS, the Department issued a Notice of Funding Availability ("NOFA") dated 04/30/2020 under the LHTF Program; and

WHEREAS, the City of Berkeley is an eligible Local Housing Trust Fund applying to the Program to administer one or more eligible activities using Program Funds; and

WHEREAS, the City of Berkeley may approve funding allocations for the LHTF Program, subject to the terms and conditions of H&S Code Section 50842.2, the LHTF Program Guidelines, NOFA, Program requirements, the Standard Agreement and other related contracts between the Department and LHTF award recipients; and

WHEREAS, on December 10, 2019, the City Council committed Measure O bond funds to support new affordable housing developments.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that if the City of Berkeley receives an award of LHTF funds from the Department pursuant to the above referenced LHTF NOFA, it represents and certifies that it will use all such funds on Eligible Projects in a manner consistent and in compliance with all applicable state and federal statutes, rules, regulations, and laws, including, without limitation, all rules and laws regarding the LHTF Program, as well as any and all contracts Applicant may have with the Department ("Eligible Project").

BE IT FURTHER RESOLVED that the City of Berkeley's local Housing Trust Fund is hereby authorized to act as the trustee in connection with the Department's funds to Eligible Projects pursuant to the above described Notice of Funding Availability in an amount not to exceed \$5,000,000 (the "LHTF Award").

BE IT FURTHER RESOLVED that the City of Berkeley hereby agrees to match on a dollar-for-dollar basis for the same Eligible Project for which Program Funds are used, as required by HSC Section 50843.5(c).

BE IT FURTHER RESOLVED that pursuant to Attachment 1 and the Applicant's certification in this resolution, the LHTF funds will be expended only for Eligible Projects and consistent with all program requirements.

July 14, 2020

BE IT FURTHER RESOLVED that the City of Berkeley shall be subject to the terms and conditions as specified in the Standard Agreement, H&S Section 50842.2 and LHTF Program Guidelines.

BE IT FURTHER RESOLVED that the City Manager and/or her designee is authorized to execute the LHTF Program Application, the LHTF Standard Agreement and any subsequent amendments or modifications thereto, as well as any other documents which are related to the Program or the LHTF Award to the City of Berkeley, as the Department may deem appropriate.

Attachment 1

City of Berkeley Housing Trust Fund Pipeline Projects Eligible for the California Local Housing Trust Fund

**Jurisdiction Served:** City of Berkeley

**Funding Request Summary**

The City of Berkeley will apply any Local Housing Trust Fund (LHTF) award to the City’s Housing Trust Fund program. The LHTF award will fund the City’s existing funding reservations for the pipeline projects at 2527 San Pablo Avenue and 2001 Ashby Avenue. The City will match the LHTF funding with money from its affordable housing bond issuance, “Measure O”. These projects are planned to provide 148 units between 30-60% AMI.

| <b>Project</b>                     | <b>Sponsor</b>                          | <b>Percent of Total Funds Requested</b> | <b>AMI Level Served</b> |
|------------------------------------|-----------------------------------------|-----------------------------------------|-------------------------|
| 2527 San Pablo Avenue, Berkeley CA | Satellite Affordable Housing Associates | 50%                                     | 30%-60%                 |
| 2001 Ashby, Berkeley, CA           | Resources for Community Development     | 50%                                     | 30%-60%                 |



Office of the City Manager

CONSENT CALENDAR  
July 14, 2020

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: Sandstone Environmental Engineering, Inc. for Aquatic Park Central Tide Tubes Maintenance Sediment Removal and Inspection Project

RECOMMENDATION

Adopt a Resolution:

1. Approving the plans and specifications for the Aquatic Park Central Tide Tubes Maintenance Sediment Removal and Inspection Project (Bid Specification No. 20-11402-C); and
2. Accepting the bid of Sandstone Environmental Engineering, Inc. as the lowest responsive and responsible bidder on the Project; and
3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with Sandstone Environmental Engineering, Inc., for the Aquatic Park Central Tide Tubes Maintenance Sediment Removal and Inspection Project, in an amount not to exceed \$552,862, which includes a contract amount of \$480,750 and a 15% contingency in the amount of \$72,112.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the FY 2021 budget in the Measure T1 Fund (Fund 511) and the Parks Tax Fund (Fund 138) subject to adoption of the Annual Appropriations Ordinance. No other funding is required, and no other projects will be delayed due to this expenditure.

|                                                             |           |
|-------------------------------------------------------------|-----------|
| Sandstone Environmental Engineering, Inc. (lowest bid)..... | \$480,750 |
| 15% Contingency                                             | \$72,112  |
| <hr/>                                                       |           |
| Total construction cost                                     | \$552,862 |
| <br>                                                        |           |
| Measure T1 Fund (FY2021) .....                              | \$228,858 |
| (511-52-545-000-0000-000-461-663110-PRWT119001)             |           |
| Parks Tax Fund (FY2021) .....                               | \$324,004 |
| (138-52-545-000-0000-000-461-663110-PRWT119001)             |           |
| <hr/>                                                       |           |
| Total construction cost.....                                | \$552,862 |

### CURRENT SITUATION AND ITS EFFECTS

On April 27, 2020, the Aquatic Park Central Tide Tubes Maintenance Sediment Removal and Inspection project was advertised for competitive bids. On June 2, 2020, five (5) bids were received (See Attachment 2: Bid Abstract Summary). Staff reviewed the bid results and the Contractor's references, and has determined that the bid Sandstone Environmental Engineering, Inc. is the lowest responsive and responsible bidder.

The project will be subject to State prevailing wage laws in lieu of the Living Wage Ordinance (see BMC section 13.27.070.E). The contractor will need to submit a Certification of Compliance for the Equal Benefits Ordinance. The contract will not be subject to the Community Workforce Agreement.

Construction is expected to begin in August, 2020 and be completed by November, 2020.

### BACKGROUND

Aquatic Park is used for various active recreation activities such as walking, running, bicycling, bird watching, and boating. There is also a disc golf course and a children's playground. The lagoon at the park receives both stormwater from the City and tidal water from the San Francisco Bay.

The tide tubes at the main lagoon are comprised of five culverts that run underneath Interstate I-80 and connect to the Bay. The tubes are significantly blocked and do not allow for the proper exchange of water between the lagoon and the Bay. The current condition of the tide tubes is unknown.

The underperformance of these tubes has two potentially major impacts to Aquatic Park Lagoon:

1. Poor exchange of water with the Bay, resulting in higher concentrations of stormwater runoff and other inflows; and
2. Increased flooding during storms because elevated water levels in the lagoon cannot drain quickly to the Bay.

The purpose of this project is to clean out sediment and debris from the tubes to allow an assessment of their condition. The assessment is necessary to determine if the tubes can be repaired and restored to their original capacity and function.

On June 10, 2020, the City received a letter from the Foundation for Fair Contracting (FFC) alleging that Sandstone Environmental Engineering, Inc. would be unable to fulfill its obligations to comply with rules and regulations governing the payment of prevailing wages. Consistent with California Labor Code, the payment of prevailing wages for this public work project is required, and all bidders including Sandstone Environmental Engineering, Inc. were required to certify compliance with this requirement in bid forms. Per the contract documents and state law, Sandstone Environmental Engineering, Inc.



shall be required to comply with California Labor Code for this Project, including but not limited to Section 1773 requiring the payment of prevailing wages on public projects.

ENVIRONMENTAL SUSTAINABILITY

The construction contract includes requirements to comply with the City's Environmentally Preferable Purchasing Policy. The work will also comply with the permit conditions from the following aquatic regulatory agencies: Army Corps of Engineers, Bay Conservation Development Commission, and San Francisco Bay Regional Water Quality Control Board. Both a Right-to-Entry Agreement and an Encroachment Permit have been obtained from the East Bay Regional Park District, and California Department of Transportation, respectively.

This project is a maintenance project of an existing infrastructure and therefore will not negatively affect natural habitat. The City, acting as the CEQA lead agency, reviewed the Project's potential environmental impacts and determined that the Project was eligible for a Categorical Exemption pursuant to CEQA Guidelines Section 15301, Existing Facilities, because the Project consists of the maintenance of existing public structures/facilities, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. On December 19, 2019, the City filed a Notice of Exemption (NOE) for the Project with the Alameda County Clerk. The Water Board, as a responsible agency under CEQA, has concurred with the NOE.

RATIONALE FOR RECOMMENDATION

At present, it is not possible to know the extent of the conditions of the tide tubes. This initial project will remove sediment from the tide tubes which will allow a full inspection of the tide tubes. If the tide tubes are found to be in poor condition, the next phase will involve permanent repair and/or rehabilitation of the tide tubes. The City does not have the in-house labor or equipment to complete this maintenance and inspection project.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, 981-6700  
Nelson Lam, Supervising Civil Engineer, PRW, 981-6395

Attachments:

- 1: Resolution
- 2: Bid Abstract Summary

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

CONTRACT: SANDSTONE ENVIRONMENTAL ENGINEERING, INC. FOR AQUATIC PARK CENTRAL TIDE TUBES MAINTENANCE SEDIMENT REMOVAL AND INSPECTION PROJECT

WHEREAS, the tide tubes at the westside of Aquatic Park Lagoon are in need of maintenance cleaning and inspection; and

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

WHEREAS, an invitation for bids was duly advertised on April 27, 2020, bids were opened on June 2, 2020, and the City received 5 bids; and

WHEREAS, the bid from Sandstone Environmental Engineering, Inc. was the lowest responsive, responsible bid of \$480,750, and references for Sandstone Environmental Engineering, Inc. were provided and checked out satisfactorily; and

WHEREAS, funding is available in the FY 2021 budget from the Measure T1 Fund (Fund 511) and the Parks Tax Fund (Fund 138) subject to adoption of the Annual Appropriations Ordinance as follows: Measure T1 Fund, (511-52-545-000-0000-000-461-663110-PRWT119001), \$228,858, and the Parks Tax Fund, (138-52-545-000-0000-000-461-663110-PRWT119001), \$324,004.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 20-11402-C for the Aquatic Park Central Tide Tubes Maintenance Sediment Removal and Inspection project are approved.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions, or change orders until completion of the project in accordance with the approved plans and specifications with Sandstone Environmental Engineering, Inc. for the Aquatic Park Central Tide Tubes Maintenance Sediment Removal and Inspection project in an amount not to exceed \$552,862, which includes a contract amount of \$480,750 and a 15% contingency in the amount of \$72,112 for unforeseen circumstances. A record signature copy of the agreement and any amendments to be on file in the Office of the City Clerk.

Attachment 2 – Bid Abstract



City of Berkeley  
Abstract of Bid Worksheet

Finance Department  
General Services Division

Bid Date: 6/2/2020

Spec. #20-11402-C  
FOR: AQUATIC PARK CENTRAL TIDE TUBES MAINTENANCE SEDIMENT REMOVAL AND INSPECTION PROJECT

|    | Bidders                       | Base Bid       | Alt. #1 | Alt. #2 | Alt. #3 | Bid Bond | Agenda | SC | LW | WF | EBO | OS | NF |
|----|-------------------------------|----------------|---------|---------|---------|----------|--------|----|----|----|-----|----|----|
| 1  | Sandstone Environmental Inc.  | \$480,750.00   |         |         |         | /        | //     | /  |    |    | /   | /  | /  |
| 2  | Solitude Lake Management      | \$713,382.00   |         |         |         | /        | //     | /  |    |    | /   | /  | /  |
| 3  | Pipe and Punt Solutions, Inc. | \$1,169,361.00 |         |         |         | /        | //     | /  |    |    | /   | /  | /  |
| 4  | Anales Construction, Inc.     | \$597,400.00   |         |         |         | /        | //     | /  |    |    | /   | /  | /  |
| 5  | Bellingham Marine             | \$718,619.00   |         |         |         | /        | //     | /  |    |    | /   | /  | /  |
| 6  |                               |                |         |         |         |          |        |    |    |    |     |    |    |
| 7  |                               |                |         |         |         |          |        |    |    |    |     |    |    |
| 8  |                               |                |         |         |         |          |        |    |    |    |     |    |    |
| 9  |                               |                |         |         |         |          |        |    |    |    |     |    |    |
| 10 |                               |                |         |         |         |          |        |    |    |    |     |    |    |

Bid Recorder: Taina Starnet 6/2/2020  
 Bid Opener: [Signature] 6/2/2020  
 Project Manager: [Signature] 6/2/2020

2180 Milvia Street, Berkeley, CA 94704 Tel: 510.981.7320 TDD: 510.981.6903 Fax: 510.981.7390  
 E-mail: finance@ci.berkeley.ca.us





Office of the City Manager

CONSENT CALENDAR  
July 14, 2020

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. 32000114 Amendment: Redwood Engineering Construction for James Kenney Park, Picnic, and Play Area Renovation

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 32000114 with Redwood Engineering, by increasing the construction contract amount by \$280,000 for a not-to-exceed amount of \$1,471,342 for the James Kenney Park, Picnic, and Play Area Renovation.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the construction contract amendment in the amount of \$280,000 is available in the FY 2020 budget in the Parks Tax Fund account code 138-52-545-000-0000-000-461-663110-PRWPK15002 as follows:

|                                                                      |             |
|----------------------------------------------------------------------|-------------|
| Original contract not-to-exceed (NTE) amount .....                   | \$1,191,342 |
| Parks Tax Fund (138-52-545-000-0000-000-461-663110-PRWPK15002) ..... | \$280,000   |
| Total construction cost .....                                        | \$1,471,342 |

CURRENT SITUATION AND ITS EFFECTS

The contract with Redwood Engineering Construction was executed in December 2019. During construction, unforeseen existing conditions required that additional work be performed. These unforeseen conditions include, but are not limited to, a multitude of previously undocumented, unknown, or unmarked underground utilities, including storm drainage, electrical, and irrigation conduits that needed to be extended, repaired, or relocated.

Additionally, the City’s parks maintenance staff has identified deferred maintenance repairs or replacements needed at this park. This work was not included in the original contract scope, but is necessary to increase accessibility and safe conditions at the City’s parks. The City held a neighborhood meeting on March 10, 2020 where the community shared their interest and support of various improvements around the park.

Among other things, the community requested additional park pathways to increase pedestrian safety and move pedestrian access off-street in an area of the City where sidewalks are not continuous. The Public Works Department extended a portion of the sidewalk to reduce the “gaps” in sidewalk last year and the PRW Department can

continue this effort on the park site to connect Virginia Street with an accessible pathway through to Delaware Street. The pathway extension also includes a new accessible ramp that will increase accessibility to the site and playgrounds. The proposed funding is from existing Parks capital improvement funding, from previous savings resulting from work done utilizing minor maintenance funding instead.

The City is presently negotiating change orders with Redwood Engineering Construction for which an increase in the NTE authorization is needed. The City does not have the in-house labor or equipment resources to complete this work.

### BACKGROUND

This project includes renovation of James Kenney Park Playground and Picnic Area. The play structures were deteriorating, the surfacing needed replacement, and accessibility issues needed to be corrected, among other improvements to the site. The work to be done includes, but is not limited to, the renovation of the existing toddler and school-age play structures and safety surfacing, installation of new site paving, ADA accessibility improvements, landscaping, drainage, and other site amenities. These park improvements are part of the City's ongoing program to repair, renovate, and improve safety and accessibility at non-compliant or aging Parks facilities.

The project was advertised for bids on Monday, July 22, 2019, and bids were opened on August 20, 2019. The City received two bids, from a low base bid of \$983,000 to a high base bid of \$992,785. Redwood Engineering Construction was the lowest responsive and responsible bidder. References for Redwood Engineering Construction were provided and checked out satisfactorily.

### 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 Redwood Engineering Construction are negotiating a price within the City's budget for renovations and safety improvements. This increase to the contract is necessary to perform underground utility relocation, accessibility and pedestrian safety improvements. 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, 981-6700  
Evelyn Chan, Supervising Civil Engineer, Parks Recreation & Waterfront, 981-6430  
Isaac Carnegie, Associate Civil Engineer, Parks Recreation & Waterfront, 981-6432

Attachment:  
1. Resolution

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

CONTRACT NO. 32000114 AMENDMENT: REDWOOD ENGINEERING  
CONSTRUCTION FOR JAMES KENNEY PARK, PICNIC, AND PLAY AREA  
RENOVATION

WHEREAS, on October 15, 2019, by Resolution No. 69,131-N.S., the City Council authorized Contract No. 32000114 with Redwood Engineering Construction in an amount not to exceed \$1,191,342 for the James Kenney Park, Picnic, And Play Area Renovation project; and

WHEREAS, an increase of \$280,000 to the not-to-exceed contract amount is necessary to perform underground utility relocation, and various site, accessibility and pedestrian safety improvements; and

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

WHEREAS, funds are available in the FY 2020 budget in the Parks Tax Fund (Fund 138).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to the contract with Redwood Engineering Construction for the James Kenney Park, Picnic, and Play Area Renovation project, increasing the contract amount by \$280,000, for a total amended amount not to exceed \$1,471,342.





Office of the City Manager

CONSENT CALENDAR  
July 14, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Timothy Burroughs, Director, Planning and Development Department  
 Subject: City consent to declaration of easements between 2009 Addison and 2015 Addison

RECOMMENDATION

Adopt first reading of an Ordinance authorizing the City Manager to give City consent to an amended declaration of easements for safety and access between 2015 Addison Street, which is owned by the Berkeley Repertory Theater, and 2009 Addison Street, owned by the Joint Powers Financing Authority, leased by the City of Berkeley, and subleased to the Berkeley Repertory Theater.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The Berkeley Repertory Theater (BRT) has applied for permits to construct a seven-story mixed-use building to provide housing for artists and theater professionals on a parcel which it owns at 2009 Addison. The site is adjacent to BRT's Roda Theater at 2015 Addison. The Roda sits on land which is owned by the Joint Powers Financing Authority, leased to the City of Berkeley, and in turn subleased to BRT for the operation of the Roda.

On April 14, 2020, the members of the City Council, sitting as the Joint Powers Finance Authority (JPA), approved an amended declaration of easements between the two adjacent parcels, to allow for continued safe access to and emergency egress from the Roda Theater across the parcel at 2015 Addison. This amended easement declaration was required due to construction plans for 2015 Addison having impacts upon the previous safety easements.

Because the City of Berkeley is also party to the property arrangement, by virtue of being the lessee from the JPA and sublessor to the BRT for the land at 2009 Addison on which the Roda Theater sits, the City must also assent to the new easement terms prior to the recording of the easement with Alameda County. The proposed Ordinance which accompanies this report would confer that assent, which after approval would be

executed via an amended declaration of easements, a draft of which is included as Attachment 2 to this report.

The development underway at 2009 Addison Street will support the Strategic Plan Priority of creating affordable housing and housing support services for our most vulnerable community members.

### BACKGROUND

The Berkeley Repertory Theater has been an important local cultural institution since 1968, through its award-winning productions on two theater stages as well as its education and cultural enrichment activities for youth and emerging new artists. The Roda Theater was built in 2001 with financing from the JPA. In order to secure financing through Lease Revenue Bonds, the City of Berkeley was made the direct lessor of the land at 2009 Addison, in turn subleasing the land to the BRT. City lease payments are assigned by the JPA to a trustee for payment of the bonds, and upon expiration of the lease the intent is for the City to convey the facility to the BRT in perpetuity.

### ENVIRONMENTAL SUSTAINABILITY

Amending the easement agreement will allow BRT to replace the previous building at 2015 Addison with a new structure built to CALGreen code standards, with a LEED (Leadership in Energy and Environmental Design) certified Gold rating. Adding housing for artists and theater professionals which is immediately adjacent to the BRT facilities will significantly reduce automotive travel and resulting greenhouse gas emissions.

### RATIONALE FOR RECOMMENDATION

Facilitating the production of on-site housing for artists associated with the BRT serves numerous City goals while supporting the expansion of an important civic institution. Conferring final approval on the amended declaration of easements will help ensure the safety of persons using both the Roda Theater and the new facility at 2015 Addison Street.

### ALTERNATIVE ACTIONS CONSIDERED

None.

### CONTACT PERSON

Jim Bondi, Associate Management Analyst, Planning and Development Department,  
(510) 981-7428

### Attachments:

- 1: Ordinance  
Exhibit A: Description of easements
- 2: Draft Amended declaration of easements

ORDINANCE NO. -N.S.

AUTHORIZING THE CITY MANAGER TO PROVIDE CITY CONSENT TO AN AMENDED DECLARATION OF EASEMENTS FOR SAFETY AND ACCESS BETWEEN 2015 ADDISON STREET, WHICH IS OWNED BY THE BERKELEY REPERTORY THEATER, AND 2009 ADDISON STREET, WHICH IS LEASED BY THE CITY OF BERKELEY AND SUBLEASED TO THE BERKELEY REPERTORY THEATER.

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

Section 1. Conveyance of property authorized.

The City Manager is hereby authorized to provide City consent to the amended declaration of easements for safety and access between 2015 Addison Street, owned by the Berkeley Repertory Theater, and 2009 Addison Street, owned by the Joint Powers Financing Authority, leased by the City of Berkeley, and subleased to the Berkeley Repertory Theater, substantially in the form attached hereto as Exhibit A, for the real property described therein.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

Exhibits

A: Description of Easements

Berkeley Repertory Theater  
1995-067694  
APN 057-2025-023-00

## EXHIBIT A1

### Access and Utility Easement

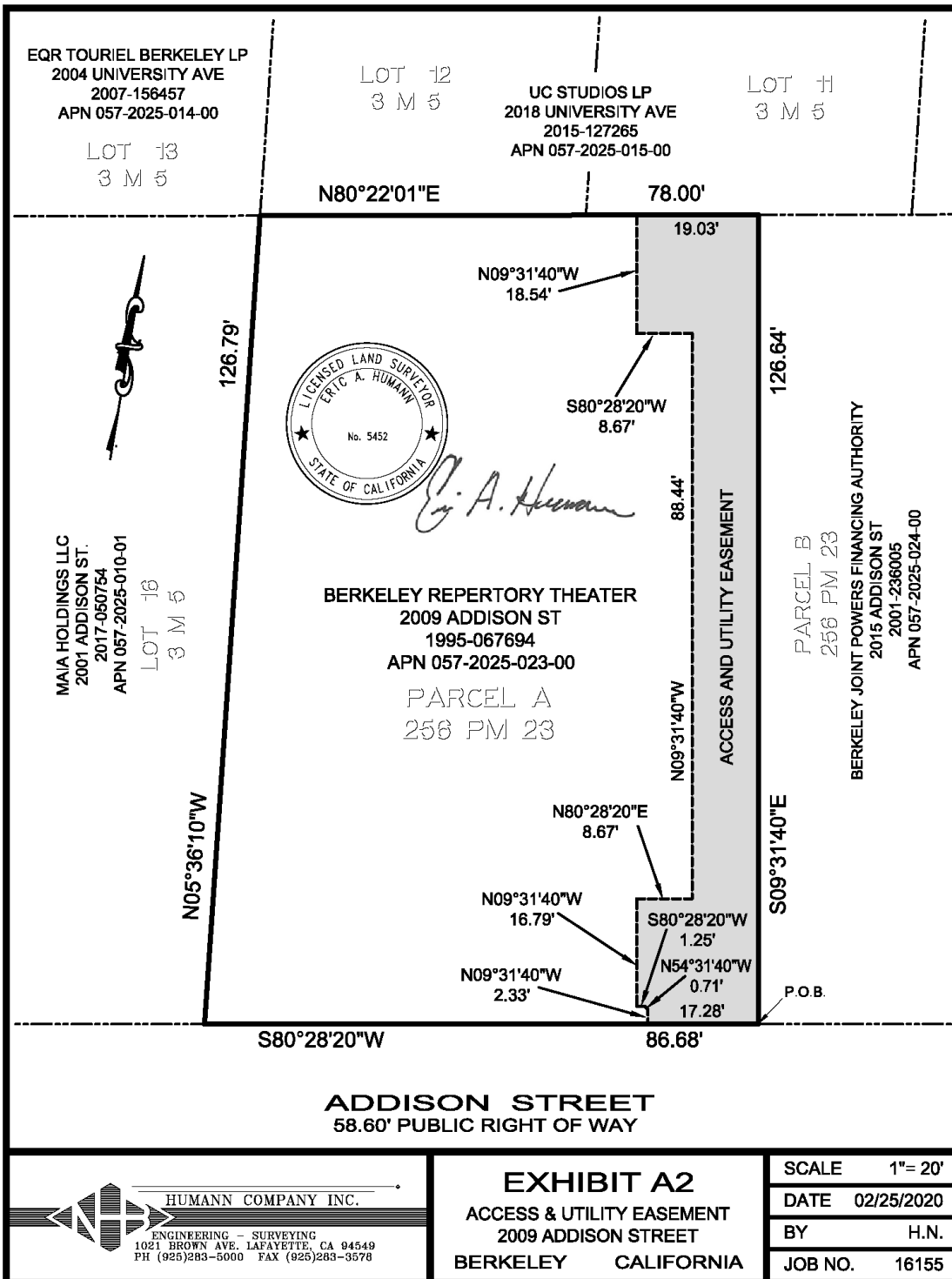
Real property situated in City of Berkeley, County of Alameda, State of California described as follows:

A portion of Parcel A, Parcel Map 7429, filed March 23, 2001 in Book 256 of Parcel Maps, at pages 23 and 24, described as follows:

**Beginning** at the southeasterly corner of the aforementioned Parcel A, said point also being on the northern right-of-way line of Addison Street (58.60 feet wide), thence along said line South 80°28'20" West 17.28 feet; thence leaving last line North 09°31'40" West 2.33 feet; thence North 54°31'40" West 0.71 feet; thence South 80°28'20" West 1.25 feet; thence North 09°31'40" West 16.79 feet; thence North 80°28'20" East 8.67 feet; thence North 09°31'40" West 88.44 feet; thence South 80°28'20" West 8.67 feet; thence North 09°31'40" West 18.54 feet to a point on the northern line of said Parcel A; thence along the exterior lines of said Parcel A North 80°22'01" East 19.03 feet and South 09°31'40" East 126.64 feet to the **Point of Beginning**.

Containing a total area of 1,638 square feet more or less.

**Attached hereto is a plat entitled "Exhibit A2" and by this reference made a part hereof.**



RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Farella Braun + Martel LLP  
235 Montgomery Street  
San Francisco, CA 94104  
Attn: Richard Shapiro

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APN: 057-2025-023-00, 057-2025-024-00

**FIRST AMENDMENT TO DECLARATION OF EASEMENTS**

THIS FIRST AMENDMENT TO DECLARATION OF EASEMENTS (this “**Amendment**”) is made as of \_\_\_\_\_, 2020, by and among BERKELEY REPERTORY THEATRE, a California nonprofit corporation (“**BRT**”), the BERKELEY JOINT POWERS FINANCING AUTHORITY, a joint powers authority duly organized and existing under the laws of the State of California (“**JPA**”), and the CITY OF BERKELEY, a charter city and municipal corporation duly organized and existing under and by virtue of the Constitution and the laws of the State of California (“**City**”).

**RECITALS**

A. BRT entered into that certain Declaration of Easements dated August 20, 1999, which was recorded May 30, 2001 as document number 2001181538 in the Official Record of Alameda County (the “**Declaration**”), which created certain easements benefitting the real property described in the Declaration as “Parcel B,” being Parcel B, Parcel Map 7429, filed March 23, 2001, in Book 256 of Maps, Pages 23 and 24, Alameda County Records, and burdening the real property described in the Declaration as “Parcel A,” being Parcel A, Parcel Map 7429, filed March 23, 2001, in Book 256 of Maps, Pages 23 and 24, Alameda County Records.

B. Parcel A is owned by BRT and Parcel B is now owned by JPA.

C. JPA has leased Parcel B to City pursuant to that certain Amended and Restated Lease Agreement (Theater), dated as of October 1, 2012, recorded in the Alameda County Official Records as Instrument No. 2012432926 (the “**JPA Lease**”). City has subleased Parcel B to BRT pursuant to that certain Sublease Agreement, dated as of October 1, 1999, recorded on July 3, 2001 as Instrument No. 2001236008 in the Alameda County Official Records (the “**City Sublease**”).

D. BRT, JPA and City now desire to amend the Declaration to provide for: (a) JPA to abandon certain easements described in the Declaration, (b) BRT to grant certain new easements burdening Parcel A and benefitting Parcel B, (c) the consent of JPA to the construction on Parcel A of certain improvements over the easements granted in the Declaration as hereby amended, and (d) for City, as party to the JPA Lease and the City Sublease and BRT, as party to the City Sublease, to consent to the provisions of this Amendment and agree that the

JPA Lease and City Sublease are amended to reflect the easements abandoned and granted in this Amendment, subject to the terms and conditions set forth herein.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE I**

**AMENDMENTS TO DECLARATION AND CONSENT**

1. Capitalized Terms. All capitalized terms not defined herein shall have the same meaning as in the Declaration, except as otherwise provided herein, or unless the context clearly otherwise requires.
2. Abandonment of Easements. JPA hereby abandons and quitclaims its rights pursuant to the “New Easement for Access and Egress” as set forth in paragraph 2.b. of the Declaration, and pursuant to the “Transformer Pad Easement” as set forth in paragraph 2.d. of the Declaration.
3. Grant of New Easement for Pedestrian Access and Utilities. BRT hereby grants and establishes for JPA and its successors and assigns, a non-exclusive easement appurtenant to Parcel B over and across that portion of Parcel A depicted and identified as “**Access and Utility Easement**” and described in **Exhibit A**, attached hereto, for the purposes of pedestrian egress from improvements on Parcel B and for the purposes of installing, maintaining, and replacing utility facilities and appurtenances, including, but not limited to, those for electric, gas, water, sanitary sewer, storm drain, cable television, and communications. The location of all such facilities shall be subject to the approval of BRT, which shall not unreasonably be withheld.
4. Grant of Storm Drain Easement. BRT hereby grants and establishes for JPA, and its successors and assigns, an easement, appurtenant to Parcel B over and across that portion of Parcel A depicted and described in **Exhibit B**, attached hereto, for the purpose of installing, maintaining, and replacing a storm drain from improvements on Parcel B.
5. Grant of New Easement for Loading and Staging. BRT hereby grants and establishes for JPA and its successors and assigns, a non-exclusive easement appurtenant to Parcel B over and across that portion of Parcel A depicted and identified as the “**Joint Use Area**” and described in **Exhibit C**, attached hereto, for the purposes of vehicular and pedestrian ingress, egress and access to and from Addison Street, including truck loading and unloading and temporary staging of materials and equipment for use in the improvements on Parcel B.
6. Consent to Encroachments. JPA, as owner of Parcel B, hereby consents to the construction of gates, doors and other access control facilities to control public access to the easements granted in the Declaration, as hereby amended, to JPA as owner of Parcel B. JPA also consents to the encroachment over the easements granted in the Declaration, as amended by this Amendment, of improvements constructed on Parcel A generally as depicted in the drawings

submitted with City of Berkeley Building Permit # B2019-02956. JPA also consents to minor encroachments resulting from non-material changes in dimensions in the improvements constructed on Parcel A as compared with the dimensions set forth in the drawings submitted for the Building Permit and those encroachments resulting from settlement and minor alterations. Nothing in this paragraph shall permit BRT or its successors and assigns to materially impair the use of the easements granted by this Declaration for vehicular and pedestrian ingress, egress and access to Parcel B.

7. Amendment of JPA Lease and City Sublease. City, as party to the JPA Lease and the City Sublease and BRT, as party to the City Sublease, to consent to the provisions of this Amendment and agree that the JPA Lease and City Sublease are amended to reflect the easements abandoned and granted in this Amendment.

8. No Easement Rights in the General Public. Nothing herein shall be deemed to create any easement in favor of the general public.

9. No Other Changes. Except as specifically set forth in this Amendment, the Declaration shall remain in full force and effect, without modification. All references in the Declaration to “this Declaration” or similar references shall mean the Declaration as amended hereby.

10. Counterparts. This Amendment may be executed in any number of counterparts and when so executed, all of such counterparts shall constitute a single instrument binding upon all parties notwithstanding the fact that all parties are not signatory to the original or to the same counterpart.

*[Signature page follows.]*



IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the date first set forth above.

**BRT:**

THE BERKELEY REPERTORY THEATRE,  
a California nonprofit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**JPA:**

BERKELEY JOINT POWERS FINANCING AUTHORITY,  
a public entity existing under the laws of the State of California

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CITY OF BERKELEY,  
a charter city and municipal corporation duly organized and existing under and by virtue of the  
Constitution and the laws of the State of California

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

[SEAL]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

[SEAL]

CONSENT AND SUBORDINATION

SIGNATURE PUBLIC FUNDING CORP., as successor to California Enterprise Development Authority, as beneficiary under that certain Deed of Trust, Security Agreement, Assignment of Rents and Leases and Fixture Filing, recorded March 22, 2019 in the Alameda County Official Records as Instrument No. 2019052022, and as successor to California Enterprise Development Authority, as beneficiary under that certain Leasehold Deed of Trust, Security Agreement, Assignment of Rents and Leases and Fixture Filing, recorded March 22, 2019 in the Alameda County Official Records as Instrument No. 2019052023, hereby consents to the foregoing Amendment and subordinates the lien of the Deed of Trust to the easements granted in the Amendment.

SIGNATURE PUBLIC FUNDING CORP.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SIGNATURE BANK, a New York corporation, as successor to California Enterprise Development Authority, as beneficiary under that certain Deed of Trust, Security Agreement, Assignment of Rents and Leases and Fixture Filing, recorded March 22, 2019 in the Alameda County Official Records as Instrument # 2019052024, and as successor to California Enterprise Development Authority, as beneficiary under that certain Leasehold Deed of Trust, Security Agreement, Assignment of Rents and Leases and Fixture Filing, recorded March 22, 2019 in the Alameda County Official Records as Instrument No. 2019052025, hereby consents to the foregoing Amendment and subordinates the lien of the Deed of Trust to the easement granted in the Amendment.

SIGNATURE BANK

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

[SEAL]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

[SEAL]

**EXHIBIT A  
ACCESS AND UTILITY EASEMENT**

(See attached)

Berkeley Repertory Theater  
1995-067694  
APN 057-2025-023-00

**EXHIBIT A1**

**Access and Utility Easement**

Real property situated in City of Berkeley, County of Alameda, State of California described as follows:

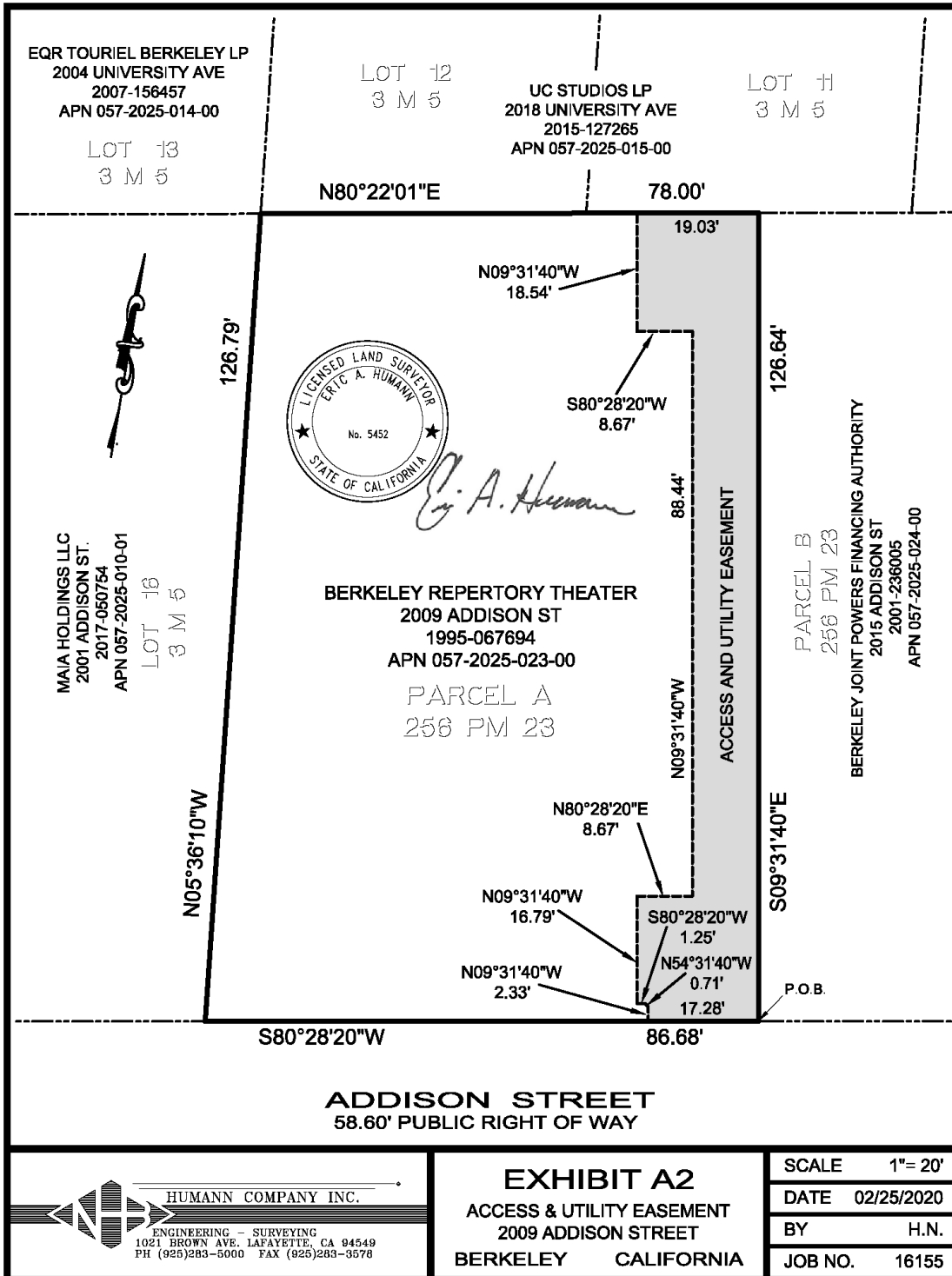
A portion of Parcel A, Parcel Map 7429, filed March 23, 2001 in Book 256 of Parcel Maps, at pages 23 and 24, described as follows:

**Beginning** at the southeasterly corner of the aforementioned Parcel A, said point also being on the northern right-of-way line of Addison Street (58.60 feet wide), thence along said line South 80°28'20" West 17.28 feet; thence leaving last line North 09°31'40" West 2.33 feet; thence North 54°31'40" West 0.71 feet; thence South 80°28'20" West 1.25 feet; thence North 09°31'40" West 16.79 feet; thence North 80°28'20" East 8.67 feet; thence North 09°31'40" West 88.44 feet; thence South 80°28'20" West 8.67 feet; thence North 09°31'40" West 18.54 feet to a point on the northern line of said Parcel A; thence along the exterior lines of said Parcel A North 80°22'01" East 19.03 feet and South 09°31'40" East 126.64 feet to the **Point of Beginning**.

Containing a total area of 1,638 square feet more or less.

**Attached hereto is a plat entitled "Exhibit A2" and by this reference made a part hereof.**





**HUMANN COMPANY INC.**  
 ENGINEERING - SURVEYING  
 1021 BROWN AVE. LAFAYETTE, CA 94549  
 PH (925)283-5000 FAX (925)283-3578

**EXHIBIT A2**  
 ACCESS & UTILITY EASEMENT  
 2009 ADDISON STREET  
 BERKELEY CALIFORNIA

|         |            |
|---------|------------|
| SCALE   | 1" = 20'   |
| DATE    | 02/25/2020 |
| BY      | H.N.       |
| JOB NO. | 16155      |

**EXHIBIT B  
STORM DRAIN EASEMENT**

(See attached)

Berkeley Repertory Theater  
1995-067694  
APN 057-2025-023-00

**EXHIBIT B1**

**Storm Drain Easement**

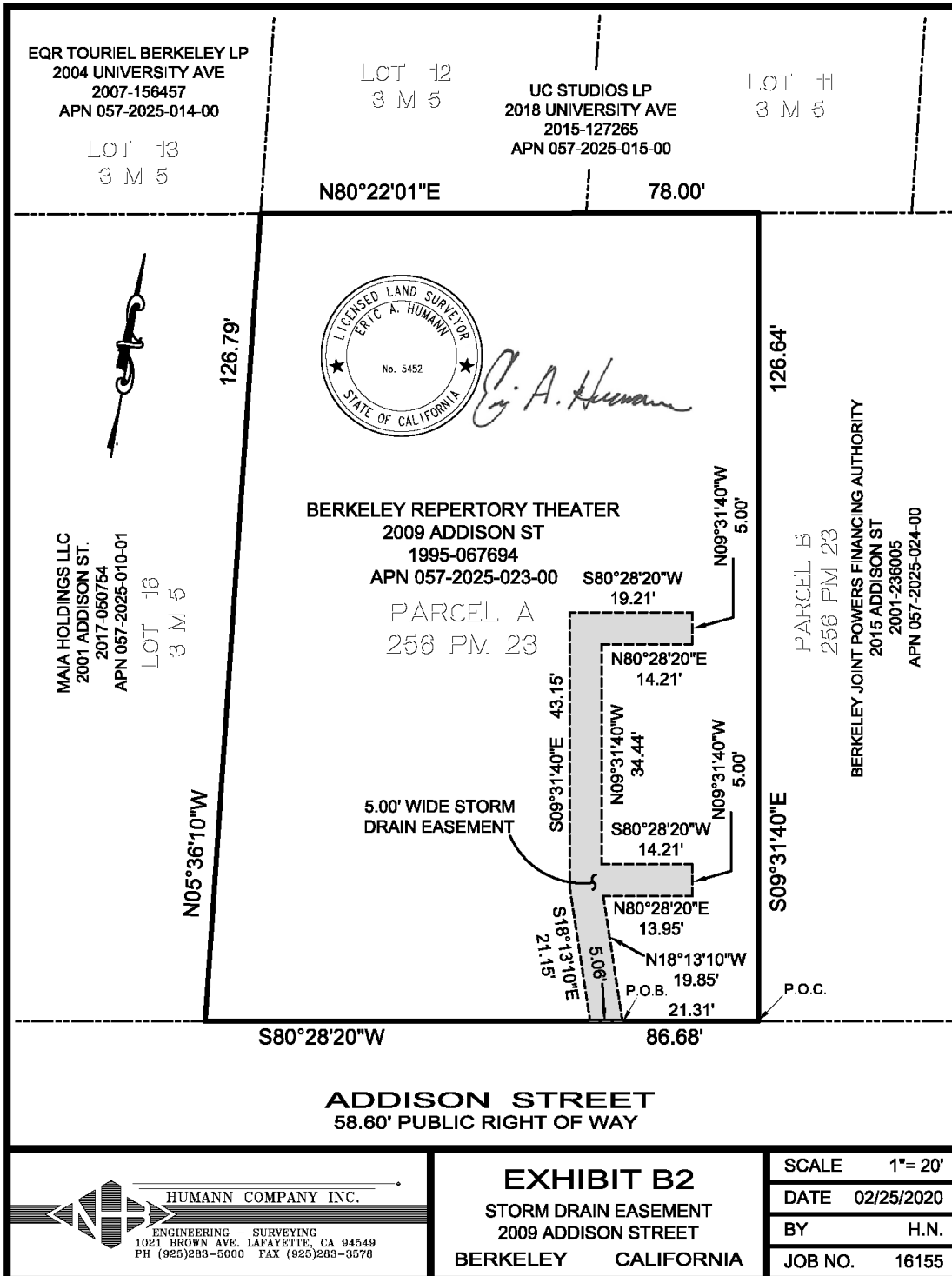
Real property situated in City of Berkeley, County of Alameda, State of California described as follows:

A strip of land 5.00 feet wide being a portion of Parcel A, Parcel Map 7429, filed March 23, 2001 in Book 256 of Parcel Maps, at pages 23 and 24, described as follows:

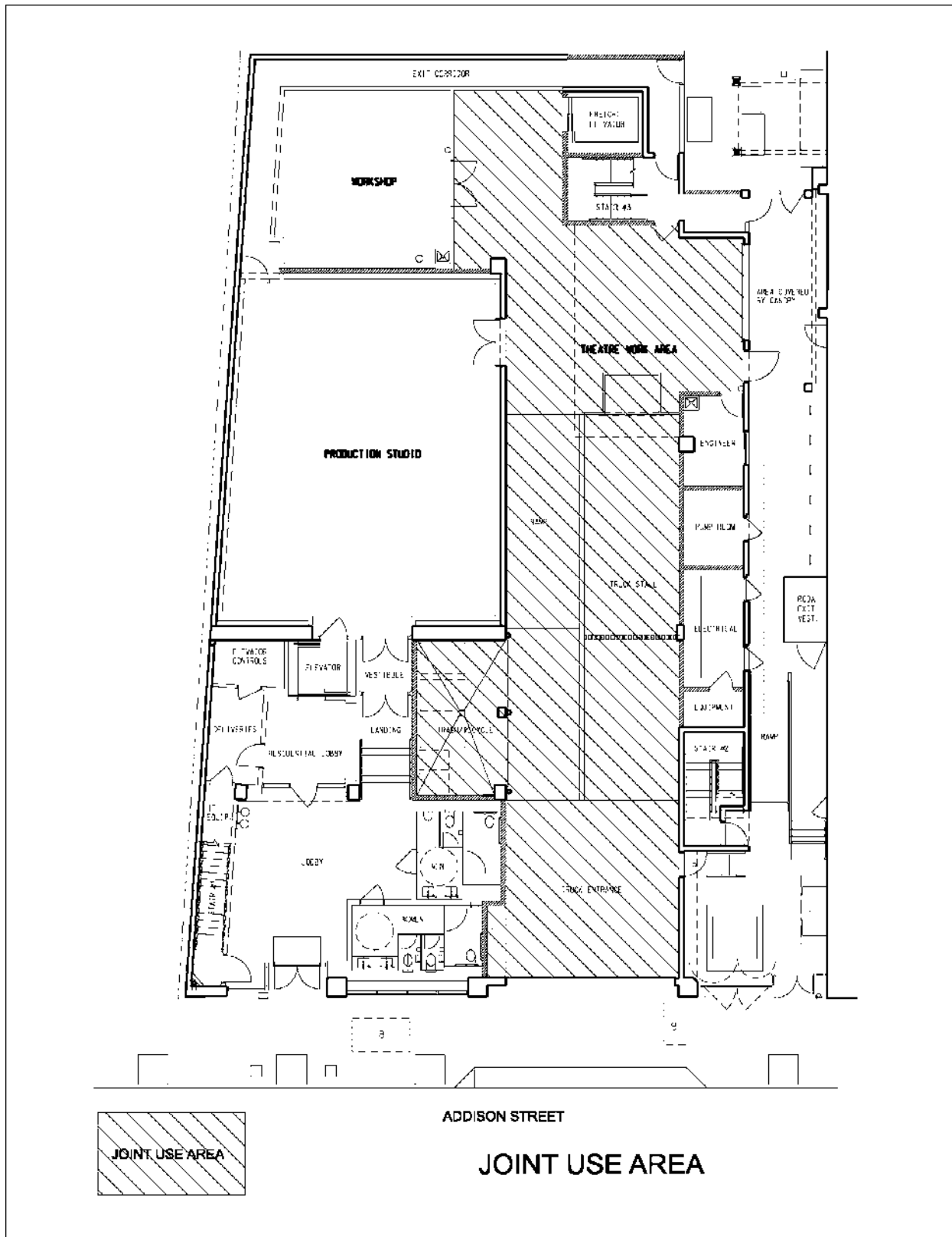
**Commencing** at the southeasterly corner of the aforementioned Parcel A, said point also being on the northern right-of-way line of Addison Street (58.60 feet wide), thence along said line South 80°28'20" West 21.31 feet to the **Point of Beginning** of the herein described strip of land; thence leaving last line North 18°13'10" West 19.85 feet; thence North 80°28'20" East 13.95 feet; thence North 09°31'40" West 5.00 feet; thence South 80°28'20" West 14.21 feet; thence North 09°31'40" West 34.44 feet; thence North 80°28'20" East 14.21 feet; thence North 09°31'40" West 5.00 feet; thence South 80°28'20" West 19.21 feet; thence South 09°31'40" East 43.15 feet; thence South 18°13'10" East 21.15 feet; thence North 80°28'20" East 5.06 feet to the **Point of Beginning**.

Containing a total area of 463 square feet more or less.

**Attached hereto is a plat entitled "Exhibit B2" and by this reference made a part hereof.**



### EXHIBIT C JOINT USE AREA







Office of the City Manager

CONSENT CALENDAR  
July 14, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Phillip L. Harrington, Director, Department of Public Works  
 Subject: Contract: Shaw Industries, Inc. for Civic Center Building Carpet Replacement Project.

RECOMMENDATION

Adopt a Resolution:

1. Pursuant to City Charter Article XI Section 67.2 requirements, accepting the California Multiple Award Schedule bid procedures;
2. Approving the California Multiple Award Schedule Contract with Shaw Industries, Inc. for Carpet Replacements at the Civic Center Building.
3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the terms and conditions of the agreements with Shaw Industries, Inc. in an amount not to exceed \$116,635.39, which includes a contingency of \$19,439.23.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this carpet replacement project is available in the Fiscal Year 2021 Facilities Capital Improvement Program (CIP) budget from the Capital Improvement Fund (501).

|                                                    |                     |
|----------------------------------------------------|---------------------|
| Carpet Replacement (CMAS by Shaw Industries, Inc.) | \$ 97,196.16        |
| Contingency (20%)                                  | \$ 19,439.23        |
| <b>Total Cost</b>                                  | <b>\$116,635.39</b> |

FY 2021 Funding:

|                                                                |                     |
|----------------------------------------------------------------|---------------------|
| Capital Improvement Fund (501-54-623-677-3014-000-444-662110-) | \$116,635.39        |
| <b>Total Construction Cost</b>                                 | <b>\$116,635.39</b> |

CURRENT SITUATION AND ITS EFFECTS

Some of the carpets at the Civic Center Building, located at 2180 Milvia Street, need to be replaced on the second floor (Payroll) and on the third floor (Finance & Audit). Most of the carpets are very old and have surpassed their typical life expectancy of twenty years. Most of these carpets are so damaged, that they have become trip and fall hazards. There are numerous locations throughout the building, where carpet failures are visible, including heavy damage, crushed padding, seam failures, water damage, and heavy staining.

Shaw Industries, Inc. was selected through the California Multiple Award Schedule (CMAS) bid procedure. This allows the City to procure a contractor that was previously selected through the State of California bidding process. All pricing, products and/or services offered to the State of California through this system are made available to the City. Making use of this process results in costs savings and expedites contractor selection. By utilizing the California Multiple Award Schedule (CMAS), the cost on this project has been substantially reduced, less than half of previous carpet projects.

The provided services will support the Strategic Plan goals of creating a resilient, safe, connected, and prepared city and providing state-of-the-art, well-maintained facilities.

#### BACKGROUND

The existing broadloom carpets in the Civic Center Building are over twenty years old and are in need of replacement. There are numerous locations throughout the building, where carpet failures are visible, including crushed carpeting padding, seam failures, heavy staining, and other deficiencies that are typical of a carpet that has exceeded its useful life.

In 2015, the City developed technical specifications for carpet tiles to be used in City owned buildings. The specifications have been used for several past projects, including the Civic Center and Public Safety Building Carpet Replacement Project in 2017. The carpet tiles proved to be a well-received, low-maintenance, and less expensive to install than non-tile carpets.

#### ENVIRONMENTAL SUSTAINABILITY

The proposed product meets criteria established in the specifications, which is in accordance with the sustainable resolutions and ordinances administered by the City's Office of Energy and Sustainable Development, the City of Berkeley Revised General Plan, the City's Climate Action Plan, and CalGreen. For example, the project will replace the existing carpet with PVC free carpet tiles that are 100% recyclable.

#### RATIONALE FOR RECOMMENDATION

Contracted services are required for this project as the City does not have the in-house expertise to complete this specialized work. Shaw Industries, Inc. provided a cost effective price, complying with the City's carpet specifications.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

Andrew Brozyna, Deputy Director of Public Works, (510) 981-6396  
Elmar Kapfer, Supervising Civil Engineer, (510) 981-6435

Attachment:

1: Resolution



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

CONTRACT: SHAW INDUSTRIES, INC. FOR THE CIVIC CENTER BUILDING  
CARPET REPLACEMENT PROJECT

WHEREAS, the existing broadloom carpeting in the Civic Center Building is in need of replacement; and

WHEREAS, The City has neither the labor nor the equipment necessary to undertake this renovation project; and

WHEREAS, City Charter Article XI Section 67.2 allows the City to purchase goods without undergoing a competitive bid process when using pricing obtained by other governmental entities and agencies, including the State of California, through a competitive process; and

WHEREAS, the California Multiple Award Schedule (CMAS) is available to state and local governments; and

WHEREAS, THE California Department of General Service Procurement Division determined Shaw Industries, Inc.'s bid pricing to be fair and reasonable and awarded CMAS Contract No. 4-13-72-0008C; and

WHEREAS, funds are available in the FY 2021 Budget in the Capital Improvement Fund (501).

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions, or change orders until completion of the project in accordance with the terms and conditions of the agreement with Shaw Industries, Inc. for the carpet replacement project at the Civic Center Building, in an amount not to exceed \$116,635.39, which includes a contingency of \$19,439.23. A record signature copy of the agreement and any amendments to be on file in the office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
July 14, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Phillip L. Harrington, Director, Department of Public Works  
 Subject: Contract No. 9730B Amendment: Fairbanks Scales, Inc. for Preventative Maintenance and Repairs on the Various Scales at the Berkeley Transfer Station

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9730B with Fairbanks Scales, Inc. for preventative maintenance and repairs on the various scales at the City's Solid Waste Management Center Transfer Station Facility to increase the contract amount by \$50,000 for a total contract amount not to exceed \$190,000, and to extend the contract term by two years to June 30, 2023.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the FY 2021 Zero Waste Budget Fund 601. Funding for FY 2022 and FY 2023 are subject to appropriation.

CURRENT SITUATION AND ITS EFFECTS

The authorized spending limit for Contract No. 9730A has almost been reached. Failure to obtain Council approval for the recommended action will interrupt the ongoing provision of preventative maintenance and repairs on the various public scales at the City's Solid Waste Management and Transfer Station (Transfer Station).

BACKGROUND

Maintenance and repairs of the scales at the Transfer Station is critical for the facility's operation. To remain in compliance with its permit to operate and the Alameda County Community Development Agency's Weights and Measures Department, the Transfer Station must ensure its vehicle weigh scales are fully operational and accurately calibrated to avoid undercharging or overcharging customers that use the facility.

ENVIRONMENTAL SUSTAINABILITY

Having fully operational scales at the Transfer Station improves traffic flow to reduce vehicle idling and waiting times.

RATIONALE FOR RECOMMENDATION

In order to ensure the uninterrupted provision of preventative maintenance and repairs on the various scales at the Berkeley Transfer Station, staff recommends that Council authorize execution of an amendment to Contract No. 9730B with Fairbanks Scales, Inc. to increase the contract amount.

ALTERNATIVE ACTIONS CONSIDERED

None. Fairbanks Scales, Inc. is recognized as the local expert in solid waste scales and has provided the City with excellent service. Further, the City does not have the in-house resources or expertise to perform this type of specialized preventative maintenance and repairs. It is essential for continued Transfer Station operations for the facility to have a contract with a vendor to ensure timely servicing of the various scales.

CONTACT PERSON

Greg Apa, Solid Waste & Recycling Manager, (510) 981-6359

Attachments:

1: Resolution

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

CONTRACT NO. 9730B AMENDMENT: FAIRBANKS SCALES, INC. FOR PREVENTATIVE MAINTENANCE AND REPAIRS ON THE VARIOUS SCALES AT THE BERKELEY TRANSFER STATION

WHEREAS, the City of Berkeley Zero Waste Division has operated the Berkeley Solid Waste Management Center Transfer Station Facility (Transfer Station) since August 1, 1985; and

WHEREAS, the Transfer Station hosts an array of solid waste operations, including refuse disposal, organics materials recovery and recycling, construction and demolition material management, and self-haul disposal services for small volume generators and private parties; and

WHEREAS, to remain in compliance with its permit to operate and the Alameda County Community Development Agency's Weights and Measures Department, the Transfer Station must have accurate public scales to weigh vehicles to avoid undercharging or overcharging the customers; and

WHEREAS, preventative maintenance and repairs of the various scales at the Transfer Station is critical for the facility's operation, and the City does not have the in-house resources nor expertise to perform this type of specialized preventative maintenance or repairs; and

WHEREAS, funding is available in the FY 2021 Zero Waste Budget, and funding for FY 2022 and FY 2023 are subject to appropriation.

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. 9730B with Fairbanks Scales, Inc. for preventative maintenance and repairs on the various scales at the City's Solid Waste Management Center Transfer Station Facility to increase the contract amount by \$50,000 for a total contract amount not to exceed \$190,000, and to extend the contract term by two years to June 30, 2023. A record signature copy of said contract amendment to be on file in the Office of the City Clerk.





Office of the City Manager

PUBLIC HEARING

July 14, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Permanent Local Housing Allocation Application

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution authorizing the City Manager to apply for and accept funds from the State of California's Permanent Local Housing Allocation program in an amount not to exceed \$7,761,504 to support local affordable housing and homeless services initiatives.

SUMMARY

The Permanent Local Housing Allocation (PLHA) is a non-competitive entitlement fund to support local affordable housing and homeless services initiatives. The City is required to submit a five-year plan to access funding through 2025. Staff prepared a plan to fund the City's Pathways STAIR Navigation Center and Rapid Rehousing (RRH) for residents in Operation Safer Ground in the first two years. This is an ongoing funding source that can be paired with other one-time State funding resources, including the Homeless Housing, Assistance, and Prevention Program (HHAP) and the Homeless Emergency Aid Program (HEAP), to sustain the City's homeless services.

The final three years are proposed to support new affordable housing units for homeless households as well as the Housing Trust Fund (HTF) program. This would be contingent on revenue streams returning to pre-recession levels to support homeless services. The funding for this program is collected from real estate transaction fees and, thus, will vary each year with the market.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley is eligible to receive \$1,293,584 in year-one from the funds collected in 2019. Revenue over the next five years is projected at \$7,761,504. However, initial projections were created by the California Department of Housing and Community Development (HCD) prior to COVID-19. Staff anticipate funding in years two through five could be reduced if real estate transactions slow as a result of the COVID-19 induced recession.

CURRENT SITUATION AND ITS EFFECTS

Approving the City's Permanent Local Housing Allocation application is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

The PLHA is a newly established State funding source to support local affordable housing and homeless services initiatives. The PLHA is funded by a recording fee on real estate transactions and will be distributed annually by HCD.

The City is entitled to its share of the funding provided it submits an application that is consistent with the eligible activities identified by Notice of Funding Availability (NOFA). The application requires the City to submit a five-year funding plan for all eligible activities.

The PLHA budget is calculated by percentages, rather than hard numbers, given the source fluctuates each year by real estate transactions. Adjustments to activity allocations in the submitted plan by greater than 10% will require City Council and HCD approval.

Staff are recommending Years 1-2 prioritize sustaining the City's Pathways STAIR Navigation Center and funding Rapid Rehousing (RRH) for community members in Operation Safer Ground . Years 3-5 will shift to supporting the Housing Trust Fund program and creating subsidies for new units affordable to homeless households. The projected budget and details of each activity are outlined below.

**Years 1-2: Homeless Services***Pathways STAIR Navigation Center*

The City funds the Pathways STAIR Navigation Center ("STAIR Center") to shelter and house people living on the streets of Berkeley as quickly as possible. The STAIR Center offers a 45-bed, 24/7, service-rich shelter housed in a series of modular trailer buildings in West Berkeley. Capacity was reduced to 25 beds to accommodate COVID-19 health and safety procedures.

The STAIR Center follows national best practices for low-barrier shelters and provides accommodations for partners, pets, and possessions. On-site housing navigators maintain a client ratio of 20:1. STAIR Center funding also includes two full-time outreach workers who maintain a regular presence in local encampments and Rapid Rehousing services for clients.

This funding will be critical to maintain the STAIR Center and its services in the face of COVID-19 revenue reductions.



*Operation Safer Ground Rapid Rehousing Program*

The City is working with the State of California and Alameda County to implement Operation Safer Ground. This program provides safe housing for people experiencing homelessness with a high-risk of contracting the COVID-19 virus. This includes people who are over the age of 65, medically fragile, and/or have a variety of health conditions. The County is funding 69 hotel rooms in Berkeley to provide respite under Operation Safer Ground.

PLHA funds will provide RRH services to help participants locate and move into housing after the Safer Ground hotels are decommissioned. This includes providing participants with housing navigation services and short-term rental assistance (up to one-year). Staff anticipate the annual cost for a single individual will be \$22,250. PLHA funds are expected to house at least 10 people. Staff plan to leverage other Cares Act funding for additional rental subsidy slots for this program.

**Projected Years 1-2 Budget**

| Year 1 Funds               |                    |             | Year 2 Projected           |                    |                  |
|----------------------------|--------------------|-------------|----------------------------|--------------------|------------------|
| \$1,293,584                |                    |             | \$1,552,301                |                    |                  |
| Activity                   | Percent Allocation | Amount      | Activity                   | Percent Allocation | Projected Amount |
| STAIR Navigation Center    | 77%                | \$1,000,000 | STAIR Navigation Center    | 77%                | \$1,195,2721     |
| Operation Safer Ground RRH | 18%                | \$228,905   | Operation Safer Ground RRH | 18%                | \$279,414        |
| Admin*                     | 5%                 | \$64,679    | Admin                      | 5%                 | \$77,615         |

\*5% is the max amount allowable for administration

**Years 3-5: New Housing Units for Homeless Households and HTF Support**

Staff are recommending shifting the funding in years three through five to support new construction initiatives via two avenues: 1) operating subsidies for homeless households; and 2) supplementing the Housing Trust Fund program. This would be contingent on revenue streams returning to pre-recession levels to support homeless services.

*Rental Operating Subsidies for 10 Homeless Households*

Staff will conduct an RFP then negotiate one or more contracts with an affordable housing developer to subsidize apartments for homeless households in an HTF pipeline project. The subsidy would allow affordable developers to provide homes for people

experiencing homelessness, similar to a Project-Based Section 8 contract. These subsidies would serve homeless households without the income required to qualify for units subsidized by the typical financing sources for affordable developments. Currently, a Social Security Income (SSI) household would not be able to afford a unit designated as Extremely Low-Income (ELI) at 30% AMI without additional subsidy. ELI units are the lowest subsidy available in most affordable developments. Subsidies would be paid over time (rather than capitalized), and payments and monitoring could be absorbed in HHCS' existing HTF monitoring and Shelter Plus Care programs.

Staff used HUD's Fair Market Rents (the standard for Section 8 contracts) for one-bedroom units to project costs for a 17-year contract period (LITHC tax credit financing runs for 15 years plus a two-year buffer). Paying rents over time rather than capitalizing the subsidy up front involves more risk since the cost of operating subsidies is expected to rise over time and future PLHA funding levels are unknown. However, it increases the number of units that can be subsidized at the program start. Funding 10 units will mitigate this risk as the projected costs account for approximately 15% of the expected revenue. This will provide a buffer over time should revenue decrease.

*Housing Trust Fund Program*

The remaining funds would be applied to the Housing Trust Fund program to increase Berkeley's permanent affordable housing stock. Projected funding could support three to five units.

**Projected Years 3-5 Budget**

| <b>Years 3-5 Annual Projected Funds*</b> |                           |                         |
|------------------------------------------|---------------------------|-------------------------|
| \$1,552,301 per year                     |                           |                         |
| <b>Activity</b>                          | <b>Percent Allocation</b> | <b>Projected Amount</b> |
| Housing Trust Fund                       | 80%                       | \$1,241,841             |
| Homeless Operating Subsidies             | 15%                       | \$222,084               |
| Admin                                    | 5%                        | \$77,615                |

\*Funding is collected annually through real estate recording fees and will fluctuate. These estimates were provided by HCD.

**BACKGROUND**

The PLHA was created by the Building Homes and Jobs Act (SB 2, 2017). This bill established a \$75 recording fee on real estate documents to increase the supply of affordable homes in California. The PLHA is a noncompetitive application with funds allocated to cities based on the Community Development Block Grant (CDBG) distribution formula.

The City needs to hold a public hearing and submit an application, resolution, and five-year plan by July 27, 2020.

Eligible activities include:

- Predevelopment/Development/Acquisition/Rehab for specific projects (including operating subsidies)
- Housing Trust Fund matching funds
- Capitalized reserves for Permanent Supportive Housing services (preservation and new construction)
- Accessibility modifications
- Homeless housing/services (Rapid rehousing; Rental assistance; Navigation centers; Emergency shelters)

#### ENVIRONMENTAL SUSTAINABILITY

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

#### RATIONALE FOR RECOMMENDATION

The COVID-19 induced recession reduced the City's funding sources for homeless services. The PLHA could serve as a stopgap to allow the City to continue services at the STAIR Center while revenue streams stabilize and return to previous levels. This will also provide funding to transition vulnerable community members from temporary housing into permanent housing. Transitioning funding in years 3-5 (provided revenues have recovered) to support new construction affordable housing and new units for homeless community members is consistent with the City's mission to house the Berkeley's most vulnerable community members.

#### ALTERNATIVE ACTIONS CONSIDERED

The City Council could consider attributing all funds to homeless services or the Housing Trust Fund for the entire five-year period. Staff recommended against this strategy to sustain funding needs in the present while continuing to advance the City's mission to develop new affordable housing. Alternative eligible activities such as accessibility modifications would require increased staffing capacity that would offset the benefit of the funding.

#### CONTACT PERSON

Amy Davidson, Senior Community Development Project Coordinator, HHCS,  
(510) 981-5406

Amanda Montez, Community Development Project Coordinator, HHCS, (510) 981-5426

Mike Uberti, Community Development Project Coordinator, HHCS, (510) 981-5426

Attachments:

1: Resolution

2: Public Hearing Notice

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

PERMANENT LOCAL HOUSING ALLOCATION APPLICATION

WHEREAS, the State of California (“State”) Department of Housing and Community Development (“Department”) is authorized to provide up to \$195 million under the SB 2 Permanent Local Housing Allocation Program Formula Component from the Building Homes and Jobs Trust Fund for assistance to Cities and Counties (as described in Health and Safety Code section 50470 et seq. (Chapter 364, Statutes of 2017 (SB 2)); and

WHEREAS, the Department issued a Notice of Funding Availability (“NOFA”) dated 02/26/2020 under the Permanent Local Housing Allocation (PLHA) Program; and

WHEREAS, the City of Berkeley is an eligible Local government applying for the program to administer one or more eligible activities; and

WHEREAS, the Department may approve funding allocations for PLHA Program, subject to the terms and conditions of the Guidelines, NOFA, Program requirements, the Standard Agreement and other contracts between the Department and PLHA grant recipients; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that if the City of Berkeley receives a grant of PLHA funds from the Department pursuant to the above referenced PLHA NOFA, it represents and certifies that it will use all such funds in a manner consistent and in compliance with all applicable state and federal statutes, rules, regulations, and laws, including without limitation all rules and laws regarding the PLHA Program, as well as any and all contracts Applicant may have with the Department.

BE IT FURTHER RESOLVED that the City of Berkeley is hereby authorized and directed to receive a PLHA grant, in an amount not to exceed the five-year estimate of the PLHA formula allocations, as stated in Appendix C of the current NOFA (\$7,761,504) in accordance with all applicable rules and laws.

BE IT FURTHER RESOLVED that the City of Berkeley hereby agrees to use the PLHA funds for eligible activities as approved by the Department and in accordance with all Program requirements, Guidelines, other rules and laws, as well as in a manner consistent and in compliance with the Standard Agreement and other contracts between the Applicant and the Department.

BE IT FURTHER RESOLVED that the City of Berkeley certifies that it has or will subgrant some or all of its PLHA funds to another entity or entities. Pursuant to Guidelines Section 302(c)(3), “entity” means a housing developer or program operator, but does not mean an administering Local government to whom a Local government may delegate its PLHA allocation

July 14, 2020

BE IT FURTHER RESOLVED that the City of Berkeley certifies that its selection process of these subgrantees was or will be accessible to the public and avoided or shall avoid any conflicts of interest.

BE IT FURTHER RESOLVED that the City of Berkeley certifies that, if funds are used for the development of an Affordable Rental Housing Development, the Local government shall make PLHA assistance in the form of a low-interest, deferred loan to the Sponsor of the Project, and such loan shall be evidenced through a Promissory Note secured by a Deed of Trust and a Regulatory Agreement shall restrict occupancy and rents in accordance with a Local government-approved underwriting of the Project for a term of at least 55 years.

BE IT FURTHER RESOLVED that the City of Berkeley shall be subject to the terms and conditions as specified in the Standard Agreement, the PLHA Program Guidelines and any other applicable SB 2 Guidelines published by the Department.

BE IT FURTHER RESOLVED that the City Manager and/or her designee is authorized to execute the PLHA Program Application, the PLHA Standard Agreement and any subsequent amendments or modifications thereto, as well as any other documents which are related to the Program or the PLHA grant awarded to Applicant, as the Department may deem appropriate.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**PERMANENT LOCAL HOUSING ALLOCATION FUNDING APPLICATION**

The Department of Health, Housing, and Community Services is proposing submit an application, including a five-year funding plan, in response to the California Department of Housing and Community Development’s (“HCD”) Notice of Funding Availability under the Permanent Local Housing Allocation (“PLHA”) Program.

The hearing will be held on, JULY 14, 2020 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 **July 2, 2020**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Mike Uberti at (510) 981-5114 or [muberti@cityofberkeley.info](mailto:muberti@cityofberkeley.info).

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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

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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 July 2, 2020.

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Mark Numainville, City Clerk



Office of the City Manager

PUBLIC HEARING

July 14, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: California Public Finance Authority Bond Financing for 1717 University Avenue

RECOMMENDATION

Conduct a public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Internal Revenue Code of 1986, as amended, and upon conclusion, adopt a Resolution approving the issuance of the bonds by the California Public Finance Authority (CalPFA) for the benefit of the 1717 University Avenue rental housing development.

SUMMARY

The developer of the rental housing project at 1717 University Avenue is requesting the City hold a public hearing and adopt a resolution in support of their multifamily housing revenue bond financing request from the California Public Finance Authority (CalPFA). This will allow the owner to access favorable financing terms in exchange for dedicating 20% of their units as affordable housing. This project will provide three Below Market Rate (BMR) units affordable to 50% Area Median Income (AMI) households and contribute a pro-rated Affordable Housing Mitigation Fee (AHMF) payment to support affordable housing. The City must enter into Joint Exercise of Powers Agreement with CalPFA but this will not obligate the City to hold any obligations related to repayment of the bonds.

FISCAL IMPACTS OF RECOMMENDATION

The bonds to be issued by the CalPFA for 1717 University Avenue will be the sole responsibility of the project's owner, and the City will have no financial, legal, moral obligation, liability or responsibility for the development or the repayment of the bonds. All financing documents with respect to the issuance of the bonds will contain clear disclaimers that the bonds are not obligations of the City or the State of California and are to be repaid from funds provided by the 1717 University Avenue development.

Through the CalPFA Community Benefit Program, CalPFA will share 10% of the annual administrative fees collected for the term of the bonds with the City of Berkeley. Staff anticipates this could be between \$600-\$850 dependent on the final bond amount for at least a 15-year period.

### CURRENT SITUATION AND ITS EFFECTS

1717 University Associates, LLC (the “owner”) and H3M Partners, LLC (the “developer”) requested the CalPFA issue one or more series of revenue bonds. The resolution attached to this report will enable the owner to access up to \$17,000,000 in tax exempt bond financing from CalPFA for financing the acquisition and construction of a multifamily rental housing project located at 1717 University Avenue.

The project has opted to satisfy the Affordable Housing Mitigation Fee requirements with a combination of fee payment and affordable units, which will be available to households with incomes at or below 50 percent of area median.

In order for the bonds to qualify as tax-exempt bonds, the City of Berkeley must conduct a public hearing (the “TEFRA Hearing”) providing for the members of the community an opportunity to speak in favor of or against the use of tax-exempt bonds for the development’s financing. Following the close of the TEFRA Hearing, an “applicable elected representative” of the government hosting 1717 University Avenue must provide its approval of the issuance of the bonds for its financing. This adoption is solely for the purposes of satisfying the requirements of TEFRA, the Internal Revenue Code, and the California Government Code Section 6500.

1717 University Avenue’s BMR units and AHMF payment are a Strategic Plan Priority Project, advancing the City’s goal to create affordable housing and housing support service for our most vulnerable community members.

### BACKGROUND

1717 University Associates, LLC was formed to build the project at 1717 University Avenue, and it is being managed by the developer, H3M Partners. The developer specializes in infill, multi-family housing and has experience working in the East Bay region.

1717 University Avenue is a proposed five-story, ground up mixed use housing development of approximately 22,000 square feet located on 8,478 square feet of land (or .19 acres). It will be constructed as four stories of Type V construction over Type I.

There will be three BMR units with a total of 11 bedrooms. They will be affordable to very low-income households for the life of the project and will be secured by a regulatory agreement, per the City’s BMR standards. The project will also provide a pro-rated AHMF of approximately \$170,000 that will be used to leverage additional affordable housing through the Housing Trust Fund program.

The BMR Units include two five-bedroom units, which may be spacious enough to accommodate multi-generational families, and one studio unit. The remaining market-rate units will be rented as co-living units. The developers are including shared space and amenities for the co-living units and anticipate that the market rate rents will be



affordable to households earning approximately equivalent to 85% of Area Median Income.

The CalPFA is a political subdivision of the state of California established under the Joint Exercise of Powers Act for the purpose of issuing tax-exempt and taxable conduit bonds for public and private entities throughout California. CalPFA was created on May 12, 2015 to assist local governments, non-profit organizations and businesses with the issuance of taxable and tax-exempt financing to promote economic, cultural, and community development opportunities that create temporary and permanent jobs, affordable housing, community infrastructure and improve the overall quality of life in local communities. To date, 47 municipalities have become members of CalPFA.

For the owner to obtain the financing, the City must conduct a public hearing and approve the Authority's issuances of indebtedness. Approval by the government jurisdiction in which the proposed facilities are located is a requirement of Section 147(f) of the Internal Revenue Code of 1986 (IRS Code).

In order for the CalPFA to have the authority to serve as the issuer of the bonds for the 1717 University Avenue, it is necessary for the City of Berkeley to become a member of the CalPFA. The Joint Exercise of Powers Agreement to be executed by the City to join CalPFA is included as an attachment to this report (Attachment 3).

The Joint Exercise of Powers Agreement provides that the CalPFA is a public entity, separate and apart from each member executing such agreement. The debts, liabilities and obligations of the CalPFA do not constitute debts, liabilities or obligations of the members executing such agreement. The bonds to be issued by the CalPFA for 1717 University Avenue will be the sole responsibility of the owner, and the City will have no financial, legal, moral obligation, liability or responsibility for the development or the repayment of the bonds.

There are no costs associated with membership in the CalPFA and the City will in no way become exposed to any financial liability by reason of its membership in the CalPFA. In addition, participation by the City in the CalPFA will not impact the City's appropriations limits and will not constitute any type of indebtedness by the City. Outside of holding the TEFRA hearing, adopting the required resolution and executing the Joint Exercise of Powers Agreement of the CalPFA, no other participation or activity of the City or the City Council with respect to the issuance of the bonds will be required.

Through the CalPFA Community Benefit Program, CalPFA will share 10% of the annual administrative fees collected for the term of the bonds with the City of Berkeley. The administrative fee is assessed as .05% of the outstanding bond amount. The final amount provided to the City will be dependent on the final bond amount. Staff approximates it could be between \$600-\$850 per year at the time of this report.

ENVIRONMENTAL SUSTAINABILITY

There are no environmental sustainability effects directly associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The proposed project is eligible for tax-exempt bonds and the Council's approval of CalPFA's issuance will help the project access tax-exempt financing which will support it to provide three permanently restricted housing units for very low-income households and pay mitigation fees. This development will increase the City's BMR portfolio and support the Housing Trust Fund program.

ALTERNATIVE ACTIONS CONSIDERED

The City could decline to join CalPFA, which would result in the owner not being able to obtain the proposed bond financing. The owner's alternative options might include finding another bond issuer that would not require the City to join CalPFA or a similar organization (if the Council is otherwise willing to hold the TEFRA hearing). They may also consider asking Alameda County to fill this role or giving up tax-exempt financing. The resulting delays and/or additional expenses might affect the development's feasibility.

CONTACT PERSON

Amy Davidson, Senior Community Development Project Coordinator, HHCS, (510) 981-5406

Attachments:

- 1: Resolution
- 2: Public Hearing Notice
- 3: Joint Powers Agreement

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

CALIFORNIA PUBLIC FINANCE AUTHORITY MULTIFAMILY HOUSING REVENUE  
BONDS FOR 1717 UNIVERSITY AVENUE

WHEREAS, 1717 University Associates, LLC or a partnership of which H3M Partners, LLC (the "Developer") or a related person to the Developer is the general partner, has requested that the California Public Finance Authority (the "Authority") adopt a plan of financing providing for the issuance of exempt facility bonds for a qualified residential rental project pursuant to Section 142(a)(7) of the Internal Revenue Code of 1986 (the "Code") in one or more series issued from time to time, including bonds issued to refund such exempt facility bonds in one or more series from time to time, and at no time to exceed \$17,000,000 in outstanding aggregate principal amount (the "Bonds"), to finance or refinance the acquisition, construction, improvement and equipping of a multifamily rental housing project located at 1717 University Avenue, Berkeley, California (the "Project"); and

WHEREAS, the Project is located within the City of Berkeley (the "City"); and

WHEREAS, the City proposes to become an Additional Member of the Authority pursuant to Section 12 of the Joint Exercise of Powers Agreement (the "Agreement") relating to the California Public Finance Authority; and

WHEREAS, pursuant to Section 147(f) of the Code, the issuance of the Bonds by the Authority must be approved by the City because the Project is located within the territorial limits of the City; and

WHEREAS, the City Council of the City (the "City Council") is the elected legislative body of the City and is the applicable elected representative under Section 147(f) of the Code; and

WHEREAS, pursuant to Section 147(f) of the Code, the City Council has, following notice duly given, held a public hearing regarding the issuance of the Bonds, and now desires to approve the issuance of the Bonds by the Authority; and

WHEREAS, the City Council understands that its actions in holding this public hearing and in approving this Resolution do not obligate the City in any manner for payment of the principal, interest, fees or any other costs associated with the issuance of the Bonds, and said City Council expressly conditions its approval of this Resolution on that understanding.

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

Section 1. The City hereby requests to become an Additional Member of the Authority pursuant to Section 12 of the Agreement. The Agreement is hereby approved and the Mayor of the City and all other proper officers and officials of the City, or a designee thereof, are hereby authorized and directed to execute the Agreement.

July 14, 2020

The City Council hereby approves the issuance of the Bonds by the Authority for the purposes of financing the Project. It is the purpose and intent of the City Council that this Resolution constitute approval of the issuance of the Bonds by the Authority for the purpose of Section 147(f) of the Code by the applicable elected representative of the governmental unit having jurisdiction over the area in which the Project is located.

Section 2. The officers of the City Council are hereby authorized and directed, jointly and severally, to do any and all things and execute and deliver any and all documents, certificates and other instruments which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this Resolution and the financing transaction approved hereby. Any actions heretofore taken by such officers are hereby ratified and approved.

Section 3. The City Council expressly conditions its approval of this Resolution on its understanding that the City shall have no obligation whatsoever to pay any principal, interest, fees or any other costs associated with the Authority's issuance of the Loan for the financing of the Project.

Section 4. The City Manager is hereby authorized to accept a portion of administrative fees related to the Project from California Public Finance Authority in an amount not to exceed \$12,750 over a period of fifteen years. The City Manager is hereby authorized and directed to do any and all things and execute and deliver any and all documents, certificates and other instruments which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this Resolution and the financing transaction approved hereby. Any actions heretofore taken by such officers are hereby ratified and approved.

Section 5. This Resolution shall take effect from and after its passage and approval.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**CALIFORNIA PUBLIC FINANCE AUTHORITY MULTIFAMILY HOUSING REVENUE  
BONDS FOR 1717 UNIVERSITY AVENUE**

The Department of Health, Housing and Community Services is proposing a public hearing as required by Section 147(f) of the Internal Revenue Code of 1986 (the "Code") will be held with respect to a proposed plan of financing providing for the issuance by the California Public Finance Authority of exempt facility bonds for a qualified residential rental project pursuant to Section 142(a)(7) of the Code in one or more series issued from time to time, including bonds issued to refund such exempt facility bonds in one or more series from time to time, and at no time to exceed \$17,000,000 in outstanding aggregate principal amount, to finance or refinance the acquisition and construction of a multifamily rental housing project located at 1717 University Avenue, Berkeley, California. The facilities are to be owned by 1717 University Associates, LLC (the "Owner") or a partnership of which H3M Partners, LLC (the "Developer") or a related person to the Developer is the general partner (the "Project").

The hearing will be held on, JULY 14, 2020 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 **July 2, 2020. Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Amy Davidson at (510) 981-5406.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek

July 14, 2020

Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on July 2, 2020.

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Mark Numainville, City Clerk

Res 14-09

**JOINT EXERCISE OF POWERS AGREEMENT  
RELATING TO THE CALIFORNIA PUBLIC FINANCE AUTHORITY**

THIS AGREEMENT, dated as of May 12, 2015, among the parties executing this Agreement (all such parties, except those which have withdrawn as provided herein, are referred to as the "Members" and those parties initially executing this Agreement are referred to as the "Charter Members"):

**WITNESSETH**

WHEREAS, pursuant to Title 1, Division 7, Chapter 5 of the California Government Code (in effect as of the date hereof and as the same may from time to time be amended or supplemented, the "Joint Exercise of Powers Act"), two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

WHEREAS, each of the Members is a "public agency" as that term is defined in Section 6500 of the Joint Exercise of Powers Act; and

WHEREAS, each of the Members is empowered by law to promote economic, cultural and community development, including, without limitation, the promotion of opportunities for the creation or retention of employment, the stimulation of economic activity, the increase of the tax base, and the promotion of opportunities for education, cultural improvement and public health, safety and general welfare; and

WHEREAS, each of the Members may accomplish the purposes and objectives described in the preceding preamble by various means; and

WHEREAS, each Member is also empowered by law to acquire, construct, improve, operate and dispose of real property for a public purpose; and

WHEREAS, the Joint Exercise of Powers Act authorizes the Members to create a joint exercise of powers entity with the authority to exercise any powers common to the Members, as specified in this Agreement and to exercise the additional powers granted to it in the Joint Exercise of Powers Act and any other applicable provisions of the laws of the State of California; and

WHEREAS, a public entity established pursuant to the Joint Exercise of Powers Act is empowered to issue or execute bonds, notes, commercial paper or any other evidences of indebtedness, leases, installment sale or other financing agreements or certificates of participation therein (herein "Bonds"), and to otherwise undertake financing programs under the Joint Exercise of Powers Act or other applicable provisions of the laws of the State of California to accomplish its public purposes; and

WHEREAS, the Members have determined to specifically authorize a public entity authorized pursuant to the Joint Exercise of Powers Act to issue Bonds pursuant to the Joint Exercise of Powers Act or other applicable provisions of the laws of the State of California; and

WHEREAS, it is the desire of the Members to use a public entity established pursuant to the Joint Exercise of Powers Act to undertake the financing and/or refinancing of projects of any nature, including, but not limited to, capital or working capital projects, purchase or acquisition of property, receivables, commodities, bonds, other revenue streams or assets of any kind, liability or other insurance, or retirement programs, or facilitating Members use of existing or new financial instruments and mechanisms; and

WHEREAS, by this Agreement, each Member desires to create and establish the “California Public Finance Authority” for the purposes set forth herein and to exercise the powers provided herein;

NOW, THEREFORE, the Members, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

**Section 1. Purpose.**

This Agreement is made pursuant to the provisions of the Joint Exercise of Powers Act. The purpose of this Agreement is to establish a public entity for the joint exercise of powers common to the Members and for the exercise of additional powers given to a joint powers entity under the Joint Powers Act or any other applicable law, including, but not limited to, the issuance of Bonds for any purpose or activity permitted under the Joint Exercise of Powers Act or any other law. Such purpose will be accomplished and said power exercised in the manner hereinafter set forth.

**Section 2. Term.**

This Agreement shall become effective in accordance with Section 17 as of the date hereof and shall continue in full force and effect until such time as it is terminated in writing by all the Members; provided, however, that this Agreement shall not terminate or be terminated until all Bonds issued or caused to be issued by the Authority (defined below) shall no longer be outstanding under the terms of the indenture, trust agreement, resolution or other instrument pursuant to which such Bonds are issued.

**Section 3. Authority.**

**A. CREATION AND POWERS OF AUTHORITY.**

Pursuant to the Joint Exercise of Powers Act, there is hereby created a public entity to be known as the “California Public Finance Authority” (the “Authority”), and said Authority shall be a public entity separate and apart from the Members. Its debts, liabilities and obligations do not constitute debts, liabilities or obligations of any Members.



B. BOARD.

The Authority shall be administered by the Board of Directors (the “Board,” or the “Directors” and each a “Director”) whose members shall be, at all times, members of the Board of Supervisors (the “Board of Supervisors”) of Kings County, California, with each such Director serving in his or her individual capacity as Director of the Board. The term of office as a member of the Board shall terminate when such member shall cease to be a member of the Board of Supervisors and the successor to such member of the Board of Supervisors shall become a member of the Board.

Notwithstanding the preceding paragraph, the Board may by resolution or bylaws provide for changes in the qualifications, composition and number of Directors, the appointment of Directors, successors, their respective terms of office and any other provisions relating to the qualification and office of the Directors, including provision for alternative Directors (in which case all references in this Agreement to any Director shall be deemed to refer to and include the applicable alternate Director, if any, when so acting in place of a regularly appointed Director).

The Board shall be the administering agency of this Agreement and, as such, shall be vested with the powers set forth herein, and shall administer this Agreement in accordance with the purposes and functions provided herein.

Directors shall not receive any compensation for serving as such, but shall be entitled to reimbursement for any expenses actually incurred in connection with serving as a Director, if the Board shall determine that such expenses shall be reimbursed and there are unencumbered funds available for such purpose.

C. OFFICERS; DUTIES; OFFICIAL BONDS.

The officers of the Authority shall be the Chair, Vice-Chair, Secretary and Treasurer (defined below). The Board, in its capacity as administering agent of this Agreement, shall elect a Chair, a Vice-Chair, and a Secretary of the Authority from among Directors to serve until such officer is re-elected or a successor to such office is elected by the Board. The Board shall appoint one or more of its officers or employees to serve as treasurer, auditor, and controller of the Authority (the “Treasurer”) pursuant to Section 6505.6 of the Joint Exercise of Powers Act to serve until such officer is re-elected or a successor to such office is elected by the Board.

Subject to the applicable provisions of any resolution, indenture, trust agreement or other instrument or proceeding authorizing or securing Bonds (each such resolution, indenture, trust agreement, instrument and proceeding being herein referred to as an “Indenture”) providing for a trustee or other fiscal agent, and except as may otherwise be specified by resolution of the Board, the Treasurer is designated as the depository of the Authority to have custody of all money of the Authority, from whatever source derived and shall have the powers, duties and responsibilities specified in Sections 6505, 6505.5 and 6509.5 of the Joint Exercise of Powers Act.

The Treasurer of the Authority is designated as the public officer or person who has charge of, handles, or has access to any property of the Authority, and such officer shall file an official bond with the Secretary of the Authority in the amount specified by resolution of the Board but in no event less than \$1,000.

The Board shall have the power to appoint such other officers and employees as it may deem necessary and to retain independent counsel, consultants and accountants.

The Board shall have the power, by resolution, to the extent permitted by the Joint Exercise of Power Act or any other applicable law, to delegate any of its functions to one or more of the Directors or officers, employees or agents of the Authority and to cause any of said Directors, officers, employees or agents to take any actions and execute any documents or instruments for and in the name and on behalf of the Board or the Authority.

D. MEETINGS OF THE BOARD.

(1) Ralph M. Brown Act.

All meetings of the Board, including, without limitation, regular, adjourned regular, special, and adjourned special meetings shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code of the State of California), or any successor legislation hereinafter enacted (the "Brown Act").

(2) Regular Meetings.

The Board shall provide for its regular meetings; provided, however, it shall hold at least one regular meeting each year. The date, hour and place of the holding of the regular meetings shall be fixed by resolution of the Board. To the extent permitted by the Brown Act, such meetings may be held by telephone conference.

(3) Special Meetings.

Special meetings of the Board may be called in accordance with the provisions of Section 54956 of the Government Code of the State of California. To the extent permitted by the Brown Act, such meetings may be held by telephone conference.

(4) Minutes.

The Secretary of the Authority shall cause to be kept minutes of the regular, adjourned regular, special, and adjourned special meetings of the Board and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Director.

(5) Quorum.

A majority of the Board shall constitute a quorum for the transaction of business. No action may be taken by the Board except upon the affirmative vote of a majority of the Directors present at the meeting, except that less than a quorum may adjourn a meeting to another time and place.

E. RULES AND REGULATIONS.

The Authority may adopt, from time to time, by resolution of the Board such bylaws, policies or rules and regulations for the conduct of its meetings and affairs as may be required.

**Section 4. Powers.**

The Authority shall have the power, in its own name, to exercise the common powers of the Members and to exercise all additional powers given to a joint powers entity under any of the laws of the State of California, including, but not limited to, the Joint Exercise of Powers Act, for any purpose authorized under this Agreement. Such powers shall include the common powers specified in this Agreement and may be exercised in the manner and according to the method provided in this Agreement. The Authority is hereby authorized to do all acts necessary for the exercise of such power, including, but not limited to, any of all of the following: to make and enter into contracts; to employ agents and employees; to acquire, construct, improve, own, maintain and operate, or provide for maintenance and operation, and sell, lease, pledge, assign, mortgage or otherwise dispose, of any property, improvements, commodities, leases, contracts, receivables, bonds or other revenue streams or assets of any kind; to exercise the power of condemnation; to incur debts, liabilities or obligations; to receive gifts, contributions and donations of property, funds, services, and other forms of assistance from person, firms, corporations and any governmental entity; to sue and be sued in its own name; to establish and collect fees; to form public benefit nonprofit corporations or other affiliate entities to accomplish any of its purposes; to make grants, loans or provide other financial assistance to governmental, nonprofit and for profit organizations to accomplish any of its purposes; and generally to do any and all things necessary or convenient to accomplish its purposes. The boundaries of the Authority shall encompass the boundaries of all the Members and the powers of the Authority may be exercised anywhere within those boundaries or to the extent permitted by the laws of the State of California, including, but not limited to the Joint Exercise of Powers Act, outside of those boundaries, which may be outside of the State of California, provided that the power of condemnation may only be exercised within the jurisdictional boundaries of the Charter Members.

Without limiting the generality of the foregoing, the Authority may issue or cause to be issued Bonds, and pledge any property, contracts or revenues as security to the extent permitted under the Joint Exercise of Powers Act, or any other applicable provision of law.

The manner in which the Authority shall exercise its powers and perform its duties is and shall be subject to the restrictions upon the manner in which a California county could exercise such powers and perform such duties. The manner in which the Authority shall exercise its powers and perform its duties shall not be subject to any restrictions applicable to the manner in which any other public agency could exercise such powers or perform such duties, whether such agency is a party to this Agreement or not.

**Section 5. Fiscal Year.**

For the purposes of this Agreement, the term "Fiscal Year" shall mean the fiscal year as established from time to time by resolution of the Board, being, at the date of this Agreement, the period from July 1 to and including the following June 30, except for the first Fiscal Year which shall be the period from the date of this Agreement to June 30, 2015.

**Section 6. Disposition of Assets.**

At the end of the term hereof or upon the earlier termination of this Agreement as set forth in Section 2, after payment of all expenses and liabilities of the Authority, all property of the Authority both real and personal shall automatically vest in the Members in the manner and amount determined by the Board in its sole discretion and shall thereafter remain the sole property of the Members; provided, however, that any surplus money on hand shall be returned in proportion to the contributions made by the Members.

**Section 7. Bonds.**

From time to time the Authority shall issue Bonds, in one or more series, for the purpose of exercising its powers and raising the funds necessary to carry out its purposes under this Agreement.

The services of bond counsel, financing consultants and other consultants and advisors working on the projects and/or their financing or refinancing or on post-issuance compliance or administration may be used by the Authority. The expenses of the Board shall be paid from the proceeds of the Bonds, payments made by Bond obligors or other third parties, or any other unencumbered funds of the Authority available for such purpose.

**Section 8. Bonds Only Limited and Special Obligations of Authority.**

The Bonds, together with the interest and premium, if any, thereon, shall not be deemed to constitute a debt of any Member or pledge of the faith and credit of the Members or the Authority. The Bonds shall be only special obligations of the Authority, and the Authority shall under no circumstances be obligated to pay the Bonds except from revenues and other funds pledged therefor. Neither the Members nor the Authority shall be obligated to pay the principal of, premium, if any, or interest on the Bonds, or other costs incidental thereto, except the Authority from the revenues and funds pledged and available therefor, and neither the faith and credit nor the taxing power of the Members nor the faith and credit of the Authority shall be pledged to the payment of the principal of, premium, if any, or interest on the Bonds nor shall the

Members or the Authority in any manner be obligated to make any appropriation for such payment.

No covenant or agreement contained in any Bond or related document shall be deemed to be a covenant or agreement of any Director, or any officer, employee or agent of the Authority in his or her individual capacity, and neither the Board of the Authority nor any Director or officer thereof executing the Bonds shall be liable personally on any Bond or be subject to any personal liability or accountability by reason of the issuance of any Bonds.

**Section 9. Accounts and Reports.**

All funds of the Authority shall be strictly accounted for. The Authority shall establish and maintain such funds and accounts as may be required by good accounting practice and by any provision of any Indenture (to the extent such duties are not assigned to a trustee of Bonds). The books and records of the Authority shall be open to inspection at all reasonable times by each Member.

The Treasurer of the Authority shall cause an independent audit to be made of the books of accounts and financial records of the Authority by a certified public accountant or public accountant in compliance with the provisions of Section 6505 of the Joint Exercise of Powers Act. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California and shall conform to generally accepted auditing standards. When such an audit of accounts and records is made by a certified public accountant or public accountant, a report thereof shall be filed as a public record with each Member and also with the county auditor of each county in which a Member is located; provided, however, that to the extent permitted by law, the Authority may, instead of filing such report with each Member and such county auditor, elect to post such report as a public record electronically on a website designated by the Authority. Such report if made shall be filed within 12 months of the end of the Fiscal Year or Years under examination.

The Treasurer is hereby directed to report in writing on the first day of July, October, January, and April of each year to the Board and the Members which report shall describe the amount of money held by the Treasurer for the Authority, the amount of receipts since the last such report, and the amount paid out since the last such report (which may exclude amounts held by a trustee or other fiduciary in connection with any Bonds to the extent that such trustee or other fiduciary provided regular reports covering such amounts.)

Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section, shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for that purpose.

In any Fiscal Year the Board may, by resolution adopted by unanimous vote, replace the annual special audit with an audit covering a two-year period.

**Section 10. Funds.**

Subject to the applicable provisions of any Indenture, which may provide for a trustee or other fiduciary to receive, have custody of and disburse Authority funds, the Treasurer of the Authority shall receive, have the custody of and disburse Authority funds pursuant to the accounting procedures developed under Sections 3.C and 9, and shall make the disbursements required by this Agreement or otherwise necessary to carry out any of the provisions of purposes of this Agreement.

**Section 11. Notices.**

Notices and other communications hereunder to the Members shall be sufficient if delivered to the clerk of the governing body of each Member; provided that, to the extent permitted by law, the Authority may provide notices and other communications and postings electronically (including, without limitation, through email or by posting to a website).

**Section 12. Additional Members/Withdrawal of Members.**

Qualifying public agencies may be added as parties to this Agreement and become Charter Members upon: (1) the filing by such public agency with the Authority of an executed counterpart of this Agreement, together with a copy of the resolution of the governing body of such public agency approving this Agreement and the execution and delivery hereof; and (2) adoption of a resolution of the Board approving the addition of such public agency as a Charter Member. Upon satisfaction of such conditions, the Board shall file such executed counterpart of this Agreement as an amendment hereto, effective upon such filing.

Qualifying public agencies may also be added as Non-Charter Members (“Additional Members”) of the Authority upon: (1) the filing by such public agency with the Authority of a resolution of the governing body of such public agency requesting to be added as an Additional Member of the Authority, and (2) adoption of a resolution of the Board approving the addition of such public agency as an Additional Member. An Additional Member may limit in the aforementioned resolution the scope of its Additional Membership to what is necessary or appropriate to facilitate the financing or refinancing of one or more specified projects or programs.

A Member may withdraw from this Agreement upon written notice to the Board; provided, however, that at least one Member shall be a Charter Member and no such withdrawal shall result in the dissolution of the Authority so long as any Bonds remain outstanding. Any such withdrawal shall be effective only upon receipt of the notice of withdrawal by the Board, which shall acknowledge receipt of such notice of withdrawal in writing and shall file such notice as an amendment to this Agreement effective upon such filing.

**Section 13. Indemnification.**

To the full extent permitted by law, the Board may authorize indemnification by the Authority of any person who is or was a Director or an officer, employee or other agent of the Authority, and who was or is a party or is threatened to be made a party to a proceeding by

reason of the fact that such person is or was such a Director or an officer, employee or other agent of the Authority, against expenses, including attorneys fees, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith in a manner such person reasonably believed to be in the best interests of the Authority and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful and, in the case of an action by or in the right of the Authority, acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. The Board may purchase a policy or policies of insurance in furtherance of any indemnification obligation created or otherwise in protection of Directors, officers, employees or other agents.

**Section 14. Contributions and Advances.**

Contributions or advances of public funds and of the use of personnel, equipment or property may be made to the Authority by the Members for any of the purposes of this Agreement. Payment of public funds may be made to defray the cost of any such contribution or advance. Any such advance may be made subject to repayment, and in such case shall be repaid, in the manner agreed upon by the Authority and the Member making such advance at the time of such advance. It is mutually understood and agreed to that no Member has any obligation to make advances or contributions to the Authority to provide for the costs and expenses of administration of the Authority, even though any Member may do so. The Members understand and agree that a portion of the funds of the Authority that otherwise may be allocated or distributed to the Members may instead be used to make grants, loans or provide other financial assistance to governmental units and to nonprofit organizations to accomplish any of the governmental unit's or nonprofit organization's purposes.

**Section 15. Immunities.**

All of the privileges and immunities from liabilities, exemptions from laws, ordinances and rules, and other benefits which apply to the activity of officers, agents or employees of Members when performing their respective functions within the territorial limits of their respective public agencies, shall apply to the same degree and extent to the Directors, officers, employees, agents or other representatives of the Authority while engaged in the performance of any of their functions or duties under the provisions of this Agreement.

**Section 16. Amendments.**

Except as provided in Sections 3B and 12 above, this Agreement shall not be amended, modified, or altered, unless the written consent of each of the Charter Members is obtained; provided that no amendment shall materially adversely affect the interests of any Additional Member unless the negative consent of that Additional Member is also obtained. To obtain the negative consent of each such Additional Member, the following negative consent procedure shall be followed: (a) the Authority shall provide each such Additional Member with a notice at least sixty (60) days prior to the date such proposed amendment is to become effective explaining the nature of such proposed amendment and this negative consent procedure; (b) the Authority shall provide each such Additional Member who did not respond a reminder notice with a notice at least thirty (30) days prior to the date such proposed amendment is to become

effective; and (c) if no such Additional Member objects to the proposed amendment in writing within sixty (60) days after the initial notice, the proposed amendment shall become effective with respect to all Members.

**Section 17. Effectiveness.**

This Agreement shall become effective and be in full force and effect and a legal, valid and binding obligation of each of the Members on the date that the Board shall have received from two of the Charter Members an executed counterpart of this Agreement, together with a certified copy of a resolution of the governing body of each such Charter Member approving this Agreement and the execution and delivery hereof.

**Section 18. Partial Invalidity.**

If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

**Section 19. Successors.**

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, no Member may assign any right or obligation hereunder without the consent of the other Members.

**Section 20. Miscellaneous.**

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

Wherever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

This Agreement shall be governed under the laws of the State of California.

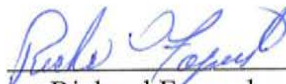
This Agreement is the complete and exclusive statement of the agreement among the Members, which supercedes and merges all prior proposals, understandings, and other agreements, whether oral, written, or implied in conduct, between and among the Members relating to the subject matter of this Agreement.




IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their duly authorized representatives as of the day and year first above written.

Charter Member:

COUNTY OF KINGS

By   
Richard Fagundes, Chairman  
Kings County Board of Supervisors

ATTEST:


By   
Catherine Venturella  
Clerk of the Board

Charter Member:

HOUSING AUTHORITY OF THE  
COUNTY OF KINGS

By   
Richard Fagundes, Chairman

ATTEST:

By   
Jennifer Molina  
Clerk of the Housing Authority Board

IN WITNESS WHEREOF, the Additional Members hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized.

Dated: \_\_\_\_\_

Additional Member Name:

\_\_\_\_\_  
By:  
Its:

ATTEST:

\_\_\_\_\_  
By:  
Its:



Office of the City Manager

PUBLIC HEARING  
July 14, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Timothy Burroughs, Director, Planning & Development Department  
 Subject: ZAB Appeal: 1533 Beverly Place, Administrative Use Permit #ZP2018-0153

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the decision of the Zoning Adjustments Board to approve Administrative Use Permit #ZP2018-0153 to enlarge an existing 1,212 square-foot, one-story single-family dwelling with a non-conforming front setback on a 4,200 square-foot lot by constructing a 1,035 square-foot addition, including a new second story that would increase the average building height from 16 feet 3½ inches to 23 feet 7½ inches, and adding a fifth bedroom, and dismiss the appeal.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On July 20, 2018, Eisenmann Architecture submitted an application for an Administrative Use Permit #ZP2018-0153 to enlarge an existing 1,212 square-foot, one-story single-family dwelling with a 1,035 square-foot addition, including a new second story.

On July 31, 2019, after several rounds of incomplete application comments from staff, and after the applicant revised the project to reduce view impacts, the application was deemed complete.

On August 12, 2019, the Notice of Administrative Decision was issued by the Zoning Officer, initiating a 20-day appeal period.

On August 28, 2019, Amy Di Costanzo of 1710 Sonoma Avenue filed an appeal of the Zoning Officer's decision. On September 3, 2019, Hank Roberts and Robin Ramsey of 1529 Beverly Place filed an appeal of the Zoning Officer's decision.

On February 13, 2020, the Zoning Adjustments Board (ZAB) conducted a public hearing for the appeal of the Administrative Use Permit. After hearing public comments and holding discussion, and adding Conditions #11, 12, 13, 14, 15, 31, and 32, the ZAB

approved the Administrative Use Permit and dismissed the appeal by a vote of 5-2-1-1 (Yes: Clarke, Kahn, Aguilar-Canabal, Selawsky, Tregub; No: Olson, Sheahan; Abstain: O'Keefe; Absent: Kim).

On February 27, 2020, staff issued the notice of the ZAB decision, initiating a 14-day appeal period.

On March 11, 2020, Rena Rickles, on behalf of Amy Di Costanzo, the neighbor residing at 1710 Sonoma Avenue, filed an appeal of the ZAB decision with the City Clerk.

On June 30, 2020, staff posted the public hearing notice at the site and two 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. This public hearing is required to resolve the appeal.

#### BACKGROUND

The site is in the R-1, Single Family Residential zoning district, on Beverly Place between Monterey Avenue and Ventura Avenue, with the City of Albany approximately 90 feet west of the subject site. The neighborhood consists of a mixture of one- and two-story single-family dwellings in a rolling hillside area where houses are stepped away from the street and above and below each other according to the topography.

The project approved by the Zoning Officer and upheld by the ZAB would allow the construction of a 1,035 square-foot addition, including a new second story, and would increase the number of bedrooms to five.

Neighbors submitted many letters to express their concerns while the project was being reviewed by the Zoning Officer and ZAB. Staff visited the home of Amy Di Costanzo, at 1710 Sonoma Avenue, on January 25, 2019 to see the view from her kitchen and back deck. Staff met with the applicant team on March 13, 2019 and explained that the project needed to be modified to reduce the loss of view to the neighbor at 1710 Sonoma Avenue. In response to staff's direction, the project was revised to reduce the height and slope of the roof. The previous average height was 26 ft.  $\frac{3}{4}$  in.; with the revisions the average height is 23 ft.  $7\frac{1}{2}$  in. The revised plans were presented to neighbors at a neighborhood meeting on May 1, 2019. Staff approved an Administrative Use Permit for the revised project and posted the Notice of Administrative Decision on August 12, 2019.

The first appeal of the administrative decision was filed on August 28, 2019, and the second appeal was filed on September 3, 2019. At the request of staff, the applicants and appellants attended a mediation session with the organization SEEDS on October 29, 2019; they were unable to resolve their differences at that session.

At the February 13, 2020 ZAB hearing, staff presented the basis for the Zoning Officer's decision, the applicant presented their project, and appellants presented their concerns. After deliberating, the ZAB voted to dismiss the appeals and approved the project with additional conditions of approval to remedy view concerns from the neighbors (certification of the existing and proposed height, limitations on the location of roof features, and roof color requirements). The ZAB decision was then appealed by the neighbor residing northeast of the site at 1710 Sonoma Avenue.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### RATIONALE FOR RECOMMENDATION

The issues raised in the appellant's letter and staff's responses 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, Appeal Letter) for the full text.

Issue 1: Loss of View Is Detrimental. The appellant asserts that because she will lose all of her view of the San Francisco Bay and the lower portion of the San Francisco Skyline from a sitting position in her kitchen and adjoining deck, the loss of view is unreasonably detrimental, and the project should not have been approved by the ZAB.

"The finding of non-detriment was based upon photos taken while standing: no credence was given to view loss while sitting."

"From a sitting position, which is the position most of us are in the majority of the time we are in our homes, the uncontroverted evidence is that of a major view loss."

Response 1: The appellant prepared a packet of information for all ZAB members that showed the impact to their view while standing at the back of the kitchen and looking out the doors to the deck, and while seated at the kitchen table and looking out the doors to the deck, and provided two alternate designs for a second story addition; one that eliminated part of the study at the front of the second story and lowered the house 18 inches, and the other one lowered the house 24 inches without changing the floor plans. The packet contained photos of the appellant's view of the story poles, the red tape on the story poles indicating the lowered height of the addition, and the view above and beyond the proposed addition. The appellant also added a rendering of the addition, and renderings of the two alternative proposals suggested by the appellant. The appellant's packet was received by staff on February 11, 2020, included as Round 1 of Supplemental information and uploaded to the City's website, and copies of the packet were distributed to all ZAB members at the beginning of the ZAB meeting (Attachment 4).

While the project would reduce the view, the appellant's photos submitted to staff and ZAB show that the proposed addition, as revised and approved, would allow a view of the San Francisco Bay, the Bay Bridge, and the San Francisco Skyline over the addition when one is standing in the kitchen. When one is seated at the kitchen table the current view is reduced, but not eliminated, and the Bay Bridge and San Francisco Skyline are visible over the addition. Views are also available from other rooms in the house, including a first-floor bedroom and bedrooms on the second floor.

While staff was reviewing the project, the applicant installed story poles, provided photos of the story poles and a key to photo locations, and the heights of the story poles were verified by a licensed surveyor. As documented by the story poles, the second-story addition would be within the view corridor of the properties to the north, and those neighbors have expressed concerns, but have not appealed this permit. 1708 Sonoma Avenue currently has views of the San Francisco Bay over/beyond Emeryville, and the hills of the Peninsula south of San Francisco from their deck, bedroom, and kitchen that would be eliminated with the addition; however, views of the San Francisco skyline and the Marin Headlands would remain. 1716 Sonoma Avenue currently has a view of the Golden Gate Bridge from the kitchen nook that would be reduced with the addition; however, views of one of the towers of the Golden Gate Bridge would continue to be visible from the kitchen nook, and a partial view of the San Francisco skyline, and a full view of the Golden Gate Bridge from the kitchen and dining rooms would remain. Since the current expansive views are reduced, but not eliminated, view impacts are determined to be non-detrimental.

When ZAB approved the project, they added three of the four conditions that the appellant had presented to ZAB in a document distributed to ZAB at the meeting, with modifications. Condition of Approval 11 requires a licensed surveyor, of the appellant's choice, to certify the height of the red tape on the story poles (when the project was modified the original story poles were modified to indicate how the height had changed). Condition of Approval 12 requires a licensed surveyor to verify the elevation of the existing top of the roof, and a letter from the surveyor documenting the height of the existing roof is required to be submitted with the building permit. Condition of Approval 13 requires the new finished floor to be two feet lower than the existing surveyed finished floor, as measured from the front of the dwelling and shown in the sections on sheet A3.2 of the plans received by Land Use Planning on July 1, 2019. Condition of Approval 14 requires all roof features (vents, ducts, chimneys) be located on the west side of the roof, except one vent for the bathroom may be located on the east side of the roof, subject to the review and approval of the Building & Safety Division. Condition of Approval 15 requires the new roof to be a dark color, such as brown. Condition of Approval 31 requires the elevation of the new finished floor to be verified by a licensed surveyor after framing is complete and before final inspection. Condition of Approval 32 requires the top of the roof for the addition to be no higher than four feet above the existing roof, as shown in the Existing Section on sheet A3.2 of the plans received by

the City on July 1, 2019 (ATT 1 Exhibit B). The elevation of the top of the new roof shall be verified by a licensed surveyor after framing is complete and before final inspection.

As noted above, due consideration is given to the relative impact<sup>1</sup> to significant views as defined in the Zoning Ordinance (BMC sections 23D.16.090 and 23F.04.010).<sup>2</sup> A recent Council decision<sup>3</sup> also established considerations for views, including whether a project would block a portion of a bridge view as opposed to the entire view. In this case, staff believes the ZAB decision was supported by substantial evidence. In considering the reasonableness of the project and the impact, the ZAB also considers how the project meets the zoning ordinance standards. In this case, the project is consistent in size with many neighboring houses, the average height of 23 feet 7 ½ inches is below that allowable for the district (28 to 35 feet), and the fifth bedroom would provide more room for residents within the single-family residence, and would not result in an increase in dwelling unit density.

Although the view available while seated at the appellant's kitchen table will change with the construction of a second story at 1533 Beverly Place, the appellant will still enjoy an expansive view from many areas of their property, including their kitchen.

Issue 2: Feasible Alternatives Should Be Considered. The appellant believes the ZAB did not fully consider alternatives to reduce the impact on views. These include lowering the entire house by digging out the basement and removing a portion of the second-floor addition.

Response 2: The applicant revised the project at the direction of staff to lower the building height, by redesigning from a pitched roof design to an essentially flat roof and lowering the ceiling height of the second floor in such a way that the average height of the roof was reduced from 27 feet 1 ¼ inches to 23 feet 7 ½ inches (as shown in the south elevation on sheet A3.1 of the plans received June 10, 2020, Attachment 5).

Staff does not believe that lowering the entire house by digging into the hillside is feasible. Although the project may involve a small amount of excavation, it would be tantamount to rebuilding the house if the hill were to be excavated and the house placed on a new foundation. Similarly, while removing a portion of the second-floor addition may open up a small view corridor to the Bay Bridge, it would be ineffective in

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<sup>1</sup> To deny a Use Permit for a major residential addition or residential addition.... the Zoning Officer or Board must find that although the proposed residential addition satisfies all other standards of this Ordinance, the addition would unreasonably obstruct sunlight, air or views.

<sup>2</sup> View Corridor: A significant view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz Island or any other significant vista that substantially enhances the value and enjoyment of real property.

<sup>3</sup> [970 Santa Barbara ZAB Appeal](#), October 31, 2017.

preserving the entire view, unless the building were lowered at least 18 inches. The applicant has already agreed to lower the ceiling height on the second floor, and is lowering the ground level finished floor such that the height of the crawl space below the house is reduced from 5 feet ¼ inch to 3 feet 6 ¾ inches (see the existing and proposed sections on sheet A3.2).

The ZAB considered the alternatives that were presented at the meeting and decided not to change the project, other than requiring additional conditions of approval.

Issue 3: The ZAB Did Not Adequately Consider Evidence. The appellant asserts that ZAB members should have visited the site, that members made inappropriate comments, and that they did not consider information that was available in rebuttal.

Response 3: The appellants have had the opportunity to present evidence to staff, the Zoning Officer, and ZAB, and now to the Council, all of which has been considered during the earlier deliberations. Documentary evidence of the building height was available in the form of story poles and photographs, which are reproduced in Attachment 4, and were presented to ZAB in advance of and at the hearing.

In May 2020 the story poles were adjusted to reflect the current proposed project (the design approved by ZAB), and the photos of the story poles are included as Attachment 6. There is a dispute between the applicant and the appellant about the accuracy of the current story poles and if they have been improperly modified. The Council should review all of the evidence, including the latest photographs to determine whether the impact of the project on a significant view corridor would be unreasonable.

ZAB considered and discussed the evidence presented at the hearing, and acted within its purview to approve the proposed project.

#### ALTERNATIVE ACTIONS CONSIDERED

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

#### ACTION DEADLINE

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

#### CONTACT PERSONS

Timothy Burroughs, Director, Planning & Development Department, (510) 981-7437  
Steven Buckley, Land Use Planning Manager, (510) 981-7411  
Allison Riemer, Project Planner, (510) 981-7433



Attachments:

1. Draft Resolution
  - Exhibit A: Findings and Conditions
  - Exhibit B: Project Plans dated July 1, 2019 and July 24, 2019
2. Appeal Letter, received March 11, 2020
3. February 13, 2020 ZAB Hearing Staff Report
4. Supplemental Item prepared by Amy Di Constanzo for ZAB Hearing, February 11, 2020
5. Updated Plans, dated June 10, 2020 (project has not changed, information has been clarified)
6. Updated Story Pole Information, dated June 10, 2020
7. Two-Story Dwellings within the Vicinity of 1533 Beverly Place
8. Index to Administrative Record
9. Administrative Record
10. Public Hearing Notice

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

UPHOLDING THE ZONING ADJUSTMENTS BOARD APPROVAL OF ADMINISTRATIVE USE PERMIT #ZP2018-0153 TO ENLARGE AN EXISTING 1,212 SQUARE-FOOT, ONE-STORY SINGLE-FAMILY DWELLING WITH A NON-CONFORMING FRONT SETBACK ON A 4,200 SQUARE-FOOT LOT BY ADDING A 1,035 SQUARE-FOOT ADDITION, INCLUDING A NEW SECOND STORY, WITH AN AVERAGE HEIGHT OF 23 FEET 7 ½ INCHES, AND ADDING A FIFTH BEDROOM; AND DISMISSING THE APPEAL

WHEREAS, on July 20, 2018, Eisenmann Architecture submitted an application for an Administrative Use Permit to enlarge an existing 1,212 square-foot, one-story single-family dwelling with a 1,035 square-foot addition, including a new second story (“project”); and

WHEREAS, on July 31, 2019, staff deemed this application complete and determined that the project is categorically exempt from the California Environmental Quality Act (“CEQA”) under Sections 15301 and 15303 (“Existing Facilities” and “New Construction or Conversion of Small Structures”); and

WHEREAS, on August 12, 2019, staff mailed notices of Administrative Decision to adjoining property owners and occupants, and to interested neighborhood organizations, and posted a Notice of Administrative Decision at the site and at two nearby locations; and

WHEREAS, on August 28, 2019, Amy Di Costanzo of 1710 Sonoma Avenue filed an appeal of the Zoning Officer’s decision; and

WHEREAS, on September 3, 2019, Hank Roberts and Robin Ramsey of 1529 Beverly Place filed an additional appeal; and

WHEREAS, on January 30, 2020, staff mailed and posted Notices of Public Hearing for the project in accordance with BMC Section 23B.28.060; and

WHEREAS, on February 13, 2020 the ZAB held a public hearing in accordance with BMC Section 23B.28.060, and approved the Administrative Use Permit application and dismissed the appeal, with added Conditions #11, 12, 13, 14, 15, 31, and 32; and

WHEREAS, on February 27, 2020, staff issued the notice of the ZAB decision; and

WHEREAS, on March 11, 2020, Rena Rickles, on behalf of Amy Di Costanzo, the neighbor residing at 1710 Sonoma Avenue, filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on or before June 30, 2020, staff mailed and posted a Notice of Public Hearing for the project in accordance with BMC Section 23B.28.060; and

WHEREAS, on July 14, 2020, the Council held a public hearing to consider the ZAB's decision, and, in the opinion of this Council, the facts stated in, or ascertainable from the public record, including comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Council hereby adopts the findings for approval made by the ZAB in Exhibit A and the project plans in Exhibit B, affirms the decision of the ZAB to approve Use Permit #ZP2018-0153, and dismisses the appeal.

Exhibits

A: Findings and Conditions

B: Project Plans, received July 1, 2019 and July 24, 2019

**ATTACHMENT 1****FINDINGS AND CONDITIONS**  
FEBRUARY 13, 2020**1533 Beverly Place****Administrative Use Permit #ZP2018-0153**

**To enlarge an existing 1,212 sq. ft., 1-story single-family dwelling with a non-conforming front setback on a 4,200 sq. ft. lot by: 1) adding a 1,035 sq. ft. addition, including a new second story, with an average height of 23 ft.-7 ½ in., and 2) adding a fifth bedroom.**

**PERMITS REQUIRED**

- Administrative Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23D.16.070.C to construct a residential addition greater than 14 ft. in average height;
- Administrative Use Permit pursuant to BMC Section 23D.16.030 to construct a major (more than 600 sq. ft.) residential addition;
- Administrative Use Permit pursuant to BMC Section 23D.16.050.A to add a fifth bedroom to a parcel; and
- Administrative Use Permit pursuant to BMC Section 23C.04.070.B for an addition which vertically extends the non-conforming front yard.

**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 CEQA Guidelines Sections 15301 and 15303 (“Existing Facilities” and “New Construction or Conversion of Small Structures”). 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.

**FINDINGS FOR APPROVAL**

2. As required by BMC Section 23B.28.050.A, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - A. The subject property will continue to conform to the applicable provisions of BMC Sections 23D.16.070-080 including density, height, yards, lot coverage, usable open space, and minimum on-site parking: one dwelling unit on the lot, where only one dwelling unit is allowed; an average height of 23 ft.-7 ½ in. with the addition, where the

average height limit is 28 ft.; side yards of 9.6 ft. and 4 ft. where 4 ft. is required; rear yard of 34.9 ft., where 20 ft. is required; 39% lot coverage, where the maximum allowed is 40%; over 600 sq. ft. of usable open space, where a minimum of 400 sq. ft. is required; and the required off-street parking space within the existing garage.

- B. The addition will maintain the privacy of the abutting neighbors as it is outside of the required side and rear setbacks, and the non-conforming front setback is retained. The windows within the second story could potentially allow views to adjacent properties. However, staff believes the project will not unreasonably impact the privacy of neighboring dwellings because while windows would now face second floor windows on the properties to the north, they would be more than 35 ft. from the neighboring dwellings to the north, thereby minimizing privacy impacts. While the addition will be approximately 4 ft. from the edge of the one-story garage attached to the west façade of the neighboring dwelling to the east at 1535 Beverly Place, the garage does not contain habitable space and thus, will not be affected by new window openings; and the addition will be approximately 10 ft. from the wall of the dwelling at 1535 Beverly Place. The addition will be approximately 19 ft. from the dwelling adjacent to the west at 1529 Beverly Place.
- C. While the project increases the number of bedrooms on this parcel, as defined in BMC Section 13.24.020 (Definitions), from three to five, the addition of a fifth bedroom would provide more room for residents within the single-family residence and would not result in an increase in dwelling unit density.
3. Pursuant to BMC Section 23D.16.090.B, the Zoning Officer finds that the major residential addition would not unreasonably obstruct sunlight, air, or views for the following reasons:
- A. Sunlight: The 1,035 sq. ft. addition will not result in a significant loss of direct sunlight on neighboring dwellings. Shadow studies submitted by the applicant document the addition's projected shadow angles and lengths at three times throughout the day during the summer and winter solstice.
- Two hours after sunrise on the winter solstice, shadows on the east side of the dwelling at 1529 Beverly Place will increase and cover a kitchen window, and partially cover a dining room window.
  - Two hours before sunset on the winter solstice, the shadows on the west side of the dwelling at 1535 Beverly Place will increase slightly, but will only reach a small corner of a bedroom window.
  - Two hours after sunrise on the summer solstice, shadows on the east side of the dwelling at 1529 Beverly Place will increase and cover the living room and dining room windows.
  - Two hours before sunset on the summer solstice, shadows on the west side of the dwelling at 1535 Beverly Place will increase and cover the bedroom and living room windows.
- Because the impacts to neighboring properties will occur on limited areas, and will only partially shade neighboring buildings for a limited time during the year, and only for a few hours of the day, the residential addition will not result in a significant loss of direct sunlight on abutting residences, and these shading impacts are not deemed detrimental.
- B. Air: The addition is found to be consistent with the existing development and building-to-building separation pattern – or air – in this R-1 neighborhood because the addition will be outside of all required setbacks (while maintaining the non-conforming front setback), and will not exceed height or story limits. Therefore, there will be no impacts to air.

- C. Views: BMC Chapter 23F.04 defines view corridors as a significant view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz, or any other significant vista that substantially enhances the value and enjoyment of real property. The topography of this neighborhood slopes generally from the east down towards the west and lots located on the north side of Beverly Place in the vicinity of the project site are situated lower in elevation than lots to the north, including the adjacent lots on Sonoma Avenue.

As documented by the story poles, the second-story addition will be within the view corridor of the properties to the north. 1708 Sonoma Avenue currently has views of the San Francisco Bay over Emeryville, and the hills of the Peninsula south of San Francisco from their deck, bedroom, and kitchen that will be eliminated with the addition; however, views of the San Francisco skyline and the Marin Headlands will remain.

From 1710 Sonoma Avenue, while seated at the kitchen table, the view of San Francisco Bay will be reduced with the addition at 1533 Beverly Place. When one is seated at the kitchen table, the Bay Bridge and the San Francisco Skyline will be visible over the addition, however the Bay will not be visible. While standing at the back of the kitchen, the view of the Bay will be reduced, but the Bay, Bay Bridge, and Skyline will still be visible over the addition. More of the Bay will be visible while standing in the kitchen, than while seated in the kitchen. Views from the second floor will not be obstructed by the project.

1716 Sonoma Avenue currently has a view of the Golden Gate Bridge from the kitchen nook that will be reduced with the addition; however, views of one of the towers of the Golden Gate Bridge will continue to be visible from the kitchen nook, and a partial view of the San Francisco skyline, and a full view of the Golden Gate Bridge from the kitchen and dining rooms will remain.

Since the current expansive views are reduced, not eliminated, and remain largely intact, view impacts are determined to be non-detrimental.

4. Pursuant to BMC Section 23C.04.070.B, the Zoning Officer finds that:
- A. Although the addition would vertically extend a non-conforming front yard, the addition may be authorized as the existing use of the property is conforming (single-family dwelling in the R-1 Single-Family Residential District);
  - B. The existing entry steps, porch, and roof will be replaced, and will not exceed the average height limit; and
  - C. The addition will not further reduce the existing non-conforming front yard.
-

## STANDARD CONDITIONS

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

### 1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this 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 (BMC 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 (BMC Section 23B.56.020)

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

### 5. Plans and Representations Become Conditions (BMC 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 (BMC 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 (BMC 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 (BMC 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.

**ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER**

Pursuant to BMC Section 23B.28.050.D, the Zoning Officer 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. Certification of Height of Tape on Story Poles. A licensed surveyor shall certify the height of the red tape currently on the story poles. Appellant (Amy Di Costanzo) to select the surveyor. A letter from the surveyor documenting the height of the tape shall be submitted with the Building Permit.
12. Certification of the Existing Top of the Roof. The elevation of the existing top of the roof shall be verified by a licensed surveyor. A letter from the surveyor documenting the existing top of the roof shall be submitted with the Building Permit. (See Condition 32 for new roof specifications.)
13. Finished Floor. The new finished floor shall be two feet lower than the existing surveyed finished floor, as measured from the front of the dwelling and shown in the sections on sheet A3.2 of the plans received by Land Use Planning on July 1, 2019. This condition shall be noted in the Building Permit plan set.
14. Roof Features. All roof features (vents, ducts, chimneys) shall be located on the west side of the roof, except one vent for the bathroom may be located on the east side of the roof, subject to the review and approval of Building & Safety.
15. Roof Color. The color of the roof shall be a dark color, such as brown, the roof color of 1708 Sonoma Avenue. The color shall be noted on the elevations and roof plans of the Building Permit plan set.

**Standard Construction-related Conditions Applicable to all Projects:**

16. 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.

17. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.
18. 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.
19. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
20. 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 in thickness and secured to the ground.
21. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
22. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
23. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
24. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
25. 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.
26. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
27. 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.

- 28. 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.
- 29. 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 CEQA Guidelines Section 15064.5 (e)(1) . If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to Health and Safety Code Section 7050.5(c), 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.
- 30. 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.

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

31. Elevation of the Finished Floor. The elevation of the new finished floor shall be verified by a licensed surveyor after framing is complete and before final inspection. A letter from the surveyor documenting the finished floor elevation shall be provided to Land Use staff before final inspection.
32. Maximum Height of the Top of the Roof. The top of the roof for the addition shall be no higher than 4 feet above the existing roof, as shown in the Existing Section on sheet A3.2, of the plans received by Land Use Planning on July 1, 2019. The elevation of the top of the new roof shall be verified by a licensed surveyor after framing is complete and before final inspection. A letter from the surveyor documenting the top of the roof elevation shall be provided to Land Use staff before final inspection.
33. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
34. All landscape, site and architectural improvements shall be completed per the attached approved drawings received July 1, 2019.

**At All Times (Operation):**

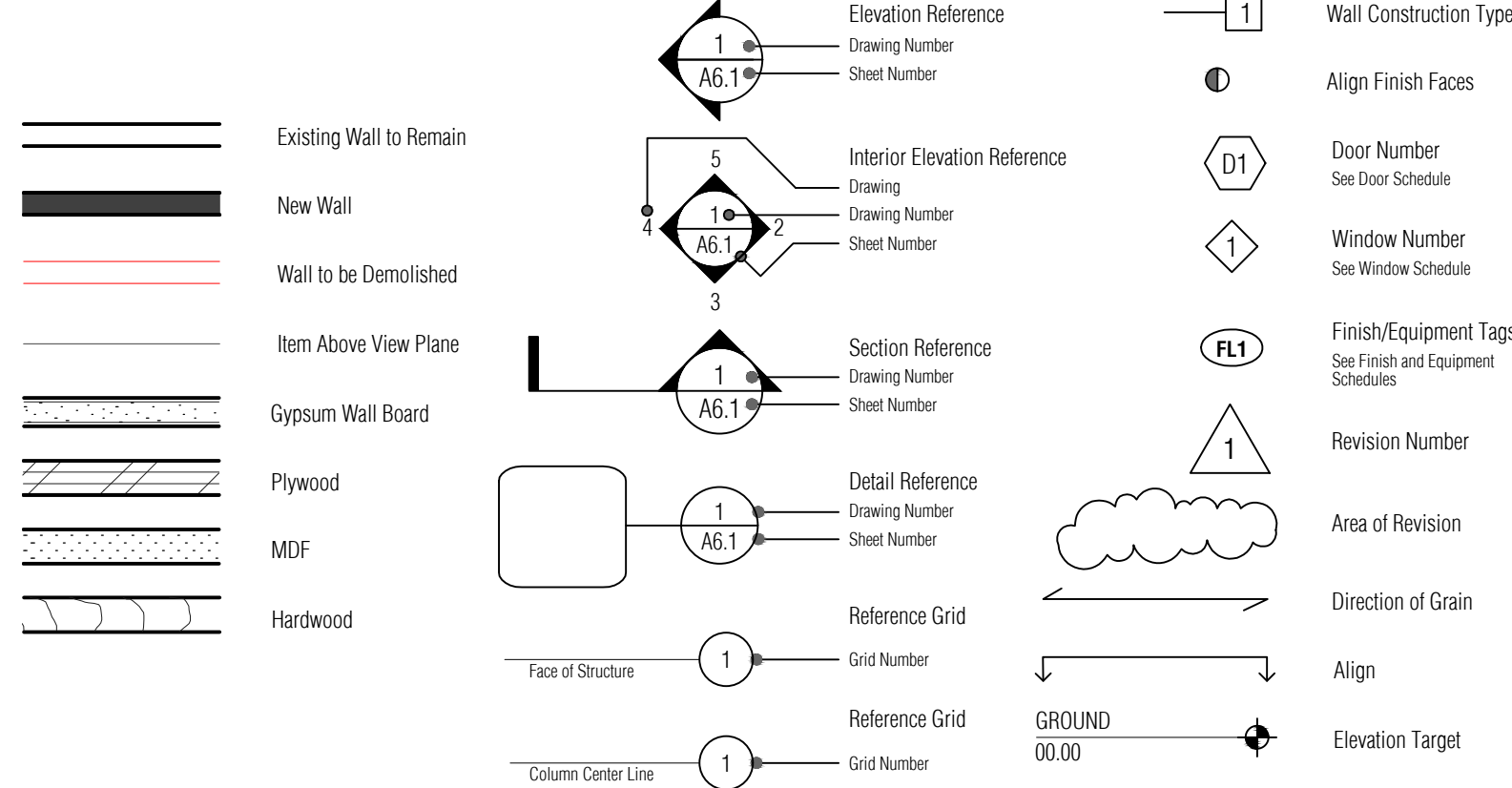
35. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
36. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
37. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.



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Prepared by: Allison Riemer  
For Steven Buckley, Zoning Officer

SYMBOLS



ABBREVIATIONS

Table of abbreviations with columns for symbol, description, and another symbol. Includes terms like Concrete, Earth, Steel, Aluminum, Batt Insulation, Rigid Fiber Insulation, and various material codes (e.g., CMU, GFI, PVC).

GENERAL NOTES

- 1. All work shall be in conformance with the 2016 California Code of Regulations... 2. In the event of Conflicts in Code Regulations, the most stringent requirements shall apply. 3. These documents describe design intent. 4. Contractor is responsible for thorough coordination of trades. 5. Contractor is responsible for coordination with utilities to determine location. 6. Contractor shall verify all dimensions, elevations, and conditions of the site. 7. Any errors, omissions, or conflicts found in the various parts of the construction documents shall be brought to the attention of the architect. 8. Do not scale drawing, contact Architect where clarification is required. 9. All dimensions are to face of finish, unless otherwise noted. 10. Details shown are typical. 11. "Typical" or "TYP" shall mean that the condition is representative for similar conditions throughout. 12. All work shall be installed plumb, level, square, and true. 13. "Align" shall mean to accurately locate finish faces in the same plane. 14. Contractor shall continuously protect existing trees, utilities and adjacent properties from damage during construction. 15. Contractor shall continuously protect the project from, including but not limited to, water damage and damage in the course of the work. 16. Contractor shall be responsible for job site conditions, including safety of persons and security of property. 17. Contractor shall broom sweep the premises nightly. 18. All materials, equipment, and articles incorporated into the work shall be new, first grade, and free of defects unless otherwise noted. 19. Contractor shall warrant the entire work against defects in materials and workmanship for one year from the date of acceptance. 20. Required submittals include shop drawings of all metalwork, all millwork, and samples of all finish materials. 21. Mechanical, Electrical, and Plumbing work to be design/build per CMC, CEC and CPC. 22. All exterior glazing units to comply with T24 energy requirements for U factors. 23. Annular spaces around pipes, electric cables, conduits, or other openings in bottom plates at exterior walls shall be protected against the passage of rodents by closing such openings with cement mortar, concrete masonry or similar method acceptable to the enforcing agency. 24. Cover new or existing duct openings and protect mechanical equipment during construction. 25. Finish materials shall comply with the following: (1) Adhesives, sealants, and caulks shall comply with the following standards unless more stringent local limits apply. (2) Paints and coatings shall comply with the VOC limits in Table 1 of the CCR Architectural Suggested Control Measure. (3) Aerosol paints and coatings shall meet the product weighted MIR limits for RDC in section 94522(a)(2) and other requirements...

DRAWING INDEX

Table with columns SHEET, TITLE, SUBMISSION & DATE. Lists sheets A0.0 through A3.3 including COVER SHEET, SURVEY, SITE PLAN, FLOOR PLANS, EXISTING EXTERIOR ELEVATIONS, NEW EXTERIOR ELEVATIONS, BUILDING SECTIONS, and SHADOW STUDIES.

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

Signature of Shanna Alva

February 13, 2020

SIGNATURE

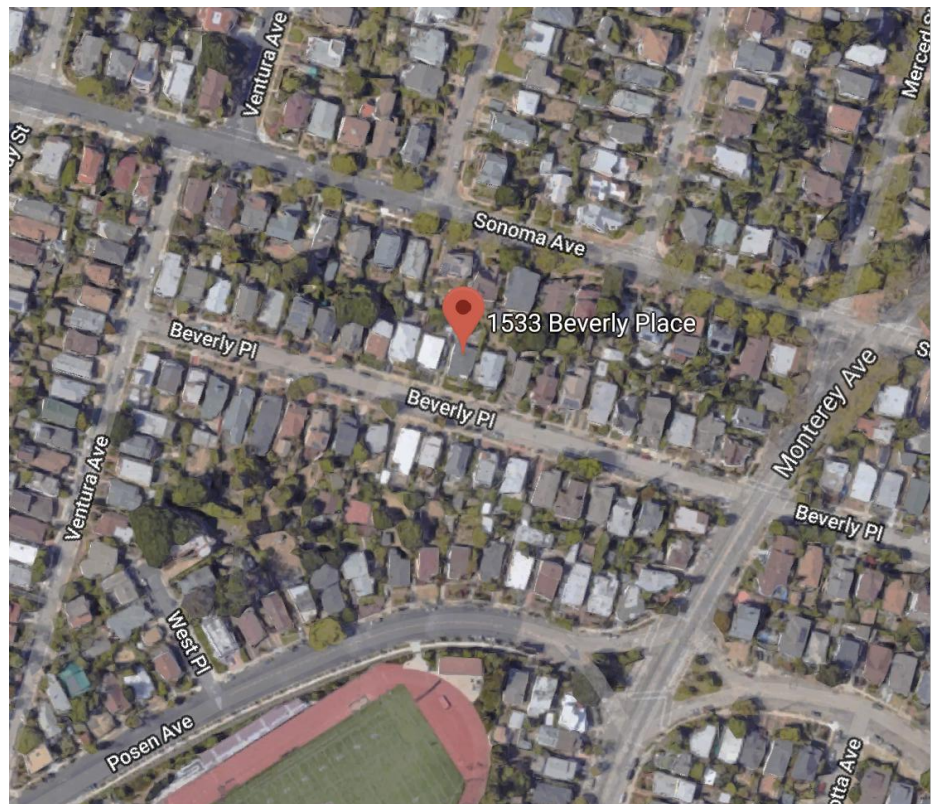
DATE

\* Findings and Conditions Attached

PROJECT INFORMATION

PROJECT ADDRESS: 1533 Beverly Place, Berkeley CA 94706. ASSessor's PARCEL: 061 26292400. OCCUPANCY: R3. ZONING AREA: R1. PROJECT TYPE: Remodel of (e) 1212 s.l. residence to include: Second story addition of 1016 s.l. to include stair, 2 bedrooms, 2 bathrooms, 2 walk-in-closets, 1 study and a terrace. PROJECT DIRECTORY: OWNER JOHN AND BRYN SMALLWOOD-GARCIA. ARCHITECT EISENMANN ARCHITECTURE. ENGINEER VERDANT STRUCTURAL ENGINEERS.

VICINITY MAP



GREEN BUILDING NOTES

- 1. This project is required to conform to the residential Calgreen standards. 2. Project to achieve voluntary green building measures wherever feasible. 3. All work to comply with California Energy Code (title 24-part 6). See c2i-li-01-e for kitchen lighting energy compliance forms. project also to comply with all municipal green building standards where applicable. Voluntary Green Measures 4. Pollutant control. Adhesives, sealants, caulks, paints, stains and other coatings, carpet and carpet systems shall be compliant with VOC limits. GC to provide documentation that confirms VOC compliance. 5. Aerosol paints and coatings shall be compliant with product weighted MIR limits for VOC and other toxic compounds. 6. Hardwood plywood, particleboard, and medium density fiberboard composite wood products used on the interior or exterior of the building shall comply with low formaldehyde emission standards as specified in the air resources board's air toxics control measure for composite wood (17 CCR 93120 et. seq.), as shown in table 4.504.5. Documentation is req'd per section 4.504.5.1. Composite wood products do not include hardboard, structural plywood, structural panels, structural composite lumber, oriented strand board, glued laminated timber, pre-laminated wood joists, or finger-jointed poplar, as specified in CCR title 17, Section 93120.1 (a). 7. Moisture content of building materials used in wall and floor framing shall be checked before enclosure. 8. Insulation will be added / increased where applicable: 8.1 Roof: R-30 8.2 Floor above crawlspace: R-19 8.3 Walls: R-13 8.4 Hot water pipes: R-3

PROJECT DIRECTORY

OWNER JOHN AND BRYN SMALLWOOD-GARCIA. ARCHITECT EISENMANN ARCHITECTURE. ENGINEER VERDANT STRUCTURAL ENGINEERS. CONTRACTOR TBD.

TABULATION

Table with columns EXISTING, PROPOSED, REQUIRED/PERMITTED. Includes rows for UNITS, PARKING SPACES, BEDROOMS, YARD SETBACKS, BUILDING HEIGHT, and AREAS.

architect

contact STACY EISENMANN

address 1331 7th Street Suite G Berkeley CA 94710

phone 510 558 8442

email stacy@eisenmannarchitecture.com

slamp

All drawings and written material appearing herein constitute original and unpublished work of the architect and may not be duplicated, used or disclosed without written consent of Eisenmann Architecture.

project

SMALLWOOD - GARCIA

contacts JOHN AND BRYN SMALLWOOD-GARCIA

address 1533 BEVERLY PLACE BERKELEY CA 94706

phone 510.847.5414 203.546.8307

email smallwood\_garcia@hotmail.com bryn@uccb.org

ISSUE

Issue tracking table with columns for issue number, description, and date. Includes items like PLANNING 07.03.18, PLANNING REV 1 09.20.18, PLANNING REV 2 10.03.18, PLANNING REV 3 11.12.18, PLANNING REV 4 12.12.18, DESIGN REVISION 1 22.05.19, DESIGN REVISION 2 06.27.19.

job number 385

drawn by MAM

scale

NO SCALE

date

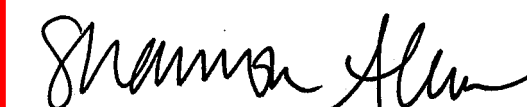
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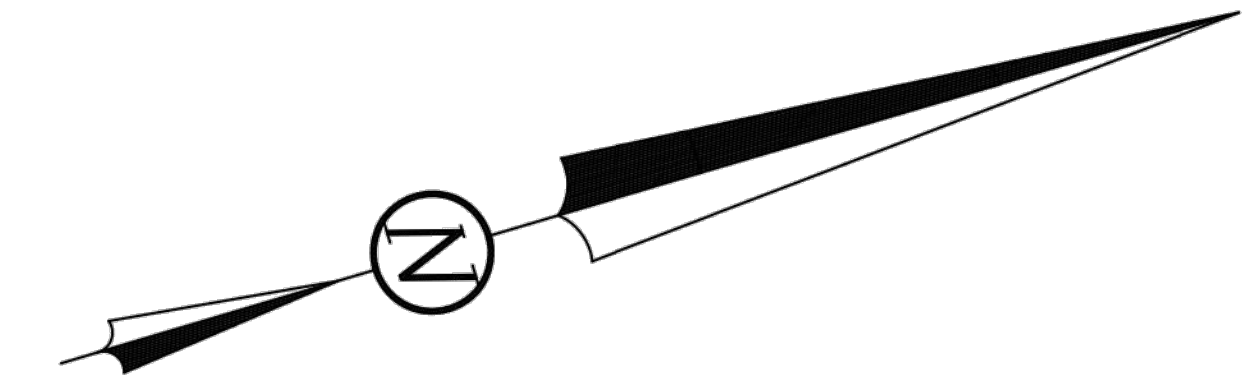
title sheet number

COVER SHEET

A0.0

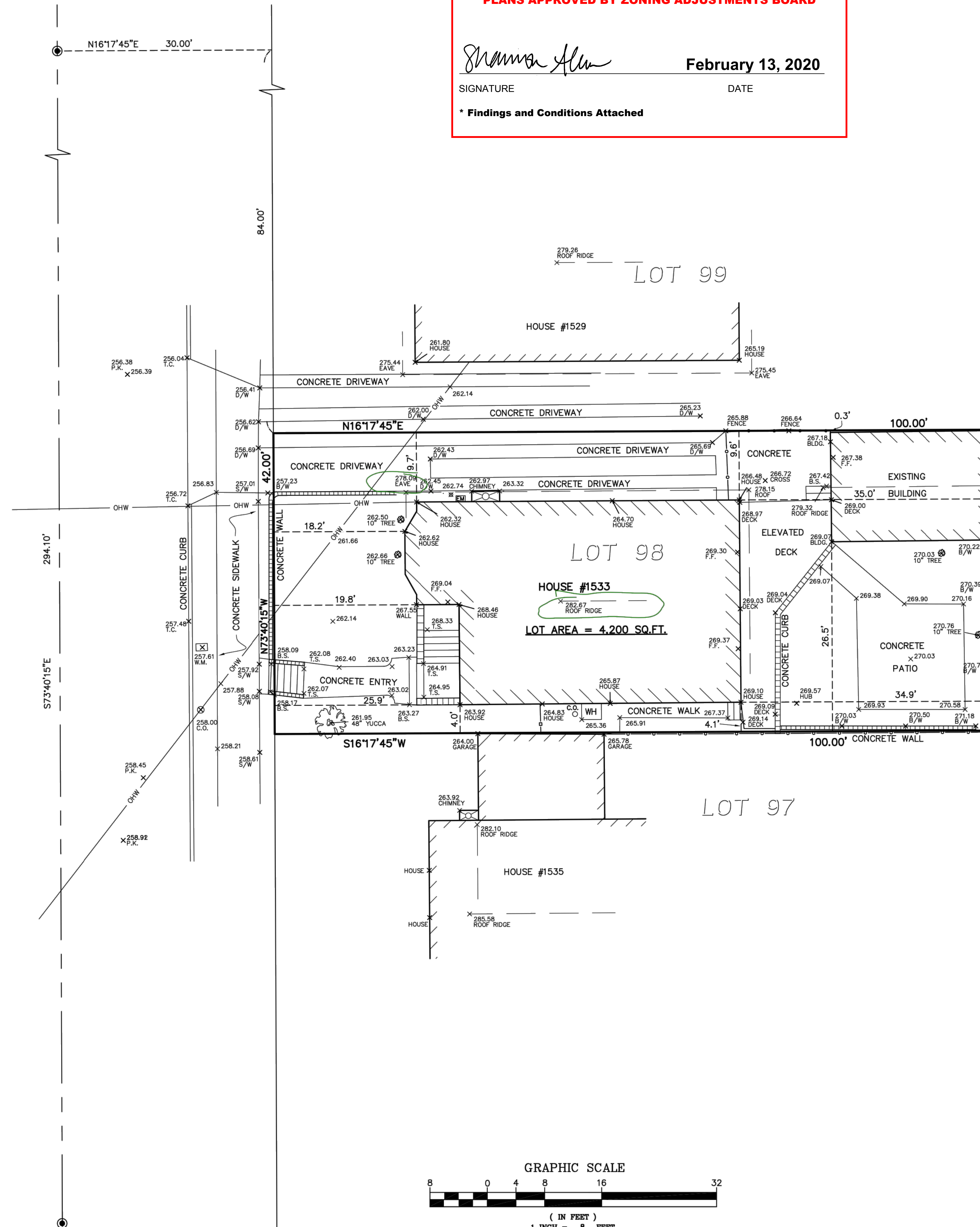
PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

 February 13, 2020  
 SIGNATURE DATE  
 \* Findings and Conditions Attached



ELEVATIONS ARE BASED ON CITY OF BERKELEY DATUM.

BEVERLY PLACE (60' WIDE)



LOT 11

LOT 10

LOT 9

NORTHBRAE (22 M 65)  
BLOCK 16

LEGEND

- A/C ASPHALT/CONCRETE
- BLDG. BUILDING
- B.S. BASE OF STEPS
- B/W BASE OF WALL
- C.O. CLEAN OUT
- D/W DRIVEWAY
- EM ELECTRIC METER
- F.F. FINISH FLOOR
- OHW OVERHEAD WIRES
- P.K. NAIL
- S/W SIDEWALK
- T.C. TOP OF CURB
- T.S. TOP OF STEPS
- WH WATER HEATER
- W.M. WATER METER
- FOUND CITY MONUMENT

# HOUSE LOCATION SURVEY

LOT 98, BLOCK 30,  
 RE-SUBDIVISION MAP OF PERALTA PARK (15 M 4)  
 LOCATED AT 1533 BEVERLY PLACE  
 CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA  
 MARCH, 2018 SCALE: 1" = 8'

**MORAN ENGINEERING, INC.**

CIVIL ENGINEERS \ LAND SURVEYORS  
 1930 SHATTUCK AVENUE, SUITE A  
 BERKELEY, CALIFORNIA 94704  
 (510) 848-1930

F.B. NO. 1659 BEVERLY-TOPO.DWG JOB NO. 18-9874

GRAPHIC SCALE



( IN FEET )  
1 INCH = 8 FEET

C.O.

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

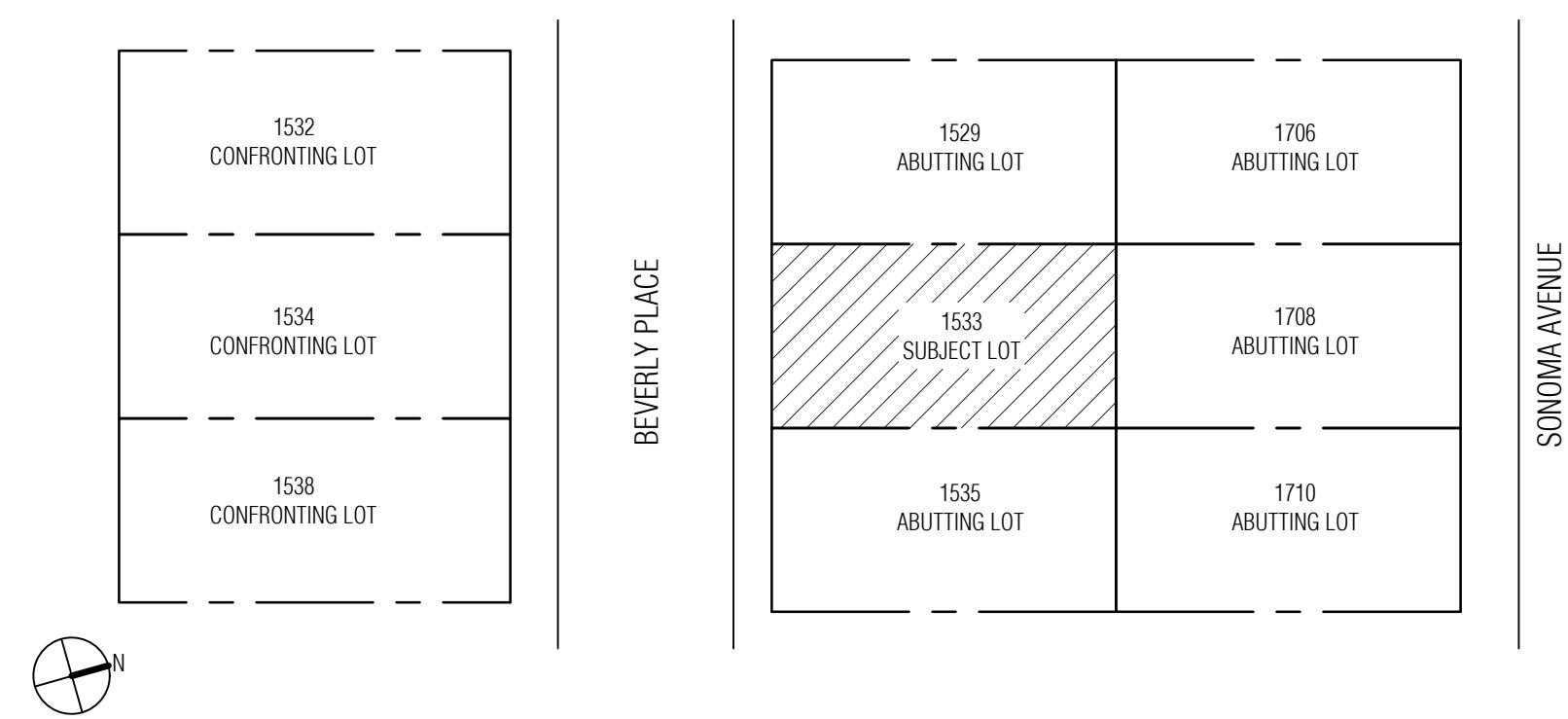
*Shanna Alu*

February 13, 2020

SIGNATURE

DATE

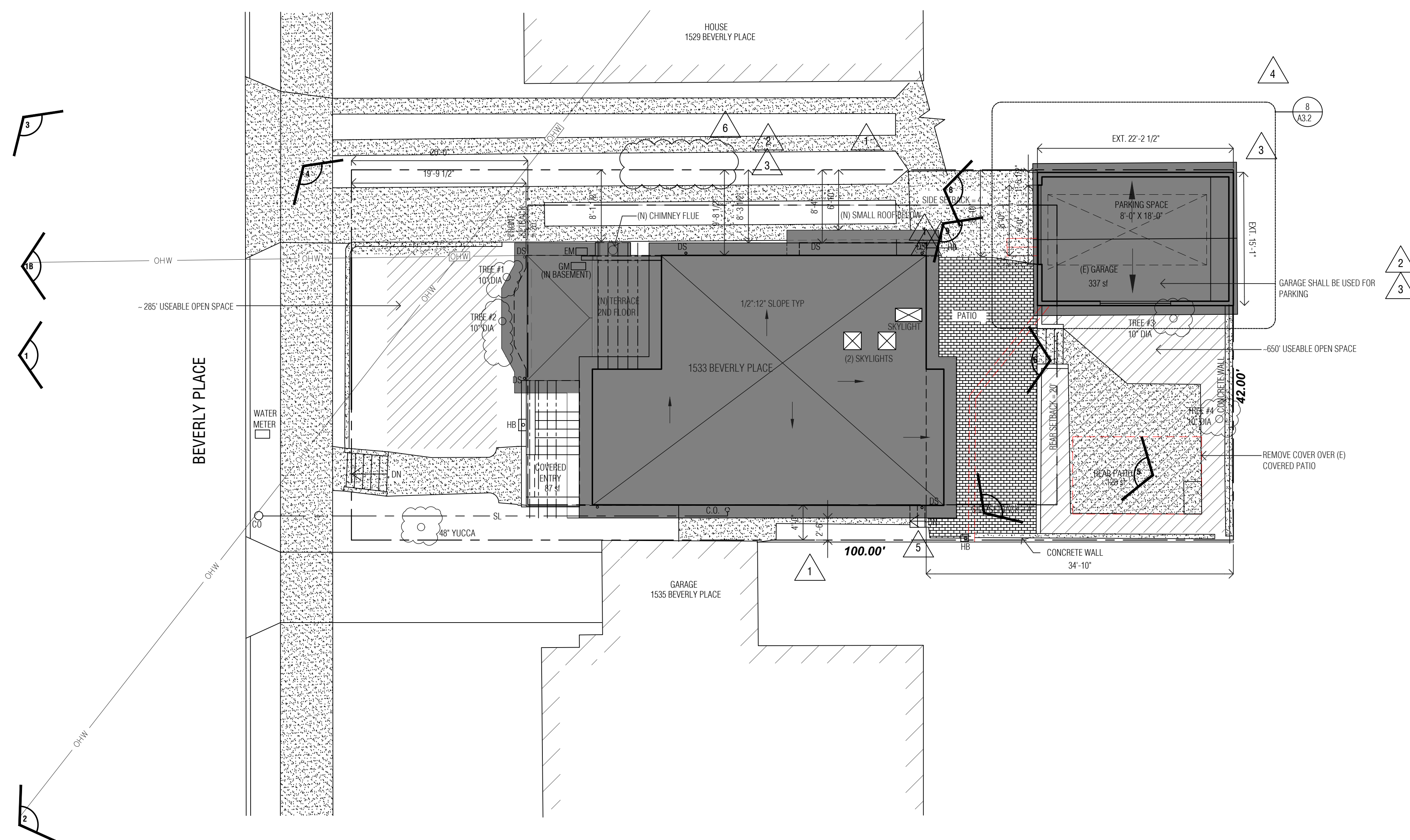
\* Findings and Conditions Attached



NEIGHBORS' SIGNATURES

| NAME (PRINTED) | SIGNATURE | ADDRESS          | RENTER OR OWNER | HAVE NO OBJECTIONS | HAVE OBJECTIONS (BRIEFLY STATE) | HAVE NO COMMENT |
|----------------|-----------|------------------|-----------------|--------------------|---------------------------------|-----------------|
|                |           | 1529 BEVERLY PL. |                 |                    |                                 |                 |
|                |           | 1532 BEVERLY PL. |                 |                    |                                 |                 |
|                |           | 1534 BEVERLY PL. |                 |                    |                                 |                 |
|                |           | 1535 BEVERLY PL. |                 |                    |                                 |                 |
|                |           | 1538 BEVERLY PL. |                 |                    |                                 |                 |
|                |           | 1708 SONOMA AVE. |                 |                    |                                 |                 |
|                |           | 1706 SONOMA AVE. |                 |                    |                                 |                 |
|                |           | 1710 SONOMA AVE. |                 |                    |                                 |                 |

SEE SCANNED SHT SHOWING NEIGHBOR SIGNATURES INCLUDED W/ ELECTRONIC SUBMISSION DOCUMENTS (" 5\_A1\_Neighbor Signatures\_Site Plan and Log")



| LEGEND    |                   |
|-----------|-------------------|
| [Pattern] | PAVING            |
| [Pattern] | WOOD DECKING      |
| [Pattern] | USABLE OPEN SPACE |
| [Symbol]  | HOSE BIB          |
| [Symbol]  | DOWNSPOUT TYP     |
| [Symbol]  | ELECTRICAL METER  |
| [Symbol]  | GAS METER         |
| [Symbol]  | CLEAN OUT         |
| [Symbol]  | WATER HEATER      |
| [Symbol]  | OVERHEAD WIRES    |
| [Symbol]  | SEWER LATERAL     |

| LOT COVERAGE CALCULATIONS: |          |          |
|----------------------------|----------|----------|
|                            | EXISTING | PROPOSED |
| LOT SIZE:                  | 4200 SF  | 4200 SF  |
| 45% OF LOT (1):            | 1890 SF  | N/A      |
| 40% OF LOT (2):            | N/A      | 1680 SF  |
| MAIN HOUSE                 | 1208 SF  | 1233 SF  |
| GARAGE                     | 337 SF   | 337 SF   |
| COVERED ENTRY              | 84 SF    | 87 SF    |
| REAR PATIO                 | 128 SF   | 0 SF     |
| TOTAL:                     | 1757 SF  | 1657 SF  |
| PERCENTAGE:                | 41.83%   | 39.45%   |

1 PROPOSED SITE PLAN

architect

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stamp

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project

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ISSUE

|                     |          |
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| 4 PLANNING REV 4    | 12.12.18 |
| 5 DESIGN REVISION 1 | 22.05.19 |
| 6 DESIGN REVISION 2 | 06.27.19 |

job number

drawn by

385 MAM

scale

1/8" = 1'-0"

date

12.12.18

title

sheet number

SITE PLAN

A1.0



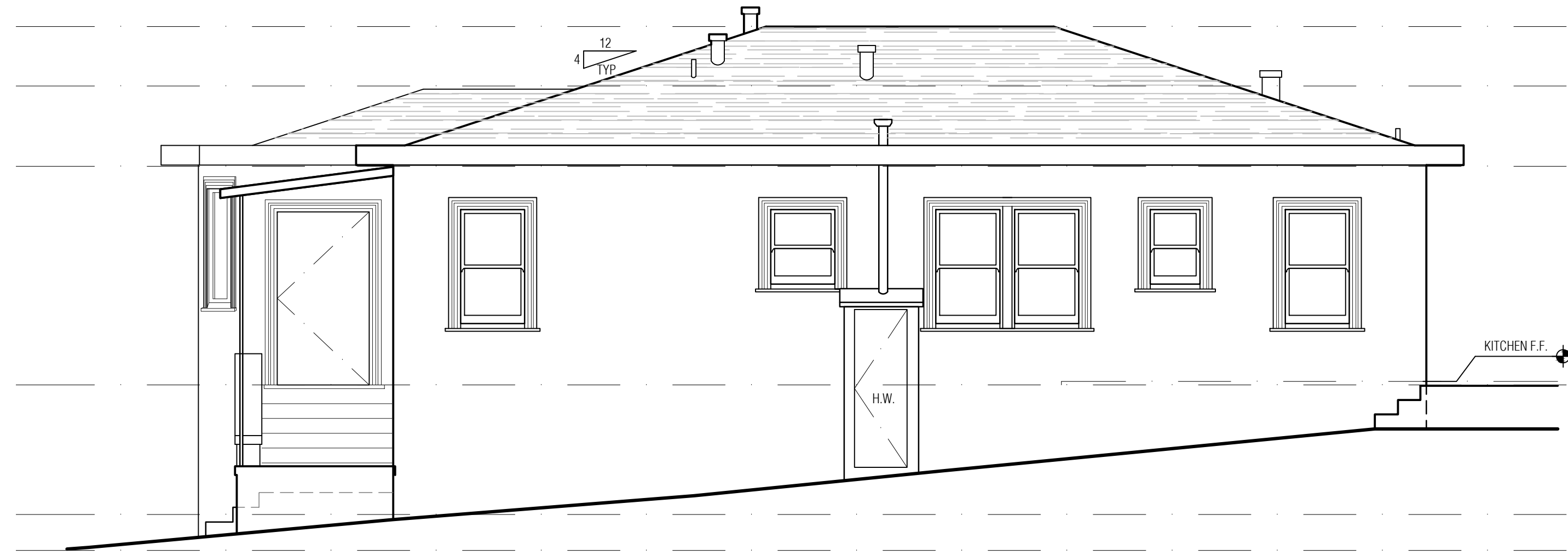


**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**

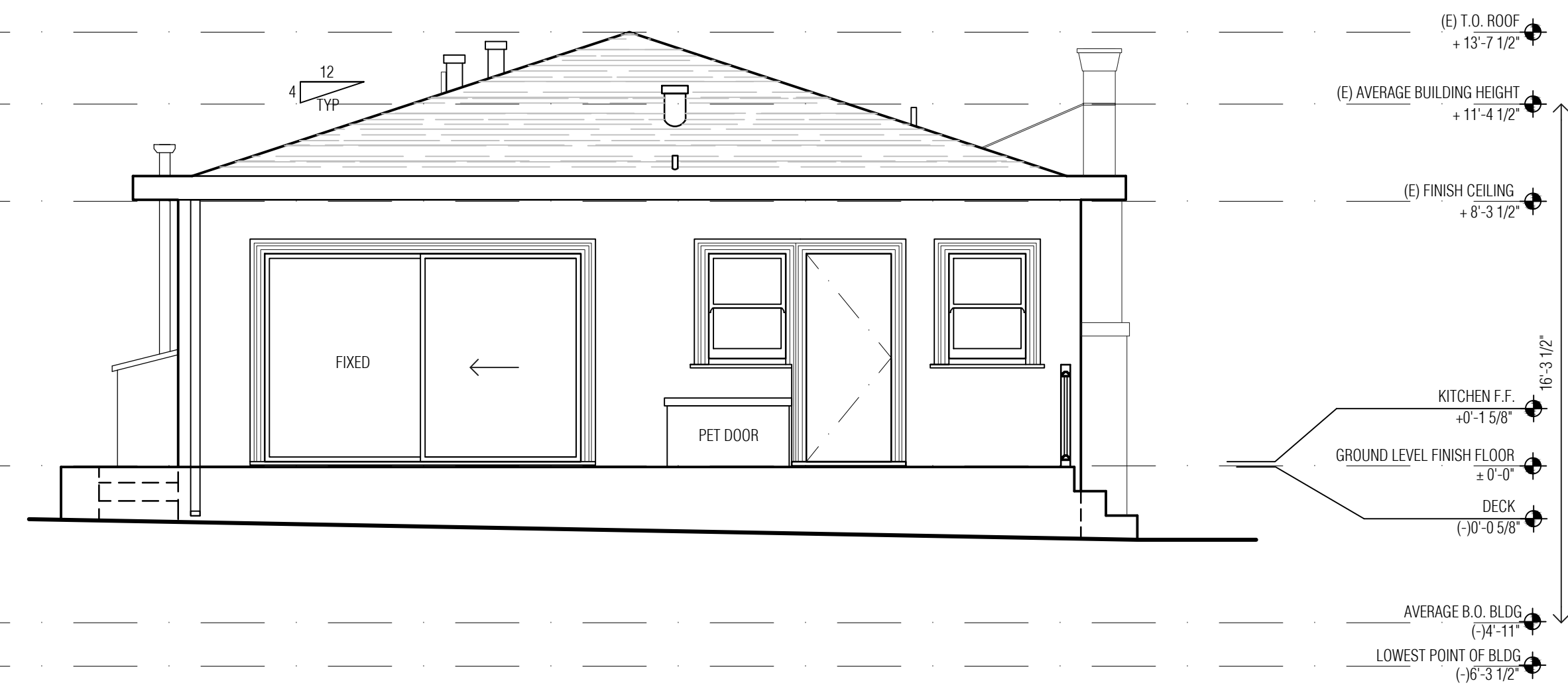
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SIGNATURE      DATE

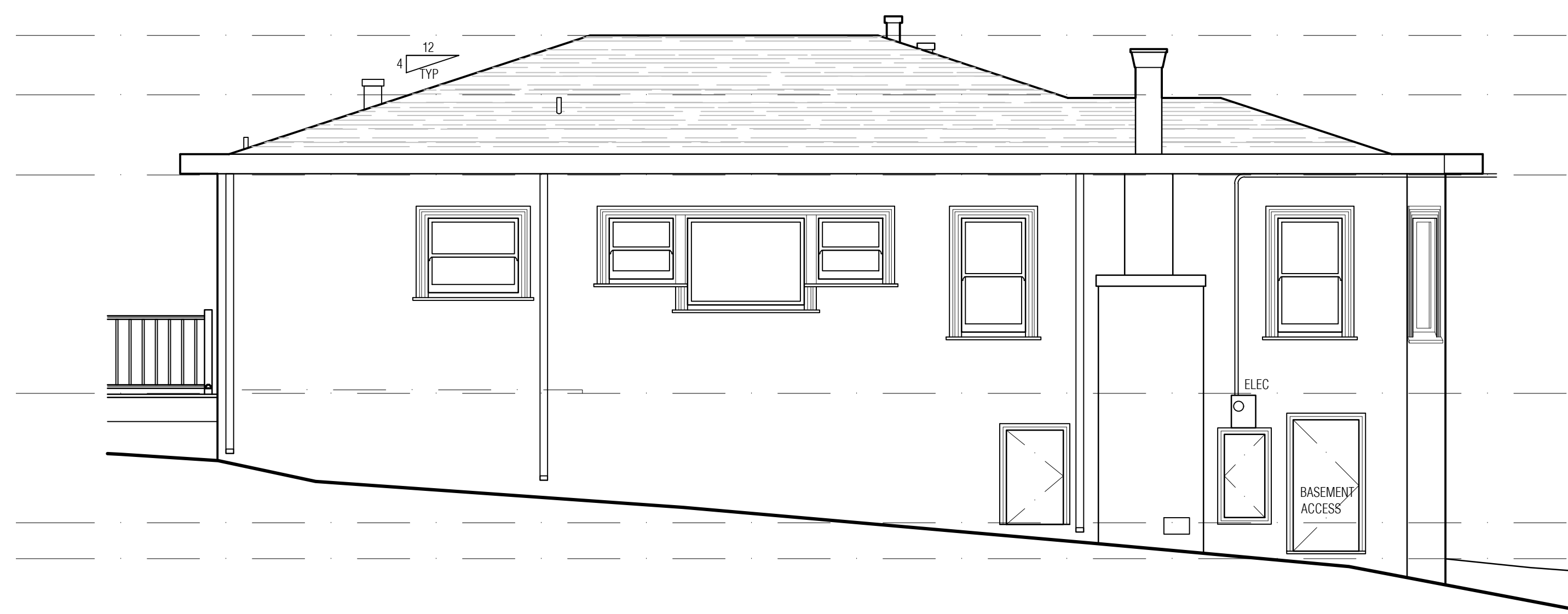
\* Findings and Conditions Attached



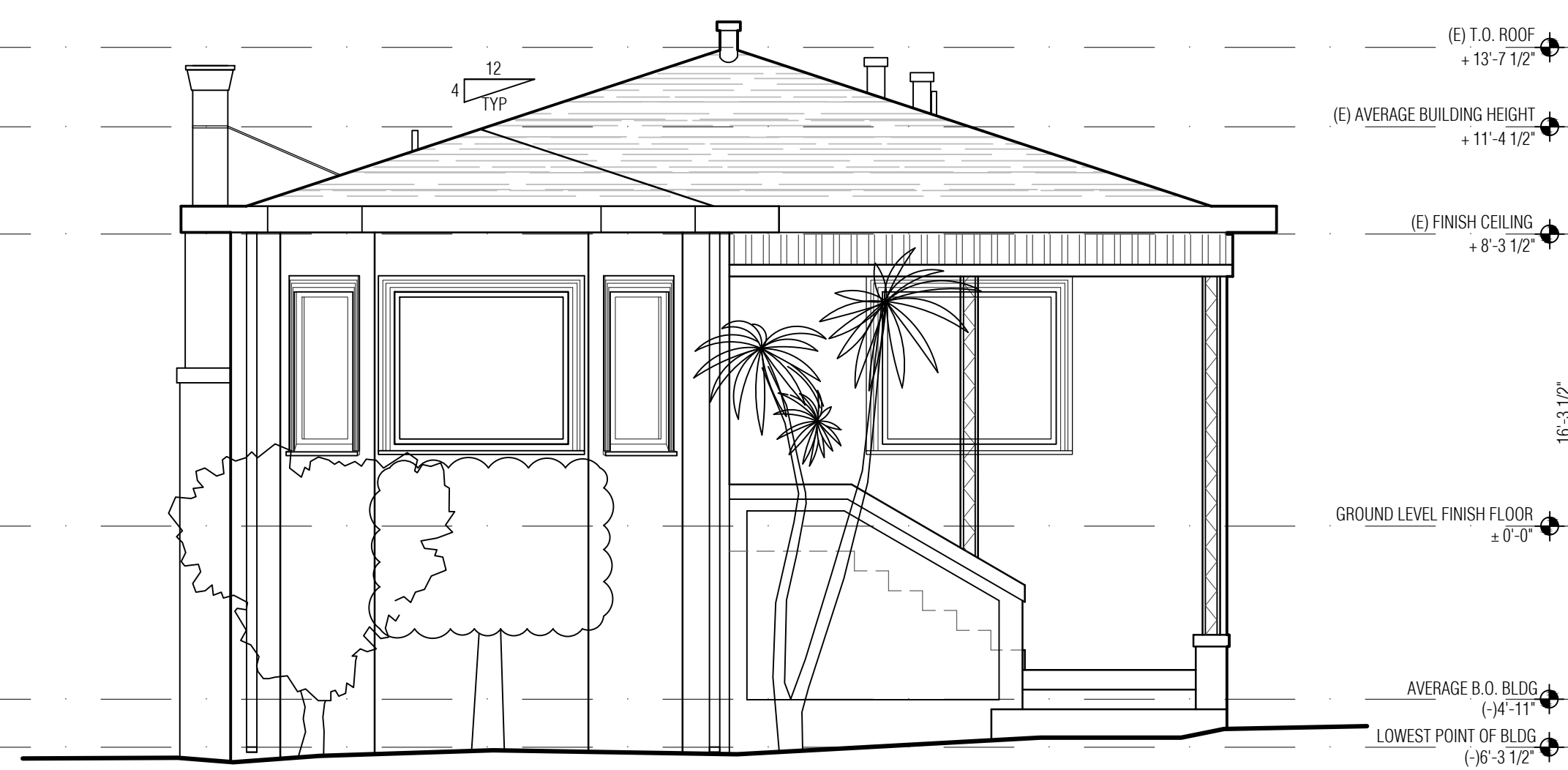
4 EXISTING EAST ELEVATION



3 EXISTING NORTH ELEVATION



2 EXISTING WEST ELEVATION



1 EXISTING SOUTH ELEVATION

architect

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job number      drawn by

385      MAM

scale

1/4" = 1'-0"

date

12.12.18

title      sheet number

EXISTING ELEVATIONS

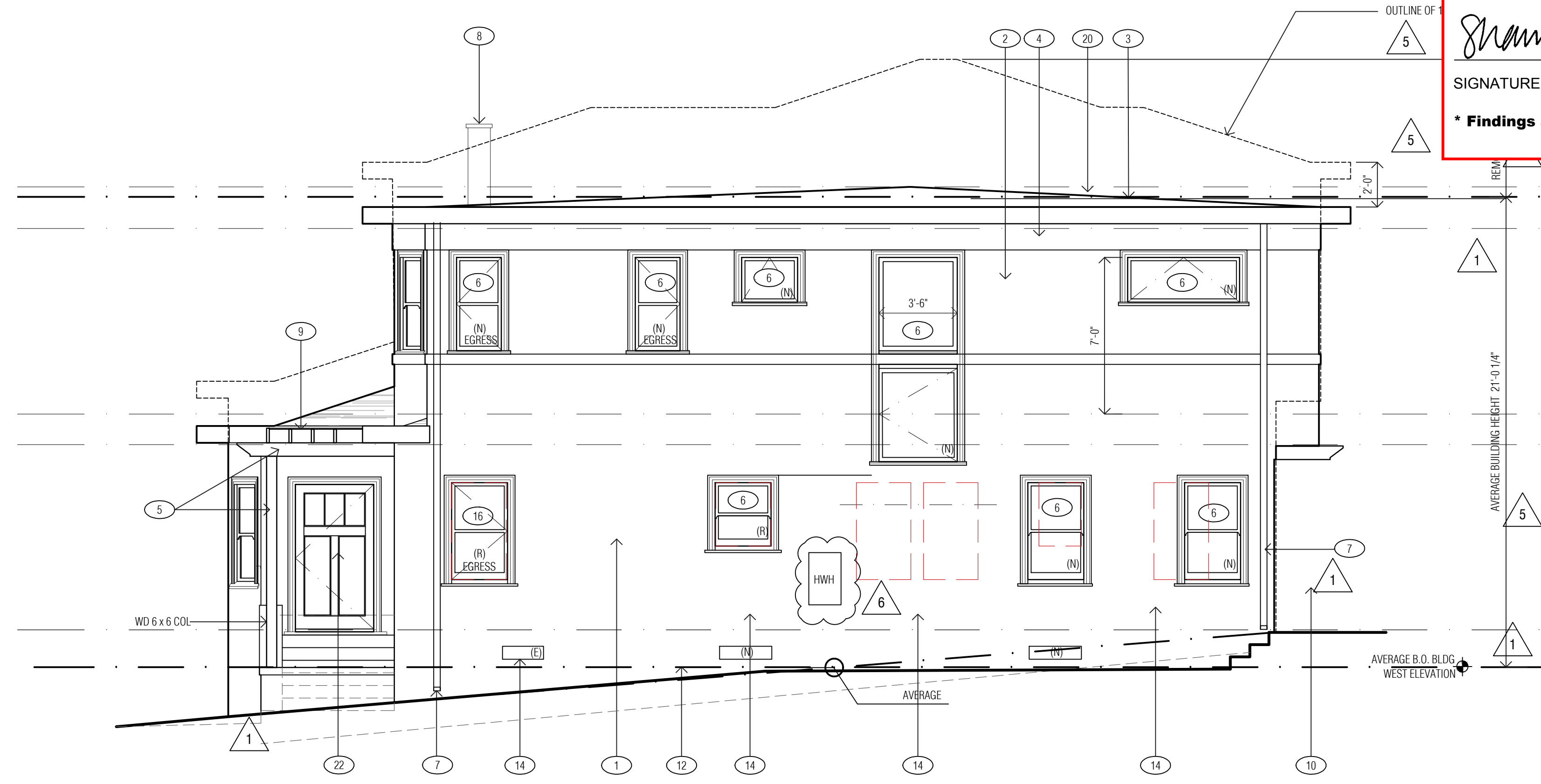
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**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**

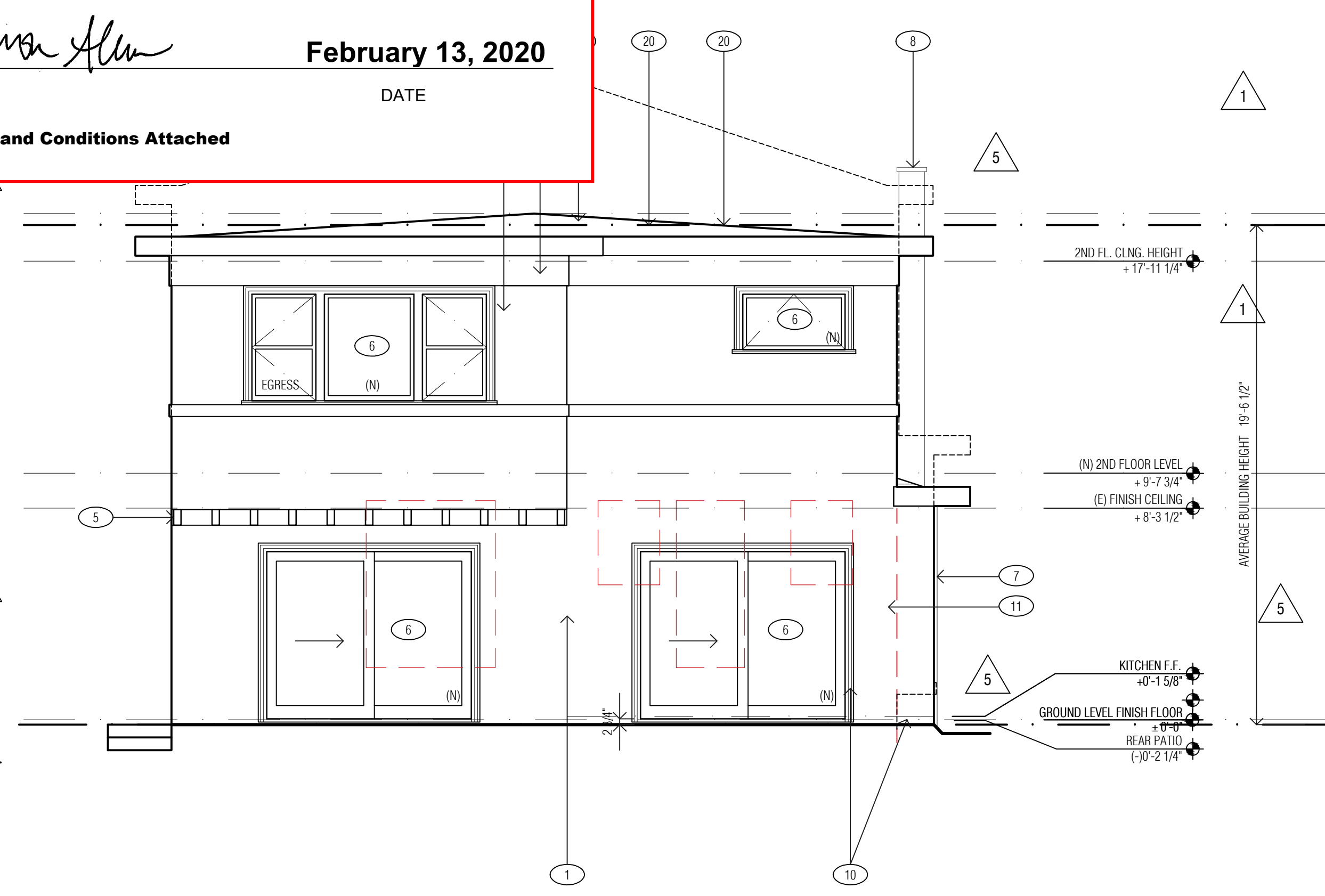
*Shanna Alu*      **February 13, 2020**

SIGNATURE      DATE

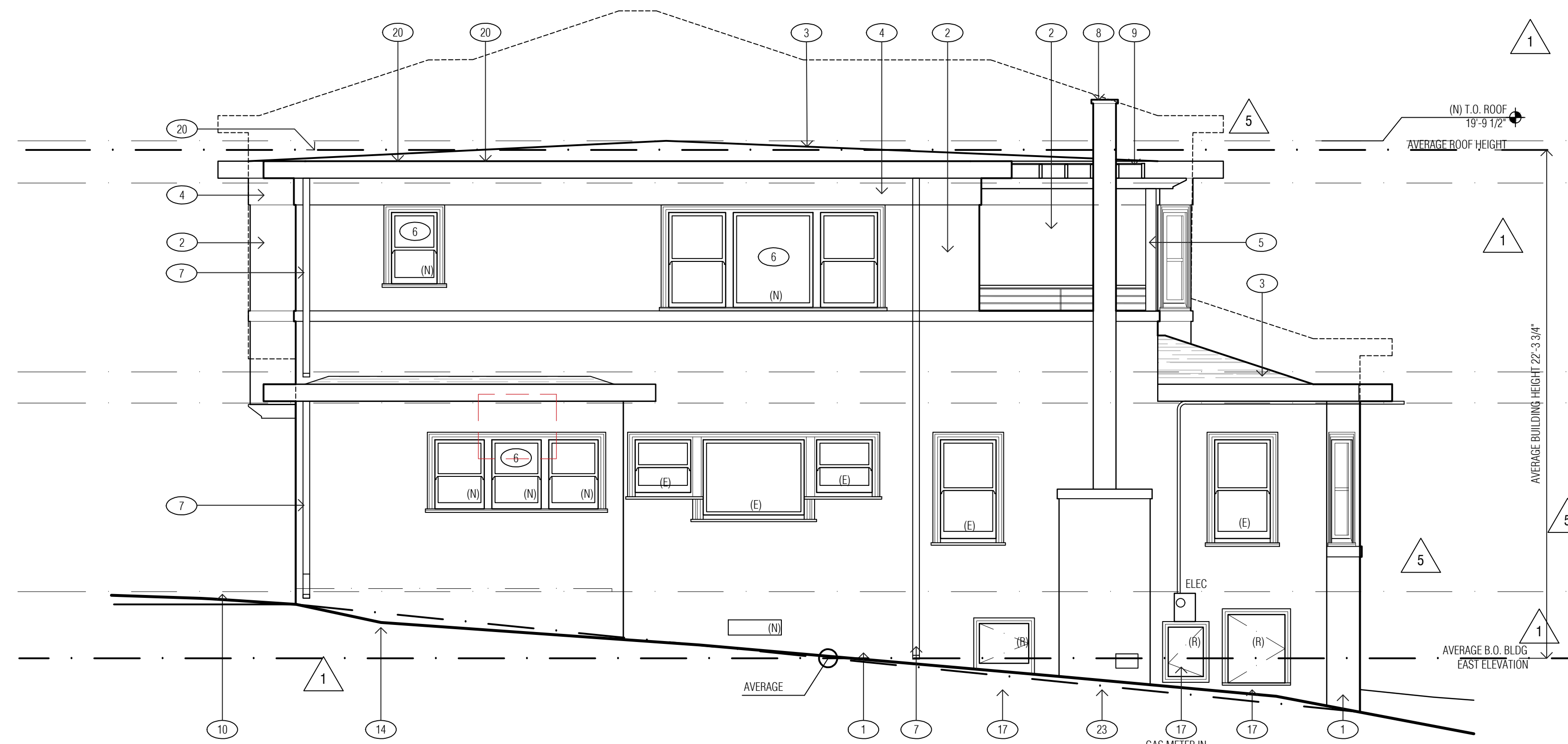
\* Findings and Conditions Attached



**4** PROPOSED EAST ELEVATION



**3** PROPOSED NORTH ELEVATION



**2** PROPOSED WEST ELEVATION



**1** PROPOSED SOUTH ELEVATION

| KEY NOTES                                                                           |                                     |
|-------------------------------------------------------------------------------------|-------------------------------------|
| 1 (E) STUCCO / PATCH / (N) PAINT                                                    | 7 (N) ALUMINUM DOWNSPOUTS / PAINTED |
| 2 (N) STUCCO - 3 COAT SYSTEM / PRIMED & (2) COATS OF ELASTOMERIC PAINT / COLOR TBD. | 8 (N) METAL CHIMNEY FLUE / PAINTED  |
| 3 LOW SLOPE ROOF (2\"/>                                                             |                                     |

architect

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job number      drawn by

385      MAM

scale

1/4" = 1'-0"

date

12.12.18

title      sheet number

NEW ELEVATIONS

**A3.1**

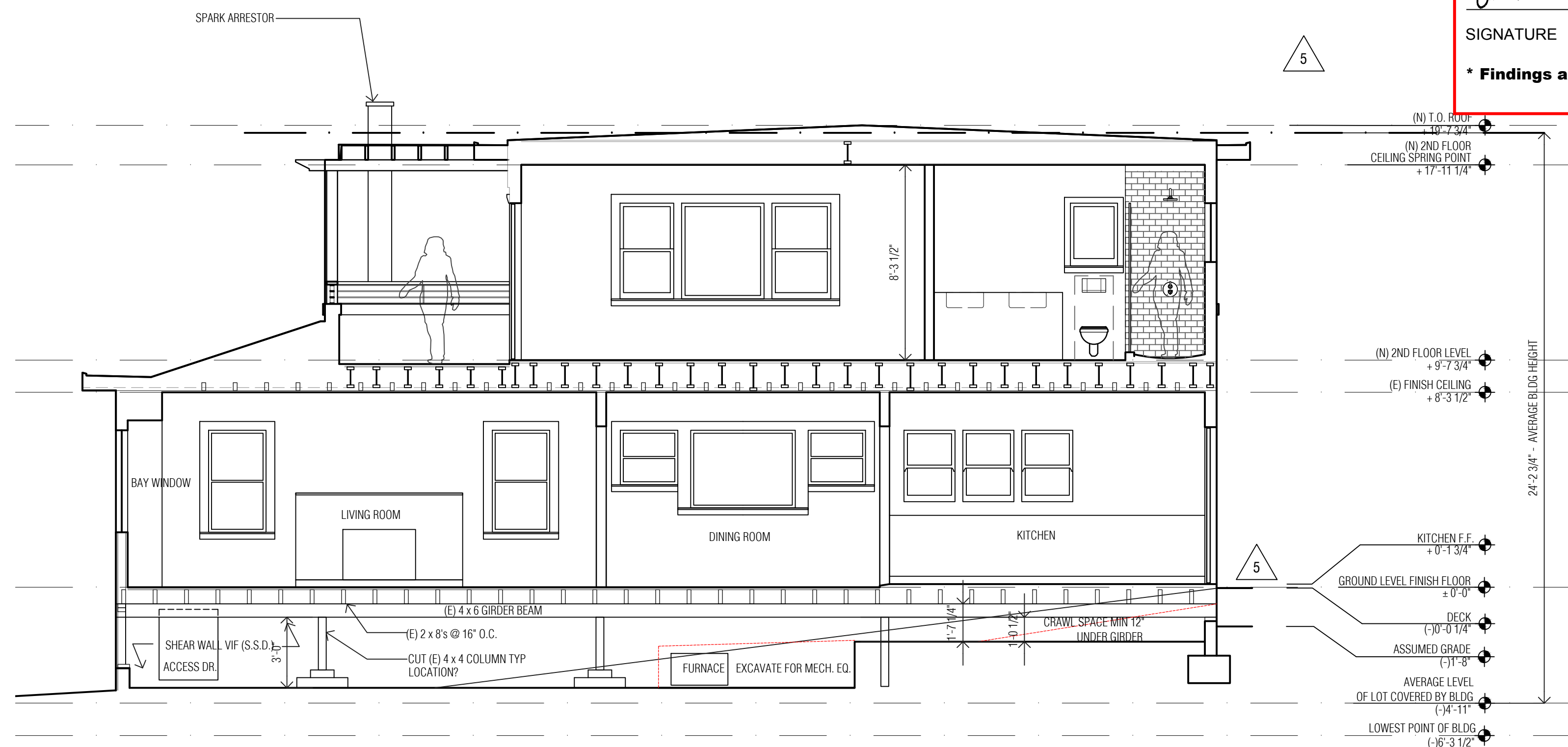
*Shanna Alva*

February 13, 2020

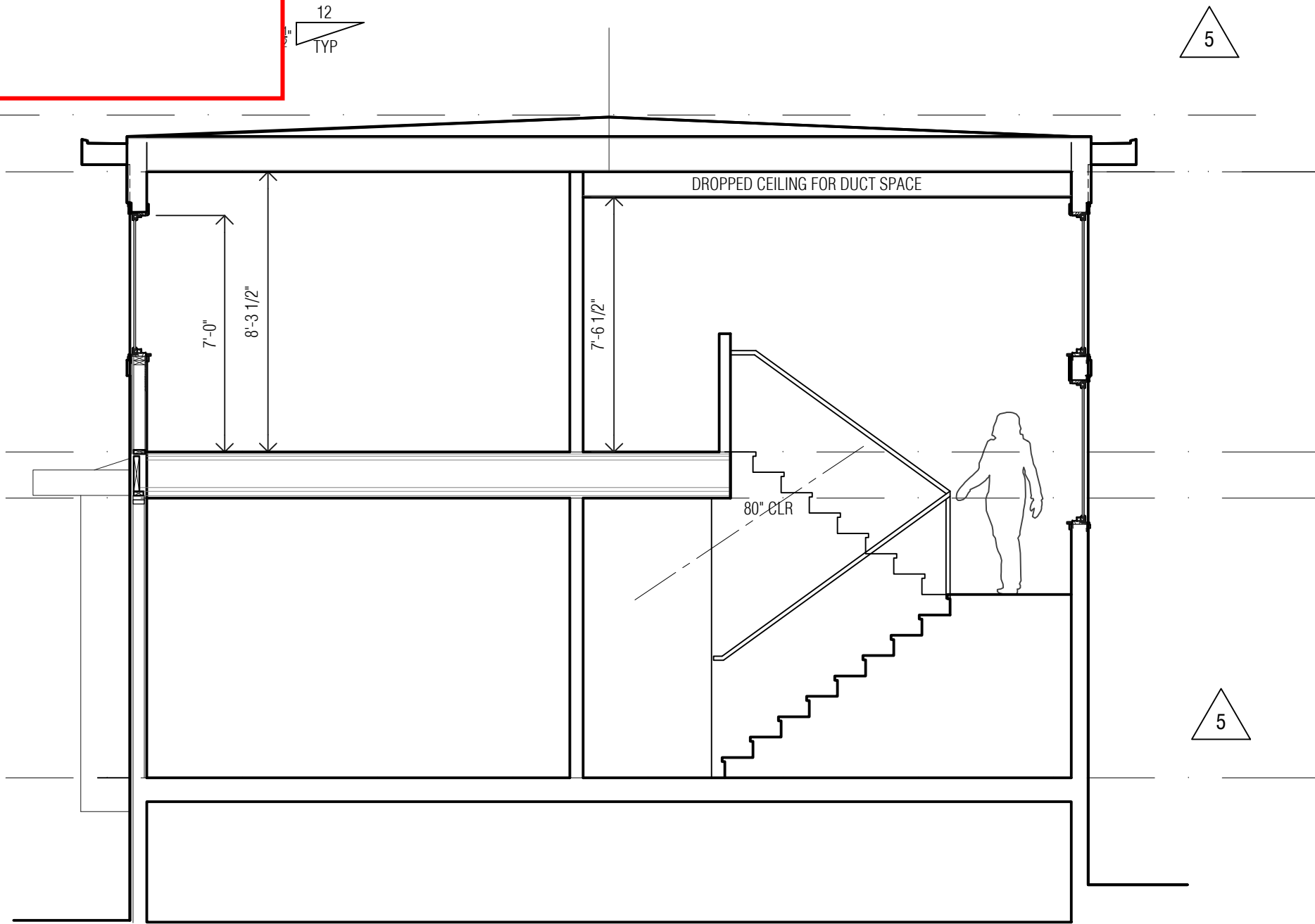
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DATE

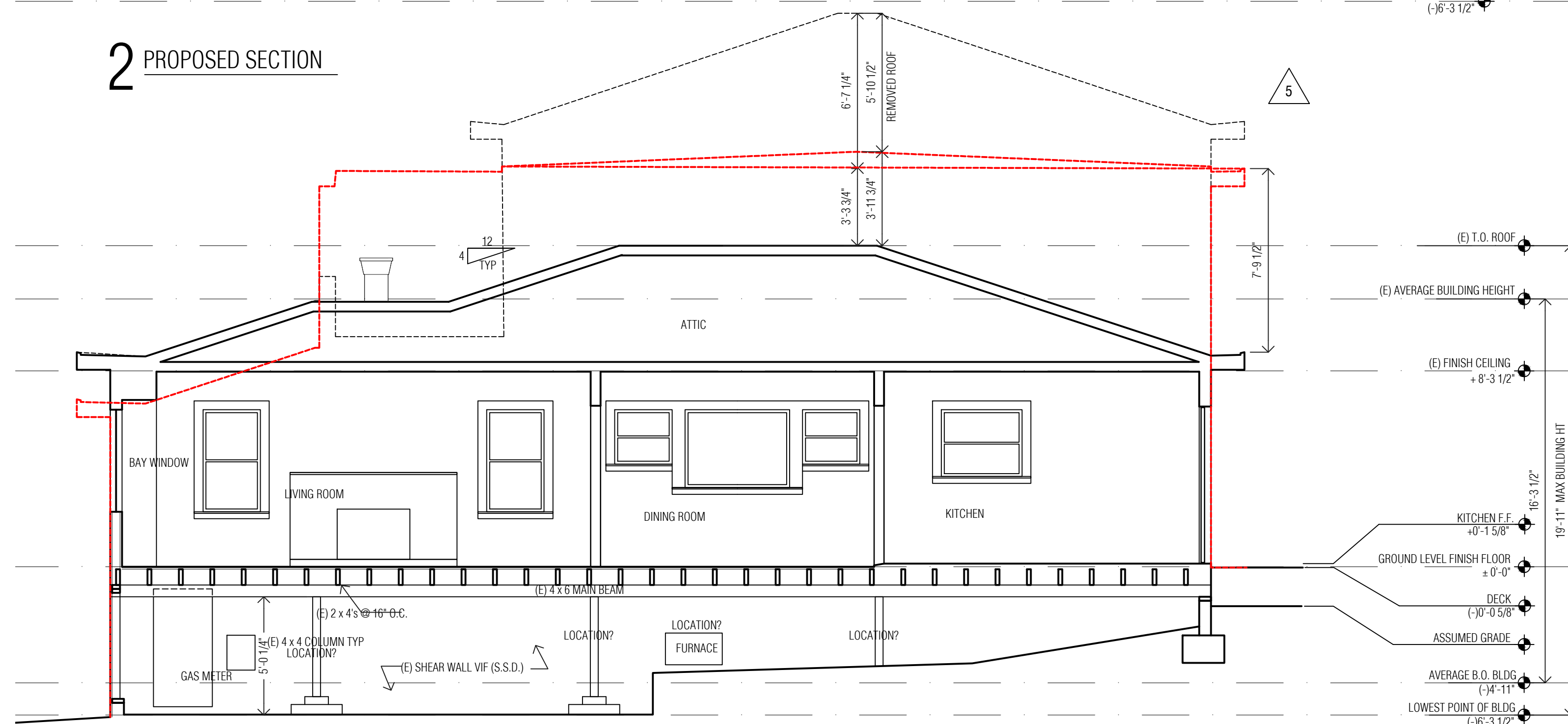
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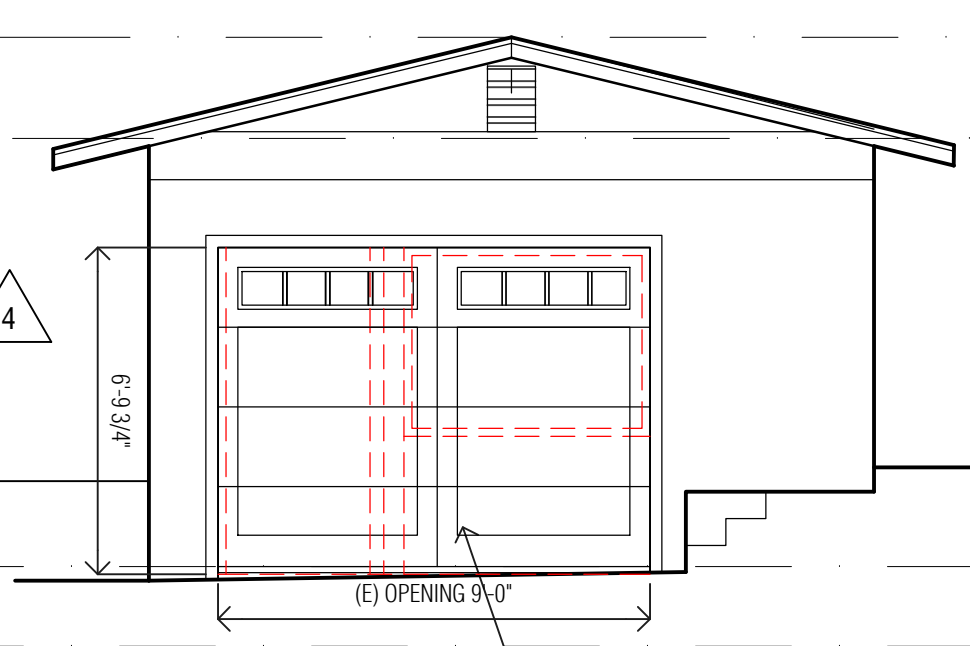
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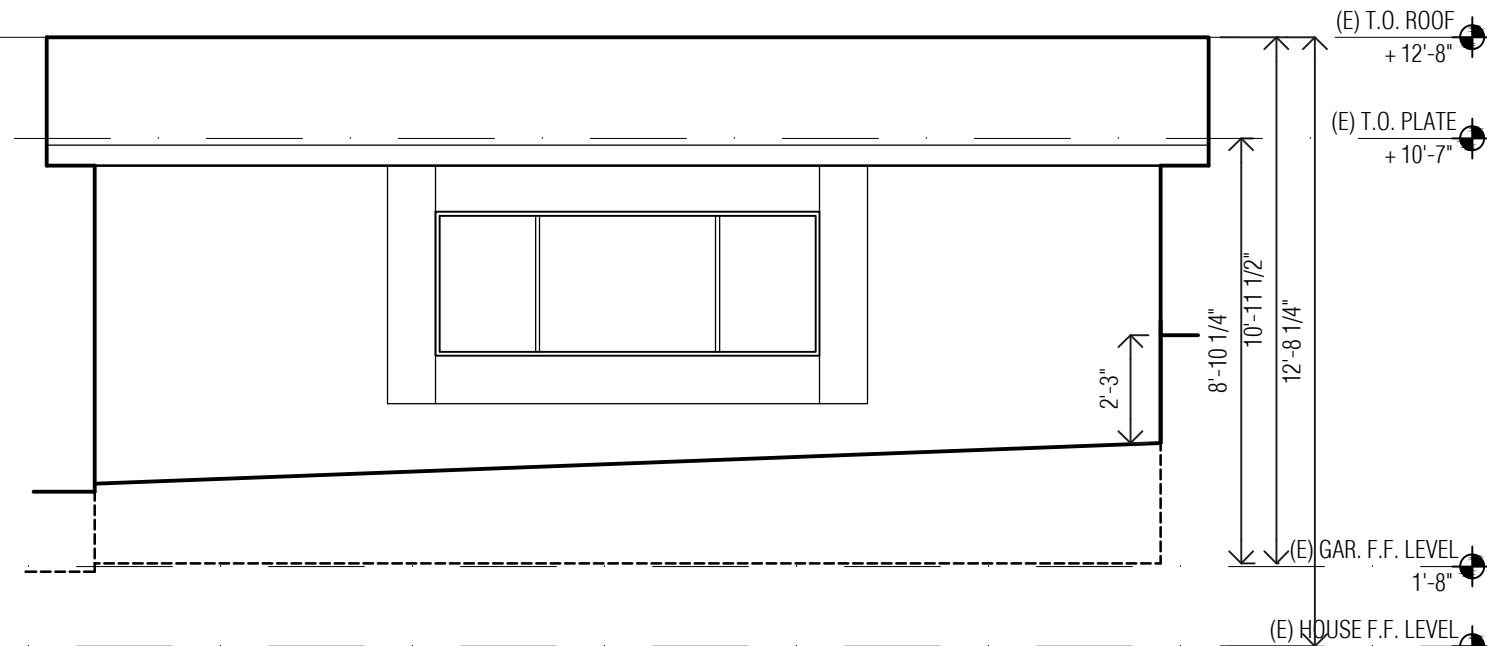
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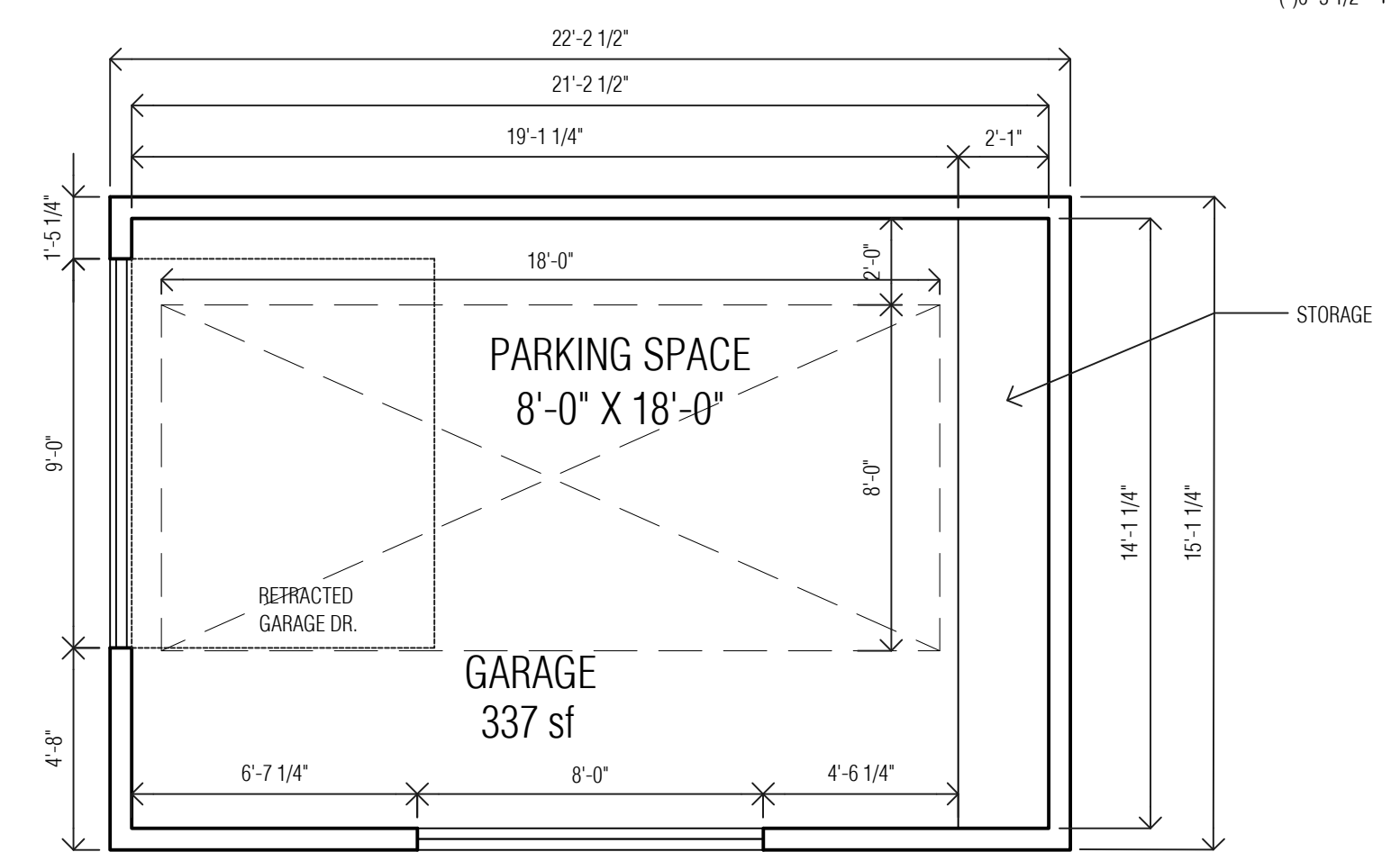
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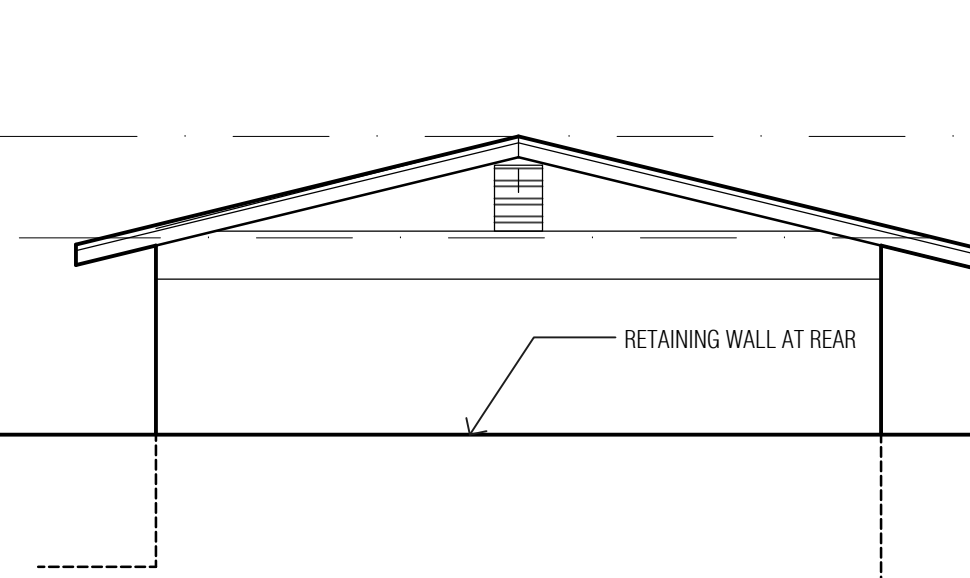
4 GARAGE EL- SOUTH



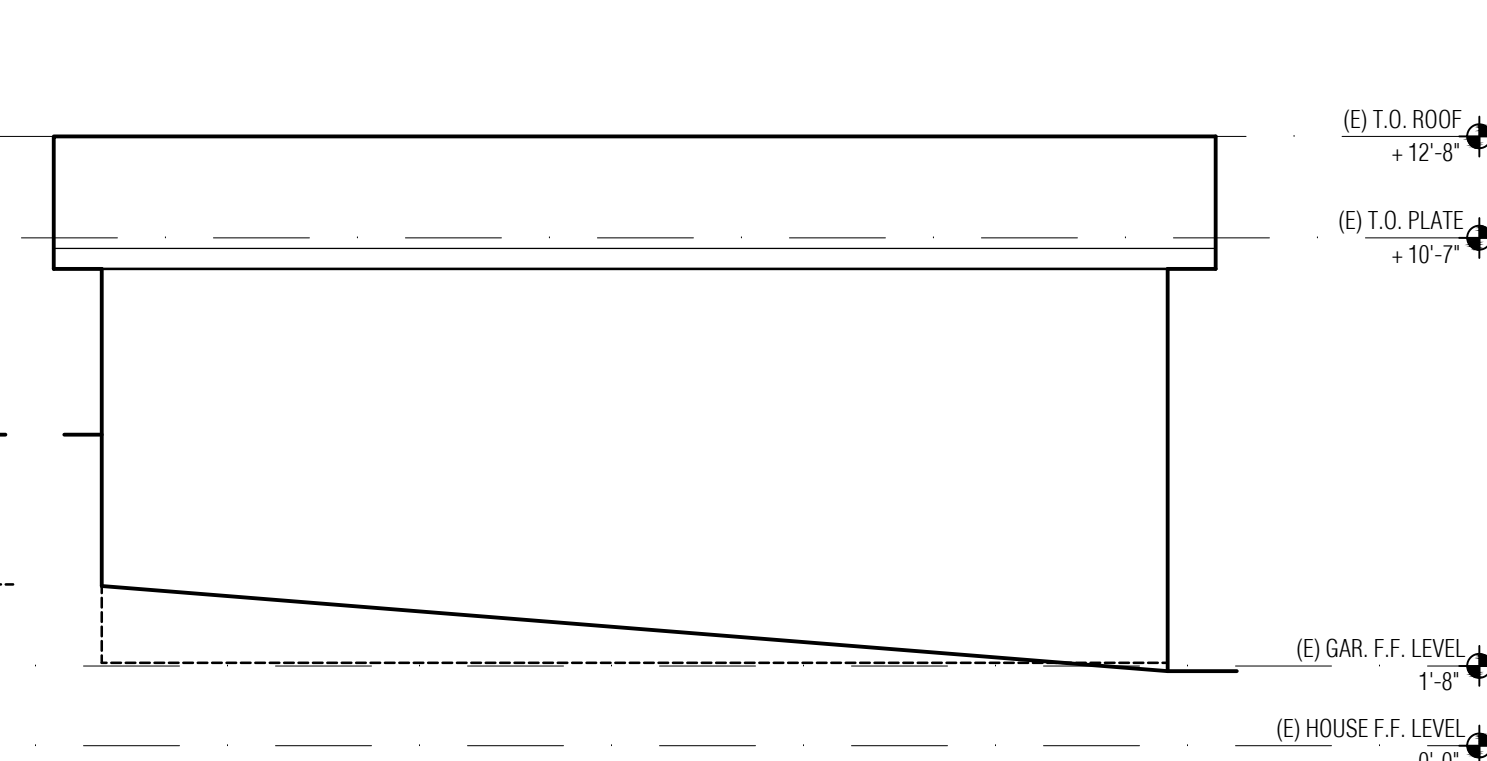
5 GARAGE EL- EAST



8 GARAGE PLAN



6 GARAGE EL- NORTH



7 GARAGE EL- WEST

architect

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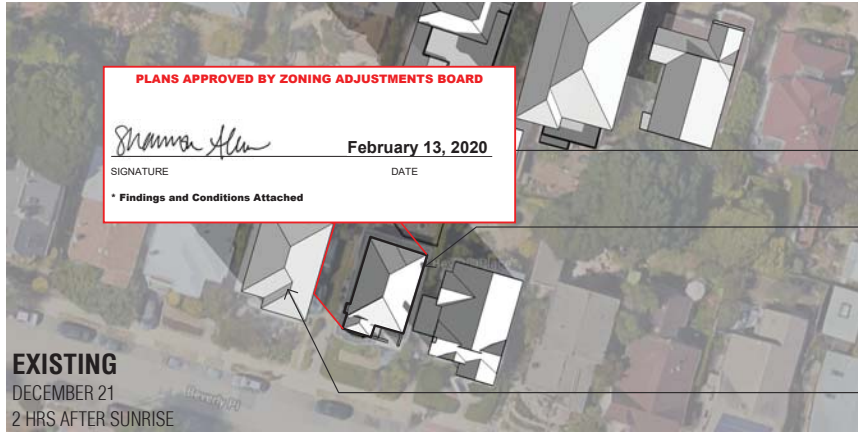
job number 385  
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scale  
 1/4" = 1'-0"

date  
 12.12.18

title sheet number  
 SECTIONS

A3.2



**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**

*Shanna Hill*      **February 13, 2020**  
 SIGNATURE                      DATE

\* Findings and Conditions Attached

**EXISTING**  
 DECEMBER 21  
 2 HRS AFTER SUNRISE

(E) STRUCTURE SHADOW OUTLINE

(E) STRUCTURE  
 1533 BEVERLY PLACE

AFFECTED PROPERTY  
 1529 BEVERLY PLACE



**PREVIOUSLY SUBMITTED**  
 DECEMBER 21  
 2 HRS AFTER SUNRISE

PREVIOUSLY SUBMITTED DESIGN  
 SHADOW OUTLINE

PREV. SUBMITTED DESIGN  
 1533 BEVERLY PLACE

AFFECTED PROPERTY  
 1529 BEVERLY PLACE

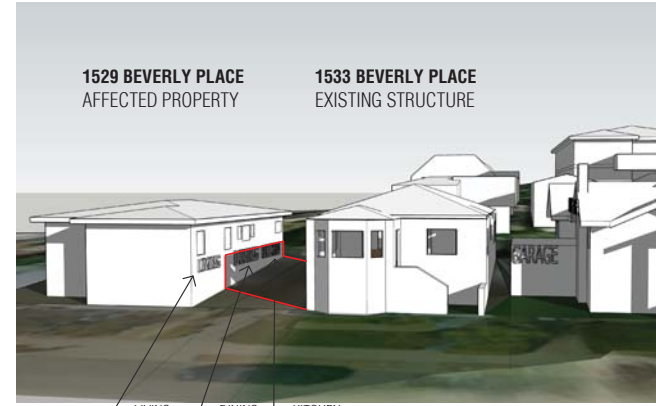


**CURRENT PROPOSAL**  
 DECEMBER 21  
 2 HRS AFTER SUNRISE

CURRENT PROPOSAL  
 SHADOW OUTLINE

CURRENT PROPOSAL  
 1533 BEVERLY PLACE

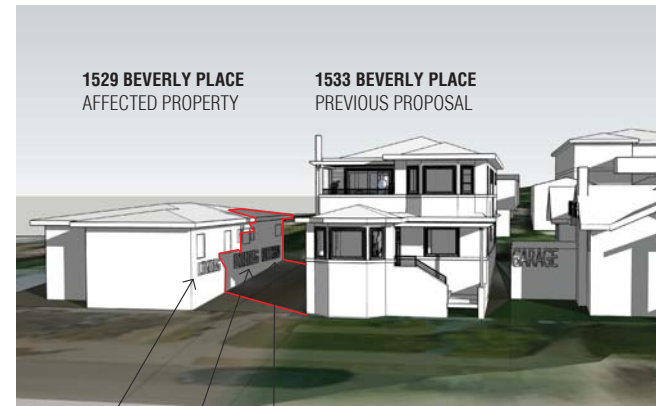
AFFECTED PROPERTY  
 1529 BEVERLY PLACE



**1529 BEVERLY PLACE**  
 AFFECTED PROPERTY

**1533 BEVERLY PLACE**  
 EXISTING STRUCTURE

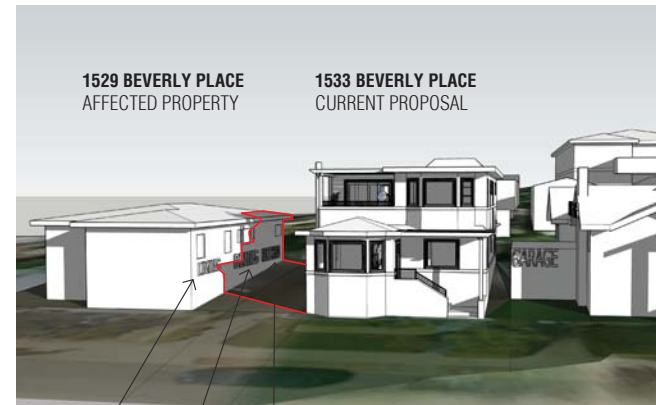
LIVING      DINING      KITCHEN



**1529 BEVERLY PLACE**  
 AFFECTED PROPERTY

**1533 BEVERLY PLACE**  
 PREVIOUS PROPOSAL

LIVING      DINING      KITCHEN



**1529 BEVERLY PLACE**  
 AFFECTED PROPERTY

**1533 BEVERLY PLACE**  
 CURRENT PROPOSAL

LIVING      DINING      KITCHEN

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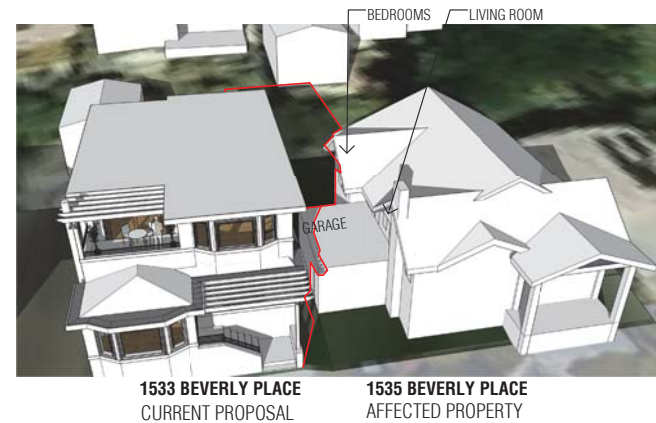
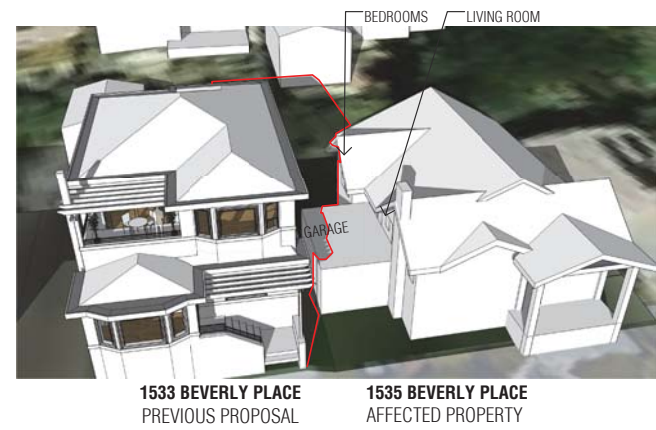
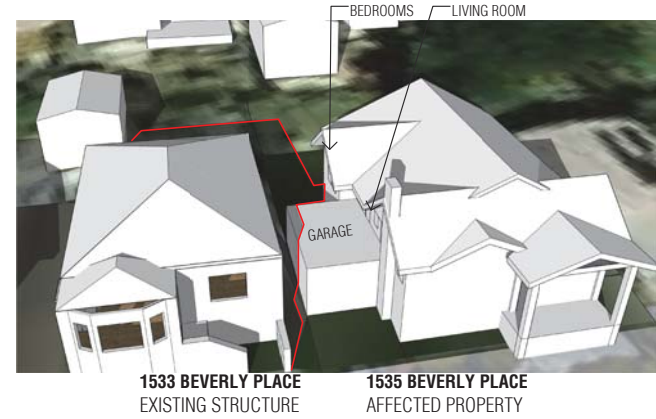
SMALLWOOD-GARCIA  
 RESIDENCE

Scale

Date  
 07.24.19

Title      sheet number  
 DECEMBER 21  
 2 HRS AFTER SUNRISE

**1.0**



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RESIDENCE

Scale

Date  
07.24.19

Title sheet number  
DECEMBER 21  
2 HRS BEFORE SUNSET

1.1



**EXISTING**  
DECEMBER 21  
NOON

(E) STRUCTURE SHADOW OUTLINE

(E) STRUCTURE  
1533 BEVERLY PLACE

AFFECTED PROPERTY  
1529 BEVERLY PLACE



**PREVIOUSLY SUBMITTED**  
DECEMBER 21  
NOON

PREVIOUSLY SUBMITTED DESIGN  
SHADOW OUTLINE

PREV. SUBMITTED DESIGN  
1533 BEVERLY PLACE

AFFECTED PROPERTY  
1529 BEVERLY PLACE

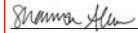


**CURRENT PROPOSAL**  
DECEMBER 21  
NOON

CURRENT PROPOSAL  
SHADOW OUTLINE

CURRENT PROPOSAL  
1533 BEVERLY PLACE

AFFECTED PROPERTY  
1529 BEVERLY PLACE

**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**  
 **February 13, 2020**  
 SIGNATURE DATE  
 \* Findings and Conditions Attached

  
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 SMALLWOOD-GARCIA  
 RESIDENCE

Scale \_\_\_\_\_  
 Date 07.24.19  
 Title \_\_\_\_\_ sheet number \_\_\_\_\_  
 DECEMBER 21  
 NOON

DECEMBER 21 AT NOON SHADOW DOES NOT AFFECT NEIGHBORS'S HOUSE

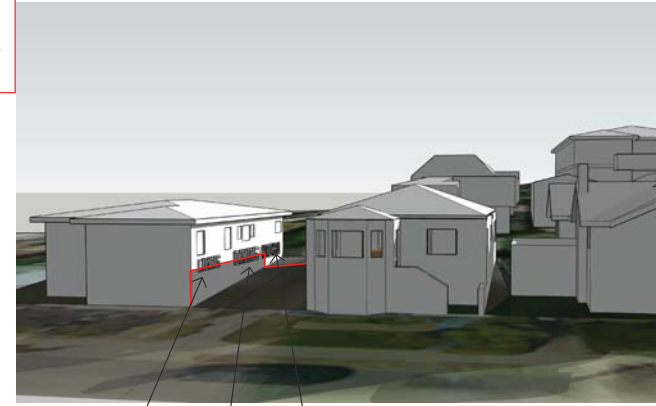
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PLANS APPROVED BY ZONING ADJUSTMENTS BOARD  
*Shama Ha* February 13, 2020  
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 \* Findings and Conditions Attached

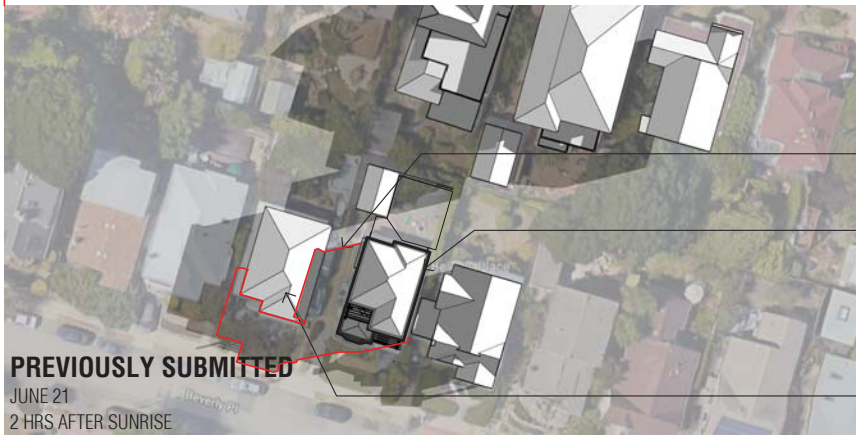


**EXISTING**  
 JUNE 21  
 2 HRS AFTER SUNRISE

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- (E) STRUCTURE  
1533 BEVERLY PLACE
- AFFECTED PROPERTY  
1529 BEVERLY PLACE

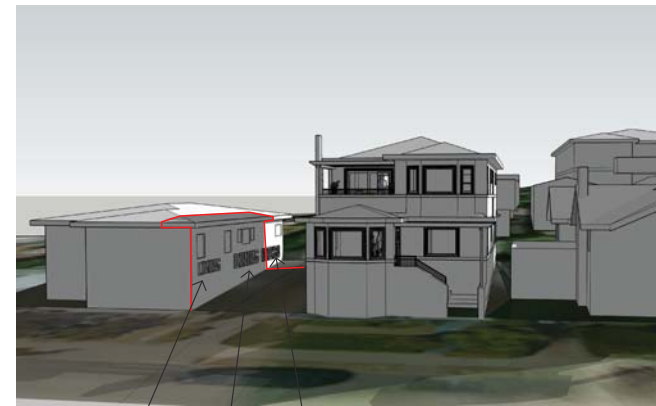


LIVING DINING KITCHEN



**PREVIOUSLY SUBMITTED**  
 JUNE 21  
 2 HRS AFTER SUNRISE

- PREVIOUSLY SUBMITTED DESIGN  
SHADOW OUTLINE
- PREV. SUBMITTED DESIGN  
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- AFFECTED PROPERTY  
1529 BEVERLY PLACE



LIVING DINING KITCHEN



**CURRENT PROPOSAL**  
 JUNE 21  
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SHADOW OUTLINE
- CURRENT PROPOSAL  
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- AFFECTED PROPERTY  
1529 BEVERLY PLACE



LIVING DINING KITCHEN



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 RESIDENCE

Scale

Date  
 07.24.19

Title sheet number

JUNE 21  
 2 HRS AFTER SUNRISE

2.0



**EXISTING**  
JUNE 21  
2 HRS BEFORE SUNSET

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD  
 Signature: *Shanna He* February 13, 2020  
 SIGNATURE DATE  
 \* Findings and Conditions Attached

- (E) STRUCTURE  
1533 BEVERLY PLACE
- (E) STRUCTURE SHADOW OUTLINE
- AFFECTED PROPERTY  
1535 BEVERLY PLACE



**1533 BEVERLY PLACE**  
EXISTING STRUCTURE

**1535 BEVERLY PLACE**  
AFFECTED PROPERTY



**PREVIOUSLY SUBMITTED**  
JUNE 21  
2 HRS BEFORE SUNSET

- PREV. SUBMITTED DESIGN  
1533 BEVERLY PLACE
- PREVIOUSLY SUBMITTED DESIGN  
SHADOW OUTLINE
- AFFECTED PROPERTY  
1535 BEVERLY PLACE



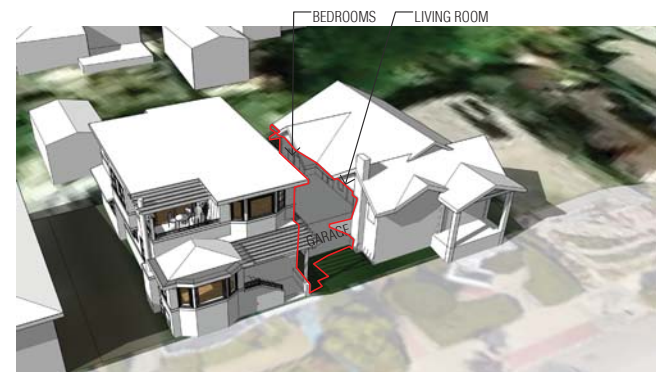
**1533 BEVERLY PLACE**  
PREVIOUS PROPOSAL

**1535 BEVERLY PLACE**  
AFFECTED PROPERTY



**CURRENT PROPOSAL**  
JUNE 21  
2 HRS BEFORE SUNSET

- CURRENT PROPOSAL  
1533 BEVERLY PLACE
- CURRENT PROPOSAL  
SHADOW OUTLINE
- AFFECTED PROPERTY  
1535 BEVERLY PLACE



**1533 BEVERLY PLACE**  
CURRENT PROPOSAL

**1535 BEVERLY PLACE**  
AFFECTED PROPERTY

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2.1





**EXISTING**  
JUNE 21  
NOON

(E) STRUCTURE SHADOW OUTLINE

(E) STRUCTURE  
1533 BEVERLY PLACE



**PREVIOUSLY SUBMITTED**  
JUNE 21  
NOON

PREVIOUSLY SUBMITTED DESIGN  
SHADOW OUTLINE

PREV. SUBMITTED DESIGN  
1533 BEVERLY PLACE



**CURRENT PROPOSAL**  
JUNE 21  
NOON

CURRENT PROPOSAL  
SHADOW OUTLINE

CURRENT PROPOSAL  
1533 BEVERLY PLACE

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*Shanna Allen*      **February 13, 2020**

SIGNATURE      DATE

\* Findings and Conditions Attached

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Title \_\_\_\_\_ sheet number \_\_\_\_\_

JUNE 21  
NOON

JUNE 21 AT NOON SHADOW DOES NOT AFFECT NEIGHBORS'S HOUSE

2.2

CITY OF BERKELEY  
CITY CLERK DESK  
ZP2018-0153  
2020 MAR 11 PM 1:47

**RENA RICKLES**  
*Attorney at Law*

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TEL: (510) 452-1600 - FAX: (510) 451-4115  
EMAIL: rena@rickleslaw.com

March 11, 2020

Mayor Jesse Arreguin  
Berkeley Councilmembers  
2180 Milvia Street  
Berkeley, CA 94704

**VIA Email and Hand Delivery**

Re: 1533 Beverly Place: Appeal of Zoning Adjustments Board ("ZAB") Decision  
February 13, 2020: Grant Appeal<sup>1</sup>

Dear Mayor Arreguin and Councilmembers:

On behalf of Amy Di Costanzo, 40-year resident of 1710 Sonoma Avenue who will lose her view of San Francisco Bay and all of her View Corridor from the only public room with a view in her home, I urge you to grant her appeal.

General Grounds for Appeal

- The evidence does not support the Findings;
- As such the Findings do not support the decision;
- And, acting as it did, the ZAB acted without or in excess of its jurisdiction.

Statement of Facts<sup>2</sup>

When Amy and her husband bought 1710 Sonoma in 1980, it had a lovely view from the back of the kitchen. The other public rooms, living room, formal dining room, study, have almost no natural light and no view. As their family expanded to four children, they planned a 2<sup>nd</sup>-story expansion. They circulated their proposed plans to every neighbor that could be impacted, redesigning to assure that there would be no view, light, or privacy impacts and **there were no objections**. After the AUP Decision approving the project, one neighbor opposed because of presumed shadow impacts, but a shadow study proved there were none. That neighbor agreed and withdrew their opposition 2 weeks later, (see attached letters) and the Permit was approved.

---

<sup>1</sup> This letter incorporates by reference all legal and factual arguments made on 2-11-2020 to ZAB

<sup>2</sup> Exhibits supporting each and every claim in this Appeal were presented to the ZAB, unfortunately "disinformation" was presented by Applicants' architect, and even though one ZAB member stated early on that it would be important to hear from Appellant, we were not called to respond to the "disinformation". Hard copies of the exhibits will be provided to Council prior to the Council appeal hearing.

Amy is a single mother, and to be able to remain in her home, she rents out two bedrooms, making the view from the kitchen, which also serves as the dining room and family room, all the more precious to her. Yet, even though Staff concurs that Amy will lose all view of the San Francisco Bay, and the lower portion of the San Francisco Skyline from the kitchen and adjoining deck, Staff found that loss not to be detrimental.

Amy appealed the Staff decision to ZAB on the grounds that the uncontroverted view loss as well as her view corridor loss were detrimental, and that there were reasonable design options that would restore part of that loss. Written and testimonial evidence of the feasibility of those design options were presented at the ZAB hearing.

**The ZAB's Narrow Decision Which Found That Amy's Significant View Loss Was Not Detrimental Should Be Overturned.**

**There were significant problematic aspects of this ZAB hearing:**

- Only one ZAB member visited the site, notwithstanding Amy's open invitation explaining the need physically be there to understand the impact of her view loss. The ZAB member that did come to the site voted against approval.
- One ZAB member (an alternate)'s questions were at best off point. Throughout the hearing, he asked why Amy did not offer to "buy" a view easement, then stated he was not sympathetic to her cause because "views are a luxury."
- Two (different than the one above) stated that "context" was important to their vote; unfortunately that context was erroneous, and Amy was not permitted to speak to correct that error. Both of these members stated "context" and "fairness" were material to their vote. That "Context": that back in 1993 the City allowed Amy to build her 2<sup>nd</sup> story addition even though she "very substantially impacted her neighbor's views" (and she has a "very very large house"): so to be "Fair" the City should grant the Applicants' Permit, even though Amy's views will be impacted. "My sympathy (for the Appellant) is diminished...I am ready to deny the appeal" said one ZAB member.
- The finding of non-detriment was based upon photos taken while standing: no credence was given to view loss while sitting.
- The proposed mitigation, lowering the house, was rejected on false information: Just before the final vote, two ZAB members agreed to a mitigation that would have lowered the house. But, on the false information that by so doing the house would be subject to flooding, they withdrew that mitigation.
- The Chair abstained because "I'm uncomfortable with some of the reasoning you gave, and I don't feel comfortable signing onto it."

**Had the ZAB Voted on the Facts Before Them; the Outcome Would Most Likely Have Been Different.**

- Amy did not seek to bar a 2<sup>nd</sup> story addition: Amy has accepted some loss to her view and offered two modest proposals, neither of which prevented a 2<sup>nd</sup> floor. One of the options would not result in the loss of any square feet but

would require lowering the house—feasible in this case because Applicant already has to break into the existing foundation and dig under the house; the other requires a notch in the 2<sup>nd</sup> story den (5<sup>th</sup> bedroom)<sup>3</sup>,leaves the master bedroom intact, and lowers the rest of the house by a lesser amount. Neither option would have any impact on Applicants' new views.

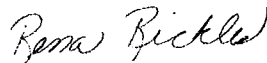
- When Amy created her 2<sup>nd</sup> story, she, contrary to the statements of the ZAB members, designed and modified it to insure there would be no view, light, air or privacy impacts on any of her neighbors.
- From a sitting position, which is the position most of us are in the majority of the time we are in our homes, the uncontroverted evidence is that of a major view loss. Instead the ZAB only considered impacts from standing and referred to sitting vs. standing as “splitting hairs”. (see attached photos)
- The asserted damage of flooding by lowering the house is simply untrue. There were two expert witnesses in the audience prepared to refute that claim which did not arise until the Public Hearing closed. They were not called up to do so.

### **CONCLUSION**

Amy has lost her “View Corridor” (23F.04 “definitions), and significant elements (all of the San Francisco Bay; bottom part of San Francisco skyline) from the only public room with a view in her home and her deck; that is a major detriment. There are modest and feasible modifications that can mitigate at least some of her view loss while allowing the Applicant to achieve all of their stated goals. These two facts (the evidence), taken together, mandate a finding of “unreasonable detriment”. Therefore, we ask that this Council uphold this appeal to grant Amy’s modest requests.

We thank you in advance for your time and courtesy in this matter.

Very truly yours,



RENA RICKLES

Attachments: Zoning File: 1710 Sonoma 2<sup>nd</sup> Story Application  
View loss; sitting vs. Standing

---

<sup>3</sup> This “notch” was suggested by Applicants’ architect, while seated in Amy’s kitchen observing the view impact.

December 24, 1993

Vivian Kahn  
Zoning Officer  
c/o Current Planning Division  
2180 Milvia Street  
Berkeley CA 94704

RECEIVED  
DEC 27 1993  
CURRENT PLANNING

Dear Ms. Kahn,

We wish to submit for consideration our concerns regarding the application of Y.M. Chung and G. DiCostanzo for a major residential addition at 1710 Sonoma Avenue.

Concerns:

We request that the design for the new construction take into consideration minimizing the interference with light and privacy. We value both of these dearly, which were our primary attractions to the house when purchased four and a half years ago, and wish to preserve whatever we can within reason while still allowing the new construction.

We are also concerned with the potential length of time for this new construction to be completed, since much of the work will be performed by the resident. Any recommendations on how to keep the construction period to a reasonable length of time would be welcome.

Situation:

We are on the downslope and our house is effectively 3 - 4 feet lower than the site of proposed construction at 1710 Sonoma Avenue. The kids use the rooms adjacent to 1710 Sonoma Avenue during the day and the light entering those rooms will be reduced significantly by the new construction. This effective height difference also contributes to the additional losses of light and privacy stated below.

For Consideration:

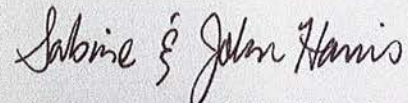
- 1) Action - Minimize the height of the new second story construction to allow maximum light into our adjacent rooms. The present proposal is for an upward extension which is 3 - 4 feet higher than necessary over most of the house, with the exception of the area above their living room which has a higher ceiling. We propose that the new construction which is not directly above their existing living room be made at a "normal" height above the first floor rather than the proposed extended height. Effect - This would require some design changes and a less uniform roofline, would effectively reduce the overall height of most of the new construction by 3 - 4 feet while still allowing the additional square footage, and would allow additional light transmission into our adjacent rooms.
- 2) Action - Not extend backwards beyond the present back kitchen wall of 1710 Sonoma Avenue to allow sunlight into our adjacent rooms and preserve some privacy in our backyard and deck areas. The present proposal is to extend the back southwest corner room of the house about 2 feet to the present kitchen wall and then an additional 3 - 4 feet beyond the kitchen wall. We propose that the new construction not extend beyond the present back kitchen wall. Effect - This

would reduce the size of the southwest room extension at 1710 Sonoma Avenue somewhat, while allowing us to maintain some of the present sunlight in our house and preserve some of the privacy, although significantly reduced, in our deck and backyard areas.

Presently our backyard and deck areas are completely private, as when we purchased the house. The second floor addition next door will compromise that completely. We realize that it would be beyond our rights to request that these be entirely preserved at the expense of neighbors. However, we feel we will end up conceding most of this privacy in the house and yard and considerable light in the house. We therefore request consideration of these concerns and perhaps some compromises in the design for this new next-door addition to reduce the effects on our residence.

We will not be available from noon on December 27 until January 2 nor from January 13 - 22. Please feel free to contact us at any other. We look forward to hearing from you.

Yours truly,



Sabine and John Harris  
1708 Sonoma Avenue  
Berkeley, CA 94707  
phone: (510) 524-0305

cc: G. DiCostanzo

January 11<sup>th</sup>, 1994

Vivian Kahn  
Zoning Officer  
c/o Current Planning Division  
2180 Milvia Str.  
Berkeley, Ca. 94704

RECEIVED

JAN 13 1994

CURRENT PLANNING

Dear Ms. Kahn,

We hereby would like to withdraw from our objections to the planned addition at 1710 Sonoma Ave, stated in a letter to you on December 24<sup>th</sup>, 1993.

Sincerely

Sabine Harris  
(Sabine Harris)

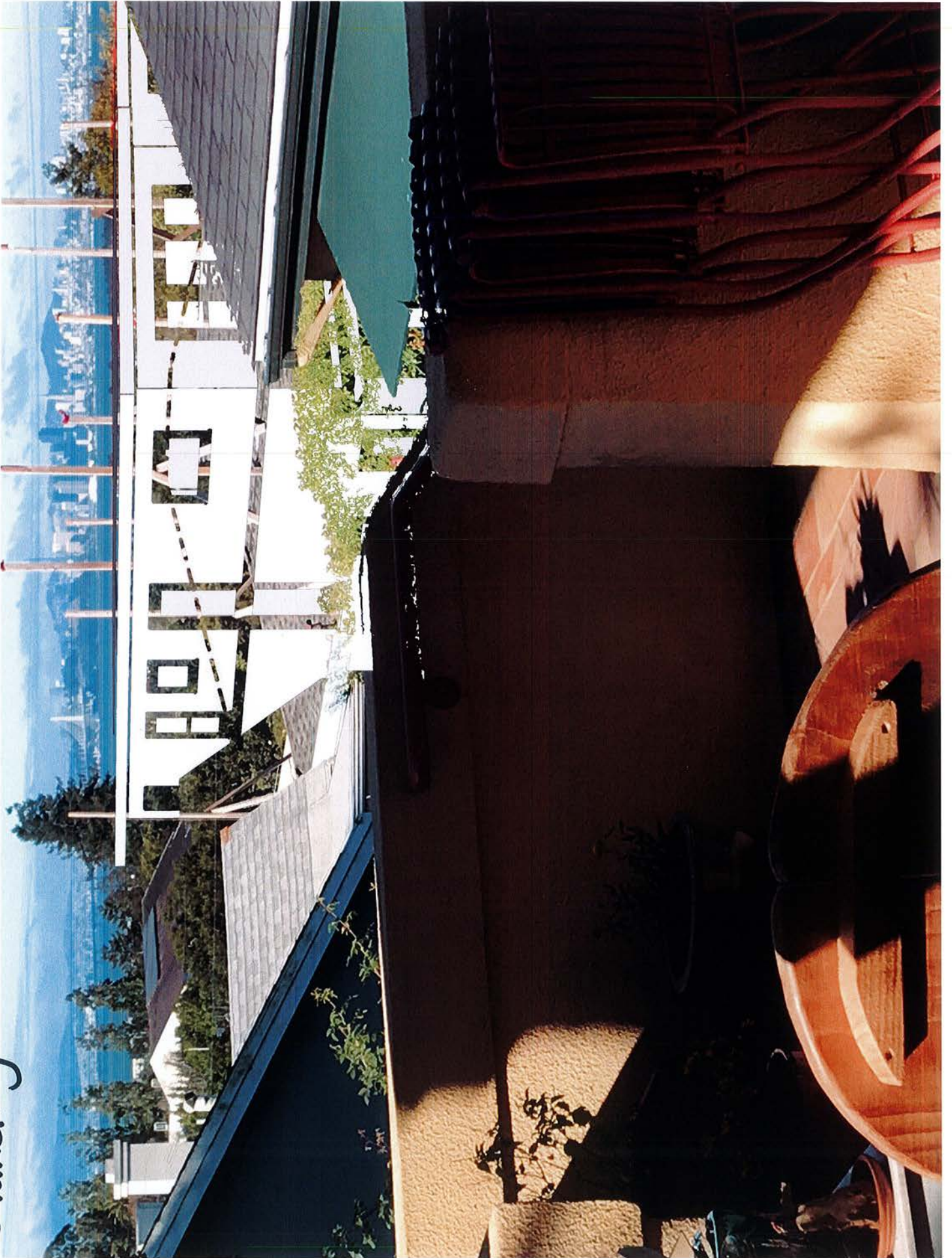
John W. Harris  
(John W. Harris)

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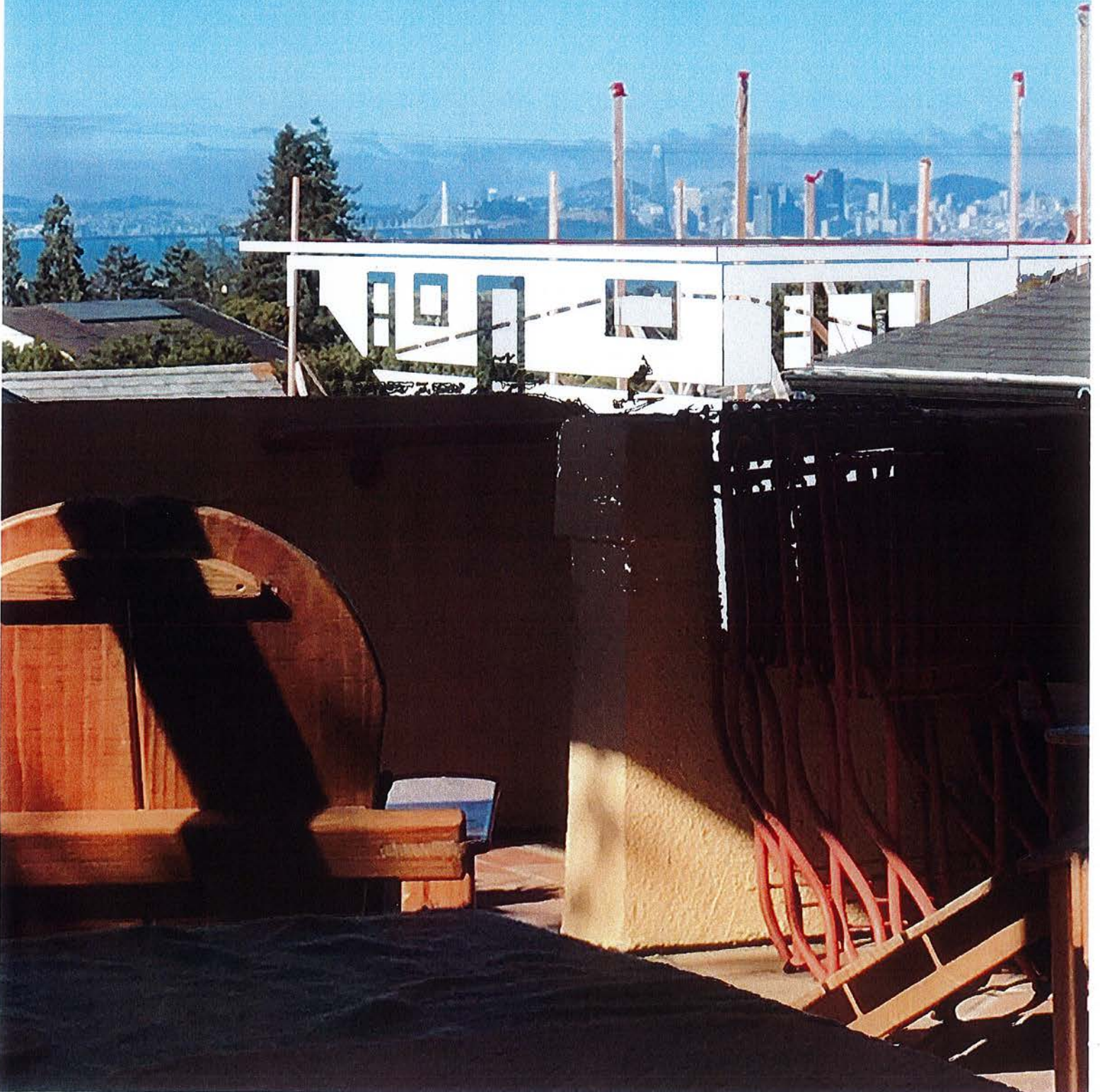
ning

*Standing at the back of the kitchen at dusk*





*Seated at the Kitchen table. Doors open to deck.*





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  
FEBRUARY 13, 2020

# 1533 Beverly Place

**Appeal of the Zoning Officer’s decision to approve Administrative Use Permit #ZP2018-0153 to enlarge an existing 1,212 sq. ft., 1-story single-family dwelling with a non-conforming front setback on a 4,200 sq. ft. lot by: 1) adding a 1,035 sq. ft. addition, including a new second story, with an average height of 23 ft.-7 ½ in., and 2) adding a fifth bedroom.**

## I. Background

### A. Land Use Designations:

- General Plan: LRD – Low Density Residential
- Zoning: R-1 – Single Family Residential

### B. Zoning Permits Required:

- Administrative Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23D.16.070.C to construct a residential addition greater than 14 ft. in average height;
- Administrative Use Permit pursuant to BMC Section 23D.16.030 to construct a major (more than 600 sq. ft.) residential addition;
- Administrative Use Permit pursuant to BMC Section 23D.16.050.A to add a fifth bedroom to a parcel; and
- Administrative Use Permit pursuant to BMC Section 23C.04.070.B for an addition which vertically extends the non-conforming front yard.

### C. CEQA Determination: Categorically exempt pursuant to Sections 15301 and 15303 (“Existing Facilities” and “New Construction or Conversion of Small Structures”).

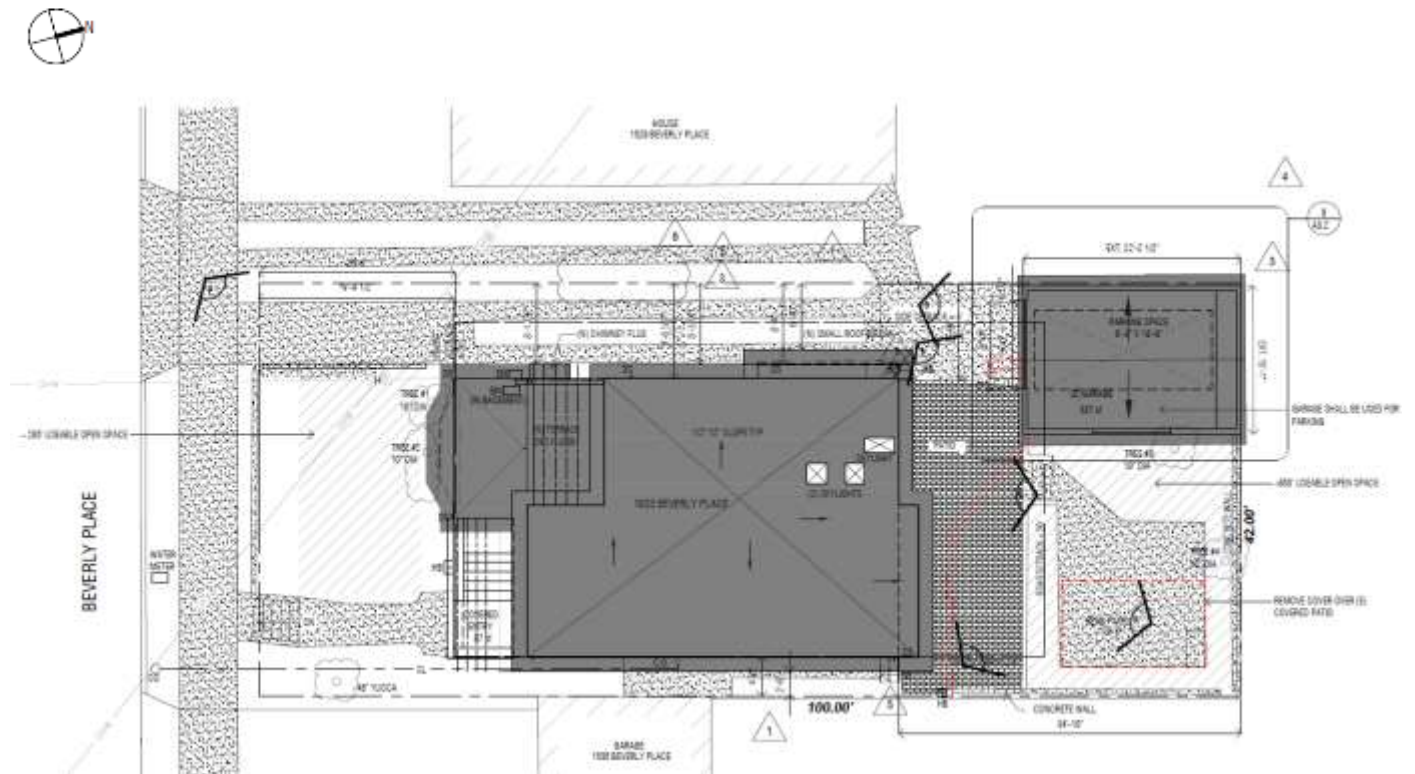
### D. Parties Involved:

- Applicant Stacy Eisenmann, Eisenmann Architecture, 1331 Seventh Street, Suite G, Berkeley
- Appellants Amy Di Costanzo, 1710 Sonoma Avenue, Berkeley; and Hank Roberts and Robin Ramsey, 1529 Beverly Place, Berkeley.

Figure 1: Vicinity Map



Figure 2: Proposed Site Plan



**Table 1: Land Use Information**

| Location               |       | Existing Use                                                                                         | Zoning District | General Plan Designation      |
|------------------------|-------|------------------------------------------------------------------------------------------------------|-----------------|-------------------------------|
| Subject Property       |       | Single-family residence                                                                              | R-1             | LDR – Low Density Residential |
| Surrounding Properties | North | Single-family residences (one lot to the northwest and one lot to the northeast)                     |                 |                               |
|                        | South | Single-family residence with detached ADU to the southwest; single-family residence to the southeast |                 |                               |
|                        | East  | Single-family residence                                                                              |                 |                               |
|                        | West  | Single-family residence                                                                              |                 |                               |

**Table 2: Other Non-Zoning Regulatory Requirements/Special Characteristics**

| Regulatory Topic                                            | Applies to Project? | Explanation                                                                                                                                                                                                                                                |
|-------------------------------------------------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Coast Live Oak Trees (BMC Section 6.52.010)                 | No                  | There are no Coast Live Oak trees at or near the project site.                                                                                                                                                                                             |
| Creeks                                                      | No                  | No creek or culvert defined by BMC Chapter 17.08 exists on this site.                                                                                                                                                                                      |
| Green Building Score                                        | No                  | The project does not involve a new main dwelling unit. The Green Building Checklist is not required.                                                                                                                                                       |
| Housing Accountability Act (Gov't Code Section 65589.5(j))  | No                  | No new units are proposed. The proposed project is a renovation of an existing single-family home.                                                                                                                                                         |
| Historic Resources                                          | No                  | The project does not involve the demolition of the existing residential building that is greater than 40 years old, and Landmarks staff determined that a Historic Resource Evaluation was not required for the proposed changes to the existing dwelling. |
| Residential Preferred Parking (RPP) (Per BMC Chapter 14.72) | No                  | The project area is not included in a RPP area.                                                                                                                                                                                                            |
| Seismic Hazards                                             | No                  | The project site is not located within an area susceptible to earthquake fault rupture, landslide, or liquefaction as shown on the State Seismic Hazard Zones map.                                                                                         |
| Transit                                                     | Yes                 | The project site is within 0.1 miles of a bus stop at Monterey Avenue and Posen Avenue.                                                                                                                                                                    |

**Table 3: Project Chronology**

| Date              | Action                                  |
|-------------------|-----------------------------------------|
| July 20, 2018     | Application submitted                   |
| August 16, 2018   | Application deemed incomplete           |
| October 2, 2018   | Revised application materials submitted |
| October 4, 2018   | Revised application materials submitted |
| October 31, 2018  | Revised application materials submitted |
| November 2, 2018  | Application deemed incomplete           |
| November 13, 2018 | Revised application materials submitted |
| December 12, 2018 | Revised application materials submitted |
| May 1, 2019       | Revised design presented to neighbors   |

**Table 3: Project Chronology**

| Date              | Action                                                              |
|-------------------|---------------------------------------------------------------------|
| May 30, 2019      | Revised application materials submitted                             |
| June 26, 2019     | Application deemed incomplete                                       |
| July 1, 2019      | Revised application materials submitted                             |
| July 24, 2019     | Revised application materials submitted                             |
| July 30, 2019     | Revised application materials submitted                             |
| July 31, 2019     | Application deemed complete                                         |
| August 12, 2019   | Notice of Administrative Decision issued                            |
| August 28, 2019   | Appeal filed by Amy Di Costanzo of 1710 Sonoma Avenue               |
| September 3, 2019 | Appeal filed by Hank Roberts and Robin Ramsey of 1529 Beverly Place |
| January 30, 2020  | Public Hearing notices mailed/posted                                |
| February 13, 2020 | ZAB hearing                                                         |

**Table 4: Development Standards**

| Standard                         |            | Existing   | Proposed             | Permitted/<br>Required |
|----------------------------------|------------|------------|----------------------|------------------------|
| BMC Sections 23D.16.070-080      |            |            |                      |                        |
| Lot Area (sq. ft.)               |            | 4,200      | No Change            | 5,000                  |
| Total Gross Floor Area (sq. ft.) |            | 1,212      | 2,247                | N/A                    |
| Dwelling Units                   | Total      | 1          | 1                    | 1 per parcel           |
| Building Height                  | Average    | 16' – 3 ½" | 23' – 7 ½"           | 28' max.               |
|                                  | Stories    | 1          | 2                    | 3 max.                 |
| Building Setbacks                | Front      | 18.2'      | 18.2'                | 20 ft. min             |
|                                  | Rear       | 34.9'      | 34.9'                | 20 ft. min             |
|                                  | Left Side  | 9' – 8 ½"  | 8' – 4" <sup>1</sup> | 4 ft. min              |
|                                  | Right Side | 4'         | 4'                   | 4 ft. min              |
| Lot Coverage (%)                 |            | 41.83      | 39.45                | 40 max                 |
| Usable Open Space (sq. ft.)      |            | 600+       | 600+                 | 400 per unit           |
| Parking                          | Automobile | 1          | 1                    | 1 per unit             |

## II. Project Setting

**A. Neighborhood/Area Description:** The subject site is located in a neighborhood which consists of a mixture of one- and two-story single-family dwellings in the Northbrae neighborhood near the City of Albany. Sonoma Avenue is directly north of the subject site, and the dwellings along Sonoma Avenue are at a higher elevation than the subject building.

**B. Site Conditions:** The subject parcel contains a one-story single-family dwelling. A detached garage is at the rear northwest corner of the parcel. There is a deck off the rear of the dwelling, and a paved patio near the northeast corner of the parcel.

<sup>1</sup> The proposed left setback on the Tabulation chart on sheet A0.0 of the plans is incorrect as it does not measure the setback to the new kitchen bump out. The addition is still outside of the required left setback.

### III. Project Description

The project approved by the Zoning Officer would involve the addition of 1,035 square-feet to the existing 1,212 square-foot one-story single-family home to add a second story, and a fifth bedroom. The front, rear, and right-side setbacks would remain the same, including an existing non-conforming front setback. The left side setback would be reduced by 1 ft. 5 ½ in. with a new kitchen bump-out, from 9 ft. 8 ½ in. to 8 ft. 4 in. A wood trellis would be added over the front entry steps that are parallel with the dwelling. A new garage door would be added to the existing garage, and the covered patio would be removed from the rear yard.

### IV. Community Discussion

**A. Neighbor/Community Concerns:** Prior to submitting this application to the city, the applicant erected a pre-application poster and contacted abutting and confronting neighboring property owners and occupants to show them a copy of the proposed project plans and obtain their signature on the proposed plans. Two neighboring owners/tenants could not be reached in person, so the applicant sent a certified letter explaining the project and included a copy of the plans, and submitted to staff a copy of the certified receipt.

Many letters were received in regards to the proposed project prior to the approval of the project by the Zoning Officer.

In response to staff's insistence that view impacts be better addressed, the project was revised to reduce the height and slope of the roof. The previous average height was 26 ft. ¾ in., with the revisions the average height is 23 ft. 7 ½ in. The revised plans were presented to the neighbors at a neighborhood meeting on May 1, 2019. Staff posted the Notice of Administrative Decision on August 12, 2019, at the site and three nearby locations, and sent notices to abutting and confronting property owners and occupants and to interested neighborhood groups.

Staff recommended mediation services (SEEDS) to the applicants in August 2018 and March 2019. The applicants and appellants attended a mediation session on October 29, 2019, but the appellants' issues were not resolved.

**B. Zoning Officer's Decision to Approve:** The Zoning Officer determined that the proposed project would not be detrimental to those living and working in the neighborhood because the property would continue to conform with the R-1 Single Family Residential District; the privacy of the abutting neighbors would be maintained as the addition is outside of the required side and rear setbacks and the non-conforming front setback would not be further encroached upon; and the addition of a fifth bedroom would not result in an increase in dwelling unit density.

Furthermore, the Zoning Officer found that the major residential addition would not unreasonably obstruct sunlight, air, or views. Shadow studies submitted by the applicant document the addition's projected shadow angles and lengths at three times throughout

the day during the summer and winter solstice. Two hours after sunrise on the winter solstice, shadows on the east side of the dwelling at 1529 Beverly Place would increase and cover a kitchen window, and partially cover a dining room window, but the two living room windows would not be affected. Two hours after sunrise on the summer solstice, shadows on the east side of the dwelling at 1529 Beverly Place would increase and cover the living room and dining room windows, but the kitchen window would not be affected. Two hours before sunset on the winter solstice, the shadows on the west side of the dwelling at 1535 Beverly Place would increase slightly, but would only reach a small corner of a bedroom window. Two hours before sunset on the summer solstice, shadows on the west side of the dwelling at 1535 Beverly Place would increase and cover the bedroom and living room windows. Although shadow conditions would slightly increase on the aforementioned portions of neighboring residential properties, shadows would be relatively short in duration, occurring only in the morning or evening hours, not both. Therefore, proposed shading is found to be typical of urban settings and no substantially detrimental shading would occur.

The addition was also found to be consistent with the existing development and building-to-building separation pattern – or air – in the R-1 neighborhood because the addition would be outside of all required setbacks (while maintaining the non-conforming front setback), and would not exceed height or story limits.

To assist with the assessment of views, the applicant installed story poles, provided photos of the story poles and a key to photo locations, and the heights of the story poles were verified by a licensed surveyor. As documented by the story poles, the second-story addition would be within the view corridor of the properties to the north. 1708 Sonoma Avenue currently has views of the San Francisco Bay over/beyond Emeryville, and the hills of the Peninsula south of San Francisco from their deck, bedroom, and kitchen that would be eliminated with the addition; however, views of the San Francisco skyline and the Marin Headlands would remain. 1710 Sonoma Avenue currently has views of the San Francisco Bay and the lower portion of the San Francisco skyline from their deck, kitchen, and first floor bedroom that would be eliminated with the addition; however, views of the Golden Gate Bridge, the Marin Headlands, the upper portion of the San Francisco skyline, the upper portion of the Bay Bridge, and the hills of the Peninsula south of San Francisco would remain, and views from the second floor would remain open. 1716 Sonoma Avenue currently has a view of the Golden Gate Bridge from the kitchen nook that would be reduced with the addition; however, views of one of the towers of the Golden Gate Bridge would continue to be visible from the kitchen nook, and a partial view of the San Francisco skyline, and a full view of the Golden Gate Bridge from the kitchen and dining rooms would remain. Since the current expansive views are reduced, but not eliminated, view impacts are determined to be non-detrimental.

The first appeal of the administrative decision was filed on August 28, 2019, and the second appeal was filed on September 3, 2019.

- C. Public Notice:** On January 30, 2020 the City mailed 69 public hearing notices to property owners and occupants within 300 feet of the subject property, and to interested



neighborhood organizations. Staff also posted the Notice of Public Hearing at three locations within the immediate vicinity of the subject site. Correspondence received in response to this notice is attached to this report (Attachment 5).

## V. Issues and Analysis

**A. Appeal Issue 1 – View Impacts:** The first appellant resides at 1710 Sonoma Avenue and contends that the project would substantially decrease her enjoyment of her property as she would lose the view of the San Francisco Bay from the French doors by the kitchen table, and would lose the view of the Bay, most of the Bay Bridge, and the San Francisco skyline from the deck. Furthermore, the appellant disagrees with the Finding in the Administrative Use Permit that views of the Golden Gate Bridge and Marin Headlands would remain, because those are *not* views the appellant enjoys from her kitchen.

The appellant submitted photos of the view from their kitchen toward San Francisco in their appeal letter. Photo 1 below was taken from a seated position at the table at the back of the kitchen, with the doors to the deck open. The original story poles are in the photo, and the height of the proposed building after the plans were revised is indicated by the red horizontal line.

**Photo 1:** Story Poles with Design Revision Indicated, As Seen from the Kitchen Table of 1710 Sonoma Avenue. Photo by Amy Di Costanzo.



**Staff Response:** The BMC defines a view corridor as a “significant view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz Island or any other significant vista that substantially enhances the value and enjoyment of real property.” The photos submitted by the appellant show the story poles at the height of the original design for the addition, with a string at a lower height to reflect the revisions to the project. The string between the story poles indicates how the applicants lowered the proposed height and replaced the sloped roof with a flat roof. With the revised addition, the Bay Bridge and San Francisco Skyline would still be visible from the kitchen of 1710 Sonoma Avenue. Although the view of the water below the Bay Bridge and San Francisco Skyline would

be removed, staff does not find that the addition would unreasonably obstruct views of the Bay Bridge and San Francisco Skyline from the kitchen.

Staff does concur that the view of the Golden Gate Bridge and Marin Headlands is not visible from the kitchen, and regrets that it was not clear in the AUP Findings that the view of the Golden Gate Bridge and Marin Headlands is visible from the deck and a first floor bedroom, but not the kitchen.

Staff finds the addition to be reasonable. With the proposed addition the residence at 1533 Beverly would be two stories and 2,247 square feet; the average size of a two-story dwelling on this block of Beverly Place and the block of Sonoma Avenue to the rear is 2,018 sq. ft. As the appeal does not provide evidence that the Zoning Officer's approval was made in error, staff recommends the ZAB dismiss this appeal point.

**B. Appeal Issue 2 – Loss of Light/Shadow Impacts:** The second appeal letter is from the appellants at 1529 Beverly Place. They disagree with the finding that the new shadows would occur on a limited area, and contend that the shadows that fall on the living room, dining room, and kitchen windows are detrimental because they spend 90 percent of their morning hours in these rooms. The appellants find that the shadow studies provided by the applicants only represent individual moments in time, not the entirety of the loss that would occur. Their dining room would be impacted every day, and the living room and kitchen would be impacted for 9 months of the year. According to the appellants, the loss of sunlight is not insignificant.

The second issue appellants bring up is that staff asked the applicants to address neighbors' concerns in the first incomplete letter, and they failed to do what they were asked as the revised design does not address the increased shadows at 1529 Beverly Place. Lastly, the third reason the appellants appealed the project is that the shadow studies provided by the applicants did not follow City guidelines as the applicants failed to submit shadow studies to document new shading that would result from the proposed project projected for the time of application submittal, and did not include photos of the affected structures.

Staff Response: Shadow studies are required for additions exceeding 14 feet in average height on sites adjacent to a residential use so that staff and residents can review changes to shadows, and be a basis for Findings. Shadow studies are requested for the summer and winter solstice as those are the longest and shortest days of the year, representing the worst case scenarios. Staff looks at shadow studies in plan and elevation view to determine the location and extent of shadows. Since the shadow studies provided by the applicants shows shading on the dwelling at 1529 Beverly Place two hours after sunrise on the summer and winter solstice, but not at noon or two hours before sunset on the summer and winter solstice, and not all of the windows on the east elevation are shaded, staff finds that the shadow impacts are not detrimental.

In regards to the appellants' second issue, the paragraph from the first incomplete letter the appellants reference consists of the following:

*“Thank you for providing a table of neighbor concerns. Please respond to the neighbors’ comments in a written statement, addressing how their concerns have been/will be addressed, and/or explaining why their concerns cannot be addressed. You may want to consider mediation through SEEDS.”*

The applicants responded in their resubmittal:

*“The 3D shadow studies clarify that in December the Kitchen window is affected 2 hours after sunrise; however, the proposed house is located to the East of 1529 Beverly so the shadows subsequently move to the backyard. In the summer the morning shadows drop beneath the Kitchen and Dining Room windows so they are not affected. The 3D model also clarifies that none of the solar tubes would be shaded.”*

Understandably, the appellants wanted a thorough response that addressed their concerns and/or explained why the applicants could not address their concerns. The response from the applicants discusses the shadow impacts on 1529 Beverly Place, but the appellants likely would prefer there were no shadow impacts on their property. The applicants were asked to respond to the neighbors’ concerns, and they did respond.

In regards to the third point raised by the appellants, the shadow studies submitted by the applicants were adequate as they documented the existing and proposed shadows at the required three times of day for the summer and winter solstice. Staff waived the requirement for separate studies at the date of application because the application was submitted in July, which is fairly close to the June summer solstice and the shadow studies for the time of submittal would be similar to the shadow studies for the summer solstice. Shadow studies for the time of application submittal are requested in the shadow study guidelines because they are a way to confirm that the applicant/architect has prepared the shadow studies correctly, but they are not used to make a Finding. Photos of existing shadows on the affected buildings are useful, but plan view and elevation view drawings of the proposed shadows are more important for preparing Findings.

As described above, staff finds that the shadow impacts are not detrimental. Furthermore, the addition would be outside of the required side setbacks, and there would be a building-to-building separation of 20 ft. between 1529 Beverly Place and 1533 Beverly Place. As the appeal does not provide evidence that the Zoning Officer’s approval was made in error, staff recommends the ZAB dismiss this appeal point.

## VII. Recommendation

Because of the project’s consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board: **APPROVE Administrative Use Permit #ZP2018-0153** pursuant to Section 23B.28.060.C.1 subject to the attached Findings and Conditions (see Attachment 1), and **DISMISS the Appeal**.

**Attachments:**

1. Findings, Conditions, and Approved Project Plans, August 12, 2019
2. Notice of Public Hearing
3. 1710 Sonoma Avenue Appeal Letter, received August 28, 2019
4. 1529 Beverly Place Appeal Letter, received September 3, 2019
5. Correspondence Received

**Staff Planner:** Allison Riemer, [ariemer@cityofberkeley.info](mailto:ariemer@cityofberkeley.info), (510) 981-7433

**APPEAL**  
1533 Beverly Place

ZP2018-0153

Amy Di Costanzo

Received  
FEB 11 2020  
Land Use Planning

|   |                                                                                                                                                                                               |
|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Appellant's Proposed Changes are Reasonable: Findings in Support: Letter from Atty. Rena Rickles.                                                                                             |
| 2 | Modifications requested by Appellant, Amy Di Costanzo, can be and were done when she created her 2 <sup>nd</sup> story.                                                                       |
| 3 | The finding of "unreasonable detriment" can be made: The "modification" before you, blocks the view corridor from the only public room on the main floor of 1710 Sonoma Ave. that has a view. |
| 4 | Applicants throughout every stage have failed to address my view loss.                                                                                                                        |
| 5 | When the Subject is Views: Inches Matter                                                                                                                                                      |
| 6 | Modest Suggestions to Mitigate were rebuffed: "Negotiations" were not in good faith.                                                                                                          |
| 7 | Applicants Rejected their own Architect's Suggested Compromise. Option 1 – View Corridor and lowered 18"                                                                                      |
| 8 | Appellant's Architect Suggestion and Rationale:<br>Option 2 – Everything lowered 24"                                                                                                          |

**RENA RICKLES**  
**Attorney at Law**

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1970 BROADWAY, SUITE 1200  
OAKLAND, CA 94612  
TEL: (510) 452-1600 ~ FAX: (510) 451-4115  
EMAIL: rena@rickleslaw.com

2/11/2020

Shoshana O'Keefe, Chairperson  
Zoning Adjustments Board ("ZAB")  
1947 Center Street  
Berkeley, CA 94704

Re: 1533 Beverly Place: Appeal; Request for Mitigations; Findings in Support

Dear Chair O'Keefe and ZAB Members:

This office represents Amy Di Costanzo ("Amy"), who is requesting reasonable mitigations to the proposed project, mitigations which are both architecturally reasonable<sup>1</sup> and financially feasible.<sup>2</sup> The design before you will totally block Amy's view of the SF Bay as well as her View Corridor from the only public room in her house: her kitchen/dining table/family gathering room. From her deck she would lose the Bay, most of the San Francisco skyline and the Bay Bridge. "[U]nder the circumstances of the particular case existing at the time the decision is granted,"<sup>3</sup> the Findings cannot be made that the impacts of this application constitute an unreasonable detriment.

**STATEMENT OF FACTS**

In 1980, Amy Di Costanzo and her husband bought 1710 Sonoma; by the 1990's they realized that they would need a 2<sup>nd</sup> story to provide bedrooms for their growing family (four children). Before doing so they met with every neighbor who could be impacted and designed their 2<sup>nd</sup> story accordingly. True, there were some "interesting design features"<sup>4</sup> but they were able to move quickly through the process because they did not have opposition. (See Tab 2) She is asking no more from you tonight: Allow Applicants their desired 2<sup>nd</sup> story and restore some of Amy's SF Bay View Corridor and view of SF Bay.

---

<sup>1</sup> Architect for Applicant, in fact, after seeing the impact from Amy's kitchen suggested one of the modification options before you. See Tab 7.

<sup>2</sup> See Tab 8, report and recommendation by Maurice Levitch.

<sup>3</sup> To this writer, the most important words in the Zoning Ordinances Findings for Issuance or Denial of a Use Permit." 23B.32.040(A)

<sup>4</sup> "We created an oblique wall at one corner so that our neighbor at 1716 Sonoma Ave. could retain her important view corridor to the Golden Bridge from her windows."

**The Factual Basis for Staff's AUP Decision Was Based on a Material Mistake of Fact; as Such, Rendering Their Conclusion erroneous. Even Without that Error, Staff's Assertion, Staff Should Have Concluded That The Elimination of the View of San Francisco Bay, and the Blocking of the Entire View Corridor Constitutes Detriment.**

In the AUP Decision, Staff accurately assessed Amy's view loss; but erred in concluding that loss to be "non-detrimental." Staff wrote that Amy still had a full view of the Golden Gate Bridge and the Marin Headlands; that simply is not true.

In her Appeal, Amy proved, and Staff admitted that she never had those views from the kitchen. Staff should have, but did not, change its finding of "non-detriment".<sup>5</sup>

The public rooms<sup>6</sup> on the main floor have little to no natural light or privacy, except the kitchen which functions as a family room, dining table, conversation and game room. Currently, from that room and the deck, Amy's views are unobstructed (See Tab 3).<sup>7</sup> Staff concurs that "the current views of the San Francisco Bay and lower portion of the San Francisco skyline from the deck will be eliminated by the addition", leaving her with the Bay Bridge, upper SF skyline. Contrary to Staff conclusion, that loss is detrimental.

**Where, as here, part of a view loss can be mitigated by making modest design changes, a finding of non-detriment cannot be made without requiring those modifications. There are two modifications that can reduce Amy's view loss. Both of them are recommended by architects: one Applicant's, the second, Amy's.**

Option 1 made by Applicant's architect during her client's photo shoot site visit. After sitting with Amy at the kitchen table, staring at the story poles and tapes, Stacy Eisenmann had an epiphany, she got that Amy's entire view corridor was now a wall. She suggested cutting back part of the 2<sup>nd</sup> story study to open the View Corridor. Amy liked the idea and asked if the rest of the house could also be lowered. Amy's tenant, Teymor Ismayilov was present during that conversation. (Tab 7)

Option 2, Maurice Levitch, AIA, a well-known Berkeley architect spent significant time visiting the site, reviewing the plans and topography recommends lowering the height of the rear of the house by 2'. (See Tab 8)

While under most cases, reducing the height of a house by 2', would not be cost or design feasible due to the costs of a new foundation and excavation. But under the circumstances of this case, it is. Here, the foundation must be excavated and

---

<sup>6</sup> There is also one bedroom that is rented out and thus is not public.

<sup>7</sup> Our photo exhibits of before and after are labeled as "standing" or "sitting" in that Applicants' photos were, rebutting the existence of detriment to Amy, taken from a standing position. Staff correctly determined that the view from a sitting position is the accurate baseline.

replaced; and, dirt must be excavated. This proposal adds only incidental costs to the development. (See Tab 8 for details and costs)

Benefits to Amy: her view of SF Bay is restored resulting in putting the Bay Bridge and SF skyline in perspective. Minor detriment to Applicants: Incidental additional costs of additional excavation but they retain their expansive view from their master bedroom and deck. The basement rooms retain safe egress and access to the outdoor patio.

**When the subject is views: inches matter. Where there are discrepancies between the plans and the story poles, Conditions must be imposed to assure that the addition as built conforms with the ZAB's and Appellants' understanding of the impact. (Tab 5)**

Discussions on view impact and locations of roof extensions revolve around the perceived height of the "red tape" used to depict the reduction in height from the initial application. The height of the red tape was not verified by a survey. The poles to which they are attached were found by the surveyor to be 2-3" lower than on the plans. In addition, the plans show height discrepancies of almost 3". (Tab 5, A3.1 East and West elevations) Finally Applicants' architect, represented to Amy that "nothing" will be higher than the red tape.

To assure accuracy and prevent controversy during discussion, we request the following Conditions:

- the height of the red tape be surveyed before construction and serve as the benchmark height from which maximum height is calculated/negotiated, or, of amount of reduced height imposed as part of this approval;
- Chimneys, vents, and solar panel be placed west side of house out of view of 1710 Sonoma as represented by Ms. Eisenmann to Amy.

**CONCLUSION.** Throughout this entire process, Applicants refused to consider or even look at the modifications suggested by Amy's architect. Where there is a loss of a view corridor, and a significant view element from the only public room in a home, that is a major detriment. When there are modest and feasible modifications that can mitigate at least some of view loss while allowing the Applicant to achieve all of their stated goals, then that impact, without mitigation constitutes "unreasonable detriment". As such, under the requirements for Findings for Issuance of Use Permits combined with the circumstances/facts of this case, this Use Permit must be DENIED.

Very truly yours,

  
RENA RICKLES



TAB 2

Modifications requested by Appellant, Amy Di Costanzo, can be and were done when she created her 2<sup>nd</sup> story.

**Background** My husband and I bought 1710 Sonoma Ave., a 3 bdrm/1 bath, 1200 sq.ft. bungalow with a tall pointed attic/roof in 1980. As our **family grew to 4 children** we needed more bedrooms, so we dug out the foundation, created more basement space, added a few square feet here and there, and built a second story addition which, due to the already tall roof, did not harm the neighbors. The work was done on a lean budget. We met with our neighbors so that that neither their views nor their sunlight were harmed by the addition.

**We created an oblique wall at one corner so that our neighbor at 1716 Sonoma Ave. could retain her important view corridor to the Golden Bridge from her windows.**

See attached:

[photo of tall roof 1995 and house today](#)

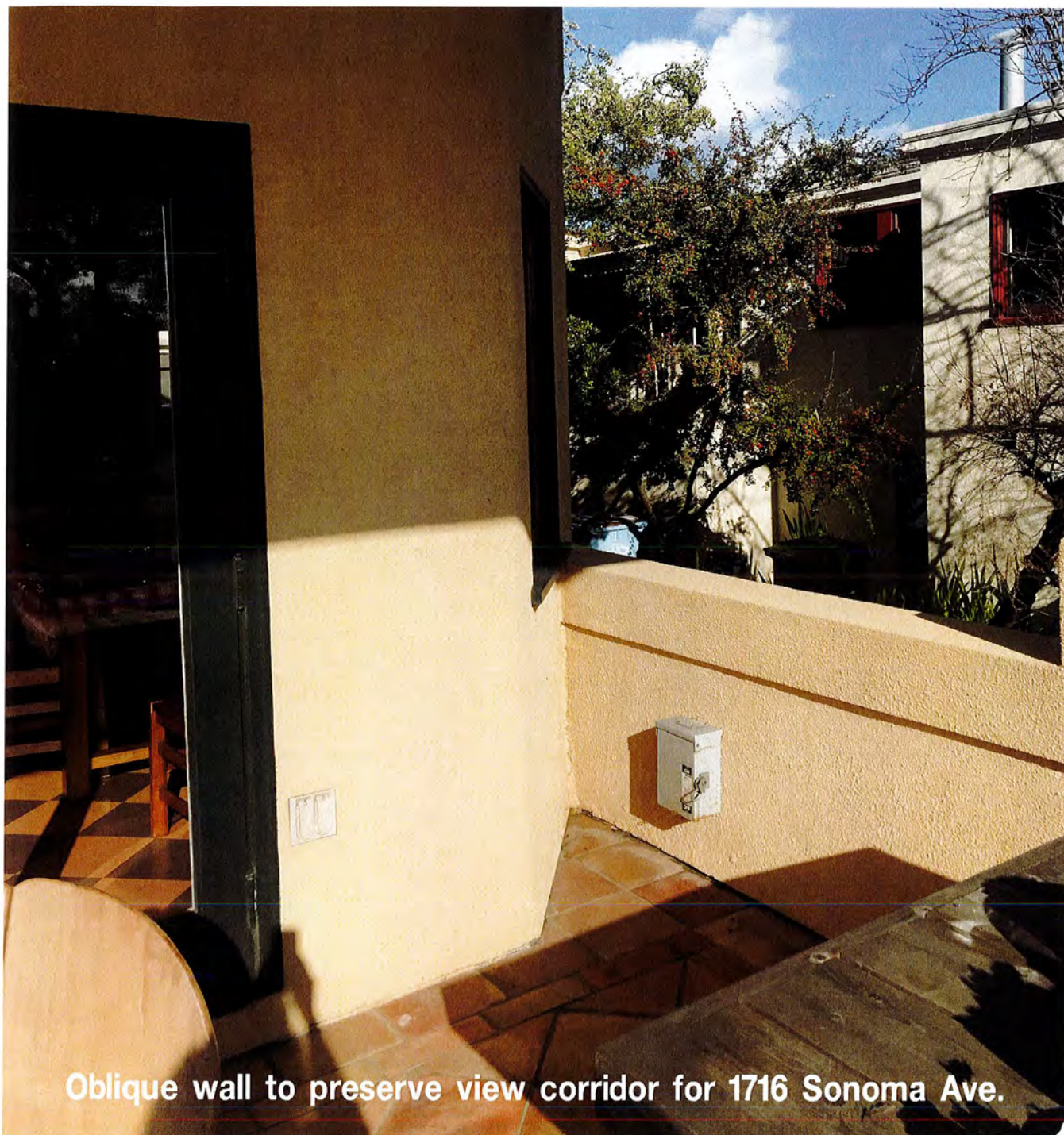
[photo of oblique wall created for the benefit of neighbor to preserve her view of GG bridge](#)



1710 SONOMA AVE. AFTER ADDITION



1710 SONOMA AVE. BEFORE ADDITION



Oblique wall to preserve view corridor for 1716 Sonoma Ave.

TAB 3

**The finding of “unreasonable detriment” can be made: The “modification” before you, blocks the view corridor from the only public room on the main floor of 1710 Sonoma Ave. that has a view.**

**The Back of the Kitchen and the Deck**

- All of the public /shared space in the house is on the main floor. All public rooms on this floor, except the kitchen/dining table area, have limited natural light and no “view”. There is one back bedroom which is a rental (I have been a single mother for 15 years and am approaching retirement, renting this room is financially necessary).[\(see photo montage of public rooms\)](#)
- **The back of the kitchen that leads to the deck** has an unobstructed view corridor of the Berkeley flats, the SF Bay, the Bay Bridge, and the SF skyline. This is the main reason we bought this house.
- **Now we are able to enjoy this view while seated as well as when standing.**
- **The Kitchen is the hub of our house:** This is where I and the other people who live there, and our visitors, spend the majority of our time, gathered at the large dining table to eat, work, talk, and entertain [\(See photo of kitchen table + view from kitchen table\)](#). In good weather we are likely to be sitting on the deck chairs enjoying the same view.

**EA’s first design submitted in 2018 would have blocked my entire San Francisco view even when standing.** In January 2019, Planning Staff came out to see the situation and within a few months Eisenmann Architecture had redesigned their project. The features of the current design are: A flat roof (instead of a hipped roof) and the house is lowered 24” (no floor will be below grade). With the revised design, **standing up in my kitchen and on the deck**, the viewer can now see the bay and SF skyline directly above the flat roof, but the view corridor is lost.

**OBJECTIONS TO THE REVISED DESIGN:**

**The revised design ignores the fact that we currently primarily enjoy the unobstructed view from a SEATED POSITION at the kitchen table and deck.**

-This revised design would leave me, **WHILE STANDING:** a **boxed-in** vs. the **current expansive VIEW CORRIDOR**. The flat roof (represented by the red tape across the story poles) would lie precisely under the bay (but only if standing upright and being tall enough to see), eliminating the view of the Berkeley flats. Thus the significant bay and SF views will have lost their context. [\(See photo “Standing at back of kitchen” showing the current design\)](#)

Tab 3 cont.

**-WHILE SITTING: whether at the kitchen table or on the deck, I lose the view of the Bay, and only the SF skyline can be seen above the flat roof.** Once again, the view corridor would disappear. This would also impact people of short stature, children, and people using a wheelchair, therefore some people would lose even more view than I would. **(see photos of "Seated at the kitchen table" and "Seated on deck chair")**

**-The outline of the building resembles a parking structure more than a house, with no gaps on either side to offer a visually pleasing view corridor. It has the effect of being walled in.**

**Other than the back of the kitchen,  
no public room has a view.**



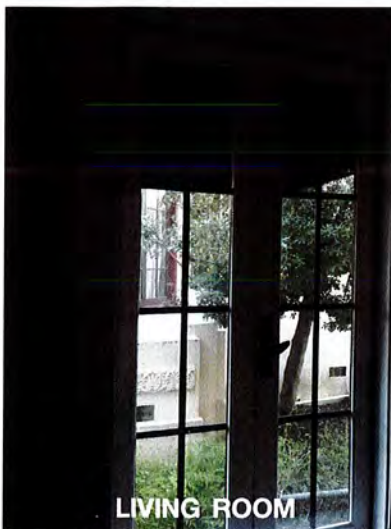
LIVING ROOM



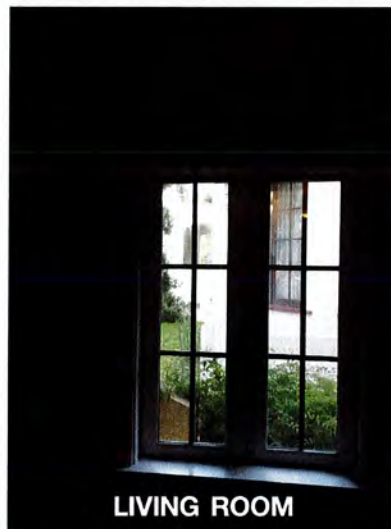
LIVING ROOM



DEN



LIVING ROOM



LIVING ROOM



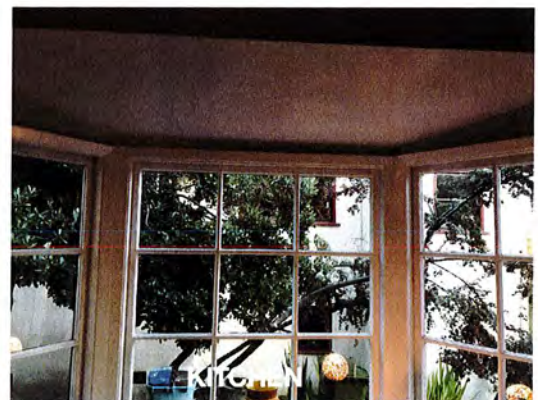
DINING ROOM



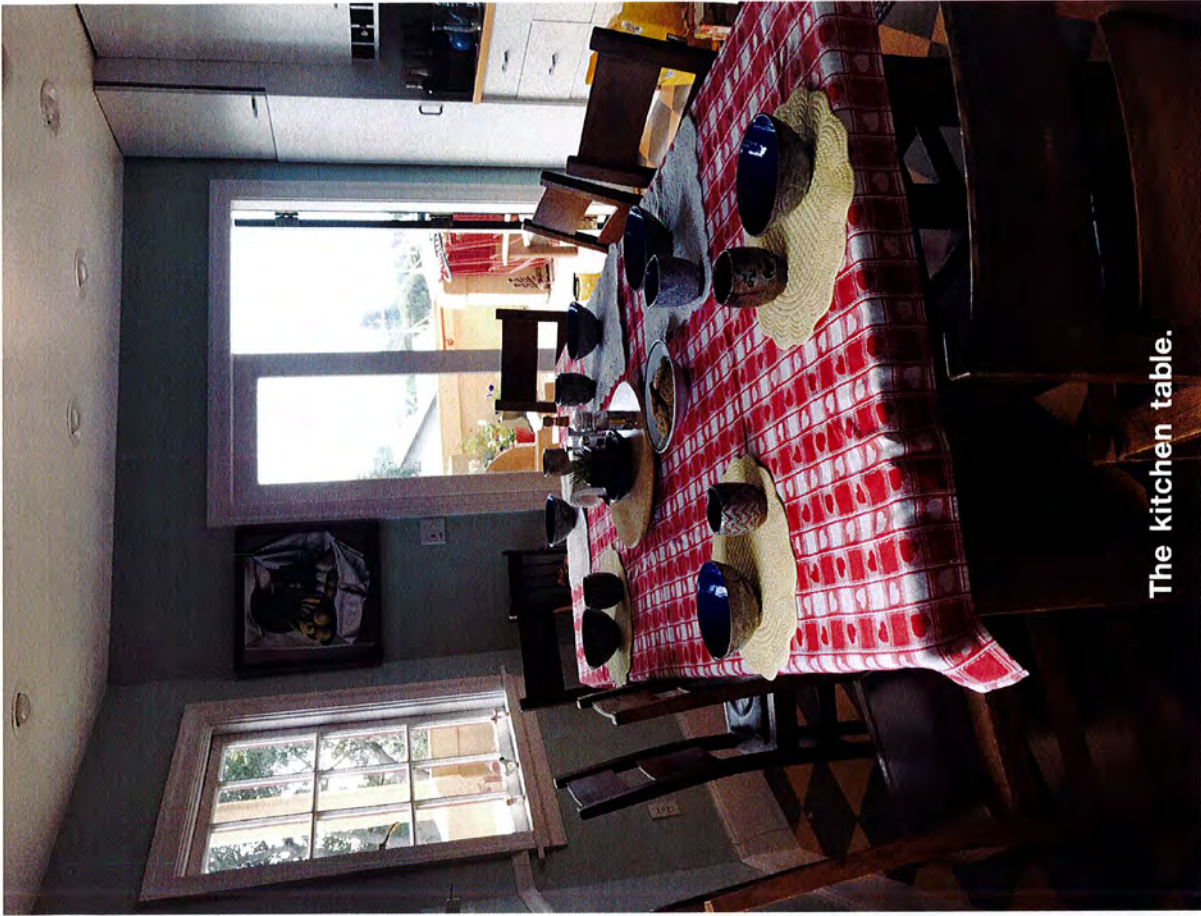
KITCHEN



KITCHEN



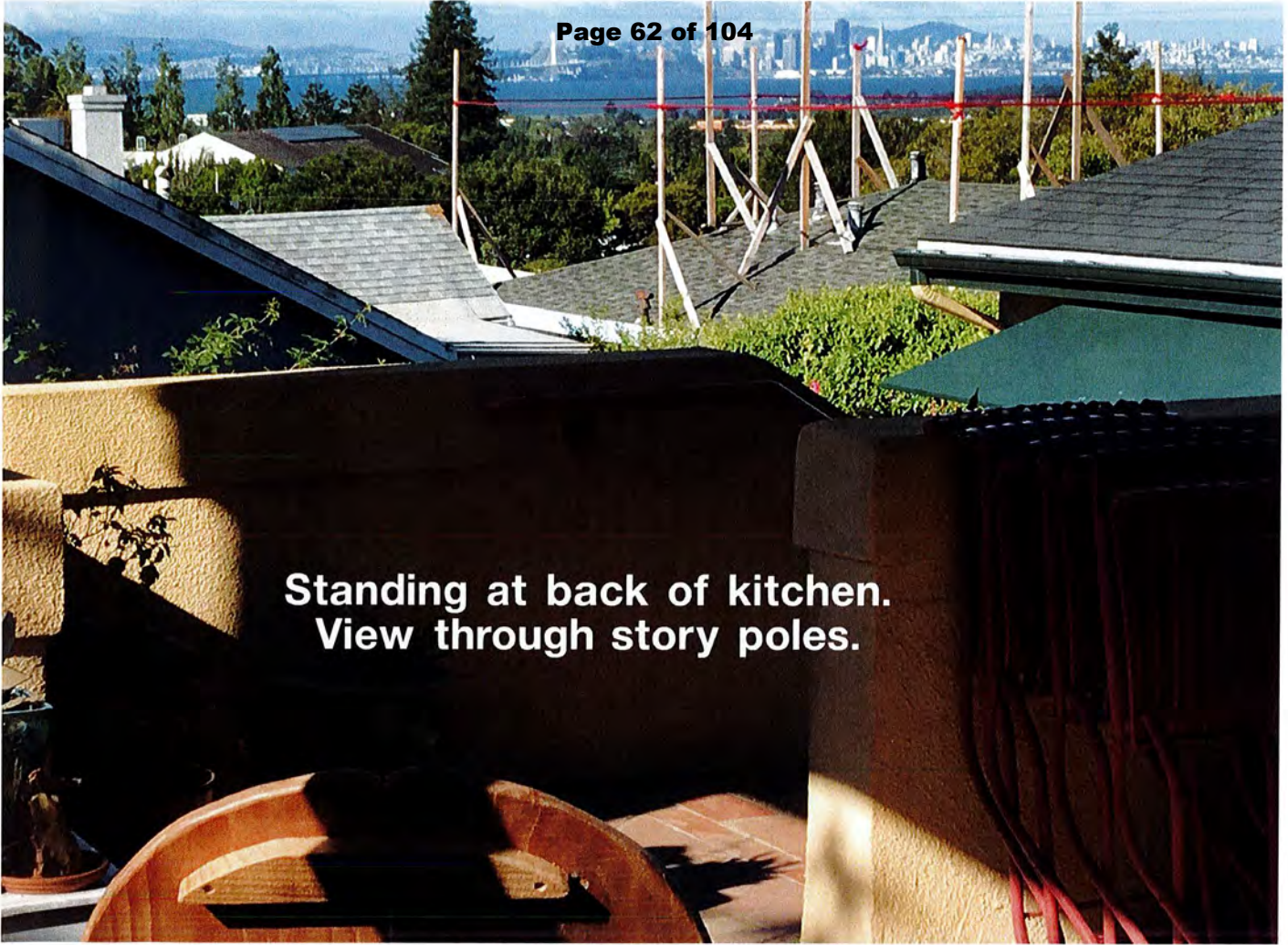
KITCHEN



The kitchen table.



View from seated at the table.

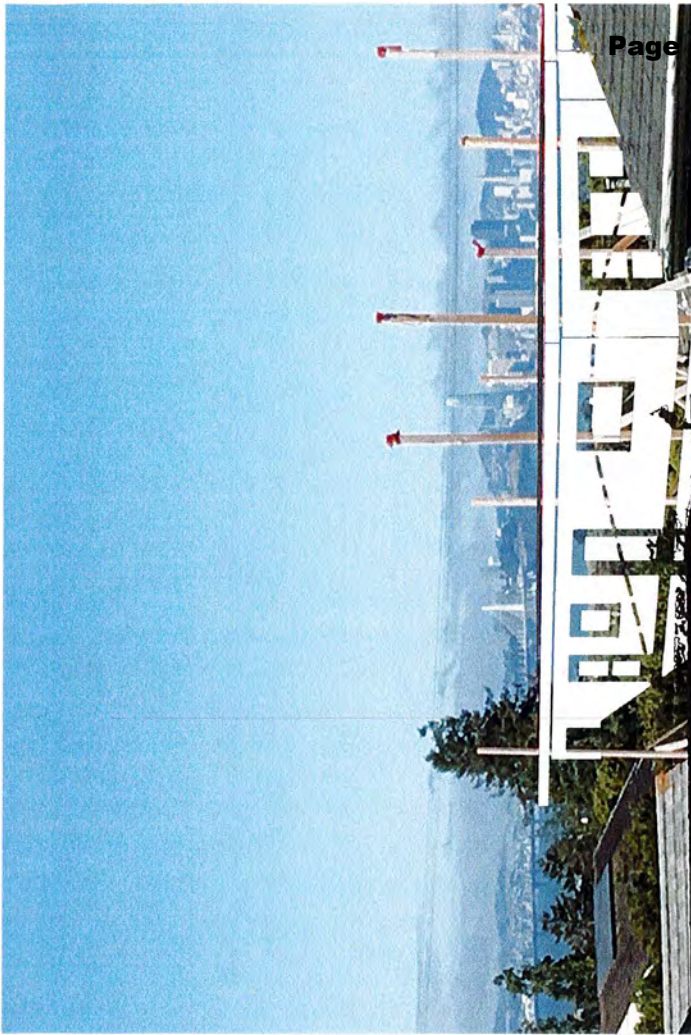


**Standing at back of kitchen.  
View through story poles.**



**Standing at back of kitchen.  
Current design.**

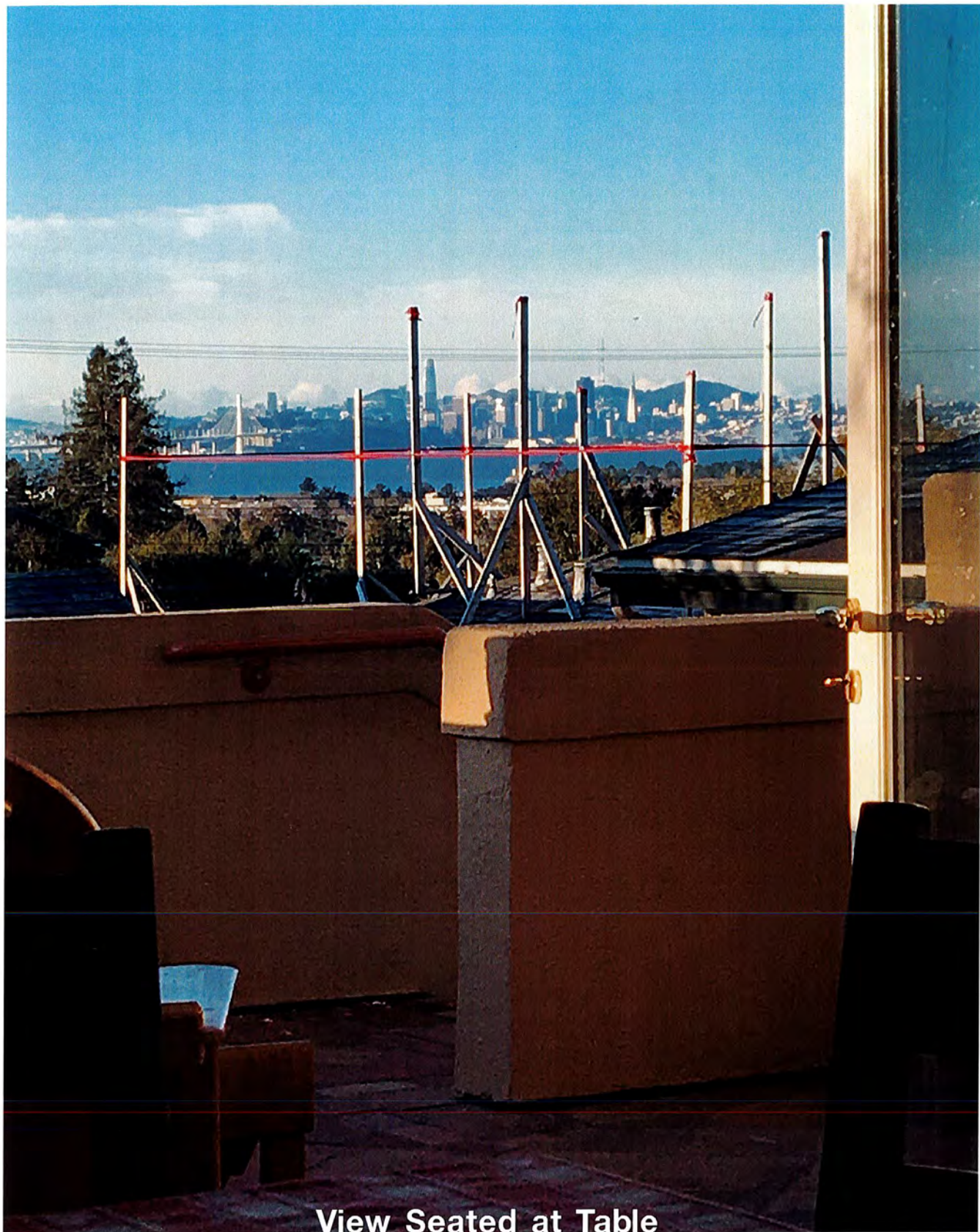




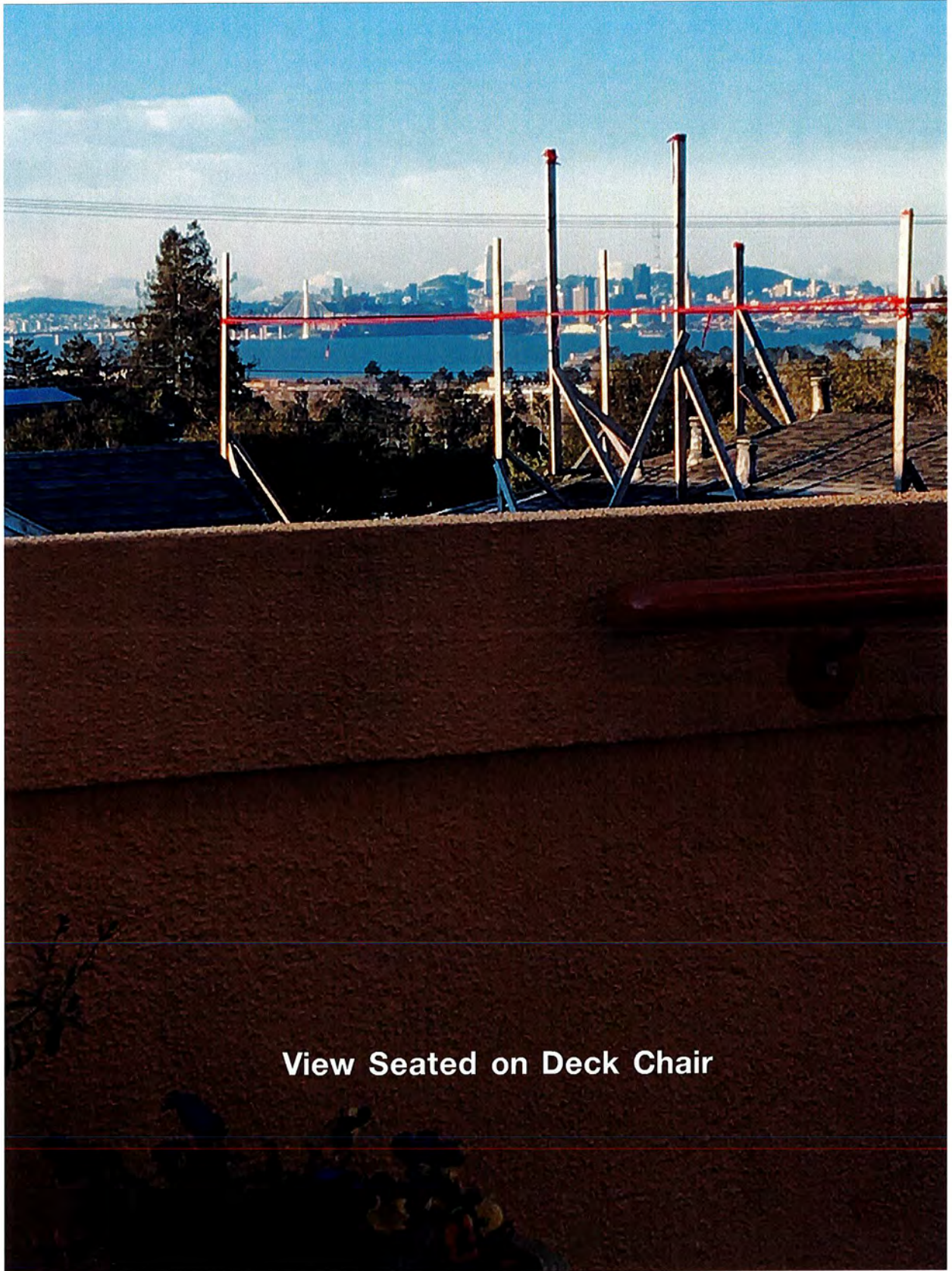
Seated at the kitchen table.  
Current design.



Seated at the kitchen table.  
View through story poles.



View Seated at Table



View Seated on Deck Chair

TAB 4

**The Applicants throughout every stage have failed to address my view loss.**

On August 16<sup>th</sup>, 2018, after several neighbors had publicly objected to Eisenmann Architecture's first design, The City Planning Dept. sent Stacy Eisenmann an "Incomplete Letter".

Incomplete Letter Item #4 stated:

*"Respond to neighbors' comments in a written statement, addressing how their concerns have been/ will be addressed, and/or explaining why they cannot be addressed."*

On September 20, 2018, Stacy Eisenmann wrote a "Response to Neighbor Concerns" which did not address my concerns, but was instead inaccurate and dismissive. She addressed each of three objecting neighbors very briefly, and prefaced the response to all three neighbors by stating:

*"It's our understanding that views are not protected in this area of Berkeley as it is not a hill location".*

While this may explain why my requests were ignored: it is not a correct reading of the Zoning Ordinance.

\*\*\*\*\*

During the process of revising their design, which they submitted in May of 2019, **they did not attempt to contact me, visit my house, nor ask for my input. The new design was generated solely from a virtual person standing on my deck. It ignores the real life impact.**

The Architect's cover letter to the new design falsely states:

*"For Amy Di Costanzo, who's (sic) view was impacted the most, the updated roof height of 1533 Beverly Place should be low enough for an unobstructed view of the SF skyline & waterline. The height of the house matches the top of Ms. Di Costanzo's own garage when viewed from the kitchen, therefore we assume it is a fair datum line to use."*

The "fair datum line" used is neither fair nor accurate. The **Facts** are: From our kitchen, the garage (of which only a partial view of the back can be seen) forms one edge of our view corridor which is so important to us. Using my garage as the **datum line** for their flat roof will eliminate our view corridor and create the illusion of a continuous wall from my garage to the house of their neighbor to the east. **(See attached: EA's computer generated design and a photo-shopped rendering)**

1301 SERRIN ST STE  
BERKELEY CA 94710  
510.526.8442  
www.smalwood-corkin.com

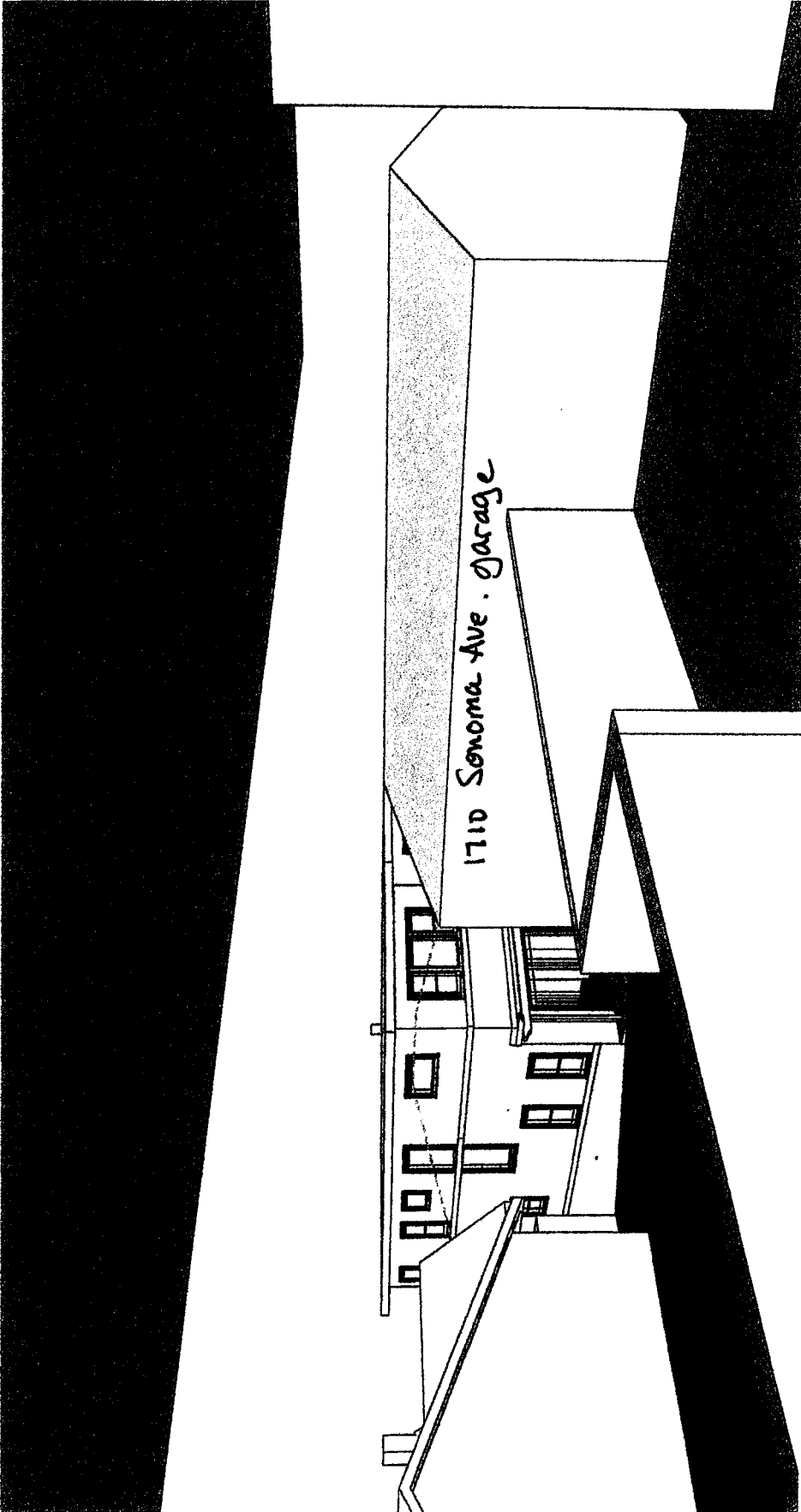
SMALWOOD-CORKIN  
ARCHITECTS

1301 SERRIN ST STE  
BERKELEY CA 94710  
510.526.8442  
www.smalwood-corkin.com

05.01.2018

MODIFIED DESIGN  
FLAT ROOF & LOWERED 2F

1.3

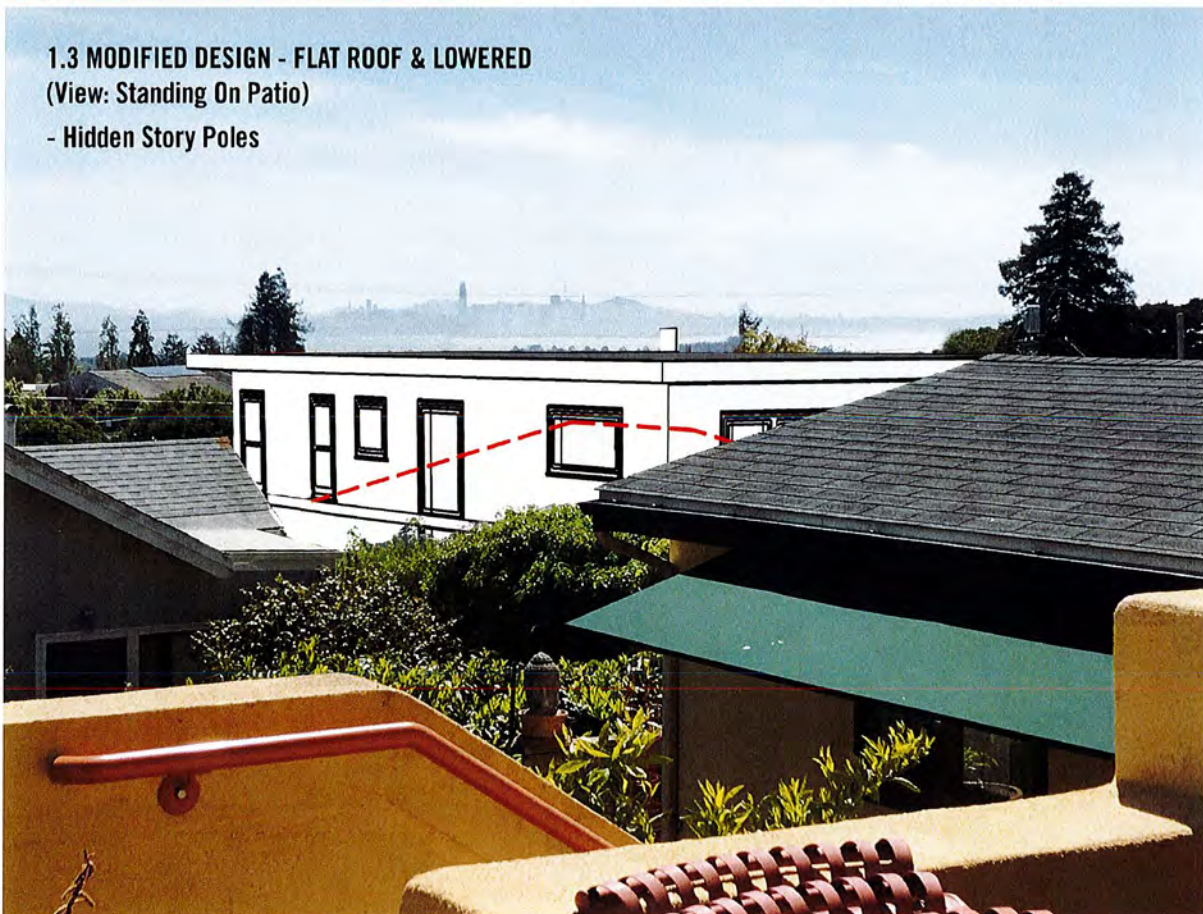


1.3 MODIFIED DESIGN - FLAT ROOF & LOWERED

Existing View - 2019  
(View: Standing On Patio)



1.3 MODIFIED DESIGN - FLAT ROOF & LOWERED  
(View: Standing On Patio)  
- Hidden Story Poles



TAB 5

**When the Subject is Views: Inches Matter**

An important view can be blocked by a protuberance of a few inches. With Eisenmann Architecture's flat roof cut so closely "under" the bay (while standing), chimneys, vents, and elevated solar panels could all wipe out a section of my bay or skyline views.

The story poles for 1533 Beverly Place were **erected and certified for EA's taller first design** version. At the presentation meeting for the current design last May, Stacy Eisenmann told us that they would put new tape across all the existing perimeter story poles (24" down from the top of each pole) to show the height of the new flat roof. I asked if she would have the new tape certified so that we would know the exact height of the roof. They said certification wasn't necessary and instead attached yard sticks to each perimeter pole to mark them at 24" down.

**DISCREPANCIES**

On drawing A3.1 Eisenmann Architecture's current design shows the top of roof height at the east elevation to be 19'-9.5" from the average bottom of building. At the south elevation, that same dimension is 19'-6.75".

Moran Engineering, Inc. who did the story pole survey and report **for the first design**, showed that two top ridge poles were short by 2.5" and 2.75". He said that all "poles were consistent with the building plans within a few inches". He did not specify the perimeter poles.

What is within a legal tolerance for story poles and building height discrepancies could end up harming my view. **Therefore I ask that the current red tape be used as the baseline, surveyed and certified, before any agreement is finalized.**

Attachments:

[EA Drawing A.31 Current Design](#)

[Moran Engineering letter](#)

[Moran drawing showing EA first design with taller roof, poles a few inches short.](#)

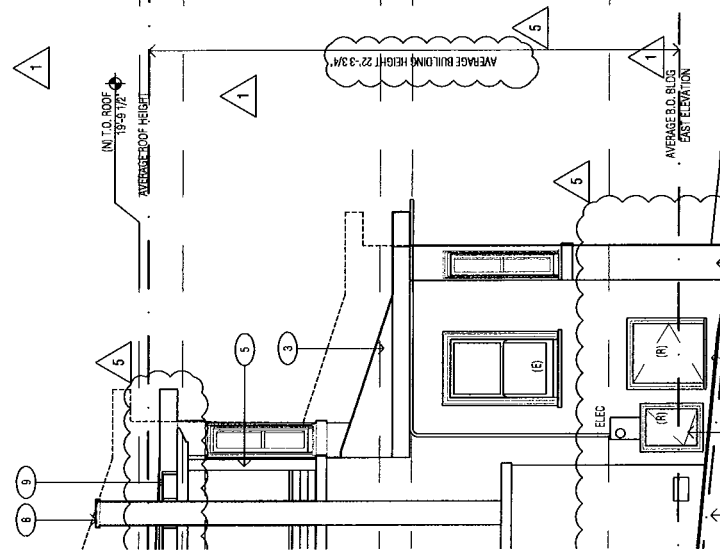
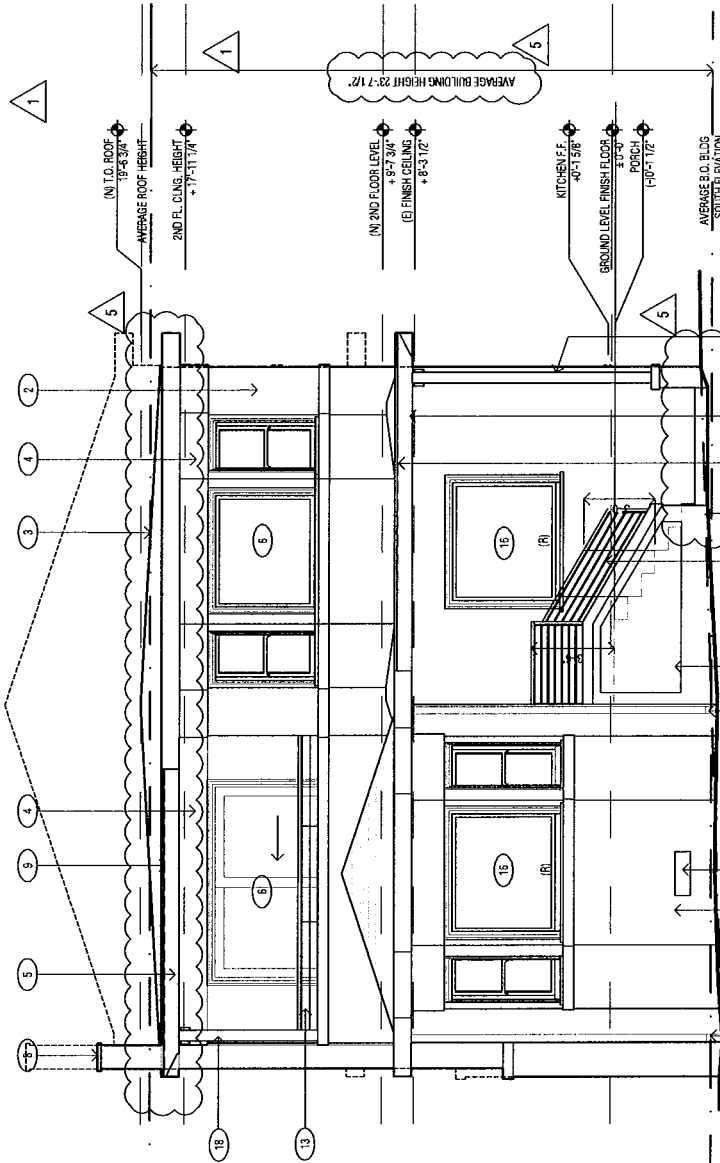
### 3 PROPOSED NORTH ELEVATION

address 1533 BEVERLY PLACE  
BERKELEY CA 94706

phone 510.847.5414  
203.546.8307

email smallwood\_garcia@hotmail.com  
bryn@ucbb.org

| PLANNING            | DATE     |
|---------------------|----------|
| 1 PLANNING REV 1    | 07.03.18 |
| 2 PLANNING REV 2    | 09.20.18 |
| 3 PLANNING REV 3    | 10.03.18 |
| 4 PLANNING REV 4    | 11.12.18 |
| 5 DESIGN REVISION 1 | 12.14.18 |
|                     | 22.06.19 |



385

1/4" = 1'-0"



September 24, 2018  
18-9874

Aska Wieloch-Kim  
Eisenmann Architecture  
1331 Seventh Street Suite G  
Berkeley, CA. 94710

Re: 1533 Beverly Place, Berkeley

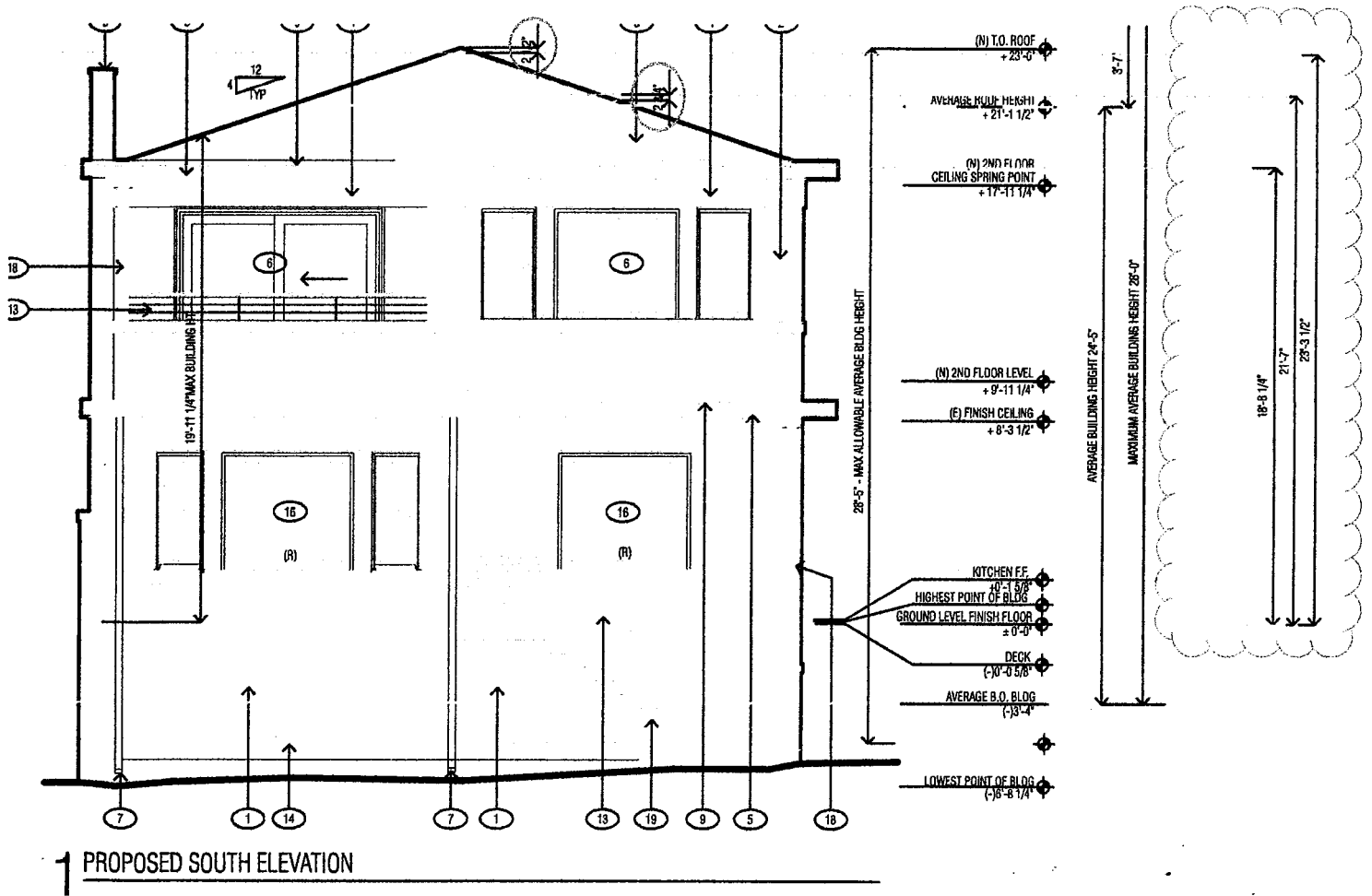
Dear Ms. Wieloch-Kim:

At your direction, a survey crew, under my direction, located all story poles which had been erected on the roof of the existing structure. The height of the poles were consistent with the building plans within a few inches.

Please contact me if I can be of further assistance.

Very truly yours,

Jeffrey Black  
Licensed Land Surveyor



TAB 6

**Modest Suggestions to Mitigate were rebuffed: "Negotiations" were not in good faith**

After I filed this appeal, Applicant requested a visit to my home in the below Sept. 16, 2019 email:

- Bryn (Applicant) asking to visit my home *"I wanted to reach out to you personally.....in order to enter mediation with the hope of seeing something from another person's perspective,.....ACTUALLY seeing things from the other person's perspective might be helpful"* (note: All previous requests by me to the Applicants/Architects to visit my home had been declined). *"Would you be willing to show us around?....I would love to have the Architects (Aska and Stacy) come with us.....this way they could ask intelligent follow-up questions and take pictures if necessary...Thanks again for being open to further conversation"....Bryn*

Of course I agreed. Unfortunately, it became immediately clear from their actions and words that the Applicants' purpose was to **document my views, not discuss nor negotiate**. I determined this based on the following:

**Actions:** Immediately upon arrival, all 5 people, the applicants, their adult daughter and both architects, began taking photos and videos. Almost no conversation with me – just **photos and videos of my views** inside and out, from every possible angle, primarily while standing on my deck, for over an hour. I approached Stacy while she was photographing and asked her if she wanted to talk, she said *"no, this is not a good time"*.

**Words:** Bryn and John made statements that were not conducive to meaningful discussion. e.g.:

-*"We don't need to make any changes, our design has already been approved by the City"* (several times)

-*"We are not going to change anything."* She mentioned how much money this was already costing them because of me.

-*"We don't want to dig down at all, we don't want to sleep in a basement/underground"*

-*"We don't want your Architect to redesign our house. We already have an approved design. He would be designing what YOU want, not what WE want!"*

-*We want what YOU have, a second floor bedroom with a view!"* Repeated by both Bryn and John.

**AND MOST TELLING OF LACK OF GOOD FAITH:** I emailed a request for a reciprocal visit for me and my architect to see things from their perspective, a request limited to the front window and outside perimeter. I wanted to understand their basement, access, and egress loss, and if there would be a detrimental view loss if they lowered their house. [\(See attached email chain\):](#)

-*"As we explained before, more visits to our house will not be possible"* (Bryn)

-*"Requesting access to their home in order to redesign their project is not going to be granted"* (Stacy)

-*"We will need to decline participation in this exercise"* (Aska)

5 messages

Amy Di Costanzo <[redacted]>  
To: Stacy Eisenmann <[redacted]>  
Cc: Aska Wieloch-Kim <[redacted]>, Maurice Levitch <[redacted]>

Mon, Sep 23, 2019 at 12:30 PM

Dear Stacy,

Thank you for coming by on Thursday evening with Aska and John and Bryn. I was glad to get a brief chance to talk with you about ideas for options.

As part of my continuing investigation into alternative designs that would possibly be beneficial for both parties, my Architect is requesting the following drawings (the description is his):

*"Please ask Stacy for a pdf of the existing and proposed longitudinal cross sections through the house and site with front and rear yards showing."*

Please let us know if you have that drawing or information. Thank you.

I may want to take Maurice back to see the outside of 1533 Beverly Pl. again, and possibly the basement and crawl space and the view from the front window.. I will of course get in touch with Bryn and John if and when that comes up.

Thank you,

Amy

---

**From:** Aska Wieloch-Kim <[redacted]>  
**Date:** September 24, 2019 at 4:05:36 PM PDT  
**To:** Amy Di Costanzo <[redacted]>  
**Cc:** Stacy Eisenmann <[redacted]>, Maurice Levitch <[redacted]>, Bryn & John Smallwood-Garcia <[redacted]>, Bryn & John Smallwood-Garcia <[redacted]>  
**Subject:** Re: Request for a pdf drawing

Dear Amy,

I am writing back to you on Stacy's behalf, who is away from the office this week, and with the support of Bryn and John. Amy, we appreciate your efforts in trying to find a solution that meets your needs; however, I am afraid it would not be in our clients' best interest to involve your former architect in re-designing our project.

For one, there is an obvious conflict of interest, and furthermore, Maurice does not know our clients, their design vision, nor their budget, so his suggestions would be purely theoretical. Therefore, we will need to decline participation in this exercise. Also, I just wanted to point out, that everything you need to know should be available to you on the city's website. Please do keep in mind all the expensive and significant structural modifications our clients have already offered to our original plan.

Best,  
Aska

E I S E N M A N N  
Architecture

7 messages

Amy Di Costanzo <[redacted]>  
To: bryn [redacted]

Thu, Sep 26, 2019 at 3:58 PM

Dear Bryn,

Thank you for coming to my house last Thursday. I'm glad you and your Architects were able to take many photos and stay long enough to get a sense of my perspective. I agree that it's important to have all the facts and some key photos in order to have a meaningful discussion in mediation and at the ZAB hearing.

To that end, (and in light of what you wrote me on September 16th: "In order to enter mediation with the hope of seeing something from another person's perspective, it sort of goes without saying that ACTUALLY seeing things from the other person's perspective might be helpful.") I would like your permission to visit your house along with Maurice Levitch. We would need access to the front of the house inside, and to be able to walk around the perimeter, and possibly look under the floor - basement-crawl space.

Just to be clear, I have not hired Maurice to re-design your house, it was never his intention to design anything, simply to study the existing conditions. As I have said before, I have hired him to support me in understanding what is and what is not possible, because as I believe you will agree, there is no way to effectively enter mediation without this knowledge. Please let me know as soon as possible how and when we may come to see your house.

Sincerely,

Amy

Amy Di Costanzo <[redacted]>  
To: Bryn Smallwood-Garcia <[redacted]>, Bryn & John Smallwood-Garcia <[redacted]>  
Cc: Stacy Eisenmann <[redacted]>, Maurice Levitch <[redacted]>

Wed, Oct 2, 2019 at 11:20 AM

Dear Bryn,

This is a friendly reminder that I emailed you a request to visit your house - along with my Architect - almost a week ago. I sent it to the same email address you used when you asked to visit my house. I have not received a response from you yet. Please let me know by this Friday when and how we can visit. If you do not wish to extend this same courtesy to me, please let me know this as well.

Sincerely,

Amy

Bryn Smallwood-Garcia <[redacted]>  
To: Amy Di Costanzo <[redacted]>  
Cc: John Smallwood-Garcia <[redacted]>, Stacy Eisenmann <[redacted]>, Maurice Levitch <[redacted]>, Aska Wieloch-Kim <[redacted]>

Wed, Oct 2, 2019 at 12:17 PM

As we explained to you before, more visits to our house will not be possible. As you perhaps can see from my email message I do not have access to email at the present time as I am on a family visit out of state.

Stacy Eisenmann <[redacted]>  
To: Amy Di Costanzo <[redacted]>  
Cc: Bryn & John Smallwood-Garcia <[redacted]>, Maurice Levitch <[redacted]>, Aska Wieloch-Kim <[redacted]>, Bryn & John Smallwood-Garcia <[redacted]>

Thu, Oct 3, 2019 at 7:24 PM

Hello Amy,

I believe that Bryn has had a full week and may have responded more quickly than she would have otherwise.

As you might understand, requesting complete access to the Smallwood Garcia's home while they are not present is a different level of sharing than what was offered to them in seeing your home. It should be possible to understand the slope and site conditions of their property from the drawings that have been publicly posted with the city.

Best,  
Stacy

4 messages

Sat, Oct 5, 2019 at 1:14 PM

Amy Di Costanzo [redacted]  
To: Stacy Eisenmann [redacted]  
Cc: Bryn Smallwood-Garcia [redacted]

Dear Stacy,

Thank you for the reasonable tone of your last email. I understand that Bryn would not want me to have "complete access" to the inside of her house while they are away.

However, that is not what I asked for. My request was limited to the access that I provided to Bryn and her team in my house. Specifically, I'd like to observe and photograph the views from the windows in her house. In addition, I would like to have access to being on her property with my Architect, on the outside of her house. That inspection would include bringing a ladder in order to obtain the experience of her (their) perspective. This experience is exactly what she asked of me and I, of course, obliged without hesitation and with no time limits imposed

We would like to visit sometime this coming week or at the latest, the weekend of October 12th. I will need a response no later than this Tuesday October 8th. If Bryn refuses either or both of these highly reasonable requests, I would interpret it as attempting to prevent me from obtaining relevant information prior to Mediation and the ZAB Hearing.

I await a response from Bryn.

Sincerely,

Amy

---

Stacy Eisenmann [redacted] Sat, Oct 5, 2019 at 4:44 PM  
To: Amy Di Costanzo [redacted]  
Cc: Bryn & John Smallwood-Garcia [redacted], Bryn & John Smallwood-Garcia [redacted]  
Aska Wieloch-Kim [redacted], Maurice Levitch [redacted]

Hello Amy,

Please understand that your request is not the same. The tour of your house was offered to Bryn & John on several occasions, and out of consideration they felt they should accept it since it seemed important to you. They did not seek it. Requesting access to their home in order to redesign their project is not going to be granted, and we will be happy to discuss this further at mediation.

Best,  
Stacy

E I S E N M A N N  
Architecture

Stacy Eisenmann, Principal AIA  
A California Corporation  
1231 7th Street Suite G | Berkeley CA 94710 | 510.558.8442  
www.eisenmannarchitecture.com

Find us on houzz.com

<https://mail.google.com/mail/u/1?ik=a6d90c6fb5&view=pt&search=all&permthid=thread-a%3Ar1226406148099739892&siml=msg-a%3Ar181303794...> 1

TAB 7

**Applicants Rejected their own Architect's Suggested Compromise - Option 1**

The one encouraging event during Applicant/Architect visit to my house: "Stacy" Eisenmann, lead Architect, sat with me at my kitchen table and listened as I pointed out my objections to the design:

- The SF Bay is eliminated from view once seated
- The addition looks like a wall and gives the feeling of being boxed in
- The east side front corner looks out of place. There is no view corridor between houses .

**STACY PROPOSED THE FOLLOWING TO ALLOW SOME BREAK IN THE (AS NOW DESIGNED) TOTALLY BLOCKED VIEW CORRIDOR:**

- What if we eliminate the front corner?
- She pointed to the story poles that represented the area of the house that she would open up to give me a view corridor (see photo of story poles). It's the section with the bay bridge tower. She said "I get it, I understand" and we walked onto the deck where she confirmed which walls would open up. A part of the study would be eliminated, much like what I did for my neighbor years ago. (see photo shop of Design 1 when seated at table) Drawing by Maurice Levitch: Option 1 (concept only). Statement by a witness to the conversation.

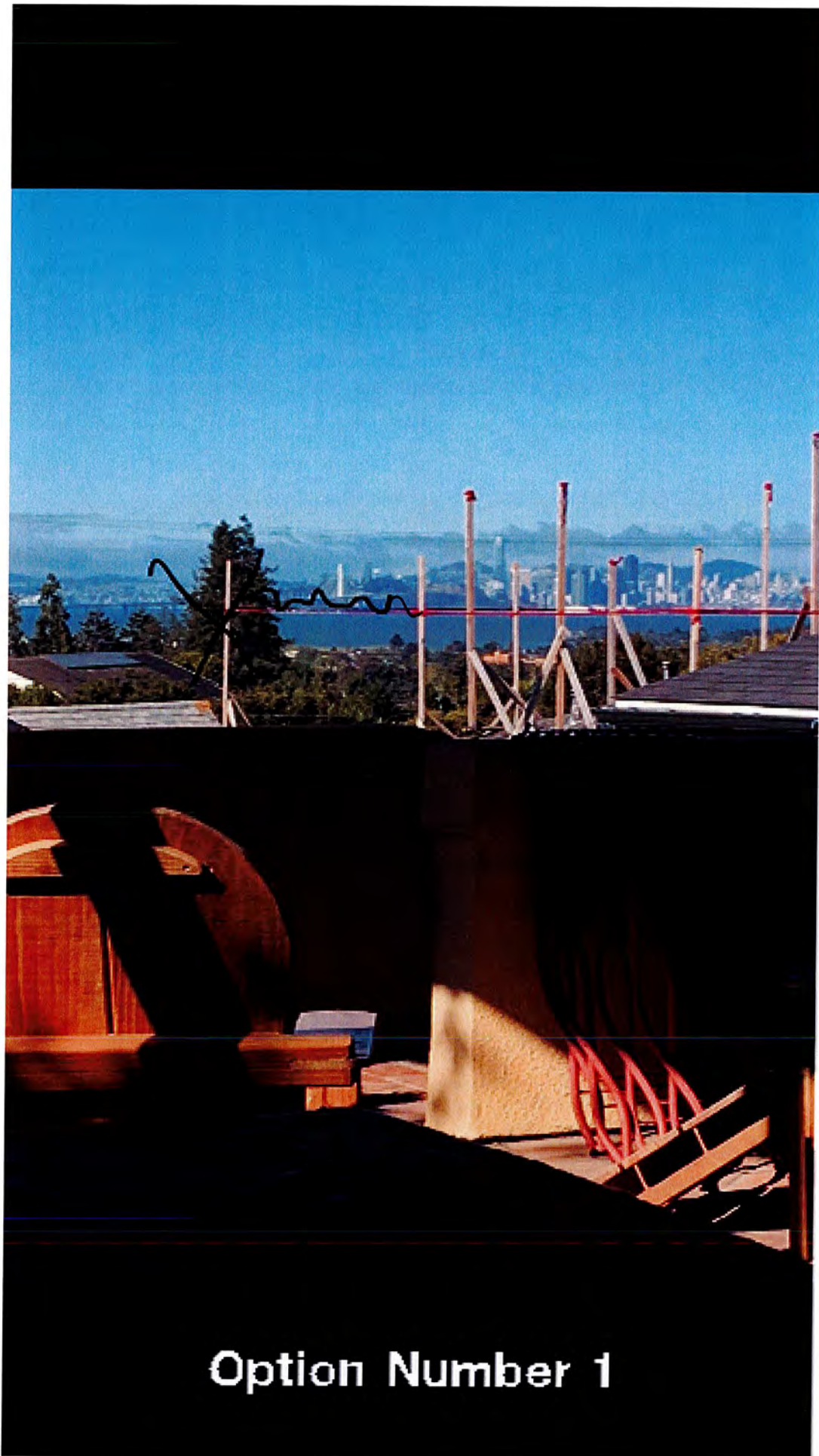
**OUR DISCUSSION**

- I asked Stacy how she would cut out the corner. She said she could design something that would work.
- I told her I would still like the house to be lowered to preserve my view of the remaining bay while seated. I would be able to decide by how much lower when new tape is placed (below the existing red tape) at the story poles.
- We discussed chimney, vent, and solar panel placement. She said they would be on the west side of the roof out of my line of sight.
- She assured me that with the current design, no part of the roof would protrude above the current red tape line.\*

\*Because EA's drawings have, per the original survey (see Tab 5), discrepancies in the height depicted in the plans and the story poles height, and because the story poles themselves were never changed or re-certified as part of the new design submission, I suggest that we use the height of the existing red tape line (once certified) as the baseline height of all solution discussions.

As soon as Bryn heard about the discussion she rejected Stacy's idea.

I really like Option 1 because it eliminates the "walled-in" aspect from many perspectives by providing an opening. The walled-in feeling would be most acute when in my garden. Eliminating the front corner would allow a partial view of San Francisco and the bay to remain (see photo from my garden at sunset – Option 1).



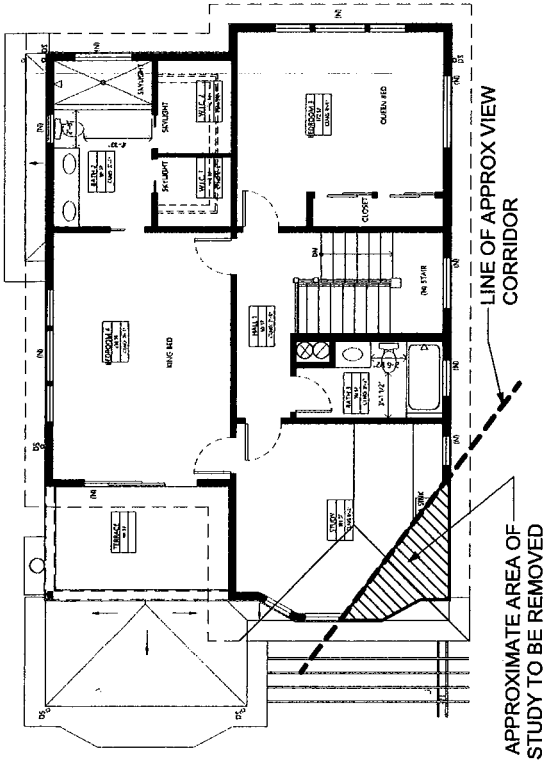




Seated at kitchen table.  
Eliminate front corner 18" lower.



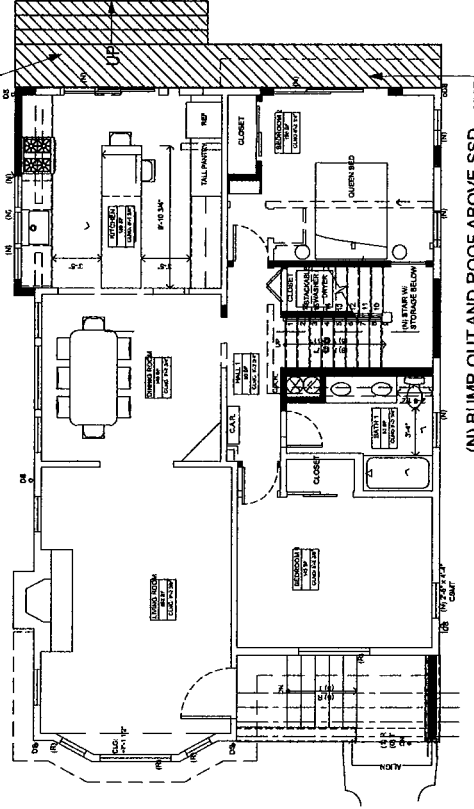
Seated at kitchen table.  
View through story poles.



**2 OPTION 1 - PROPOSED 2ND FLOOR PLAN**

Scale: N.T.S. / Based on Eisenman Architecture drawing 4/A3.1 dated 06.27.19

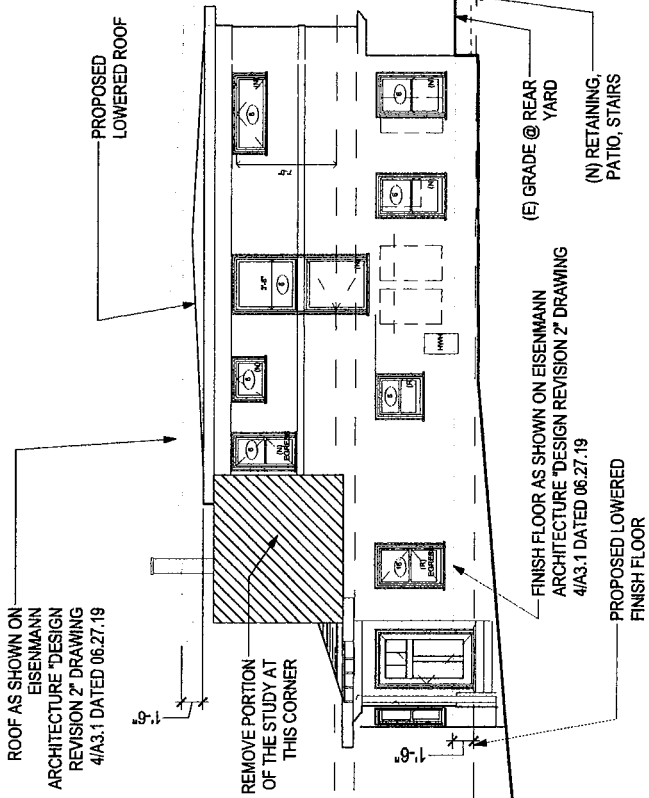
(N) CONCRETE RETAINING WALLS, PATIO, STAIRS



**1 OPTION 1 - PROPOSED 1ST FLOOR PLAN**

Scale: N.T.S. / Based on Eisenman Architecture drawing 4/A3.1 dated 06.27.19

(N) BUMP-OUT AND ROOF ABOVE SSD



**3 OPTION 1 - PROPOSED EAST ELEVATION**

Scale: N.T.S. / Based on Eisenman Architecture drawing 4/A3.1 dated 06.27.19

January 20, 2020  
1710 Sonoma Ave.

To the Members of the Berkeley Zoning Adjustments Board,

Re: 1533 Beverly Place

My name is Teymur Ismayilov. I am a software developer from Azerbaijan, and I have been living at Amy's house for some months.

I am a witness to part of a negotiation process between Amy and the neighbor who is planning to build a second floor. The negotiation was about finding a solution that would work for both sides in a view dispute. Currently, the latest provided project of adding the second floor still blocks most of Amy's beautiful view to the Bay and San Francisco. Basically, the view from the kitchen, the only room with a view on the main floor, and where we usually gather and have our meals will be significantly blocked. Apart from that, sometimes I take my laptop and work on the balcony and at the same time enjoying the beautiful view. So, if they build the second floor, as presently designed, obviously nobody is going to enjoy it.

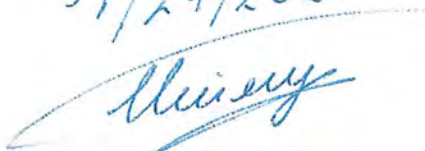
One of the meetings happened at Amy's house and since I am living there, I was present to see how this negotiation was going on. The owner of the house arrived together with her relatives, and architect designers. Amy was very welcoming and let them take many photographs, and was trying to explain why that view is so important to her. However, I was shocked, how the owner of the other house was acting so emotional and rude. She was acting like Amy did some damage to her property, but in fact what Amy is doing is just wanting to keep her beautiful view of the bay. I remember how she was emotionally blaming Amy – "Because of you we are already spending \$100,000". For me personally it is not clear how come it is possible. If let's say for example, a tree from Amy's backyard fell on the property of that woman and damaged her house, it would make sense, but here Amy just wants to keep her view.

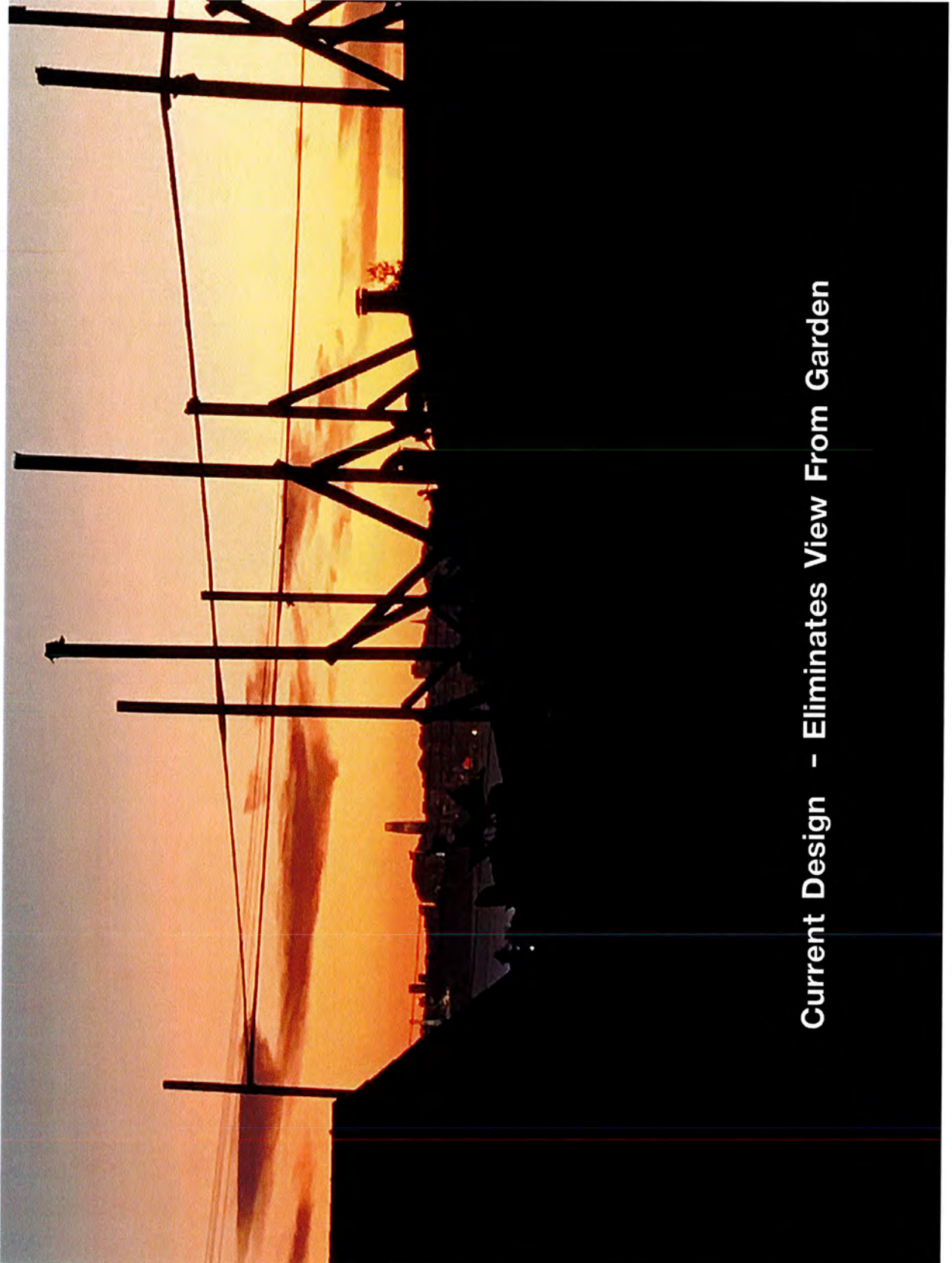
Apart from blaming Amy for expenses, she let herself giving some advices to Amy in a bad tone – "If you need a view, lift up your balcony and put tall chairs on your balcony, and lift your kitchen table." For the rest of the time she spoke to Amy in the same rude manner which is not acceptable, in particular when you are a guest in the owner's house!

Meanwhile, I saw that her architect designer Stacy was sitting next to Amy, [I was seated at the same table] and was trying to find a solution that would work for both sides. I heard Stacy say, and she repeated this a couple of times, that now she understands Amy's concerns; she saw that Amy lost her view corridor. They were working together to come up with something. I heard Stacy suggest a compromise which would let Amy maintain some of her view corridor open from the kitchen. As I heard Stacy describe it, the idea was about cutting some of the area off the 2<sup>nd</sup> floor, part of the den, leaving

the master suite from where her clients would have an amazing view, untouched. Stacy's compromise would restore some of Amy's view corridor. From what I heard; I'm felt hopeful that a compromise could be reached.

Teymur Ismayilov

01/24/2020  




Current Design - Eliminates View From Garden

TAB 8 Appellant's Architect Suggestion and Rationale: Option 2: Everything lowered 24"

**Under the circumstances of this case, it is both reasonable and feasible, as part of the foundation replacement, to lower 1533 Beverly Place an additional 24".**

I hired Architect Maurice Levitch, President of Levitch Associates, Inc., who made several site visits (from a neighbor's driveway, see Tab 6), reviewed the current design plan, and attempted to provide his suggestions to the Applicants and their architect.

The evidentiary basis for this suggestion is the following:

- The Applicants' house is elevated from the sidewalk by a small hill. The main floor is quite high at the front due to a sloping lot.
- Although Design Option 2 creates a more wall-like appearance than Design Option 1, I would accept it as an alternative to the current design:
- Applicants would retain basically the same views from their second story bedroom, study, and deck as their current design;
- It would not change the room configuration inside the house as currently designed;
- Some of the Appellant's view corridor would remain;
- Due to the slope of their lot, the below-grade portion of the main floor would begin towards the back of the house, which is the kitchen and back bedroom, the 24" would be at the back wall;
- The back bedroom would have a patio and steps up to the yard;
- Safe egress would be assured;
- I cannot comment on the impact to views from their main floor front window, as Applicant and her architects denied me access to their home after I had provided them access to my home (see Tab 6). While at my house, Applicants stated several times they wanted a second story bedroom with a view .

**Maurice Levitch Letter**

**Maurice Levitch drawing Option2**

**Photos of 1533 Beverly Place**

**Photo shop photos of Option 2 (24" down).**

Maurice Levitch, AIA, Architect  
1029 Heinz Ave., Berkeley, CA 94710 [maurice@levitch.com](mailto:maurice@levitch.com) 510-773-0606

Zoning Adjustments Board  
Land Use Planning Division  
1947 Center Street, 2nd Floor  
Berkeley, CA 94704

Re: 1533 Beverly Place

Attn: ZAB Secretary

I was asked to review the current design of 1533 Beverly Place by the Appellant, Amy Di Costanzo, who lives behind the project to the east, at 1710 Sonoma Ave.

She believes that the Applicants have the right to expand their home as long as they do not cause significant impacts to neighboring properties.

The project, as designed, blocks the View Corridor of and the Significant View of the San Francisco Bay that 1710 now has. The impact takes place at the only public area, the Kitchen and Dining Room, on the main floor that has a View Corridor and Significant View.

Here are two alternative design solutions that could allow the Applicant to develop their property without causing the impact as described.

**Alternative #1- Remove a corner of the Study. Lower house by 18" (not 24")**

This alternative (suggested originally by the Architect to the Appellant at her home on a project walkthrough 9/19/19). This option would eliminate the front east corner (a portion of the Study) allowing for an important section of the View Corridor to be maintained. The house in this case would be lowered by 18" (not 24").

**Alternative #2- Lower the building by 24"**

Lowering the building, as currently designed, by 24" will reduce the impact on 1710 to an acceptable level.

The effect to the project would that instead of walking out directly to grade from the Kitchen and Bedroom one would walk out to a landing and then step up to reach the rear yard area.

The Applicants' Architect claims that lowering the building any further is not feasible due to cost and the need for emergency egress.

**Cost**

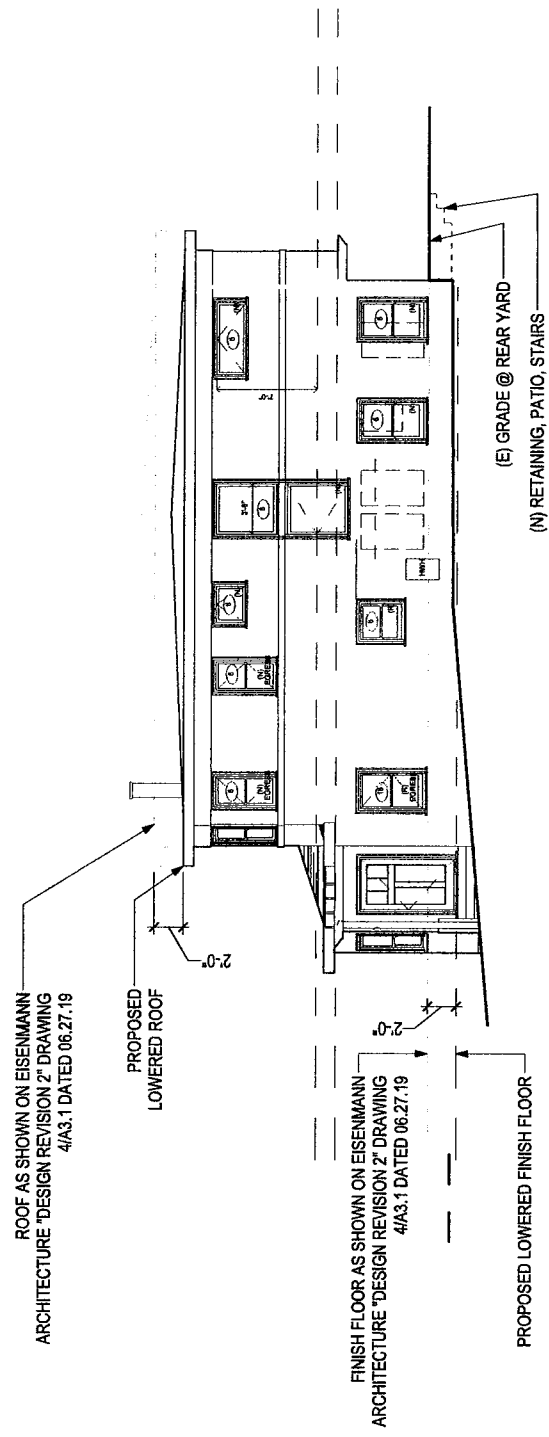
Since the design already includes lowering the building and because the entire foundation will be replaced anyway this solution is viable as it would add only a small percentage to the total project cost (estimate \$20,000 to \$30,000) to cover the additional 60 to 70 cubic yards of earth to remove and the construction of 2' high retaining walls. Design and construction detailing options are many and can be handled as a matter of course.

**Emergency Egress**

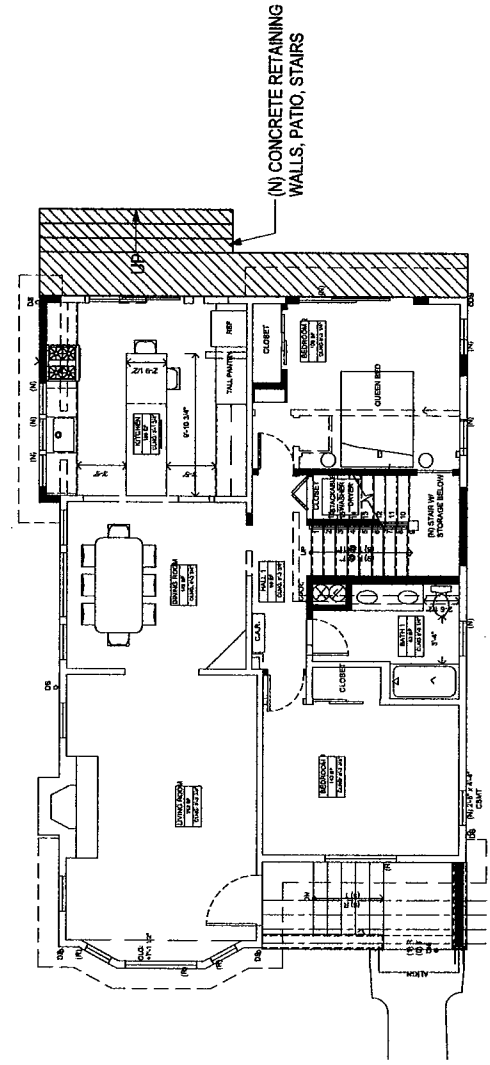
At Bedroom #1 in the rear the Applicant can choose to keep a sliding door or change it to a window without compromising egress. If changing to a window the sill height could be set as low as 32" above the floor where a maximum sill height of 44" is allowed.

Sincerely,

  
Maurice Levitch, AIA

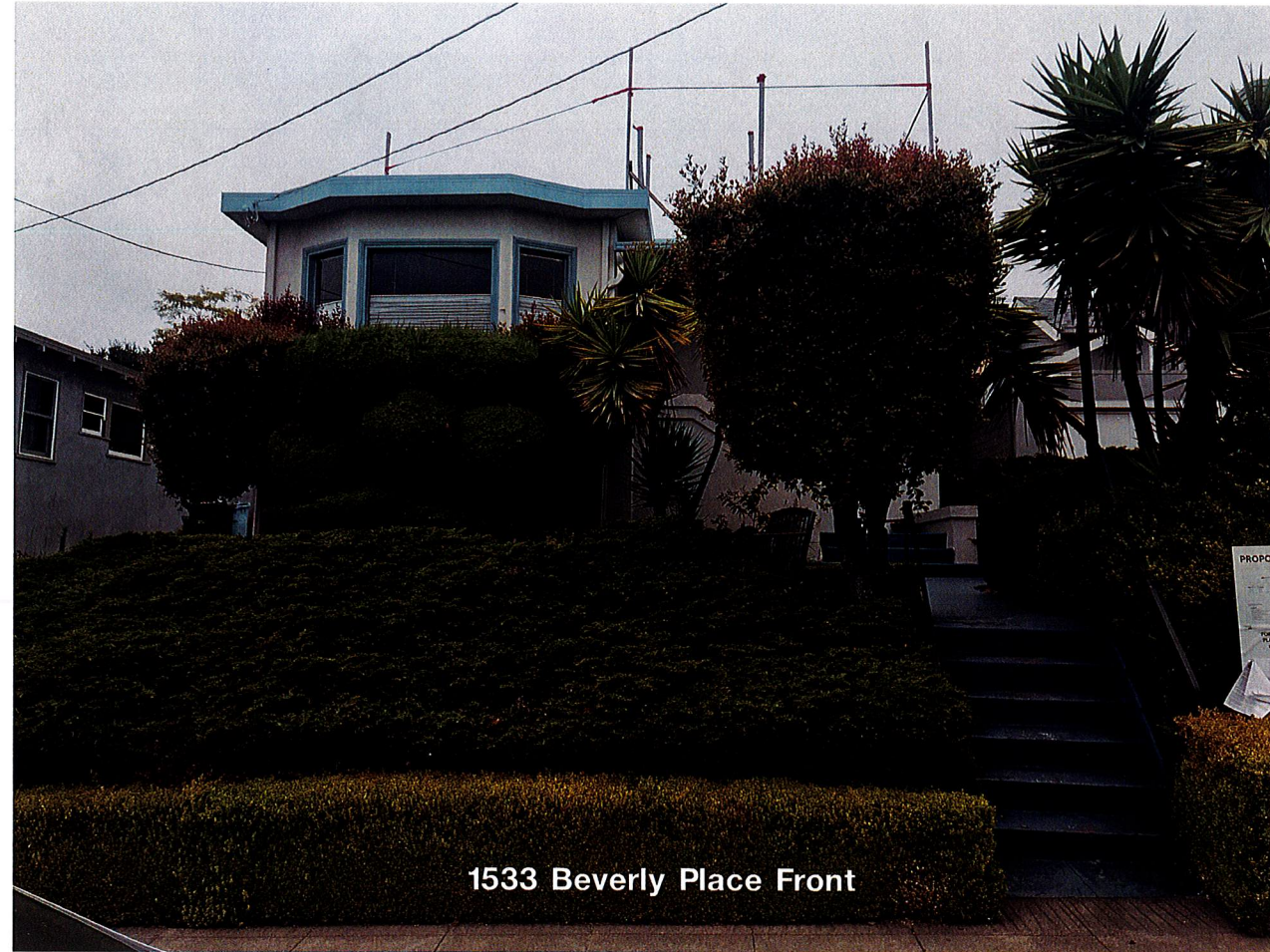


**2** OPTION 2 - PROPOSED EAST ELEVATION  
 Scale: N.T.S. / Based on Eisenman Architecture drawing 4/A3.1 dated 06.27.19



**1** OPTION 2 - PROPOSED 1ST FLOOR PLAN  
 Scale: N.T.S. / Based on Eisenman Architecture drawing 4/A3.1 dated 06.27.19





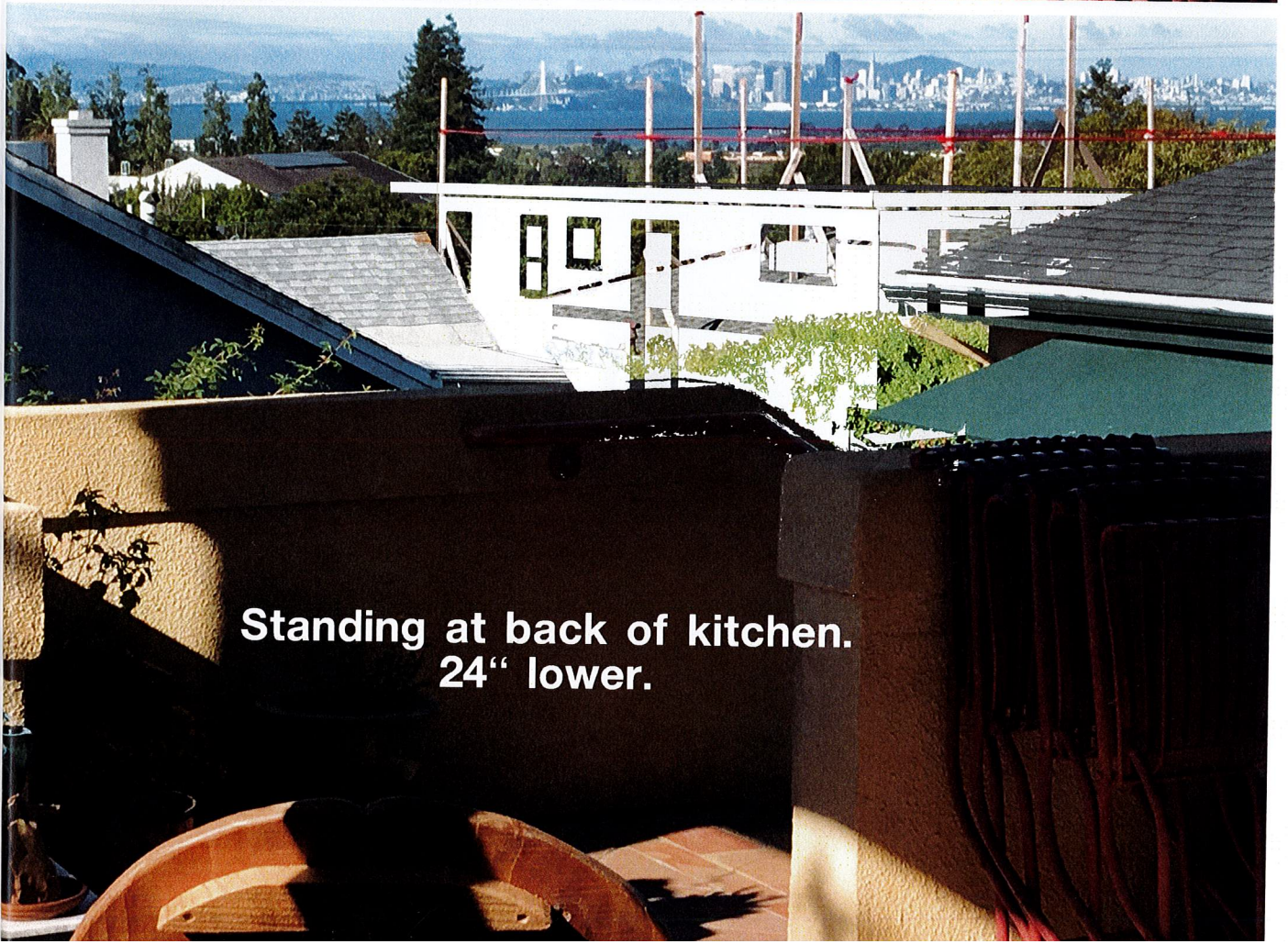
1533 Beverly Place Front



1533 Beverly Place West Side

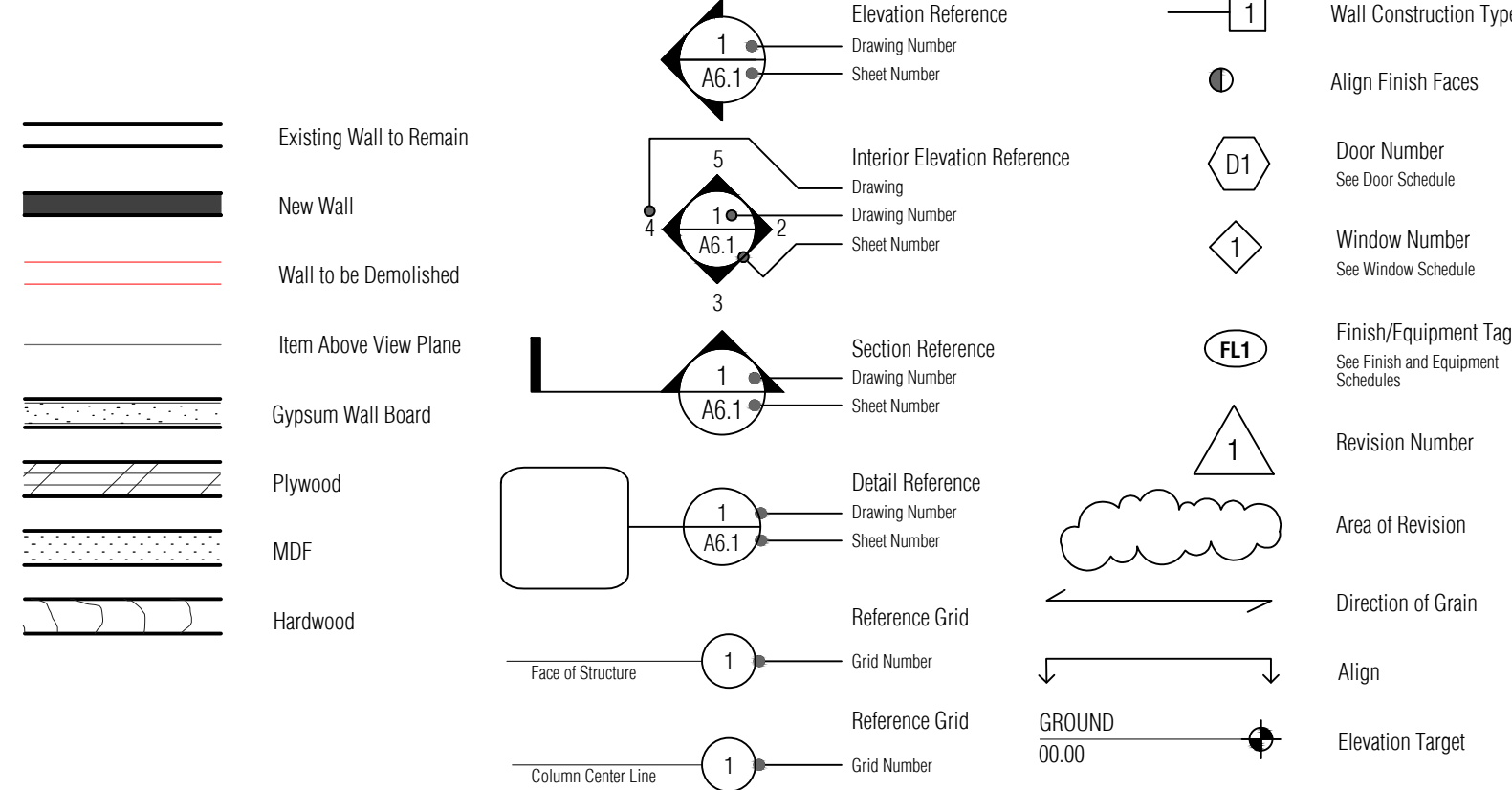


Standing at back of kitchen.  
Current design.



Standing at back of kitchen.  
24" lower.

**SYMBOLS**



**ABBREVIATIONS**

|                                             |                                                  |
|---------------------------------------------|--------------------------------------------------|
| <b>&amp;</b> And                            | <b>JT</b> Joint                                  |
| <b>@</b> At                                 | <b>JST</b> Joist                                 |
| <b>#</b> Pound or Number                    | <b>KD</b> Kiln Dried                             |
| <b>AB</b> Anchor Bolt                       | <b>L</b> Angle                                   |
| <b>ACOUS</b> Acoustic                       | <b>LAM</b> Laminate                              |
| <b>ADD</b> Addendum                         | <b>LT</b> Light                                  |
| <b>ADJ</b> Adjustable                       | <b>MAX</b> Maximum                               |
| <b>AFF</b> Above Finish Floor               | <b>MB</b> Machine Bolt                           |
| <b>ALT</b> Alternate                        | <b>MDF</b> Medium Density Fiberboard             |
| <b>ALUM</b> Aluminum                        | <b>MECH</b> Mechanical                           |
| <b>BD</b> Board                             | <b>MEMB</b> Membrane                             |
| <b>BLDG</b> Building                        | <b>MFR</b> Manufacturer                          |
| <b>BLK</b> Block                            | <b>MIN</b> Minimum                               |
| <b>BLKG</b> Blocking                        | <b>MISC</b> Miscellaneous                        |
| <b>BOT</b> Bottom of Truss                  | <b>MTD</b> Mounted                               |
| <b>BOW</b> Bottom of Wall                   | <b>MTL</b> Metal                                 |
| <b>BSMT</b> Basement                        | <b>MUL</b> Mullion                               |
| <b>C</b> Centerline                         | <b>N</b> North                                   |
| <b>CEM</b> Cement                           | <b>(N)</b> New                                   |
| <b>CL</b> Control Joint                     | <b>NC</b> Not in Contract                        |
| <b>CLKG</b> Caulking                        | <b>NO</b> Number                                 |
| <b>CLR</b> Clear                            | <b>NSF</b> Net Square Feet                       |
| <b>CMU</b> Concrete Masonry Unit            | <b>NTS</b> Not to Scale                          |
| <b>COL</b> Column                           | <b>OC</b> On Center                              |
| <b>CONC</b> Concrete                        | <b>OFCD</b> Owner Furnished Contractor Installed |
| <b>CONSTR</b> Construction                  | <b>OPNG</b> Opening                              |
| <b>CONT</b> Continuous                      | <b>OSB</b> Oriented Strand Board                 |
| <b>COORD</b> Coordinate                     | <b>PEN</b> Plywood Edge Nailing                  |
| <b>CT</b> Ceramic Tile                      | <b>PL</b> Property Line                          |
| <b>CTSK</b> Countersunk                     | <b>PLAM</b> Plywood Laminate                     |
| <b>d</b> Penny                              | <b>PLWD</b> Plywood                              |
| <b>D</b> Depth                              | <b>PNT</b> Painted                               |
| <b>DBL</b> Double                           | <b>PR</b> Pair                                   |
| <b>DET</b> Detail                           | <b>PT</b> Pressure Treated                       |
| <b>DF</b> Douglas Fir                       | <b>PTR</b> Partition                             |
| <b>DIA</b> Diameter                         | <b>QTY</b> Quantity                              |
| <b>DIM</b> Dimension                        | <b>R</b> Riser                                   |
| <b>DN</b> Down                              | <b>RAD</b> Radius                                |
| <b>DS</b> Downspout                         | <b>ROWD</b> Redwood                              |
| <b>DW</b> Dishwasher                        | <b>REF</b> Refrigerator                          |
| <b>DWG</b> Drawing                          | <b>REIN</b> Reinforced                           |
| <b>E</b> East                               | <b>REQD</b> Required                             |
| <b>(E)</b> Existing                         | <b>RESL</b> Resilient                            |
| <b>EA</b> Each                              | <b>REV</b> Revision                              |
| <b>EL</b> Elevation                         | <b>RFG</b> Roofing                               |
| <b>ELEC</b> Electrical                      | <b>RM</b> Room                                   |
| <b>ELEV</b> Elevation                       | <b>RO</b> Rough Opening                          |
| <b>EP</b> Electrical Panel                  | <b>RWD</b> Rainwater Drainage                    |
| <b>EXP JT</b> Expansion Joint               | <b>RWL</b> Rainwater Leader                      |
| <b>EQ</b> Exterior                          | <b>SCHED</b> Schedule                            |
| <b>EXT</b> Exterior                         | <b>SECT</b> Section                              |
| <b>FD</b> Floor Drain                       | <b>SF</b> Square Foot/ Feet                      |
| <b>FDN</b> Foundation                       | <b>SHT MTL</b> Sheet Metal                       |
| <b>FE</b> Fire Extinguisher                 | <b>SIM</b> Similar                               |
| <b>FF</b> Finish Floor                      | <b>SKL</b> Skylight                              |
| <b>FIN</b> Finish                           | <b>SL</b> Seal                                   |
| <b>FL</b> Floor                             | <b>SLD</b> See Landscape Drawings                |
| <b>FOC</b> Face of Concrete                 | <b>SPEC</b> Specifications                       |
| <b>FOP</b> Face of Finish                   | <b>SO</b> Square                                 |
| <b>FOS</b> Face of Stud                     | <b>SSD</b> See Structural Drawings               |
| <b>FOSH</b> Face of Sheathing               | <b>STSL</b> Stainless Steel                      |
| <b>FRMG</b> Framing                         | <b>STD</b> Standard                              |
| <b>FT</b> Foot                              | <b>STL</b> Steel                                 |
| <b>FTG</b> Footing                          | <b>STOR</b> Storage                              |
| <b>FURR</b> Furring                         | <b>STRUC</b> Structural                          |
| <b>GA</b> Gage                              | <b>SYM</b> Symbol                                |
| <b>GALV</b> Galvanized                      | <b>SYS</b> System                                |
| <b>GC</b> General Contractor                | <b>T</b> Tread                                   |
| <b>GEC</b> Grounding Electrode Conductor    | <b>T&amp;G</b> Tongue and Groove                 |
| <b>GFI</b> Ground Fault Circuit Interrupter | <b>TEL</b> Telephone                             |
| <b>GL</b> Glass                             | <b>THK</b> Thick                                 |
| <b>GLB</b> Glue Lam Beam                    | <b>TD</b> Top of                                 |
| <b>GR</b> Grade                             | <b>TDS</b> Top of Structure                      |
| <b>GSF</b> Gross Square Feet                | <b>TOT</b> Top of Truss                          |
| <b>GSM</b> Galvanized Sheet Metal           | <b>TOW</b> Top of Wall                           |
| <b>GV</b> Gas Vent                          | <b>TYP</b> Typical                               |
| <b>GWB</b> Gypsum Wall Board                | <b>UDN</b> Unless Otherwise Noted                |
| <b>H</b> Height                             | <b>VERT</b> Vertical                             |
| <b>HB</b> Hose Bib                          | <b>VG</b> Vertical Grain                         |
| <b>HNDRL</b> Handrail                       | <b>VIF</b> Verity in Field                       |
| <b>HDWD</b> Hardwood                        | <b>W</b> Width                                   |
| <b>HGT</b> Height                           | <b>WJ</b> With                                   |
| <b>HORIZ</b> Horizontal                     | <b>WC</b> Wood                                   |
| <b>HB</b> Hose Bib                          | <b>WD</b> Water Closet                           |
| <b>HC</b> Hollow Core                       | <b>W/D</b> Washer / Dryer                        |
| <b>HR</b> Hour                              | <b>WDW</b> Window                                |
| <b>HW</b> Hot Water                         | <b>WP</b> Water Proofing                         |
| <b>I</b> Inch                               | <b>WRC</b> Western Red Cedar                     |
| <b>INCL</b> Including                       |                                                  |
| <b>INSUL</b> Insulation                     |                                                  |
| <b>INT</b> Interior                         |                                                  |
| <b>INTM</b> Intermediate                    |                                                  |

**GENERAL NOTES**

- All work shall be in conformance with the 2019 California Code of Regulations, including:
  - 2019 California Building Code (CBC)
  - 2019 California Plumbing Code (CPC)
  - 2019 California Mechanical Code (CMC)
  - 2019 California Electrical Code (CEC)
  - 2019 California Residential Code (CRC)
  - 2019 California Green Building Standards Code (CGBCS)
  - 2019 California Fire Code (CFC)
  - 2019 California Energy Code (Title 24) Part 6
- In the event of Conflicts in Code Regulations, the most stringent requirements shall apply. Contractor shall notify Architect and Owner, in writing, of any discrepancy between the applicable codes and these documents.
- These documents describe design intent. Contractor shall provide all associated work, including but not limited to, partial demolition, site work, structural, mechanical, electrical, plumbing and finish work required for a complete, operational, and water tight project. No claims for additional work will be awarded for work which is described in these documents or reasonably inferred from them.
- Contractor is responsible for thorough coordination of trades. No claims for additional work will be awarded for work related to such coordination.
- Contractor is responsible for coordination with utilities to determine location, including but not limited to Gas, Water, Power, Sewer, Telephone and Cable Television. No claims for additional work will be awarded for work related to such coordination.
- Contractor shall verify all dimensions, elevations, and conditions of the site and all dimensions and details of the project components. Contractor shall notify the Architect in writing of any discrepancy in plans and specifications immediately. Work shall not proceed without Architect's authorization.
- Any errors, omissions, or conflicts found in the various parts of the construction documents shall be brought to the attention of the architect for clarification prior to proceeding with work. Any changes or interpretations of these documents made without consulting the Architect, and any unforeseen conditions resulting therefrom, shall not be the responsibility of the Architect.
- Do not scale drawing, contact Architect where clarification is required.
- All dimensions are to face of finish, unless otherwise noted.
- Details shown are typical. Similar details shall apply in similar locations and conditions.
- "Typical" or "TYP" shall mean that the condition is representative for similar conditions throughout, unless otherwise noted.
- All work shall be installed plumb, level, square, and true, and in proper alignment.
- "Align" shall mean to accurately locate finish faces in the same plane.
- Contractor shall continuously protect existing trees, utilities and adjacent properties from damage during construction. Contractor shall replace or restore damaged property, materials and finishes at no additional cost to Owner. Restoration shall be equal to the original work and finishes shall match the appearance of existing work.
- Contractor shall continuously protect the project from, including but not limited to, water damage and damage in the course of the work. Contractor shall replace or restore damaged property, materials and finishes at no additional cost to Owner. Restoration shall be equal to the original work and finishes shall match the appearance of existing work.
- Contractor shall be responsible for job site conditions, including safety of persons and security of property, and for security of stored materials and equipment, not limited to normal hours of work. Contractor shall maintain appropriate insurance to protect the Owner, Architect and Contractor.
- Contractor shall broom sweep the premises nightly. At the completion of work, Contractor shall remove all debris and trash caused from the work, surplus materials, tools, and construction equipment, and will leave the project in clean condition.
- All materials, equipment, and articles incorporated into the work shall be new, first grade, and free of defects unless otherwise noted. The Owner shall have the right to reject defective or substandard workmanship, and the contractor shall immediately correct unacceptable work at no expense to the owner.
- Contractor shall warrant the entire work against defects in materials and workmanship for one year from the date of acceptance. Sub-contractors shall warrant their work against defects in materials and workmanship for a period of one year, except for the roofing sub-contractor who shall warrant his/her work against defects for a period of three years from the date of acceptance. Contractors and Sub-contractors shall submit their warranties in writing to the Owner.
- Required submittals include shop drawings of all metalwork, all millwork, and samples of all finish materials and trim, with specified finish applied and in quantities sufficient to demonstrate variation within the material. Prior to receipt by the Architect, the submittals shall be signed by the Contractor, signifying the Contractor's review, approval, verification of field dimensions, and compliance with the construction documents. Contractor shall allow five working days minimum for Architect to process submittals.
- Mechanical, Electrical, and Plumbing work to be design/build per CMC, CEC and CPC. See A5.0 for Mechanical, Electrical & Plumbing Notes.
- All exterior glazing units to comply with T24 energy requirements for U factors.
- Annual spaces around pipes, electric cables, conduits, or other openings in bottom plates at exterior walls shall be protected against the passage of rodents by closing such openings with cement mortar, concrete masonry or similar method acceptable to the enforcing agency.
- Cover new or existing duct openings and protect mechanical equipment during construction. At the time of rough installation, during storage on the construction site and until final startup of the heating, cooling and ventilating equipment, all duct and other related air distribution component openings shall be covered with tape, plastic, sheetmetal or other methods acceptable by the enforcing agency to reduce the amount of water, dust & debris which may enter the new or existing system.
- Finish materials shall comply with the following:
  - Adhesives, sealants, and caulks shall comply with the following standards unless more stringent local limits apply: Calgreen table 4.504.1 or 4.504.2, and Rule 1168. Statewide VOC standards of the California Code of Regulations (CCR), Title 17, commencing with section 94507.
  - Paints and coatings shall comply with the VOC limits in Table 1 of the CCR Architectural Suggested Control Measure, as shown in Table 4.504.3, unless more stringent local limits apply. The VOC content for coatings not meeting the definitions for the categories listed shall be determined in subsections 4.21, 4.36, 4.37 of the 2007 California Air Resources Board.
  - Aerosol paints and coatings shall meet the product weighted MIR limits for VOC in section 94522(a)(2) and other requirements, including prohibitions on use of certain toxic compounds and ozone depleting substances, in sections 94522(e)(1) and (f)(1) of the CCR, Title 17, commencing with section 94520, and in areas under the jurisdiction of the Bay Area Air Quality Management District with the percent VOC by weight of product limits of Regulation 8, Rule 49.
- Building materials with visible signs of water damage shall not be installed. Wall and floor framing shall not be enclosed when the framing members exceed 19% moisture content. Moisture content shall be verified in compliance with the following: (1) Moisture content shall be determined with either a probe-type or contact-type moisture meter. Equivalent moisture verification methods may be approved by the enforcing agency and shall satisfy requirements found in Section 1011.8 of this code. (2) Moisture readings shall be taken at a point 2 feet (610 mm) to 4 feet (1219 mm) from the grade stamped end of each piece to be verified. (3) At least three random moisture readings shall be performed on wall and floor framing with documentation acceptable to the enforcing agency provided at the time of approval to enclose the wall and floor framing. Insulation products which are visibly wet or have a high moisture content shall be replaced or allowed to dry prior to enclosure in wall or floor cavities. Manufacturers' drying recommendations shall be followed for wet-applied insulation products prior to enclosure.
- When req'd by the enforcing agency, independent special inspectors shall be employed to provide inspections or other duties necessary to substantiate compliance with this code. Special inspectors shall have a certification recognized by the enforcing agency and closely related to the primary job function, as determined by the enforcing agency. Documentation used to show compliance with this code may be in the form of drawings, specifications, construction documents, builder or installer certification, inspection reports, or other methods acceptable to the enforcing agency which demonstrate substantial conformance. When specific documentation or special inspection is necessary to verify compliance, that method of compliance will be specified in the appropriate section or identified in the application checklist.

**DRAWING INDEX**

| SHEET | TITLE                                                        | SUBMISSION & DATE |
|-------|--------------------------------------------------------------|-------------------|
| A0.0  | COVER SHEET                                                  | X                 |
| AC.0  | SURVEY                                                       | X                 |
| A1.1  | SITE PLAN                                                    | X                 |
| A2.0  | FLOOR PLANS                                                  | X                 |
| A3.0  | EXISTING EXTERIOR ELEVATIONS                                 | X                 |
| A3.1  | NEW EXTERIOR ELEVATIONS                                      | X                 |
| A3.2  | BUILDING SECTIONS                                            | X                 |
|       | SHADOW STUDIES PAGES 1.0, 1.1, 1.2, 2.0, 2.1, 2.2 PER REV. 6 | X                 |

**PROJECT INFORMATION**

**PROJECT ADDRESS** 1533 Beverly Place, Berkeley CA 94706  
**ASSESSOR'S PARCEL** 061 262902400  
**OCCUPANCY** R3  
**ZONING AREA** R1  
**CONSTRUCTION TYPE** VB  
**PROJECT DESCRIPTION** Remodel of (e) 1212 s.l. residence to include: Second story addition of 1016 s.l. to include stair, 2 bedrooms, 2 bathrooms, 2 walk-in-closets, 1 study and a terrace. Replacement of (e) entry steps, porch, and porch roof. Removal of (e) hot water heater shed @ side of house. Kitchen and Bathroom remodel. Removal of cover over (e) patio in Rear Yard. Miscellaneous patch & repair throughout the house.

DESIGN REVISION, MAY 2019:  
 WE PROPOSE TO LOWER THE HOUSE APPROXIMATELY 24" (AT ROOF EAVES) AND HAVE A FLAT ROOF IN LIEU OF 4/12 SLOPED ROOF TO OPEN VIEWS AND DECREASE SHADOWS ON NEIGHBORING PROPERTIES.

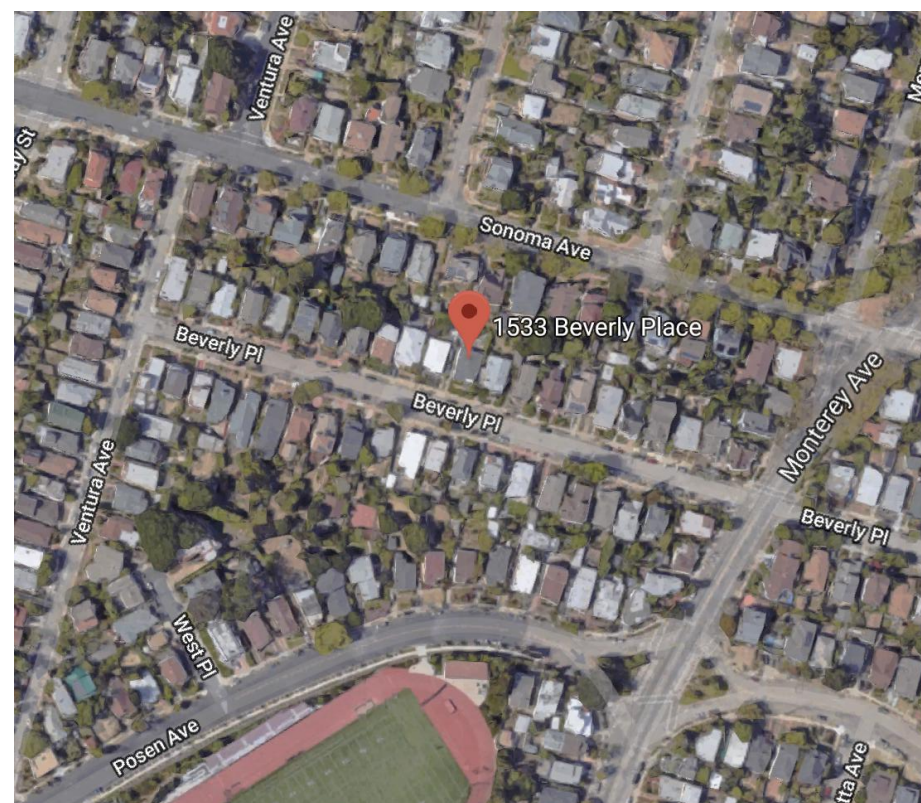
**PROJECT DIRECTORY**

|                   |                                                                                                                                                                                                            |
|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>OWNER</b>      | <b>JOHN AND BRYN SMALLWOOD-GARCIA</b><br>1533 Beverly Place<br>Berkeley, CA 94706<br>John:<br>(510) 847-5414<br>smallwood_garcia@hotmail.com<br>Bryn:<br>(203) 546-8307<br>bryn@ucbb.org                   |
| <b>ARCHITECT</b>  | <b>EISENMANN ARCHITECTURE</b><br>Project Architect: Stacy Eisenmann<br>Project Manager: Aska Wieloch-Kim<br>1331 7th Street Suite G<br>Berkeley CA 94710<br>510 558 8442<br>aska@eisenmannarchitecture.com |
| <b>ENGINEER</b>   | <b>VERDANT STRUCTURAL ENGINEERS</b><br>1101 8TH STREET #180<br>BERKELEY, CA 94710<br>(510) 528-5394<br>www.verdanstructural.com                                                                            |
| <b>CONTRACTOR</b> | <b>TBD</b>                                                                                                                                                                                                 |

**TABULATION**

|                                        | EXISTING   | PROPOSED   | REQUIRED/PERMITTED |
|----------------------------------------|------------|------------|--------------------|
| <b>UNITS, PARKING SPACES, BEDROOMS</b> |            |            |                    |
| NUMBER OF DWELLINGS                    | 1          | 1          | 1                  |
| NUMBER OF PARKING SPACES               | 1          | 1          | 1                  |
| NUMBER OF BEDROOMS                     | 3          | 5          | -                  |
| <b>YARD SETBACKS</b>                   |            |            |                    |
| FRONT                                  | 18.2'      | 18.2'      | 20.0'              |
| SIDE (FACING PROPERTY); LEFT           | 9.6'       | 9.6'       | 4.0'               |
| SIDE (FACING PROPERTY); RIGHT          | 4.0'       | 4.0'       | 4.0'               |
| REAR                                   | 34.9'      | 34.9'      | 20.0'              |
| <b>BUILDING HEIGHT</b>                 |            |            |                    |
| NUMBER OF STORIES                      | 2          | 3          | 3                  |
| AVERAGE BLDG. HEIGHT                   | 17'-2 3/4" | 23'-7 1/2" | 28'-0"             |
| MAXIMUM BLDG. HEIGHT                   | 15'-11"    | n/a        | n/a                |
| <b>AREAS</b>                           |            |            |                    |
| LOT AREA                               | 4,200 SF   | 4,200 SF   | 4,200 SF           |
| GROSS FLOOR AREA                       | 1,212 SF   | 2,247 SF   | N/A                |
| BUILDING FOOTPRINT                     | 1,757 SF   | 1,657 SF   | 1,680 SF           |
| LOT COVERAGE                           | 41.83%     | 39.45%     | 40%                |
| USABLE OPEN SPACE                      | 855 SF     | 935 SF     | 400 SF             |

**VICINITY MAP**



**GREEN BUILDING NOTES**

- This project is required to conform to the residential Calgreen standards.
  - Project to achieve voluntary green building measures wherever feasible.
  - All work to comply with California Energy Code (title 24-part 6). See c2r-iii-01-e for kitchen lighting energy compliance forms. Project also to comply with all municipal green building standards where applicable.
- Voluntary Green Measures
- Pollutant control: Adhesives, sealants, caulks, paints, stains and other coatings, carpet and carpet systems shall be compliant with VOC limits. GC to provide documentation that confirms VOC compliance.
  - Aerosol paints and coatings shall be compliant with product weighted MIR limits for VOC and other toxic compounds.
  - Hardwood plywood, particleboard, and medium density fiberboard composite wood products used on the interior or exterior of the building shall comply with low formaldehyde emission standards as specified in the air resources board's air toxics control measure for composite wood (17 CCR 93120 et. seq.), as shown in table 4.504.5. Documentation is req'd per section 4.504.5.1. Composite wood products do not include hardwood, structural plywood, structural panels, structural composite lumber, oriented strand board, glued laminated timber, pre-laminated wood joists, or finger-jointed poplar, as specified in CCR title 17, Section 93120.1 (a).
  - Moisture content of building materials used in wall and floor framing shall be checked before enclosure.
    - Roof: R-30
    - Floor above crawlspace: R-19
    - Walls: R-15
    - Hot water pipes: R-3

architect

contact **STACY EISENMANN**

address 1331 7th Street Suite G  
Berkeley CA 94710

phone 510 558 8442

email stacy@eisenmannarchitecture.com

stamp

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project

**SMALLWOOD - GARCIA**

contacts **JOHN AND BRYN SMALLWOOD-GARCIA**

address 1533 BEVERLY PLACE  
BERKELEY CA 94706

phone 510.847.5414  
203.546.8307

email smallwood\_garcia@hotmail.com  
bryn@ucbb.org

ISSUE

|                     |          |
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| 4 PLANNING REV 4    | 12.12.18 |
| 5 DESIGN REVISION 1 | 22.05.19 |
| 6 SHADOW STUDIES    | 06.27.19 |
| 7 DESIGN REVISION 2 | 06.10.20 |

job number 385

drawn by AWK

scale

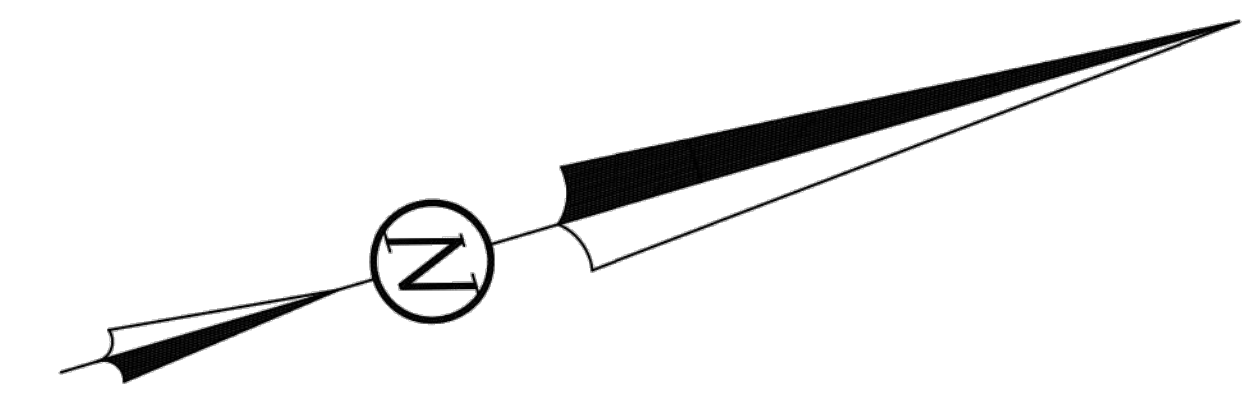
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date 06.04.2020

title COVER SHEET

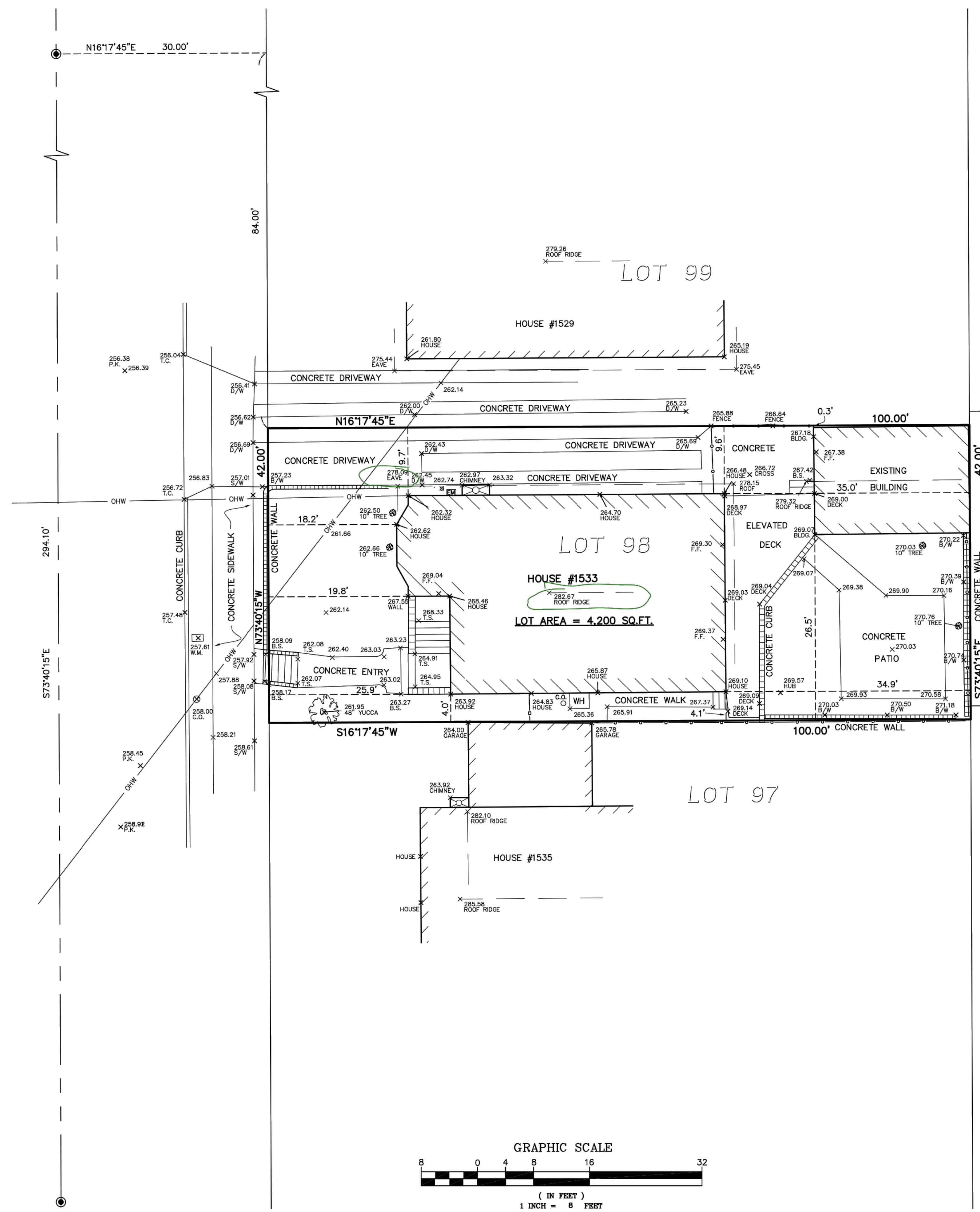
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ELEVATIONS ARE BASED ON CITY OF BERKELEY DATUM.

BEVERLY PLACE (60' WIDE)



LOT 11

NORTHBRAE (22 M 65)

BLOCK 16

LOT 10

LOT 9

LEGEND

- A/C ASPHALT/CONCRETE
- BLDG. BUILDING
- B.S. BASE OF STEPS
- B/W BASE OF WALL
- C.O. CLEAN OUT
- D/W DRIVEWAY
- EM ELECTRIC METER
- F.F. FINISH FLOOR
- OHW OVERHEAD WIRES
- P.K. NAIL
- S/W SIDEWALK
- T.C. TOP OF CURB
- T.S. TOP OF STEPS
- WH WATER HEATER
- W.M. WATER METER
- FOUND CITY MONUMENT

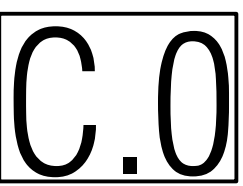
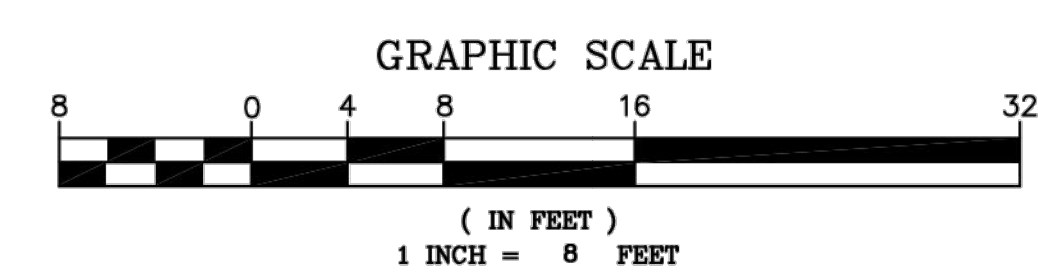
# HOUSE LOCATION SURVEY

LOT 98, BLOCK 30,  
 RE-SUBDIVISION MAP OF PERALTA PARK (15 M 4)  
 LOCATED AT 1533 BEVERLY PLACE  
 CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA  
 MARCH, 2018 SCALE: 1" = 8'

**MORAN ENGINEERING, INC.**

CIVIL ENGINEERS \ LAND SURVEYORS  
 1930 SHATTUCK AVENUE, SUITE A  
 BERKELEY, CALIFORNIA 94704  
 (510) 848-1930

F.B. NO. 1659 BEVERLY-TOPO.DWG JOB NO. 18-9874

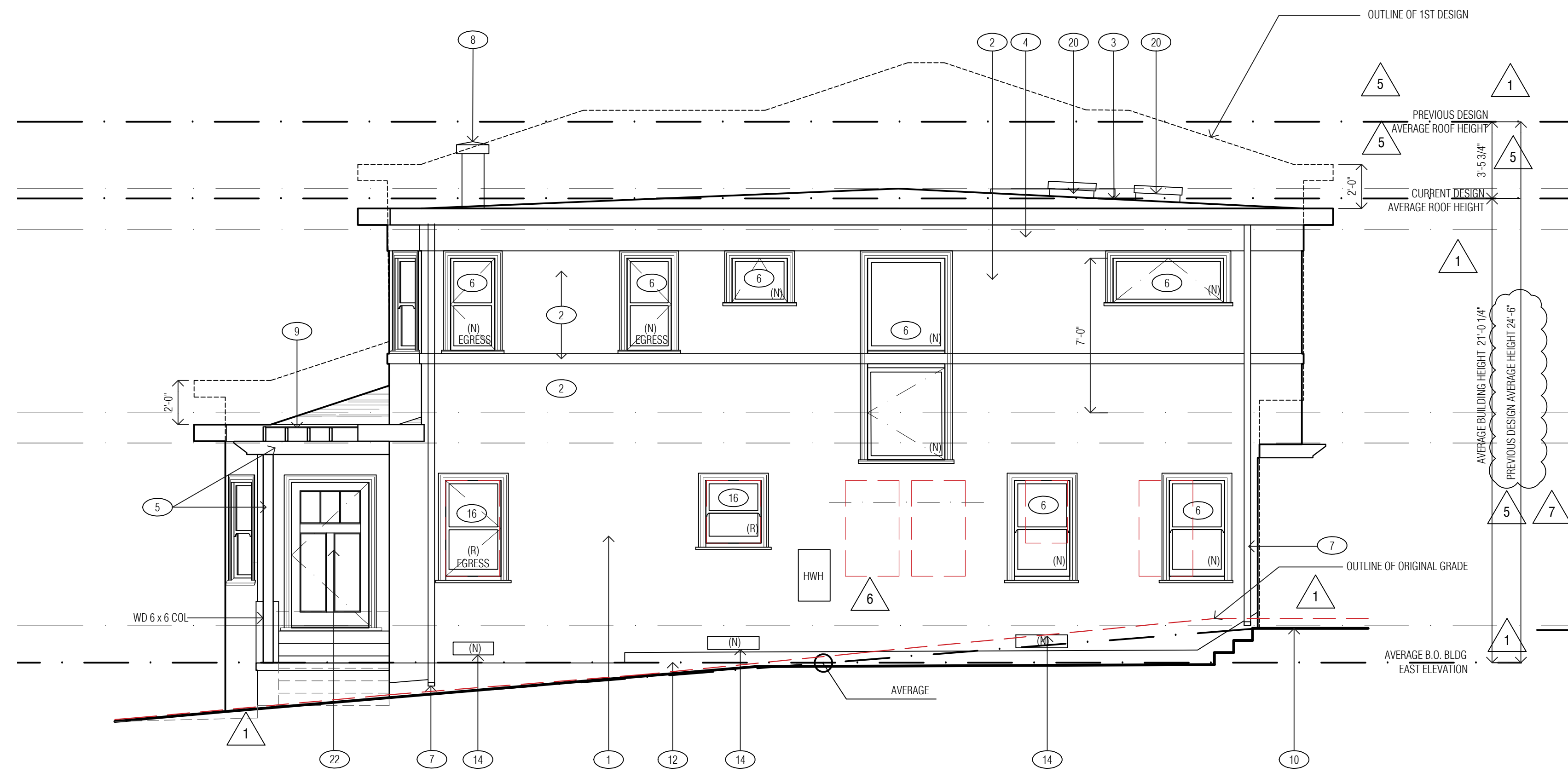




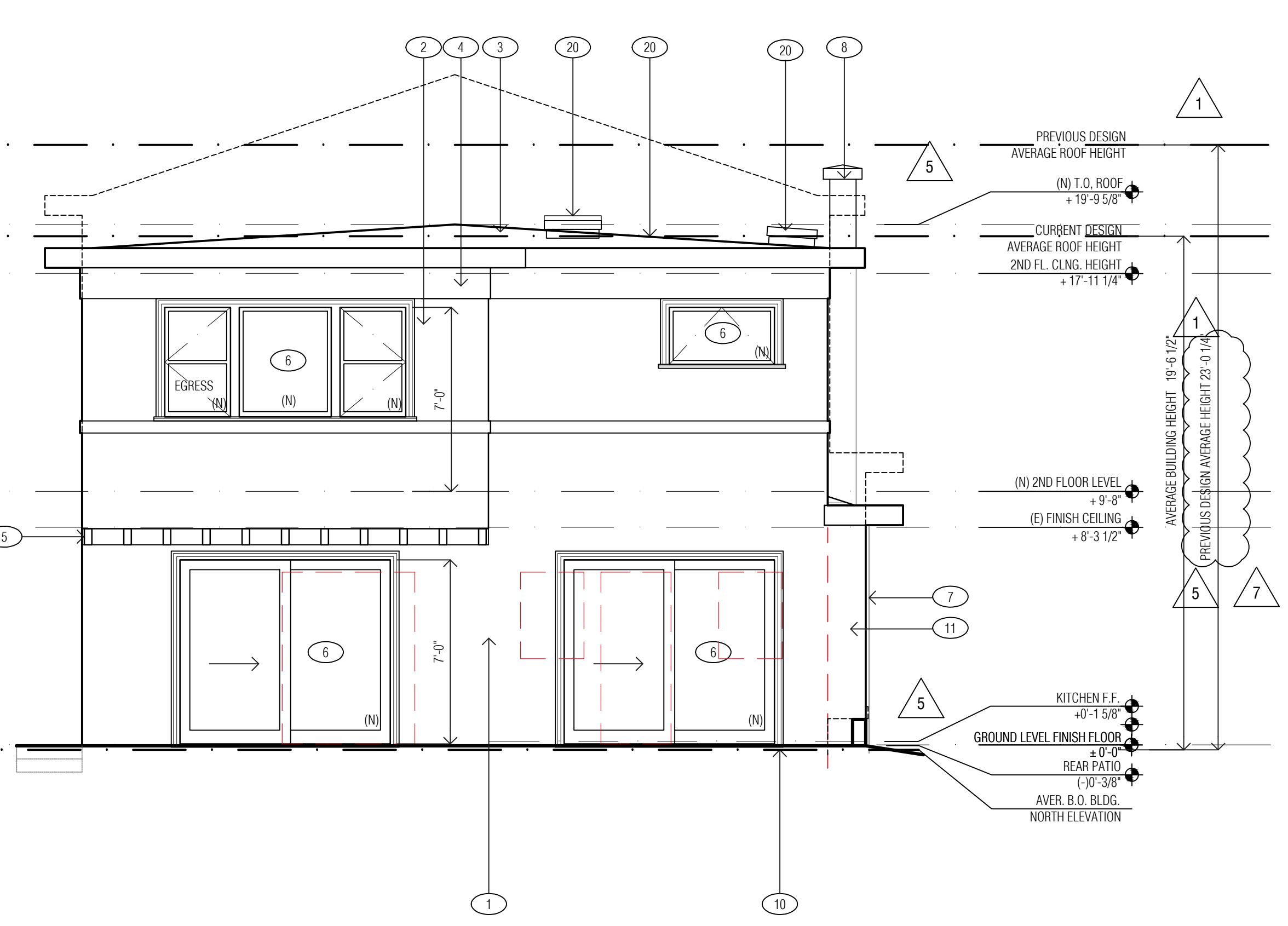




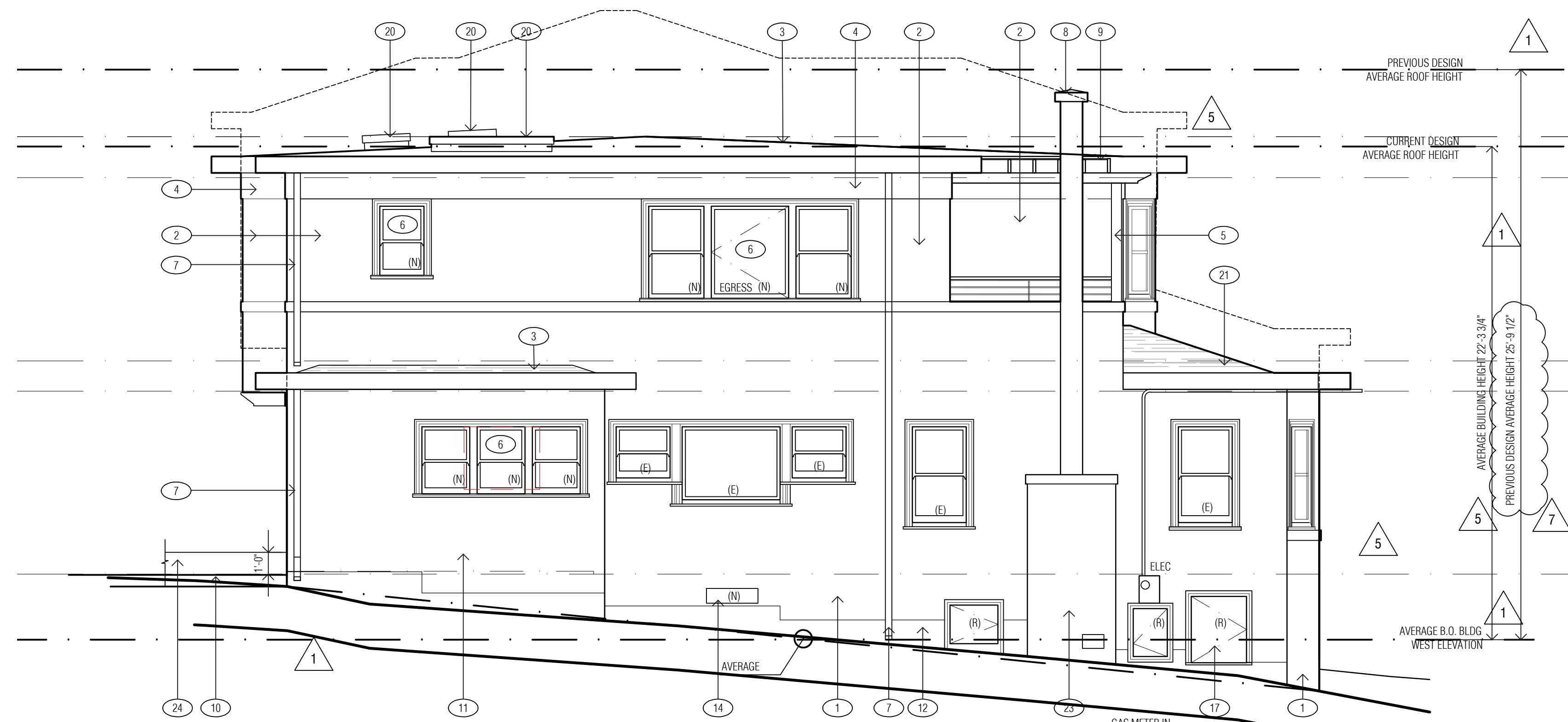
architect  
 contact STACY EISENMANN  
 address 1331 7th Street Suite G Berkeley CA 94710  
 phone 510 558 8442  
 email stacy@eisenmannarchitecture.com  
 stamp



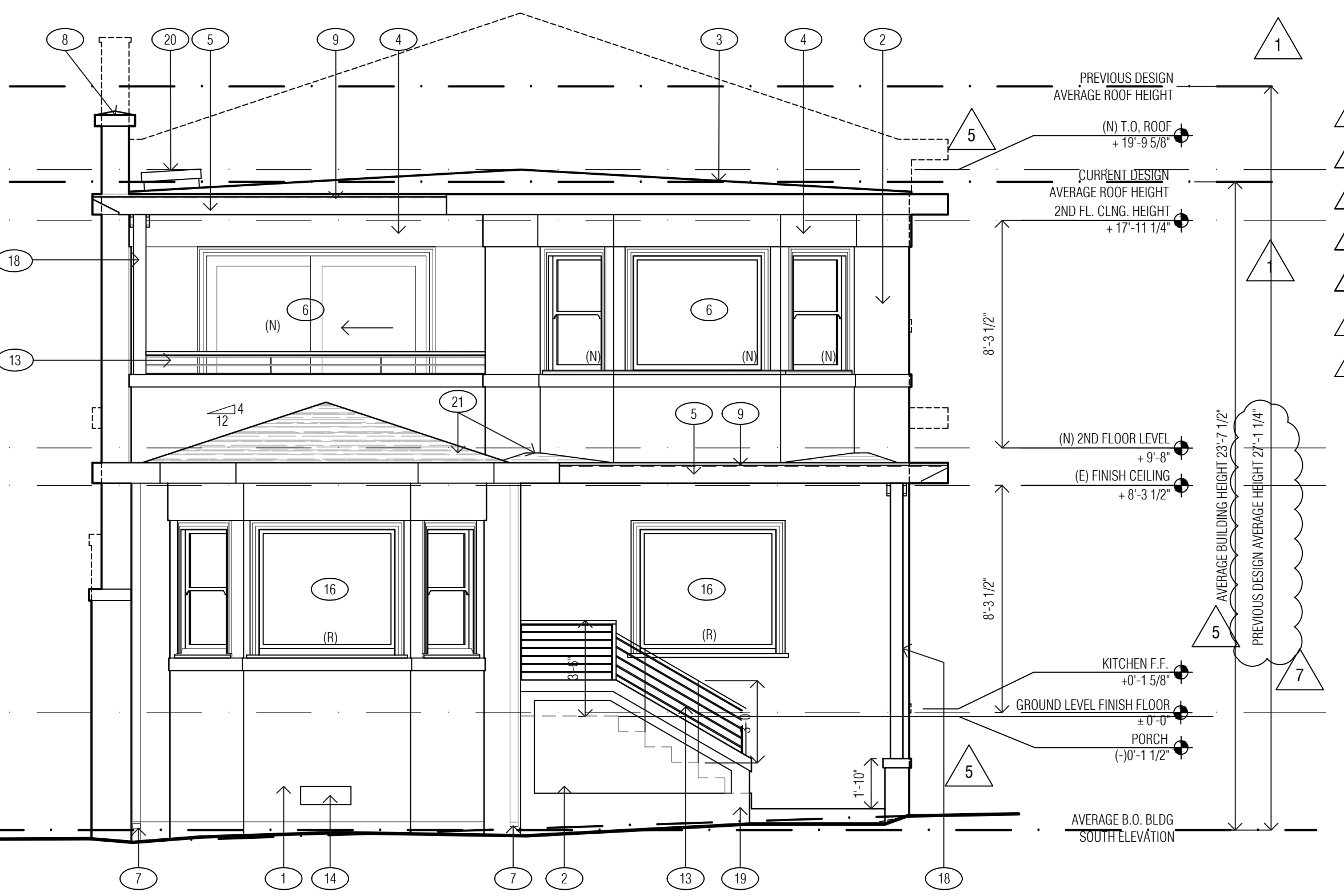
4 PROPOSED EAST ELEVATION



3 PROPOSED NORTH ELEVATION



2 PROPOSED WEST ELEVATION



1 PROPOSED SOUTH ELEVATION

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project  
**SMALLWOOD - GARCIA**  
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 address 1533 BEVERLY PLACE BERKELEY CA 94706  
 phone 510.847.5414 203.546.8307  
 email smallwood\_garcia@hotmail.com bryn@uccb.org

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job number 385  
 drawn by AWK  
 scale 1/4" = 1'-0"  
 date 06.04.2020

title sheet number  
 NEW ELEVATIONS

| KEY NOTES                                                                           |                                                                               |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| 1 (E) STUCCO, PATCH / (N) PAINT                                                     | 7 (N) ALUMINUM DOWNSPOUTS / PAINTED                                           |
| 2 (N) STUCCO - 3 COAT SYSTEM / PRIMED & (2) COATS OF ELASTOMERIC PAINT / COLOR TBD. | 8 (N) METAL CHIMNEY FLUE / PAINTED                                            |
| 3 LOW SLOPE ROOF (1/4" PER FOOT) WITH CONTINUOUS MEMBRANE ROOFING MATERIAL          | 9 TRANSLUCENT POLYCARBONATE SHEET MAT'L OVER WD TRELLIS MIN SLOPE 1/4" PER FT |
| 4 EXTERIOR GRADE WOOD / PRIMED & (2) COATS OF PAINT                                 | 10 (N) PATIO ON GRADE                                                         |
| 5 RED CEDAR / (2) COATS OF WATER BASED EXTERIOR SEALANT & CLEAR COAT                | 11 (N) KITCHEN BUMP-OUT                                                       |
| 6 WOOD/CLAD WINDOW OR SLIDING DOOR                                                  | 12 CONCRETE FOUNDATION                                                        |
|                                                                                     | 13 METAL RAILING W/ WOOD CAP                                                  |
|                                                                                     | 14 VENT                                                                       |
|                                                                                     | 15 DELETED                                                                    |
|                                                                                     | 16 WOOD / CLAD WINDOW (IN KIND REPLACEMENT)                                   |
|                                                                                     | 17 CRAWL SPACE ACCESS                                                         |
|                                                                                     | 18 WOOD 6 x 6 COLUMN                                                          |
|                                                                                     | 19 REBUILD(E) PORCH WALLS, STEPS, LANDINGS                                    |
|                                                                                     | 20 SKYLIGHT MOUNTED ON CURB (8.5' TOTAL HEIGHT)                               |
|                                                                                     | 21 ASPHALT SHINGLE ROOFING @ 4/12' SLOPED ROOF                                |
|                                                                                     | 22 (N) WD ENTRY DOOR                                                          |
|                                                                                     | 23 (E) FIREBOX                                                                |
|                                                                                     | 24 (N) RETAINING WALL                                                         |

A3.1



contact STACY EISENMANN  
address 1331 7th Street Suite G Berkeley CA 94710  
phone 510 558 8442  
email stacy@eisenmannarchitecture.com  
stamp

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project

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job number drawn by

385 AWK

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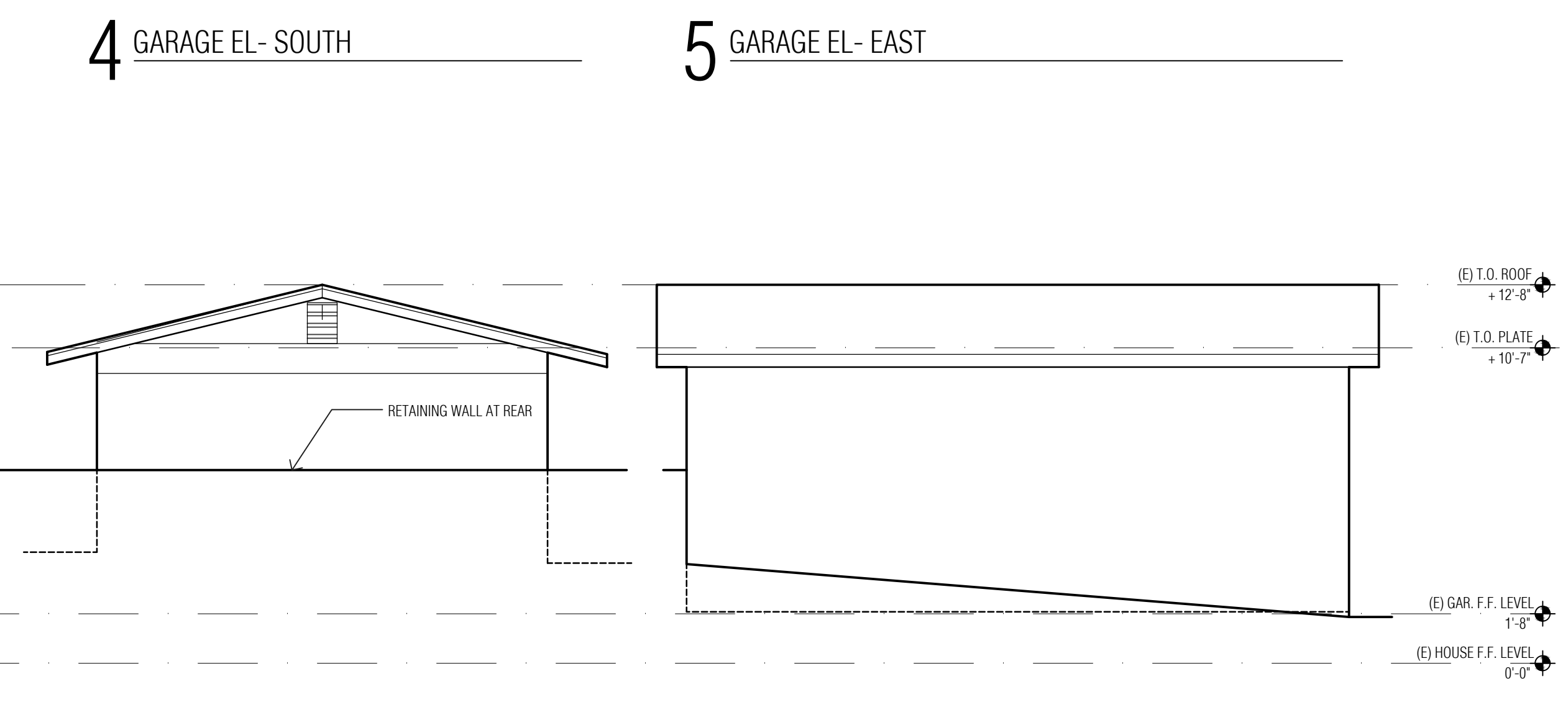
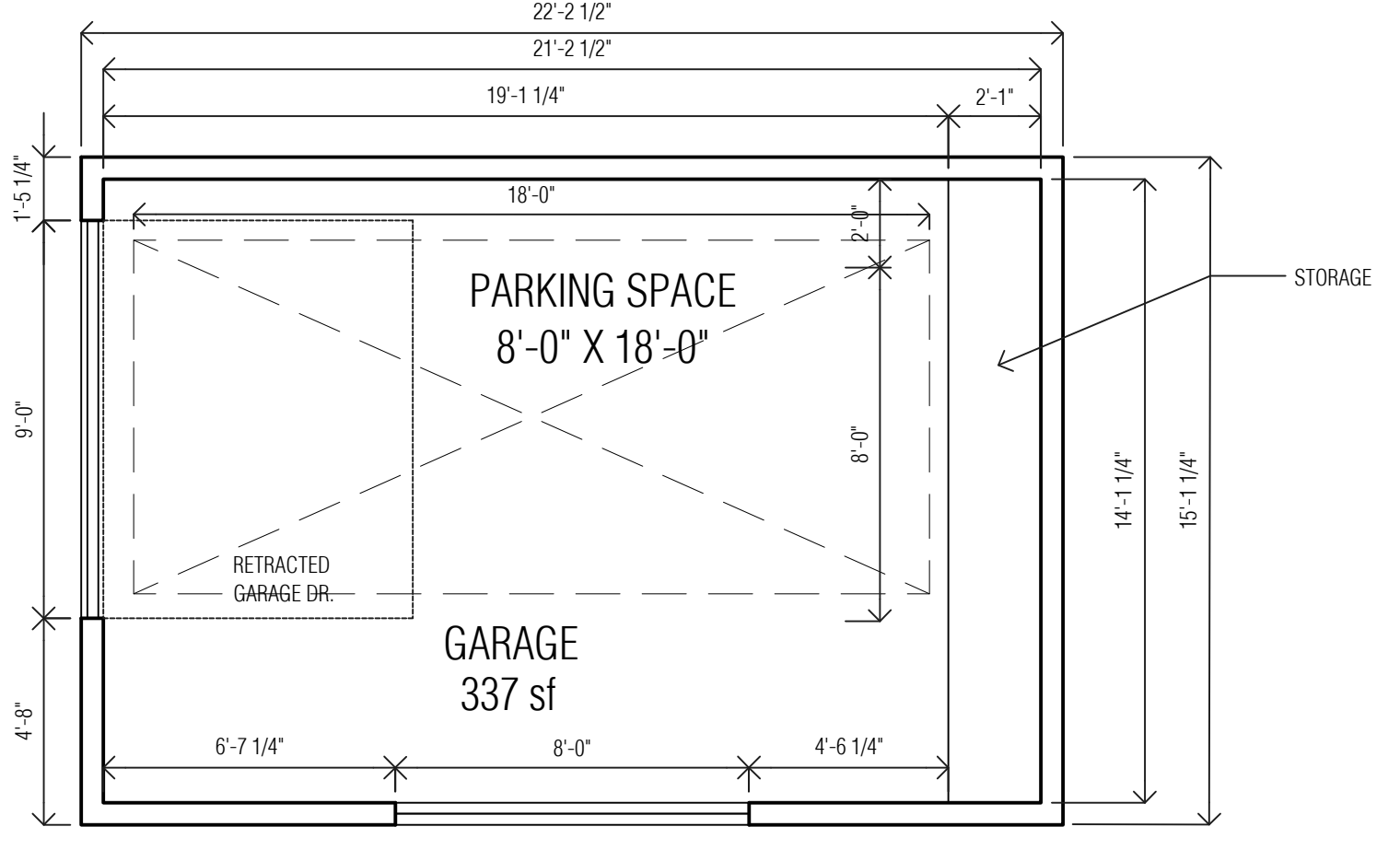
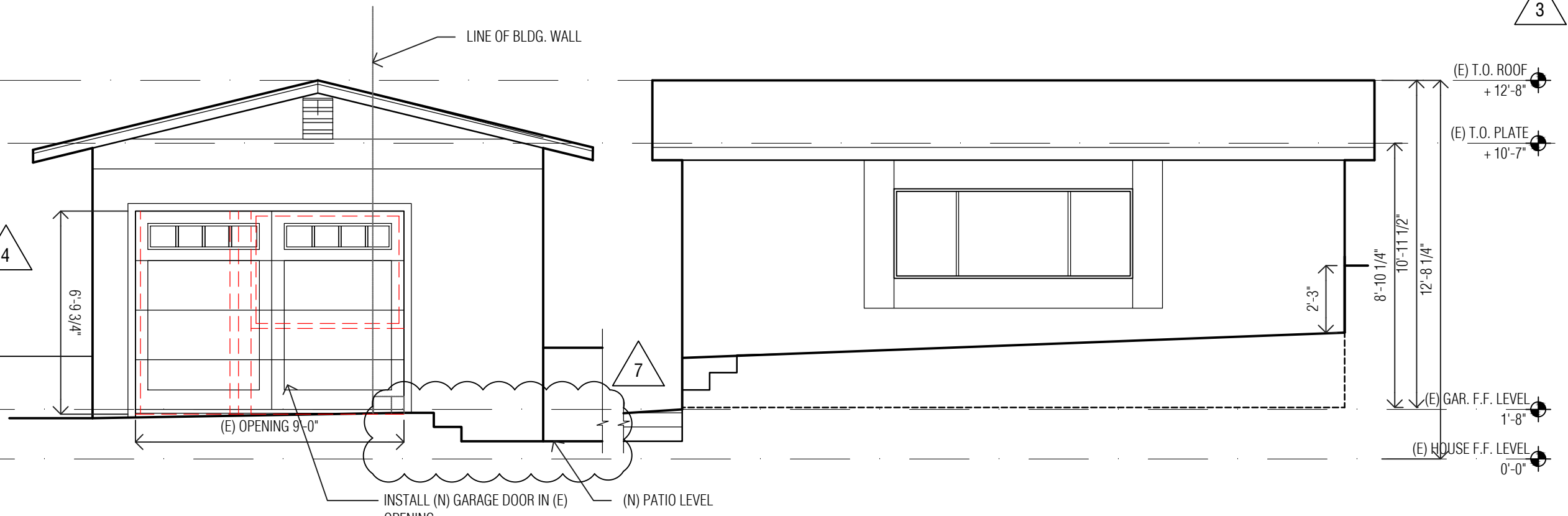
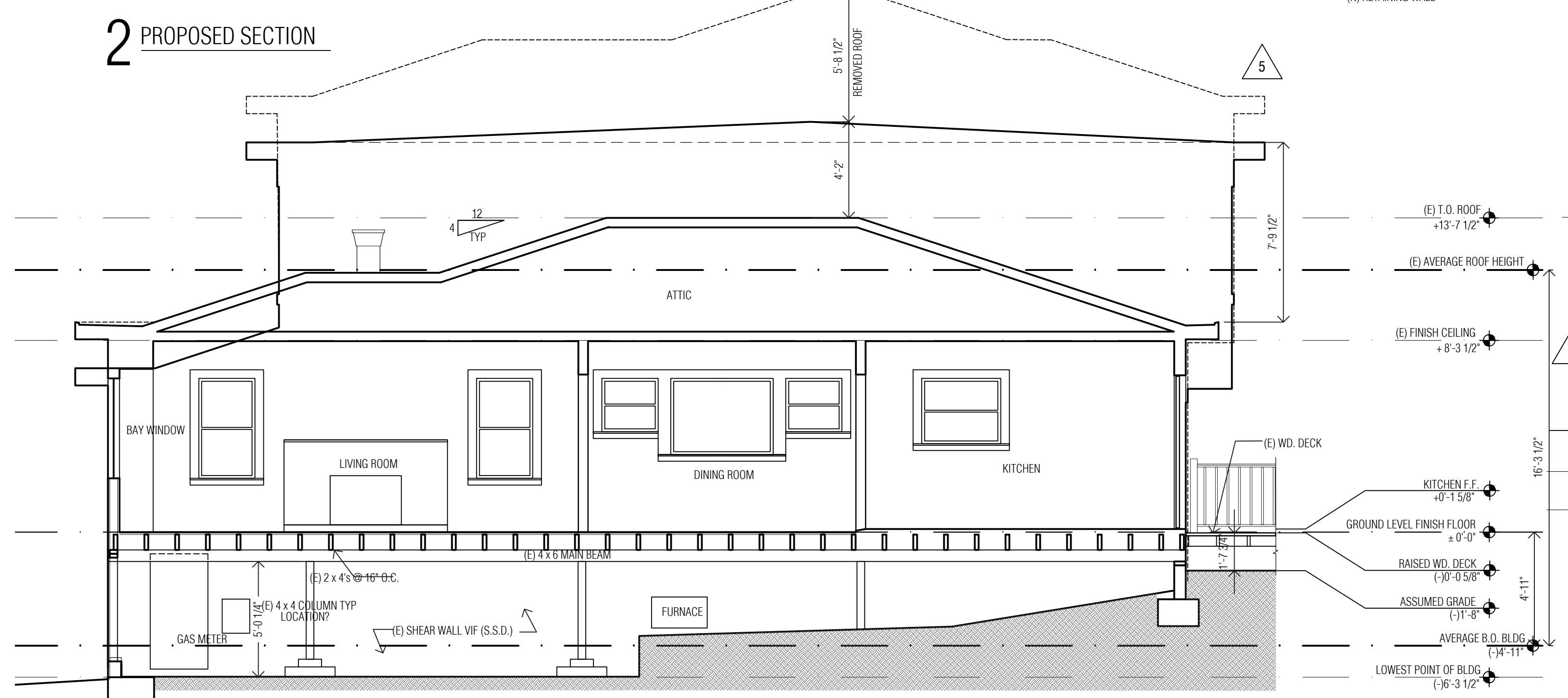
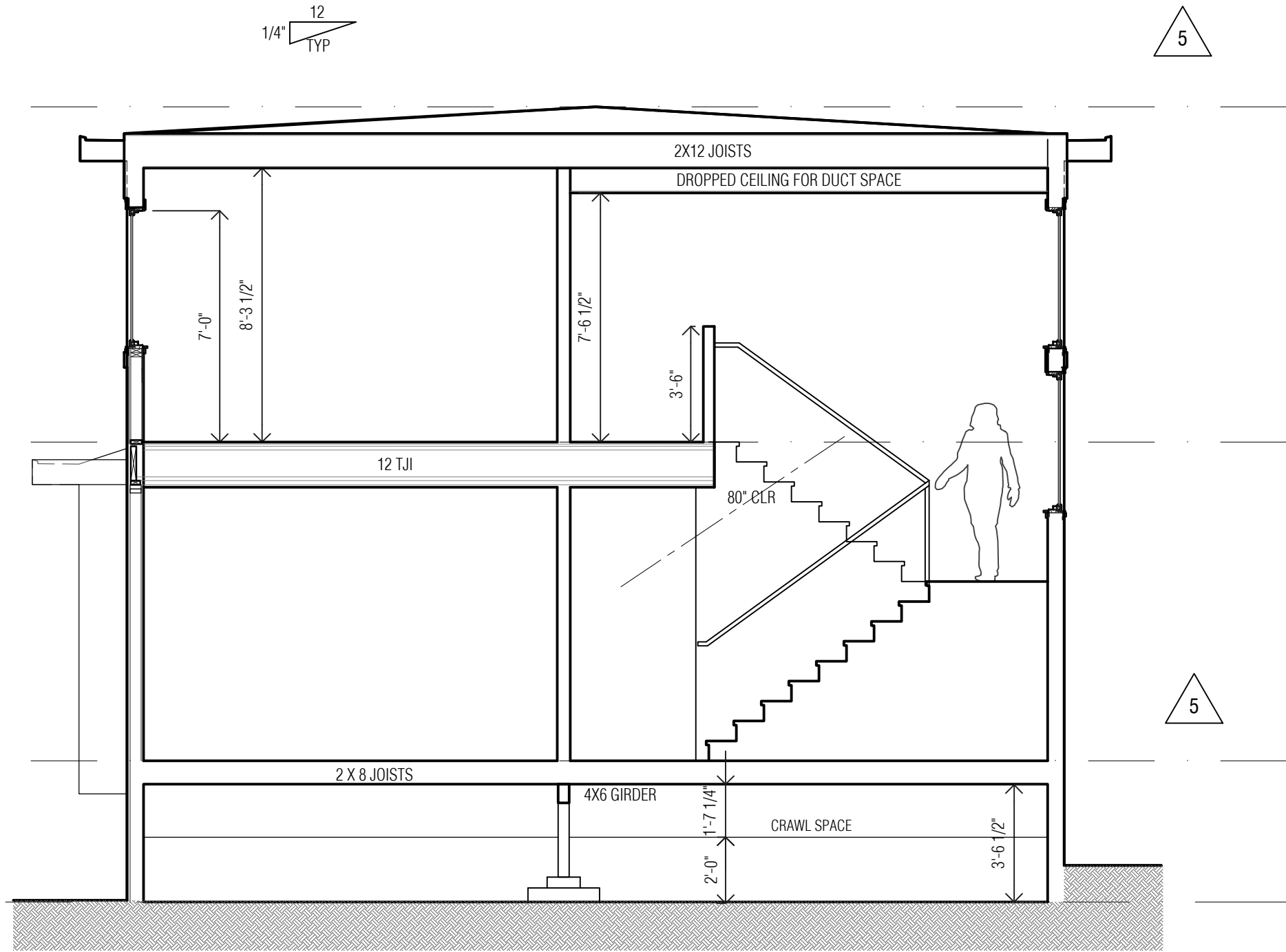
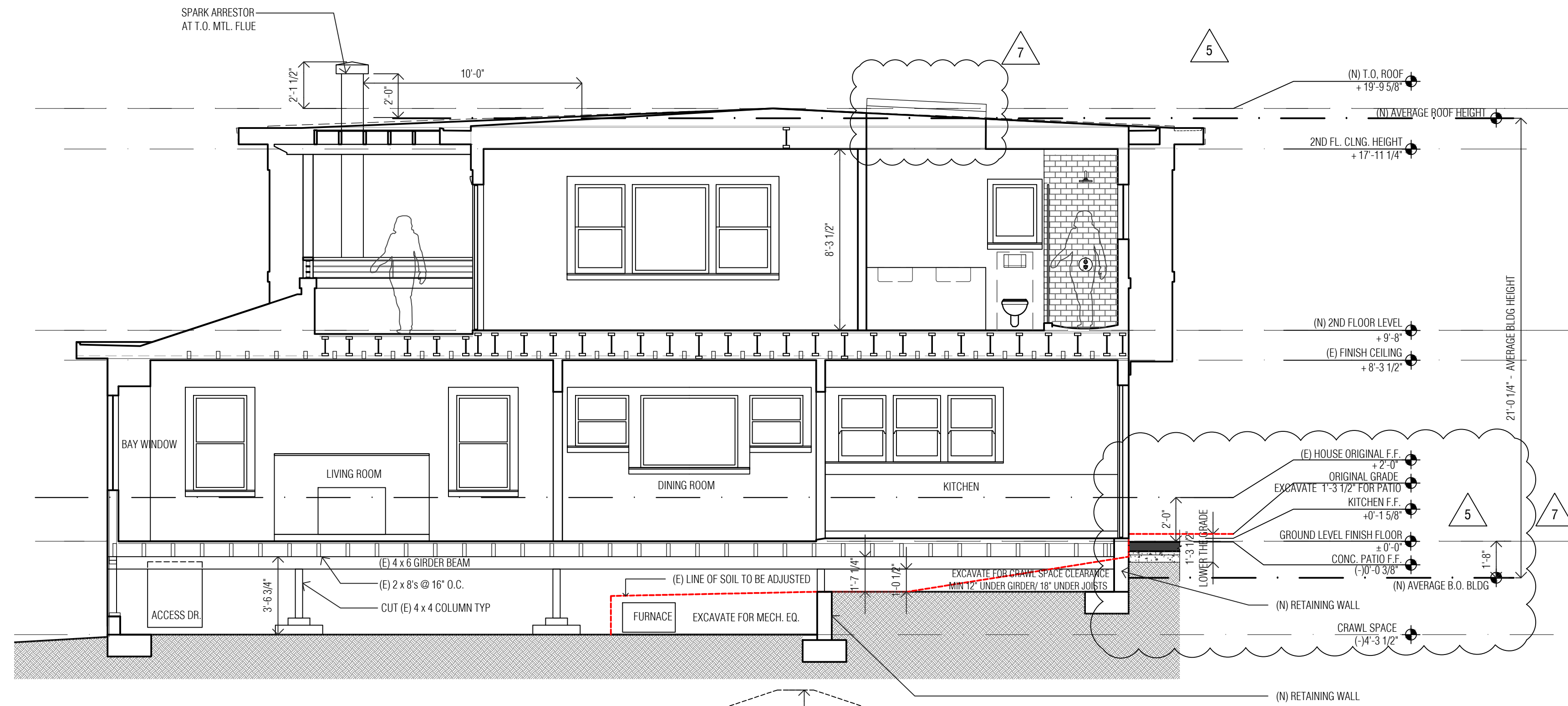
1/4" = 1'-0"

date

06.04.2020

title sheet number

SECTIONS





EISENMANN  
Architecture

1331 7<sup>th</sup> Street, Berkeley CA 94710

T 510.558.8442

E [info@eisenmannarchitecture.com](mailto:info@eisenmannarchitecture.com)

W [www.eisenmannarchitecture.com](http://www.eisenmannarchitecture.com)

A California Corporation

**1533 BEVERLY PLACE**

**STORY POLES**

**MAY 4, 2020**









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A California Corporation

**SUBJECT:** STORY POLES AT 1533 BEVERLY PLACE

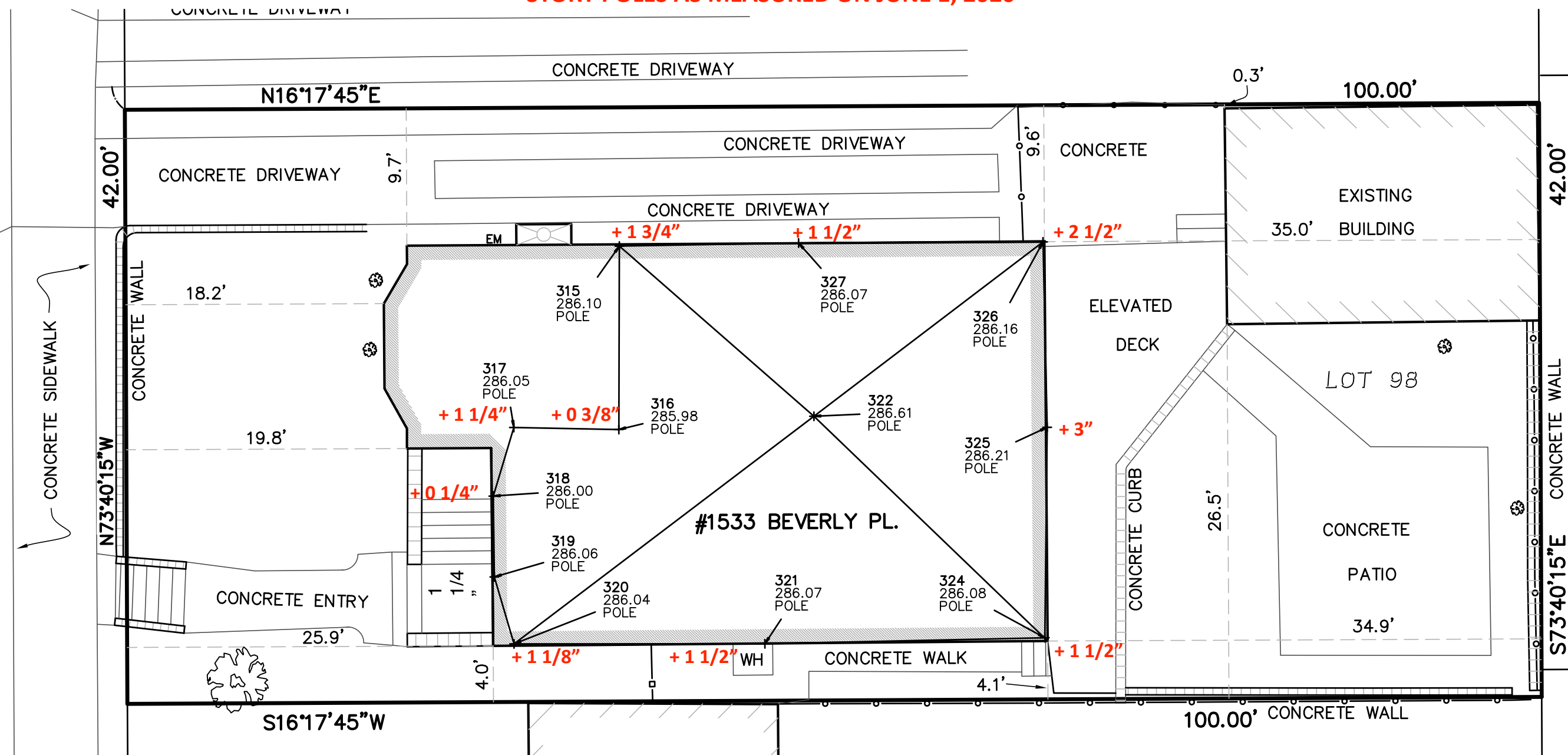
**DATE:** JUNE 10, 2020  
**PROJECT:** 1533 BEVERLY PLACE

#### TIMELINE

- SEPTEMBER 2018 ORIGINAL STORY POLES WERE ERECTED AND CERTIFIED BY SURVEYOR FOR THE FIRST DESIGN (HOUSE AT CURRENT MAIN FLOOR LEVEL WITH A SECOND STORY ADDITION AND HIP ROOF).
- MAY 2019 DESIGN WAS ALTERED TO SHOW THE CURRENT HOUSE BEING LOWERED BY 2'-0" AND ADDITION OF A SECOND STORY WITH A FLAT ROOF. NEW TAPE WAS INSTALLED TO SHOW THE REDUCTION IN HEIGHT OVER THE ORIGINAL STORY POLES.
- MAY 2020 THE STORY POLES' HEIGHTS WERE REDUCED TO SHOW THE DESIGN APPROVED BY ZAB, WITH THE PLANNING DEPARTMENT'S APPROVAL.
- JUNE 2020 STORY POLES WERE CERTIFIED BY THE SAME SURVEYOR. THE CERTIFICATION SHOWS THAT THE POLES ARE NOMINALLY TALLER THAN THE INTENDED HEIGHT OF THE BUILDING (0 1/4" - 3"). THIS IS WITHIN INDUSTRY STANDARDS FOR STORY POLES HEIGHTS. IT WAS DECIDED NOT TO ADJUSTE THE POLES BY THIS SMALL AMOUNT, HOWEVER THE HOUSE WILL BE CONSTRUCTED TO THE HEIGHT APPROVED BY PLANNING AND ZAB, AND CONFIRMD BY SURVEY.

**STORY POLES AS MEASURED ON JUNE 1, 2020**

**BEVERLY PLACE (60' WIDE)**



**THE SURVEY INDICATES THAT THE STORY POLES ARE NOMINALLY HIGHER THAN THE PROPOSED DESIGN. THE OVERAGE IS INDICATED BY RED NUMBERS. THE FINAL CONSTRUCTION IS REQUIRED TO BE CONFIRMED BY SURVEY**

**STORY POLE WORKSHEET**

LOCATED AT 1533 BEVERLY PLACE  
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA

JUNE 1, 2020

SCALE: 1" = 8'

**MORAN ENGINEERING, INC.**

CIVIL ENGINEERS \ LAND SURVEYORS  
1930 SHATTUCK AVENUE, SUITE A  
BERKELEY, CALIFORNIA 94704  
(510) 848-1930

F.B. NO. 1659

BEVERLY-STORY 2020.DWG

JOB NO. 18-9874


GRAPHIC SCALE



( IN FEET )  
1 INCH = 8 FEET



Two-Story Dwellings (2-S) within the Vicinity of 1533 Beverly Place



Administrative Record  
ZAB Appeal:  
1533 Beverly Place  
Administrative  
Use Permit #ZP2018-0153

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

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

or from:

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



**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL  
BERKELEY UNIFIED SCHOOL DISTRICT BOARD ROOM,  
1231 ADDISON STREET  
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

**ZAB APPEAL: ADMINISTRATIVE USE PERMIT #ZP2018-0153, 1533 BEVERLY PLACE**

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY JULY 14, 2020 at 6:00 P.M.** a public hearing will be conducted to consider an appeal of a decision by the Zoning Adjustments Board to approve Administrative Use Permit #2018-0153, to enlarge an existing 1,212 sq. ft., one-story single-family dwelling with a non-conforming front setback on a 4,200 sq. ft. lot by: 1) adding a 1,035 sq. ft. addition, including a new second story, with an average height of 23 ft.-7 ½ in., and 2) adding a fifth bedroom.

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 **JULY 2, 2020**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Allison Riemer, Project Planner at (510) 981-7433. Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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

---

Mark Numainville, City Clerk

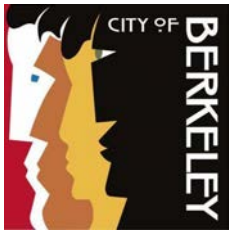
Mailed: June 30, 2020

**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*

**ATTACHMENT 10**

*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.*



Councilmember Ben Bartlett  
City of Berkeley, District 3

## EMERGENCY ITEM AGENDA MATERIAL

**Meeting date:** June 16, 2020  
**Item Description:** Safety for All: The George Floyd Community Safety Act - Budget Request to Hire a Consultant to Perform Police Call and Response Data Analysis  
**Submitted by:** Councilmember Ben Bartlett (Author), Mayor Jesse Arreguin, and Councilmembers Kate Harrison (Co-Sponsor)

### Rationale:

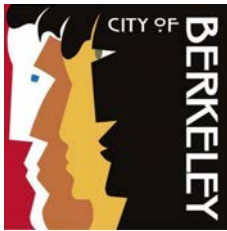
Pursuant to California Government Code Section 54954.2(b) (2), Councilmember Ben Bartlett submits the attached item to the City Council for placement on the June 16, 2020 meeting agenda. Gov. Code Section 54954.2(b) (2) states that “Upon a determination by a two-thirds vote of the members of a legislative body presents at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).”

This item meets the criteria for “immediate action” as follows:

- 1) The budget is being considered and there is public outcry for Council to take action.
- 2) Racism Is a Public Health Emergency.
- 3) Council is considering numerous police items right now.

Hundreds of thousands of people in every state have marched in solidarity to call for an end to police brutality, to demand police accountability, and to reform law enforcement, bringing justice to the Black lives and people of color who have been wrongfully harmed at the hands of the criminal justice system. Police brutality has taken the lives of 46-year-old Black man George Floyd, 26-year-old Black woman Breonna Taylor, and countless other people of color. Often resorting to violent means of punishment, police officers are not trained to handle noncriminal and nonviolent situations. Unfortunately, the lack of sufficient data and reporting has allowed police misconduct to be swept under the rug, which has increased police militarization, failed to prioritize community safety, and prevented providing the civilian with the necessary treatment to resolve the situation.

To respond to urgent calls for police transparency and accountability, this item requests the City Manager to hire third-party consultants to conduct a data-driven analysis of the Berkeley Police Department’s calls, responses, budget, and expenditures to determine which calls can be serviced to non-law enforcement agencies, ensuring noncriminal and nonviolent situations are properly handled by trained community professionals.



Councilmember Ben Bartlett  
City of Berkeley, District 3

ACTION CALENDAR

July 14, 2020

*(Continued from June 16, 2020)*

To: Honorable Mayor and Members of the City Council  
From: Councilmember Ben Bartlett (Author), Mayor Jesse Arreguin, and  
Councilmembers Kate Harrison (Co-Sponsor)  
Subject: Safety for All: The George Floyd Community Safety Act - Budget Request to  
Hire a Consultant to Perform Police Call and Response Data Analysis

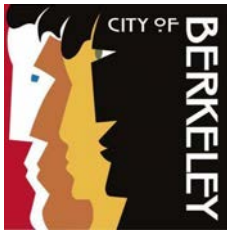
RECOMMENDATION:

1. Refer to the Thursday, 6/18/2020 Budget & Finance Policy Committee and the FY 2020-21 Budget Process the \$150,000 to
  - a. Hire a consultant to conduct a data-driven analysis of police calls and responses to determine the quantity and proportion of these calls that can be responded to by non-police services. The third-party consultant must be hired and engaged in work within three months of the item's passage.
  - b. Hire a consultant to conduct an analysis of the Berkeley Police Department's budget and its expenditures by call type. The third-party consultant must be hired and engaged in work within three months of the item's passage.
2. Direct the City Manager to:
  - a. Implement initiatives and reforms that reduce the footprint of the police department and limit the police's response to violent and criminal service calls.

CURRENT SITUATION

In all 50 states and more than 145 cities, Americans are calling to end police violence and brutality, to legitimize police accountability, and to transform the police system to protect the safety of communities and people of color. Police violence and brutality led to the death of a 46-year-old Black man George Floyd and the murders of other Black people, igniting a flame that has been brewing for a long time. These events of police violence gave rise to a wave of demonstrations and demands for change, including many in the City of Berkeley.

Due to the Coronavirus pandemic, the City of Berkeley is facing a nearly 30+ million dollar budget deficit, sharply stalling economic growth with effects that parallel the Great Depression. At the same time, the City is projected to undergo an increase in people experiencing homelessness, trauma, and mental health crises. Therefore, the City must ensure that each dollar is spent for the residents' best interest and will produce the maximum return.



Councilmember Ben Bartlett  
City of Berkeley, District 3

In order to better respond to the needs of the Berkeley community, it is critical that the Council takes local-level action on police reform. In particular, the City must examine the types of calls and responses from the police department and analyze the agency's budgets and expenditures according to call type.

As a component of the **REDUCE, IMPROVE, RE-INVEST** framework, this item works towards the REDUCE goal: *the City should implement initiatives and reforms that reduce the footprint of the police department and limit the police's response to violent and criminal service calls.* Specifically, this item proposes to hire an outside consultant to conduct an analysis of police calls and responses as well as the department budget.

With military-style techniques and structure, police officers are trained to combat crime in a manner that exerts violence through punishments, establishing a monopoly on force in communities. While law enforcement is supposed to protect our communities and keep us safe, crime waves from the 1970s and 1980s have transformed the police community into a body for crime control, maintaining such focus until modern-day despite declines in criminal activity<sup>1</sup>. With this focus on crime control, police officers lack the necessary training to adequately respond to noncriminal and nonviolent crimes. Non Criminal crimes refer to issues involving mental health, the unhoused community, school discipline, and neighborhood civil disputes<sup>2</sup>. Nonviolent crimes are categorized as property, drug, and public order offenses where injury or force is absent<sup>3</sup>. When police respond to these types of matters, they resort to violent means of arrest or problem escalation because they are ill-equipped and not trained to resolve the underlying issues.

According to the Vera Institute of Justice's report between 1980 and 2016, more than 10.5 million arrests are made every year; only 4.83 percent of those arrests were for violent offenses<sup>4</sup>. Eighty percent of these arrests were for low-level offenses, such as "disorderly conduct," non-traffic offenses, civil violations, and other offenses. This criminalization may be attributed to the arrest quotas for police productivity, which promotes punishment by rewarding the number of arrests for police funding instead of

<sup>1</sup> <https://www.theatlantic.com/ideas/archive/2020/06/first-step-figuring-out-what-police-are/612793/>

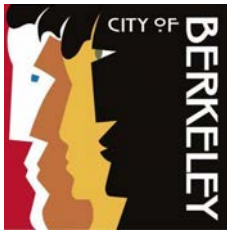
<sup>2</sup> <https://www.latimes.com/california/story/2020-06-12/san-francisco-police-reforms-stop-response-noncriminal-calls>

<sup>3</sup>

<https://www.bjs.gov/content/pub/ascii/pnoesp.txt#:~:text=Nonviolent%20crimes%20are%20defined%20as%20possession%2C%20burglary%2C%20and%20larceny.>

<sup>4</sup>

<https://arresttrends.vera.org/arrests?compare%5Boffense%5D%5Bpart1%5D=part1&compare%5Boffense%5D%5Bpart2%5D=part2#infographic>



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finding solutions to these issues<sup>5</sup>. This high percentage of low-level offenses resulted in arrest when other nonviolent, rehabilitative methods could have occurred from the solutions of community workers with the experience to handle these situations.

It is imperative that the City of Berkeley develops, implements, and enforces a clear and effective roadmap towards making real change, ending anti-Black racism, stopping police violence, and holding police accountable for their actions. Thus, the Council should direct the City Manager to hire third party consultants to conduct a data-driven analysis of police calls and responses as well as their budget and expenditures in order to determine ways in which experienced community workers can reduce the police footprint by addressing noncriminal situations. We recommend that community workers also resolve nonviolent situations.

## BACKGROUND

In order to achieve the aforementioned goals, the City must implement a series of important law enforcement reforms and take action by initiating the following:

### **REDUCE:**

#### **I. Hire a consultant to conduct a data driven analysis of police calls and responses.**

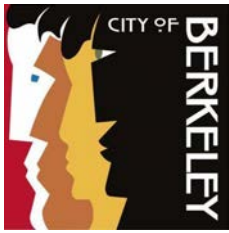
University of Denver Political Science Professor Laurel Eckhouse stated, “One method of reducing police presence... is to separate and reassign to other authorities various problems currently delegated to the police... such as the problems of people who don’t have housing... mental health issues... and even things like traffic<sup>6</sup>.” Community organizations, civilian workers trained in mental health situations, or neighborhood problem-solvers would better address these specific issues due to their experience, ensuring that the police are not the only force addressing these issues and promoting community vitality<sup>7</sup>.

Conducting a data driven analysis of police calls and responses would signify a report of the calls and responses that police receive and would inform the city where to better allocate resources to resolve specific issues. Noncriminal and nonviolent activities can thus be properly addressed by those who are equipped to handle these situations and would relieve law enforcement from these calls to then pursue more serious criminal situations. For example, the San Francisco Police Department receives approximately 40,000 calls per year about homeless

<sup>5</sup> <https://theintercept.com/2019/01/31/arrests-policing-vera-institute-of-justice/>

<sup>6</sup> <https://www.stanforddaily.com/2020/06/04/police-abolition-looks-like-palo-alto/>

<sup>7</sup> <https://www.theatlantic.com/ideas/archive/2020/06/first-step-figuring-out-what-police-are/612793/>



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people on the streets<sup>8</sup>. Social workers who can help unhoused citizens and those with mental health disorders are better equipped to help these citizens receive proper treatment while also protecting the safety of our communities, which would give law enforcement time to handle other crimes.

One suggestion to reduce the costs of policing is to boost productivity by allocating a portion of the calls for service to community organizations who have the resources and training to handle such situations<sup>9</sup>. For example, in Mesa, Arizona from 2006 to 2008, a third of calls for service are handled by civilians; these calls are for incidents of “vehicle burglaries, unsecured buildings, accidents, loose dogs, stolen vehicles, traffic hazards, and residential burglaries<sup>10</sup>.” Approximately half of calls for service in Mesa are handled by police officers, but among those, there are ways to reduce police authority. For example, 11 percent of those calls that police officers handled were in response to burglary alarms, where 99 percent were false. Six percent of those calls included “juveniles disturbing the peace.” This situation in Mesa demonstrates the possibility of reduced police force in exchange for community based response teams who can better resolve these issues with their experience.

The City Manager should hire a third party consultant within three months of this item’s passage to conduct the data analysis, ensuring that the report is completed in an impartial and timely manner.

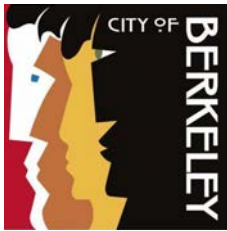
The third party consultant should create a report with the following information by analyzing and gathering the data from the police department, reporting their findings to the City every two years. We recommend the following data to be considered for analysis:

- a. Number of calls the police department receives per day, week, month, and year, which will be categorized into noncriminal, misdemeanor, nonviolent felony, and serious and violent felony calls.
- b. Demographics for these calls
- c. Characteristics of traffic stops
  - i. Quantity
  - ii. Type/reason
  - iii. Number of those resulting in searchings paired with the frequency at which illegal items were found
  - iv. Police response (i.e. citation, arrest, use of force)

<sup>8</sup> <https://www.latimes.com/california/story/2020-06-12/san-francisco-police-reforms-stop-response-noncriminal-calls>

<sup>9</sup> <https://www.ncjrs.gov/pdffiles1/nij/231096.pdf>

<sup>10</sup> <https://www.ncjrs.gov/pdffiles1/nij/231096.pdf>



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- v. Demographics of the civilian in the traffic stop that is broken into type of stop and whether a search occurred
- d. Number of complaints against an officer
  - i. Enumerate the officers with a high number of complaints
  - ii. Reason behind the complaints.

With the results of the data analysis, the City can determine the portion of calls that the community crisis worker pilot can properly address with the resources and experience they have.

## II. Hire a consultant to conduct an analysis of the police department budget.

Using the analysis generated by a review of police call and response data, a third party consultant should be hired to analyze the police department's expenditures and budgets for various calls of service and report their findings to the City every two years.

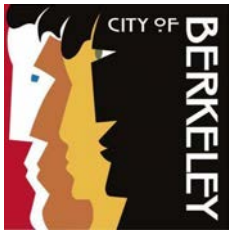
According to the 2019 budget, the Berkeley Police Department's expenditures were approximately \$69 million, which consists of 5.6 percent of the city's net expenditures. However, for the 2020 budget, the BPD is expected to have \$74 million in expenditures, reflecting a \$5 million increase from the previous year and approximately \$8 million higher than 2017's expenditures<sup>11</sup>. Unfortunately, anecdotal evidence suggests that only 20 percent of police time is spent on solving crime and the majority is spent towards addressing those experiencing homelessness and mental health crises. The City should reallocate resources to a crisis worker entity who would be tasked with responding to noncriminal calls. We recommend that nonviolent calls also be addressed by this entity. This would give police officers more time to focus on crime, leading to better outcomes for public safety, community health, and a higher quality of life.

In Canada, Police Information and Statistics Committee police services Waterloo Police Regional Service and Ontario Provincial Police collaborated with Justice Canada and Public Safety to collect data on their calls for service and determine the costs of policing<sup>12</sup>. Their research reported that in 2013, bylaw complaints were listed as the most frequent call for service in Waterloo at 8,769 calls and non-crime policing activities were listed as the most frequent. In contrast, the only criminal activity listed in the top 10 generated calls were domestic dispute, theft under \$5000, and major violent crime in property damage. Considering the most frequent of costly calls are noncriminal activities such as selective traffic

<sup>11</sup> <https://www.cityofberkeley.info/uploadedFiles/Manager/Budget/FY-2020-2021-Adopted-Budget-Book.pdf>

<sup>12</sup> <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2015-r018/index-en.aspx#c-1-i>





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enforcement programs (\$22,212.45 in sum of total unit service time in hours) and vehicle stops (\$206,668.13), the greatest cost in calls were for noncriminal activities. As noncriminal activities result in the greatest costs, it would be more efficient for community workers to handle these situations in order to reduce police department costs, allowing trained professionals to resolve the issue and giving police officers time to spend on more serious criminal offenses.

By analyzing the budget expenditures for the police for each call type, the community can divest from the police and reallocate those funds for trained community organizations who can handle noncriminal and nonviolent offenses. Considering the significantly delayed response to former requests for the police department's budget, the data analysis should be conducted by a third party consultant that is hired and engaged in active service within three months of this item's passage, ensuring that the police department's budget information is transparent to the public and reported in an impartial, timely manner.

#### REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

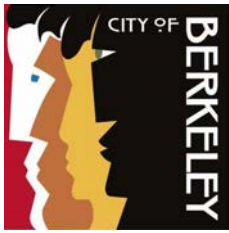
The City Manager provides regular reports on crime in Berkeley and on the policies of the Berkeley Police Department<sup>13</sup>. The data on serious crime is collected annually by the Federal Bureau of Investigation (FBI), which consists of over 17,000 law enforcement agencies that represent over 90 percent of the United States population. The FBI's Uniform Crime Report (UCR) reports crime statistics on violent crimes (including murder, rape, robbery, and aggravated assault) and property crimes (including burglary, larceny, auto theft, and arson). This data allows the BPD to analyze national and local crime trends, determine effectiveness of response to crime, and plan for future policies and resource allocation. Additionally, the City of Berkeley implements the Daily Calls for Service Log that the community can access to see the volume and nature of police activity.

Currently, Utah requires agencies to report tactical deployment and forcible entries where such reports are summarized by the Utah Commission on Criminal and Juvenile Justice. Utah Law Enforcement Transparency reporting interface was added to Utah Criminal Justice Information System in 2014 through the use of federal grant funding. Law enforcement agencies are required to report incidents of forcible entry and the deployment of tactical groups, representing data collection of police use of force<sup>14</sup>.

However, these reports do not analyze the demographics or types of calls and responses from the BPD, which makes it difficult to hold police officers accountable for

<sup>13</sup> [https://www.cityofberkeley.info/Police/Home/Annual\\_Crime\\_Reports.aspx](https://www.cityofberkeley.info/Police/Home/Annual_Crime_Reports.aspx)

<sup>14</sup> <https://justice.utah.gov/Documents/CCJJ/LETR/2018%20LET%20Annual%20Report.html>



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the mistreatment of individuals. Without this information, it becomes difficult to determine how to decrease the police footprint or implement safer policing practices if the analysis only pertains to the quantity and types of arrests and does not include the background, call of service, reason, demographics, complaints against the police officer, and other important factors to the BPD's response.

Despite voluntary data sharing and crime reports, data collection still remains vague and insufficient, leaving many unanswered questions regarding the number of instances of and reasons for use of force, complaint process against police officers, and other information about police actions. This lack of clarity allows police misconduct to perpetuate due to the lack of research that would hold police departments accountable.

#### ACTIONS/ALTERNATIVES CONSIDERED

One possible alternative to the community response teams would be to implement better training procedures so that police officers are more equipped to handle nonviolent and noncriminal activities. For example, the state of Washington requires both violence de-escalation and mental health training for police officers<sup>15</sup>. Such reform may render the data analysis on the types of calls unnecessary because the police department would be trained to handle all services regardless of the type of call.

However, training police officers to handle situations such as mental health or homelessness would signify an increase in funding for the police department to provide such training services. Not only would this type of training be difficult to maneuver when police forces are currently trained in a militarized manner, but it would be more efficient for community professionals to peacefully and properly resolve such issues since they have already engaged in this training and experience for years.

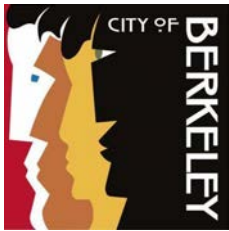
Reforming police training may be beneficial, but in this case, it would also indicate the lack of basis for reporting the police department's types of calls and responses, which is necessary to hold the police accountable and ensure safer practices. While reporting the data analysis could still occur without the community crisis workers, only having the police department manage all situations would increase their authority over the communities, which would lead to increased militarization of the police forces if other community organizations do not intervene or hold them accountable.

#### OUTREACH OVERVIEW AND RESULTS

The District 3 Office has consulted with David Muhammad, who is the Executive Director of the National Institute for Criminal Justice Reform; the former Chief Probation Officer in Alameda County; and the former Deputy Commissioner of Probation in New

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<sup>15</sup> <https://www.theatlantic.com/ideas/archive/2020/06/how-actually-fix-americas-police/612520/>



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York City. David Muhammad is a leading expert on criminal justice who has helped inform our response to the current situation.

The District 3 Office has also consulted with Marcus McKinney, the Senior Director of Government Affairs & Public Policy at the Center for Policing Equity.

The District 3 Office has also consulted with Professor Tracey L. Meares, Walton Hale Hamilton Professor and Faculty Director of the Justice Collaboratory at Yale Law School.

#### RATIONALE FOR RECOMMENDATION

Police departments across the country enforce policies and practices that breed a culture of violence resulting in killings--like those of Floyd and Moore, and of countless other people of color. These authoritative, militarized behaviors are often rooted in anti-Black racism, and such behavior must stop being acceptable. Transformation of police departments, their role, and relationship to our communities requires a change in culture, accountability, training, policies, and practices.

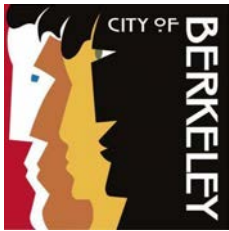
To prioritize community safety and reduce police violence, the City must hire a third party consultant to analyze police data in order to decide how to divest from the police to fund experienced community workers who can adequately resolve noncriminal and nonviolent situations. These community workers would protect the community from violence and emphasize revitalization and rehabilitation over the punishment that police officers often enforce. Implementing a data-driven analysis on police data would increase the transparency of the police department and hold them accountable, detecting the issues within the police force that community response teams can help heal. The Council must make informed legislative decisions that will reduce police footprint, improve current practices of law enforcement, and reinvest in the community for the safety of our civilians.

#### FISCAL IMPACTS OF RECOMMENDATION

The third party consultant/s would cost approximately \$150,000 to \$200,000. It is up to the City Manager to hire the third party consultants who will analyze the data of the police department's calls, responses, budget, and expenditures. Consultants must be hired and engaged in service within three months if this item passes. These consultants would ensure that noncriminal situations are handled by those with the necessary training, which may lead to a decrease in repeat offenses when community workers properly resolve the situation and guide civilians to helpful resources.

#### ENVIRONMENTAL SUSTAINABILITY

We do not expect this recommendation to have significant negative impacts on environmental sustainability.



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City of Berkeley, District 3

### OUTCOMES AND EVALUATION

If this item is passed, third party consultants would be hired by the City and engaged in data analysis within three months of passage. These consultants would produce biennial reports regarding the Berkeley Police Department's types of calls and responses as well as the budgets and expenditures in order to inform the City how to reallocate funds from the police into a community response team with better experience to handle noncriminal situations. We recommend that nonviolent situations also be addressed by community crisis workers.

### CONTACT PERSON

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[kimwoo1240@berkeley.edu](mailto:kimwoo1240@berkeley.edu)

### ATTACHMENTS

1. Cover Letter - Safety for All: George Floyd Community Safety Act
  - <https://drive.google.com/file/d/16pqqd9J6NPRzh6298Bgazo7jw1qxTK6Y/view?usp=sharing>



Cheryl Davila  
Councilmember  
District 2

CONSENT CALENDAR

July 14, 2020

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Support Redistribution of City Resources and Operations from the Berkeley Police

RECOMMENDATION

Adopt a resolution supporting Redistribution of City Resources and Operations from the Berkeley Police, and taking the following actions:

1. Request that any function that is currently served by Berkeley Police but would be better served by trained city staff or community partners should be transferred out of the police department with all due haste
2. These functions include all non-emergency calls, mental health calls (including wellness checks), calls related to intoxication, calls related to homelessness, calls involving domestic violence, and any other calls that can be served by any other city resource, and
3. The current proposed police budget for 2021 (\$72,774,334) will be reduced by an amount of 50% (\$36,387,167) or greater and funding of community programs and non-police city agencies will be increased by a commensurate amount, and
4. Reducing the Berkeley Police Department budget by at least 50 percent will allow funding for but not limited to youth programs or community groups and programs, housing and homeless services, food security, mental health services, healthcare, creation of new city jobs, and public health services.
5. Calls involving domestic violence, homelessness, and mental health require specialized responding staff who have been trained in de-escalation and are able to provide direct services to Berkeley residents who are in crisis. The City Auditor is hereby directed to prepare a report to Council that reveals the amount of funding that will become available as a result of these reductions in police responsibilities.
6. The City Manager will identify the expertise needed for non-police responses to these calls, taking into account comparable approaches including CAHOOTS as well as existing local programs which could possibly expand with additional funding such as: the Berkeley Free Clinic, Building Opportunities for Self Sustainability (BOSS), and the Women's Daytime Drop-in Center, Consider the Homeless and others, and initiate an RFP process for community organizations to provide those services.
7. The City Manager should create a plan for a non-police hotline that can receive 911 calls and connect those calls with non-police resources as appropriate, either by expanding the 311 mandate or creating a new city agency (perhaps 811 recognizing 8 to Abolish).

8. The City Council requests the Berkeley Unified School District and all Berkeley schools, both public and private to end programs that bring police officers into the schools, and to do everything within their power to protect undocumented students and families and to safeguard their information and prevent it from being shared with from police, including ICE (Immigration and Customs Enforcement).
9. That general fund dollars are not to be expended to pay out settlements resulting from police officer negligence, brutality, or murder. Those settlements will henceforth be deducted from police department budgets.
10. That the Police Review Commission and Peace and Justice Commission are instructed to form a joint committee to annually review police responsibilities and make recommendations to the City Council regarding additional functions that could better be served by non-police staff.

### BACKGROUND

The death of George Floyd at the hands of Minneapolis police on May 25<sup>th</sup> was yet another heartbreaking entry in the long list of Black people who have been killed by police officers in the United States<sup>1</sup>.

The murder of Mr. Floyd has sparked widespread demonstrations across the country<sup>2</sup> and the world<sup>3</sup>, including here in Berkeley<sup>4</sup>, drawing attention to systemic racism in American policing<sup>5</sup>

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<sup>1</sup> What follows is an extremely abbreviated list. There are many, many more examples spanning the history of policing in this country. John Crawford Iii, Michael Brown, Ezell Ford, Dante Parker, Michelle Cusseaux, Laquan McDonald, Tanisha Anderson, Akai Gurley, Tamir Rice, Romain Brisbon, Jerame Reid, Matthew Ajibade, James N. Powell Jr., Frank Smart, Natasha Mckenna, Tony Robinson, Anthony Hill, Mya Hall, Phillip White, Eric Harris, Walter Scott, William Chapman Ii, Alexia Christian, Brendon Glenn, Victor Manuel Larosa, Jonathan Sanders, Freddie Carlos Gray Jr., Joseph Mann, Salvado Ellswood, Sandra Bland, Albert Joseph Davis, Darrius Stewart, Billy Ray Davis, Samuel Dubose, Michael Sabbie, Brian Keith Day, Christian Taylor, Troy Robinson, Asshams Pharoah Manley, Felix Kumi, Keith Harrison Mcleod, Junior Prosper, Lamontez Jones, Paterson Brown, Dominic Hutchinson, Anthony Ashford, Alonzo Smith, Tyree Crawford, India Kager, La'vante Biggs, Michael Lee Marshall, Jamar Clark, Richard Perkins, Phillip Pannell, Nathaniel Harris Pickett, Benni Lee Tignor, Miguel Espinal, Michael Noel, Kevin Matthews, Bettie Jones, Quintonio Legrier, Keith Childress Jr., Janet Wilson, Randy Nelson, Antronie Scott, Wendell Celestine, David Joseph, Calin Roquemore, Dyzhawn Perkins, Christopher Davis, Marco Loud, Peter Gaines, Torrey Robinson, Darius Robinson, Kevin Hicks, Mary Truxillo, Demarcus Semer, Amadou Diallo, Willie Tillman, Terrill Thomas, Sylville Smith, Demetrius Dubose, Alton Sterling, Philando Castile, Terence Crutcher, Paul O'neal, Alteria Woods, Bobby Russ, Jordan Edwards, Aaron Bailey, Ronell Foster, Stephon Clark, Corey Carter, Antwon Rose Ii, Tayler Rock, Malice Green, Ramarley Graham, Elijah McClain, Aiyana Stanley Jones, Botham Jean, Pamela Turner, Dominique Clayton, Sean Bell, Atatiana Jefferson, Jemel Roberson, James Lee Alexander, Ryan Matthew Smith, Derrick Ambrose Jr., Addie Mae Collins, Carol Denise Mcnair, Carole Robertson, Cynthia Wesley, Nicholas Heyward Jr., Christopher Whitfield, Victor White Iii, Christopher Mccorvey, Timothy Thomas, Reginald Doucet Jr., Danroy "Dj" Henry Jr., Karvas Gamble Jr., Eric Reason, Korryn Gaines, Rekia Boyd, Kionte Spencer, Darius Tarver, Wayne Arnold Jones, Manuel Ellis, Victor Duffy Jr., Kobe Dimock-heisler, Clinton R. Allen, Timothy Caughman, Corey Jones, Tyre King, Eric Garner, Miles Hall, Kendrick Johnson, Michael Lorenzo Dean, Trayvon Martin, Renisha McBride, Oscar Grant Iii, Breonna Taylor, Kalief Browder, Darrien Hunt, Troy Hodge, William Green, Ahmaud Arbery, Dion Johnson, Tony Mcdade, Jamel Floyd, George Floyd.

<sup>2</sup> List of George Floyd protests in the United States. (2020, June 10). Retrieved from [https://en.wikipedia.org/wiki/List\\_of\\_George\\_Floyd\\_protests\\_in\\_the\\_United\\_States](https://en.wikipedia.org/wiki/List_of_George_Floyd_protests_in_the_United_States)

which finds its roots in Slave Patrols<sup>6</sup> and the quashing of organized labor<sup>7</sup>, and demonstrators are demanding the redistribution of civic resources from militarized police departments to social services where they belong.

Cities across the nation have begun the necessary process of defunding or outright abolishing their police departments<sup>8 9 10 11 12 13</sup>.

Police reforms that do not include redistributing resources away from police have not been sufficiently effective in curbing police abuses, as evidenced by many attempts including in Los Angeles after the beating of Rodney King nearly thirty years ago, where the city made various reforms based on an independent commission's recommendations<sup>14</sup> but Los Angeles police continued to abuse and kill<sup>15</sup>, and the city has been host to California's largest demonstrations in the weeks since Floyd's death<sup>16</sup>.

Here in Berkeley, many police reforms have been instituted but unconscionable inequities persist. Just in the last several weeks, between March 13th and June 12th, 2020, BPD police

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<sup>3</sup> Nossiter, A., & Méheut, C. (2020, June 12). George Floyd Protests Inspire Fresh Scrutiny of Policing in Europe, Too. Retrieved from <https://www.nytimes.com/2020/06/12/world/europe/george-floyd-protests-europe-police.html>

<sup>4</sup> Taylor, T. (2020, June 11). Black Lives Matter march run by BHS students ends with street painting. Retrieved from <https://www.berkeleyside.com/2020/06/09/photos-black-lives-matter-protest-organized-by-berkeley-high-students-ends-with-street-painting>

<sup>5</sup> Worland, J. (2020, June 11). America's Long Overdue Awakening on Systemic Racism. Retrieved June 13, 2020, from <https://time.com/5851855/systemic-racism-america/>

<sup>6</sup> Waxman, O. B. (2019, March 6). The History of Police in America and the First Force. Retrieved from <https://time.com/4779112/police-history-origins/>

<sup>7</sup> Potter, G. (2013). *The History of Policing in the United States*. Eastern Kentucky University. Retrieved from <https://plsonline.eku.edu/sites/plsonline.eku.edu/files/the-history-of-policing-in-us.pdf>

<sup>8</sup> Searcey, D., & Eligon, J. (2020, June 8). Minneapolis Will Dismantle Its Police Force, Council Members Pledge. Retrieved from <https://www.nytimes.com/2020/06/07/us/minneapolis-police-abolish.html>

<sup>9</sup> Boston councilor questioning police funding; Walsh says he's 'committed to making real change'. (2020, June 8). Retrieved from <https://whdh.com/news/boston-councilor-questioning-police-funding-walsh-says-hes-committed-to-making-real-change/>

<sup>10</sup> Bowman, N. (2020, June 9). Seattle councilmembers join calls to defund police department. Retrieved from <https://mynorthwest.com/1928707/seattle-council-calls-for-change-police-department/>

<sup>11</sup> Edmondson, C. (2020, June 1). Lawmakers Begin Bipartisan Push to Cut Off Police Access to Military-Style Gear. Retrieved from <https://www.nytimes.com/2020/06/01/us/politics/police-military-gear.html>

<sup>12</sup> Riotta, C. (2020, June 4). Los Angeles to defund police department by \$150m and instead invest in minority communities. Retrieved from <https://www.independent.co.uk/news/world/americas/los-angeles-police-department-budget-cuts-defund-lapd-eric-garcetti-press-conference-a9549001.html>

<sup>13</sup> Kafton, C. (2020, June 6). San Francisco Mayor, Supervisor announce effort to redirect some police funding to African-American community. Retrieved from <https://www.ktvu.com/news/san-francisco-mayor-supervisor-announce-effort-to-redirect-some-police-funding-to-african-american-community>

<sup>14</sup> Report of the Independent Commission on the Los Angeles Police Department (Christopher Commission Report): The Independent Commission on the Los Angeles Police Department: Free Download, Borrow, and Streaming. (1991, January 1). Retrieved from <https://archive.org/details/ChristopherCommissionLAPD>

<sup>15</sup> Editorial: A very abbreviated history of police officers killing black people. (2020, June 4). Retrieved from <https://www.latimes.com/opinion/story/2020-06-04/police-killings-black-victims>

<sup>16</sup> L.A. youth group demands defunding police, other reforms. (2020, June 12). Retrieved from <https://www.latimes.com/california/story/2020-06-12/l-a-youths-demand-defunding-police-other-reforms>

statistics show African American stops are exactly 50% of total 608 stops at 304, with white stops at 143 for 23.52% of all stops. When adjusted to take into account the low number of African Americans residing in Berkeley, African American stops are about 42.7 per 1,000 of their population, where white stops are about 2.9 per 1,000, a disparity of 14.5 to 1.<sup>17</sup>.

Approximately 37% of the City of Berkeley's general fund is allocated to the police department, totaling \$70,622,557 in 2020 increasing to 72,774,334 in 2021 which is four times the combined budget for Health, Housing, and Community Services.

Police budgets have increased steadily, both in terms of per capita spending and police share of total spending, there is no correlation between an increased investment in policing and reductions in crime<sup>18</sup>.

A reallocation of part or all of the police budgets offer enough funding to comprehensively address many inequities that underlie calls to the police and to create non-police interventions. Models do already exist, and many involve partnerships with community groups and providers, such as the CAHOOTS program in Eugene, OR., which has been successfully in place for some three decades<sup>19</sup> and is now inspiring reforms in San Francisco<sup>20</sup> and elsewhere.

Police misconduct has minimal consequences for police departments because settlements are often paid out of general funds rather than police budgets<sup>21</sup>, putting financial pressure on other city services. Some cities resort to issuing bonds to cover settlements, which the Action Center on Race and the Economy (ACRE) call "Police Brutality Bonds"<sup>22</sup>, and these drastic measures are more common in recessions like the one that we are currently facing as a result of COVID-19.

According to Berkeley officers, more than 35% of police calls related to mental health<sup>23</sup> and the presence of armed police officers can significantly escalate these situations. As recently as 2013, a Black, transgender Berkeley resident with a history of schizophrenia died in police custody after her roommate called 911 to request assistance for her mental health crisis<sup>24</sup>.

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<sup>17</sup> Berkeley's Open Data Portal. (n.d.). Retrieved June 22, 2020, from [https://www.cityofberkeley.info/Police/Home/Berkeley\\_PD\\_s\\_Stop\\_Data\\_Now\\_on\\_City\\_s\\_Open\\_Data\\_Portal.aspx](https://www.cityofberkeley.info/Police/Home/Berkeley_PD_s_Stop_Data_Now_on_City_s_Open_Data_Portal.aspx)

<sup>18</sup> Bump, P. (2020, June 7). Analysis | Over the past 60 years, more spending on police hasn't necessarily meant less crime. Retrieved from <https://www.washingtonpost.com/politics/2020/06/07/over-past-60-years-more-spending-police-hasnt-necessarily-meant-less-crime/>

<sup>19</sup> Smith, A. V. (2020, June 11). There's already an alternative to calling the police. Retrieved from <https://www.hcn.org/issues/52.7/public-health-theres-already-an-alternative-to-calling-the-police>

<sup>20</sup> Willetts, M. (2020, June 12). No more police for non-criminal calls in San Francisco. Who will take their place? Retrieved from <https://www.sacbee.com/article243500626.html>

<sup>21</sup> Mock, B., & CityLab. (2020, June 5). How Cities Offload the Cost of Police Brutality. Retrieved from <https://www.citylab.com/equity/2020/06/police-brutality-lawsuits-cities-settlements-credit-ratings/612301/>

<sup>22</sup> Action Center on Race and the Economy. (2018). *Police Brutality Bonds*. Retrieved from <https://acrecampaigns.org/wp-content/uploads/2020/04/PoliceBrutalityBonds-Jun2018.pdf>

<sup>23</sup> Dinkelspiel, F. (2018, December 20). Mental health calls #1 drain on Berkeley police resources. Retrieved from <https://www.berkeleyside.com/2015/04/16/mental-health-calls-are-1-drain-on-berkeley-police-resources>

<sup>24</sup> Souza, J. (2019, December 20). Kayla Moore's family to appeal wrongful death suit. Retrieved June 22, 2020, from <https://www.dailycal.org/2019/12/19/kayla-moores-family-to-appeal-wrongful-death-suit/>



Armed police pose a significant danger to people experiencing mental health crises: in 2015, at least 1 in 4 victims of fatal killings by police in the United States were adults with mental illness<sup>25</sup>.

#### FINANCIAL IMPLICATIONS

The current proposed police budget for 2021 (\$72,774,334) will be reduced by an amount of 50% (\$36,387,167) or greater and funding of community programs and non-police city agencies will be increased by a commensurate amount. Reducing the BPD budget by at least 50 percent will allow funding for but not limited to youth programs or community groups and programs, housing and homeless services, food security, mental health services, healthcare, creation of new city jobs, and public health services.

#### ENVIRONMENTAL SUSTAINABILITY

Protecting our communities during this climate and health crisis is an act of environmental sustainability.

#### CONTACT PERSONS

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510.981.7120  
[cdavila@cityofberkeley.info](mailto:cdavila@cityofberkeley.info)

#### ATTACHMENTS:

1. Resolution

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<sup>25</sup> Fuller, D. A., Lamb, H. R., Biasotti, M., & Snook, J. (2015). *Overlooked in the Undercounted: The Role of Mental Illness in Fatal Law Enforcement Encounters*. Treatment Advocacy Center. Retrieved from <https://www.treatmentadvocacycenter.org/storage/documents/overlooked-in-the-undercounted.pdf>

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY, CALIFORNIA,  
SUPPORTING REDISTRIBUTION OF CITY RESOURCES AND OPERATIONS FROM THE  
BERKELEY POLICE

WHEREAS the death of George Floyd at the hands of Minneapolis police on May 25<sup>th</sup> was yet another heartbreaking entry in the long list of Black people who have been killed by police officers in the United States<sup>26</sup>; and

WHEREAS The murder of Mr. Floyd has sparked widespread demonstrations across the country<sup>27</sup> and the world<sup>28</sup>, including here in Berkeley<sup>29</sup>, drawing attention to systemic racism in American policing<sup>30</sup> which finds its roots in Slave Patrols<sup>31</sup> and the quashing of organized

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<sup>26</sup> What follows is an extremely abbreviated list. There are many, many more examples spanning the history of policing in this country. John Crawford Iii, Michael Brown, Ezell Ford, Dante Parker, Michelle Cusseaux, Laquan McDonald, Tanisha Anderson, Akai Gurley, Tamir Rice, Romain Brisbon, Jerame Reid, Matthew Ajibade, James N. Powell Jr., Frank Smart, Natasha Mckenna, Tony Robinson, Anthony Hill, Mya Hall, Phillip White, Eric Harris, Walter Scott, William Chapman Ii, Alexia Christian, Brendon Glenn, Victor Manuel Larosa, Jonathan Sanders, Freddie Carlos Gray Jr., Joseph Mann, Salvado Ellswood, Sandra Bland, Albert Joseph Davis, Darrius Stewart, Billy Ray Davis, Samuel Dubose, Michael Sabbie, Brian Keith Day, Christian Taylor, Troy Robinson, Asshams Pharoah Manley, Felix Kumi, Keith Harrison Mcleod, Junior Prosper, Lamontez Jones, Paterson Brown, Dominic Hutchinson, Anthony Ashford, Alonzo Smith, Tyree Crawford, India Kager, La'vante Biggs, Michael Lee Marshall, Jamar Clark, Richard Perkins, Phillip Pannell, Nathaniel Harris Pickett, Benni Lee Tignor, Miguel Espinal, Michael Noel, Kevin Matthews, Bettie Jones, Quintonio Legrier, Keith Childress Jr., Janet Wilson, Randy Nelson, Antronie Scott, Wendell Celestine, David Joseph, Calin Roquemore, Dyzhawn Perkins, Christopher Davis, Marco Loud, Peter Gaines, Torrey Robinson, Darius Robinson, Kevin Hicks, Mary Truxillo, Demarcus Semer, Amadou Diallo, Willie Tillman, Terrill Thomas, Sylville Smith, Demetrius Dubose, Alton Sterling, Philando Castile, Terence Crutcher, Paul O'neal, Alteria Woods, Bobby Russ, Jordan Edwards, Aaron Bailey, Ronell Foster, Stephon Clark, Corey Carter, Antwon Rose Ii, Tayler Rock, Malice Green, Ramarley Graham, Elijah McClain, Aiyana Stanley Jones, Botham Jean, Pamela Turner, Dominique Clayton, Sean Bell, Atatiana Jefferson, Jemel Roberson, James Lee Alexander, Ryan Matthew Smith, Derrick Ambrose Jr., Addie Mae Collins, Carol Denise Mcnair, Carole Robertson, Cynthia Wesley, Nicholas Heyward Jr., Christopher Whitfield, Victor White Iii, Christopher Mccorvey, Timothy Thomas, Reginald Doucet Jr., Danroy "Dj" Henry Jr., Karvas Gamble Jr., Eric Reason, Korryn Gaines, Rekia Boyd, Kionte Spencer, Darius Tarver, Wayne Arnold Jones, Manuel Ellis, Victor Duffy Jr., Kobe Dimock-heisler, Clinton R. Allen, Timothy Caughman, Corey Jones, Tyre King, Eric Garner, Miles Hall, Kendrick Johnson, Michael Lorenzo Dean, Trayvon Martin, Renisha McBride, Oscar Grant Iii, Breonna Taylor, Kalief Browder, Darrien Hunt, Troy Hodge, William Green, Ahmaud Arbery, Dion Johnson, Tony Mcdade, Jamel Floyd, George Floyd.

<sup>27</sup> List of George Floyd protests in the United States. (2020, June 10). Retrieved from [https://en.wikipedia.org/wiki/List\\_of\\_George\\_Floyd\\_protests\\_in\\_the\\_United\\_States](https://en.wikipedia.org/wiki/List_of_George_Floyd_protests_in_the_United_States)

<sup>28</sup> Nossiter, A., & Méheut, C. (2020, June 12). George Floyd Protests Inspire Fresh Scrutiny of Policing in Europe, Too. Retrieved from <https://www.nytimes.com/2020/06/12/world/europe/george-floyd-protests-europe-police.html>

<sup>29</sup> Taylor, T. (2020, June 11). Black Lives Matter march run by BHS students ends with street painting. Retrieved from <https://www.berkeleyside.com/2020/06/09/photos-black-lives-matter-protest-organized-by-berkeley-high-students-ends-with-street-painting>

<sup>30</sup> Worland, J. (2020, June 11). America's Long Overdue Awakening on Systemic Racism. Retrieved June 13, 2020, from <https://time.com/5851855/systemic-racism-america/>

<sup>31</sup> Waxman, O. B. (2019, March 6). The History of Police in America and the First Force. Retrieved from <https://time.com/4779112/police-history-origins/>

labor<sup>32</sup>, and demonstrators are demanding the redistribution of civic resources from militarized police departments to social services where they belong; and

WHEREAS cities across the nation have begun the necessary process of defunding or outright abolishing their police departments<sup>33 34 35 36 37 38</sup>; and

WHEREAS police reforms that do not include redistributing resources away from police have not been sufficiently effective in curbing police abuses, as evidenced by many attempts including in Los Angeles after the beating of Rodney King nearly thirty years ago, where the city made various reforms based on an independent commission's recommendations<sup>39</sup> but Los Angeles police continued to abuse and kill<sup>40</sup>, and the city has been host to California's largest demonstrations in the weeks since Floyd's death<sup>41</sup>; and

WHEREAS here in Berkeley, many police reforms have been instituted but unconscionable inequities persist. Just in the last several weeks, between March 13th and June 12th, 2020, BPD police statistics show African American stops are exactly 50% of total 608 stops at 304, with white stops at 143 for 23.52% of all stops. When adjusted to take into account the low number of African Americans residing in Berkeley, African American stops are about 42.7 per 1,000 of their population, where white stops are about 2.9 per 1,000, a disparity of 14.5 to 1.<sup>42</sup>, and

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<sup>32</sup> Potter, G. (2013). *The History of Policing in the United States*. Eastern Kentucky University. Retrieved from <https://plsonline.eku.edu/sites/plsonline.eku.edu/files/the-history-of-policing-in-us.pdf>

<sup>33</sup> Searcey, D., & Eligon, J. (2020, June 8). Minneapolis Will Dismantle Its Police Force, Council Members Pledge. Retrieved from <https://www.nytimes.com/2020/06/07/us/minneapolis-police-abolish.html>

<sup>34</sup> Boston councilor questioning police funding; Walsh says he's 'committed to making real change'. (2020, June 8). Retrieved from <https://whdh.com/news/boston-councilor-questioning-police-funding-walsh-says-hes-committed-to-making-real-change/>

<sup>35</sup> Bowman, N. (2020, June 9). Seattle councilmembers join calls to defund police department. Retrieved from <https://mynorthwest.com/1928707/seattle-council-calls-for-change-police-department/>

<sup>36</sup> Edmondson, C. (2020, June 1). Lawmakers Begin Bipartisan Push to Cut Off Police Access to Military-Style Gear. Retrieved from <https://www.nytimes.com/2020/06/01/us/politics/police-military-gear.html>

<sup>37</sup> Riotta, C. (2020, June 4). Los Angeles to defund police department by \$150m and instead invest in minority communities. Retrieved from <https://www.independent.co.uk/news/world/americas/los-angeles-police-department-budget-cuts-defund-lapd-eric-garcetti-press-conference-a9549001.html>

<sup>38</sup> Kafton, C. (2020, June 6). San Francisco Mayor, Supervisor announce an effort to redirect some police funding to the African-American community. Retrieved from <https://www.ktvu.com/news/san-francisco-mayor-supervisor-announce-effort-to-redirect-some-police-funding-to-african-american-community>

<sup>39</sup> Report of the Independent Commission on the Los Angeles Police Department (Christopher Commission Report): The Independent Commission on the Los Angeles Police Department: Free Download, Borrow, and Streaming. (1991, January 1). Retrieved from <https://archive.org/details/ChristopherCommissionLAPD>

<sup>40</sup> Editorial: A very abbreviated history of police officers killing black people. (2020, June 4). Retrieved from <https://www.latimes.com/opinion/story/2020-06-04/police-killings-black-victims>

<sup>41</sup> L.A. youth group demands defunding police, other reforms. (2020, June 12). Retrieved from <https://www.latimes.com/california/story/2020-06-12/l-a-youths-demand-defunding-police-other-reforms>

<sup>42</sup> Berkeley's Open Data Portal. (n.d.). Retrieved June 22, 2020, from [https://www.cityofberkeley.info/Police/Home/Berkeley\\_PD\\_s\\_Stop\\_Data\\_Now\\_on\\_City\\_s\\_Open\\_Data\\_Portal.asp](https://www.cityofberkeley.info/Police/Home/Berkeley_PD_s_Stop_Data_Now_on_City_s_Open_Data_Portal.asp)

WHEREAS approximately 37% of the City of Berkeley's general fund is allocated to the police department, totaling \$70,622,557 in 2020 increasing to 72,774,334 in 2021 which is four times the combined budget for Health, Housing, and Community Services<sup>43</sup>; and

WHEREAS police budgets have increased steadily, both in terms of per capita spending and police share of total spending, there is no correlation between an increased investment in policing and reductions in crime<sup>44</sup>; and

WHEREAS a reallocation of part or all of police budgets offer enough funding to comprehensively address many inequities that underlie calls to the police, and to create non-police interventions. Models do already exist, and many involve partnerships with community groups and providers, such as the CAHOOTS program in Eugene, OR., which has been successfully in place for some three decades<sup>45</sup> and is now inspiring reforms in San Francisco<sup>46</sup> and elsewhere; and

WHEREAS police misconduct has minimal consequences for police departments because settlements are often paid out of general funds rather than police budgets<sup>47</sup>, putting financial pressure on other city services. Some cities resort to issuing bonds to cover settlements, which the Action Center on Race and the Economy (ACRE) call "Police Brutality Bonds"<sup>48</sup>, and these drastic measures are more common in recessions like the one that we are currently facing as a result of COVID-19; and

WHEREAS according to Berkeley officers, more than 35% of police calls related to mental health<sup>49</sup> and the presence of armed police officers can significantly escalate these situations. As recently as 2013, a Black, transgender Berkeley resident with a history of schizophrenia died in police custody after her roommate called 911 to request assistance for her mental health crisis<sup>50</sup>; and

WHEREAS armed police pose a significant danger to people experiencing mental health crises: in 2015, at least 1 in 4 victims of fatal killings by police in the United States were adults with mental illness<sup>51</sup>; and

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<sup>43</sup> City of Berkeley Budget. (n.d.). Retrieved from <https://www.cityofberkeley.info/citybudget/>

<sup>44</sup> Bump, P. (2020, June 7). Analysis | Over the past 60 years, more spending on police hasn't necessarily meant less crime. Retrieved from <https://www.washingtonpost.com/politics/2020/06/07/over-past-60-years-more-spending-police-hasnt-necessarily-meant-less-crime/>

<sup>45</sup> Smith, A. V. (2020, June 11). There's already an alternative to calling the police. Retrieved from <https://www.hcn.org/issues/52.7/public-health-theres-already-an-alternative-to-calling-the-police>

<sup>46</sup> Willetts, M. (2020, June 12). No more police for non-criminal calls in San Francisco. Who will take their place? Retrieved from <https://www.sacbee.com/article243500626.html>

<sup>47</sup> Mock, B., & CityLab. (2020, June 5). How Cities Offload the Cost of Police Brutality. Retrieved from <https://www.citylab.com/equity/2020/06/police-brutality-lawsuits-cities-settlements-credit-ratings/612301/>

<sup>48</sup> Action Center on Race and the Economy. (2018). *Police Brutality Bonds*. Retrieved from <https://acrecampaigns.org/wp-content/uploads/2020/04/PoliceBrutalityBonds-Jun2018.pdf>

<sup>49</sup> Dinkelspiel, F. (2018, December 20). Mental health calls #1 drain on Berkeley police resources. Retrieved from <https://www.berkeleyside.com/2015/04/16/mental-health-calls-are-1-drain-on-berkeley-police-resources>

<sup>50</sup> Souza, J. (2019, December 20). Kayla Moore's family to appeal wrongful death suit. Retrieved June 22, 2020, from <https://www.dailycal.org/2019/12/19/kayla-moores-family-to-appeal-wrongful-death-suit/>

<sup>51</sup> Fuller, D. A., Lamb, H. R., Biasotti, M., & Snook, J. (2015). *Overlooked in the Undercounted: The Role of Mental Illness in Fatal Law Enforcement Encounters*. Treatment Advocacy Center. Retrieved from <https://www.treatmentadvocacycenter.org/storage/documents/overlooked-in-the-undercounted.pdf>

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Berkeley, California, support Redistribution of City Resources and Operations from the Berkeley Police, and taking the following actions:

1. Request that any function that is currently served by Berkeley Police but would be better served by trained city staff or community partners should be transferred out of the police department with all due haste.
2. These functions include all non-emergency calls, mental health calls (including wellness checks), calls related to intoxication, calls related to homelessness, calls involving domestic violence, and any other calls that can be served by any other city resource.
3. The current proposed police budget for 2021 (\$72,774,334) will be reduced by an amount of 50% (\$36,387,167) or greater and funding of community programs and non-police city agencies will be increased by a commensurate amount.
4. Reducing the Berkeley Police Department budget by at least 50 percent will allow funding for but not limited to youth programs or community groups and programs, housing and homeless services, food security, mental health services, healthcare, creation of new city jobs, and public health services.
5. Calls involving domestic violence, homelessness, and mental health require specialized responding staff who have been trained in de-escalation and are able to provide direct services to Berkeley residents who are in crisis. The City Auditor is hereby directed to prepare a report to Council that reveals the amount of funding that will become available as a result of these reductions in police responsibilities.
6. The City Manager will identify the expertise needed for non-police responses to these calls, taking into account comparable approaches including CAHOOTS as well as existing local programs which could possibly expand with additional funding such as: the Berkeley Free Clinic, Building Opportunities for Self Sustainability (BOSS), and the Women's Daytime Drop-in Center, Consider the Homeless and others, and initiate an RFP process for community organizations to provide those services.
7. The City Manager should create a plan for a non-police hotline that can receive 911 calls and connect those calls with non-police resources as appropriate, either by expanding the 311 mandate or creating a new city agency (perhaps 811 recognizing 8 to Abolish).
8. The City Council requests the Berkeley Unified School District and all Berkeley schools, both public and private to end programs that bring police officers into the schools, and to do everything within their power to protect undocumented students and families and to safeguard their information and prevent it from being shared with from police, including ICE (Immigration and Customs Enforcement).
9. That general fund dollars are not to be expended to pay out settlements resulting from police officer negligence, brutality, or murder. Those settlements will henceforth be deducted from police department budgets.
10. That the Police Review Commission and Peace and Justice Commission are instructed to form a joint committee to annually review police responsibilities and make recommendations to the City Council regarding additional functions that could better be served by non-police staff.





Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
July 14, 2020

To: Honorable Mayor and Members of the City Council  
From: Councilmember Wengraf (author), Councilmember Davila (Co-Sponsor)  
Subject: Referral to City Manager to Re-imagine Policing Approaches to Public Safety Using a Process of Robust Community Engagement, to Develop a Path Forward to Transforming Public Safety and Policing in Berkeley.

RECOMMENDATION

We must have our communities of color, particularly our African American community, at the forefront of conversations to re-imagine approaches to policing and public safety in Berkeley. The people most disparately impacted must have a vital role in the creation of new ways to enhance accountability, compassion and transparency as we move forward to address racial inequities and disparate outcomes of policing in Berkeley.

This item is an urgent referral to the City Manager to act quickly and thoughtfully in creating substantial community engagement to develop a new model for policing in Berkeley, to address racial inequities, ensure community health and safety needs are met, and to build trust within our communities of color.

This work should begin with public, transparent community forums to listen, learn and receive people's ideas about how policing should be re-imagined and transformed so that communities of color can be safer within their neighborhoods, the City of Berkeley, and trust in the Berkeley Police Department can begin to be rebuilt. The City Manager will send a list of recommendations to the full Council for review and public input.

FINANCIAL IMPLICATIONS

Staff time

BACKGROUND

The recent heinous murders of George Floyd and Breonna Taylor and Ahmaud Arbery in the context of centuries of sanctioned murders of and violence towards Black people in our country, have catapulted the nation and our community to call for change in rooting out systemic racism from our policing models.

At the June 9, 2020 Council Meeting Berkeley residents demanded an end to racial disparities in Berkeley's policing. Some demanded defunding the Berkeley Police Department. This item seeks to vigorously initiate the development of a strategic framework to end disparate racial outcomes resulting from practices, policies and

deployment of the Berkeley Police Department, by engaging the communities most impacted in the discussion about how to re-imagine our Police Department. This is one step towards moving forward with a Police department that is responsive to the health and safety needs of our communities of color.

ENVIRONMENTAL SUSTAINABILITY

None

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160





Office of the Mayor  
Jesse Arreguín

ACTION CALENDAR  
July 14, 2020

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Vice-Mayor Sophie Hahn, Councilmember Ben Bartlett, Councilmember Kate Harrison

Subject: Transform Community Safety and Initiate a Robust Community Engagement Process

### **RECOMMENDATIONS**

1. Adopt a Resolution expressing the City Council's commitment to:
  - a. A transformative approach to community-centered safety and reducing the scope of policing,
  - b. Equitable investment in the essential conditions of a safe and healthy community, especially for those who have been historically marginalized and have experienced disinvestment, and
  - c. A broad, inclusive community process that will result in deep and lasting change to support safety and wellbeing for all Berkeley residents.
2. Direct the City Manager to track and report progress on actions to implement this initiative, and other actions that may be identified by the Coalition and referred by Council to the City Manager. Updates shall be provided by written and verbal reports to Council and posted on a regularly updated and dedicated page on the City website.
3. Direct the City Manager to collaborate with Mayor and select Councilmembers to complete the following work, to inform investments and reallocations to be incorporated into future Budget processes:
  - a. Contract with independent subject matter experts to:
    - i. Analyze the scope of work of, and community needs addressed by, the Berkeley Police Department, to identify a more limited role for law enforcement, and identify elements of police work that could be achieved through alternative programs, policies, systems, and community

investments. Analysis should include but not be limited to: calls received by dispatch by type of complaint, stops by law enforcement generated at officer discretion (as contained in the Police Department's open data portal) or on request of other city agencies, number of officers and staff from other city agencies that respond to incidents, estimated time in response to different types of calls, daily patrol activities, organizational structure, and beat staffing. Work to include broad cost estimates of police and other city agency response to different types of calls, and other information and analysis helpful to identify elements of current police work that could be transferred to other departments or programs or achieved through alternative means. Work should be completed in time for the November 2020 Annual Appropriation Ordinance revision.

- ii. Identify immediate and longer-term opportunities to shift policing resources to alternative, non-police responses and towards alternative and restorative justice models, to better meet community needs, that could be considered in the November 2020 AAO#1 budget process. Some areas to be considered include homeless outreach and services, substance abuse prevention and treatment, and mental health/crisis management, as well as alternative models for traffic and parking enforcement, "neighborhood services" and code enforcement. Provide a broad timeline and process for transitioning functions not ready for transition at this first milestone.

Deliverables should coincide with budget cycles, including the November 2020 AAO and FY 2022-2023 Budget processes, and provide a suggested timeline for transitioning functions at these and other budget opportunities, so that alternative investments may be considered for funding and launched in a timely and orderly manner.

- b. Contract with independent Change Management experts to initiate and facilitate a representative Community Safety Coalition, guided by a Steering Committee, that will begin meeting no later than January 2021. The CSC and its Steering Committee should be broadly inclusive and representative of Berkeley residents and stakeholders. The Steering Committee, with the support of Change Management professionals, shall be responsible for engaging the Coalition and the broader Berkeley community and relevant City Staff in a robust process, to achieve a new and transformative model of positive, equitable and community-centered safety for Berkeley.

The work of the Coalition should include but not be limited to:

1. Building on the work of the City Council, the City Manager, the PRC and other City commissions and other working groups addressing community health and safety.
2. Research and engagement to define a holistic, anti-racist approach to community safety, including a review and analysis of emerging models, programs and practices that could be applied in Berkeley.
3. Recommend a new, community-centered safety paradigm as a foundation for deep and lasting change, grounded in the principles of *Reduce, Improve and Reinvest* as proposed by the National Institute for Criminal Justice Reform (Attachment 3), considering, among other things:
  - a. The social determinants of health and changes required to deliver a holistic approach to community-centered safety
  - b. The appropriate response to community calls for help including size, scope of operation and powers and duties of a well-trained police force.
  - c. Limiting militarized weaponry and equipment.
  - d. Identifying alternatives to policing and enforcement to reduce conflict, harm, and institutionalization, introduce alternative and restorative justice models, and reduce or eliminate use of fines and incarceration.
  - e. Options to reduce police contacts, stops, arrests, tickets, fines and incarceration and replace these, to the greatest extent possible, with educational, community serving, restorative and other positive programs, policies and systems.
- c. The Coalition's goal/output will be a set of recommended programs, structures and initiatives to incorporate into upcoming budget processes for FY 2022-23 and, as a second phase, in the FY2024-2025 budget processes to ensure that recommended changes will be achieved. The Coalition shall return to City Council an initial plan and timeline by April 1, 2021, to ensure the first phase of changes can be incorporated into the FY2022-23 Budget Process.

## **SUMMARY**

Local government's most fundamental role is to provide for the health and safety of its residents. Cities around the country are acknowledging that they are falling behind in this basic function, and are embarking on efforts to reimagine health and safety, and to consider reallocating resources towards a more holistic approach; one that shifts resources away from policing towards health, education and social services, and is able to meet crises with a variety of appropriate responses.

The current re-energized movement for social justice and police reform highlights a problematic expansion, over many decades, in the roles and responsibilities of the police. As other systems have been defunded, most notably mental health, education, affordable housing and other health and safety-net programs, the police have been asked to respond to more and more crises that could have been avoided with a different set of investments in community wellbeing. Rather than being the responders of last resort, focused on criminal, aggressive and violent behaviors, police are now frontline responders routinely called to address mental health crises, poverty and homelessness, substance abuse, stress in the school environment, traffic and code violations and neighborhood disputes. This is an extensive set of responsibilities that is not traditionally the purview of the police.

This item initiates a restructure and redefinition of "health and safety" for all Berkeleyans, with immediate, intermediate and longer-term steps to transform the city to a new model that is equitable and community-centered. It roots the transformative process in broad, deep and representative community engagement which empowers the community to address social determinants of health and safety and deliver transformative change, with the help of change management professionals and informed by research and analysis of current and best practices.

## **BACKGROUND**

The recent murders of George Floyd, Breonna Taylor and Ahmaud Arbery have ignited the nation in passionate protest against police brutality and racial injustice. Across the country, community members have gathered for weeks to demand change and called out the enduring, systemic racism, white supremacy and accompanying police brutality that have defined the United States for too long. Among the more immediate demands are calls to reduce funding and the scope of police work and to invest in alternative models to achieve positive, equitable community safety.

These demands for change go beyond necessary efforts in procedural justice, implicit bias training, and improved use of force policies. Activists, organizers and their allies in our community are seeking a broader discussion about the true foundations for a safe and healthy community for all people. For too long, "public safety" has been equated

with more police, while economic and social welfare programs have been viewed as special projects unrelated to health and safety.

Responding from the epicenter of this moment, the City of Minneapolis has voted to disband their police department and engage in a deep and detailed year long process to fundamentally transform community health and safety in their city.<sup>1</sup> Closer to home, Mayor London Breed has announced that San Francisco will demilitarize their police force and end the use of police as a response for non-criminal activity.<sup>2</sup>

As this movement ripples across the nation, Berkeley has an opportunity to lead in transforming our approach to public health and safety. We need the right response for each crisis rather than defaulting to police. This resolution and recommendations initiate a thoughtful, thorough approach to restructuring and redefining health and safety through investment in the social determinants of health, rooted in deep community engagement and empowerment.

Community members are calling on city leaders to be creative in reimagining the city's approach to health and safety and to make clear, demonstrated commitments and timelines for this work.

In order to earn community buy-in for these important changes it is critical that the future of community health and safety be defined by the Berkeley community, centering the voices of our Black, Native American/First Peoples and other communities of color, LGBTQ+ people, victims of harm and other stakeholders that have been historically, and continue to be, marginalized and under-served by our current system. A community-wide process would ultimately inform recommended investments and approaches to achieve a higher and more equitable level of community safety for the entire community.

## **CURRENT SITUATION AND ITS EFFECTS**

Despite strong efforts and leadership on police reform, homelessness, health, education and housing affordability in Berkeley, racial disparities remain stark across virtually every meaningful measure. According to the City of Berkeley's 2018 Health Status Summary Report, African Americans are 2.3 times more likely to die in a given year from any condition as compared to Whites. In 2013, African Americans were twice as likely to live in poverty in Berkeley. By 2018, they were eight times more likely. The Center for Policing Equity (CPE) found that Black drivers are 6.5 times as likely as white drivers to be stopped by Berkeley police officers and four times as likely to be searched. Latinx people are also searched far more often than white people. Furthermore, there is a striking disproportionality in BPD's use of force against Black community members.

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<sup>1</sup> <https://lms.minneapolismn.gov/Download/File/3806/Transforming%20Community%20Safety%20Resolution.pdf>

<sup>2</sup> <https://sfmayor.org/article/mayor-london-breed-announces-roadmap-new-police-reforms>

Black people comprise 8% of Berkeley's population but 46% of people who are subjected to police force.<sup>3</sup>

Local government's most fundamental role is to provide for the health and safety of its residents. Cities around the country are acknowledging that they are falling behind in this basic function and are embarking on efforts to reimagine health and safety, and to consider reallocating resources towards a more holistic approach; one that shifts resources away from policing towards health, education and social services, and is able to meet crises with a variety of appropriate responses.

In addition to renewed efforts around policing in places like Minneapolis and San Francisco that were prompted by George Floyd's murder, the financial and public health impacts of COVID-19 had already required Berkeley to reimagine and innovate to meet the moment. Berkeley now faces multiple intersecting crises: the COVID-19 pandemic and its economic impacts, the effects of systemic racism and the ongoing climate emergency. There is no returning to "normal."

COVID-19 has demonstrated that we are only as healthy and safe as the most vulnerable amongst us, and we are in fact one community. There is both a moral and fiscal imperative to restructure the way Berkeley envisions and supports health and safety.

Berkeley is facing a \$40 million budget deficit, and while deferrals of projects and positions can help close the gap in the short term, the economic impacts of the pandemic will require deeper restructuring in the coming years. The current structure of the police department consumes over 44% of the City's General Fund Budget. With the increase in payments required to meet pension and benefit obligations, the police budget could overtake General Fund capacity within the next 10 years. Thus, even before the important opportunity for action created through outrage at the murder of George Floyd, the City's current investments in safety were unsustainable. To provide meaningful safety and continue critical health and social services, Berkeley must commit to, and invest in, a new, positive, equitable and community-centered approach to health and safety - this is affordable and sustainable.

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<sup>3</sup> <https://www.berkeleyside.com/wp-content/uploads/2018/05/Berkeley-Report-May-2018.pdf>

## **RATIONALE FOR RECOMMENDATIONS**

### **1. Resolution expressing City Council's commitment to a new city-wide approach to public health and safety**

Transforming our system of health and safety requires strong commitment from our leaders and the community. This resolution (Attachment 1) is an expression of commitment and a tool for accountability to the public.

The proposed set of principles as well as specific initiatives are the starting point for a robust and inclusive process. Some actions will require significantly more work and additional council direction prior to implementation. For example, moving traffic and parking enforcement from police is a concept that is recommended but would require a significant redesign of city operations. Other changes may be able to move forward more quickly. These ideas are submitted in a spirit of conviction and humility. The future of community health and safety must be addressed in a fundamentally different way and the Council is committed to collaborating with the community to define a new, positive and equitable model of health and safety for everyone.

### **2. Direct the City Manager to publicly track progress on actions that respond to the directives of the principles herein and others identified by the Coalition. Progress shall be updated regularly and available on a dedicated page on the City website.**

This webpage should include a summary of the actions outlined in this item, as well as other work already underway such as the Mayor's Fair and Impartial Working group, the Use of Force policy updates, other work underway by the Police Review Commission and any other Council referrals or direction on public safety, including existing referrals addressing alternative and restorative justice, that reflect the spirit and scope of this item.

Transformative change will only be successful if processes are transparent and information widely disseminated, as the City has so successfully demonstrated in managing the COVID-19 crisis. By publicly posting this information, the public will have the capacity to keep its elected officials, city staff, and our whole community accountable for realizing a new system of community centered safety that meets the needs of all of Berkeley's residents.

**3. Direct the City Manager to collaborate with Mayor and select Councilmembers to complete the following work, to inform investments and reallocations to be incorporated into future Budget processes:**

***(a) Begin the process of structural change including directing the analysis of the activities of the Berkeley Police Department and other related departments.***

Transforming community health and safety has to start by understanding the existing system, the calls to which it responds and other activities. This recommendation seeks to build on Councilmember Bartlett's George Floyd Community Safety Act to immediately engage independent, outside experts to conduct a data-driven analysis of police calls and responses and a broader understanding of how the police actually spend their time.<sup>45</sup>

Engaging the services of outside experts will ensure a transparent and trusted process and provide accurate data required to effectuate substantive change will be identified and that data will inform immediate change and the work throughout the community engagement process. The experts must be knowledgeable about policing, code enforcement, criminal justice and community safety and have deep experience with current and emerging theories, as well as expertise in data collection and analysis to inform recommendations for transformative change.

This analysis should commence as quickly as possible with the goal of providing some recommendations in time for the November 2020 AAO and then to more broadly inform the work of the Community Safety Coalition.

***(b) Identify immediate opportunities to shift elements of current policing resources to fund more appropriate community agency responses***

This re-energized movement for social justice also highlights a problematic expansion, over many decades, in the roles and responsibilities of the police. As other systems have been defunded, most notably mental health, education, affordable housing and other health and safety-net programs, the police have been asked to respond to more and more crises that could be avoided with a different set of investments in community wellbeing. Rather than being the responders of last resort, focused on criminal, aggressive and violent behaviors, police are now frontline responders routinely called to address mental health crises, poverty and homelessness, substance abuse, stress in the school environment, traffic and code violations and neighborhood disputes. This is an extensive set of responsibilities that have slowly accreted to the police.

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<sup>4</sup>[https://www.cityofberkeley.info/uploadedFiles/Clerk/Update\\_Budget%20Request%20to%20Hire%20a%20Consultant%20to%20Perform%20Police%20Call%20and%20Re...pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Update_Budget%20Request%20to%20Hire%20a%20Consultant%20to%20Perform%20Police%20Call%20and%20Re...pdf)

<sup>5</sup> [New York Times- How Do the Police Actually Spend Their Time?](#)



By November 2020, with preliminary information provided by outside experts, the City Manager and Council should identify some responsibilities that can be quickly shifted to other programs, departments and agencies. Some areas to be considered include:

- Mental health and crisis management (consideration should be given to possible expansion of the Mobile Integrated Paramedic Unit (MIP) Pilot initiated by the Berkeley Fire Department during the COVID-19 pandemic), and other models for mental health outreach and crisis response, including by non-profits
- Homeless outreach and services
- Civilianizing some or all Code Enforcement + Neighborhood Services and placing these functions elsewhere
- Alternatives for traffic and parking enforcement, and
- Substance abuse prevention and treatment

The consultants should work with the City Manager to provide a specific timeline and process for transitioning functions as quickly as possible, with deliverables to coincide with timelines for budget processes.

**(c) Contract with Change Management experts to initiate and facilitate a Community Safety Coalition (“CSC”) and Steering Committee that will begin meeting no later than January 2021.**

While the Council can make some important changes and investments in the near future, a complete and enduring transformation in community safety is only possible through robust community engagement. It is critical that the future of community health and safety is defined by the Berkeley community, elevating the voices of our Black, Native American/First Peoples and other communities of color, LGBTQ+ people, victims of harm and other stakeholders that have been historically marginalized and under-served by current systems. The Community Safety Coalition, guided by a steering committee, will serve as the hub for a broad, deep and representative process, and uplift the community’s input into a new positive, equitable, anti-racist system of community health and safety.

Berkeley has a history in leading transformational change to achieve a more equitable society. The robust public process that led to school desegregation is an example of our community’s success in bringing about significant, transformative change (Attachment 4).

The robust public process, led by the Community Safety Coalition and its steering committee, will be guided and facilitated by outside experts.

The work of the Coalition should include but not be limited to:

- Build upon the work of the City Council, City Manager, the Fair and Impartial Policing Working Group, the Use of Force subcommittee and other efforts of the Police Review and other City Commissions, and the work of other community agencies addressing community-centered health and safety
- Research and engagement to define a holistic, anti-racist approach to community safety, including a review and analysis of emerging models, programs and practices that could be applied in Berkeley. This research should explore and propose investments in restorative justice models, gun violence intervention programs, and substance abuse support, among other things.
- Recommend a positive, equitable, community-centered safety paradigm as a foundation for deep and lasting change, grounded in the principles of *Reduce, Improve and Reinvest* as proposed by the National Institute for Criminal Justice Reform (Attachment 3), considering, among other things:
  - The social determinants of health and changes required to deliver a holistic approach to community-centered safety
  - The appropriate response to community calls for help including size, scope of operation and powers and duties of a well-trained police force.
  - Limiting militarized weaponry and equipment.
  - Identifying alternatives to policing and enforcement to reduce conflict, harm, and institutionalization, introduce alternative and restorative justice models, and reduce or eliminate use of fines and incarceration.
  - Options to reduce police contacts, stops, arrests, tickets, fines and incarceration and replace these, to the greatest extent possible, with educational, community serving, restorative and other positive programs, policies and systems.

The Coalition's goal/output will be a set of recommended programs, structures and initiatives to incorporate into upcoming budget processes for FY 2022-23 and, as a second phase, in the FY2024-2025 budget processes to ensure that recommended changes will be achieved. The Coalition shall return to City Council an initial plan and timeline by April 1, 2021, to ensure the first phase of changes can be incorporated into the FY2022-23 Budget Process.

FINANCIAL IMPLICATIONS

\$160,000 from the Auditor’s budget to assess police calls and responses

\$200,000 from current budget cycle from Fund 106, Civil Asset Forfeiture, for initial subject matter expertise and engagement of outside consultants

Staff time to support the process of identifying and implementing change.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES AND LAWS

This effort is in support of the following strategic plan goals:

- Champion and demonstrate social and racial equity
- Create a resilient, safe, connected, and prepared City
- Create affordable housing and housing support services for our most vulnerable community members
- Provide an efficient and financially-healthy City government
- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community

ENVIRONMENTAL SUSTAINABILITY

No Environmental Impact.

CONTACT PERSON

Mayor Jesse Arreguin 510-981-7100

Vice-Mayor Sophie Hahn

Councilmember Ben Bartlett

Councilmember Kate Harrison

Attachments:

1. Resolution
2. Safety for All: The George Floyd Community Safety Act - Budget Request to Hire a Consultant to Perform Police Call and Response Data Analysis
3. “Shrink the Beast” A Framework for Transforming Police, National Institute for Criminal Justice Reform
4. School Desegregation in Berkeley: The Superintendent Reports, Neil Sullivan 1968

RESOLUTION

Whereas, The recent murders of George Floyd, Breonna Taylor and Ahmaud Arbery have ignited the nation in passionate protest against police brutality and racial injustice; and

Whereas, Demands for change go beyond necessary efforts in procedural justice, implicit bias training, and use of force policies and seek a broader discussion about investment in the conditions for a safe and healthy community; and

Whereas, Investment in “public safety” has been equated with more police for too long while economic and social welfare programs have been viewed as special projects unrelated to health and safety; and

Whereas, This movement is highlighting the problematic expansion in the roles and responsibilities of police officers. Rather than being the responders of last resort, focused on criminal, aggressive and violent behaviors, police are now frontline responders to mental health crises, homelessness, drug addiction, sex work, school disruption, traffic and code violations and neighborhood conflicts; and

Whereas, the adopted 2020 budget allocated \$74 million to the Berkeley Police Department, which represents over 44% of the City’s General Fund of \$175 million, and is more than twice as much as the combined City budgets for Health Housing and Community Services, and Economic Development; and

Whereas, It is clear that our current system of public health and safety is not working and is not sustainable in Berkeley. Despite strong efforts and leadership on police reform, homelessness and affordable housing, racial inequity remains stark across virtually every meaningful measure of health and well-being; and

Whereas, Local government’s most fundamental role is to provide for the health and safety of its residents. Cities around the country are acknowledging that they are falling behind in this basic function and are embarking on efforts to reimagine health and safety, and to consider reallocating resources towards a more holistic approach that shifts resources away from policing towards equitable health, education and social services that promote wellbeing up front;<sup>678</sup> and

Whereas, As this movement ripples across the nation, Berkeley has an opportunity to lead in transforming our approach to public health and safety. We need the right response for each crisis rather than defaulting to using the police; and

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<sup>6</sup> [Transforming Community Safety Resolution-Minneapolis](#)

<sup>7</sup> [San Francisco Mayor, Supervisor announce effort to redirect some police funding to African-American community](#)

<sup>8</sup> [The cities that are already defunding the police](#)

Now, Therefore, Be It Resolved by The City Council of The City of Berkeley:

That the City Council commits to the principles of reduce, improve and re-invest: reduce the scope and investment in policing, improve the response and accountability of public and community agencies, reinvest in racial equity and community-based intervention initiatives<sup>9</sup>;

Be It Further Resolved that the City Council will engage with every willing community member in Berkeley, centering the voices of Black people, Native American people, people of color, immigrants, LGBTQ+ people, victims of harm, and other stakeholders who have been historically marginalized or under-served by our present system. Together, we will identify what safety looks like for everyone.

Be It Further Resolved that the process will center the role of healing and reconciliation. The process will require healers, elders, youth, artists, and organizers to lead deep community engagement on race and public safety. We will work with local and national leaders on transformative justice in partnerships informed by the needs of every block in our city.

Be It Further Resolved that decades of police reform efforts have not created equitable public safety in our community, and our efforts to achieve transformative public safety will not be deterred by the inertia of existing institutions, contracts, and legislation.

Be It Further Resolved that these efforts heed the words of Angela Davis, “In a racist society, it is not enough to be non-racist. We must be anti-racist.”

Be It Further Resolved that the transformation under consideration has a citywide impact, and will be conducted by the City Council in a spirit of collaboration and transparency with all constructive stakeholder contributors including the Mayor’s Office, the City Manager, the Police Chief, and community organizations.

Be It Further Resolved that the City Council of the City of Berkeley is committed to:

1. A transformative approach to community-centered safety and reducing the scope of policing
2. Equitable investment in the essential conditions of a safe and health community especially for those who have been historically marginalized and have experienced disinvestment
3. A broad, inclusive community process that will result in deep and lasting change to support safety and wellbeing for all Berkeley residents.

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<sup>9</sup> [A Framework fo Transforming Police- NICJR](#)

Be it Further Resolved that the City Council supports taking the following actions to realize this transformation:

1. Direct the City Manager to track and report progress on actions to implement this initiative, and other actions that may be identified by the Coalition and referred by Council to the City Manager. Updates shall be provided by written and verbal reports to Council, and posted on a regularly updated and dedicated page on the City website.
2. Direct the City Manager to collaborate with Councilmembers later selected by the Mayor to complete the following work, to inform investments and reallocations to be incorporated into future Budget processes:
  - a. Contract with independent consultants/Change Management and subject matter experts to:
    - i. Analyze the scope of work of, and community needs addressed by, the Berkeley Police Department, to identify a more limited role for law enforcement, and identify elements of police work that could be achieved through alternative programs, policies, systems, and community investments. Analysis should include but not be limited to: calls received by dispatch by type of complaint, stops by law enforcement generated at officer discretion (as contained in the Police Department's open data portal) or on request of other city agencies, number of officers and staff from other city agencies that respond to incidents, estimated time in response to different types of calls, daily patrol activities, organizational structure, and beat staffing. Work to include broad cost estimates of police and other city agency response to different types of calls, and other information and analysis helpful to identify elements of current police work that could be transferred to other departments or programs, or achieved through alternative means. Work should be completed in time for the November 2020 Annual Appropriation Ordinance revision.
    - ii. Identify immediate and longer term opportunities to shift policing resources to alternative, non-police responses and towards alternative and restorative justice models, to better meet community needs, that could be considered in the

November 2020 AAO#1 budget process. Some areas to be considered include homeless outreach and services, substance abuse prevention and treatment, and mental health/crisis management, as well as alternative models for traffic and parking enforcement, “neighborhood services” and code enforcement. Provide a broad timeline and process for transitioning functions not ready for transition at this first milestone.

Deliverables should coincide with budget cycles, including the November 2020 AAO and FY 2022-2023 Budget processes, and provide a suggested timeline for transitioning functions at these and other budget opportunities, so that alternative investments may be considered for funding and launched in a timely and orderly manner.

- b. Contract with independent Change Management experts to create and facilitate a representative Community Safety Coalition, guided by a Steering Committee, that will begin meeting no later than January 2021. The CSC and its Steering Committee, should be broadly inclusive and representative of Berkeley residents and stakeholders. The Steering Committee, with the support of Change Management professionals, shall be responsible for engaging the Coalition and the broader Berkeley community and relevant City Staff in a robust process, to achieve a new and transformative model of positive, equitable and community-centered safety for Berkeley.

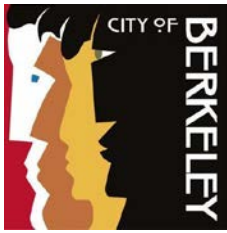
The work of the Coalition should include but not be limited to:

4. Building on the work of the City Council, the City Manager, the PRC and other City commissions and other working groups addressing community health and safety.
5. Research and engagement to define a holistic, anti-racist approach to community safety, including a review and analysis of emerging models, programs and practices that could be applied in Berkeley.
6. Recommend a new, community-centered safety paradigm as a foundation for deep and lasting change, grounded in the principles of *Reduce, Improve and Reinvest* as proposed by the National Institute for Criminal Justice Reform (Attachment 3), considering, among other things:

- a. The social determinants of health and changes required to deliver a holistic approach to community-centered safety
- b. The appropriate response to community calls for help including size, scope of operation and powers and duties of a well-trained police force.
- c. Limiting militarized weaponry and equipment.
- d. Identifying alternatives to policing and enforcement to reduce conflict, harm, and institutionalization, introduce alternative and restorative justice models, and reduce or eliminate use of fines and incarceration.
- e. Options to reduce police contacts, stops, arrests, tickets, fines and incarceration and replace these, to the greatest extent possible, with educational, community serving, restorative and other positive programs, policies and systems.

The Coalition's goal/output will be a set of recommended programs, structures and initiatives to incorporate into upcoming budget processes for FY 2022-23 and, as a second phase, in the FY2024-2025 budget processes to ensure that recommended changes will be achieved. The Coalition shall return to City Council an initial plan and timeline by April 1, 2021, to ensure the first phase of changes can be incorporated into the FY2022-23 Budget Process.





Councilmember Ben Bartlett  
City of Berkeley, District 3

## EMERGENCY ITEM AGENDA MATERIAL

**Meeting date:** June 16, 2020  
**Item Description:** Safety for All: The George Floyd Community Safety Act - Budget Request to Hire a Consultant to Perform Police Call and Response Data Analysis  
**Submitted by:** Councilmember Ben Bartlett (Author), Mayor Jesse Arreguin, and Councilmembers Kate Harrison (Co-Sponsor)

### Rationale:

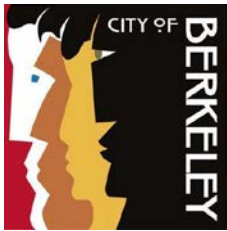
Pursuant to California Government Code Section 54954.2(b) (2), Councilmember Ben Bartlett submits the attached item to the City Council for placement on the June 16, 2020 meeting agenda. Gov. Code Section 54954.2(b) (2) states that “Upon a determination by a two-thirds vote of the members of a legislative body presents at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).”

This item meets the criteria for “immediate action” as follows:

- 1) The budget is being considered and there is public outcry for Council to take action.
- 2) Racism Is a Public Health Emergency.
- 3) Council is considering numerous police items right now.

Hundreds of thousands of people in every state have marched in solidarity to call for an end to police brutality, to demand police accountability, and to reform law enforcement, bringing justice to the Black lives and people of color who have been wrongfully harmed at the hands of the criminal justice system. Police brutality has taken the lives of 46-year-old Black man George Floyd, 26-year-old Black woman Breonna Taylor, and countless other people of color. Often resorting to violent means of punishment, police officers are not trained to handle noncriminal and nonviolent situations. Unfortunately, the lack of sufficient data and reporting has allowed police misconduct to be swept under the rug, which has increased police militarization, failed to prioritize community safety, and prevented providing the civilian with the necessary treatment to resolve the situation.

To respond to urgent calls for police transparency and accountability, this item requests the City Manager to hire third-party consultants to conduct a data-driven analysis of the Berkeley Police Department’s calls, responses, budget, and expenditures to determine which calls can be serviced to non-law enforcement agencies, ensuring noncriminal and nonviolent situations are properly handled by trained community professionals.



Councilmember Ben Bartlett  
City of Berkeley, District 3

CONSENT CALENDAR

June 16, 2020

To: Honorable Mayor and Members of the City Council  
From: Councilmember Ben Bartlett (Author), Mayor Jesse Arreguin, and  
Councilmembers Kate Harrison (Co-Sponsor)  
Subject: Safety for All: The George Floyd Community Safety Act - Budget Request to  
Hire a Consultant to Perform Police Call and Response Data Analysis

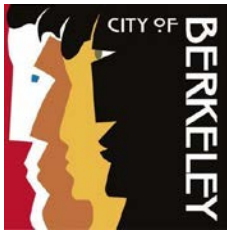
RECOMMENDATION:

1. Refer to the Thursday, 6/18/2020 Budget & Finance Policy Committee and the FY 2020-21 Budget Process the \$150,000 to
  - a. Hire a consultant to conduct a data-driven analysis of police calls and responses to determine the quantity and proportion of these calls that can be responded to by non-police services. The third-party consultant must be hired and engaged in work within three months of the item's passage.
  - b. Hire a consultant to conduct an analysis of the Berkeley Police Department's budget and its expenditures by call type. The third-party consultant must be hired and engaged in work within three months of the item's passage.
2. Direct the City Manager to:
  - a. Implement initiatives and reforms that reduce the footprint of the police department and limit the police's response to violent and criminal service calls.

CURRENT SITUATION

In all 50 states and more than 145 cities, Americans are calling to end police violence and brutality, to legitimize police accountability, and to transform the police system to protect the safety of communities and people of color. Police violence and brutality led to the death of a 46-year-old Black man George Floyd and the murders of other Black people, igniting a flame that has been brewing for a long time. These events of police violence gave rise to a wave of demonstrations and demands for change, including many in the City of Berkeley.

Due to the Coronavirus pandemic, the City of Berkeley is facing a nearly 30+ million dollar budget deficit, sharply stalling economic growth with effects that parallel the Great Depression. At the same time, the City is projected to undergo an increase in people experiencing homelessness, trauma, and mental health crises. Therefore, the City must ensure that each dollar is spent for the residents' best interest and will produce the maximum return.



Councilmember Ben Bartlett  
City of Berkeley, District 3

In order to better respond to the needs of the Berkeley community, it is critical that the Council takes local-level action on police reform. In particular, the City must examine the types of calls and responses from the police department and analyze the agency's budgets and expenditures according to call type.

As a component of the **REDUCE, IMPROVE, RE-INVEST** framework, this item works towards the REDUCE goal: *the City should implement initiatives and reforms that reduce the footprint of the police department and limit the police's response to violent and criminal service calls.* Specifically, this item proposes to hire an outside consultant to conduct an analysis of police calls and responses as well as the department budget.

With military-style techniques and structure, police officers are trained to combat crime in a manner that exerts violence through punishments, establishing a monopoly on force in communities. While law enforcement is supposed to protect our communities and keep us safe, crime waves from the 1970s and 1980s have transformed the police community into a body for crime control, maintaining such focus until modern-day despite declines in criminal activity<sup>1</sup>. With this focus on crime control, police officers lack the necessary training to adequately respond to noncriminal and nonviolent crimes. Non Criminal crimes refer to issues involving mental health, the unhoused community, school discipline, and neighborhood civil disputes<sup>2</sup>. Nonviolent crimes are categorized as property, drug, and public order offenses where injury or force is absent<sup>3</sup>. When police respond to these types of matters, they resort to violent means of arrest or problem escalation because they are ill-equipped and not trained to resolve the underlying issues.

According to the Vera Institute of Justice's report between 1980 and 2016, more than 10.5 million arrests are made every year; only 4.83 percent of those arrests were for violent offenses<sup>4</sup>. Eighty percent of these arrests were for low-level offenses, such as "disorderly conduct," non-traffic offenses, civil violations, and other offenses. This criminalization may be attributed to the arrest quotas for police productivity, which promotes punishment by rewarding the number of arrests for police funding instead of finding solutions to these issues<sup>5</sup>. This high percentage of low-level offenses resulted in

<sup>1</sup> <https://www.theatlantic.com/ideas/archive/2020/06/first-step-figuring-out-what-police-are/612793/>

<sup>2</sup> <https://www.latimes.com/california/story/2020-06-12/san-francisco-police-reforms-stop-response-noncriminal-calls>

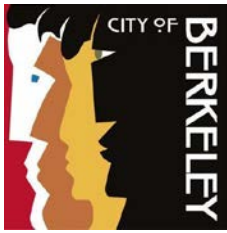
<sup>3</sup>

<https://www.bjs.gov/content/pub/ascii/pnoesp.txt#:~:text=Nonviolent%20crimes%20are%20defined%20as%20possession%2C%20burglary%2C%20and%20larceny.>

<sup>4</sup>

<https://arresttrends.vera.org/arrests?compare%5Boffense%5D%5Bpart1%5D=part1&compare%5Boffense%5D%5Bpart2%5D=part2#infographic>

<sup>5</sup> <https://theintercept.com/2019/01/31/arrests-policing-vera-institute-of-justice/>



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arrest when other nonviolent, rehabilitative methods could have occurred from the solutions of community workers with the experience to handle these situations.

It is imperative that the City of Berkeley develops, implements, and enforces a clear and effective roadmap towards making real change, ending anti-Black racism, stopping police violence, and holding police accountable for their actions. Thus, the Council should direct the City Manager to hire third party consultants to conduct a data-driven analysis of police calls and responses as well as their budget and expenditures in order to determine ways in which experienced community workers can reduce the police footprint by addressing noncriminal situations. We recommend that community workers also resolve nonviolent situations.

### BACKGROUND

In order to achieve the aforementioned goals, the City must implement a series of important law enforcement reforms and take action by initiating the following:

#### **REDUCE:**

##### **I. Hire a consultant to conduct a data driven analysis of police calls and responses.**

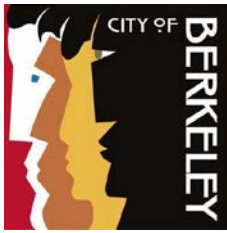
University of Denver Political Science Professor Laurel Eckhouse stated, “One method of reducing police presence... is to separate and reassign to other authorities various problems currently delegated to the police... such as the problems of people who don’t have housing... mental health issues... and even things like traffic<sup>6</sup>.” Community organizations, civilian workers trained in mental health situations, or neighborhood problem-solvers would better address these specific issues due to their experience, ensuring that the police are not the only force addressing these issues and promoting community vitality<sup>7</sup>.

Conducting a data driven analysis of police calls and responses would signify a report of the calls and responses that police receive and would inform the city where to better allocate resources to resolve specific issues. Noncriminal and nonviolent activities can thus be properly addressed by those who are equipped to handle these situations and would relieve law enforcement from these calls to then pursue more serious criminal situations. For example, the San Francisco Police Department receives approximately 40,000 calls per year about homeless people on the streets<sup>8</sup>. Social workers who can help unhoused citizens and those with mental health disorders are better equipped to help these citizens receive

<sup>6</sup> <https://www.stanforddaily.com/2020/06/04/police-abolition-looks-like-palo-alto/>

<sup>7</sup> <https://www.theatlantic.com/ideas/archive/2020/06/first-step-figuring-out-what-police-are/612793/>

<sup>8</sup> <https://www.latimes.com/california/story/2020-06-12/san-francisco-police-reforms-stop-response-noncriminal-calls>



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proper treatment while also protecting the safety of our communities, which would give law enforcement time to handle other crimes.

One suggestion to reduce the costs of policing is to boost productivity by allocating a portion of the calls for service to community organizations who have the resources and training to handle such situations<sup>9</sup>. For example, in Mesa, Arizona from 2006 to 2008, a third of calls for service are handled by civilians; these calls are for incidents of “vehicle burglaries, unsecured buildings, accidents, loose dogs, stolen vehicles, traffic hazards, and residential burglaries<sup>10</sup>.” Approximately half of calls for service in Mesa are handled by police officers, but among those, there are ways to reduce police authority. For example, 11 percent of those calls that police officers handled were in response to burglary alarms, where 99 percent were false. Six percent of those calls included “juveniles disturbing the peace.” This situation in Mesa demonstrates the possibility of reduced police force in exchange for community based response teams who can better resolve these issues with their experience.

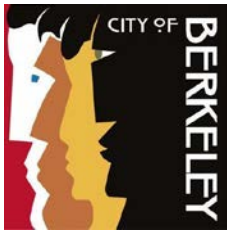
The City Manager should hire a third party consultant within three months of this item’s passage to conduct the data analysis, ensuring that the report is completed in an impartial and timely manner.

The third party consultant should create a report with the following information by analyzing and gathering the data from the police department, reporting their findings to the City every two years. We recommend the following data to be considered for analysis:

- a. Number of calls the police department receives per day, week, month, and year, which will be categorized into noncriminal, misdemeanor, nonviolent felony, and serious and violent felony calls.
- b. Demographics for these calls
- c. Characteristics of traffic stops
  - i. Quantity
  - ii. Type/reason
  - iii. Number of those resulting in searchings paired with the frequency at which illegal items were found
  - iv. Police response (i.e. citation, arrest, use of force)
  - v. Demographics of the civilian in the traffic stop that is broken into type of stop and whether a search occurred
- d. Number of complaints against an officer
  - i. Enumerate the officers with a high number of complaints

<sup>9</sup> <https://www.ncjrs.gov/pdffiles1/nij/231096.pdf>

<sup>10</sup> <https://www.ncjrs.gov/pdffiles1/nij/231096.pdf>



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ii. Reason behind the complaints.

With the results of the data analysis, the City can determine the portion of calls that the community crisis worker pilot can properly address with the resources and experience they have.

**II. Hire a consultant to conduct an analysis of the police department budget.**

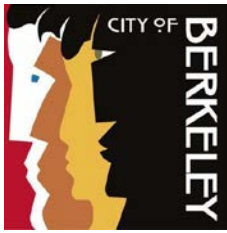
Using the analysis generated by a review of police call and response data, a third party consultant should be hired to analyze the police department's expenditures and budgets for various calls of service and report their findings to the City every two years.

According to the 2019 budget, the Berkeley Police Department's expenditures were approximately \$69 million, which consists of 5.6 percent of the city's net expenditures. However, for the 2020 budget, the BPD is expected to have \$74 million in expenditures, reflecting a \$5 million increase from the previous year and approximately \$8 million higher than 2017's expenditures<sup>11</sup>. Unfortunately, anecdotal evidence suggests that only 20 percent of police time is spent on solving crime and the majority is spent towards addressing those experiencing homelessness and mental health crises. The City should reallocate resources to a crisis worker entity who would be tasked with responding to noncriminal calls. We recommend that nonviolent calls also be addressed by this entity. This would give police officers more time to focus on crime, leading to better outcomes for public safety, community health, and a higher quality of life.

In Canada, Police Information and Statistics Committee police services Waterloo Police Regional Service and Ontario Provincial Police collaborated with Justice Canada and Public Safety to collect data on their calls for service and determine the costs of policing<sup>12</sup>. Their research reported that in 2013, bylaw complaints were listed as the most frequent call for service in Waterloo at 8,769 calls and non-crime policing activities were listed as the most frequent. In contrast, the only criminal activity listed in the top 10 generated calls were domestic dispute, theft under \$5000, and major violent crime in property damage. Considering the most frequent of costly calls are noncriminal activities such as selective traffic enforcement programs (\$22,212.45 in sum of total unit service time in hours) and vehicle stops (\$206,668.13), the greatest cost in calls were for noncriminal activities. As noncriminal activities result in the greatest costs, it would be more efficient for community workers to handle these situations in order to reduce

<sup>11</sup> <https://www.cityofberkeley.info/uploadedFiles/Manager/Budget/FY-2020-2021-Adopted-Budget-Book.pdf>

<sup>12</sup> <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2015-r018/index-en.aspx#c-1-i>



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police department costs, allowing trained professionals to resolve the issue and giving police officers time to spend on more serious criminal offenses.

By analyzing the budget expenditures for the police for each call type, the community can divest from the police and reallocate those funds for trained community organizations who can handle noncriminal and nonviolent offenses. Considering the significantly delayed response to former requests for the police department's budget, the data analysis should be conducted by a third party consultant that is hired and engaged in active service within three months of this item's passage, ensuring that the police department's budget information is transparent to the public and reported in an impartial, timely manner.

#### REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

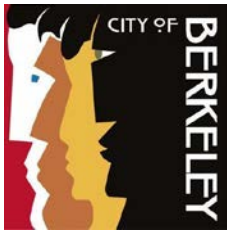
The City Manager provides regular reports on crime in Berkeley and on the policies of the Berkeley Police Department<sup>13</sup>. The data on serious crime is collected annually by the Federal Bureau of Investigation (FBI), which consists of over 17,000 law enforcement agencies that represent over 90 percent of the United States population. The FBI's Uniform Crime Report (UCR) reports crime statistics on violent crimes (including murder, rape, robbery, and aggravated assault) and property crimes (including burglary, larceny, auto theft, and arson). This data allows the BPD to analyze national and local crime trends, determine effectiveness of response to crime, and plan for future policies and resource allocation. Additionally, the City of Berkeley implements the Daily Calls for Service Log that the community can access to see the volume and nature of police activity.

Currently, Utah requires agencies to report tactical deployment and forcible entries where such reports are summarized by the Utah Commission on Criminal and Juvenile Justice. Utah Law Enforcement Transparency reporting interface was added to Utah Criminal Justice Information System in 2014 through the use of federal grant funding. Law enforcement agencies are required to report incidents of forcible entry and the deployment of tactical groups, representing data collection of police use of force<sup>14</sup>.

However, these reports do not analyze the demographics or types of calls and responses from the BPD, which makes it difficult to hold police officers accountable for the mistreatment of individuals. Without this information, it becomes difficult to determine how to decrease the police footprint or implement safer policing practices if the analysis only pertains to the quantity and types of arrests and does not include the

<sup>13</sup> [https://www.cityofberkeley.info/Police/Home/Annual\\_Crime\\_Reports.aspx](https://www.cityofberkeley.info/Police/Home/Annual_Crime_Reports.aspx)

<sup>14</sup> <https://justice.utah.gov/Documents/CCJJ/LETR/2018%20LET%20Annual%20Report.html>



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background, call of service, reason, demographics, complaints against the police officer, and other important factors to the BPD's response.

Despite voluntary data sharing and crime reports, data collection still remains vague and insufficient, leaving many unanswered questions regarding the number of instances of and reasons for use of force, complaint process against police officers, and other information about police actions. This lack of clarity allows police misconduct to perpetuate due to the lack of research that would hold police departments accountable.

#### ACTIONS/ALTERNATIVES CONSIDERED

One possible alternative to the community response teams would be to implement better training procedures so that police officers are more equipped to handle nonviolent and noncriminal activities. For example, the state of Washington requires both violence de-escalation and mental health training for police officers<sup>15</sup>. Such reform may render the data analysis on the types of calls unnecessary because the police department would be trained to handle all services regardless of the type of call.

However, training police officers to handle situations such as mental health or homelessness would signify an increase in funding for the police department to provide such training services. Not only would this type of training be difficult to maneuver when police forces are currently trained in a militarized manner, but it would be more efficient for community professionals to peacefully and properly resolve such issues since they have already engaged in this training and experience for years.

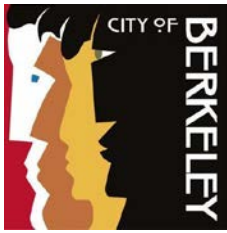
Reforming police training may be beneficial, but in this case, it would also indicate the lack of basis for reporting the police department's types of calls and responses, which is necessary to hold the police accountable and ensure safer practices. While reporting the data analysis could still occur without the community crisis workers, only having the police department manage all situations would increase their authority over the communities, which would lead to increased militarization of the police forces if other community organizations do not intervene or hold them accountable.

#### OUTREACH OVERVIEW AND RESULTS

The District 3 Office has consulted with David Muhammad, who is the Executive Director of the National Institute for Criminal Justice Reform; the former Chief Probation Officer in Alameda County; and the former Deputy Commissioner of Probation in New York City. David Muhammad is a leading expert on criminal justice who has helped inform our response to the current situation.

<sup>15</sup> <https://www.theatlantic.com/ideas/archive/2020/06/how-actually-fix-americas-police/612520/>





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The District 3 Office has also consulted with Marcus McKinney, the Senior Director of Government Affairs & Public Policy at the Center for Policing Equity.

The District 3 Office has also consulted with Professor Tracey L. Meares, Walton Hale Hamilton Professor and Faculty Director of the Justice Collaboratory at Yale Law School.

### RATIONALE FOR RECOMMENDATION

Police departments across the country enforce policies and practices that breed a culture of violence resulting in killings--like those of Floyd and Moore, and of countless other people of color. These authoritative, militarized behaviors are often rooted in anti-Black racism, and such behavior must stop being acceptable. Transformation of police departments, their role, and relationship to our communities requires a change in culture, accountability, training, policies, and practices.

To prioritize community safety and reduce police violence, the City must hire a third party consultant to analyze police data in order to decide how to divest from the police to fund experienced community workers who can adequately resolve noncriminal and nonviolent situations. These community workers would protect the community from violence and emphasize revitalization and rehabilitation over the punishment that police officers often enforce. Implementing a data-driven analysis on police data would increase the transparency of the police department and hold them accountable, detecting the issues within the police force that community response teams can help heal. The Council must make informed legislative decisions that will reduce police footprint, improve current practices of law enforcement, and reinvest in the community for the safety of our civilians.

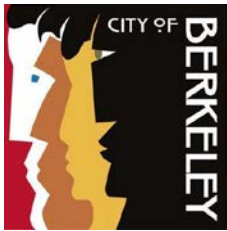
### FISCAL IMPACTS OF RECOMMENDATION

The third party consultant/s would cost approximately \$150,000 to \$200,000. It is up to the City Manager to hire the third party consultants who will analyze the data of the police department's calls, responses, budget, and expenditures. Consultants must be hired and engaged in service within three months if this item passes. These consultants would ensure that noncriminal situations are handled by those with the necessary training, which may lead to a decrease in repeat offenses when community workers properly resolve the situation and guide civilians to helpful resources.

### ENVIRONMENTAL SUSTAINABILITY

We do not expect this recommendation to have significant negative impacts on environmental sustainability.

### OUTCOMES AND EVALUATION



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If this item is passed, third party consultants would be hired by the City and engaged in data analysis within three months of passage. These consultants would produce biennial reports regarding the Berkeley Police Department's types of calls and responses as well as the budgets and expenditures in order to inform the City how to reallocate funds from the police into a community response team with better experience to handle noncriminal situations. We recommend that nonviolent situations also be addressed by community crisis workers.

#### CONTACT PERSON

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#### ATTACHMENTS

1. Cover Letter - Safety for All: George Floyd Community Safety Act
  - <https://drive.google.com/file/d/16pqqd9J6NPRzh6298Bgazo7jw1qxTK6Y/view?usp=sharing>

# SHRINK THE BEAST:

A Framework for Transforming Police

NICJR★  
National Institute for  
Criminal Justice Reform



The killing of George Floyd by Minneapolis police was the match that lit a fire that has been building in our communities for a long time. Nationwide demands for not just reform, but complete transformation of policing have put pressure on local jurisdictions across the country to make rapid and real change.

Since its founding, the National Institute for Criminal Justice Reform (NICJR) has worked to reform the juvenile and criminal justice systems through a process of Reduce – Improve – and Reinvest. This framework can also be effective in transforming policing. In the past 15 years, the U.S. juvenile justice system has been reduced by more than half. Youth correctional facilities have been shuttered and investment into community services has increased. While there is certainly more progress to be made, the movement to transform policing can learn a great deal from criminal justice reform.

**NICJR's framework to Shrink the Beast focuses on three areas:** reducing the footprint of law enforcement, significantly improving what remains of policing, and reinvesting the savings from smaller police budgets into community services.

## Reduce

One of the most significant structural reforms we must advance in policing, already happening in the criminal justice arena, is shrinking its scope. Officers are asked to do too much with too few resources. The warrior mentality that police are indoctrinated with, starting as early as the first day of the police academy, does not allow them to handle many of those responsibilities well. It is time for an alternative response network for all non-violent calls for service. Similar to the community-based organizations that provide diversion programs for youth and adults who would otherwise end up in the justice system, a new infrastructure of community safety and problem-solving responders, with expertise in crisis response, mental health, and de-escalation techniques, must be developed. Such a network should be vast and well equipped, including 24-hour on-call community crisis response and outreach workers. The resulting reduced police force would then focus primarily on responding to serious violence. Small, but promising examples of this model already exist:

- › In Oakland, CA**, non-profit organizations employ street outreach workers and crisis response specialists who respond to shooting scenes, intervene in and mediate conflicts, and sit down with young adults who have been identified as being at very high risk of violence to inform them of their risk and offer them intensive services. These City-funded efforts have been credited with a [50 percent reduction in shootings](#) and homicides in the city.
- › In Eugene, OR**, Crisis Assistance Helping Out on the Streets ([CAHOOTS](#)) responds to more than 22,000 requests for service annually with its Crisis Intervention Workers. This represents nearly 20 percent of the total public safety call volume for the metropolitan area.
- › In Austin, TX**, the [Expanded Mobile Crisis Outreach Team](#) is equipped to respond to 911 calls where callers indicate that a mental health response, not police, is needed.
- › In Albuquerque, NM**, where the police have been involved in numerous unjustified killings, the Mayor has proposed creating a [new non-law enforcement public safety agency](#) that will respond to non-violent calls.

## Steps To Reduction



Create a robust alternative emergency response network with mental health workers, crisis intervention specialists, and street outreach workers – the Community Emergency Response Network (CERN).



Significantly reduce police patrol divisions which are currently primarily responsible for responding to 911 calls. Police will instead focus on responding to serious and violent incidents, a small percentage of all current calls.



CERN Crisis Intervention Specialists would respond to all other calls.



Traffic policing should be replaced by technology to the maximum extent possible.



Violence reduction teams should be created or remain intact: Patrol and investigation units focused on reducing gun violence. Like all remaining police personnel, these units must be trained in and adhere to strict use of force and Procedural Justice policies.



Investigation Units should also remain intact.

## Improve

The primary challenge in police agencies is culture. Many have described it as a warrior culture. Adrenaline-filled young officers want to “knock heads” during their shifts; the “us vs them,” military occupation syndrome. We must confront and transform this destructive culture. Policing should focus on protection and service to the community.

Improving the smaller police departments that remain, after taking the steps to reduction outlined above, includes three components: policy, training, and accountability. Implement new policies including restricting the use of force, mandating verbal de-escalation, community policing, and eliminating stop and frisk. Implement high quality and frequent training on these newly developed policies. And, most importantly, hold all police personnel accountable for adhering to and demonstrating these policies in action.



### Steps To Improvement

- 1 Increase hiring standards to screen out candidates with any signs of racial bias, interest in the warrior culture, or those who have been fired or forced to resign from previous law enforcement positions.
- 2 Prioritize hires of those who grew up in the city and/or live in the city.
- 3 Make deliberate efforts to have the police force representative of the community it serves.
- 4 Revise use of force policies to limit any use of deadly force as a last resort in situations where a suspect is clearly armed with a firearm and is using or threatening to use the firearm.
- 5 All other force must be absolutely necessary and proportional.
- 6 Provide thorough, high quality, and intensive training in subjects including:
  - New use of force policy
  - Verbal de-escalation
  - Bias-free policing
  - Procedural Justice
- 7 Transparency: Provide regular reports to the public on stops, arrests, complaints, and uses of force, including totals, demographics, and aggregate outcomes data.
- 8 Effectively use an early intervention system that tracks various data points to identify high risk officers and implement discipline, training, and dismissal where necessary.
- 9 Use aggressive, progressive discipline to root out bad officers.
- 10 Rescind state and local laws that provide undue protection to police unions and prohibit effective and efficient disciplinary action.

## Reinvest

A smaller footprint of law enforcement should result in a reduced police budget. Resources should be shifted away from the police department to the CERN and other community-based intervention initiatives, including Credible Messengers/Life Coaches, social workers, and mental health service providers.



The National Institute for Criminal Justice Reform (NICJR) is a non-profit organization providing technical assistance, consulting, research, and organizational development in the fields of juvenile and criminal justice, youth development, and violence prevention. NICJR provides consultation, program development, technical assistance, and training to an array of organizations, including government agencies, non-profit organizations, and philanthropic foundations.

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[NICJR.org](https://www.nicjr.org)

## R E P O R T R E S U M E S

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UD 004 752

SCHOOL DESEGREGATION IN BERKELEY--THE SCHOOL SUPERINTENDENT REPORTS.

BY- SULLIVAN, NEIL V.

PUB DATE NOV 67

EDRS PRICE MF-\$0.25 HC-\$0.92 21F.

DESCRIPTORS- \*SCHOOL INTEGRATION, \*BOARD OF EDUCATION POLICY, \*BOARD OF EDUCATION ROLE, SCHOOL ADMINISTRATION, SCHOOL SUPERINTENDENTS, JUNIOR HIGH SCHOOLS, ELEMENTARY SCHOOLS, COMMUNITY COOPERATION, BUS TRANSPORTATION, STAFF ROLE, ELECTIONS, INTEGRATION PLANS, BERKELEY, CALIFORNIA

DESCRIBED IS THE HISTORY OF THE EFFORTS TO DESEGREGATE THE BERKELEY, CALIFORNIA, SCHOOL DISTRICT, WHICH IS SCHEDULED TO BE FULLY DESEGREGATED BY SEPTEMBER 1968. CHANGE BEGAN IN THE 1950'S WITH THE ELECTION OF A "LIBERAL" TO THE BOARD OF EDUCATION. FIRST STEPS INVOLVED IMPROVING EDUCATIONAL OPPORTUNITIES FOR MINORITY GROUP CHILDREN AND MAKING EFFORTS FOR BETTER RACE RELATIONS. DESEGREGATION BEGAN IN THE JUNIOR HIGH SCHOOLS BUT NOT WITHOUT COMMUNITY FRICTION TO THE POINT OF A DEMAND FOR A RECALL ELECTION OF THE BOARD. HOWEVER THE BOARD WAS VINDICATED ON ITS STAND FOR VOLUNTARY INITIATION OF DESEGREGATION. A NEW SCHOOL SUPERINTENDENT WAS FACED WITH THE JOB OF IMPLEMENTING THE PLAN AND BEGAN HIS EFFORTS BY DEVELOPING COMMUNITY SUPPORT AND PRODUCTIVE LIAISON WITH HIS STAFF. THE NEXT STEP INVOLVED DESEGREGATING THE ELEMENTARY SCHOOLS. THE WIDE GEOGRAPHIC SEPARATION OF IMBALANCED SCHOOLS IN THE CITY REQUIRED THE DESIGNATION OF CERTAIN WHITE SCHOOLS AS RECEIVING SCHOOLS AND THE USE OF FEDERALLY FUNDED BUSES AND ADDITIONAL STAFF FOR THE 230 INCOMING PUPILS. HOWEVER THIS WAS ONLY A "TOKEN" EFFORT. VOLUNTARY REVERSE BUSING AND A TIMETABLE FOR COMPLETE DESEGREGATION HAVE BEEN RECOMMENDED. IT IS FELT THAT THE REQUISITES FOR SUCCESSFUL SCHOOL DESEGREGATION ARE FULL COMMITMENT BY THE SCHOOL ADMINISTRATION AND THE BOARD, COMMUNITY INVOLVEMENT WITH AND FAITH IN THE BOARD AND ADMINISTRATION, AND THE DEVELOPMENT OF "WORKABLE" PLANS. THIS PAPER WAS PREPARED FOR THE NATIONAL CONFERENCE ON EQUAL EDUCATIONAL OPPORTUNITY IN AMERICA'S CITIES, SPONSORED BY THE U.S. COMMISSION ON CIVIL RIGHTS, WASHINGTON, D.C., NOVEMBER 16-18, 1967. (NH)

04752

**SCHOOL DESEGREGATION IN BERKELEY:  
THE SCHOOL SUPERINTENDENT REPORTS**

Prepared by  
Neil V. Sullivan, Ed. D., Superintendent of Schools  
Berkeley Unified School District-Berkeley, California  
for the  
National Conference on Equal Educational Opportunity  
in America's Cities  
sponsored by the  
U.S. Commission on Civil Rights, Washington, D.C.  
November 16-18, 1967

**U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE  
OFFICE OF EDUCATION**

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In recent years Berkeley, California, has been fortunate to have a school district which recognizes its problems and works effectively toward their solution. The city schools already have completely desegregated the junior high schools, and have made a token start at the elementary level. The School Board has committed itself to completing the process in all schools by September 1968. When that goal is reached, Berkeley will be a rare example of a major city working out a solution to this problem without court orders, violence, boycotts, or compulsion, but only with the conviction of the Board of Education, the Administration, and the citizens that it was right.

This has not been achieved overnight. To place the present achievements in their proper context it is necessary to trace the development of events in the recent past.

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PRE-1964

The Liberal Renaissance - Prior to the mid-1950's Berkeley's local government -- including the Board of Education -- was typical of those found in most middle-size, middle-class communities. The orientation was pro-business, with a heavy emphasis on keeping the tax rate down. This condition was so pronounced that teachers, in order to obtain a much needed and earned salary increase, were forced to use an initiative petition to get school revenues raised; the Board had refused to do so.

There are many different versions concerning the beginning of the liberal renaissance. There is general agreement that the first concrete step was the election of one liberal to the Board in 1957, followed by another in 1959, and two more in 1961. With the 1961 election the liberals assumed control of both the Board of Education and the City Council. However, even with only one "liberal" Board member in the late 1950's, the Board began to give attention to the problems of race relations in a multi-racial city.

Preliminary Steps - A citizens committee (named the Staats Committee after its chairman) was organized to study race relations within schools. This committee did not come to grips with the question of de facto segregation but sought to deal otherwise with improving educational opportunities for minority youngsters and improving race relations in the schools. For the late 1950's this report was a forward-looking document. It led to two particularly noteworthy developments.

First, the hiring practices for minority teachers were greatly improved. The number of Negro teachers increased from 36 in 1958 to 75 in 1962. Negroes also were advanced to principalships and other high positions in the District's administrative hierarchy. And by 1962 there were about 30 Orientals on the certificated staff.\*

Second was the Intergroup Education Project (IEP). This project was designed to help teachers appreciate cultural diversities and better understand youngsters from other than middle-class backgrounds. It conducted seminars for teachers, mass community meetings, and weekend conferences for this purpose. The IEP helped prepare the ground for the high staff support for later integration efforts.

Junior High School Desegregation - In 1962 a delegation from the Congress on Racial Equality visited the Superintendent of Schools -- and later the Board of Education. Complimenting the School District for progress already made, the CORE delegation suggested that it was time to get on with the task of desegregating the schools. CORE asked that a citizens committee be appointed to study this problem.

The report included a recommendation for desegregating the junior high schools by assigning some students from the predominantly Caucasian "hill" area to Burbank, the Negro junior high school; students from predominantly Negro west Berkeley would be assigned partly

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\* The distribution of minority teachers among the various schools did not keep pace with progress in hiring. Most of these recruits were assigned to predominantly Negro schools. In more recent years we have made a concerted effort to achieve a better racial balance on all faculties. It is important, especially to combat stereotypes, to the education of all children to see members of all races working together in such respected vocations as teaching.

to Garfield, the Caucasian junior high school. Since the third junior high school already was racially balanced, this recommendation would have eliminated de facto segregation at the junior high school level.

The report struck the community like a bombshell. Although the community was aware that the committee was functioning, most people had not taken seriously the possibility that such a concrete recommendation would be made. The reaction was intense. During the remainder of 1963 and through January of 1964 there was extensive community discussion of the proposal. Two hearings were held -- one attracting 1200 people and other drawing over 2000. PTA's and other groups set up study committees on this problem; never before had such crowds attended PTA meetings!

In the hill area affected by the recommendation many liberals faced a dilemma. Some asked: "How do we express our opposition to this particular proposal without sounding like bigots?" Our response was to ask them to develop a better plan. Many sincere critics of the citizens committee proposal set out to do just that.

One of these alternative proposals was named the "Ramsey Plan" after the junior high school English teacher who suggested it. This plan proposed desegregation of Berkeley's three junior high schools by making the predominantly Negro school into a 9th grade school and dividing the 7th and 8th graders between the two remaining junior high schools.

In February 1964 a five-member staff committee was asked to study the reactions of the Berkeley school staff to the citizens committee proposal and to other ideas that had been offered. Every school faculty was asked to consider the matter.

In March the 5-member staff committee reported to the Board that the staff as a whole was favorable toward integration, and preferred the Ramsey Plan to the original citizens committee proposal. The Board instructed the Superintendent to consider the educational pros and cons of the Ramsey Plan, and its feasibility for September 1964 implementation.

The results of this study were presented to the Board and the community on May 19, 1964, a landmark date in the history of Berkeley schools. Again there were over 2000 people in the audience. The opposition, which had formed the "Parents Association for Neighborhood Schools" (PANS) solemnly warned that if the Ramsey Plan or any such desegregation proposal were adopted, the Board would face a recall election. The Board members did vote for the Ramsey Plan -- and they did face recall.

The Recall - Through the summer months the opponents of the Board collected signatures on recall petitions. A rival group was formed to defend the Board (Berkeley Friends of Better Schools). By late July the PANS group had enough signatures to force a recall election.

There followed a series of procedural skirmishes before the City Council and the state courts. Finally, an election was called for October 6, and after an intensive and heated campaign it was held. It was a stunning triumph for the courageous incumbent Board members. This election was another landmark for Berkeley education and for the cause of desegregation across the nation. There was more at stake than indi-

vidual Board members continuing in office. The basic issue was the survival of a Board of Education which voluntarily took effective action to desegregate schools -- not because of court order or other compulsion, but simply because the Board believed desegregation was right. If such a board of Education could not be sustained the lesson would not be lost on boards of education in other cities facing the same problem. Thus, it was extremely significant that in this election the Board was vindicated by the Berkeley community.

#### SULLIVAN ADMINISTRATION

The New Administration - On September 1, 1964, five weeks prior to the recall election, I took office as Berkeley's Superintendent of Schools in the midst of a climate of change and uncertainty. Of the five-member Board of Education which had unanimously invited me to come to Berkeley, only two remained in office. One had resigned because his business interests led him to move from the city. Another was transferred to become minister of one of the largest churches of his denomination in New York City, and a third was appointed by the Governor to be a Superior Court judge. The two who remained were facing a recall election.

There also was a sweeping change in the school administration. Virtually every top ranking member of the central administration was either new to the District or new in his position. Over one-third of our schools had new principals.

Making the New Plan Work - The decision to desegregate the junior high schools had been made before I arrived. The role of the

new administration was to make it work.

School opened as usual and the new system was put into effect with no marked difficulties. In fact, the orderliness of the transition was an important contribution to the defeat of the recall attempt. It demonstrated clearly that desegregation could be achieved without the dire consequences that had been forecast.

Developing Community Support - Defeat of the recall election meant that courageous Board members would remain in office, and the junior high school desegregation plan would continue. My next task as Superintendent was to attempt to reunite a badly split community, to develop a sense of community understanding, and to provide a basis for school support.

I approached this problem by creating a climate of openness with the public. We immediately established the practice of recognizing and admitting our problems and inviting the community's help in seeking solutions. As a new superintendent, I was besieged by invitations to speak publicly. I accepted as many as I could and during the 1964-65 school year scheduled over 100 speaking engagements.

I issued an open invitation to citizens to visit my office and discuss their school concerns, to share their ideas and suggestions. In addition I telephoned or wrote to dozens of people who had been recommended to me as community leaders deeply interested in schools. For several months I met almost continually, often a few times a day, with citizens individually and in groups. These meetings made me familiar with the Berkeley community and established a climate that encouraged exchange of ideas.

I established a liaison channel between my office and the area-wide PTA Council. I made it a practice to convene three or four briefing sessions a year with the unit presidents and council officers of that organization, and included other groups such as the League of Women Voters. At these sessions problems and issues facing the schools, as well as hopes and plans for improvement were discussed.

The day after the recall election I recommended the formation of a broadly-based School Master Plan Committee, to examine all facets of the School District's operation and to develop guidelines for the future. I urged participation of all elements of the community, making it clear that we wanted cooperation, regardless of positions in the recall election. The response was heartwarming; over 200 highly qualified citizens were nominated or volunteered their services. The Board of Education selected 91 people from this list to serve on the committee. Also named were 47 staff members. The committee has been hard at work for two years, and presented its report in the fall of 1967.

During my first year in Berkeley, I was invited by the local newspaper to write a weekly column on local and national education matters. This column has been a valuable means of keeping the community informed and introducing some new ideas. During the past year I accepted the invitation from a local radio station to conduct a weekly program of fifteen minute sessions dealing with events in the school system and issues facing public education. Each month the final week's program is extended to one hour, and features a direct phone-in from the radio audience.

In addition to developing relationships with the general public, we have worked to maintain good liaison with the staff. We have frequent breakfast conferences with the leaders of both teacher organizations, and meet regularly with the Superintendent's Teacher Advisory Council, made up of teacher representatives chosen by each faculty.

The purpose of these communication efforts has been three-fold. First, extensive dialogue with staff and community helps to identify and define problems needing attention. Second, it serves as an excellent source of new ideas and suggestions. Third, it helps interpret our problems, goals, and programs to the community.

Our efforts have been, in short, to "mold consensus" in the community behind the school system. Although we have not achieved unanimity on any single subject (that would be impossible in Berkeley!) there have been good indications during the past three years. It seems that we have succeeded in molding community support for the schools, and in developing sufficient consensus to resolve some of the crucial problems facing urban schools today.

#### A START TOWARD ELEMENTARY INTEGRATION

Segregation in the Elementary Schools - The Board's adoption of the Ramsey Plan, followed by the defeat of recall election, insured desegregation at the junior high school level. Since there is only one regular senior high school, our entire secondary school program, beginning with grade 7, was desegregated. However, we still face de facto segregated elementary schools. The four elementary schools in south and west Berkeley are overwhelmingly Negro. The seven schools located in



the northern and eastern hill areas of the city are overwhelmingly Caucasian. In between, in a strip running through the middle of Berkeley, are three desegregated schools. Since the racially imbalanced Negro and Caucasian schools are on opposite sides of the city, separated by the integrated schools, boundary adjustments will not solve the problem.

When the Ramsey Plan was adopted the Board tabled a companion recommendation that would have desegregated the elementary schools by dividing the city into four east-to-west strips, each containing three or four schools. The schools within each of these strips would have been assigned students on a Princeton principle, i.e., 1-3 in some schools, grades 4-6 in others.

Educational Considerations - It is not the function of this paper to develop fully the case for school desegregation. However, the basic motivation underlying our progress in Berkeley can be stated concisely.

Many studies, in Berkeley and elsewhere, have documented the fact that segregation hurts the achievement of disadvantaged youngsters. Schools with a preponderance of these boys and girls have low prestige and generally lack an atmosphere conducive to serious study.

The emotional and psychological harm done to children through this type of isolation also has been demonstrated. Regardless of cause, racial segregation carries with it the symbol of society's traditional rejection of Negroes.

The benefit of integration extends to children of all races. We are all sharing this society, and if it is to be successful we must learn to respect each other and get along with one another. This will not happen if segregation remains.

These considerations have been taken seriously in Berkeley as we move toward total school integration.

ESEA Busing Program - The Elementary and Secondary Education Act of 1965 allowed the schools to make a beginning on the problem of elementary school segregation. Berkeley's share under Title I of that Act was approximately a half-million dollars. A major share of these funds was used to reduce pupil-teacher ratios in our four target area (Negro) schools and to provide extra specialists and services for students attending them. The reduction of pupil-teacher ratios left a surplus of 235 children. The seven predominantly Caucasian hill-area schools had spaces for these youngsters. Our proposal for the first year's use of Title I funds, then, included improved services and reduced pupil-teacher ratio in the target area schools and the purchase of buses to transport the 235 "surplus" youngsters to the hill area schools.

In the preparation of this project we again employed our principle of mass community involvement. Each school faculty was invited to submit suggestions. Their response was gratifying. These suggestions, when piled together, produced a stack of paper several inches high. When they had been sifted and evaluated, and a project developed, we submitted it to the Board. Copies were made available to the school faculties and the public for their reactions. Two major public meetings were held in different sections of the city, and the Board of Education held a workshop session at which teachers could react. Many valuable suggestions and constructive criticisms resulted and were incorporated into the final proposal.

As might have been predicted, most of the public attention was centered on the busing proposal, although it involved a relatively minor share of the funds. This time the opposition, though by no means silent, was much less severe.

Since the children in the hill area schools were not being asked to go anywhere else -- the hill schools were simply going to receive youngsters from the other areas of the city -- this provided no focal point for the development of opposition. And the proposal included employing eleven extra teachers, paid with local money, and placing them in the receiving schools to maintain the pupil-teacher ratio there. A few scattered voices were raised against the proposal, but the preponderance of community opinion was favorable. Both teacher organizations endorsed the project, and on November 30, 1965, the Board adopted the program for implementation the spring semester.

The proposal went to the State Board of Education and became one of the first fourteen ESEA projects approved in the State of California. We had approximately two months to prepare for its implementation -- the selection of youngsters (this was voluntary on the part of the parents), the employment of teachers, arrangement of transportation, and other administrative details. Parent groups in the receiving schools helped by establishing contact with the parents of the transferring students. The students in the receiving schools likewise participated, and some wrote letters of welcome to the newcomers. Dry runs were conducted with the buses so that by the time the program was implemented in February 1966, the necessary advance preparation had been accomplished.

Results to Date - Although the program has not been in effect long enough for an extensive objective evaluation, early indications are that it has been extremely successful. The children have adjusted well in their new school environment and, by their performance, have made friends for integration. One evaluation, made by an outside consultant employed by the District, found that receiving school parents whose children were in class with Negroes were more favorable to integration than parents whose children were not in class with Negroes. And parents of the bused students were so pleased with the results that many requested that their other children be included.

This limited program provided an integrated experience for the 230 youngsters being transferred, less than 10 percent of the sending schools' enrollment. It also provided token integration for the receiving schools. However, it left the four southwest Berkeley schools just as segregated as they were before, although with a somewhat improved program due to the reduced pupil-teacher ratio and added services.

#### COMMITMENT TO TOTAL INTEGRATION

The Problem - Although the ESEA program has provided a start in the direction of elementary school desegregation, we never regarded the busing of only 235 youngsters as the solution to the segregation problem. The problem will not be solved as long as our four south and west Berkeley schools remain overwhelmingly Negro, and the schools in the north and east overwhelmingly Caucasian. The segregation problem must be solved if minority youngsters are ever to close the achievement gap and if all youngsters, regardless of race, are to be adequately prepared for life in a multi-racial world.

Although we have integrated the schools down to the 7th grade, we strongly believe that integration must begin earlier. In too many cases attitudes already are hardened and stereotypes developed by the time the youngsters reach the 7th grade. It is, of course, politically and logistically easier to desegregate the secondary schools. In fact, a bi-racial city that has not desegregated its secondary schools is by definition not committed to integration. The problem is much more difficult at the elementary level. Buildings and attendance areas are smaller, children are younger, and community emotions are more intense. Yet, the problem must be solved at the elementary level. It is ironic that solutions come more easily at one level, but more good can be accomplished at the other.

The Commitment - The commitment of the Board of Education to desegregation of all elementary schools in Berkeley came in the spring of 1967. In early April a delegation from west Berkeley made a resen- tation to the Board, stating that it was time to get on with the job of total desegregation. The delegation had many other recommendations specifically relating to the south and west Berkeley schools and the programs available to minority youngsters. At this meeting I recommended that the Board authorize the Administration to develop a program of voluntary reverse busing from Caucasian areas to south and west Berkeley. I let it be known that this was to be regarded only as a stop-gap measure to demonstrate good faith and did not represent a solution to the desegregation problem.

At the next meeting, however, before we could develop a reverse busing plan, the issue moved ahead. Both of our certificated staff organizations made appeals to the Board for action either to erase de facto

segregation completely or at least to make a significant step in that direction. Officials of the local NAACP and other members of the audience supported these appeals. A motion was presented to the Board calling for desegregation of all Berkeley schools. The Board concurred and established September 1968 as the target date for desegregating the schools.

The next two or three Board meetings, including one workshop or "open hearing", drew crowds of several hundred spectators and many speakers. Most of the speakers and most of the crowds were supportive of the Board's action; there was a minority who disagreed with the Board's position -- some opposed desegregation altogether, and others felt that 1968 was too long to wait.

On May 16 the Board adopted a formal resolution reaffirming the September 1968 commitment and adding an interim calendar of deadlines for the various steps required to achieve desegregation. The Administration was instructed to develop plans for total integration. We were instructed to make our report by the first Board meeting in October, 1967. The timetable calls for the Board to adopt a particular program by January or February 1968. Seven or eight months would then remain for implementing the program in time for the opening of school in September 1968. This is the calendar on which we now are operating.

The Board included in its Resolution on Integration two other features: first, the assumption that desegregation is to be accomplished in the context of continued quality education, and second, that massive community involvement was to be sought in development and selection of the program. Both of these features I heartily support.

Developing the Plan - We went to work immediately. The Administration compiled information on enrollment and racial makeup of each school, school capacities and financial data. This information was distributed to each faculty. We then called a meeting of all elementary school teachers; I relayed our charge from the Board and asked each faculty to meet separately and develop suggestions. We also sent information packets to over sixty community groups and invited them to contribute their ideas. By the end of June we had received many suggestions, both from staff members and lay citizens.

Meanwhile both local and national endorsements were pouring in. The Berkeley City Council passed a resolution commending the Board on its commitment to integration. Other local organizations and individuals did the same.

During the summer months two task groups were assigned to work on the problem. One was concerned with the logistics of achieving desegregation and the other was concerned with the instructional program under the new arrangement. The Board appointed a seven-member lay citizens group to advise the Administration in development of its recommendations. Even after the Administration's recommendation has been given to the Board, this group will continue to function as an advisory body to the Board. Upon receiving the Administration's recommendation, the Board plans a series of workshop sessions to provide every opportunity for community reaction and suggestion.

As this paper is written (mid-September) we are making excellent progress toward meeting our deadline. Soon after the opening of school, a report from the Summer Task Group outlining four or five

of the most promising plans was sent to each school faculty and to each group or individual who submitted a plan during the summer. These proposals are being made available to the community as well, along with the many suggestions received earlier from staff and lay citizens. School faculties and the community-at-large are invited to react to these proposals and to make suggestions to the Administration. Procedures have been organized to facilitate a response from school and community groups. Each faculty has been asked to meet at least twice. On one afternoon, schools will be dismissed early and the district-wide staff divided into cross sectional "buzz" groups. Each of these groups will submit ideas. Following these steps we will use the task group proposals, along with the reactions and suggestions that come from the staff and community, in developing our recommendation to the Board. This recommendation will be presented to the Board on schedule, at the first meeting in October. From that point on the matter will be in the hands of the Board, which is to make its decision by January or February 1968.

As our plans develop, we have received invitations to appear before many groups, large and small. Some have been hostile at first. However, meeting with them has made possible an excellent exchange of views and an opportunity for explaining our program to people who had not been reached earlier. We anticipate that the fall months will be crowded with such speaking assignments. It is our firm commitment, and that of the Board of Education, to inform the citizens of Berkeley thoroughly about the issue and about prospective plans prior to the Board's adoption of a program in January or February.



LESSONS LEARNED

While working toward integration in the Berkeley schools over the past several years, we have learned some lessons:

1. Support by the Administration and the Board of Education for the concept of school integration is absolutely essential. The Board must give its consent before any plan of desegregation can occur. The support of the Superintendent and his administrative team is vital in helping to obtain Board support and in making a success of any program adopted. While the Board nor the Administration need broad community support, their leadership role is vital.

2. Integration has the best chance of success when a climate of openness has been established in the community. Lines of communication with Board, Administration, teachers, and the community-at-large must be kept open through frequent use. Anyone who thinks a solution to the problem of integration can be developed in a "smoke-filled room" and then rammed through to adoption while the community is kept in ignorance is simply wrong.

Our citizens are vitally interested; they are going to form opinions and express them, whether we like it or not. It is in our interest to see that these opinions are formed on the basis of correct information. Furthermore, the success of integration, once adopted, depends upon broad community support and understanding between the lay community and the schools. This can be created only through a climate of openness.

3. It can be done! A school district can move voluntarily to desegregate without a court order and without the compulsion of violence or boycotts. Berkeley has demonstrated that a school community can marshal its resources, come to grips with the issue of segregation, and develop a workable solution.

Furthermore, if the new arrangement is well planned and executed, it will gain acceptance on the part of many who opposed it at first.

Many fears and threats which arose in Berkeley were not realized. The Board was not recalled. Our teachers did not quit in droves. In fact, the reverse happened; our teacher turnover rate has been drastically reduced during the last two or three years. Integration did not lead to the kind of mass white exodus being experienced in other cities (which, interestingly enough, have not moved toward integration). In fact, last year for the first time in many years the long-standing trend toward a declining white enrollment in the Berkeley schools was reversed.

The not-so-subtle hints that direct action for integration would lead to loss of tax measures at the ballot box proved to be unfounded. In June 1966 we asked the voters for a \$1.50 increase in the ceiling of our basic school tax rate. Much smaller increase proposals were being shot down in neighboring districts and across the nation. In Berkeley we won the tax increase with over a 60 percent majority.

4. A community can grow. Berkeley did! When the citizens committee report came out in the fall of 1963 with an actual plan for desegregation of the junior high schools, the community suddenly awoke to the fact that desegregation was a real possibility. The furor that

resulted could be predicted in any city. However, as large public hearings and countless smaller meetings were held by dozens of groups, support for integration began to grow and opposition diminish. One area of the city that reacted emotionally at first later provided some of our strongest supporters.

An example in a different but related field can illustrate this point. Berkeley held a referendum election on a Fair Housing Proposal early in 1963, before the citizens committee report, and the measure was defeated by a narrow margin. A year and a half later the community, together with the rest of California, voted on the same issue -- Proposition 14. Although the statewide vote on that issue was a resounding defeat for Fair Housing, the City of Berkeley voted the direct opposite by almost a two-to-one margin. The Proposition 14 election was held only a month after the recall election, after almost a full year of intensive community involvement with the school desegregation issue. In other words, a city that voted down its own Fair Housing proposal, later voted two-to-one for Fair Housing in a statewide election. Many of us feel that this change of direction was substantially influenced by the extensive community involvement in the school integration question between the two elections. The community grew in understanding as it studied the issues.

5. Community confidence in the good faith of its school administration and school board must be maintained. Berkeley has been successful in doing this. The good faith of our Board and Administration has been demonstrated. There have been no court orders, no pickets, no boycotts, no violence. Each advance has been made, after extensive

study and community deliberation, because the staff, the Board and the community thought it was right. By moving in concert with the community we have avoided being placed in polarized positions of antagonism. The climate thus produced has enabled us, as we move step by step, to work with rather than against important segments of the community in seeking solutions. If this climate of good faith is missing, even the good deeds of school officials are suspect.

#### CONCLUSION

There is no greater problem facing the schools of America today than breaking down the walls of segregation. If our society is to function effectively its members must learn to live together. Schools have a vital role to play in preparing citizens for life in a multi-racial society. The Berkeley experience offers hope that integration can be successfully achieved in a good-sized city. This success can be achieved if the Board of Education, the school staff, and the citizens of the community are determined to solve the problem and work together toward this end.



CONSENT CALENDAR  
July 14, 2020

To: Honorable Mayor and Members of the City Council  
 From: Councilmembers Rigel Robinson, Lori Droste, Ben Bartlett, and Mayor Jesse Arreguín  
 Subject: BerkDOT: Reimagining Transportation for a Racially Just Future

### RECOMMENDATION

Refer to the City Manager, the FY 2021-22 budget process, and the proposed community engagement process to reimagine public safety to pursue the creation of a Berkeley Department of Transportation (*BerkDOT*) to ensure a racial justice lens in traffic enforcement and the development of transportation policy, programs, & infrastructure.

### BACKGROUND

Philando Castile was pulled over for a broken brake light.<sup>1</sup>  
 Sandra Bland was pulled over for failing to signal a lane change.<sup>2</sup>  
 Maurice Gordon was pulled over for speeding.<sup>3</sup>  
 All three died at the hands of police.

It can never be truly known just how many others in similar circumstances suffered such an unjust fate. The headline “routine traffic stop turns deadly” has become all too common in this country. Traffic stops have a history of racial bias that has been continually backed up by the courts — *Whren vs. United States* enabled police officers to conduct pretextual stops, in which minor traffic violations are used as pretext to stop and search drivers suspected of more serious criminal activity.<sup>4</sup> Coupled with the racial biases that permeate this country to this day, these stops have too often escalated into use of force or unnecessary arrests that disproportionately harm Black Americans. While Berkeley police officers have not been involved in an officer-involved shooting since 2012, these issues challenge every city, and Berkeley can play a leading role in addressing them.

The murders of George Floyd, Breonna Taylor, and Ahmaud Arbery have re-ignited a national debate around policing and public safety. Many are taking a second look at the fundamental roles of police, such as traffic stops, and whether these responsibilities could be shifted to unarmed civil servants instead. A serious discussion of the role of

<sup>1</sup> <https://www.nytimes.com/2017/06/21/us/video-police-shooting-philando-castile-trial.html>

<sup>2</sup> <https://www.nytimes.com/2019/05/07/us/sandra-bland-video-brian-encinia.html>

<sup>3</sup> <https://www.vox.com/identities/2020/6/9/21285536/maurice-gordon-police-shooting-explained>

<sup>4</sup> <https://www.oyez.org/cases/1995/95-5841>

modern policing is incomplete without a focus on traffic enforcement. According to the Stanford Policing Project, police pull over more than 20 million motorists per year, making traffic stops the most common interaction Americans have with police.<sup>5</sup>

While recent events have brought the nation's attention to particular policing practices and the role of law enforcement in traffic stops, proposals to separate traffic enforcement from the police are by no means a recent development. In her book *Policing the Open Road*, author Sarah Seo chronicles how the rise of the car, a symbol of American freedom, opened the doors to more intrusive policing with disastrous consequences for racial equity.<sup>6</sup> As Seo argues, though the Fourth Amendment provides constitutional protection from unreasonable searches and seizures, jurists have continually interpreted the clause narrowly in the context of cars, enabling a massive surge in deeply discretionary policing practices all over the country. New criminal procedures were developed that accommodated, rather than limited, police intervention and effectively sanctioned police discrimination. Constitutional challenges to unjust traffic stops failed in court, leaving Black Americans with few tools to defend themselves against searches and stops.

In July 2019, almost a year before the tragic death of George Floyd, Minneapolis' largest transportation advocacy group, Our Streets Minneapolis, announced that they did not support traffic enforcement as a tool for enhancing street safety. The release opens: "At Our Streets Minneapolis we firmly believe traffic enforcement is not a good strategy to make streets better places to bike, walk, and roll."<sup>7</sup> The organization's statement was premised on two key theses: (1) increased traffic enforcement would amplify racial disparities and (2) street safety could be better achieved through smarter street design. Studies conducted in Minneapolis found stark disparities in traffic law enforcement for Black bicyclists<sup>8</sup> and motorists.<sup>9</sup> Though they make up only 18 percent of Minneapolis residents, Black & African Americans make up 70 percent of vehicle searches and 68 percent of body searches at traffic stops.

Unfortunately, the same story can be told in virtually every major city in America. Berkeley is not an exception.

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<sup>5</sup> <https://openpolicing.stanford.edu/findings/>

<sup>6</sup> <https://www.hup.harvard.edu/catalog.php?isbn=9780674980860>

<sup>7</sup> [https://www.ourstreetsmpls.org/why\\_we\\_don\\_t\\_support\\_traffic\\_enforcement](https://www.ourstreetsmpls.org/why_we_don_t_support_traffic_enforcement)

<sup>8</sup> <https://www.ourstreetsmpls.org/citationreport>

<sup>9</sup>

[https://tableau.minneapolismn.gov/views/MPDStopDataOpenData/MPDStopInformation?%3Aembed=y&mp;%3AshowAppBanner=false&amp;%3AshowShareOptions=true&amp;%3Adisplay\\_count=no&amp;%3AshowVizHome=no](https://tableau.minneapolismn.gov/views/MPDStopDataOpenData/MPDStopInformation?%3Aembed=y&mp;%3AshowAppBanner=false&amp;%3AshowShareOptions=true&amp;%3Adisplay_count=no&amp;%3AshowVizHome=no)

As UC Berkeley Professor Jack Glaser with the Center for Policing Equity (CPE) put it, “Berkeley appears to be doing better than most agencies, but it has work to do.”<sup>10</sup> The 2018 CPE report *The Science of Justice* found that Black and Hispanic drivers and pedestrians are stopped at much higher rates by Berkeley police. Interestingly, in the last quarter, although police stops are generally down for all racial groups under shelter-in-place, the racial disparity in stops has increased significantly.<sup>11</sup>

Local transportation advocates such as Walk Bike Berkeley have joined the nationwide call for a reimagining of the role of policing in traffic enforcement.<sup>12</sup> Here in the Bay Area, BART officials have pledged to shift \$2 million in funding away from BART police and fare inspectors, and instead allocate it towards unarmed ambassadors.<sup>13</sup> Fare inspection has been a contentious issue for years, with a 2019 report showing that 52 percent of BART fare evasion citations go to Black riders despite them making up only 12 percent of ridership.<sup>14</sup> Much like with traffic enforcement, officials are grappling with ways to conduct fare enforcement without giving authorities the discretion that so often leads to racial profiling.

One way of addressing these issues in Berkeley is by creating a Department of Transportation (BerkDOT), shifting traffic and parking enforcement responsibilities away from the Berkeley Police Department and coupling it with the work currently housed in the Transportation Division of the Public Works Department. Currently, traffic stops and parking citations fall under the Investigations Division of the Berkeley Police Department. Within the division is the Traffic Bureau, which consists of the Traffic Unit and the Parking Enforcement Unit.<sup>15</sup>

Calls to relocate transportation planning work to a new city department have existed for some time, with the hope that such an organizational realignment could amplify and accelerate the critical work occurring already. Berkeley once housed its transportation work in the office of the City Manager, which was managed by an Assistant to the City Manager for Transportation. However, for years now, the Transportation Division has existed within Public Works. Berkeley would join the City of Oakland in having a Department of Transportation separate from the Department of Public Works. Oakland created OakDOT in 2015, following the lead of other major cities like Washington D.C., New York City, and Los Angeles. Their department has since become a national model

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<sup>10</sup> <https://www.berkeleyinsider.com/2018/05/11/berkeley-police-stops-show-racial-disparities-but-what-does-that-mean>

<sup>11</sup> <https://data.cityofberkeley.info/Public-Safety/Berkeley-PD-Stop-Data-NEW-/4tbf-3yt8>

<sup>12</sup> <https://www.walkbikeberkeley.org/wbb-updates-actions-media/2020/6/4/black-lives-matter>

<sup>13</sup> <https://www.sfchronicle.com/bayarea/article/Defunding-police-BART-to-shift-2-million-from-15353626.php>

<sup>14</sup> <https://sanfrancisco.cbslocal.com/2020/02/24/bart-police-data-disparity-citations-black-passengers-quality-of-life/>

<sup>15</sup> [https://www.cityofberkeley.info/Police/Home - translated/Traffic\\_Bureau.aspx](https://www.cityofberkeley.info/Police/Home - translated/Traffic_Bureau.aspx)

for equity in the transportation sector with the help of the OakDOT Racial Equity Team and the City of Oakland Department of Race and Equity.<sup>16</sup> The creation of a separate transportation department has enabled a more targeted equity approach, resulting in a more accessible and equitable public engagement strategy, the prioritization of historically underserved areas for funding and investment, and the creation of low-income rideshare pricing programs in response to community need.<sup>17</sup>

Berkeley can lead the nation in refocusing its traffic enforcement efforts on equitable enforcement, focusing on a cooperative compliance model rather than a punitive model. A Department of Transportation in the City of Berkeley could shift traffic enforcement, parking enforcement, crossing guards, and collision response & reporting away from police officers—reducing the need for police interaction with civilians—and ensure a racial justice lens in the way we approach transportation policies, programs, and infrastructure. It would also ensure a focus on transportation that is separate and apart from public works issues, fitting for the importance of transportation as an issue of concern to Berkeley and as a key component of our greenhouse reduction goals.

#### FINANCIAL IMPLICATIONS

If the city ultimately undertakes such a reorganization, there would be significant upfront costs involved in establishing a new city department. Changes in staffing and the creation of new positions would require funding. In the long term, however, these changes could result in significant cost savings.

#### ENVIRONMENTAL SUSTAINABILITY

Transportation represents 60 percent of the City of Berkeley’s greenhouse gas emissions. Empowering our sustainable transportation work in a new city department would continue and amplify the work of our city to reduce greenhouse gas emissions, in alignment with our Climate Action Plan.<sup>18</sup>

#### CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

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<sup>16</sup> <https://www.oaklandca.gov/topics/oakdot-racial-equity-team>

<sup>17</sup> <https://rpa.org/latest/lab/oakdot-offers-example-of-transit-equity-in-action>

<sup>18</sup> <https://www.cityofberkeley.info/climate/>





Office of the City Manager

ACTION CALENDAR

July 14, 2020

*(Continued from June 30, 2020)*

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams Ridley, City Manager  
 Submitted by: Erin Steffen, Assistant to the City Manager  
 Subject: Animal Services Contract with the City of Piedmont

RECOMMENDATION

Adopt a resolution authorizing the City Manager to execute a contract, with any amendments, with the City of Piedmont for animal care services for FY2021-FY2025, which increases the existing contract by up to \$180,134, with a total contract amount not to exceed \$441,984.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley provides animal care services to the City of Piedmont and currently receives \$52,370 annually for these services. Berkeley's cost for providing animal services to Piedmont is currently \$101,062. Berkeley proposes to gradually increase the cost of services each year until the revenue from the City of Piedmont matches the expenses for the City of Piedmont. The City of Piedmont will reimburse the City for these additional estimated costs, and revenues will be deposited into the General Fund. The total contract will not exceed \$441,984.

CURRENT SITUATION AND ITS EFFECTS

The current contract between the City of Berkeley and the City of Piedmont shall expire on June 30, 2020.

Operational costs of sheltering animals has increased significantly. A recent cost analysis conducted by the City of Berkeley revealed an annual operating cost of \$1.6 million not including administrative costs. The City of Berkeley calculated the share of services provided to the City of Piedmont as \$101,062 which is significantly more than the current contracted amount.

Upon request by the City of Piedmont, the City of Berkeley performs the following services:

1. Shelter and feed animals brought to the Berkeley Animal Shelter from Piedmont and Emeryville

2. Euthanize after legal holding and only as necessary, animals brought to the Berkeley Animal Shelter
3. Accept animals brought to the Berkeley Animal Shelter by residents of Piedmont and Emeryville
4. Quarantine animals, as necessary, for rabies observation for and on behalf of the cities of Piedmont and Emeryville
5. Issue pre-prepared citations of claimants of aforementioned animals, which citations have been completed and signed by a Piedmont/Emeryville Animal Control Officer

#### BACKGROUND

The City of Piedmont does not have its own Animal Shelter and therefore requires assistance in providing care and shelter for animals from within the Cities of Piedmont and Emeryville who are in need of care by reason of accident, sickness or being lost, stray or abandoned. In 2019, the City of Berkeley Animal Services handled 1,366 live animals of which 10% came from Piedmont and Emeryville.

#### RATIONALE FOR RECOMMENDATION

The City of Berkeley is well equipped and capable of providing the services outlined above for the City of Piedmont, and should be appropriately compensated for the services.

#### ALTERNATIVE ACTIONS CONSIDERED

If the City were to not engage in the contract with the City of Piedmont, it would still incur the costs associated with building maintenance and staffing for the shelter. There would likely be a small decrease in sheltering costs.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### CONTACT PERSON

Amelia Funghi, Manager, Animal Services, (510) 981-6603

#### Attachments:

- 1: Resolution
2. City of Piedmont FY20 Costs of service

RESOLUTION NO.

-N.S.

AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AND ANY AMMENDMENTS WITH THE CITY OF PIEDMONT AND CITY OF BERKELEY ANIMAL CARE SERVICES FOR FY2021-FY2025 IN THE AMOUNT NOT TO EXCEED \$441,984

WHEREAS, The City of Piedmont requires assistance in providing care and shelter for small animals within the City who are in need by reason of accident, sickness or being lost, stray or abandoned; and

WHEREAS, The City of Berkeley is able to provide these services to the City of Piedmont.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract, with any amendments, with the City of Piedmont for animal care services for FY2021-FY2025, which increases the existing contract by up to \$180,134, with a total contract amount not to exceed \$441,984.

**PIEDMONT/EMERYVILLE FY 19/20 Costs**

10% of live animal  
intake  
15% of DOA intake  
0% field calls

| <b>PERSONNEL</b> | <b>Total Cost</b> | <b>% Cost</b>   |
|------------------|-------------------|-----------------|
| ASA - 3.5 (10%)  | \$384,125         | \$38,412        |
| RVT - 1 (10%)    | \$116,445         | \$11,644        |
|                  | <b>\$500,570</b>  | <b>\$50,056</b> |

**BUILDING MAINT & UTILITIES ( based on 10%)**

|                                              |                  |                 |
|----------------------------------------------|------------------|-----------------|
| PW-Building maintenance (10%)                | \$130,130        | \$13,013        |
| Facilities (10%)                             | \$43,885         | \$4,388         |
| Utilities (10%)                              | \$74,071         | \$7,407         |
| Emergency Generator (3.3% per yr over 3 yrs) | \$30,386         | \$1,003         |
| Roof Restoration (3.3% per yr over 3 yrs)    | \$24,136         | \$796           |
|                                              | <b>\$302,608</b> | <b>\$26,607</b> |

**SHELTERING COSTS**

|                               |                  |                 |
|-------------------------------|------------------|-----------------|
| Animal Food (10%)             | \$17,840         | \$1,784         |
| Shelter Supplies (10%)        | \$20,365         | \$2,036         |
| Medical Supplies (10%)        | \$66,170         | \$6,617         |
| Veterinary Services (10%)     | \$109,020        | \$10,902        |
| Deceased animal service (15%) | \$20,400         | \$3,060         |
|                               | <b>\$233,795</b> | <b>\$24,399</b> |

**TOTAL ANNUAL COST** **\$101,062**

current contracted  
amount = **\$52,370**



# Communications

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

## **City Clerk Department**

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

## **Records Online**

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

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

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