

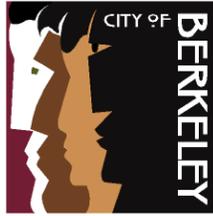
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1643-1647 CALIFORNIA STREET

Use Permit #ZP2021-0001

Prepared: October 6, 2022

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Office of the City Manager

PUBLIC HEARING

April 26, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department

Subject: ZAB Appeal: 1643-1647 California Street, Use Permit #ZP2021-0001

RECOMMENDATION

Conduct a public hearing, and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2021-0001 to: 1) create a new lower basement level, 2) construct a new second story, and 3) modify the existing duplex layout resulting in a 3,763 square foot duplex on an existing property, and dismiss the appeal.

FINANCIAL IMPLICATIONS

None.

CURRENT SITUATION AND ITS EFFECTS

On January 8, 2021, Sundeep Grewel ("Applicant") submitted an application for a Use Permit (UP) to remodel and expand a duplex located at 1643 and 1647 California Street.

On January 19, 2021, the City mailed postcards to neighboring property owners and occupants within 300 feet to inform the public of the receipt of a Zoning Permit application at the site, and posted a project yellow poster.¹

In response to this notification, staff received several communications regarding the project, both in support and opposition. Concerns raised include:

- a. Concerns from neighbors to the east and south due to the proposed increase in size of the house on a small lot.
- b. Concerns from each adjacent neighbor regarding the impacts to privacy and of shadows from the two-story design and increase in height.
- c. Concern with the project being out of scale with the neighborhood and surrounding properties, especially given the existing non-conformities of the property.

¹ The standard protocol for installation of a Project Yellow Poster and neighborhood contact and signatures was waived from March 2020 until July 2021.

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Support of the application includes:

- a. Improved structure and project site.
- b. Restoration of the second dwelling unit.

On December 9, 2021, the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit. After hearing public comments and holding discussion, the ZAB approved the Use Permit by a vote of 9-0-0-0 (Yes: Duffy, Kahn, Kim, Gaffney, O'Keefe, Olson, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: None).

On December 20, 2021, staff issued the notice of the ZAB decision, and on January 10, 2022, an appeal of the ZAB decision was filed with the City Clerk by Kay Bristol, the owner of 1651-1653 California Street, and Anna Cederstav and Adam Safir, the owners of 1609 Virginia Street. The Clerk set the matter for review by the Council on April 26, 2022.

On or before April 12, 2022, 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. The Council must conduct a public hearing to resolve the appeal.

Project Description

The project site is located in the North Berkeley neighborhood, on the east side of California Street at the corner of California and Virginia Street. It is one block east of Sacramento Street and four blocks west of Martin Luther King Jr. Way. The surrounding area consists of residential uses including one- and two-story single-family dwellings and two-story multi-family buildings.

The subject property is a small, rectangular lot, oriented in the east-west direction, and is approximately 3,100 square feet in total area. It features a one-story main building originally constructed as a side-by-side duplex. The building faces west, toward California Street. At some point in the past, the kitchen of the left side unit (1643 California) was removed without permits, and a doorway was installed between the two units, effectively converting the building to one unit, without the necessary approval of a Use Permit to remove a dwelling.

The property and structure is currently non-conforming due to several reasons: 1) lot coverage, currently at 50 percent coverage where 45 percent coverage is the limit for a one-story structure; 2) allowable residential density, containing two units when only one unit is permitted due to the lot size (prior to the unauthorized removal of 1643 California); and 3) reduced front, rear, and left side yards.

The project would make several alterations to the existing property. An existing accessory structure (shed) would be removed. The existing residential structure would be shifted by 1-inch to the south to create a conforming left (north) side setback of 4 feet. The proposal would restore one additional dwelling unit at 1643 California, but

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would reduce the size of this unit from the previous 650 square feet to 501 square feet. Additionally, the floor plan of the main level of right unit (1647 California) would be modified to serve as the main living area, with an open floor plan kitchen/dining/living room, plus a full bathroom. The structure would be expanded by creating a new basement level contained below the existing building footprint, solely serving 1647 California. This level would contain a family room/home gym, half bath, one new bedroom with a full bathroom, and closet and storage area. The proposal would also add a new second level on top of the existing structure, also solely serving 1647 California, which would contain three new bedrooms and two full bathrooms. The second story would step in at the front to provide a balcony, and would step in from the rear to comply with the required 20-foot rear yard setback. In total, 1647 California would expand by 2,612 square feet, from 650 square feet to 3,262 square feet in total.

BACKGROUND

The issues raised in the appellants' letters and staff's responses follow. For the sake of brevity, the appeal issues are not re-stated in their entirety. Please refer to the attached appeal letter (Attachment 2) for the full text.

Issue #1: Appellants allege that ZAB and staff erroneously applied the Housing Accountability Act (HAA) in a way that inappropriately limited ZAB's ability to modify the project. The appellants contend that the HAA only applies to very-low to moderate income housing developments. They further contend that since the project does not add new units, or provide low-income housing, the HAA should not apply, and ZAB should modify the project to address the appellants' concerns.

Response: The Housing Accountability Act (HAA), California Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

1. The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a *lower density*.

The HAA applies to a "housing development project," which could be residential units only or a mixed-use development consisting of residential and nonresidential that is at least two-thirds residential, as well as transitional or supportive housing. The definition of housing development project uses the plural "units", meaning that it applies to two or more units.

The HAA also applies only when a project meets the local agency's objective development standards. Although the existing structure is non-conforming for lot

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coverage, density, and yards, the proposed additions would continue, but not worsen, these non-conformities. The project is eligible for zoning adjustments through the use permit process, and there are no objective standards or findings for considering such permits, so the HAA still applies to the project. Therefore, the City may not deny the project or approve the project at a reduced density without basing its decision on the written findings under Section 65589.5(j), listed above.

Pursuant to Berkeley Municipal Code (BMC) Section 23C.04.070.C², additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of lot coverage are permitted with a Use Permit if the addition/enlargement does not increase coverage or exceed the height limit. The property is eligible for the use permit because it is non-conforming for the maximum allowable lot coverage, with 50 percent coverage where 45 percent is the maximum on this R-2 zoned property. The proposed project would remove an existing shed in the rear yard which would reduce the lot coverage to 44 percent, but the standards are different for a one-story or a two-story house, so the property would remain non-conforming for the revised allowable lot coverage of 40 percent.

While the proposed structure would still be non-conforming to the allowable lot coverage, the project would reduce the non-conformity from 5 percent over the allowable limit to 4 percent over the allowable limit. The proposed addition is located over existing covered area, and therefore does not increase the non-conforming lot coverage. Additionally, the addition consists of a second story addition, reaching a total of 23 feet, 10 inches, which complies with the maximum average height limit of 28 feet.

Pursuant to BMC Section 23C.04.070.E, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with a Use Permit if the addition/enlargement does not increase the density or exceed the height limit. The project proposes to maintain the density at two units, and the addition would comply with the allowable average height limit in the district.

Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements which vertically extend or alter a portion of a building which encroaches into a non-conforming yard are permitted with an Administrative Use Permit if the existing use of the property is conforming and if the addition/enlargement would not: 1) reduce any yard below the minimum setback requirements or further reduce existing non-conforming yards; or 2) exceed the maximum or calculated height limits. The existing residential structure is non-conforming to the front, rear, and left (north) side setbacks. The proposed addition/enlargement of the house would correct the non-conforming left side setback, but is proposed to vertically extend the non-conforming front and rear setbacks. The

² The prior Zoning Ordinance was in effect at the time this application was deemed complete. The version of the BMC Title 23, Zoning Ordinance, that was in effect at the time this application was deemed complete is available online: [https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Zoning_Ordinance_Revision_Project_\(ZORP\).aspx](https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Zoning_Ordinance_Revision_Project_(ZORP).aspx)

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front setback would be vertically extended both up (with the second story) and down (with the basement), while the rear setback would be vertically extended down with the expansion of the basement. The second story at the rear would comply with the required 20-foot rear setback. Because the enlargement of the building would comply with the permitted residential use on the property, and the vertical expansions within the non-conforming setbacks would not further reduce the non-conformity, these expansions are permissible.

Since the ZAB decision, the City has determined that “to lower density” means a reduction in the units built per acre. This is consistent with guidance from the California Department of Housing and Community Development. Therefore, a condition of approval that limited the size of the units would not lower the density of the project. Even if an application to expand an existing dwelling unit were found to be a housing development project, the expansion could be modified without lowering the density.

ZAB considered and discussed the evidence presented at the hearing, and acted within its purview to approve the proposed project, although ZAB may have had faulty information that led them to believe that they could not modify the project. Council may add conditions to the proposed project to address the appellants’ concerns (such as the three specific modifications to the project that were requested by the appellant, as described on page 9 of the appeal letter, included as attachment 2), or may remand the project back to ZAB.

Issue #2: Appellants allege that staff failed to provide adequate opportunities for neighbors to receive information and provide input on the proposed project. The appellants contend that after public comment had been closed, the ZAB chair read from a memo on the interpretation of the HAA that affected how the ZAB voted on the proposed project. Appellants claim that the memo had not been made publicly available, and that they were not able to comment on the memo during the public comment portion of the ZAB meeting. If the appellants had been aware of the memo before the ZAB meeting, they state that their letters to staff and ZAB, and public comments during the meeting, would have been different.

Response: The August 26, 2021 ZAB meeting packet included a communication from the Land Use Planning Manager to staff, that was included as a staff communication to ZAB³. The memo discusses the HAA, Density Bonuses, and objective standards. Before public comment opened at the December 9 meeting, staff and ZAB did briefly discuss the HAA and objective standards and how both relate to the project. The ZAB chair referenced the memo from the Land Use Planning Manager before public comment was opened.

³ See page 4 of the agenda:
https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-08-26_ZAB_Agenda.pdf.

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Neighbors have shared letters of opposition with staff and ZAB throughout the application process, and were able to share their concerns during the ZAB meeting. Neighbors at 1609 Virginia are concerned about the increased shadows on their kitchen windows and bedroom windows, and deck and yard, during the afternoon and evening during the summer, and increased shadows on a detached office/bedroom during the winter. The neighbors are also concerned about views from the addition to their deck and yard, and kitchen and bedroom. The neighbor at 1651 California is concerned about views from the addition to her yard and kitchen. In addition, the appellants find the number of Administrative Use Permits and Use Permits required for the proposed project to be excessive.

Members of the ZAB described the impacts as “typical of an urban setting,” noted that the applicant had changed the roof from a butterfly roof to a gable to lower the height, the project had been revised from three stories to two stories with a below-grade basement, and that the addition met the 20-foot setback requirements at the front and rear. Even if neighbors are opposed to a project, ZAB may choose to not modify a project and approve it as is. Staff recommends the Council dismiss this appeal point.

Issue #3: Appellants allege that several procedural requirements were not met when story poles were not installed, the typical zoning project “yellow poster” was not installed, and the staff report was not available far enough in advance before the ZAB meeting.

Response: Page 10 of [Zoning Project Application Submittal Requirements](#) addresses when story poles are required: for new main buildings and additions exceeding 14 feet in average height in the Hillside Overlay District. This project is not in the Hillside Overlay. At the project planner’s discretion story poles may be required for projects outside of the Hillside Overlay when there is a concern about a protected view⁴, but views were not discussed prior to or during the ZAB hearing.

The appellants also state that the typical “yellow poster” was not installed by the applicant. When the application was submitted in January 2021, the 2-foot by 3-foot yellow poster requirement was on hold due to COVID-19 shelter-in-place orders. In July 2021, the yellow poster requirement was reinstated for new applications (page 4 of the [Submittal Requirements](#)). In January 2021, staff sent postcards informing neighbors of the project and posted a smaller yellow poster, similar to what is posted before public hearings, as that was the procedure at the time. Normal noticing procedures were followed by staff prior to the ZAB meeting in December 2021.

The appellants contend that the ZAB staff report was not posted by the morning of December 8, and they had to reach out to the planner to get a copy of the report.

⁴ Defined in BMC 23F.04 – 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.

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However, the ZAB agenda, with links to the staff reports and attachments, was posted to the ZAB webpage on December 2, 2021.

Staff recommends the Council dismiss these appeal points.

Issue #4: Appellants dislike the City's Zoom meeting format. The appellants contend that ZAB meetings conducted over Zoom should have "video and chat channels enabled for all participants so that affected parties can communicate easily."

Response: Like all public meetings that have occurred during the COVID-19 pandemic, ZAB meetings are conducted over Zoom, using a webinar format. The ZAB chair, ZAB secretary, and ZAB clerk can allow people to talk during the appropriate times outlined in the agenda. Similar to regular public meetings, members of the public must request to speak when public comment is called for, and the amount of time members of the public may speak is limited by the ZAB chair and enforced by the clerk.

Staff recommends the Council dismiss this appeal point.

Issue #5: Appellants are frustrated with the City's appeal process. The appellants contend that they sent emails to ZAB and the project planner after the ZAB meeting to find out the appeal procedure, but they never got a thorough answer, until they contacted the Office of the City Clerk on January 7.

Response: Page 7 of the December 9, 2021 ZAB agenda, like all ZAB agendas, describes the procedure to request a Notice of Decision.

Staff recommends the Council dismiss this appeal point.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The project approved by the ZAB is in compliance with all applicable State and local environmental requirements, would be located in a transit-rich area, and would be built and operated according to current codes for energy conservation, waste reduction, low toxicity, and other factors.

RATIONALE FOR RECOMMENDATION

The ZAB considered all of the information received from staff, the applicant, and the neighbors, and determined that the project is consistent with the zoning ordinance and applicable policies of the General Plan, and would not result in detrimental impacts to residents, adjacent properties, the surrounding area, or to the general welfare of the city.

Staff believes that the ZAB considered and discussed the evidence presented at the hearing, and acted within its purview to approve the proposed project. None of the issues raised on appeal are different from those raised at the ZAB hearing, and no new evidence or argument would dispute the reasoned findings of the ZAB. Therefore, staff

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recommends that the City Council uphold the ZAB decision to approve 2,229 square-foot addition, with an average height of 23 feet 10 inches.

ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23.410.040(G), 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 23.410.040(I), if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council (not including Council recess), then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

CONTACT PERSONS

Jordan Klein, Director, Planning & Development Department, (510) 981-7534
Steven Buckley, Land Use Planning Manager, (510) 981-7411
Allison Riemer, Project Planner, (510) 981-7433

Attachments:

- 1: Resolution
 - Exhibit A: Findings and Conditions
 - Exhibit B: Project Plans, dated July 15, 2021
- 2: Appeal Letter, received January 10, 2022
- 3: ZAB Staff Report, dated December 9, 2021
- 4: Index to Administrative Record
- 5: Administrative Record
- 6: Public Hearing Notice

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

UPHOLD THE ZONING ADJUSTMENTS BOARD (ZAB) DECISION TO APPROVE USE PERMIT #ZP2021-0001 TO: 1) CREATE A NEW LOWER BASEMENT LEVEL, 2) CONSTRUCT A NEW SECOND STORY, AND 3) MODIFY THE EXISTING DUPLEX LAYOUT RESULTING IN A 3,763 SQUARE FOOT DUPLEX ON AN EXISTING PROPERTY, AND DISMISS THE APPEAL.

WHEREAS, on January 8, 2021, Sundeep Grewel (“Applicant”) submitted an application for a Use Permit (UP) to remodel and expand a duplex located at 1643 and 1647 California Street; and

WHEREAS, on December 9, 2021, the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit. After hearing public comments and holding discussion, the ZAB approved the Use Permit by a vote of 9-0-0-0 (Yes: Duffy, Kahn, Kim, Gaffney, O’Keefe, Olson, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: None; and

WHEREAS, on December 20, 2021, staff issued the notice of the ZAB decision, and on January 10, 2022, an appeal of the ZAB decision was filed with the City Clerk by Kay Bristol, the owner of 1651-1653 California Street, and Anna Cederstav and Adam Safir, the owners of 1609 Virginia Street. The Clerk set the matter for review by the Council on April 26, 2022; and

WHEREAS, on or before April 12, 2022, 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; and

WHEREAS, on April 26, 2022, the Council held a public hearing to consider the ZAB’s decision, and, in the opinion of this Council, the facts stated in or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council hereby adopts the findings for approval made by the ZAB in Exhibit A, affirms the decision of the ZAB to approve Use Permit #ZP2021-0001, and dismisses the appeal.

Exhibits

- A: Findings and Conditions
- B: Project Plans, dated July 15, 2021

FINDINGS AND CONDITIONS

DECEMBER 9, 2021

1643 & 1647 California Street

Use Permit #ZP2021-0001 to 1) create new lower basement level, 2) construct a new, second story, and 3) modify the existing duplex layout, resulting in a 3,763 square foot duplex on an existing property

PERMITS REQUIRED

- Use Permit, under Berkeley Municipal Code (BMC) Section 23C.04.070.C to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable lot coverage;
- Use Permit, under BMC Section 23C.04.070.E to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable density;
- Administrative Use Permits, under BMC Section 23C.04.070.B to horizontally extend two non-conforming yards (front and rear);
- Administrative Use Permit under BMC section 23D.28.030 to permit a major residential addition;
- Administrative Use Permit under BMC Section 23D.28.070.C to allow an addition over 14 feet in height.; and
- Administrative Use Permit under BMC Section 23D.28.050 to construct a fifth bedroom

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows:
 - (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. FINDINGS FOR APPROVAL

1. As required by Section 23B.32.040.A of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
 - A. The project will add a second level to the home, of which there are several examples in the neighborhood.
 - B. The second story addition will step in and comply with the required front and rear yard setbacks.

- C. A basement is proposed to be added. While adding additional square footage to the building, the basement will not create any new impacts to the surrounding neighbors due to its placement partially below grade, maintaining the existing first floor level.
- D. The neighborhood is a mix of residential uses, including apartments and single-family and multi-family homes. Existing structures in the immediate neighborhood vary in height from one to two stories; and
- E. The project approval is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental.

III. OTHER FINDINGS FOR APPROVAL

2. Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of lot coverage are permitted with a Use Permit if the addition/enlargement does not increase coverage or exceed the height limit. The property is non-conforming to the maximum allowable lot coverage, with 50 percent coverage, where 45 percent is the District maximum on this R-2 property. The proposed addition will remove an existing shed in the rear yard, which will reduce the lot coverage to 44 percent, while creating a two-story house, which decreases the allowable lot coverage to 40 percent. While the proposed structure will still be non-conforming to the allowable lot coverage, the project will reduce the non-conformity from 5 percent over the allowable limit to 4 percent over the allowable limit. The proposed addition is located over existing covered area, and therefore, does not increase the non-conforming lot coverage. Additionally, while the addition consists of a second story addition, reaching a total of 23 feet, 10 inches, which complies with the maximum average height limit of 28 feet.
3. Pursuant to BMC Section 23C.04.070.E, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with a Use Permit if the addition/enlargement does not increase the density or exceed the height limit. The project proposes to maintain the density at two units, therefore, it does not increase the density. As described in Section V.C of the Staff Report, the addition will comply with the allowable average height limit in the district
4. Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements which vertically extend or alter a portion of a building which encroaches into a non-conforming yard may be of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with an Administrative Use Permit if the existing use of the property is conforming and if the addition/enlargement will not 1) reduce any yard below the minimum setback requirements, or further reduce existing non-conforming yards; or 2) exceed the maximum or calculated height limits. As described in the Staff Report, the existing residential structure is non-conforming to the front, rear, and left (north) side setbacks. The proposed addition/enlargement of the house will correct the non-conforming left side setback, but is proposed to vertically extend the non-conforming front and rear setbacks. The front setback will be vertically extended both up (with the second story) and down (with the basement), while the rear setback will be vertically extended down with the expansion of the basement. The second story at the rear will comply with the required 20-foot rear yard setback. As the enlargement of the building will comply with the permitted residential use on the property, and the vertical expansions within the non-conforming setbacks will not further reduce the non-conformity, these expansions are permissible.
5. Pursuant to BMC Section 23D.28.050, an Administrative Use Permit is required to approve the addition of a fifth bedroom to a parcel in the R-2 Zoning District. This project proposes to increase

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December 9, 2021

FINDINGS & CONDITIONS
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the total number of bedrooms on the property from four to five bedrooms. The addition of this fifth bedroom will not add density to the site, or intensify the use of the residential property.

IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Applicant Responsible for Compliance with Conditions

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

4. Modification of Permits (Section 23B.56.020)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

Changes in the plans for the construction of a building or structure, may be modified prior to the completion of construction, in accordance with Section 23B.56.030.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

5. Plans and Representations Become Conditions (Section 23B.56.030)

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

6. Subject to All Applicable Laws and Regulations (Section 23B.56.040)

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

8. Exercise and Lapse of Permits (Section 23B.56.100)

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

9. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney’s fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney’s fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant’s expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23B.32.040.D, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

- 10. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual’s name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

Project Liaison _____

Name	Phone #
------	---------

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

- 11. Construction and Demolition Diversion. Applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 including 100% diversion

of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.

12. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

A. Environmental Site Assessments:

- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at: http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
- 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
- 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

B. Soil and Groundwater Management Plan:

- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project.

Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

- 1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

During Construction:

13. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
14. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
 - A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
 - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
15. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
 - A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

- B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:

- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
 - A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.
16. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
17. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
18. 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.

19. Avoid Disturbance of Nesting Birds. Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.
20. 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.

21. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

22. 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.

23. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
 - A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
 - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
 - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.

- E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
 - G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
 - H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - I. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - J. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 24. Public Works.** All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
- 25. Public Works.** The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
- 26. Public Works.** The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
- 27. Public Works.** Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
- 28. Public Works.** The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.

29. Public Works. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Final Inspection or Issuance of Occupancy Permit:

30. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
31. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated August 26, 2021, except as modified by conditions of approval.

At All Times:

32. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
33. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
34. Loading. All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.
35. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
36. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

OPPENHEIMER RESIDENCE

1643 & 1647 California St. CA 94703

SCOPE OF WORK

The proposed project includes an addition to and remodel of an existing, one-story, two-family residence (duplex). Components of the project include:

Reconfigure existing duplex to create one larger unit and one smaller apartment. All work shall be within the building footprint. The building shall remain as a duplex. The preliminary program includes the following:

Basement/First floor:

- Excavate down to create new bedroom, full bath, home gym and family room and mech. room/storage

Second floor:

- Reconfigure layout as needed to create a larger unit with one smaller apartment
- Rebuild/reconfigure existing porch and entry stairs as required
- Create new stairs to basement floor and second floor addition

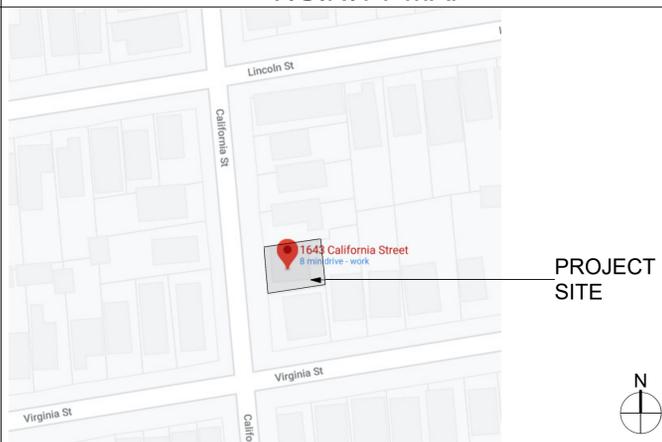
Third floor:

- Create new bedrooms, bathrooms and laundry room
- Create new balcony at front

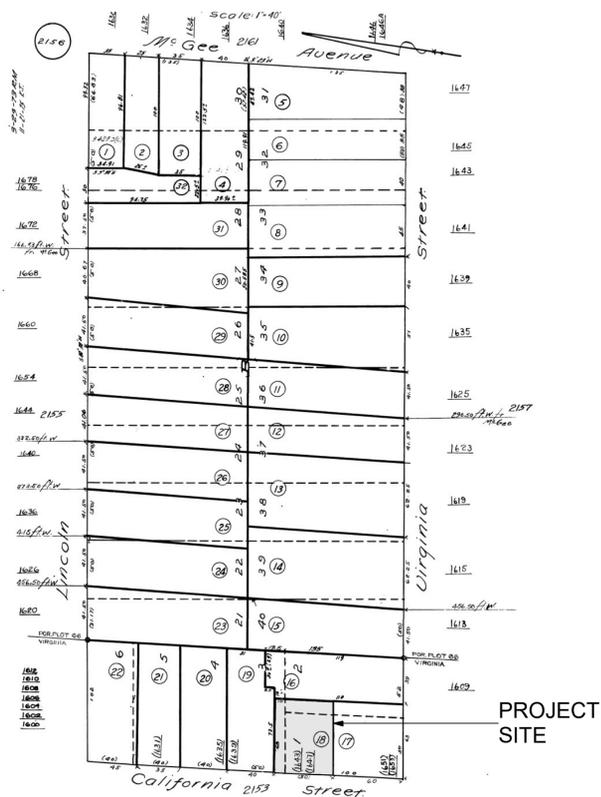
Miscellaneous:

- Update all mechanical, electrical and plumbing systems as required for new work
- Reconfigure and rebuild front stairs per new design

VICINITY MAP



PARCEL MAP



SHEET INDEX

Architectural:

- A0.0 Scope Of Work, Vicinity Map, Parcel Map, Project Data Sheet Index, Abbreviations, Applicable Codes Project Directory, Photos
- A0.1 Existing Site Plan, Proposed Site Plans
- A0.2 Site Survey
- A1.1 Existing Floor Plan
Existing Exterior Elevations
- A2.1 Proposed Floor Plan
- A2.2 Proposed Floor Plans
- A3.1 Front Elevation Comparison, Exterior Renderings
- A3.2 Proposed Exterior Elevations
- A3.3 Building Section, Renderings
- A4.1 Shadow Study
- A4.2 Shadow Study
- A4.3 Shadow Study
- A5.1 Demolition Diagram



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OPPENHEIMER RESIDENCE
 1643 & 1647 California St.
 Berkeley, CA 94703
 APN: 58-2156-18

PROJECT DIRECTORY

Owner:
Ido and Tamar Oppenheimer
1643 & 1647 California St.
Berkeley, CA 94703
Tel: 510 486-8387

Project Address:
1643 & 1647 California St.
Berkeley, CA 94703
APN: 58-2156-18

Architect:
Sundeep Grewal
Studio G+S, Architects
2223 5th St.
Berkeley, CA 94710
Tel: 510-548-7448
sunny@sgsarch.com

PROJECT DATA

Occupancy: R-3 Duplex
Proposed Construction: Type V-B
Fire Sprinkler System: No

Zoning/General Plan Regulation
Zoning District: R-2 (Restricted Two-Family Residential)
General Plan Area: LMDR
Downtown Arts District Overlay: No
Commercial District With Use Quotas: No

Seismic Safety
Earthquake Fault Rupture(Alquist-Priolo) Zone: No
Landslide (Seismic Hazards Mapping Act): No
Liquefaction (Seismic Hazards Mapping Act): No
Un-reinforced Masonry Building Inventory: No

Historic Preservation
Landmarks or Structure of Merit: No

Environmental Safety
Creek Buffer: None
Fire Zone: 1
Flood Zone(100-year or 1%): No

Wildlife Urban Interface: No

APPLICABLE CODES

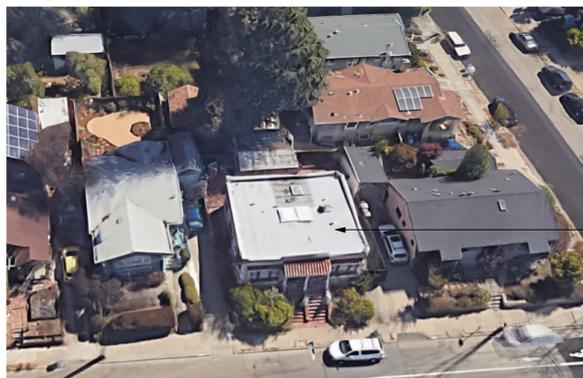
2019 California Building Code (CBC) Volume 1
2019 California Building Code (CBC) Volume 2
2019 California Residential Code (CRC)
2019 California Energy Code (CBEES)
2019 California Green Building Standards Code (CALGreen)
2019 California Electrical Code (CEC)
2019 California Plumbing Code (CPC)
2019 California Mechanical Code (CMC)

This project shall conform to all the above codes and any local and state laws and regulations adopted by the City of Berkeley, CA.

ABBREVIATIONS

&	and	fdn.	foundation	pr.	pair
@	at	fin.	finish	p.s.	plumbing stack
perpen.	perpendicular	f.	floor	pt.	point
#	pound or number	flash.	flashing	p.t.	pressure treated
(e)	existing	fluor.	fluorescent	p.td.	painted
(n)	new	f.o.c.	face of concrete	r.	riser
(r)	renovated	f.o.f.	face of finish	r.a.	return air
a.f.f.	above finished floor	f.o.s.	face of studs	ref.	reference
acous.	acoustical	ft.	foot or feet	refr.	refrigerator
adj.	adjacent/ adjustable	ftg.	footing	rgtr.	register
alum.	aluminum	furn.	furnace	reinf.	reinforced
approx.	approximate	g.a.	gauge	req.	required
arch.	architectural	gal.	gallon	rm.	room
asph.	asphalt	galv.	galvanized sheet metal	r.o.	rough opening
bd.	board	gl.	glass	r.wd.	redwood
bldg.	building	gnd.	ground	r.w.l.	rain water leader
bkg.	block	gr.	grade	s.	south
blkg.	blocking	gyp. bd.	gypsum board	s.c.	solid core
bm.	beam	h.b.	hose bibb	sched.	schedule
bot.	bottom	hdwd.	hardwood	sect.	section
b.p.	building paper	h.f.	hem fir	sh.	shelf
btw	between	horiz.	horizontal	shr.	shower
cab.	cabinet	hgt.	height	sim.	similar
cem.	cement	i.d.	inside diameter (dia.)	s.mech.	see mechanical drawings
cer.	ceramic	insul.	insulation	s.o.	sash opening
cl.	center line	int.	interior	spec.	specification
clg.	ceiling	jt.	joint	sq.	square
clkg.	caulking	kit.	kitchen	s.s.d.	see structural drawings
c.o.	cleanout	lav.	lavatory	sst.	stainless steel
clo.	closet	loc.	location	std.	standard
clr.	clear	lt.	light	stl.	steel
col.	column	lt. max.	maximum light	stor.	storage
comp.	composition	m.c.	mechanical cabinet	struct.	structure
conc.	concrete	mch.	mechanical	sym.	symmetrical
constr.	construction	memb.	membrane	t.	tread or tempered
cont.	continuous	mfr.	manufacturer	t.b.	towel bar
det.	detail	min.	minimum	tel.	telephone
d.f.	douglas fir	mir.	mirror	t. & g.	tongue & groove
dia.	diameter	misc.	miscellaneous	thk.	thick
dim.	dimension	mtd.	mounted	t.b.r.	to be removed
dir.	direction	mtl.	metal	t.o.	top of
dir.	disposal	n.	north	t.p.d.	toilet paper dispenser
d.w.	dishwasher	nat.	natural	t.v.	television
dr.	door	neq.	necessary	typ.	typical
drw.	drawer	neoprene	neoprene	unf.	unfinished
drg.	drawing	n.i.c.	not in contract	u.o.n.	unless otherwise noted
drgs.	drawings	no.	number	vert.	vertical
e.	east	nom.	nominal	v.g.	vertical grain
ea.	each	n.l.s.	not to scale	v.i.f.	verify in field
el.	elevation	n.a.	overall	w.h.	water heater
elec.	electrical	n.c.	on center	w.	west
enc.	enclosure	o.d.	outside diameter (dim.)	w/	with
eq.	equal	opng.	opening	wd.	wood
eqpt.	equipment	opp.	opposite	w/o.	without
ext.	exterior	pl.	property line	w.o.	where occurs
f.	frosted	p.lam.	plastic laminate	wp.	waterproof
f.d.c.	fire dept. connection	plywd.	plywood	wt.	weight

SITE PHOTOS



Aerial of existing duplex



Front and right Side of existing duplex



Front and left Side of existing duplex

	Tabulations		
	Required/Allowed	Existing	Proposed
Set Backs:			
Front	20'-0"	10'-10"	10'-10" no change
Rear	20'-0"	16'-10"	16'-10" no change
Left side:	4'-0"	3'-11"	4'-0" no change
Right side:	4'-0"	5'-6"	5'-5" no change
Habitable Floor Area:			
Unit 1:			
Basement floor:		0 s.f.	1,342 s.f.
First floor:		667 s.f.	901 s.f.
Second floor:		0 s.f.	1,019 s.f.
Total Area Unit 1:		667 s.f.	3,262 s.f. (2,595 s.f. new)
Unit 2:			
Basement floor:		0 s.f.	0 s.f.
First floor:		667 s.f.	501 s.f.
Second floor:		0 s.f.	0 s.f.
Total Area Unit 2:		667 s.f.	501 s.f.
Total Area:		1,334 s.f.	3,763 s.f. (2,229 s.f. new)
Bedroom Count:		3 total	5 total
Non-Habitable Area:			
Accessory Structure:		167 s.f.	0 s.f.
Building Height:			
Main Building:	28'-0" 35'-0" w/ AUP	13'-6" 13'-6"	23'-10"
Parking:	2	0	0
Lot Size:	4,500 s.f.	3,142 s.f.	3,142 s.f.
Total Foot Print:			
House:		1,342 s.f.	1,342 s.f.
Covered Porch:		60 s.f.	0 s.f.
Accessory Structure:		167 s.f.	0 s.f.
Total:	1,085 for 3 stories	1,569 s.f.	1,382 s.f.
Lot Coverage:	45% (1 story) 40% (2 story) 35% (3 story)	49.94%	43.98% (5.96% reduction)
Usable Open Space:	400 s.f./unit	500 s.f.	1,029 s.f.

Sheet Contents:
Sheet Index
Applicable Codes
Abbreviations
Vicinity Map
Project Data
Scope of Work
Project Directory
Photos

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: N/A

Revisions:

Use Permit Set: 12-10-2020

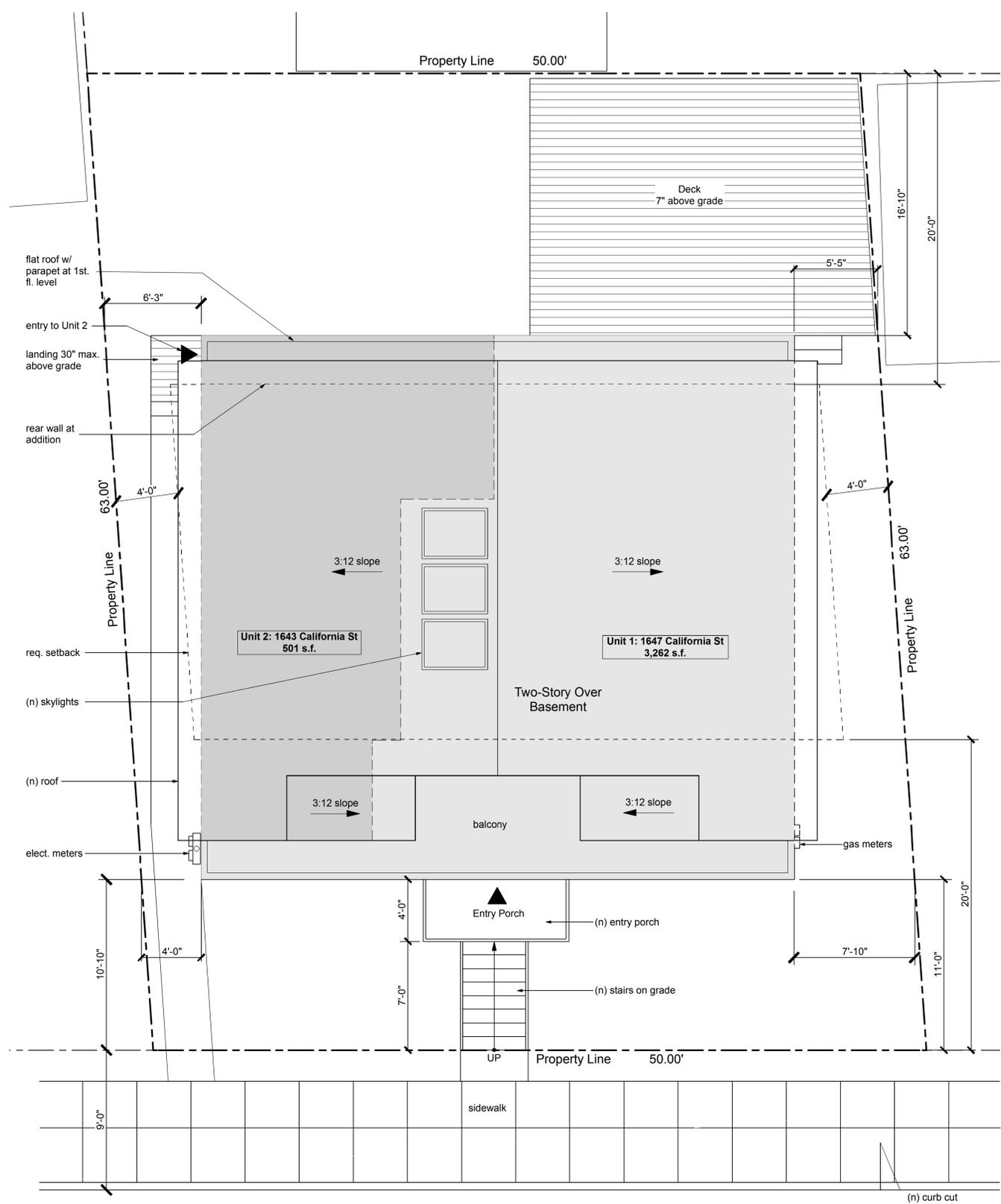
Redesign: 5-25-2021

Planning Review: 6-29-2021

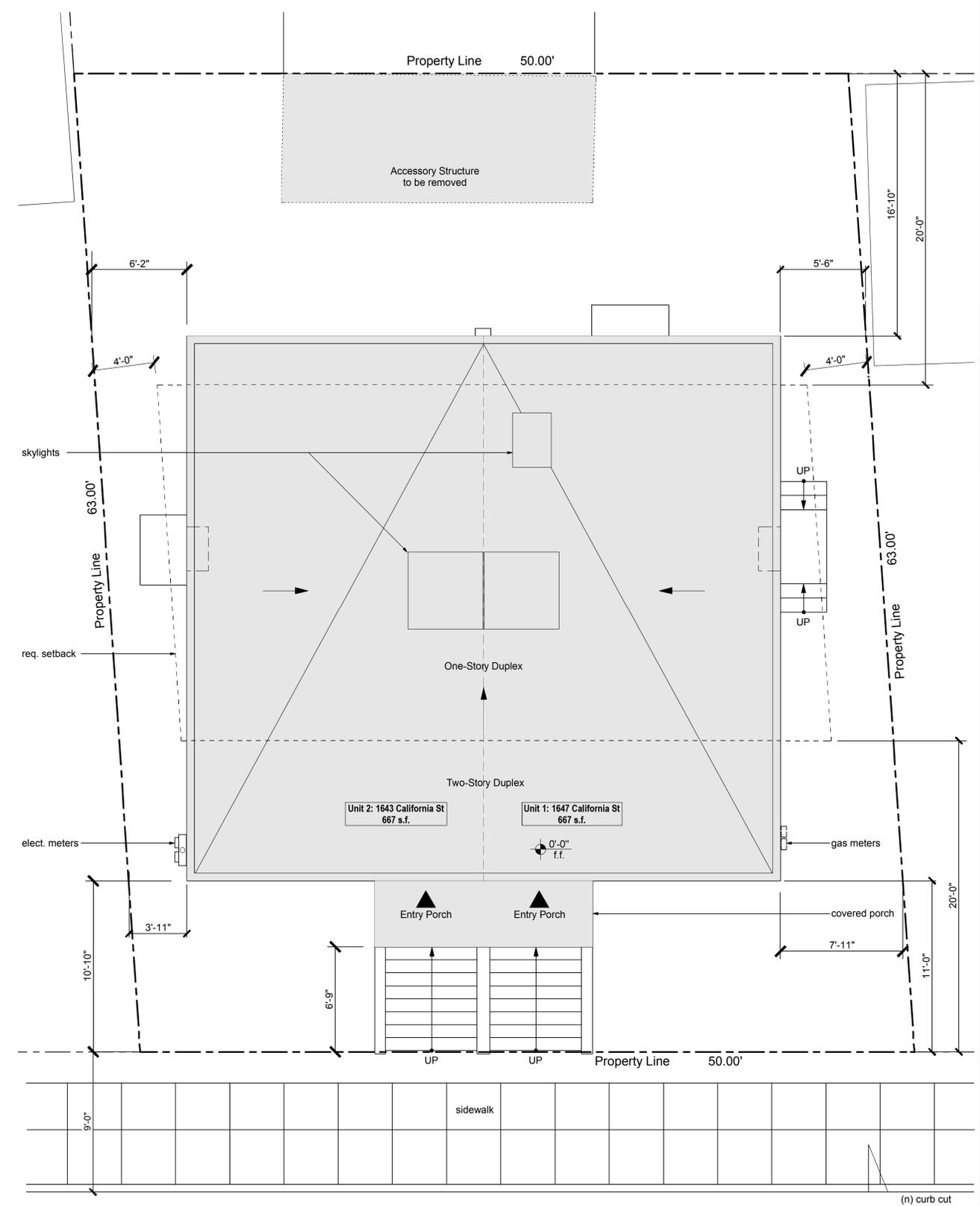
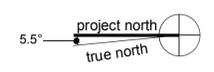
Planning Review: 7-15-2021

Planning Review: 8-26-2021

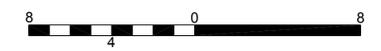
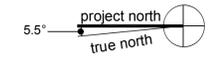
Sheet **A0.0**



2 Proposed Site Plan



1 Existing Site Plan



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Sheet Contents:
 Existing Site Plan
 Proposed Site Plan

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: 1/4" = 1'-0"

Revisions:
 Use Permit Set: 12-10-2020

Redesign: 5-25-2021

Planning Review: 6-29-2021

Planning Review: 7-15-2021



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Sheet Contents:
 Site Survey

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Project No:
 20-13-420

Drawn By:
 SSG

Checked By:
 SSG

Scale:
 1" = 1'-0"

Revisions:
 Use Permit Set: 12-10-2020
 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

Sheet
A0.2

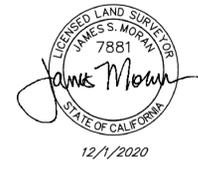
HOUSE LOCATION SURVEY

PORTION OF LOTS 1, 2 AND 3, MAP OF VIRGINIA TRACT, FILED OCTOBER 4, 1890 (8 M 43)
 LOCATED AT 1643-1647 CALIFORNIA STREET
 CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA

NOVEMBER 17, 2020 SCALE: 1" = 8'

MORAN ENGINEERING, INC.

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



LEGEND
 ● FOUND MONUMENT PER PM 6679 (213 M 50)

BLDG. BUILDING
 C.O. CLEAN-OUT
 D/W DRIVEWAY
 F.H. FIRE HYDRANT
 J.P. JOINT POLE
 M.H. MAN HOLE
 S/W SIDEWALK
 T.C. TOP OF CURB

GENERAL NOTES

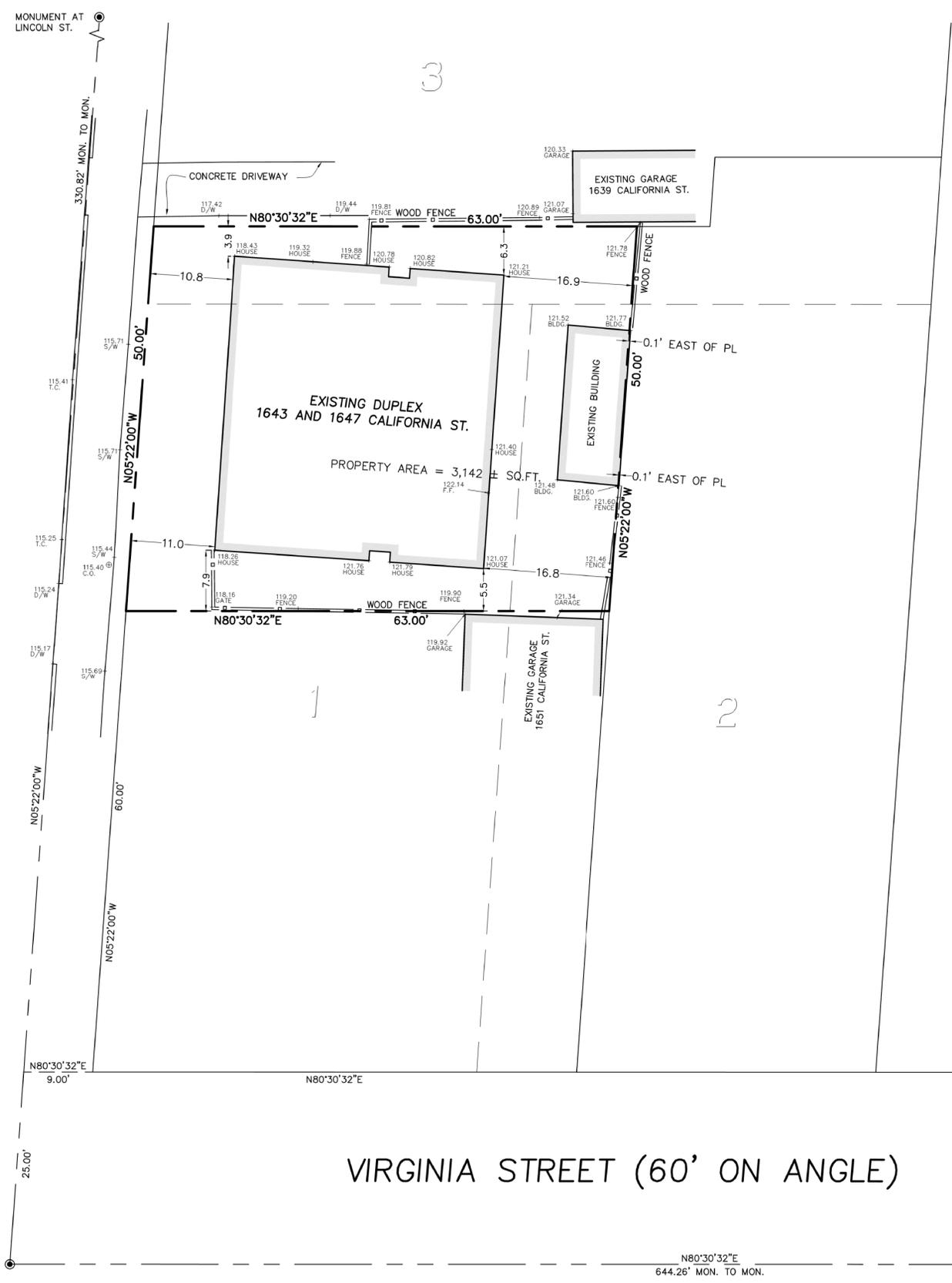
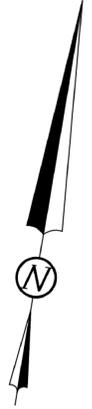
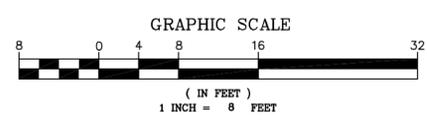
BENCHMARK: MONUMENT PIN ON THE WEST SIDE OF SACRAMENTO STREET AT VIRGINIA STREET. ELEVATION = 108.683 PER CITY OF BERKELEY ENGINEERING DIVISION RECORDS. ELEVATIONS ARE BASED UPON THE CITY OF BERKELEY DATUM.

THIS SURVEY IS BASED UPON THE GRANT DEED TO LAWYERS ASSET MANAGEMENT INC. RECORDED DECEMBER 1, 1989 SERIES 89-324628, ALAMEDA COUNTY RECORDS.

THE BEARINGS ON THIS MAP ARE BASED UPON THE MONUMENT LINE IN CALIFORNIA STREET WITH A BEARING OF N05°22'00"W AS SHOWN ON PARCEL MAP 6679 FILED MARCH 29, 1994 IN BOOK 213 OF MAPS PAGES 49-50.

CALIFORNIA STREET (60' ON ANGLE)

VIRGINIA STREET (60' ON ANGLE)





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Sheet Contents:
 Existing Floor Plans
 Existing Exterior Elevations

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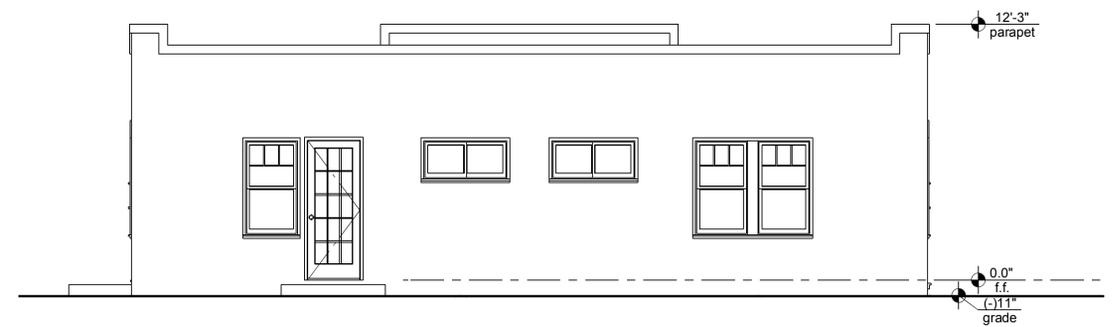
Drawn By: SSG

Checked By: SSG

Scale: 1/4" = 1'-0"

Revisions:
 Use Permit Set: 12-10-2020
 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

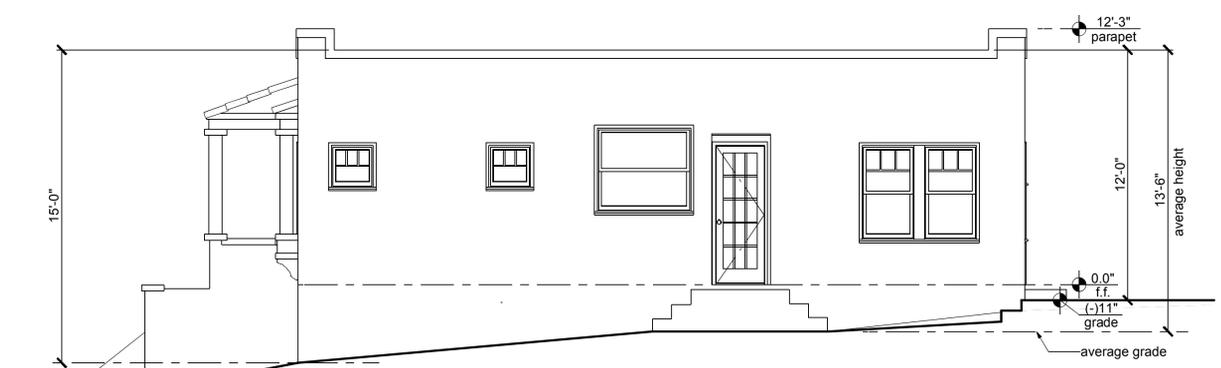
Sheet **A1.1**



5 Existing East Elevation - Rear



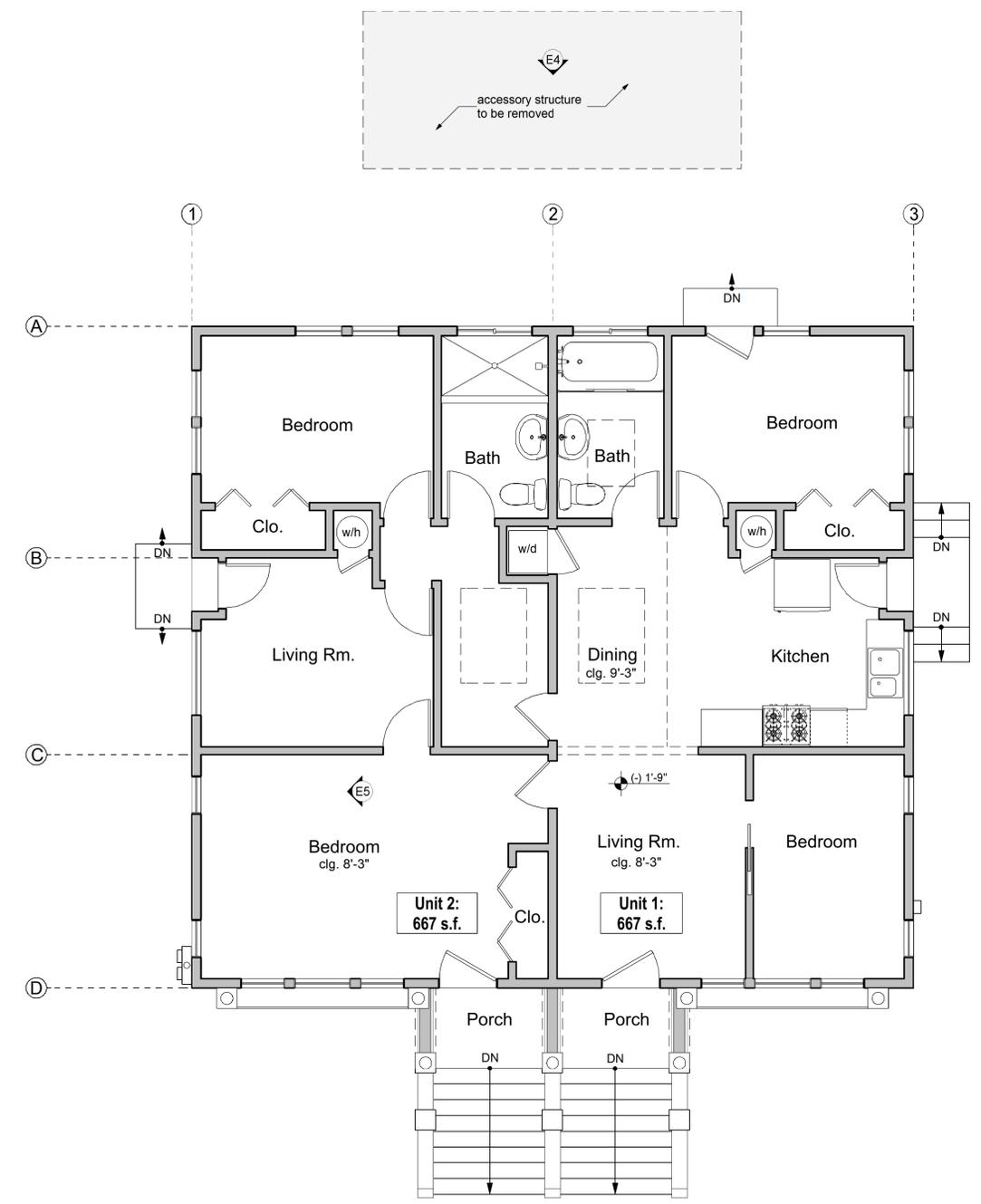
4 Existing North Elevation - Left Side



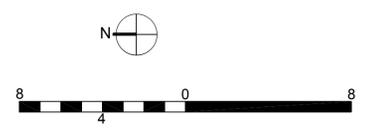
3 Existing South Elevation - Right Side



2 Existing West Elevation - Front



1 Existing First Floor Plan





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Sheet Contents:
Proposed Floor Plan
Proposed Site Plan

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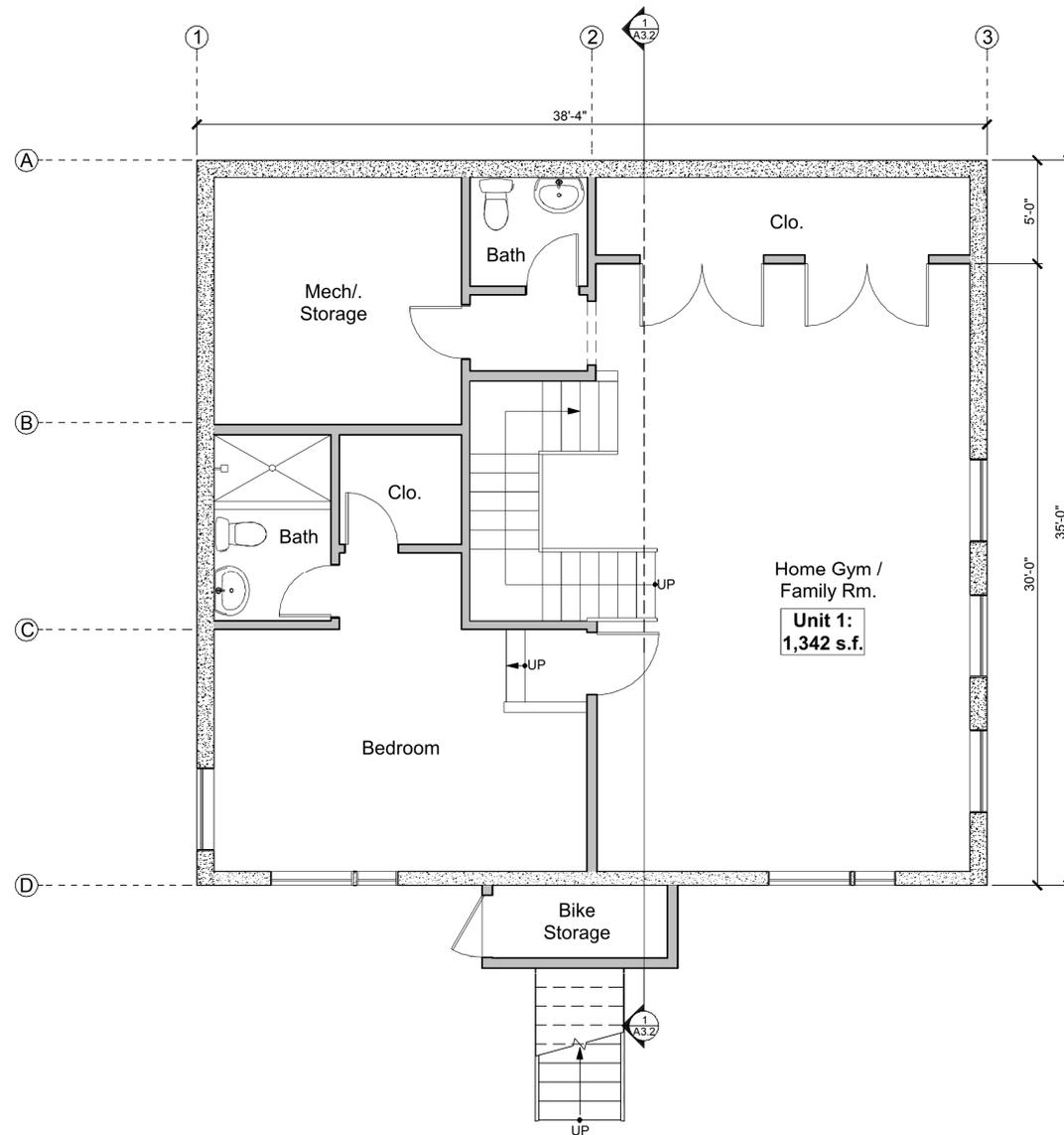
Drawn By:
SSG

Checked By:
SSG

Scale:
1/4" = 1'-0"

Revisions:
Use Permit Set: 12-10-2020
Redesign: 5-25-2021
Planning Review: 6-29-2021
Planning Review: 7-15-2021

Sheet
A2.1



1 Proposed Basement Floor Plan





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Proposed Floor Plans

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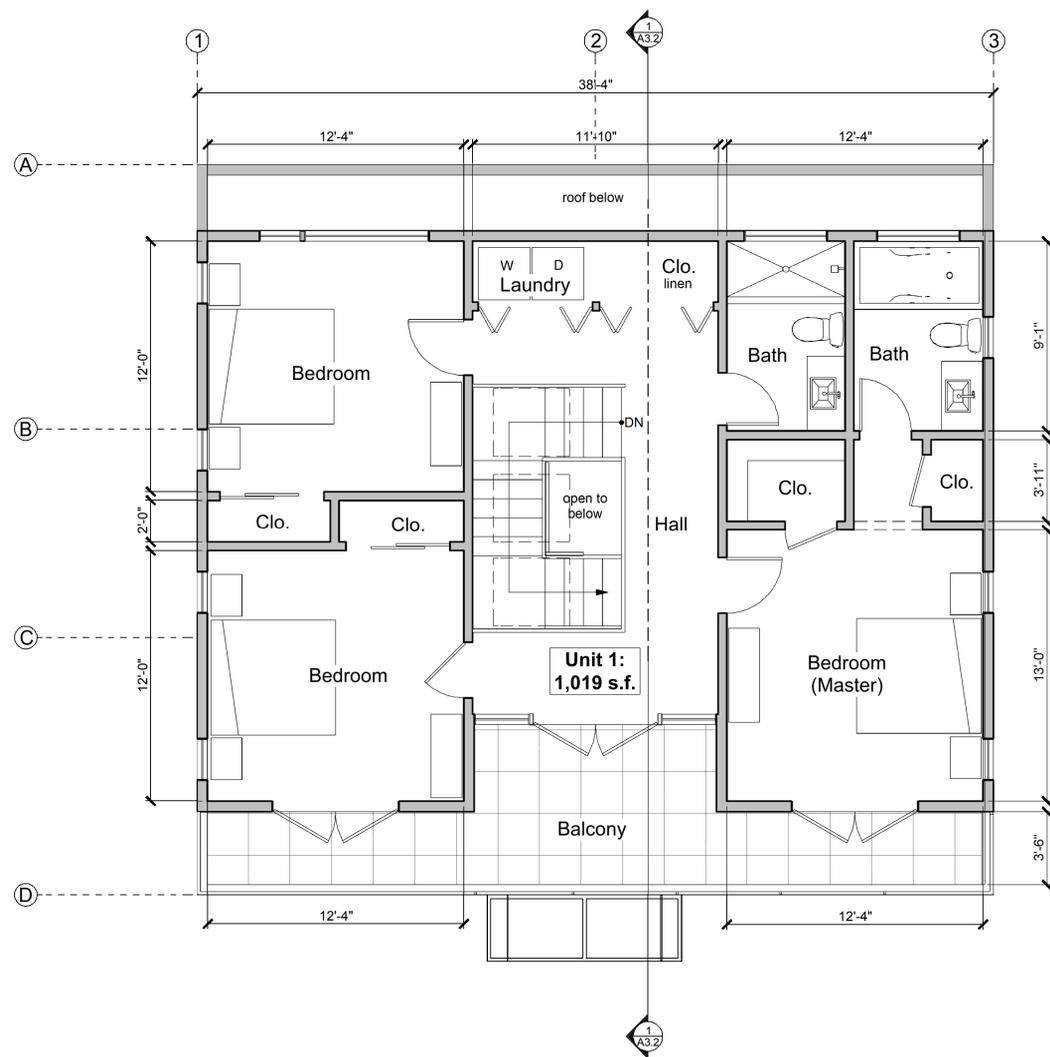
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Checked By: SSG

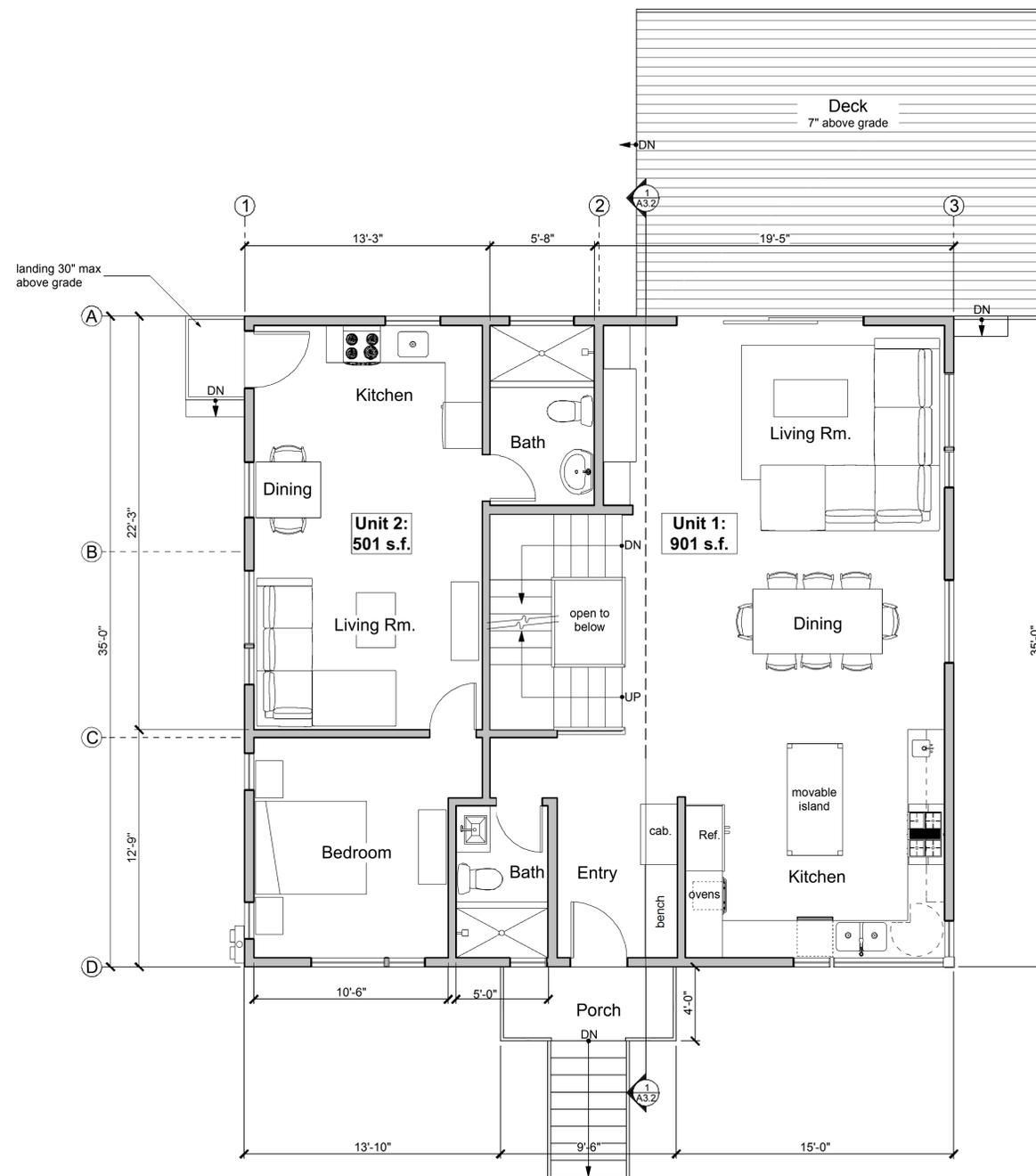
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Revisions:
Use Permit Set: 12-10-2020
Redesign: 5-25-2021
Planning Review: 6-29-2021
Planning Review: 7-15-2021

Sheet **A2.2**



2 Proposed Second Floor Plan



1 Proposed First Floor Plan





Previous Proposal



Previous Proposal



Previous Proposal



Current Proposal



Current Proposal



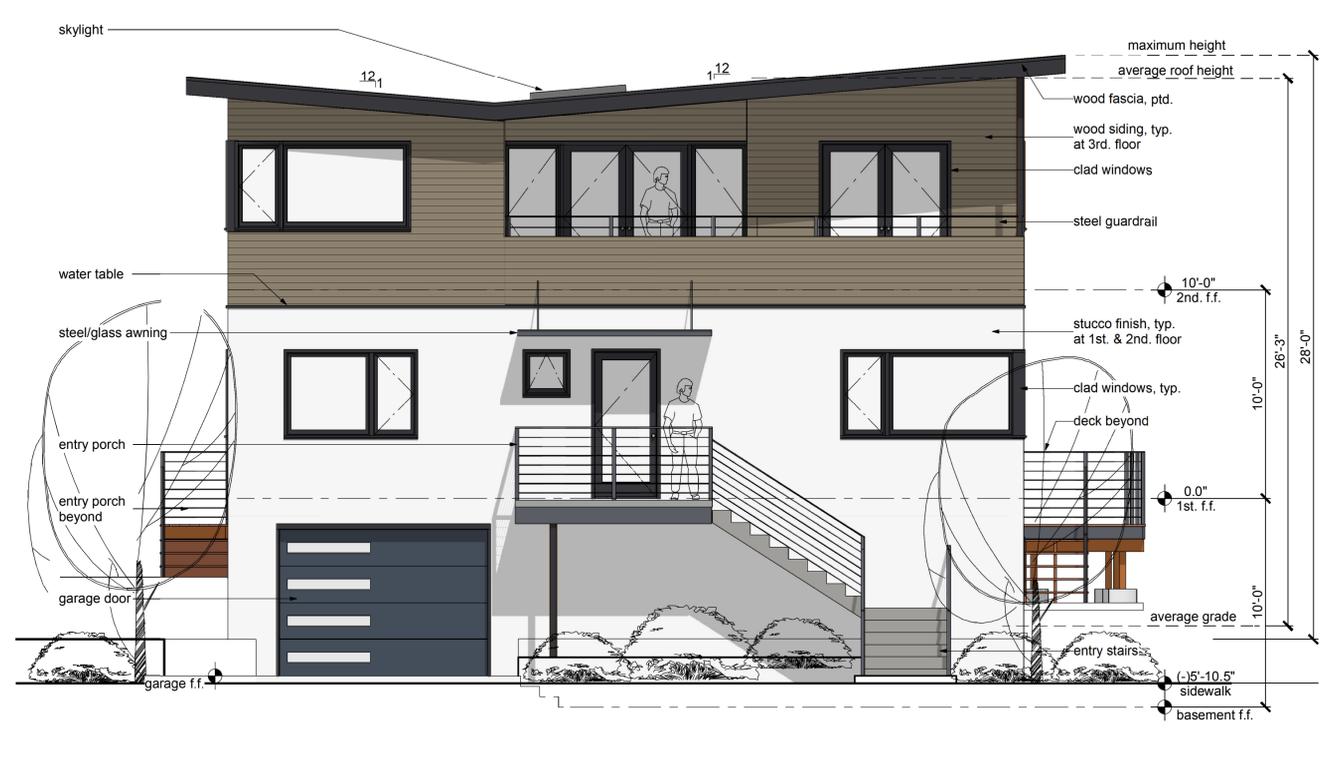
Current Proposal

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② Proposed West Elevation - Front
 Original Proposal



① Proposed West Elevation - Front
 Current Proposal



Sheet Contents:
 Front Elevation Comparison

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Drawn By: SSG

Checked By: SSG

Scale: 1/4" = 1'-0"

Revisions:
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 Planning Review: 7-15-2021

Sheet **A3.1**



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Sheet Contents:
 Proposed Exterior Elevations

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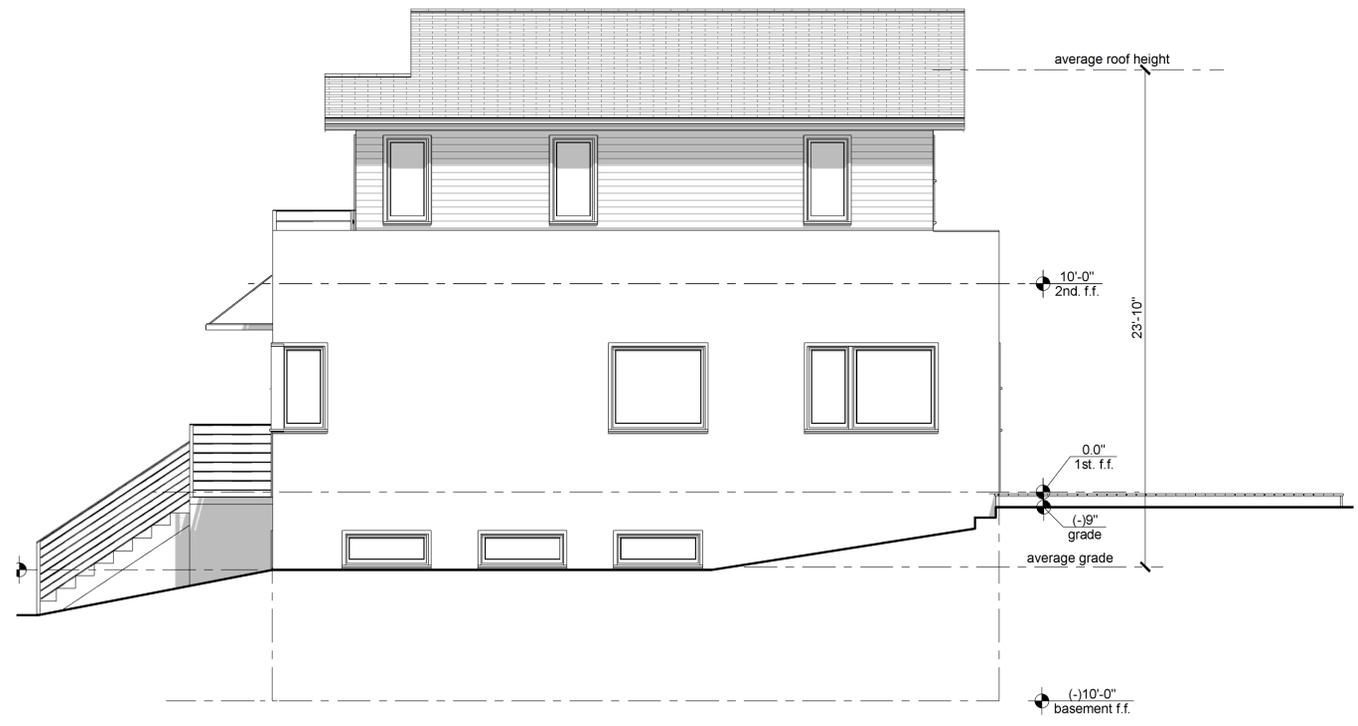
Drawn By: SSG

Checked By: SSG

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 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

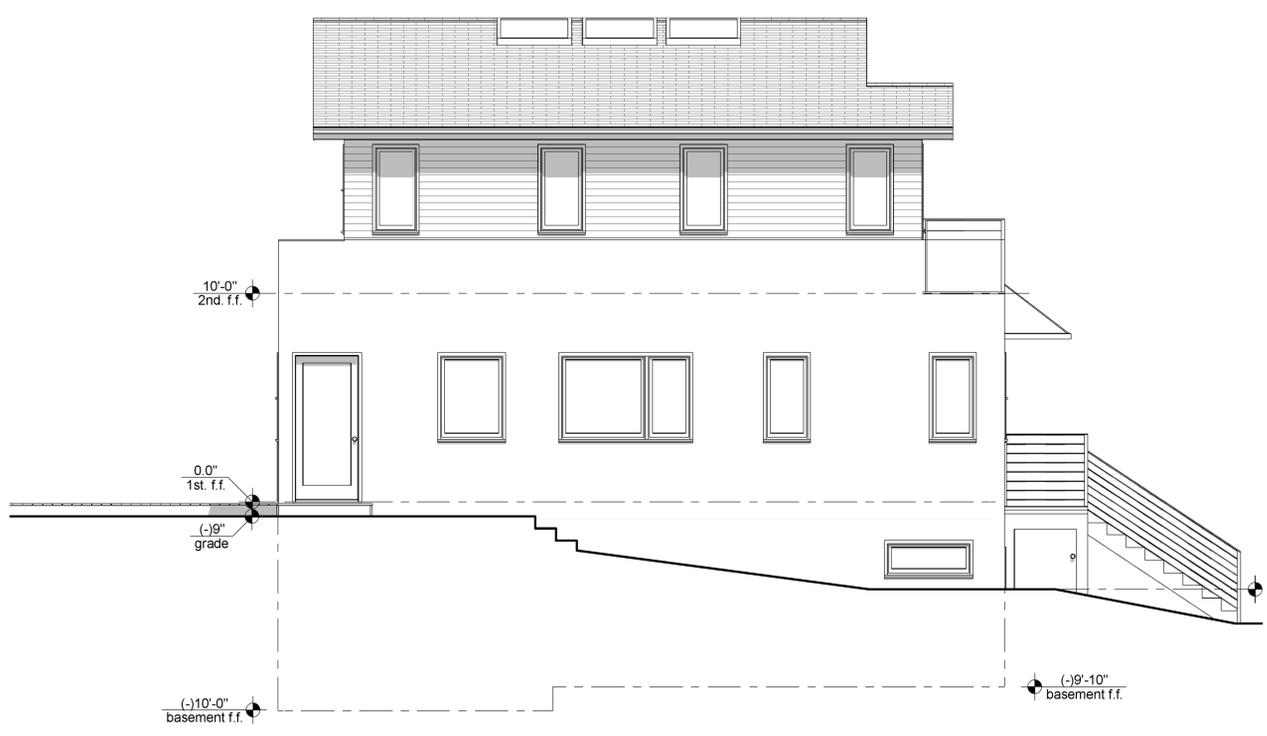
Sheet **A3.2**



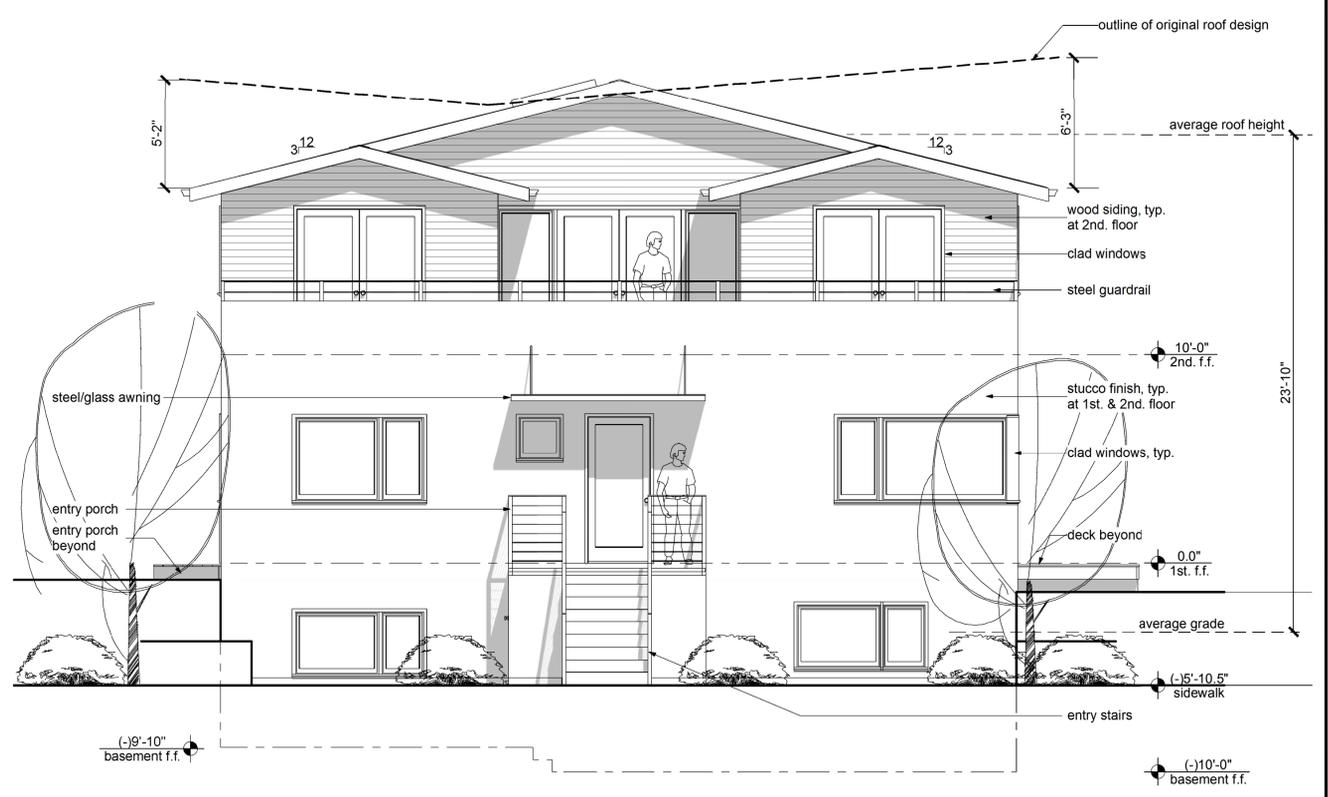
4 Proposed South Elevation - Right Side



3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front





2 Renderings



1 Proposed Building Section



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Sheet Contents:
 Building Section
 Renderings

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Drawn By: SSG

Checked By: SSG

Scale: 1/4" = 1'-0"

Revisions:
 Use Permit Set: 12-10-2020
 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

Sheet A3.3

Existing Shadow Line
New Shadow Line



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Sheet Contents:
Shadows Studies

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Project No: 20-13-420

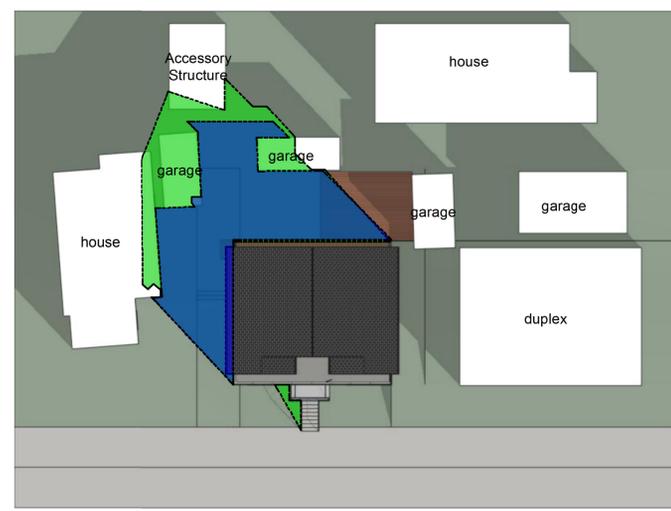
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Checked By: SSG

Scale: NTS

Revisions:
Use Permit Set: 12-10-2020
Redesign: 5-25-2021
Planning Review: 6-29-2021
Planning Review: 7-15-2021

Sheet A4.1



Project Site

Proposed

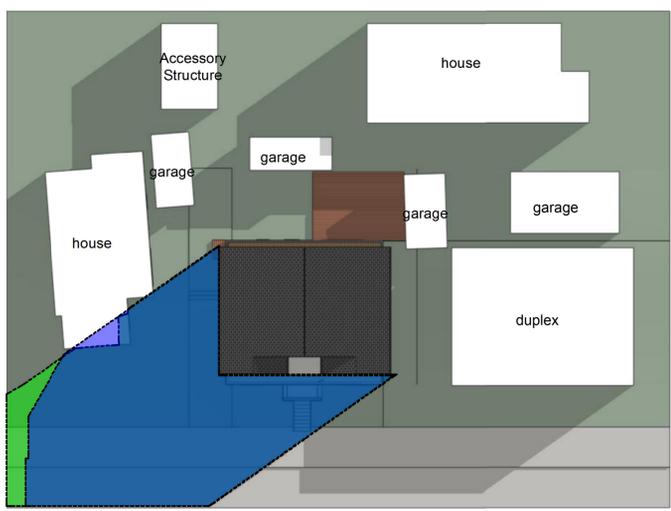
12-21-2021 / 2:54 pm



Project Site

Proposed

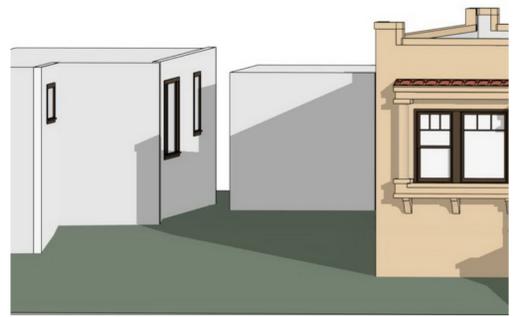
12-21-2021 / 12:00 pm



Project Site

Proposed

12-21-2021 / 9:21 am

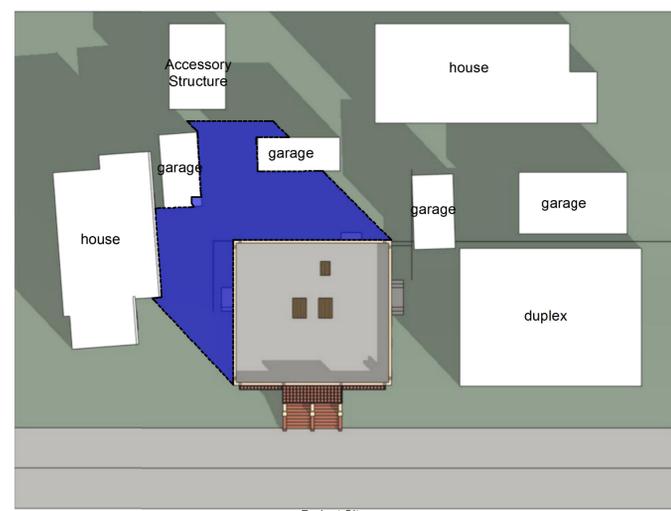


Shadow Accuracy Simulation
12-08-2020 / 3:00 pm



Actual
12-08-2020 / 3:00 pm

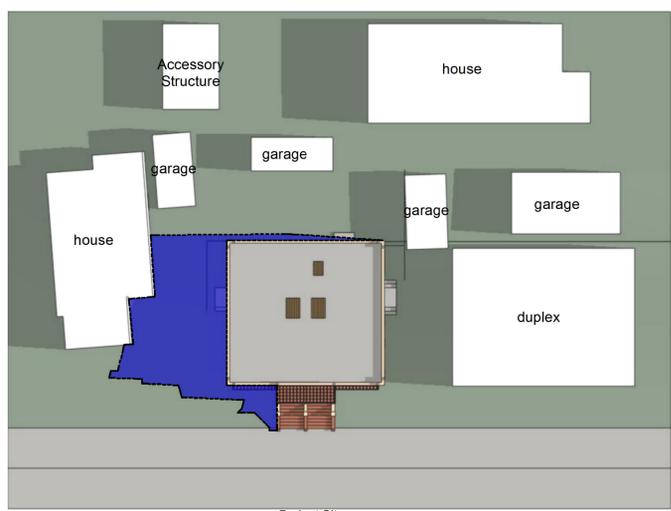
Shadow Accuracy Simulation



Project Site

Existing

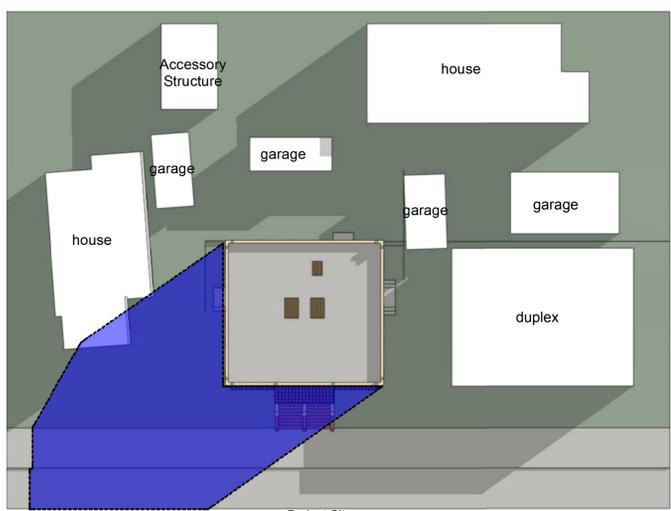
12-21-2021 / 2:54 pm



Project Site

Existing

12-21-2021 / 12:00 pm

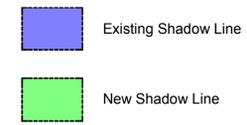


Project Site

Existing

12-21-2021 / 9:21 am





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Shadows Studies

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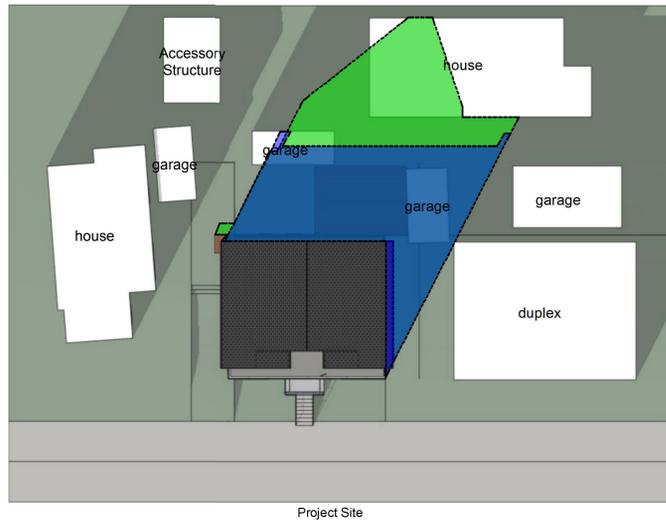
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SSG

Checked By:
SSG

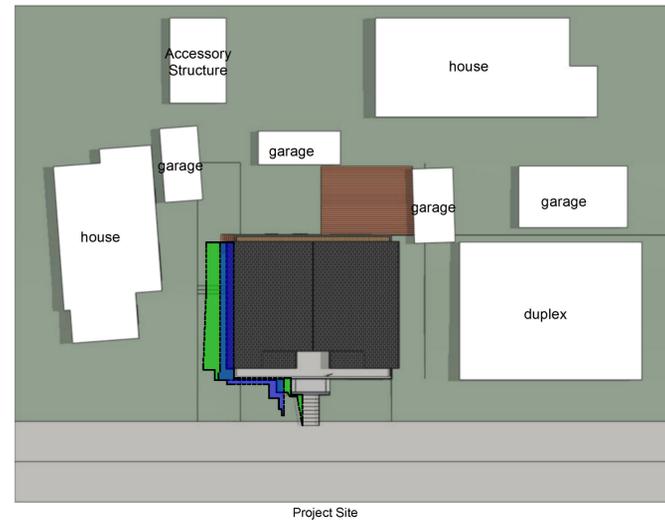
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Planning Review: 6-29-2021
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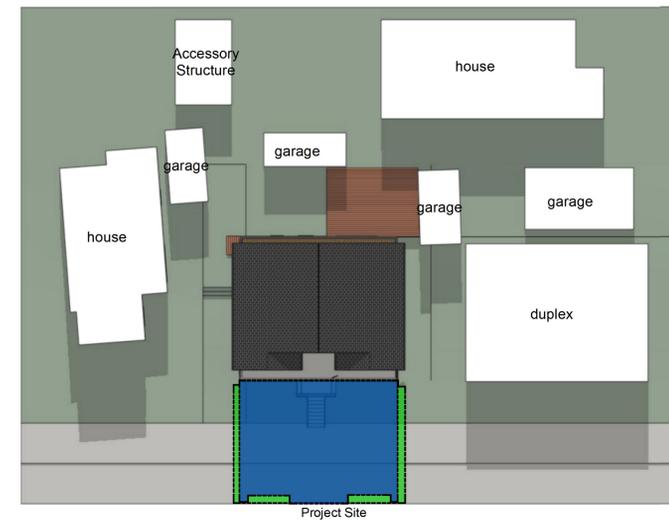
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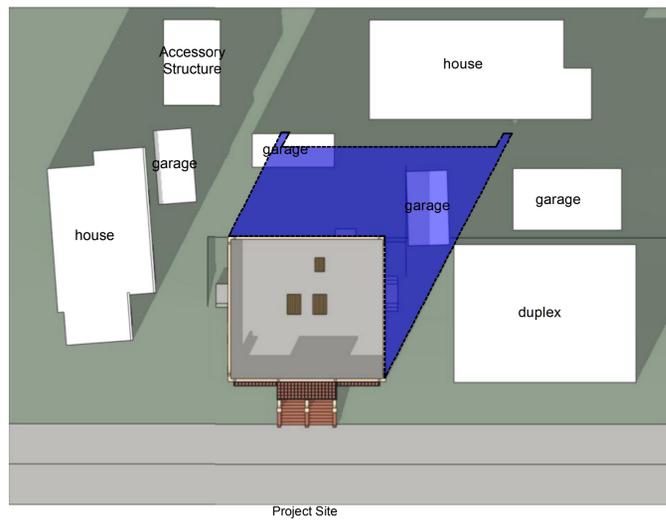
Proposed
6-21-2021 / 6:35 pm



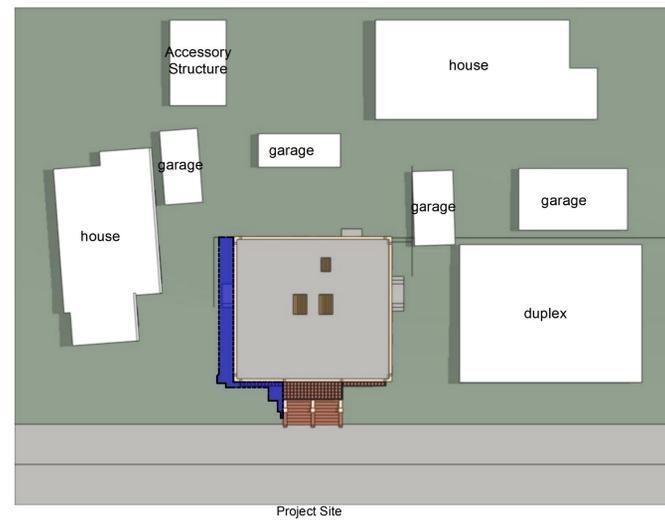
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6-21-2021 / 12:00 pm



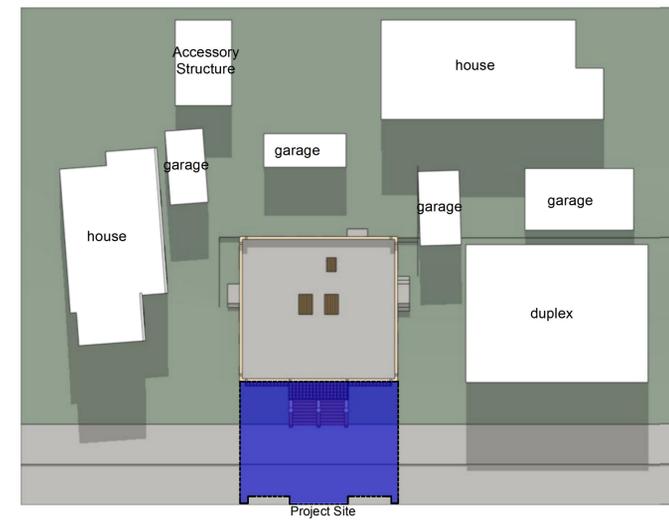
Proposed
6-21-2021 / 7:47 am



Existing
6-21-2021 / 6:35 pm



Existing
6-21-2021 / 12:00 pm



Existing
6-21-2021 / 7:47 am

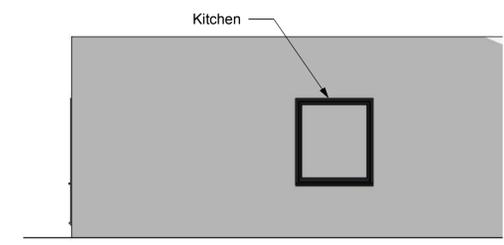


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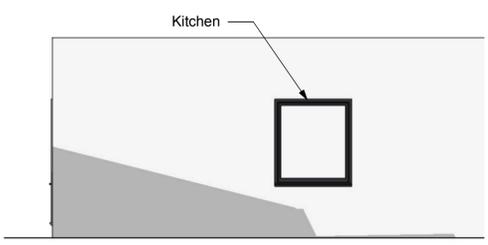
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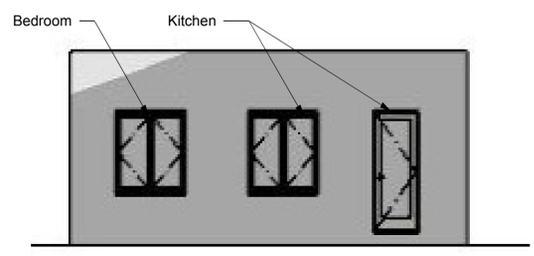


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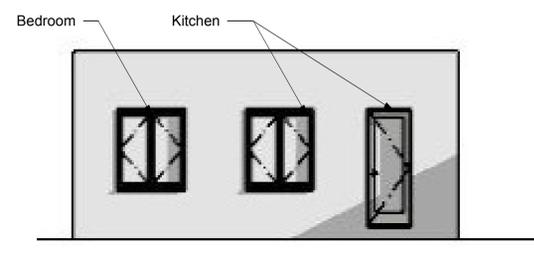


Existing West Wall

6-21-2021 / 6:35 pm

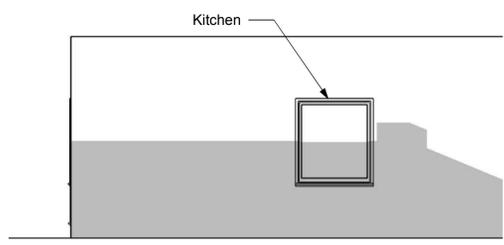


Proposed North Wall

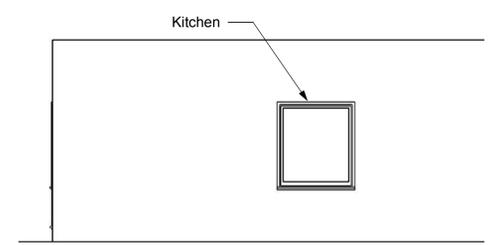


Existing North Wall

6-21-2021 / 6:35 pm

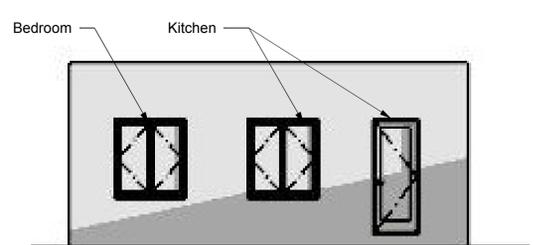


Proposed West Wall

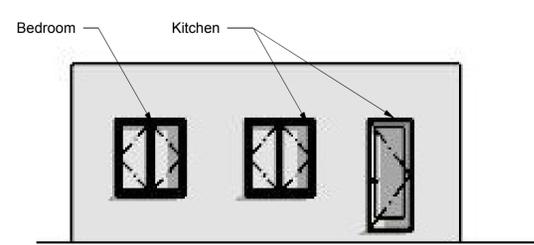


Existing West Wall

12-21-2021 / 2:54 pm



Proposed North Wall



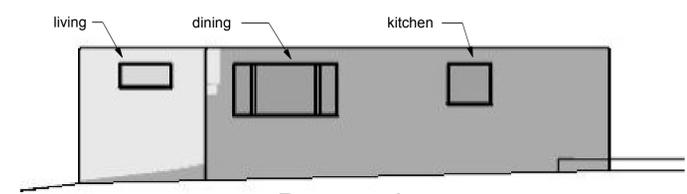
Existing North Wall

12-21-2021 / 12:00 pm

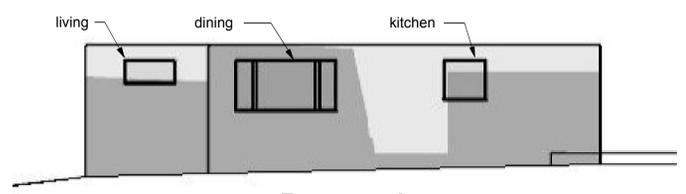
6-21-2021 / 5:00 pm

1609 Virginia St. Shadow Impact Study

Sheet Contents:
 Shadows Studies

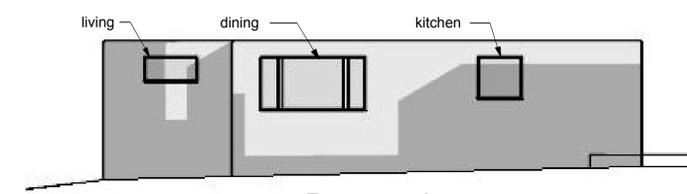


Proposed

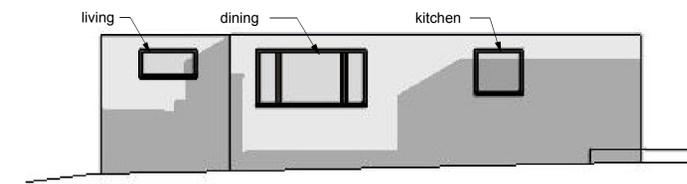


Existing

12-21-2021 / 12:00 pm



Proposed



Existing

12-21-2021 / 9:21 am

1639 California St. Shadow Impact Study

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Project No: 20-13-420

Drawn By: SSG

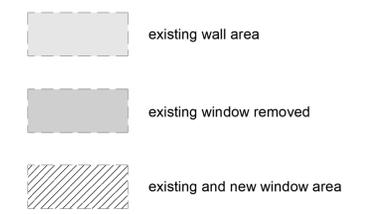
Checked By: SSG

Scale: NTS

Revisions:
 Use Permit Set: 12-10-2020
 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

Sheet **A4.3**

Wall demolition Notes:
 Total wall area: 1,921 s.f.
 Total wall removed: 520 s.f. (existing and new openings)
 Percentage removed: 27.1%



4 Proposed South Elevation - Right Side



3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front



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OPPENHEIMER RESIDENCE
 1643 & 1647 California St.
 Berkeley, CA 94703
 APN: 58-2156-18

Sheet Contents:
 Demolition Diagram

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Project No:
 20-13-420

Drawn By:
 SSG

Checked By:
 SSG

Scale:
 1/4" = 1'-0"

Revisions:
 Use Permit Set: 12-10-2020
 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021
 Planning Review: 8-26-2021

Sheet
A5.1

January 10, 2022

To: The Berkeley City Council

Re: Application of the Housing Accessibility Act and flaws in participatory processes that unduly limit the City's ability to regulate development in Berkeley, as evidenced via the handling of project ZP2021-0001.

This appeal relates to the December 9, 2021 ZAB hearing, in which the ZAB voted unanimously to approve a project proposed for 1643-47 California street in Berkeley (ZP2021-0001). We are appealing the decision by the ZAB in this case for two reasons:

- 1) The ZAB and City interpreted and applied the Housing Accessibility Act (HAA) in a way that severely and inappropriately restricts the City of Berkeley's powers and authority to influence housing development and to safeguard existing lower-income housing in the City.
 - a. The City Planner incorrectly extended protections afforded by the HAA only to very-low to moderate income housing developments, to a project that does not add any new units and instead simply proposes to massively increase the square footage of one unit in an existing duplex.
 - b. The ZAB interpreted the HAA to mean that it has no authority to apply existing objective zoning standards to any project that proposes an increase in square footage of the existing structure. That interpretation is counter to the statements in the City Planner's Staff Report, the law, and existing jurisprudence interpreting the HAA. Moreover, the ZAB only discussed how to apply the law to this project AFTER the opportunity for comment had closed during the hearing, and even though none of that information was previously publicly available.

If this interpretation is allowed to stand, the City of Berkeley would find itself forced to approve all housing projects that propose increasing square footage, regardless of whether the project complies with the applicable zoning standards currently in place, in effect making all Berkeley zoning processes irrelevant.

- 2) The City failed to provide adequate opportunities for affected parties to receive information in a timely manner, be consulted, and provide meaningful input on the proposed project

Because of (1) above, we request that the Council revert the project in question to the Department of Planning & Development to work with the City Attorney and others to determine how the HAA shall apply to this project and to zoning matters in Berkeley generally, including issuing clear and public guidelines as to which specific ZAB and City authorities are limited by the HAA in what kinds of circumstances. (See Section A below.)

We further request that the City Council order that ZAB hold another hearing on this project -- AFTER the City has officially decided and provided information as to how the HAA applies in this case, also mandating that such hearing shall include appropriate public notice and public participation, and that any and all restrictions on potential project modifications be both clearly stated in the Staff Report and during the ZAB hearing before the public comment section.

We also request that the City of Berkeley revise its procedures and processes to ensure effective and informed public participation in ZAB matters, considering that the COVID crisis is no longer a short-term phenomenon and thus does not provide an excuse for compromising informed public participation. (See Section B below). This includes but is not at all limited to public postings for projects, use of story poles, and improved ZAB hearing procedures to facilitate public participation.

In the interim, because the HAA does not require approval of this project, we ask that the City exercise its authority to reject the project or require a resubmission until such time as these matters can be resolved.

Finally, because the need for this appeal stems from the City's inconsistent interpretation of the HAA as well as from public participation concerns more broadly, both of which are of great import to the City generally and not only applicable to this specific project, we request a rebate of the \$500 charge for this appeal.

SECTION A. Inappropriate application of the HAA to justify approval of the proposed project

THE FACTS

The project

As clearly stated in the staff report provided to the ZAB prior to the hearing, the proposed project is "non-conforming for lot coverage, density, and yards" and "does not comply with the applicable, objective zoning standards."

1643-47 California is a North-Berkeley duplex built in 1924 that is registered as a two-unit structure with both units being owner-occupied. The property was illegally converted by the project proponents from two single-bedroom units into one larger single-family residence more than two decades ago, removing a kitchen, and opening the wall between the units. The property has been occupied as a single-family residence ever since.

The project proponent now seeks to expand the building from a total of 1,342 to 3,763 square feet by building a substantially different structure, promising to reconstruct the illegally removed unit. The project does not add any new units beyond what is on record in the city.

Instead of recreating the original and surely more affordable one-bedroom housing units (671 sq ft. each), the proposal seeks permission to create a small apartment (501 sq ft.) and an enormous 5-bedroom, 4-bathroom unit that includes a home gym. (3,262 sq ft.) The project would add two new levels to the existing property.

To accomplish these changes, the project requires two Use Permits and five Administrative Use Permits.

The proposal states that two adults will occupy the 3,262 sq ft. 5-bedroom unit and that their adult son will live in the small apartment.

The project application contains no information regarding any restrictions being created to ensure that the smaller proposed unit would be available as low-income housing, as is required for any application seeking to benefit from the HAA under the rubric of providing low-income housing.

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Similarly, the project application contains no information explaining how the 5-bedroom, 4-bathroom unit with a gym could be considered to be housing for moderate-level or below income, another way of triggering application of the HAA.

*The ZAB hearing and decision*¹

According to statements by ZAB members made during the meeting, this was the first time since the amendments to the HAA came into effect that the ZAB has had to decide whether or not to approve a project that did not meet the applicable zoning standards.

In spite of opposition by all three adjacent neighbors to the proposed third level of the structure, ZAB approved the project without considering requiring modifications such as lowering the building height or reducing the amount of square footage to be added.

It was evident during the hearing that the ZAB made this decision in large part because it felt forced under the HAA to approve any project that increases housing availability – defined broadly at one point in the discussion as being the units, number of bedrooms, or square footage of a development. The ZAB also expressed it could not require design modifications given that Berkeley does not yet have any objective design standards for minimizing impacts on neighboring properties.

At the very end of ZAB discussions, the ZAB chairman searched for, found, and read from a memo apparently produced by the city attorney and provided to the ZAB in October. That section – read out of context – was used as basis to suggest that the ZAB had no option other than to approve the project. The complete memo was shared with neither the public nor the rest of the ZAB at the meeting. We have since been unsuccessful in obtaining a copy of that memo, even after multiple requests to the ZAB and City Planner.

After dedicating much of the meeting to trying to figure out how the HAA might apply and what it was or was not allowed to do, the ZAB hurriedly voted shortly after reading from this memo to approve the proposed project.

During the meeting, ZAB members also clarified that the ZAB is not allowed to consider potential future uses of the projects it reviews even when the ZAB may doubt statements made by project applicants about such future use, thereby inferring that any determinations as to whether a project provides housing for very low to moderate income earners and thus is subject to those provisions of the HAA rests with the City Planning Department.

THE LAW

The text of the HAA (California Code 65589.5²) begins with an extensive discussion of the need for housing and especially affordable housing in California considering the “housing supply and affordability crisis of historic proportions” the State faces.

¹ We have made multiple requests to the ZAB and city planner for access to the recording of the ZAB meeting, so as to substantiate our record of the meeting. Not having received any response, these facts are based on our notes from the meeting and the written documents supplied to the ZAB by the city planner.

² See: https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65589.5

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It is eminently clear that the focus of the law is on providing more affordable housing, with references made to the need for safe and affordable housing; the discrimination against low-income and minority households caused by the lack of affordable housing; worsening poverty and homelessness; constrained supply and protracted unaffordability; low homeownership rates; and the high percentage of incomes paid by Californians on rent, among others.

The law also states that it is the intent of the State that the law be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

Relevant to this case, there are two sections of the law that impose restrictions on cities in approving housing developments.

First, Subsection (d) places strict limits on cities with regard to denying an application for a "housing development project for very low, low-, or moderate-income households or an emergency shelter..." To provide clarity on which housing developments would fit into this category, the law provides detailed instructions for how to carry out the calculations to assess whether a unit will qualify as very low, low- or moderate-income housing [Subsections (h)(3) and (h)(4)].

The law further requires that "The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years." [Subsection (d)(4)]

The vast majority of the law refers to and places limitations only on housing developments that would provide the very-low to moderate level income described above, and as defined in Subsection (h). It is only for such developments or for developments that comply with all applicable objective standards that a City must make a finding of specific adverse impacts upon the public health or safety if it desires to disapprove the project.

Second, Subsection (j) defines the process and timelines by which housing developments in general should be reviewed and either approved or denied. The law sets out two options, providing guidance for what to do if the city considers that:

- a) a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete; or deems the
- b) housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision

In the case where the agency deems the project out of compliance, the law simply directs the agency to provide the project proponent with a timely explanation of the reason why the project is not in compliance. [Section(j)(2)(i)]

There is nothing in the law that suggests a local agency would be required to approve a project that does not comply with the applicable, objective zoning standards in place at the time that a project application is complete. To the contrary, section (f) of the law states that:

... nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards,

conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

Other California law, such as Section 65915 discussing density, consistently speak of and define density in terms of the number of units per property or area.³

DISCUSSION AND ANALYSIS

Rather than adding low to moderate income level housing in Berkeley, this project would REDUCE the amount of such housing available. Again, the proponents seek to replace two small and more affordable housing units with one tiny apartment and one huge, 5-bedroom home. There are no provisions made that the project would provide guaranteed low or very-low income housing, and it is difficult to imagine how the very large 5-bedroom unit could be considered to be moderate income-level housing for a two-person household. The project proponents own a large 10-unit Berkeley rental building less than a mile away, and thus unlikely would qualify as a low to moderate income household.

By removing a more affordable unit and replacing it with a luxury home, the project thus runs COUNTER to the expressed purpose of the HAA of seeking to provide more affordable housing in California.

As emphasized in the staff report to the ZAB, the proposed project does not comply with the applicable, objective zoning standards.

As clearly stated on the City of Berkeley Department of Planning & Development website,⁴ Berkeley has a long history of applying zoning requirements to preserve the character of its distinctive neighborhoods and prevent impacts on neighbors. It thus seems highly unlikely that the ZAB would have approved this extremely large building on a tiny lot, in contravention of multiple zoning standards, considering the objections of all three adjacent neighbors, and without requiring modifications to address the concerns of the neighbors, if it were not for the ZAB's apparent belief that it is required to approve any proposal for expanded square footage under the HAA.

To ensure both that all parties receive fair treatment, it is critical that the law be correctly applied. As stated in the judicial opinion in the landmark case on the HAA "California Renters Legal Advocacy and Education Fund vs. the City of San Mateo,

The Legislature insists on objective criteria so as to ensure "reasonable certainty . . . to all stakeholders" about the constraints a municipality will impose. (Assem., 3d reading analysis of Assem. Bill No. 1515, as amended May 1, 2017, p. 2.) Reasonable certainty is important to Department of Housing and Community Development officials, so they understand the impact of a locality's housing element in deciding whether to approve it. Reasonable certainty is important to neighbors, who want to know how big a building can be erected next door, and it is

³ See for example:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65915&highlight=true&lawCode=GOV&keyword=density+definition

⁴ See: <https://www.cityofberkeley.info/planning/>

important to those who build housing, so they know what size project can be approved for a particular site. (p.19, emphasis added)

Further, the opinion states that

the HAA should not be construed to prohibit local governments from requiring compliance with “objective, quantifiable, written development standards” that are consistent with meeting the jurisdiction’s share in regional housing need (§§ 65589.5, subd. (f)(1), 65583), (p.24)

In this case, the ZAB failed to enforce the objective standards that are already in place. Those objective standards are ones that adjacent neighbors have studied and considered in both purchasing and renovating their properties. The arbitrary decision by ZAB to not apply the objective standards to deny the projects that all the neighbors oppose – when the HAA in no way limits it from doing so – therefore violates the rights of the neighbors to have reasonable certainty as to what kind of development will be allowed.

A memo⁵ read by a ZAB member during the hearing was interpreted to suggest that the HAA limits the right of the city to require a reduction in the square footage, levels, or number of bedrooms of the proposed projects, even though the project does not comply with objective zoning standards. That interpretation is not consistent with the above legal opinion, which clearly confers on cities the right to apply objective standards. It is also not consistent with either the text of the law or the City Planner’s report that was provided to both the ZAB and to all affected parties.

Section (f) of the law states that cities should facilitate development of the density allowed at the site. But density does not mean square footage, levels, or number of bedrooms. Density is commonly defined as “the amount of development per acre permitted on a parcel under the applicable zoning, commonly measured as dwelling units per acre (du/ac).”⁶ The parcel in question is approved at a density of two units, and the proposal is for two units. That does not mean Berkeley necessarily needs to approve one of those units to be enormous, in violation of the objective standards that neighbors would expect the city to enforce.

Further, as the staff report also makes clear,” the City may request modifications to the project to mitigate impacts or avoid specific adverse impacts on surrounding properties, so long as the project is not approved at a reduced density.”

If the ZAB’s interpretation of how to apply the HAA based on square footage instead of the number of units is allowed to stand, it will set a precedent that limits the rights of the City to enforce objective zoning standards, not only in Berkeley but throughout the State.

The reading of the law in this case not only unduly limits the power of cities to regulate development even further than the HAA already does, but it also prevents cities from protecting low to moderate level income housing within their districts. That’s because if cities have to approve all projects that propose infill to the absolute maximum size a property tolerates, without being able to enforce even

⁵ We have not received a copy of this document even after multiple requests to the City Planner and the ZAB.

⁶ “Understanding Density and Development Intensity,” Presentation by the League of California Cities – Planning Commissioners Academy, | Thursday, March 7, 2019, available at: [https://www.calcities.org/docs/default-source/planning-commissioners-academy---session-materials/understanding-density-and-development-intensity.pdf?sfvrsn=d6b7bb05_3#:~:text=Definition,acre%20\(du%2Fac\).](https://www.calcities.org/docs/default-source/planning-commissioners-academy---session-materials/understanding-density-and-development-intensity.pdf?sfvrsn=d6b7bb05_3#:~:text=Definition,acre%20(du%2Fac).)

existing objective standards, there would eventually be no small – and thus more affordable – houses and units left. If this were the case in Berkeley, every property owner could in effect propose adding a couple of bedrooms, thus destroying the small houses available in the city and making it impossible for lower income earners and young families afford to live here. This would entirely change the socioeconomic makeup of Berkeley.

In sum, this proposal does not provide additional housing in Berkeley and does not meet any affordable housing needs and thus should not benefit from restrictions on city powers to influence development created by the HAA. This is simply a matter of one family seeking to increase the size of its property – in contravention of zoning standards – without having consulted and reached agreement with its neighbors. There is no justifiable reason why in this circumstance, the ZAB should favor the interests of one property owner over those of its neighbors.

The December 9, 2021 vote by the ZAB to approve the project without modifications was clearly influenced by an erroneous interpretation of the law, with ZAB members voting for the project because they thought they had to do so under the HAA, even after having expressed significant concerns about the size and purpose of the project and about the constraints they felt were being imposed upon them by the law. Recognizing that this was the first time after passage of the new HAA standards that the ZAB had to decide on a case in which a project does not comply with objective standards, and that the ZAB seems to not have fully understood the limitations and powers that law affords to cities, we request that the City Council return this project proposal for another hearing. At that hearing, we would expect that the project be considered for what it is - a proposed expansion that does not comply with objective standards, is not protected under the HAA, and does not count with support from the neighbors, such that the ZAB will feel free to deny the project or impose conditions considering input and requests for modifications from affected neighbors.

SECTION B. Absence of the opportunity for meaningful public participation regarding the project.

Throughout this process we experienced multiple problems with the City's process that created obstacles to the effective and timely participation in the zoning/planning review process. Our full, detailed concerns are described below.

The most egregious issue with respect to public participation in this case was that critical guidance from the City Attorney upon which the ZAB decision was based, was not available to affected parties or apparently to the City Planner until the very end of the ZAB hearing about this project. At that time – after the public participation section of the meeting was closed and with attendee microphones, chats, and videos all turned off on zoom -- and right before the vote was called -- the ZAB chairman found and read a memo to the rest of the ZAB, and in so doing changed the entire focus and purpose of the hearing. Because it had not been previously available, no participant or affected party was able to prepare for or comment on the content of that memo as it potentially applies to the project, and the ZAB made its decision after mere minutes of superficial consideration of this new information. That is not appropriate.

This ZAB hearing was held on December 9th, and the information from the City Attorney that the ZAB Chairman referenced was said to be in an October memo from the City Attorney. The memo supposedly states that any project for which the HAA applies cannot be reduced in square footage. This assertion is completely at odds with comments that the City Planner put in the Staff Report, in his Advisory Comments to the project proponents, and made to us in calls and emails prior to our writing a letter to the ZAB in opposition to the project. As described above, it also seems to be a misinterpretation of what the HAA requires.

One must presume that a memo about zoning from the City Attorney would also have been shared with the Department of Planning and Development and its staff. Nevertheless, the city planner at no point indicated that it would not be possible for the ZAB to deny permits for the proposed third level or otherwise require a significant reduction in size of the project.

In fact, the initial Advisory Comments from the city planner specifically asked for removal of the upper floor to minimize impacts on the neighbors (a reduction in square footage). When speaking with us about our letter to the ZAB he suggested we could reference these comments and ask the ZAB to request "major modifications to the plan prior to continuation of the hearing".

Further, the City Planners comments in the final Staff Report and to us in emails clearly state that the ZAB cannot reduce the number of units (two units, both already existing on this property) but can require other modifications to lessen the impact to neighbors. We therefore chose to focus the comments in our letter and during the hearing to request removal of the upper floor addition to yield a project that would still allow expansion on the non-conforming property from a 1,400 sq ft to 2,700 sq ft structure, on a tiny 3,100 sq ft lot.

The ZAB Chairman who had the additional information from the City Attorney, and presumably read the Staff Report and the submitted public written comments ('Correspondences Received') prior to the hearing, had many opportunities to bring this information to light earlier in the hearing, both right after the City Planner summarized the project, or during the lengthy discussion the ZAB members had about the impacts to lighting and privacy to adjacent neighbors prior to hearing public comment.

Moreover, any information from the City Attorney should have been in the Staff Report as it sets the boundaries for modifications to the plan. If we had been told by the City Planner about this restriction, our letter to the ZAB would have been different, and if we had heard this information from the ZAB chairman during the ZABs initial discussions our oral comments would also have been different.

We thus ask for the City Council to direct the ZAB to reschedule this permit application for a re-hearing, not only as described above in Section A on the HAA, but also so that we and other neighbors can make specific requests to the plan to mitigate the impact to our properties, if the city still decides that it will allow this non-conforming project.

Additionally, we request that the City Council direct the City Planner to require the applicants to erect story poles on their current roof, prior to that ZAB hearing, to show the positioning of the new upper

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floor and the location of windows,⁷ as this was never done even though the City's website says that any additions with average heights over 14 feet require application of story poles prior to the ZAB hearing.

If, in the end, the City for some reason decides it still cannot or does not want to deny a project that clearly violates objective standards, exceeds allowed lot density, requires a very large number of UPs and AUPs, is opposed by adjacent neighbors and is completely out of character with the rest of the neighborhood, neighbors might for example request the below modifications:

1. Only permit upper floor window glazing on the south and east side of the development at a height above 5'6" from floor, to increase privacy of neighboring properties.⁸
2. Mandate the construction of a fence between the properties to a height of 8'6" to increase privacy for both neighbors and the project proponents by blocking the direct view between the windows of adjacent houses.⁹
3. Remove the parapet feature on the east side of the top floor. Currently this is set to be built identically to the parapet structure on the front of the house (west side) which is used as a balcony. The parapet feature on the west side is not needed for aesthetic continuity as it isn't continuous on the south and north sides, and on the east side will only act to collect tree droppings from the three tall trees near the property line. These trees are a constant source of complaints from the project proponents as droppings fall on their existing flat roof with a parapet feature. Moreover, to illegally convert that parapet roof structure to a balcony, the owners would only have to add a door to the bedroom on the second floor (a feature that was in their initial submission). Given the project proponent's history of illegal, non-permitted modifications to their property, as described in the fact section above and in the City Planners Staff Report, it would be best to make it impossible for that outside balcony to be easily created.

Complete list of concerns with the city's process and associated impacts to public participation

- The lack of signage and story poles means neighbors were not sufficiently alerted to potential impacts
 - COVID policies from early in the pandemic temporarily removed the requirement for posting a large yellow sign on the property applying for permits to alert neighbors to an application. Signage policies seem to have been changed back to normal during 2021, as we started seeing yellow posters in front of other houses with building proposals, before this proposal was deemed complete. However, we never saw any kind of signage on site describing this project. A few posters were eventually placed on telephone poles, but those were not nearly as noticeable as the traditional large yellow signs on site and have since been removed.

⁷ One concern with the project is whether the proposed project will create a direct clear view from the added upper level into neighbors' bedroom and bathroom, in addition to compromising the privacy of back yards.

⁸ If the project proponents want to keep the total glazing square footage the same to keep the amount of light into that room the same, they have plenty of space in that bedroom on the same wall to extend the 'high windows' toward the south end of that room.

⁹ This would likely require an additional use permit but if the City is willing to issue seven such permits, an eighth seems reasonable as well.

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- The project in question never erected 'story poles' even though the City's website says that doing so is required for any addition exceeding 14 feet in height. Again, we saw story poles on other houses in Berkeley that had proposals pending, even before this project was deemed complete.
- Even if temporary COVID policies were put in place to minimize human interaction, once reinstated, requirements should have been applied to all open applications.
- For some period of time, these signage requirements were replaced by postcards the city sent to neighbors. However, those postcards simply listed the address and did not specify on a map which house was affected or what the project implied. The likelihood of people proactively turning to their computer to learn about a proposed project is far lesser after receiving a postcard about an unfamiliar address, than if someone sees signage or story poles on a site.
- This relative lack of information about the project and its impacts - especially the absence of story poles – likely impacted the level of public participation overall, reducing the ability and likelihood of the public commenting on proposals.
- Interactions with the City Planner and the ZAB
 - Over the course of 2021 we had over a dozen email exchanges with the city planner as well as two phone calls. He was very responsive and we greatly appreciate him taking the time to speak with us.
 - Before even hearing the details of our concerns, the City Planner's advisory comment letter to the applicants called out the impacts to light and privacy to adjacent lots and specifically requested the applicants to remove the upper floor of their proposal (a reduction in square footage).
 - In our final call with the city planner on September 21, 2021, he mentioned options to (1) call out the impact to our light and privacy, (2) reference the suggestions he made in his Advisory Comments to make the scope of the project more reasonably sized by removing the upper floor to minimize/eliminate impacts to neighbors, (3) ask the ZAB to request "major modifications to the plan prior to continuation of the hearing", and (4) describe the ways in which the applicants misrepresented their neighbors' support of the project. At no point did he suggest that requesting a reduction in square footage would not be possible.
 - We thus focused our comments on requesting removal of the upper floor addition, to reduce impacts on neighbors but still allow the owners to expand the duplex on their non-conforming property from ~1400 sq ft to ~2700 sq ft.
 - As of 10am on 12/8/2021, the day before the ZAB hearing, the Staff Report was still not posted for public access. At that time, we were the ones who had to reach out to the city planner to get the report from him and make sure it was posted. Thus, there was also insufficient advance time for review and consideration of that report.
- The ZAB Hearing
 - In general, with the need to conduct public hearings on zoom rather than in person, those hearings should be conducted with video and chat channels enabled for all participants so that affected parties can communicate easily. Having chat channels, microphones and videos all disabled, as was the case in this hearing, is not appropriate. The zoom December 9 ZAB meeting did not even allow participants to communicate by

- raising a hand to be called on (except during the very limited public comment section). This is extremely problematic, as evidenced by one person who was trying to participate but had no way to communicate with the ZAB to let the ZAB know she for sure wanted to speak. ZAB members themselves found themselves needing to call each other via cellphone rather than being able to interact on chat.
- During the ZAB hearing on 12/9/2021 the city planner reviewed the project and made the same statements described above. The ZAB then had a discussion, and several members raised concerns about the large impact to the neighbor's light and privacy. After this the project proponents spoke, followed by several neighbors who mostly opposed particularly the upper floor addition.
 - A discussion by ZAB members ensued. It was at the end of this conversation that the ZAB Chairman referenced a letter he had from the City's Attorney from October supposedly stating that for projects where the HAA applies, the ZAB cannot reduce the square footage of the project, in effect saying that all ZAB members had to vote to approve (at this point in the Zoom hearing we 'raised our hand' to comment but were not called on)
 - Finally, the chairman called for a vote and got the unanimous approval that he had already stated was required.
 - The fact that this critical piece of information from the City Attorney was (i) counter to what the City Planner states in the Staff Report and to us directly, and (ii) was presumably known but not shared by the ZAB Chairman until after all public participation was complete, in effect took away the public's ability to submit comments that were meaningful in the context of this critical information.
 - Rather, the important information about how the HAA will be applied should be shared prior to the hearing. As stated above, if we had known about this supposed restriction our comment letter to the ZAB would have been different. Similarly, if we had heard this from the ZAB chairman during the ZABs initial discussions, our verbal comments would have been different.
 - We have since asked the ZAB and the City Planner for a copy of this memo from the City Attorney (and access to the ZAB hearing recording) three times, with neither party even replying to our request.
 - Appeal process
 - On December 14th, a few days after the ZAB hearing, we sent an email to the ZAB and to the City Planner requesting to be informed when the 'approval' would be posted and how the 14 days from then would be counted (calendar vs. work days, and considering which holidays?). We received no response from either. We also wrote a longer letter to the ZAB and City Planner and requested this information again on December 27th.
 - Having received no information from the ZAB or the City planner, we reached out to the City Webmaster on 12/17/2021 and were at that time referred to the 'Approved Zoning Applications' site, and the 'Guidelines for Filing an Appeal' site. We checked the 'Approved Zoning Applications' site immediately and then regularly thereafter and never saw the project appear.

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- On January 4th, we received information from the City Planner that we would be required to appeal, but no further information as to what the timing would be. Since we were not seeing any postings on the site to which we had been referred, we assumed the clock was not yet running.
- Even so, we reached out to the City Clerk's office by email on January 7th. They immediately responded and told us that the decision had been posted to the 'Zoning Applications in Appeal Period' site on the 27th of December (the same day we last asked the ZAB and the City Planner for this information, and during a holiday break), and that we had three days until January 10th to file our appeal.

There are clearly numerous fronts on which public participation in zoning decisions needs to be improved.

- 1) The city must provide clear and easily understandable information as to how and when the HAA will be applied.
- 2) Posting of information about projects and story poles should be required and enforced.
- 3) The zoom logistics for hearings should be improved to promote meaningful participation in times of virtual meetings. (Unruly participants could always be muted, but excluding or preventing participation should not be the default.)
- 4) Berkeley should more clearly and proactively make available information about the appeals process to everyone who participates in a public hearing.

Thank you for your consideration and action on these matters,



Anna Cederstav

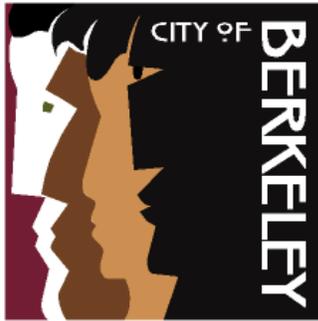


Adam Safir



Kay Bristol

Owners of properties adjacent to 1643-47 California.



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
DECEMBER 9, 2021

1643 & 1647 California Street

Use Permit #ZP2021-0001 to 1) create new lower basement level, 2) construct a new, second story, and 3) modify the existing duplex layout, resulting in a 3,763 square foot duplex on an existing property

I. Background

A. Land Use Designations:

- General Plan: Medium Density Residential
- Zoning: R-2 – Restricted Two-Family Residential District

B. Zoning Permits Required:

- Use Permit, under Berkeley Municipal Code (BMC) Section 23C.04.070.C to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable lot coverage;
- Use Permit, under BMC Section 23C.04.070.E to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable density;
- Administrative Use Permits, under BMC Section 23C.04.070.B to horizontally extend two non-conforming yards (front and rear);
- Administrative Use Permit under BMC section 23D.28.030 to permit a major residential addition;
- Administrative Use Permit under BMC Section 23D.28.070.C to allow an addition over 14 feet in height.; and
- Administrative Use Permit under BMC Section 23D.28.050 to construct a fifth bedroom

C. CEQA Recommendation: It is staff's recommendation that the project is categorically exempt pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities"). The determination is made by ZAB.

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.

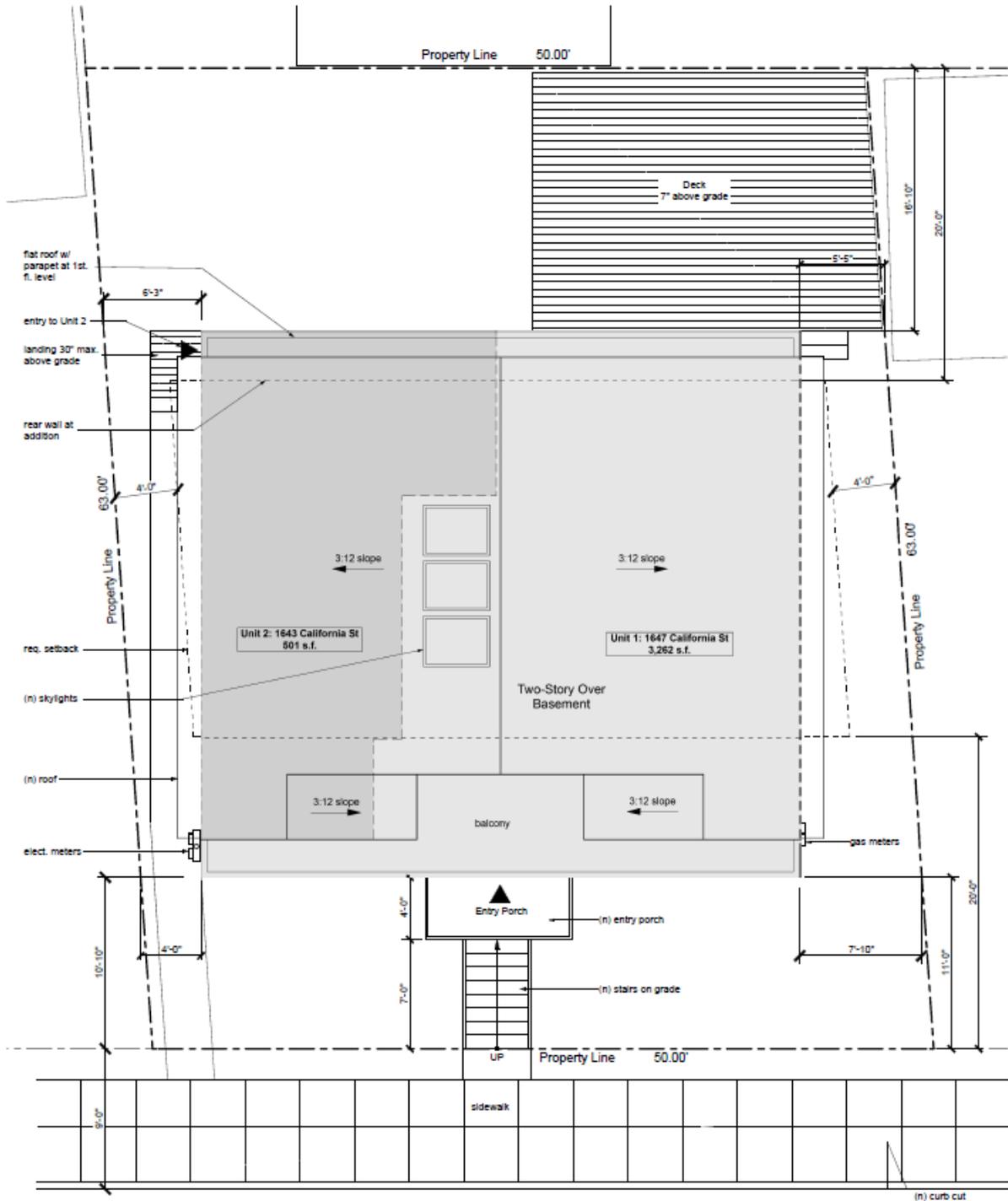
ZONING ADJUSTMENTS BOARD
December 9, 2021

1643/47 CALIFORNIA STREET
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D. Parties Involved:

- Applicant Sundeep Grewel, Berkeley
- Property Owner Ido and Tamar Oppenheimer, Berkeley

Figure 2: Site Plan



2 Proposed Site Plan

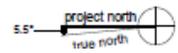


Figure 3: Front Elevation

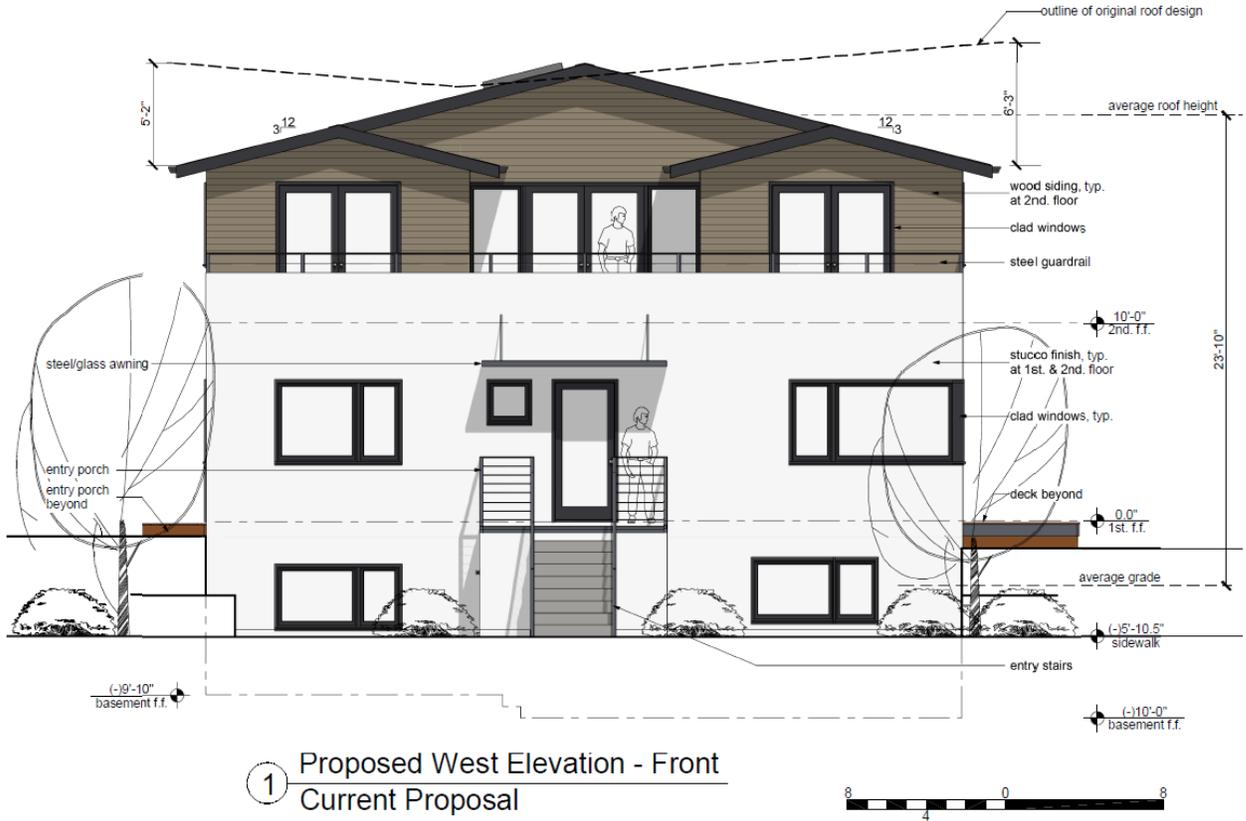


Figure 4: Rear Elevation



Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Multi-Family	R-2	Low Medium Density Residential
Surrounding Properties	North	Single-Family		
	South	Single-Family		
	East	Single-Family		
	West	Multi-Family		

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	Project is entirely residential, and therefore, this project is not subject to this resolution
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	Project is entirely residential, and therefore, this project is not subject to this resolution
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	The project proposes to maintain the two dwelling units that currently exist at the property.
Creeks	No	The site does not contain a mapped creek or a creek culvert.
Density Bonus	No	The project is not proposing to add dwelling units through a Density Bonus application

Natural Gas Prohibition (Per BMC 12.80.020)	No	This project is an application for construction to an existing two-unit structure, and is therefore not subject to the Natural Gas Prohibition.
Historic Resources	No	The project site is not designated as a Landmark by the City, nor is the application proposing to demolish the existing structure.
Housing Accountability Act (Gov't Code Section 65589.5(j))	Yes	The existing structure is non-conforming for lot coverage, density, and yards. The proposed additions would continue these non-conformities. Therefore, the proposed project <u>does not</u> comply with the applicable, objective zoning standards. However, the project is eligible for zoning adjustments through the use permit process, and there are no objective standards or findings for considering such permits, so the HAA still applies to the project. See Section V.B of this report for additional discussion on compliance with the Housing Accountability Act.
Housing Crisis Act of 2019 (SB330)	Yes	The project is: all residential; a mixed-use project with at least two-thirds of the square-footage residential; or for transitional or supportive housing. See Section V.A of this report for additional discussion on the sections of SB330 that apply to the project.
Oak Trees	No	There are no Coast Live Oak Trees on the property.
Rent Controlled Units	No	The property contains two units that are owner occupied and are not considered rent controlled.
Residential Preferred Parking (RPP)	No	This property is not located in a Residential Preferred Parking Zone
Seismic Hazards (SHMA)	No	The site is not located within an area susceptible to liquefaction, Fault Rupture, or Landslides as shown on the State Seismic Hazard Zones map.
Soil/Groundwater Contamination	No	The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites). Per §15300.2 of the CEQA Guidelines, a categorical exemption may be used on sites not listed on the Cortese List.
Transit	Yes	The site is located near the corner of California and Virginia Streets, one block east of Sacramento Street. Sacramento is served by AC Transit line 52 and there are bus stops one block away to the west.

Table 3: Project Chronology

Date	Action
January 8, 2021	Application submitted
September 24, 2021	Application deemed complete
November 23, 2021	Public hearing notices mailed/posted
December 9, 2021	ZAB hearing
February 7, 2022	CEQA deadline

Table 4: Development Standards

Standard		Existing	Proposed Total	Permitted/ Required
BMC Sections 23D.28.070-080				
Lot Area (sq. ft.)		3,100	No change	5,000 min
Gross Floor Area (sq. ft.)		1,334	3,763	N/A
Dwelling Units	Total	2	No Change	1 max (1 per 2,500 sq.ft. of lot area)
Building Height	Average (ft.)	13'-6"	23'-10"	28' max
	Stories	1	2	3 max
Building Setbacks (ft.)	Front	10'	No Change	20' min
	Rear	16'-10"	No Change	20' min
	Left Side	3'-11"	4'-0"	4' min
	Right Side	5'6"	5'5"	4' min
Lot Coverage (%)		50%	44%	40% max
Usable Open Space (sq. ft.)		500	1,029	800 min
Parking	Automobile	0	0	2 min

II. Project Setting

A. Neighborhood/Area Description: The project site is located in the North Berkeley neighborhood, on the east side of California Street at the corner of California and Virginia Street. It is one block east of Sacramento Street and four blocks west of Martin Luther King Jr. Way. The surrounding area consists of residential uses ranging from one- and two-story single-family dwellings, and two-story multi-family buildings. Bus service is available via transit lines on Sacramento Street.

B. Site Conditions: The subject property is a small, rectangular lot, oriented in the east-west direction, and is approximately 3,100 square feet in total area. It features a one-story main building originally constructed as a duplex. The building faces west, toward California Street. At some point in the past, the kitchen of the left side unit (1643 California) was removed without permits, and a doorway was installed between the two units, effectively converting the house to one unit, without the necessary approval of a Use Permit to remove a dwelling.

The property and structure is currently non-conforming due to several reasons: 1) the property is non-conforming to the lot coverage, currently at 50 percent coverage where 45 percent coverage is the limit for a one-story structure; 2) the property is non-conforming to the allowable residential density, containing two units when only one unit is permitted due to the lot size (prior to the unauthorized removal of 1643 California); and 3) the structure is located within the required front, rear, and left side yards.

III. Project Description

Proposed Project: The project would make several alterations to the existing property. The existing residential structure would be shifted by 1-inch to the south to create a conforming left (north) side setback of 4 feet. The proposal would restore the left dwelling unit at 1643 California, but would shrink the size of this unit from 650 square feet to 501 square feet. Additionally, the floor plan of the main level of right unit (1647 California) would be modified to serve as the main living area, with an open floor plan kitchen/dining/living room, plus a full bathroom. The structure would be expanded by creating a new basement level¹, contained below the existing building footprint, solely serving 1647 California. This level would contain a family room/home gym, half bath, one new bedroom with a full bathroom, and closet and storage area. The proposal would add a new second level on top of the existing structure, also solely serving 1647 California, which would contain three new bedrooms and two full bathrooms. The second story would step in at the front to provide a balcony, and would step in from the rear to comply with the required 20-foot rear yard setback. In total, 1647 California would expand by 2,612 square feet, from 650 square feet to 3,262 square feet in total.

Other site work includes the removal of an existing accessory shed, and the construction of an on-grade deck in the southeastern corner of the rear yard.

IV. Community Discussion

A. Neighbor/Community Concerns: On January 19, 2021, the City mailed postcards to neighboring property owners and occupants within 300 feet to inform the public of the receipt of a Zoning Permit application at this site² and posted project yellow posters.

On November 23, 2021, the City mailed public hearing notices to nearby property owners and occupants, and to interested neighborhood organizations and the City posted notices within the neighborhood in three locations.

At the time of writing this report, staff has received several communications regarding the project, both in support and opposition. All communications received have been included as attachment #4.

Concerns raised include:

- a. Neighbors to the east and south have raised concerns due to the proposed increase in size of the house on a small lot.
- b. Concerns from each adjacent neighbor regarding the impacts to privacy and to shadows from the two-story design and increase in height.
- c. Concern with the project being out of scale with the neighborhood and surrounding properties, especially given the existing non-conformities of the property.

¹ The basement would not count as a story, as no portion of the basement level would be exposed to the existing grade by more than 6 feet, per the definition in BMC Section 23F.04.

² To comply with Public Health Orders related to Covid-19, the standard protocol for installation of a Project Yellow Poster and/or neighborhood contact and signatures was indefinitely waived.

- Support of the application includes:
- a. Improved structure and project site;
 - b. Restoration of the second dwelling unit.

V. Issues and Analysis

A. SB 330 – Housing Crisis Act of 2019: The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating restrictions on housing development. Housing development is defined as a project that is: all residential; a mixed-use project with at least two-thirds of the square-footage residential; or for transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

1. Government Code §65905.5(a) states that if a proposed housing development project complies with the applicable, objective general plan and zoning standards in affect at the time an application is deemed complete, then the city shall not conduct more than five (5) hearings in connection with the approval of that housing development project. This includes all public hearings in connection with the approval of the housing development project and any continuances of such public hearings. The city must consider and either approve or disapprove the project at any of the five hearings consistent with applicable timelines under the Permit Streamlining Act (Chapter 4.5 (commencing with §65920)).

The December 9, 2021 ZAB hearing represents the first public hearing for the proposed project since the project was deemed complete. The City can hold up to four additional public hearings on this project, if needed. One of those hearings must be reserved for any possible appeal to the City Council.

2. Government Code §65913.10(a) requires that the City determine whether the proposed development project site is a historic site at the time the application for the housing development project is deemed complete. The determination as to whether the parcel is a historic site must remain valid during the pendency of the housing development project, unless any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities.

The project site is not a historic site.

3. Government Code §65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. The project was deemed complete on July 8, 2021. Should ZAB determine the application is categorically exempt from CEQA at the December 9, 2021 public hearing, the application must be approved or disapproved by February 7, 2021.

B. Housing Accountability Act Analysis: The Housing Accountability Act (HAA), California Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

1. The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

The existing structure is non-conforming for lot coverage, density, and yards. The proposed additions would continue these non-conformities. Therefore, the proposed project does not comply with the applicable, objective zoning standards. However, the project is eligible for zoning adjustments through the use permit process, and there are no objective standards or findings for considering such permits, so the HAA still applies to the project. Therefore, the City may not deny the project or approve the project at a reduced density without basing its decision on the written findings under Section 65589.5(j), above.

However, the City may request modifications to the project to mitigate impacts or avoid specific adverse impacts on surrounding properties, so long as the project is not approved at a reduced density.

C. Findings for Addition to a Structure on Parcel with Non-Conforming Lot Coverage: Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of lot coverage are permitted with a Use Permit if the addition/enlargement does not increase coverage or exceed the height limit. As previously mentioned, the property is non-conforming to the maximum allowable lot coverage, with 50 percent coverage, where 45 percent is the District maximum on this R-2 property. The proposed addition would remove an existing shed in the rear yard, which would reduce the lot coverage to 44 percent, while creating a two-story house, which decreases the allowable lot coverage to 40 percent. While the proposed structure would still be non-conforming to the allowable lot coverage, the project would reduce the non-conformity from 5 percent over the allowable limit to 4 percent over the allowable limit. The proposed addition is located over existing covered area, and therefore, does not increase the non-conforming lot coverage. Additionally, while the addition consists of a second story addition, reaching a total of 23 feet, 10 inches, which complies with the maximum average height limit of 28 feet.

D. Findings for Addition to a Structure on Parcel with Non-Conforming Density: Pursuant to BMC Section 23C.04.070.E, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with a Use Permit if the addition/enlargement does not increase the density or exceed the height limit. The project proposes to maintain the density at two units,

therefore, it does not increase the density. As described in Section V.C, above, the addition would comply with the allowable average height limit in the district.

- E. Findings for Addition to Vertically Extend and Alter a Structure with Non-Conforming Yards:** Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements which vertically extend or alter a portion of a building which encroaches into a non-conforming yard may be of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with an Administrative Use Permit if the existing use of the property is conforming and if the addition/enlargement would not 1) reduce any yard below the minimum setback requirements, or further reduce existing non-conforming yards; or 2) exceed the maximum or calculated height limits. As previously explained, the existing residential structure is non-conforming to the front, rear, and left (north) side setbacks. The proposed addition/enlargement of the house would correct the non-conforming left side setback, but is proposed to vertically extend the non-conforming front and rear setbacks. The front setback would be vertically extended both up (with the second story) and down (with the basement), while the rear setback would be vertically extended down with the expansion of the basement. The second story at the rear would comply with the required 20-foot rear yard setback. As the enlargement of the building would comply with the permitted residential use on the property, and the vertical expansions within the non-conforming setbacks would not further reduce the non-conformity, these expansions are permissible.
- F. Addition of a Fifth Bedroom to an R-2 Parcel:** Pursuant to BMC Section 23D.28.050, an Administrative Use Permit is required to approve the addition of a fifth bedroom to a parcel in the R-2 Zoning District. This project proposes to increase the total number of bedrooms on the property from four to five bedrooms. The addition of this fifth bedroom would not add density to the site, or intensify the use of the residential property.
- G. Restricted Two-Family Residential District (R-2) Findings:** This project proposes to construct a major residential addition over 14-feet in height. As required by BMC Section 23D.28.090.A and BMC 23B.32.040.A, the Zoning Adjustments Board must make a finding of general non-detriment for any Administrative Use Permit in the R-2 Zoning District. This project would add approximately 2,429 square feet to the existing 1,334 square foot duplex. The project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City because of the following reasons:
- i. The project would add a second level to the home, of which there are several examples in the neighborhood.
 - ii. The second story addition would step in and comply with the required front and rear yard setbacks.
 - iii. A basement is proposed to be added. While adding additional square footage to the building, the basement would not create any new impacts to the surrounding

neighbors due to its placement partially below grade, maintaining the existing first floor level.

- iv. The neighborhood is a mix of residential uses, including apartments and single-family and multi-family homes. Existing structures in the immediate neighborhood vary in height from one to two stories.
- v. In addition, the project approval is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental.

H. General Plan Consistency: The following analysis of conformance with the 2002 General Plan goals and policies is provided only for information purposes and to provide context. They do not require findings of conformance because the proposed project is HAA-compliant.

1. Policy LU-3 – Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy H-33 – Regional Housing Needs: Encourage housing production adequate to meet City needs and the City's share of regional housing needs.
3. Policy LU-7 – Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
4. Policy UD-17 – Design Elements: In relating a new design to the surrounding area, the factors to consider should include height, massing, materials, color, and detailing or ornament.
5. Policy UD-24 – Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
6. Policy H-12 – Transit-Oriented New Construction: Encourage construction of new medium- and high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plans, design review guidelines, and the Climate Action Plan.

VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board:

- A. APPROVE ZP2021-0001 pursuant to Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, dated August 26, 2021
3. Notice of Public Hearing
4. Correspondence Received

ZONING ADJUSTMENTS BOARD
December 9, 2021

1643/47 CALIFORNIA STREET
Page 14 of 14

Staff Planner: Nicholas Armour, NArmour@cityofberkeley.info, (510) 981-7485

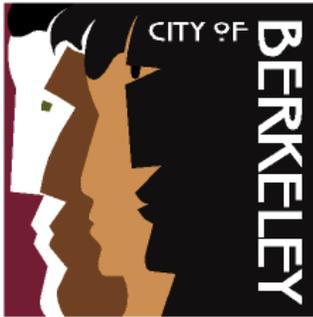
INDEX TO ADMINISTRATIVE RECORD

1643-1647 CALIFORNIA STREET

Use Permit #ZP2021-0001

Prepared: March 28, 2022

	DOCUMENT	DATE	PAGE	# of pages
A	STAFF REPORTS			
1	ZAB Materials: staff report, attachments, and supplemental communications	12/9/2022	1	65
B	CAPTIONER'S RECORD and minutes of all hearings			
2	ZAB captioner's record	12/9/2022	66	33
C	REMAINDER OF ADMIN RECORD			
3	Application materials	1/8/2022	99	29
4	Welcome letter	1/14/2021	128	1
5	Notice of Received Application postcard notice with mailing list	1/19/2021	129	5
6	Notice of Received Application poster	1/19/2021	134	1
7	Incomplete letter	2/5/2021	135	5
8	Resubmittal: application materials	5/25/2021	140	51
9	Incomplete letter	6/24/2021	191	2
10	Resubmittal: application materials	7/15/2021	193	15
11	Incomplete letter	8/10/2021	208	1
12	Resubmittal: application materials	8/26/2021	209	14
13	Letter of Completion	9/24/2021	223	1
14	Notice of Public Hearing postcard with mailing list	11/23/2021	224	5
15	Email of Opposition from Adam Safir	12/9/2021	229	1
16	ZAB Notice of Decision	12/20/2021	230	30
17	Email of Opposition from Anna Cederstav	12/27/2021	260	3
18	Letter appealing ZAB Notice of Decision	1/10/2022	263	12



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
DECEMBER 9, 2021

1643 & 1647 California Street

Use Permit #ZP2021-0001 to 1) create new lower basement level, 2) construct a new, second story, and 3) modify the existing duplex layout, resulting in a 3,763 square foot duplex on an existing property

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- Administrative Use Permit under BMC Section 23D.28.070.C to allow an addition over 14 feet in height.; and
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C. CEQA Recommendation:

It is staff's recommendation that the project is categorically exempt pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities"). The determination is made by ZAB.

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.

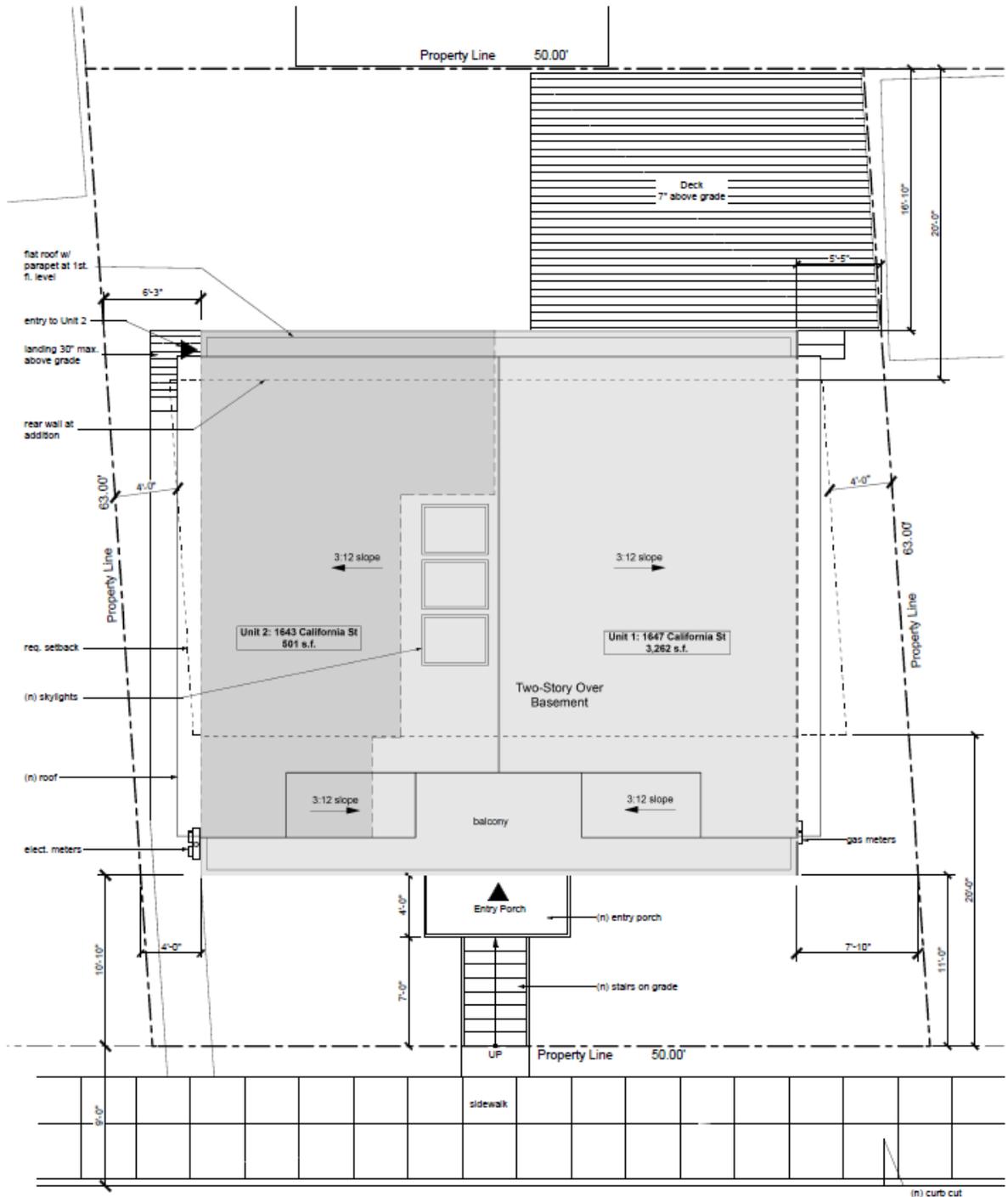
D. Parties Involved:

- Applicant Sundeep Grewel, Berkeley
- Property Owner Ido and Tamar Oppenheimer, Berkeley

Figure 1: Vicinity Map



Figure 2: Site Plan



2 Proposed Site Plan

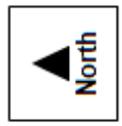


Figure 3: Front Elevation



① Proposed West Elevation - Front
Current Proposal



Figure 4: Rear Elevation



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Creeks	No	The site does not contain a mapped creek or a creek culvert.
Density Bonus	No	The project is not proposing to add dwelling units through a Density Bonus application

Natural Gas Prohibition (Per BMC 12.80.020)	No	This project is an application for construction to an existing two-unit structure, and is therefore not subject to the Natural Gas Prohibition.
Historic Resources	No	The project site is not designated as a Landmark by the City, nor is the application proposing to demolish the existing structure.
Housing Accountability Act (Gov't Code Section 65589.5(j))	Yes	The existing structure is non-conforming for lot coverage, density, and yards. The proposed additions would continue these non-conformities. Therefore, the proposed project <u>does not</u> comply with the applicable, objective zoning standards. However, the project is eligible for zoning adjustments through the use permit process, and there are no objective standards or findings for considering such permits, so the HAA still applies to the project. See Section V.B of this report for additional discussion on compliance with the Housing Accountability Act.
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Oak Trees	No	There are no Coast Live Oak Trees on the property.
Rent Controlled Units	No	The property contains two units that are owner occupied and are not considered rent controlled.
Residential Preferred Parking (RPP)	No	This property is not located in a Residential Preferred Parking Zone
Seismic Hazards (SHMA)	No	The site is not located within an area susceptible to liquefaction, Fault Rupture, or Landslides as shown on the State Seismic Hazard Zones map.
Soil/Groundwater Contamination	No	The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites). Per §15300.2 of the CEQA Guidelines, a categorical exemption may be used on sites not listed on the Cortese List.
Transit	Yes	The site is located near the corner of California and Virginia Streets, one block east of Sacramento Street. Sacramento is served by AC Transit line 52 and there are bus stops one block away to the west.

Table 3: Project Chronology

Date	Action
January 8, 2021	Application submitted
September 24, 2021	Application deemed complete
November 23, 2021	Public hearing notices mailed/posted
December 9, 2021	ZAB hearing
February 7, 2022	CEQA deadline

Table 4: Development Standards

Standard		Existing	Proposed Total	Permitted/ Required
BMC Sections 23D.28.070-080				
Lot Area (sq. ft.)		3,100	No change	5,000 min
Gross Floor Area (sq. ft.)		1,334	3,763	N/A
Dwelling Units	Total	2	No Change	1 max (1 per 2,500 sq.ft. of lot area)
Building Height	Average (ft.)	13'-6"	23'-10"	28' max
	Stories	1	2	3 max
Building Setbacks (ft.)	Front	10'	No Change	20' min
	Rear	16'-10"	No Change	20' min
	Left Side	3'-11"	4'-0"	4' min
	Right Side	5'6"	5'5"	4' min
Lot Coverage (%)		50%	44%	40% max
Usable Open Space (sq. ft.)		500	1,029	800 min
Parking	Automobile	0	0	2 min

II. Project Setting

A. Neighborhood/Area Description: The project site is located in the North Berkeley neighborhood, on the east side of California Street at the corner of California and Virginia Street. It is one block east of Sacramento Street and four blocks west of Martin Luther King Jr. Way. The surrounding area consists of residential uses ranging from one- and two-story single-family dwellings, and two-story multi-family buildings. Bus service is available via transit lines on Sacramento Street.

B. Site Conditions: The subject property is a small, rectangular lot, oriented in the east-west direction, and is approximately 3,100 square feet in total area. It features a one-story main building originally constructed as a duplex. The building faces west, toward California Street. At some point in the past, the kitchen of the left side unit (1643 California) was removed without permits, and a doorway was installed between the two units, effectively converting the house to one unit, without the necessary approval of a Use Permit to remove a dwelling.

The property and structure is currently non-conforming due to several reasons: 1) the property is non-conforming to the lot coverage, currently at 50 percent coverage where 45 percent coverage is the limit for a one-story structure; 2) the property is non-conforming to the allowable residential density, containing two units when only one unit is permitted due to the lot size (prior to the unauthorized removal of 1643 California); and 3) the structure is located within the required front, rear, and left side yards.

III. Project Description

Proposed Project: The project would make several alterations to the existing property. The existing residential structure would be shifted by 1-inch to the south to create a conforming left (north) side setback of 4 feet. The proposal would restore the left dwelling unit at 1643 California, but would shrink the size of this unit from 650 square feet to 501 square feet. Additionally, the floor plan of the main level of right unit (1647 California) would be modified to serve as the main living area, with an open floor plan kitchen/dining/living room, plus a full bathroom. The structure would be expanded by creating a new basement level¹, contained below the existing building footprint, solely serving 1647 California. This level would contain a family room/home gym, half bath, one new bedroom with a full bathroom, and closet and storage area. The proposal would add a new second level on top of the existing structure, also solely serving 1647 California, which would contain three new bedrooms and two full bathrooms. The second story would step in at the front to provide a balcony, and would step in from the rear to comply with the required 20-foot rear yard setback. In total, 1647 California would expand by 2,612 square feet, from 650 square feet to 3,262 square feet in total.

Other site work includes the removal of an existing accessory shed, and the construction of an on-grade deck in the southeastern corner of the rear yard.

IV. Community Discussion

A. Neighbor/Community Concerns: On January 19, 2021, the City mailed postcards to neighboring property owners and occupants within 300 feet to inform the public of the receipt of a Zoning Permit application at this site² and posted project yellow posters.

On November 23, 2021, the City mailed public hearing notices to nearby property owners and occupants, and to interested neighborhood organizations and the City posted notices within the neighborhood in three locations.

At the time of writing this report, staff has received several communications regarding the project, both in support and opposition. All communications received have been included as attachment #4.

Concerns raised include:

- a. Neighbors to the east and south have raised concerns due to the proposed increase in size of the house on a small lot.
- b. Concerns from each adjacent neighbor regarding the impacts to privacy and to shadows from the two-story design and increase in height.
- c. Concern with the project being out of scale with the neighborhood and surrounding properties, especially given the existing non-conformities of the property.

¹ The basement would not count as a story, as no portion of the basement level would be exposed to the existing grade by more than 6 feet, per the definition in BMC Section 23F.04.

² To comply with Public Health Orders related to Covid-19, the standard protocol for installation of a Project Yellow Poster and/or neighborhood contact and signatures was indefinitely waived.

Support of the application includes:

- a. Improved structure and project site;
- b. Restoration of the second dwelling unit.

V. Issues and Analysis

A. SB 330 – Housing Crisis Act of 2019: The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating restrictions on housing development. Housing development is defined as a project that is: all residential; a mixed-use project with at least two-thirds of the square-footage residential; or for transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

1. Government Code §65905.5(a) states that if a proposed housing development project complies with the applicable, objective general plan and zoning standards in affect at the time an application is deemed complete, then the city shall not conduct more than five (5) hearings in connection with the approval of that housing development project. This includes all public hearings in connection with the approval of the housing development project and any continuances of such public hearings. The city must consider and either approve or disapprove the project at any of the five hearings consistent with applicable timelines under the Permit Streamlining Act (Chapter 4.5 (commencing with §65920)).

The December 9, 2021 ZAB hearing represents the first public hearing for the proposed project since the project was deemed complete. The City can hold up to four additional public hearings on this project, if needed. One of those hearings must be reserved for any possible appeal to the City Council.

2. Government Code §65913.10(a) requires that the City determine whether the proposed development project site is a historic site at the time the application for the housing development project is deemed complete. The determination as to whether the parcel is a historic site must remain valid during the pendency of the housing development project, unless any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities.

The project site is not a historic site.

3. Government Code §65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. The project was deemed complete on July 8, 2021. Should ZAB determine the application is categorically exempt from CEQA at the December 9, 2021 public hearing, the application must be approved or disapproved by February 7, 2021.

B. Housing Accountability Act Analysis: The Housing Accountability Act (HAA), California Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

1. The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

The existing structure is non-conforming for lot coverage, density, and yards. The proposed additions would continue these non-conformities. Therefore, the proposed project does not comply with the applicable, objective zoning standards. However, the project is eligible for zoning adjustments through the use permit process, and there are no objective standards or findings for considering such permits, so the HAA still applies to the project. Therefore, the City may not deny the project or approve the project at a reduced density without basing its decision on the written findings under Section 65589.5(j), above.

However, the City may request modifications to the project to mitigate impacts or avoid specific adverse impacts on surrounding properties, so long as the project is not approved at a reduced density.

C. Findings for Addition to a Structure on Parcel with Non-Conforming Lot Coverage: Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of lot coverage are permitted with a Use Permit if the addition/enlargement does not increase coverage or exceed the height limit. As previously mentioned, the property is non-conforming to the maximum allowable lot coverage, with 50 percent coverage, where 45 percent is the District maximum on this R-2 property. The proposed addition would remove an existing shed in the rear yard, which would reduce the lot coverage to 44 percent, while creating a two-story house, which decreases the allowable lot coverage to 40 percent. While the proposed structure would still be non-conforming to the allowable lot coverage, the project would reduce the non-conformity from 5 percent over the allowable limit to 4 percent over the allowable limit. The proposed addition is located over existing covered area, and therefore, does not increase the non-conforming lot coverage. Additionally, while the addition consists of a second story addition, reaching a total of 23 feet, 10 inches, which complies with the maximum average height limit of 28 feet.

D. Findings for Addition to a Structure on Parcel with Non-Conforming Density: Pursuant to BMC Section 23C.04.070.E, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with a Use Permit if the addition/enlargement does not increase the density or exceed the height limit. The project proposes to maintain the density at two units,

therefore, it does not increase the density. As described in Section V.C, above, the addition would comply with the allowable average height limit in the district.

E. Findings for Addition to Vertically Extend and Alter a Structure with Non-Conforming Yards: Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements which vertically extend or alter a portion of a building which encroaches into a non-conforming yard may be of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with an Administrative Use Permit if the existing use of the property is conforming and if the addition/enlargement would not 1) reduce any yard below the minimum setback requirements, or further reduce existing non-conforming yards; or 2) exceed the maximum or calculated height limits. As previously explained, the existing residential structure is non-conforming to the front, rear, and left (north) side setbacks. The proposed addition/enlargement of the house would correct the non-conforming left side setback, but is proposed to vertically extend the non-conforming front and rear setbacks. The front setback would be vertically extended both up (with the second story) and down (with the basement), while the rear setback would be vertically extended down with the expansion of the basement. The second story at the rear would comply with the required 20-foot rear yard setback. As the enlargement of the building would comply with the permitted residential use on the property, and the vertical expansions within the non-conforming setbacks would not further reduce the non-conformity, these expansions are permissible.

F. Addition of a Fifth Bedroom to an R-2 Parcel: Pursuant to BMC Section 23D.28.050, an Administrative Use Permit is required to approve the addition of a fifth bedroom to a parcel in the R-2 Zoning District. This project proposes to increase the total number of bedrooms on the property from four to five bedrooms. The addition of this fifth bedroom would not add density to the site, or intensify the use of the residential property.

G. Restricted Two-Family Residential District (R-2) Findings: This project proposes to construct a major residential addition over 14-feet in height. As required by BMC Section 23D.28.090.A and BMC 23B.32.040.A, the Zoning Adjustments Board must make a finding of general non-detriment for any Administrative Use Permit in the R-2 Zoning District. This project would add approximately 2,429 square feet to the existing 1,334 square foot duplex. The project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City because of the following reasons:

- i. The project would add a second level to the home, of which there are several examples in the neighborhood.
- ii. The second story addition would step in and comply with the required front and rear yard setbacks.
- iii. A basement is proposed to be added. While adding additional square footage to the building, the basement would not create any new impacts to the surrounding

neighbors due to its placement partially below grade, maintaining the existing first floor level.

- iv. The neighborhood is a mix of residential uses, including apartments and single-family and multi-family homes. Existing structures in the immediate neighborhood vary in height from one to two stories.
- v. In addition, the project approval is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental.

H. General Plan Consistency: The following analysis of conformance with the 2002 General Plan goals and policies is provided only for information purposes and to provide context. They do not require findings of conformance because the proposed project is HAA-compliant.

1. Policy LU-3 – Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy H-33 – Regional Housing Needs: Encourage housing production adequate to meet City needs and the City's share of regional housing needs.
3. Policy LU-7 – Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
4. Policy UD-17 – Design Elements: In relating a new design to the surrounding area, the factors to consider should include height, massing, materials, color, and detailing or ornament.
5. Policy UD-24 – Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
6. Policy H-12 – Transit-Oriented New Construction: Encourage construction of new medium- and high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plans, design review guidelines, and the Climate Action Plan.

VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board:

- A. APPROVE ZP2021-0001 pursuant to Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, dated August 26, 2021
3. Notice of Public Hearing
4. Correspondence Received

ZONING ADJUSTMENTS BOARD
December 9, 2021

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Staff Planner: Nicholas Armour, NArmour@cityofberkeley.info, (510) 981-7485

ATTACHMENT 1

FINDINGS AND CONDITIONS

DECEMBER 9, 2021

1643 & 1647 California Street

Use Permit #ZP2021-0001 to 1) create new lower basement level, 2) construct a new, second story, and 3) modify the existing duplex layout, resulting in a 3,763 square foot duplex on an existing property

PERMITS REQUIRED

- Use Permit, under Berkeley Municipal Code (BMC) Section 23C.04.070.C to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable lot coverage;
- Use Permit, under BMC Section 23C.04.070.E to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable density;
- Administrative Use Permits, under BMC Section 23C.04.070.B to horizontally extend two non-conforming yards (front and rear);
- Administrative Use Permit under BMC section 23D.28.030 to permit a major residential addition;
- Administrative Use Permit under BMC Section 23D.28.070.C to allow an addition over 14 feet in height.; and
- Administrative Use Permit under BMC Section 23D.28.050 to construct a fifth bedroom

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities").
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. FINDINGS FOR APPROVAL

1. As required by Section 23B.32.040.A of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
 - A. The project will add a second level to the home, of which there are several examples in the neighborhood.
 - B. The second story addition will step in and comply with the required front and rear yard setbacks.

- C. A basement is proposed to be added. While adding additional square footage to the building, the basement will not create any new impacts to the surrounding neighbors due to its placement partially below grade, maintaining the existing first floor level.
- D. The neighborhood is a mix of residential uses, including apartments and single-family and multi-family homes. Existing structures in the immediate neighborhood vary in height from one to two stories; and
- E. The project approval is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental.

III. OTHER FINDINGS FOR APPROVAL

2. Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of lot coverage are permitted with a Use Permit if the addition/enlargement does not increase coverage or exceed the height limit. The property is non-conforming to the maximum allowable lot coverage, with 50 percent coverage, where 45 percent is the District maximum on this R-2 property. The proposed addition will remove an existing shed in the rear yard, which will reduce the lot coverage to 44 percent, while creating a two-story house, which decreases the allowable lot coverage to 40 percent. While the proposed structure will still be non-conforming to the allowable lot coverage, the project will reduce the non-conformity from 5 percent over the allowable limit to 4 percent over the allowable limit. The proposed addition is located over existing covered area, and therefore, does not increase the non-conforming lot coverage. Additionally, while the addition consists of a second story addition, reaching a total of 23 feet, 10 inches, which complies with the maximum average height limit of 28 feet.
3. Pursuant to BMC Section 23C.04.070.E, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with a Use Permit if the addition/enlargement does not increase the density or exceed the height limit. The project proposes to maintain the density at two units, therefore, it does not increase the density. As described in Section V.C of the Staff Report, the addition will comply with the allowable average height limit in the district
4. Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements which vertically extend or alter a portion of a building which encroaches into a non-conforming yard may be of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with an Administrative Use Permit if the existing use of the property is conforming and if the addition/enlargement will not 1) reduce any yard below the minimum setback requirements, or further reduce existing non-conforming yards; or 2) exceed the maximum or calculated height limits. As described in the Staff Report, the existing residential structure is non-conforming to the front, rear, and left (north) side setbacks. The proposed addition/enlargement of the house will correct the non-conforming left side setback, but is proposed to vertically extend the non-conforming front and rear setbacks. The front setback will be vertically extended both up (with the second story) and down (with the basement), while the rear setback will be vertically extended down with the expansion of the basement. The second story at the rear will comply with the required 20-foot rear yard setback. As the enlargement of the building will comply with the permitted residential use on the property, and the vertical expansions within the non-conforming setbacks will not further reduce the non-conformity, these expansions are permissible.
5. Pursuant to BMC Section 23D.28.050, an Administrative Use Permit is required to approve the addition of a fifth bedroom to a parcel in the R-2 Zoning District. This project proposes to increase

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December 9, 2021

FINDINGS & CONDITIONS
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the total number of bedrooms on the property from four to five bedrooms. The addition of this fifth bedroom will not add density to the site, or intensify the use of the residential property.

IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Applicant Responsible for Compliance with Conditions

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

4. Modification of Permits (Section 23B.56.020)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

Changes in the plans for the construction of a building or structure, may be modified prior to the completion of construction, in accordance with Section 23B.56.030.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

5. Plans and Representations Become Conditions (Section 23B.56.030)

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

6. Subject to All Applicable Laws and Regulations (Section 23B.56.040)

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

8. Exercise and Lapse of Permits (Section 23B.56.100)

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

9. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23B.32.040.D, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

- 10. Project Liaison.** The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

Project Liaison _____
Name Phone #

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

- 11. Construction and Demolition Diversion.** Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion

of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.

12. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

A. Environmental Site Assessments:

- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at: http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
- 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
- 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

B. Soil and Groundwater Management Plan:

- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project.

Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

- 1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

During Construction:

13. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
14. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
 - A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
 - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
15. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
 - A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:

- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
- A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

16. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
17. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
18. 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.

19. Avoid Disturbance of Nesting Birds. Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.
20. 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.

21. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
22. 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.
23. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
 - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
 - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.

- E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
 - G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
 - H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - I. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - J. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
24. Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
25. Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
26. Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
27. Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
28. Public Works. The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.

29. Public Works. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Final Inspection or Issuance of Occupancy Permit:

30. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
31. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated August 26, 2021, except as modified by conditions of approval.

At All Times:

32. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
33. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
34. Loading. All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.
35. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
36. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.



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OPPENHEIMER
 RESIDENCE
 1643 & 1647 California St.
 Berkeley, CA 94703
 APN: 58-2156-18

Sheet Contents:
 Sheet Index
 Applicable Codes
 Abbreviations
 Vicinity Map
 Project Data
 Scope of Work
 Project Directory
 Photos

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Project No:
 20-13-420

Drawn By:
 SSG

Checked By:
 SSG

Scale:
 N/A

Revisions:
 Use Permit Set: 12-10-2020

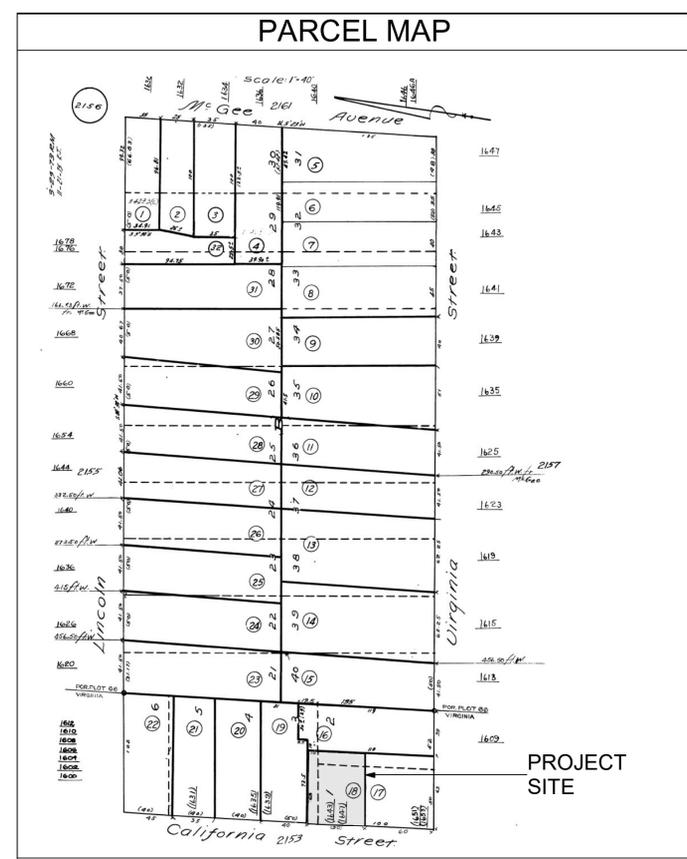
Redesign: 5-25-2021

Planning Review: 6-29-2021

Planning Review: 7-15-2021

Planning Review: 8-26-2021

Sheet
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OPPENHEIMER RESIDENCE

1643 & 1647 California St. CA 94703

SHEET INDEX

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 - A0.2 Site Survey
 - A1.1 Existing Floor Plan
Existing Exterior Elevations
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 - A4.1 Shadow Study
 - A4.2 Shadow Study
 - A4.3 Shadow Study
 - A5.1 Demolition Diagram

SCOPE OF WORK

The proposed project includes an addition to and remodel of an existing, one-story, two-family residence (duplex). Components of the project include:

Reconfigure existing duplex to create one larger unit and one smaller apartment. All work shall be within the building footprint. The building shall remain as a duplex. The preliminary program includes the following:

Basement/First floor:

- Excavate down to create new bedroom, full bath, home gym and family room and mech. room/storage

Second floor:

- Reconfigure layout as needed to create a larger unit with one smaller apartment
- Rebuild/reconfigure existing porch and entry stairs as required
- Create new stairs to basement floor and second floor addition

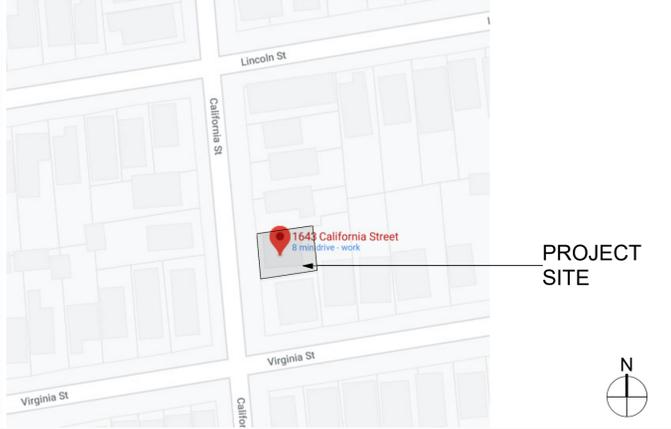
Third floor:

- Create new bedrooms, bathrooms and laundry room
- Create new balcony at front

Miscellaneous:

- Update all mechanical, electrical and plumbing systems as required for new work
- Reconfigure and rebuild front stairs per new design

VICINITY MAP



PROJECT DIRECTORY

Owner:
 Ido and Tamar Oppenheimer
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 Tel: 510 486-8387

Architect:
 Sundeep Grewal
 Studio G+S, Architects
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 Berkeley, CA 94710
 Tel: 510-548-7448
 sunny@sgsarch.com

Project Address:
 1643 & 1647 California St.
 Berkeley, CA 94703
 APN: 58-2156-18

PROJECT DATA

Occupancy: R-3 Duplex
 Proposed Construction: Type V-B
 Fire Sprinkler System: No

Zoning/General Plan Regulation
 Zoning District: R-2 (Restricted Two-Family Residential)
 General Plan Area: LMDR
 Downtown Arts District Overlay: No
 Commercial District With Use Quotas: No

Seismic Safety
 Earthquake Fault Rupture(Alquist-Priolo) Zone: No
 Landslide (Seismic Hazards Mapping Act): No
 Liquefaction (Seismic Hazards Mapping Act): No
 Un-reinforced Masonry Building Inventory: No

Historic Preservation
 Landmarks or Structure of Merit: No

Environmental Safety
 Creek Buffer: None
 Fire Zone: 1
 Flood Zone(100-year or 1%): No

Wildlife Urban Interface
 No

APPLICABLE CODES

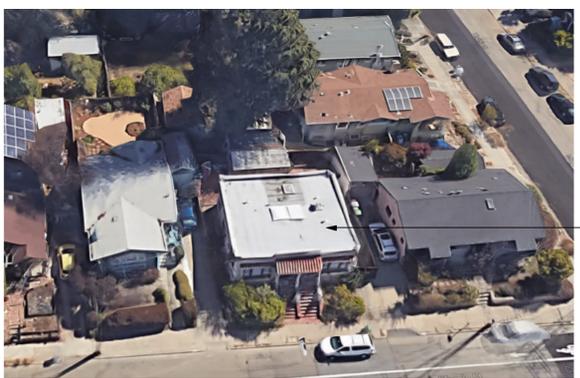
2019 California Building Code (CBC) Volume 1
 2019 California Building Code (CBC) Volume 2
 2019 California Residential Code (CRC)
 2019 California Energy Code (CEES)
 2019 California Green Building Standards Code (CALGreen)
 2019 California Electrical Code (CEC)
 2019 California Plumbing Code (CPC)
 2019 California Mechanical Code (CMC)

This project shall conform to all the above codes and any local and state laws and regulations adopted by the City of Berkeley, CA.

ABBREVIATIONS

&	and	fdn.	foundation	pr.	pair
@	at	fn.	finish	p.s.	plumbing stack
perpen.	perpendicular	fl.	floor	pt.	point
#	pound or number	flsh.	flashing	p.t.	pressure treated
(e)	existing	fluor.	fluorescent	ptd.	painted
(n)	new	f.o.c.	face of concrete	r.	riser
(r)	renovated	f.o.f.	face of finish	r.a.	return air
a.f.f.	above finished floor	f.o.s.	face of studs	ref.	reference
acous.	acoustical	ft.	foot or feet	refr.	refrigerator
adj.	adjacent/ adjustable	ftg.	footing	rgtr.	register
alum.	aluminum	furn.	furniture	reinfr.	reinforced
approx.	approximate	g.a.	gauge	req.	required
arch.	architectural	gal	gallon	rm.	room
asph.	asphalt	g.s.m.	galvanized sheet metal	r.o.	rough opening
bd.	board	gl.	glass	rwd.	redwood
bldg.	building	gnd.	ground	r.w.l.	rain water leader
blk.	block	gr.	grade	s.	south
bkg.	backing	gyp. bd.	gypsum board	s.c.	solid core
bm.	beam	h.	head	sched.	schedule
bot.	bottom	hdwd.	hardwood	sect.	section
b.p.	building paper	h.f.	hem fir	sh.	shelf
b/w	between	horiz.	horizontal	shr.	shower
cab.	cabinet	hgt.	height	sim.	similar
cem.	cement	i.d.	inside diameter (dia.)	s.mech.	see mechanical drawings
cer.	ceramic	insul.	insulation	s.o.	sash opening
cl.	center line	int.	interior	spec.	specification
clg.	ceiling	jt.	joint	sq.	square
ckg.	caulking	kit.	kitchen	s.s.d.	see structural drawings
c.o.	cleanout	lav.	lavatory	sst.	stainless steel
clo.	closet	loc.	location	std.	standard
clr.	clear	lt.	light	stl.	steel
col.	column	max.	maximum	stor.	storage
comp.	composition	m.c.	medicine cabinet	struct.	structure
conc.	concrete	mech.	mechanical	sym.	symmetrical
constr.	construction	memb.	membrane	t.	tread or tempered
cont.	continuous	mfr.	manufacturer	t.b.	towel bar
det.	detail	min.	minimum	tel.	telephone
d.f.	douglas fir	mir.	mirror	t. & g.	tongue & groove
dia.	diameter	misc.	miscellaneous	thk.	thick
dim.	dimension	mtd.	mounted	t.b.r.	to be removed
dir.	direction	mtl.	metal	t.o.	top of
disp.	disposal	n.	north	t.p.d.	toilet paper dispenser
d.w.	dishwasher	nat.	natural	t.v.	television
dr.	door	nec.	necessary	typ.	typical
drw.	drawer	neoprene	neoprene	unf.	unfinished
drg.	drawing	n.i.c.	not in contract	u.o.n.	unless otherwise noted
drgs.	drawings	no.	number	vert.	vertical
e.	east	nom.	nominal	v.g.	vertical grain
ea.	each	n.s.	not to scale	v.i.f.	verify in field
el.	elevation	o.a.	overall	w.h.	water heater
elec.	electrical	o.c.	on center	w.	west
end.	enclosure	o.d.	outside diameter (dim.)	w/	with
eq.	equal	opng.	opening	wd.	wood
eqp.	equipment	opp.	opposite	w/o	without
ext.	exterior	pl.	property line	w.o.	where occurs
f.	frosted	p.lam.	plastic laminate	wp.	waterproof
f.d.c.	fire dept. connection	plywd.	plywood	wt.	weight

SITE PHOTOS



Aerial of existing duplex



Front and right Side of existing duplex



Front and left Side of existing duplex

Tabulations

	Required/Allowed	Existing	Proposed
Set Backs:			
Front	20'-0"	10'-10"	10'-10" no change
Rear	20'-0"	16'-10"	16'-10" no change
Left side:	4'-0"	3'-11"	4'-0" no change
Right side:	4'-0"	5'-6"	5'-5" no change
Habitable Floor Area:			
Unit 1:			
Basement floor:		0 s.f.	1,342 s.f.
First floor:		667 s.f.	901 s.f.
Second floor:		0 s.f.	1,019 s.f.
Total Area Unit 1:		667 s.f.	3,262 s.f. (2,595 s.f. new)
Unit 2:			
Basement floor:		0 s.f.	0 s.f.
First floor:		667 s.f.	501 s.f.
Second floor:		0 s.f.	0 s.f.
Total Area Unit 2:		667 s.f.	501 s.f.
Total Area:		1,334 s.f.	3,763 s.f. (2,229 s.f. new)
Bedroom Count:		3 total	5 total
Non-Habitable Area:			
Accessory Structure:		167 s.f.	0 s.f.
Building Height:			
Main Building:	28'-0" 35'-0" w/ AUP	13'-6" 13'-6"	23'-10"
Parking:	2	0	0
Lot Size:	4,500 s.f.	3,142 s.f.	3,142 s.f.
Total Foot Print:			
House:		1,342 s.f.	1,342 s.f.
Covered Porch:		60 s.f.	0 s.f.
Accessory Structure:		167 s.f.	0 s.f.
Total:	1,085 for 3 stories	1,569 s.f.	1,382 s.f.
Lot Coverage:			
	45% (1 story) 40% (2 story) 35% (3 story)	49.94%	43.98% (5.96% reduction)
Usable Open Space:	400 s.f./unit	500 s.f.	1,029 s.f.



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 Berkeley, CA 94703
 APN: 58-2156-18

Sheet Contents:
 Existing Site Plan
 Proposed Site Plan

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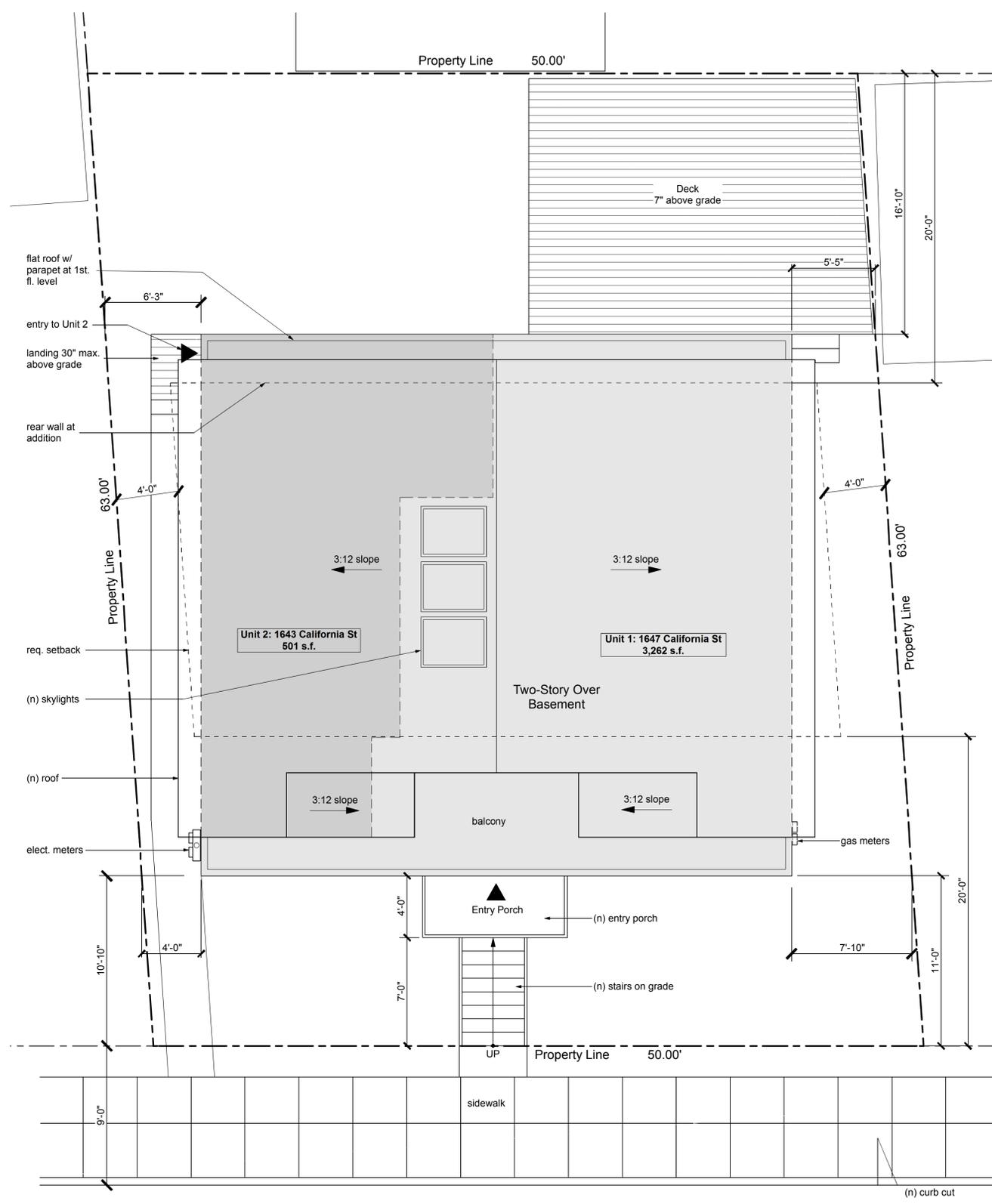
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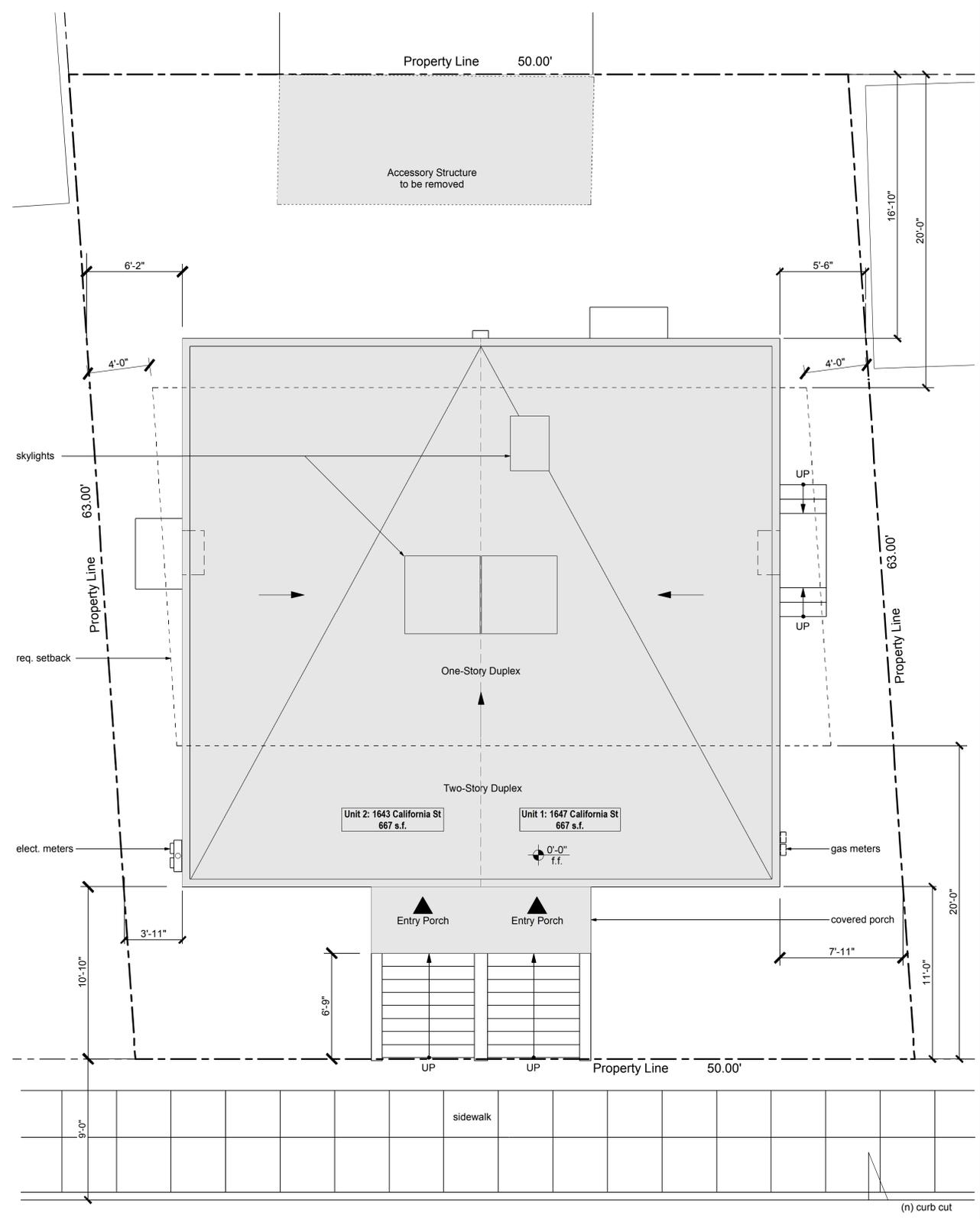
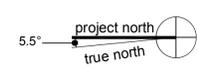
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Revisions:
 Use Permit Set: 12-10-2020
 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

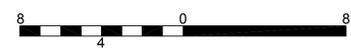
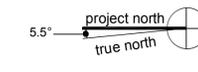
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2 Proposed Site Plan



1 Existing Site Plan





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**OPPENHEIMER
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 Berkeley, CA 94703
 APN: 58-2-156-18

Sheet Contents:
 Site Survey

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Scale:
 1" = 1'-0"

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 Planning Review: 7-15-2021

Sheet
A0.2

HOUSE LOCATION SURVEY

PORTION OF LOTS 1, 2 AND 3, MAP OF VIRGINIA TRACT, FILED OCTOBER 4, 1890 (8 M 43)
 LOCATED AT 1643-1647 CALIFORNIA STREET
 CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA

NOVEMBER 17, 2020 SCALE: 1" = 8'

MORAN ENGINEERING, INC.

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



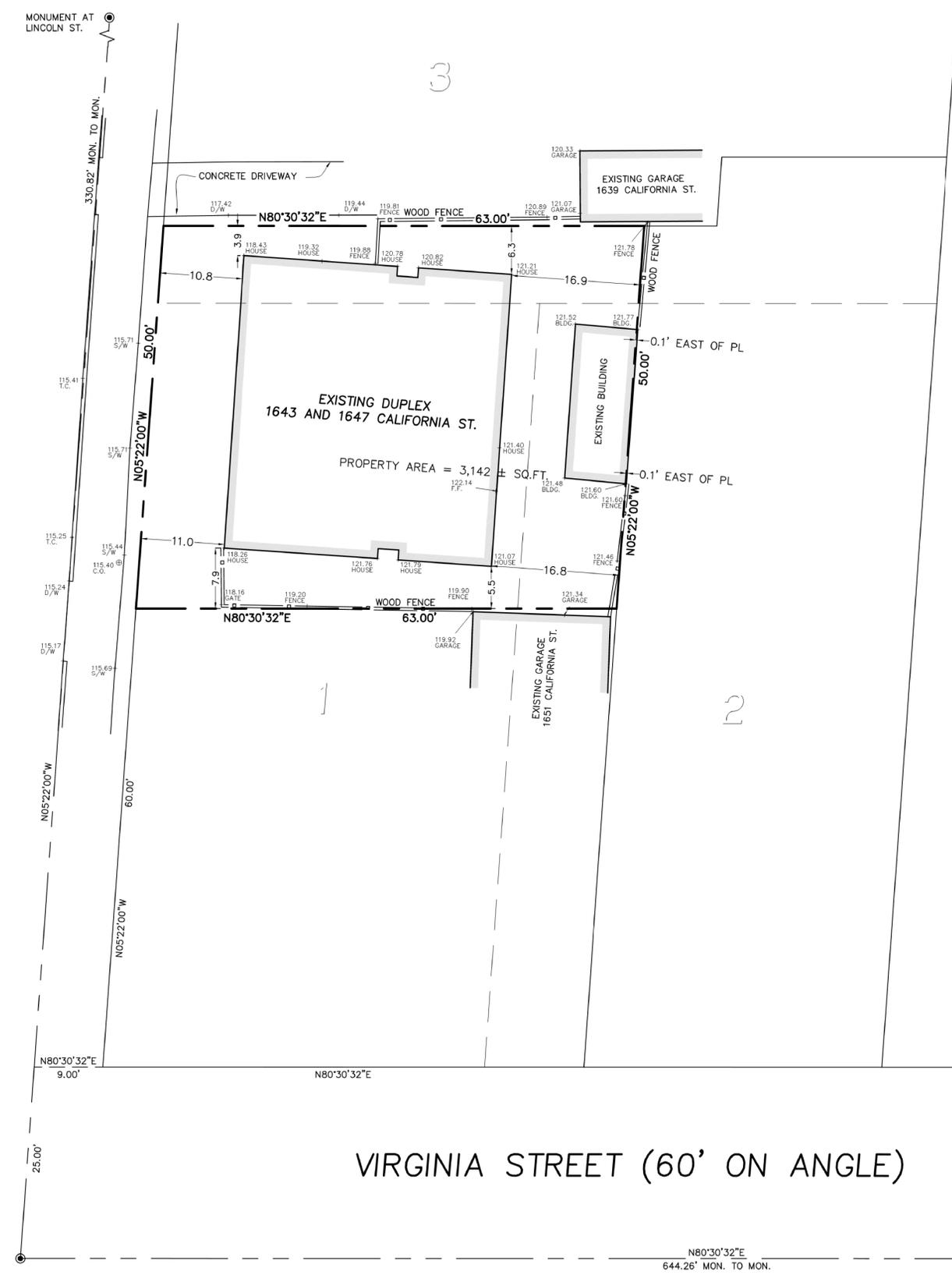
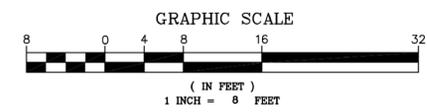
LEGEND
 ● FOUND MONUMENT PER PM 6679 (213 M 50)

- BLDG. BUILDING
- C.O. CLEAN-OUT
- D/W DRIVEWAY
- F.H. FIRE HYDRANT
- J.P. JOINT POLE
- M.H. MAN HOLE
- S/W SIDEWALK
- T.C. TOP OF CURB

GENERAL NOTES
 BENCHMARK: MONUMENT PIN ON THE WEST SIDE OF SACRAMENTO STREET AT VIRGINIA STREET. ELEVATION = 108.683 PER CITY OF BERKELEY ENGINEERING DIVISION RECORDS. ELEVATIONS ARE BASED UPON THE CITY OF BERKELEY DATUM.
 THIS SURVEY IS BASED UPON THE GRANT DEED TO LAWYERS ASSET MANAGEMENT INC. RECORDED DECEMBER 1, 1989 SERIES 89-324628, ALAMEDA COUNTY RECORDS.
 THE BEARINGS ON THIS MAP ARE BASED UPON THE MONUMENT LINE IN CALIFORNIA STREET WITH A BEARING OF N05°22'00"W AS SHOWN ON PARCEL MAP 6679 FILED MARCH 29, 1994 IN BOOK 213 OF MAPS PAGES 49-50.

CALIFORNIA STREET (60' ON ANGLE)

VIRGINIA STREET (60' ON ANGLE)





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**OPPENHEIMER
 RESIDENCE**
 1643 & 1647 California St.
 Berkeley, CA 94703
 APN: 58-2156-18

Sheet Contents:
 Existing Floor Plans
 Existing Exterior Elevations

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 20-13-420

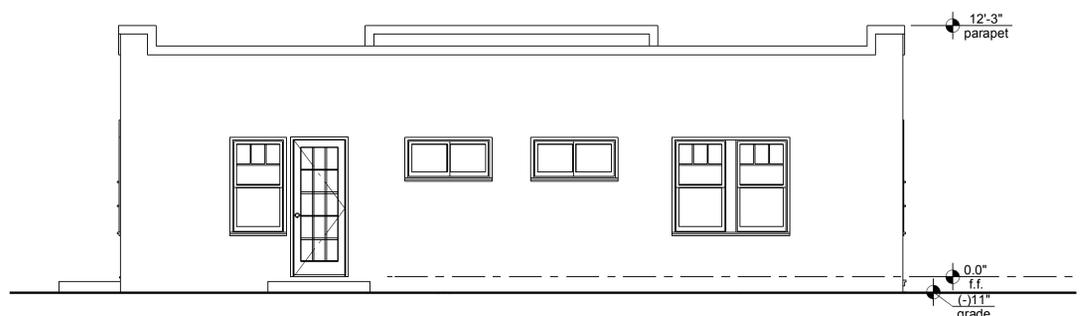
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 SSG

Checked By:
 SSG

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 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

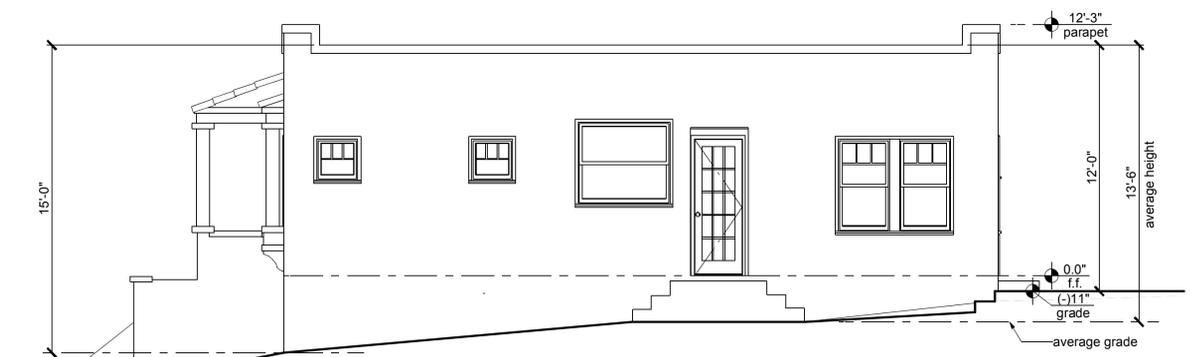
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A1.1



5 Existing East Elevation - Rear



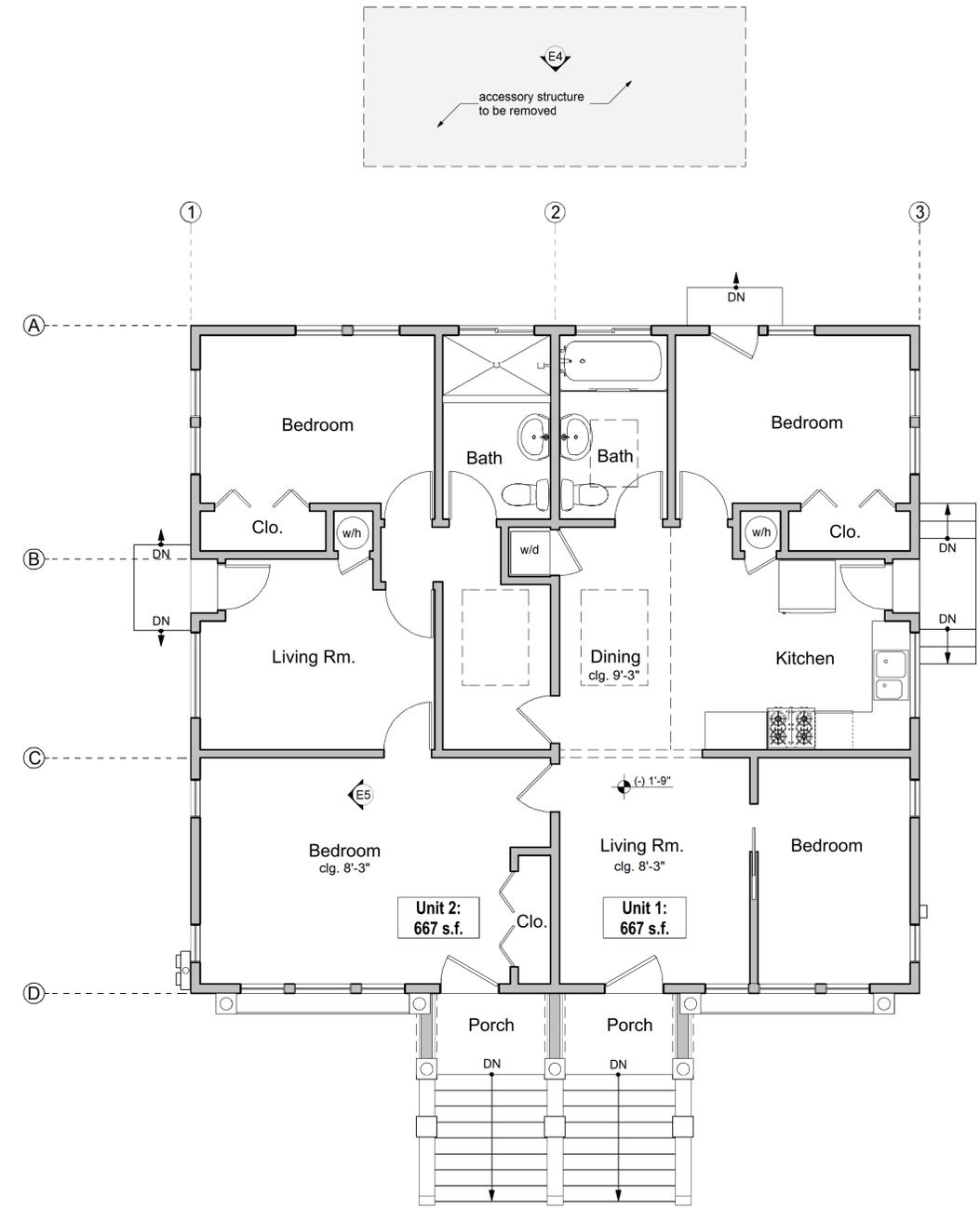
4 Existing North Elevation - Left Side



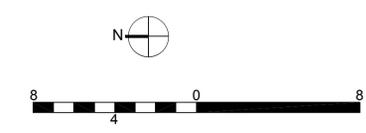
3 Existing South Elevation - Right Side



2 Existing West Elevation - Front



1 Existing First Floor Plan





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Sheet Contents:
Proposed Floor Plan
Proposed Site Plan

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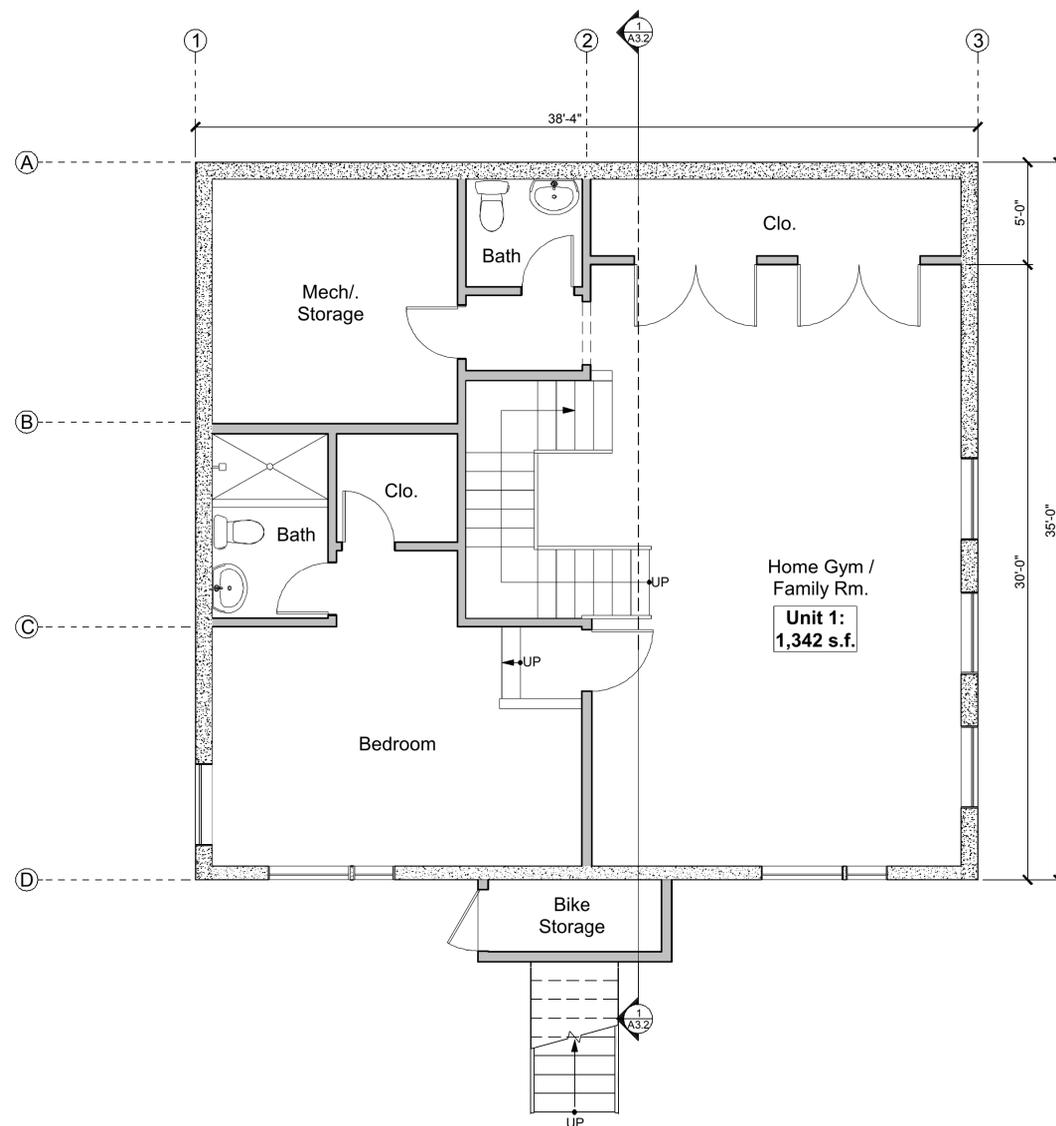
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Checked By:
SSG

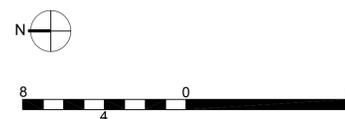
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Use Permit Set: 12-10-2020
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Planning Review: 6-29-2021
Planning Review: 7-15-2021

Sheet
A2.1



1 Proposed Basement Floor Plan





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Sheet Contents:
 Proposed Floor Plans

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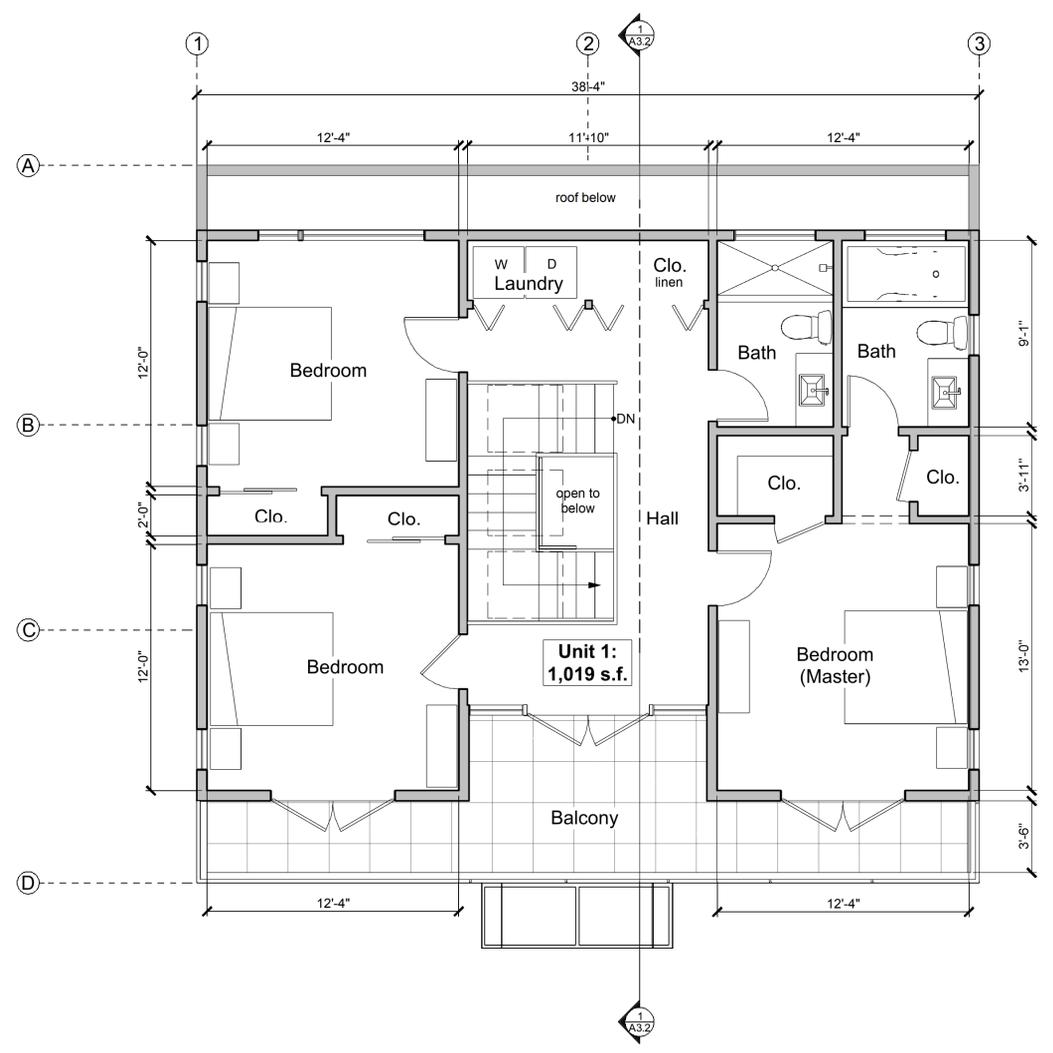
Drawn By:
 SSG

Checked By:
 SSG

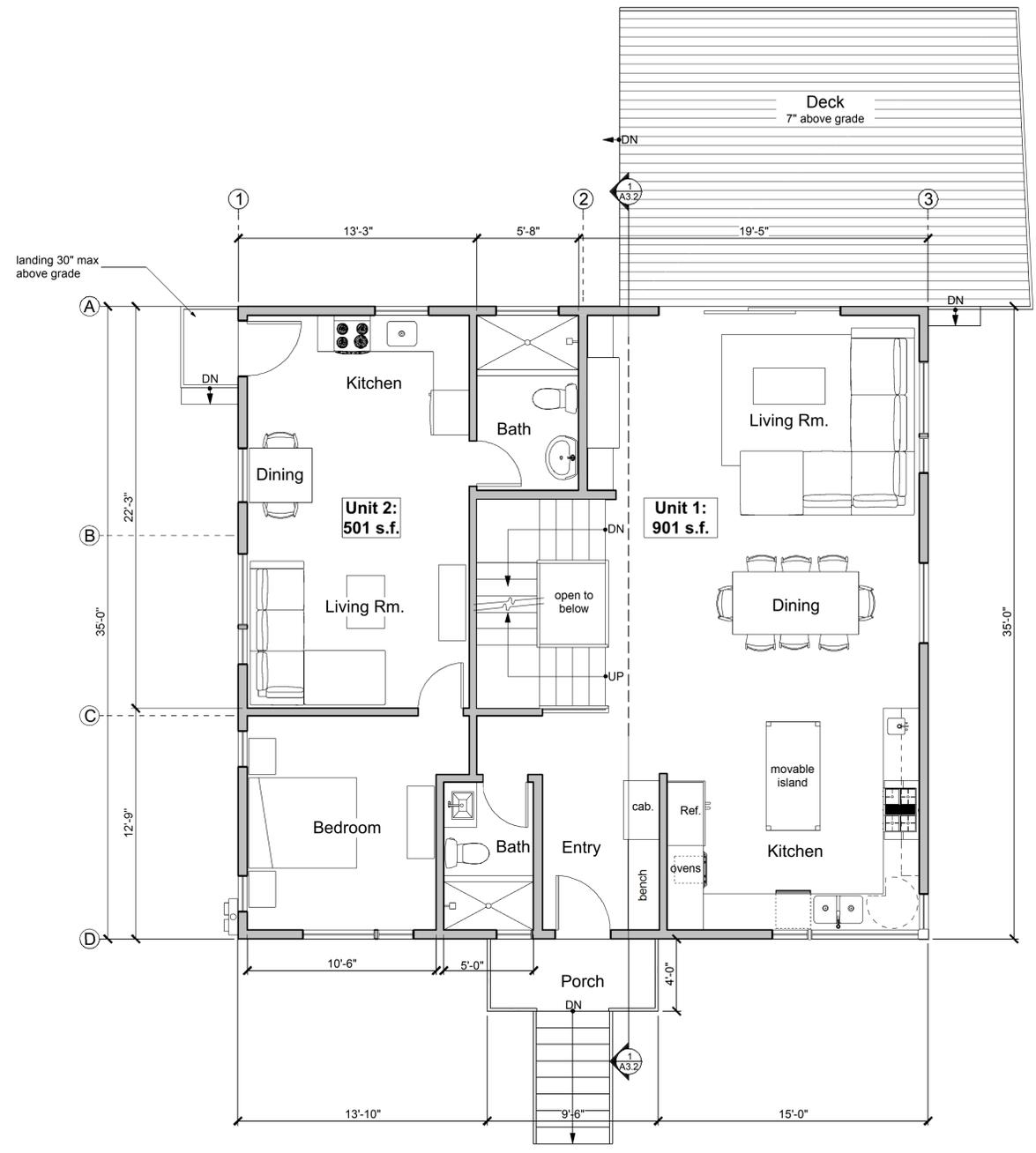
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 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

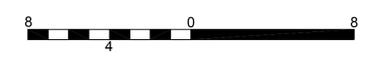
Sheet
A2.2



2 Proposed Second Floor Plan



1 Proposed First Floor Plan





Previous Proposal



Previous Proposal



Previous Proposal



Current Proposal



Current Proposal



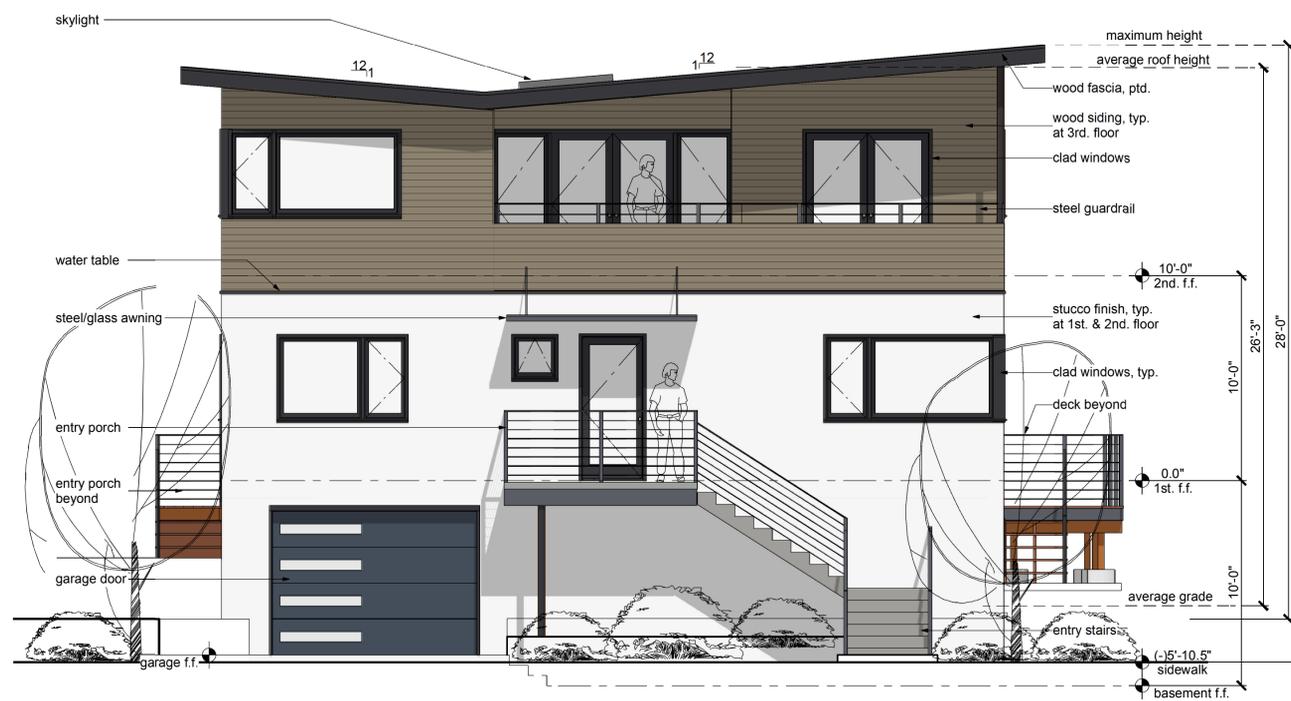
Current Proposal



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2 Proposed West Elevation - Front
 Original Proposal



1 Proposed West Elevation - Front
 Current Proposal



Sheet Contents:
 Front Elevation Comparison

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Drawn By:
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Checked By:
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Scale:
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Revisions:
 Use Permit Set: 12-10-2020
 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

Sheet
A3.1



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Sheet Contents:
 Proposed Exterior Elevations

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 20-13-420

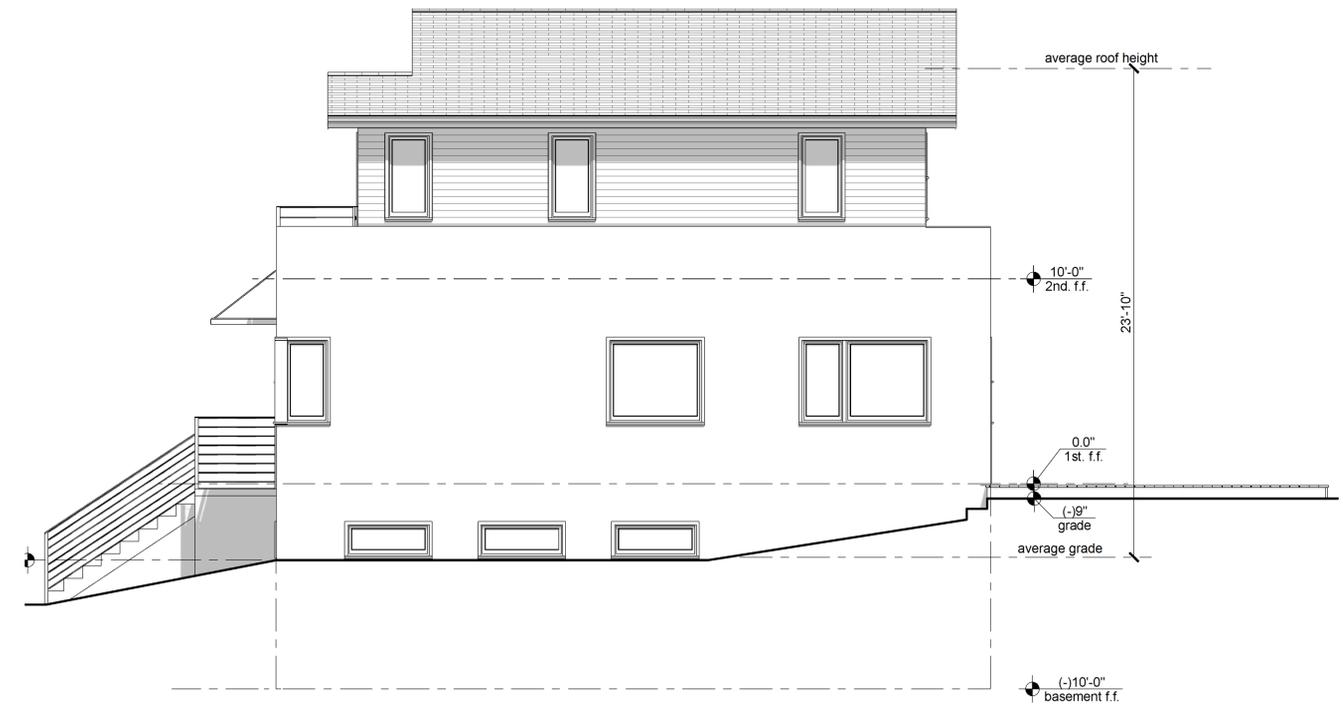
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Checked By:
 SSG

Scale:
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 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

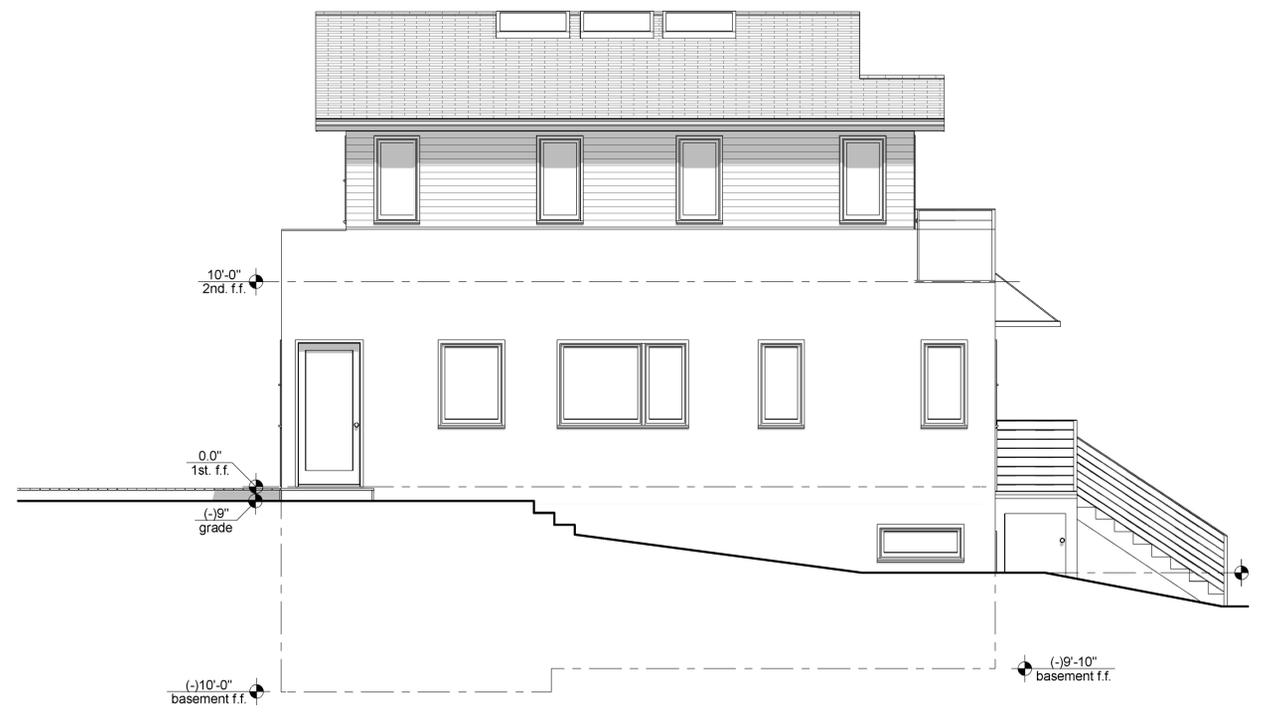
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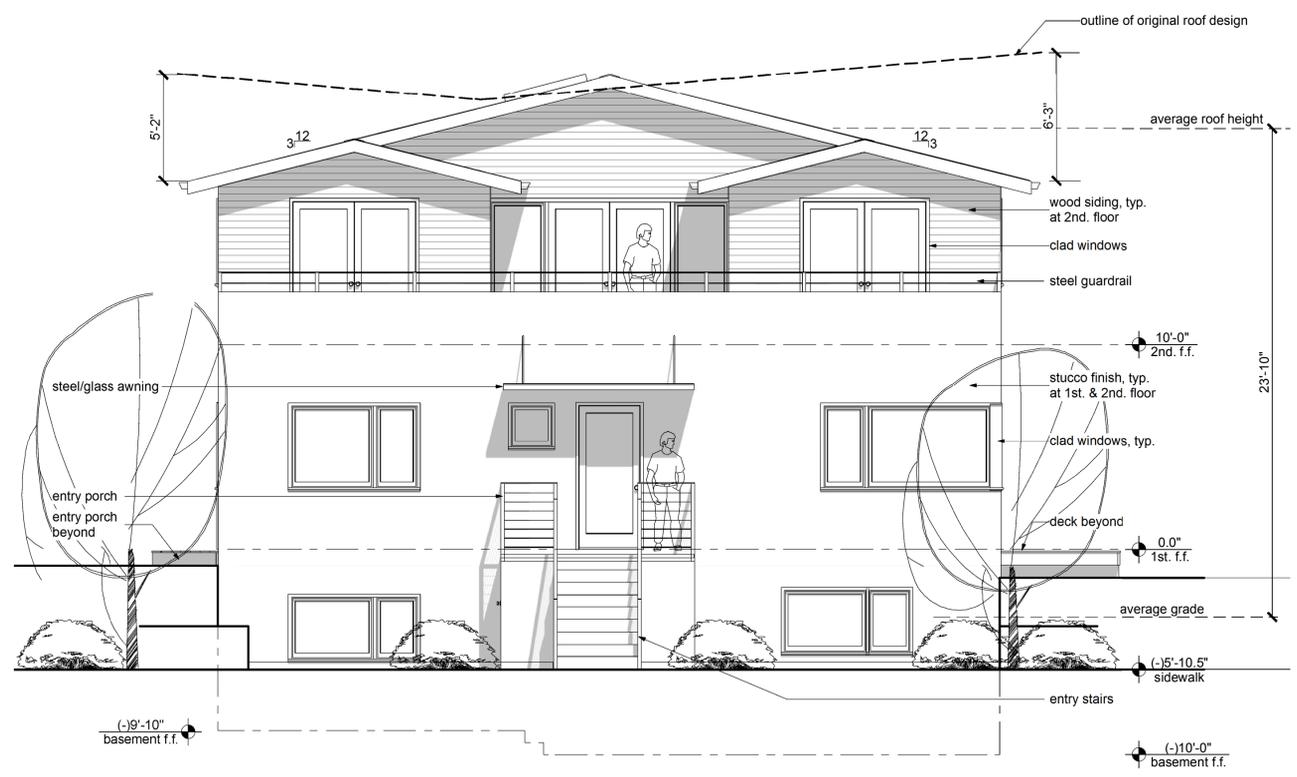
4 Proposed South Elevation - Right Side



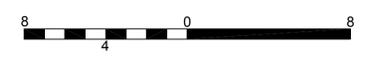
3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front





2 Renderings



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Sheet Contents:
 Building Section
 Renderings

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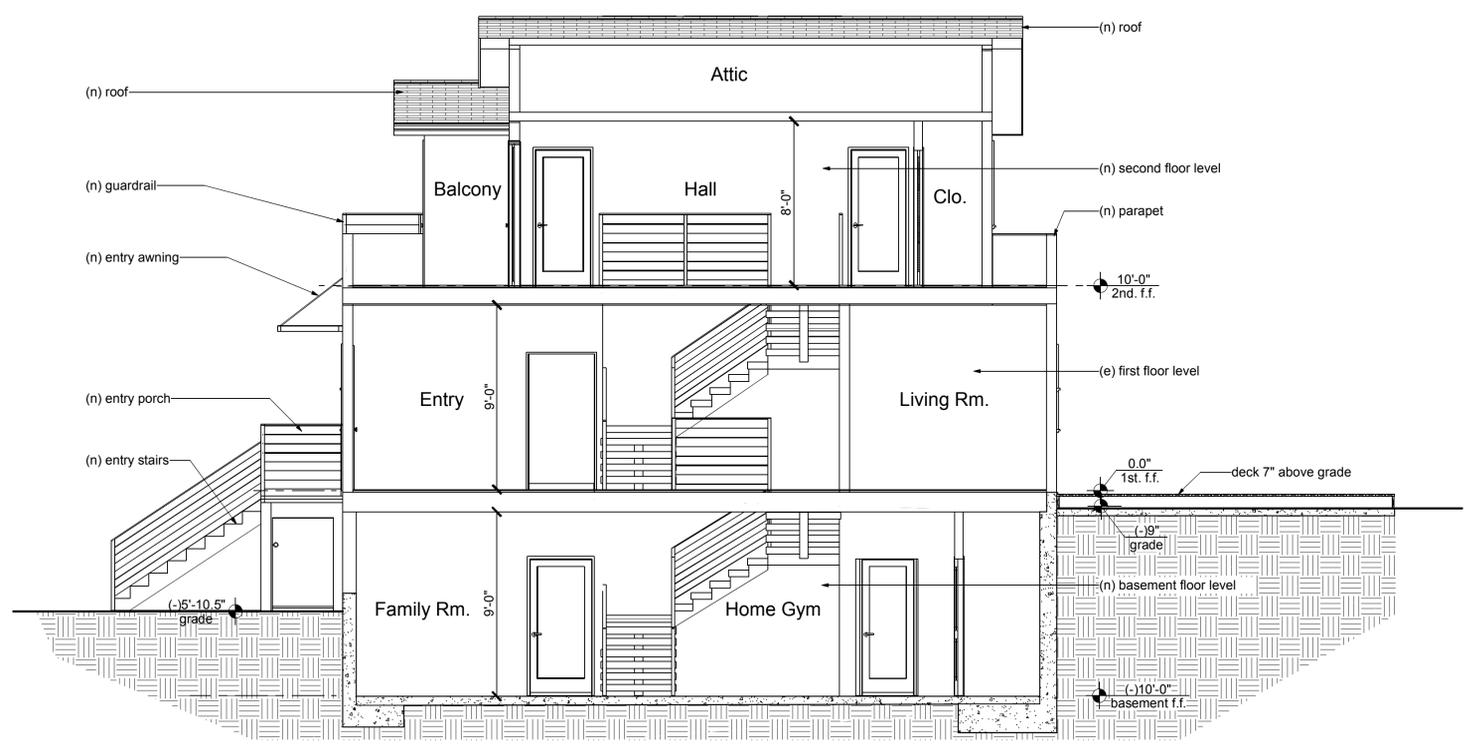
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 20-13-420

Drawn By:
 SSG

Checked By:
 SSG

Scale:
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Revisions:
 Use Permit Set: 12-10-2020
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 Planning Review: 6-29-2021
 Planning Review: 7-15-2021



1 Proposed Building Section



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Sheet Contents:
 Shadows Studies

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: NTS

Revisions:
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 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

Sheet **A4.1**

Existing Shadow Line
 New Shadow Line



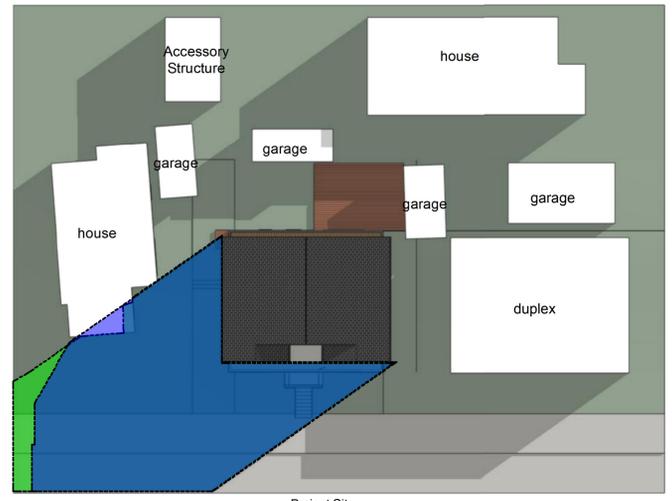
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12-21-2021 / 2:54 pm



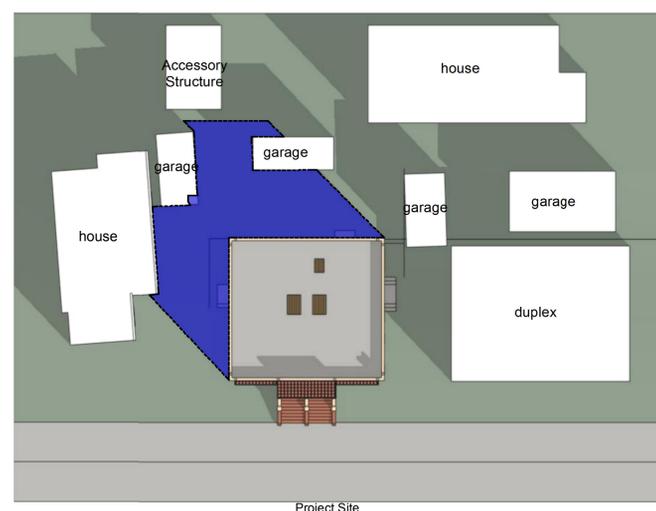
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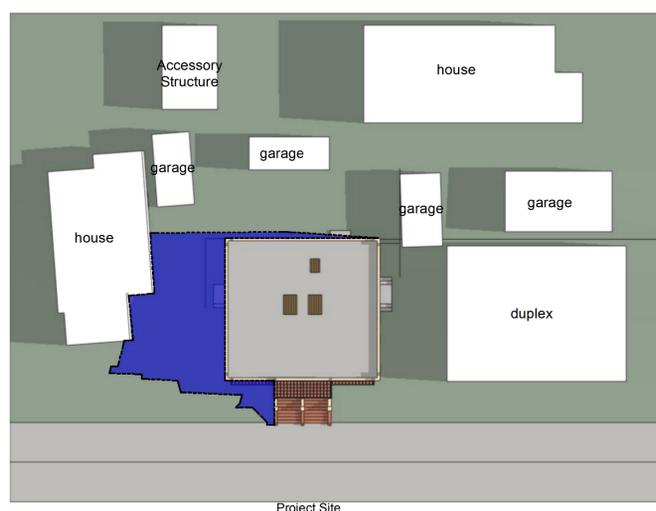
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12-21-2021 / 9:21 am



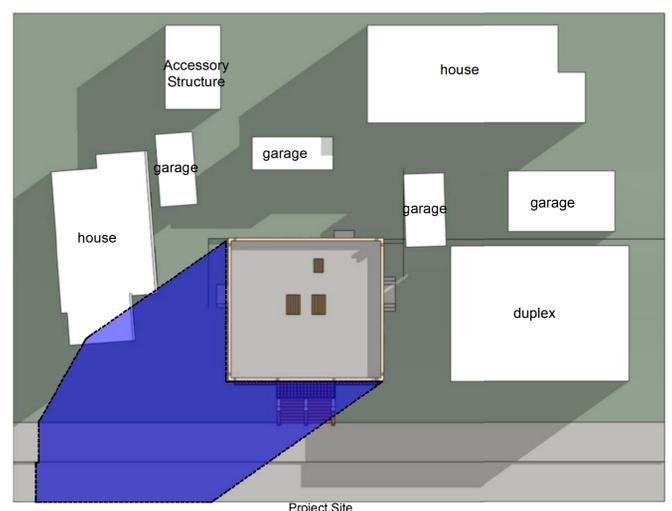
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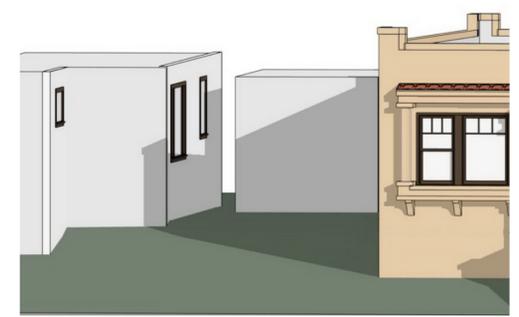
Existing

12-21-2021 / 12:00 pm



Existing

12-21-2021 / 9:21 am



Shadow Accuracy Simulation
 12-08-2020 / 3:00 pm



Actual
 12-08-2020 / 3:00 pm

Shadow Accuracy Simulation

Existing Shadow Line
 New Shadow Line



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Sheet Contents:
 Shadows Studies

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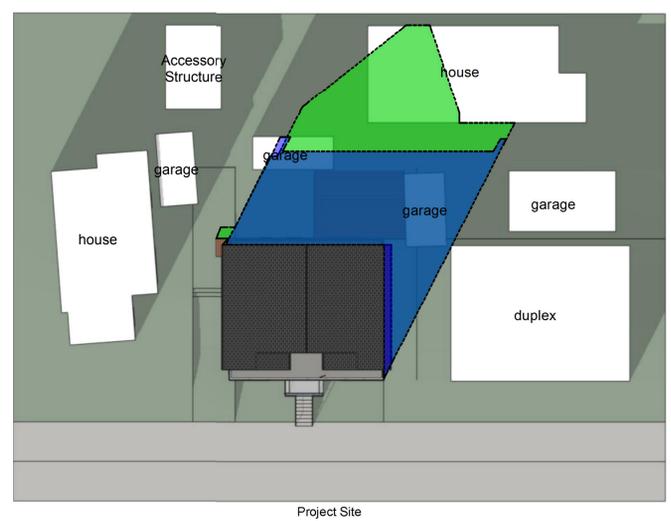
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Checked By:
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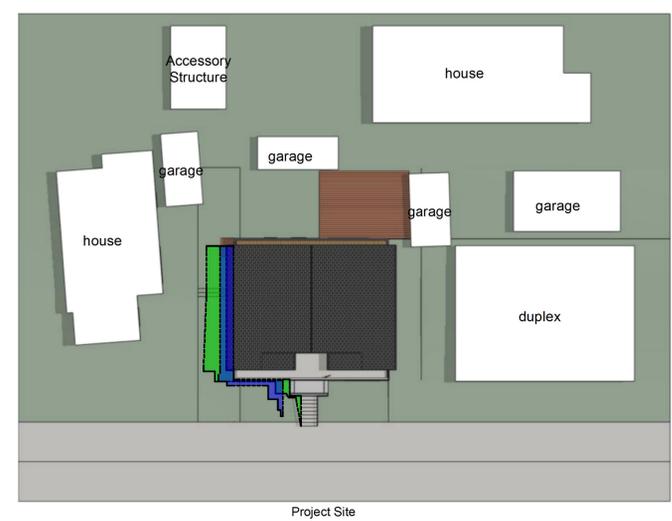
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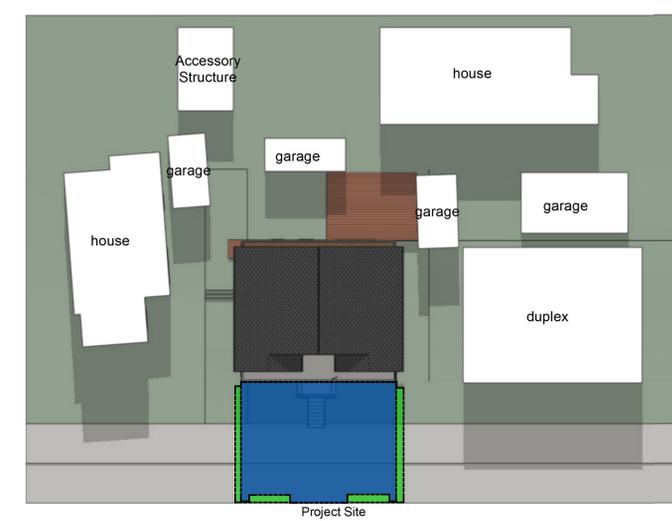
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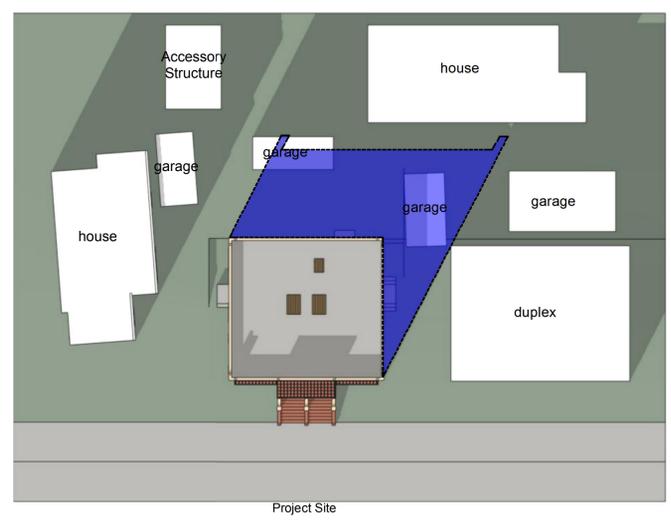
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6-21-2021 / 6:35 pm



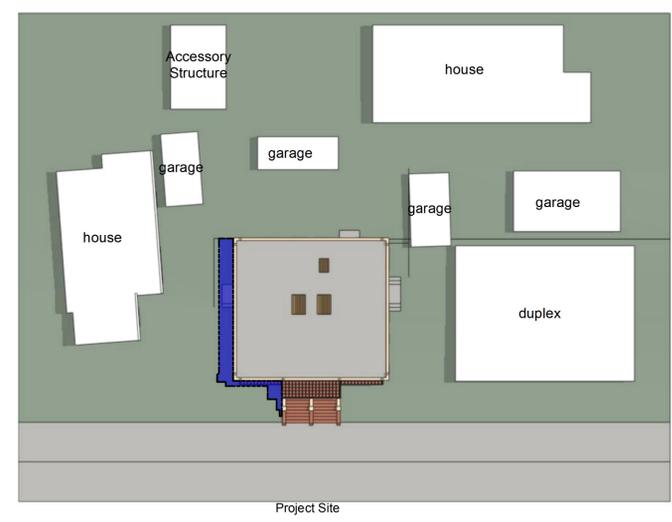
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6-21-2021 / 12:00 pm



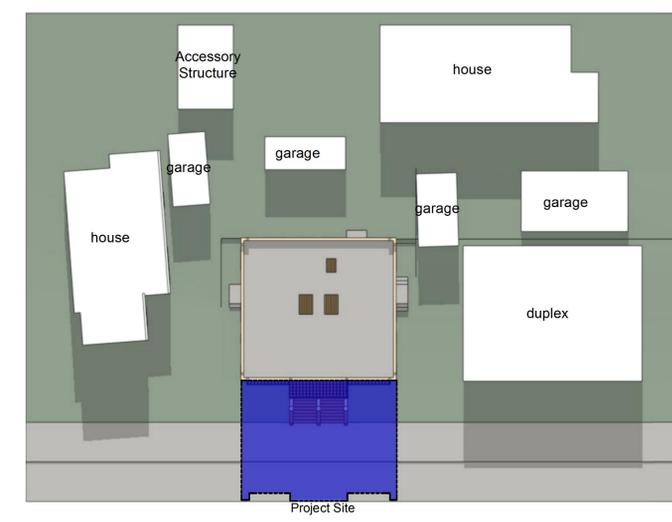
Proposed
6-21-2021 / 7:47 am



Existing
6-21-2021 / 6:35 pm



Existing
6-21-2021 / 12:00 pm



Existing
6-21-2021 / 7:47 am

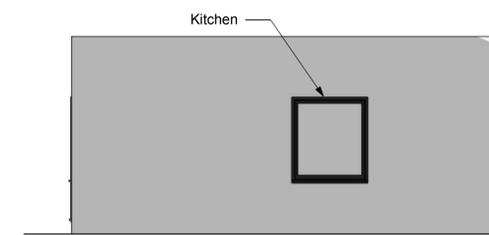




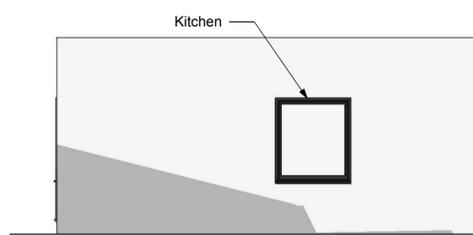
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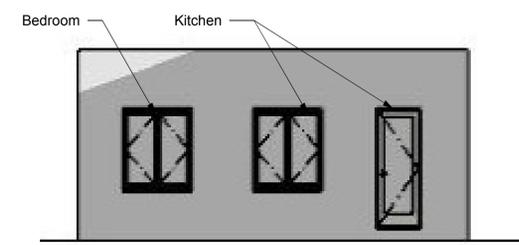
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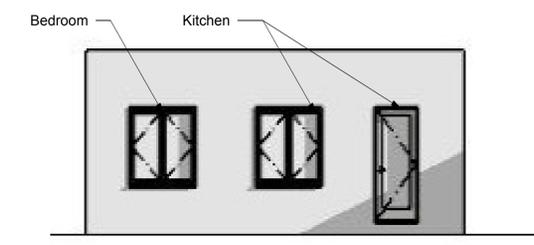
Proposed West Wall



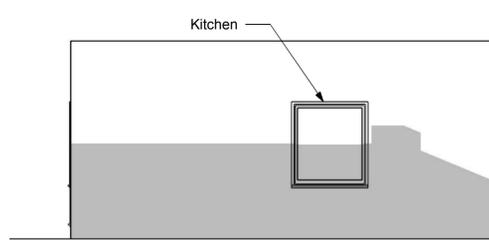
Proposed West Wall



Proposed North Wall

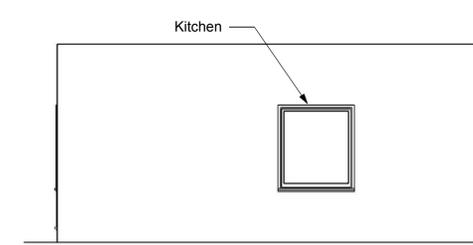


Proposed North Wall



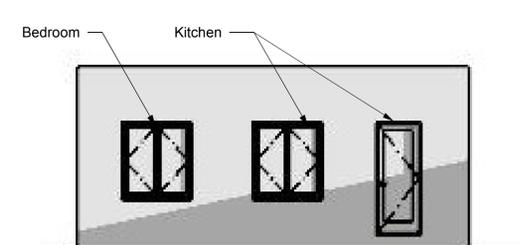
Existing West Wall

6-21-2021 / 6:35 pm



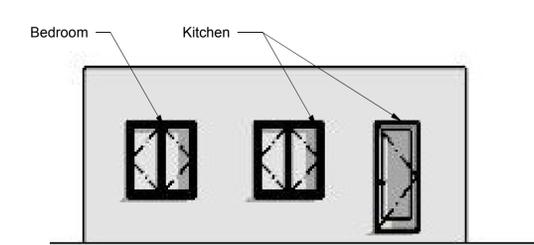
Existing West Wall

6-21-2021 / 5:00 pm



Existing North Wall

6-21-2021 / 6:35 pm



Existing North Wall

6-21-2021 / 5:00 pm

1609 Virginia St. Shadow Impact Study

Sheet Contents:
 Shadows Studies

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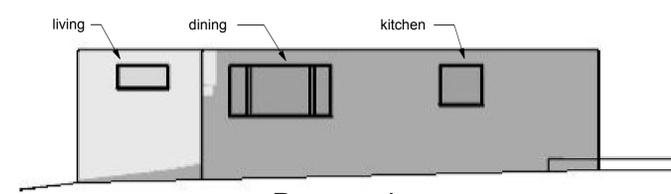
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 SSG

Checked By:
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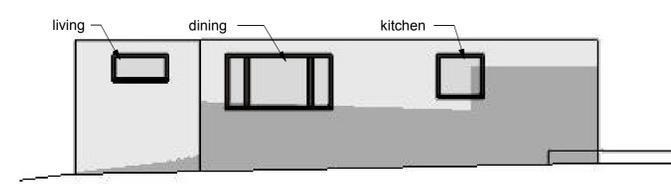
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Revisions:
 Use Permit Set: 12-10-2020
 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

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A4.3

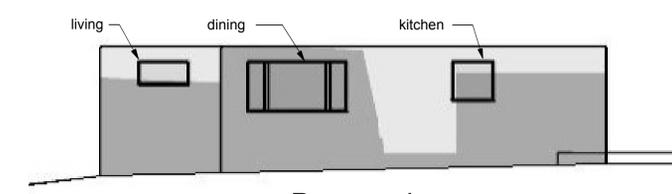


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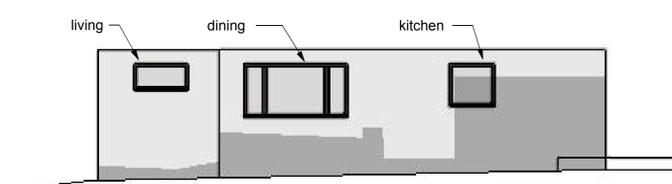


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12-21-2021 / 2:54 pm



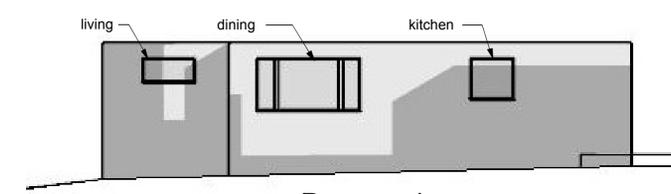
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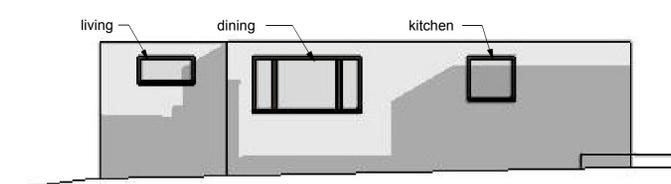
Existing

12-21-2021 / 12:00 pm

1639 California St. Shadow Impact Study



Proposed



Existing

12-21-2021 / 9:21 am



ARCHITECTS

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Sheet Contents:
 Demolition Diagram

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Drawn By:
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Checked By:
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Scale:
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Revisions:
 Use Permit Set: 12-10-2020
 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021
 Planning Review: 8-26-2021

Sheet
A5.1

Wall demolition Notes:
 Total wall area: 1,921 s.f.
 Total wall removed: 520 s.f. (existing and new openings)
 Percentage removed: 27.1%

- existing wall area
- existing window removed
- existing and new window area



(e) wall area: 465 s.f.
 total wall removed: 107 s.f. - existing and new openings
 Percentage of wall removed: 23%

4 Proposed South Elevation - Right Side



(e) wall area: 412 s.f.
 total wall removed: 110 s.f. - existing and new openings
 Percentage of wall removed: 26.7%

3 Proposed East Elevation - Rear



(e) wall area: 436 s.f.
 total wall removed: 115 s.f. - existing and new openings
 Percentage of wall removed: 33.2%

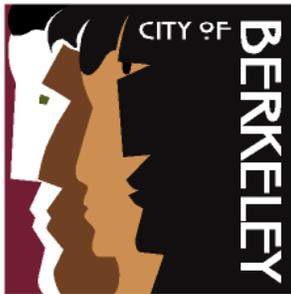
2 Proposed North Elevation - Left Side



(e) wall area: 808 s.f.
 total wall removed: 188 s.f. - existing and new openings
 Percentage of wall removed: 30.9%

1 Proposed West Elevation - Front





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

NOTICE OF PUBLIC HEARING

1643 & 1647 California Street

Use Permit #ZP2021-0001 to 1) create new lower basement level, 2) construct a new, second story, and 3) modify the existing duplex layout, resulting in a 3,763 square foot duplex on an existing property

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23B.32.020, on December 9, 2021, conducted via Zoom, see the Agenda for details:

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-12-09_ZAB_Agenda.pdf The meeting starts at 7:00 p.m.

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, 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.

A. Land Use Designations:

- General Plan: Medium Density Residential
- Zoning: R-2 – Restricted Two-Family Residential District

B. Zoning Permits Required:

- Use Permit, under Berkeley Municipal Code (BMC) Section 23C.04.070.C to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable lot coverage;
- Use Permit, under BMC Section 23C.04.070.E to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable density;
- Administrative Use Permits, under BMC Section 23C.04.070.B to horizontally extend two non-conforming yards (front and rear);
- Administrative Use Permit under BMC section 23D.28.030 to permit a major residential addition;
- Administrative Use Permit under BMC Section 23D.28.070.C to allow an addition over 14 feet in height.; and
- Administrative Use Permit under BMC Section 23D.28.050 to construct a fifth bedroom

C. **CEQA Recommendation:** Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).

D. Parties Involved:

- Applicant Sundeep Grewel, Berkeley
- Property Owner Ido and Tamar Oppenheimer, Berkeley

Further Information:

All application materials are available online at: <http://www.cityofberkeley.info/zoningapplications>. The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <http://www.cityofberkeley.info/zoningadjustmentsboard>.

Questions about the project should be directed to the project planner, Nicholas Armour, at (510) 981-7485 or NArmour@cityofberkeley.info.

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at zab@cityofberkeley.info.

Communication Disclaimer:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

Communications and Reports:

Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: zab@cityofberkeley.info. All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: <https://www.cityofberkeley.info/zoningadjustmentboard/>.

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.

Correspondence received by 5:00 PM, eight days before this public hearing, will be provided with the agenda materials provided to the Board. Note that if you submit a hard copy document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by 5:00 PM two days before** this public hearing, will be conveyed to the Board in a Supplemental Communications and Reports, which is released around noon one day before the public hearing; or
- **Correspondence received after 5:00 PM two days before** this public hearing will be saved in the project administrative record.

It will not be possible to submit written comments at the meeting.



Accessibility Information / ADA Disclaimer:

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date.

SB 343 Disclaimer:

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public. Please contact the Land Use Planning Division (zab@cityofberkeley.info) to request hard-copies or electronic copies.

Notice Concerning Your Legal Rights:

If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

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

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

From: Zoning Adjustments Board (ZAB)
Subject: FW: 1643-1647 California ST #ZP2021-0001

From: david.hornung@gmail.com <david.hornung@gmail.com>
Sent: Saturday, November 27, 2021 8:47 AM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: Fwd: 1643-1647 California ST #ZP2021-0001

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

Begin forwarded message:

From: david.hornung@gmail.com
Date: November 27, 2021 at 8:43:28 AM PST
To: zab@cityofberkeley.edu
Subject: 1643-1647 California ST #ZP2021-0001

Hello,

I'm writing in support of the update and enlargement of the property at 1643 California. It's been in rough shape for a long time and getting a refresh will be nice for the neighborhood and certainly the people that will live there. Hopefully it doesn't permanently displace the current tenants.

David
1536 Virginia

Cell: 415.385.5777
Jmalmuth@aol.com

The Malmuth Family
1636 California Street
Berkeley, CA 94703

December 1, 2021

Re: Proposed renovation at 1643 & 1647 California Street

Attention: The Berkeley Zoning Board:

I have had the opportunity to review Ido and Tamar Oppenheimer's original renovation plans and the renovation plans they are now proposing subsequent to modifications. I support the Oppenheimer's desire to upgrade the rather dilapidated structure they have been living in for the last 32 years. Indeed, based on my experience as a long-term Berkeley resident, I believe their project will provide the upgrade in our neighborhood that, overall, will be positive for our little section of California Street between Virginia and Lincoln. In sum, I believe the renovation will result in a positive contribution for their family and for our neighborhood.

My wife and I moved into 1636 California Street in April 1983. During the intervening 32 years we raised our 3 children and have continued to enjoy what has essentially been decades very close and stable relationships with our neighbors. Ido and Tamar Oppenheimer moved into 1643 & 1647 California Street a very small duplex, at the end of 1989. We, as our other long-term neighbors, count them as an integral part of our California Street community. During the intervening 31 years that Ido and Tamar lived across the street from us they also raised their lovely children, Gal, Tal, Or and Ron. The house that Ido and Tamar bought back in 1989 can be best described as a fixer upper. Ido was a tile installer and worked hard leaving early and getting home late. He actually tiled our home during its renovation. However, with the costs of raising their four children, Ido and Tamar could not afford the expense of renovating their home. As the years pass our neighborhood watched as their home fell into greater disrepair. It was sad to see but there was nothing they could do.

Gal, Tal, and Or are now adults, have secured jobs in the Bay Area and moved out of their childhood home at 1643 & 1647 California Street. Ron however is disabled. He has been diagnosed with a genetic disorder called X-linked retinoschisis XLR5 gene and is losing his limited sight. Ron is not permitted to drive. He relies exclusively on BART and the bus for some semblance of independence. The North Berkeley BART is two blocks from our homes as is the nearest bus stop. Now that 3 of Ido and Tamar's children have finished college they have an opportunity to renovate their home. Ido and Tamar are ecstatic, as are we, and their other neighbors; after so many years living in a rapidly dilapidating and unsafe structure, they will finally be able fix up their home while securing a place for Ron to live.

Ido and Tamar's home is very small and their lot is one of the smallest in the surrounding area. Their family has grown and they regularly have large family gatherings of one kind or another. As such, their needs have grown but the size of their house remains, small and cramped. It is for this reason I am writing the City of Berkeley. I understand that a principle exists regarding percentage of lot coverage. However, less tangible but no less important things that may not be included in the building codes include, long-term and stable neighborhoods, community, and assistance with a disabled child.

I have spoken to Ido and Tamar. Their dream is to remain in Berkeley in the house of their dreams where they have lived for 32 years, raised their children and have been such an integral part of our neighborhood. And as one of their close neighbors I pray that Berkeley will find a way to allow them to remodel their home to fit their needs and Ron's.

ATTACHMENT 4
ZAB 10-08-2020
Page 3 of 15

Cell: 415.385.5777
Jmalmuth@aol.com

The Malmuth Family
1636 California Street
Berkeley, CA 94703

Thank you,

A handwritten signature in black ink, appearing to read "Jeff Malmuth". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jeff Malmuth

Cell: 415.385.5777
Jmalmuth@aol.com

The Malmuth Family
1636 California Street
Berkeley, CA 94703

November 1, 2020

Re: Proposed renovation at 1643 & 1647 California Street

To whom it may concern:

My wife and I moved into 1636 California Street in April 1983. During the intervening 37 years we raised our 3 children and have continued to enjoy what has essentially been decades very close and stable relationships with our neighbors. Ido and Tamar Oppenheimer moved into 1643 & 1647 California Street a very small duplex, at the end of 1989. We, as our other long-term neighbors, count them as an integral part of our California Street community. During the intervening 31 years that Ido and Tamar lived across the street from us they also raised their lovely children, Gal, Tal, Or and Ron. The house that Ido and Tamar bought back in 1989 can be best described as a fixer upper. Ido was a tile installer and worked hard leaving early and getting home late. He actually tiled our home during its renovation. However, with the costs of raising their four children, Ido and Tamar could not afford the expense of renovating their home. As the years past our neighborhood watched as their home fell into greater disrepair. It was sad to see but there was nothing they could do.

Gal, Tal, and Or are now adults, have secured jobs in the Bay Area and moved out of their childhood home at 1643 & 1647 California Street. Ron however is disabled. He has been diagnosed with a genetic disorder called X-linked retinoschisis XLRS1 gene and is losing his limited sight. Ron is not permitted to drive. He relies exclusively on BART and the bus for some semblance of independence. The North Berkeley BART is two blocks from our homes as is the nearest bus stop. Now that 3 of Ido and Tamar's children have finished college they have an opportunity to renovate their home. Ido and Tamar are ecstatic, as are we, and their other neighbors; after so many years living in a rapidly dilapidating and unsafe structure, they will finally be able fix up their home while securing a place for Ron to live.

Ido and Tamar's home is very small and their lot is one of the smallest in the surrounding area. Their family has grown and they regularly have large family gatherings of one kind or another. As such, their needs have grown but the size of their house remains, small and cramped. It is for this reason I am writing the City of Berkeley. I understand that a principle exists regarding percentage of lot coverage. However, less tangible but no less important things that may not be included in the building codes include, long-term and stable neighborhoods, community, and assistance with a disabled child.

I have reviewed the proposed renovation plans and I am in full agreement with them. I believe the renovation will result in a positive contribution for their family and for our neighborhood.

I have spoken to Ido and Tamar. Their dream is to remain in Berkeley in the house of their dreams where they have lived for 31 years, raised their children and have been such an integral part of our neighborhood. And as one of their close neighbors I pray that Berkeley will find a way to allow them to remodel their home to fit their needs and Ron's.

Thank you,



Jeff Malmuth

November 17, 2020

To Whom It May Concern:

I am the homeowner living at 1639 California St. since 1979. It has been my pleasure to be a neighbor of the Oppenheimer Family since they arrived in 1989. I have been invited to dance, circus performances, graduations, front yard visits and profited from their apricot and lemon tree for many years. As their family grew, they decided to enlarge their living space, rather than move to a bigger home. While this is against City of Berkeley housing regulations, the outside of their home has deteriorated and I support their plans to upgrade, improve and remodel their home to suit their changing needs. The stairs are steep and showing separation from the foundation. Their safety, as well as visitors and essential workers will continue to be at risk, and City of Berkeley impediments only add to the time delay in this repair. I recently invested in a complete renovation of my front yard, and this leaves the Oppenheimers home looking vulnerable and frankly, unattractive. This remodel makes sense and should be allowed to proceed.

Sincerely,

Barbara Fritz
1639 California St.
Berkeley, 94703

Nicholas Armour, City Project Planner

This is an addendum/clarification of my previous letter regarding the planned project at 1647 California St. of Ido and Tamar Oppenheimer. While I am pleased that plans to upgrade the property are in progress, the current design will have serious consequences affecting my property:

1) I will lose nearly all the light from the south for most of winter.

2) The lack of light will significantly impact the extra warmth I enjoy during those darker days. I expect an added burden relating to costs of heating the house when I am home will have a financial as well as ecological impact. As I am now retired, I am often spending more daylight hours at home, especially in the southward-facing room. Ido and Tamar are aware of my disappointment in their design, in spite of minor alterations, shade studies demonstrate loss of light.

I don't know how much my dislike of this aspect of the plans will effect City of Berkeley decisions, I am requesting some consideration of the current plan.

Sincerely,

Barbara Fritz
1639 California St.
(510) 508-1822
bfritz@sonic.net

Regarding Opposition to Application of Remodel at 1643/1647 California Street

- The proposed 3,800 sq ft, 6-bathroom, 3-level house is very excessive for the neighborhood. It will have a significant negative impact on my privacy and enjoyment of my patio and kitchen. I feel that the quality of my life will actually be degraded if this project is permitted to go forward as currently presented.
- The impact on the enjoyment of my patio will be significant. Currently, the area is very private. I have trees and bushes along the fence that divides my property with that of 1609 Virginia Street. The other three sides of the patio are flanked by the back wall of my house and the walls of my two garages. I mainly see the sky when looking up. If the owners to my north are allowed to build their proposed remodel, I would see a looming structure looking down on me and my guests instead of the sky. As I have a fairly small interior (about 800 sq ft), and we often spill onto the patio in nice weather, my privacy and the pleasure in my home would be greatly diminished. Also, privacy in my kitchen would be impacted as the remodel would allow the owners to look down into that area of my house.
- I don't think the owners of this remodel project know the comfort and enjoyment that their neighbors take from the use of their outdoors areas. They almost never use their backyard and have not developed it with sitting areas, plants, etc. That is their choice of course, but I just don't think that they realize what they are asking of their neighbors. Especially during Covid 19, I regularly have family and friends for gatherings on my patio, and we all enjoy it immensely. The lack of privacy would clearly have a very negative impact on our gatherings.
- I have invested a large amount of money in a remodel of my house/duplex: new roof line, siding, windows, and new foundation on 3 sides of the structure. I also remodeled the interior, keeping it two units and one level. My remodel did not require any variances or use permits as I kept the original footprint. The size of the owner's "duplex" at 1643/1647 California is almost identical to the size of my duplex, but my lot size is larger. I feel that I improved my property and kept within the size and spirit of the neighborhood. I think that the value and visual appeal of my house will significantly decrease with a very large adjacent house impinging on the privacy of my home.
- I know the neighbors at 1609 Virginia Street also considered the spirit and welfare of the neighborhood and the impact on neighbors in their extensive remodel and improvement of their property.
- I think that the large number of special permits that the proposed remodel needs shows that this new project is not appropriate for the neighborhood. The house would be the largest on the block and on the smallest lot. The city planning staff was concerned about the number of Use Permits and Variance requested. They also noted that the elimination

of the top floor would still allow for a large house (2,600 sq ft) for the occupants and would not impact the neighbors in such a negative way.

- I think that parking on California Street could be negatively impacted with this remodel. It is probably fine to have no off street parking for a small house, but this proposed huge house may need more cars for the occupants.
- My son and family live in south Berkeley and will inherit my duplex. I have shown him this remodel plan, and he thinks it is excessive and will decrease the value/appeal of my property.
- I am concerned that the proposed remodel is not for the owners use, and that they simply want to maximize their profit for resale. They have lived in a 1,300 sq ft house for more than 30 years while raising four children, and now they want to suddenly increase the size three times to 3,800 sq ft!
- In all of their submissions, the owners have been untrue concerning my feelings about their remodel when they indicated that I support their plan. They knew that I had significant concerns. I absolutely do not in any way support their plan and have never told them that I do. I am very disappointed about their misrepresentation since we have always had a good relationship. When the owners initially approached me about this remodel, they emailed me a narrative summary of the project. When I said that I couldn't follow the write up, I asked if they were planning a third floor. They replied "Yes" and then offered a blueprint of the project. I was now able to see that I could not endorse it. Because of how I was approached, I am now concerned that the neighbor at 1639 California Street does not realize that she will have no sun on the south side of her house during several months of the winter. Depending on when/what she saw of the remodel plans, there could be a number of things that she would not like.

Because the latest resubmission does not include many of the modifications to the plans that were requested by the City Planning Staff, and it does not consider the quality of life of the neighbors or their property values, I ask the Zoning Adjustment Board to deny or request a major modification to the plan before resubmission and continuation of the hearing.

Sincerely,

Kay Bristol
1651 California Street
Berkeley CA, 94703

(510) 872-9334

November 14th, 2021

To: City of Berkeley Project Planner (Nicholas Armour) & Berkeley Zoning Adjustments Board
RE: 1643/1647 California St., Application #ZP2021-0001

Dear Berkeley ZAB members and Mr. Armour,

As owners and residents of 1609 Virginia St., the property directly east of (behind) 1643/1647 California St., we are deeply opposed to the scope of the proposed project. We request that the Zoning Adjustment Board either deny the application outright or ask for a major modification to the plan before resubmission and continuation of the hearing on this matter. We want to clarify that this request is entirely based on the plans and scope of the proposed project and on the impact these would have on our property and the neighborhood; we have had cordial neighborly relations with the project proponents for more than 20 years and hope that will continue, but we simply cannot agree with the proposed project.

Our request is based on multiple factors:

- the impact of the proposed project on privacy, light and air to us and other adjacent neighbors,
- zoning rules and the considerable number of adjustments (Use Permits, Administrative Use Permits, and Variances) being sought via this application,
- the out of proportion scale of the proposed structure considering the small lot size and the zoning in our neighborhood,
- the removal of two small living units, in favor of one large home and an apartment, and
- the fact that the application ignores the suggestions from the city planner regarding how to make the remodel have significantly less impact on the neighborhood.

The proposed expansion from a one-story duplex to a three-story structure (two floors and a fully finished basement) would bring substantial negative impact to our privacy, air and light, and in so doing would be detrimental to the peace and comfort of our family. The value of our home both currently and considering future potential improvements would also be substantially reduced, thus causing injury to our property. This harm would stem specifically from the proposed upper floor. It is also the proposed upper floor that is the primary source of negative impact to the other adjacent properties

1. The substantial reduction in light our property and home would experience is evident in the third iteration of the shadow study Mr. Armour had to request from the applicants. This shadow study shows a considerable decrease in afternoon/evening summer sunlight into our house (through both the kitchen windows on the north and west sides, and through the bedroom windows on the north side) as well as into our deck and yard. The shadow study also shows reduced winter-time light into our accessory structure which is a bedroom/office.
2. In terms of privacy, the windows from the bedroom and bathroom on the east side of the proposed upper floor would look down not only into our yard and onto our back deck, but also directly into the very large northern windows of our kitchen and bedroom (~58 sq. ft. of glazing)

(and through the bedroom, into our bathroom), as well as into the bedroom of our backyard cottage. (Please see pictures at the end of this letter.)

3. Given the small footprint of our house, we use our yard daily, almost year-round, for eating, socializing and relaxing. As we have remodeled our home and yard we have created multiple, small outdoor spaces that we use for various purposes as if these were outside rooms. Our yard is very much an extension of our house. As a result, the harm to privacy and light from the proposed project would have a tremendously negative impact on us.

Together, these impacts to privacy and light would damage both our peace and comfort, and thus our quality of life. The proposed project would also be injurious to the value of our property and to the value of the substantial improvements we have made to our property over the years.

The proposed project is inconsistent with the lot size and the neighborhood as shown by the large number of adjustments (UP/AUP/Variance) that would be needed to proceed. When we were searching for a home to purchase more than 20 years ago, we educated ourselves about zoning ordinances -- as we feel all property owners have the responsibility to do -- so that we would understand both the limitations we might face on future renovations to our property, and the potential for construction and/or limitations on construction of the adjacent properties. It was in part with the knowledge of the non-conforming nature (lot coverage, density and setbacks) of this neighbor's duplex that we purchased our home. We similarly considered those limitations a few years ago when we remodeled our home to maximize our light and privacy without ourselves seeking any zoning adjustments. We knew what the zoning regulations would and would not allow our neighbors to do on their properties, and we redesigned our home with those parameters in mind.

Now the application before you appears to seek a total of seven UP/AUP/variances. These permits and variances are being sought to overcome the limitations of the small lot size of their property and to allow construction that would dramatically lower the value of our house. The list of requested adjustments are:

1. UP for enlarging a non-conforming density unit,
2. UP for addition/expansion of non-conforming lot coverage,
3. AUP for extension of non-conforming rear setback,*
4. AUP for extension of non-conforming front setback,
5. AUP for addition over 600 sq. ft.,
6. AUP for creation of 5th bedroom, and
7. Variance for exceeding lot coverage.

*Note that while the applicants claim in their final submission that the rear setback AUP is no longer needed because they eliminated the rear deck on the upper floor, we wonder whether this is correct given that they still propose to build the full depth of the new basement level within the setbacks. Even if the AUP for extension of non-conforming rear setback is no longer needed, the application would still be asking for six adjustments or exceptions to zoning ordinances

Just the sheer number of exceptions to zoning ordinances requested would seem to be a clear indication that the scope of the proposed project is beyond what is appropriate for this lot and neighborhood.

This exact point was raised by the city project planner in his response to the initial submission, "staff has concerns with numerous Use Permits and Variances requested to expand existing structure." Nevertheless, the applicants' resubmissions failed to heed his suggestions.

Considering the circumstances of this particular case and the injury that would be caused to our peace and comfort as well as to our property and improvements thereto, we hope the ZAB will find it cannot approve the requested use permits and variance.

The proposed remodel is out of character with the neighborhood while also reducing the amount of small, lower cost units on the block. Our neighborhood is zoned as R-2 Restricted Two-Family Residential, with the purpose being to promote medium density residential areas with reasonably open and spacious development including a range of housing types ranging from single-family, to duplexes to small apartment structures. The R-2 zoning exists to "make available housing for persons who desire a range of housing choice with a relatively large amount of open space... (and)... to protect adjacent properties from unreasonable obstruction of light and air."

The property with the proposed remodel was originally built in 1924 as a 1,342 square foot duplex with a 60 sq. ft. porch and no off-street parking on a 3,142 sq. ft lot. This was a 44.6 % lot coverage, exactly the maximum allowed for a single-story structure. Such a duplex on a small lot is a perfect way to incorporate lower income units into a neighborhood. In 1952, the storage sheds (167 sq. ft. not shown on the maps in the submission) were added, further increasing lot coverage to 49.94% and thus making this a non-conforming property.

The proposal now before the board seeks to further expand the density on this lot by allowing one of the largest houses on the block to be built on one of the smallest lots on the block -- without requiring any off-street parking. The proposal seeks permission for two small (667 sq. ft.) units to be replaced by a 3,763 sq. ft structure comprising a very large home (3,262 sq. ft.) and a tiny (501 sq. ft.) apartment. We feel that this proposal does not fit with the purpose and parameters of the zoning for our neighborhood.

The project proponents try to justify their high-density proposal by saying that multi-story homes are normal, that they don't have the space to add off-street parking, and that they are removing the storage sheds to create more yard space. Specifically, the application seems to suggest that the owners should somehow be allowed to make a *quid pro quo* trade by removing the added 167 sq. ft. storage sheds, and instead adding another floor to their structure. This makes no sense given that the initial adjustment allowed to construct the storage sheds had absolutely no impact on the neighbors, while adding another floor on top of the existing roof very much does.

The concern around the proposed structure being too large was noted in the response from the city project planner who asked for "significant modification to the proposal" and recommended elimination of the entire upper floor to eliminate impact to the neighbors. Unfortunately, the proposal resubmission ignored this suggestion.

The property in question is extremely run down and clearly in need of significant repair. While we, like many others in the neighborhood, would therefore like to see the property maintained and renovated, we do not feel it is appropriate to suggest – as the application does – that it is impossible to remodel the property if this application for a massive three-level house is not approved. Both we and other neighbors have invested substantial amounts into extensive remodels that did not adversely impact adjacent properties or require zoning adjustments.

For the above reasons we ask that the Zoning Adjustment Board either deny this proposal outright or request a major modification, in line with the changes originally suggested by the city project planner, before resubmission and continuation of the hearing. A proposal that eliminates the top floor and retains the fully finished basement would still double the size of the living space to ~2700 sq. ft. and would thus still be one of the largest houses on the block, while having no impact on the neighbors.

Most sincerely,

Adam Safir
cederfir@hotmail.com
510-725-9350

Anna Cederstav
acederstav@gmail.com
510-847-3371



Picture 1: View from our north-facing bedroom window at eye level. The beige house beyond our red garage is the one proposed for expansion. The current windows on that property are not visible from our bedroom, but windows on a top story would look directly into our bedroom.



Picture 2: View from our west-facing kitchen window at eye level. The beige and stucco house behind their metal-bar gymnastics structure is where a third level blocking the trees and sky would be built.



Picture 3: View from our north-facing kitchen window at eye level. The current windows on back of 1643/1647 California house are not visible from our kitchen, but the windows on a top story would look directly into our kitchen.

Armour, Nicholas

From: Kay Bristol <kbristol@berkeley.edu>
Sent: Friday, June 25, 2021 2:26 PM
To: Armour, Nicholas
Subject: Remodel ZP2021-0001

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

Dear Mr. Armour

I am the neighbor to the south of the proposed remodel ZP2021-0001 at 1643/1647 California St. I own the small duplex at 1651/1653 California St. I live at 1651 California St. and I really do not want this remodel to be approved. As Anna Cederstav and Adam Safir said, it would adversely effect the light, privacy, appeal and probably the property value of my duplex. I feel the submission of this remodel was misleading as to my support of it.

Anna, Adam and I have each spent a large amount of money remodeling our properties in their original footprint. We do not want the aesthetics or resale value of efforts to be diminished.

If possible, could you please advise me if this remodel project moves forward?

Regards,
Kay Bristol
1651 California St,
Berkeley, CA 94703
510-872-9334

June 25th, 2021

To: Project Planner, City of Berkeley (Nicholas Armour)
RE: 1643/1647 California Street, Application #ZP2021-0001

Dear Mr. Armour,

As the owners and residents of 1609 Virginia St., the property directly east of the above cited proposed project, we would like to express our opposition to the proposed remodel of 1643/1647 California St. The proposed project requests multiple zoning exceptions/variances to enable construction of a three-story house (two stories plus a finished basement) in place of the current one-story structure.

While we recognize that the house in question is in need of repairs, we do not agree with the proposed expansion. The proposed remodel would bring significant adverse impacts to the light, air, and privacy of our house and yard, which in turn would dramatically reduce our property value.

When we purchased our home in 1999, we researched the zoning regulations to determine whether adjoining properties could be remodeled in ways that would harm our property value. We learned that the excessive lot coverage and non-compliance with rear property setbacks meant that neither of the structures due west of ours, should be allowed to undergo substantial expansions. We can only assume that the Oppenheimers did similar research before purchasing their house, and thus knew they would likely not be allowed to do this kind of remodel.

We know from personal experience how strict the City of Berkeley is with variances and rear property setbacks. In 2006, we wanted to insulate the ceiling in our backyard cottage. Yet the City would not allow us to raise the roof of that structure by the mere couple of inches required to install the insulation required by code. We can thus only assume that the City will absolutely not permit the substantial variances requested for this project

For the record, we note that the application states that "We also have support of both neighbors on each side." This is incorrect. There are three neighbors in question. We most certainly do not support the proposed project and we know that the neighbor immediately to the south is similarly opposed, again because of the proposed height increase, privacy and lot coverage issues.

Please contact us with any follow-up questions you may have, as well as to let us know if this project advances, in which case we would plan to submit more detailed comments.

Most sincerely,

Adam Safir
cederfir@hotmail.com
510-725-9350

Anna Cederstav
acederstav@gmail.com
510-847-3371

SUPPLEMENTAL ITEM - 1643-1647 CALIFORNIA

ZAB 12-09-2021

Page 1 of 8

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Attn ZAB Secretary: Comments for 12/9 hearing on 1643-1647 California Street, Use Permit #ZP2121-00001

From: Anna Cederstav AIDA <acederstav@gmail.com>
Sent: Tuesday, December 7, 2021 11:24 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: Attn ZAB Secretary: Comments for 12/9 hearing on 1643-1647 California Street, Use Permit #ZP2121-00001

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

Dear Members of the Zab -

These comments supplement the ones we have already submitted related to 1643-1647 California Street, Use Permit #ZP2021-000, and highlight our concerns regarding the process that the City of Berkeley required for the proposed project because of COVID.

We feel that the COVID- adjusted process applied in this case may have inappropriately reduced informed public participation. We would therefore like to request that if this project is for some reason resubmitted, the city require posting and adequate transfer of information, including a requirement to proactively share detailed project plans with all neighbors if any variances are being sought.

Because the city in this case did not require the placement of yellow posters illustrating project plans on the property for the duration of a remodel permitting process as per past city practice, neighbors had no easy visual access to project plans, and were thus not able to easily gain a sense of how the project could impact them. Berkeley is a very diverse community, and it cannot be assumed that everyone has a computer they can easily use to track down information on a website, or the time and bandwidth to do so, especially in the midst of a pandemic.

While the city did mail neighborhood residents to alert them of the project, those mailers did not contain the copy of the project plans or even show on a map which property was impacted. Only because we proactively checked the website did we realize the property was that of our neighbors around the corner. Moreover, the mailers were one-time events spaced far apart that could have easily been missed or forgotten. We do not feel two mailers are an appropriate substitute for an obvious visual reminder posted in the neighborhood during a period of many months.

By replacing the posting requirement with the mailers, the city in effect transferred the responsibility for investigating the project onto the potentially affected parties instead of requiring project proponents to adequately inform the neighborhood. This shift in responsibility seems inappropriate when projects may significantly impact neighbors' property and wellbeing. The burden of ensuring that the neighborhood is informed should lie with the project proponent.

Moreover, the timing of the mailers was far from ideal and did not promote informed participation. The first mailer came shortly after the initial submission, which in this case was many months before the application was complete and ready for review, while the second mailer was sent only a couple of weeks in advance of the ZAB hearing. In effect, a neighbor who is out of town or temporarily living

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elsewhere for a few weeks could be completely unaware that the project proposal almost a year ago is now up for hearing. Page 2 of 8

By not guaranteeing full access to information and informed participation, the process applied opened up opportunities for mistakes to be made, and misunderstandings to be perpetuated. In our case, we were shocked to see the project proposal describing the impact to neighboring properties as being “negligible.” One of our neighbors told us that she believed that the project seeks only a “small number” of variances, clearly indicating a lack of understanding of the project scope. Perhaps most importantly, the initial project submission claims that “the proposed project has support from the adjoining neighbors” while the first resubmission similarly asserts that “We also have support of both neighbors on each side.” Both these statements are patently false. To the contrary, of the three adjoining neighbors, two are extremely opposed to the project, and the third seems to express interest in the remodel mostly because of a desire to facilitate the very significant repairs required at the property, while still being very unhappy about the proposed top floor.

We hope that the ZAB and City of Berkeley will take these comments into account and in the event that there is a resubmission of this application, as well as for others that may be undergoing a similar process, reinstate the requirements of posting and communication with neighbors as integral parts of the application.

Thank you,

Sincerely,

Anna Cederstav and Adam Safir
1609 Virginia Street
Berkeley, CA 94703

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November 14th, 2021

To: City of Berkeley Project Planner (Nicholas Armour) & Berkeley Zoning Adjustments Board
RE: 1643/1647 California St., Application #ZP2021-0001

Dear Berkeley ZAB members and Mr. Armour,

As owners and residents of 1609 Virginia St., the property directly east of (behind) 1643/1647 California St., we are deeply opposed to the scope of the proposed project. We request that the Zoning Adjustment Board either deny the application outright or ask for a major modification to the plan before resubmission and continuation of the hearing on this matter. We want to clarify that this request is entirely based on the plans and scope of the proposed project and on the impact these would have on our property and the neighborhood; we have had cordial neighborly relations with the project proponents for more than 20 years and hope that will continue, but we simply cannot agree with the proposed project.

Our request is based on multiple factors:

- the impact of the proposed project on privacy, light and air to us and other adjacent neighbors,
- zoning rules and the considerable number of adjustments (Use Permits, Administrative Use Permits, and Variances) being sought via this application,
- the out of proportion scale of the proposed structure considering the small lot size and the zoning in our neighborhood,
- the removal of two small living units, in favor of one large home and an apartment, and
- the fact that the application ignores the suggestions from the city planner regarding how to make the remodel have significantly less impact on the neighborhood.

The proposed expansion from a one-story duplex to a three-story structure (two floors and a fully finished basement) would bring substantial negative impact to our privacy, air and light, and in so doing would be detrimental to the peace and comfort of our family. The value of our home both currently and considering future potential improvements would also be substantially reduced, thus causing injury to our property. This harm would stem specifically from the proposed upper floor. It is also the proposed upper floor that is the primary source of negative impact to the other adjacent properties

1. The substantial reduction in light our property and home would experience is evident in the third iteration of the shadow study Mr. Armour had to request from the applicants. This shadow study shows a considerable decrease in afternoon/evening summer sunlight into our house (through both the kitchen windows on the north and west sides, and through the bedroom windows on the north side) as well as into our deck and yard. The shadow study also shows reduced winter-time light into our accessory structure which is a bedroom/office.
2. In terms of privacy, the windows from the bedroom and bathroom on the east side of the proposed upper floor would look down not only into our yard and onto our back deck, but also directly into the very large northern windows of our kitchen and bedroom (~58 sq. ft. of glazing)

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(and through the bedroom, into our bathroom), as well as into the bedroom of our backyard cottage. (Please see pictures at the end of this letter.)

3. Given the small footprint of our house, we use our yard daily, almost year-round, for eating, socializing and relaxing. As we have remodeled our home and yard we have created multiple, small outdoor spaces that we use for various purposes as if these were outside rooms. Our yard is very much an extension of our house. As a result, the harm to privacy and light from the proposed project would have a tremendously negative impact on us.

Together, these impacts to privacy and light would damage both our peace and comfort, and thus our quality of life. The proposed project would also be injurious to the value of our property and to the value of the substantial improvements we have made to our property over the years.

The proposed project is inconsistent with the lot size and the neighborhood as shown by the large number of adjustments (UP/AUP/Variance) that would be needed to proceed. When we were searching for a home to purchase more than 20 years ago, we educated ourselves about zoning ordinances -- as we feel all property owners have the responsibility to do -- so that we would understand both the limitations we might face on future renovations to our property, and the potential for construction and/or limitations on construction of the adjacent properties. It was in part with the knowledge of the non-conforming nature (lot coverage, density and setbacks) of this neighbor's duplex that we purchased our home. We similarly considered those limitations a few years ago when we remodeled our home to maximize our light and privacy without ourselves seeking any zoning adjustments. We knew what the zoning regulations would and would not allow our neighbors to do on their properties, and we redesigned our home with those parameters in mind.

Now the application before you appears to seek a total of seven UP/AUP/variances. These permits and variances are being sought to overcome the limitations of the small lot size of their property and to allow construction that would dramatically lower the value of our house. The list of requested adjustments are:

1. UP for enlarging a non-conforming density unit,
2. UP for addition/expansion of non-conforming lot coverage,
3. AUP for extension of non-conforming rear setback,*
4. AUP for extension of non-conforming front setback,
5. AUP for addition over 600 sq. ft.,
6. AUP for creation of 5th bedroom, and
7. Variance for exceeding lot coverage.

*Note that while the applicants claim in their final submission that the rear setback AUP is no longer needed because they eliminated the rear deck on the upper floor, we wonder whether this is correct given that they still propose to build the full depth of the new basement level within the setbacks. Even if the AUP for extension of non-conforming rear setback is no longer needed, the application would still be asking for six adjustments or exceptions to zoning ordinances

Just the sheer number of exceptions to zoning ordinances requested would seem to be a clear indication that the scope of the proposed project is beyond what is appropriate for this lot and neighborhood.

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This exact point was raised by the city project planner in his response to the initial submission, "staff has concerns with numerous Use Permits and Variances requested to expand existing structure."

Nevertheless, the applicants' resubmissions failed to heed his suggestions.

Considering the circumstances of this particular case and the injury that would be caused to our peace and comfort as well as to our property and improvements thereto, we hope the ZAB will find it cannot approve the requested use permits and variance.

The proposed remodel is out of character with the neighborhood while also reducing the amount of small, lower cost units on the block. Our neighborhood is zoned as R-2 Restricted Two-Family Residential, with the purpose being to promote medium density residential areas with reasonably open and spacious development including a range of housing types ranging from single-family, to duplexes to small apartment structures. The R-2 zoning exists to "make available housing for persons who desire a range of housing choice with a relatively large amount of open space... (and)... to protect adjacent properties from unreasonable obstruction of light and air."

The property with the proposed remodel was originally built in 1924 as a 1,342 square foot duplex with a 60 sq. ft. porch and no off-street parking on a 3,142 sq. ft. lot. This was a 44.6 % lot coverage, exactly the maximum allowed for a single-story structure. Such a duplex on a small lot is a perfect way to incorporate lower income units into a neighborhood. In 1952, the storage sheds (167 sq. ft. not shown on the maps in the submission) were added, further increasing lot coverage to 49.94% and thus making this a non-conforming property.

The proposal now before the board seeks to further expand the density on this lot by allowing one of the largest houses on the block to be built on one of the smallest lots on the block -- without requiring any off-street parking. The proposal seeks permission for two small (667 sq. ft.) units to be replaced by a 3,763 sq. ft. structure comprising a very large home (3,262 sq. ft.) and a tiny (501 sq. ft.) apartment. We feel that this proposal does not fit with the purpose and parameters of the zoning for our neighborhood.

The project proponents try to justify their high-density proposal by saying that multi-story homes are normal, that they don't have the space to add off-street parking, and that they are removing the storage sheds to create more yard space. Specifically, the application seems to suggest that the owners should somehow be allowed to make a *quid pro quo* trade by removing the added 167 sq. ft. storage sheds, and instead adding another floor to their structure. This makes no sense given that the initial adjustment allowed to construct the storage sheds had absolutely no impact on the neighbors, while adding another floor on top of the existing roof very much does.

The concern around the proposed structure being too large was noted in the response from the city project planner who asked for "significant modification to the proposal" and recommended elimination of the entire upper floor to eliminate impact to the neighbors. Unfortunately, the proposal resubmission ignored this suggestion.

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The property in question is extremely run down and clearly in need of significant repair. While we, like many others in the neighborhood, would therefore like to see the property maintained and renovated, we do not feel it is appropriate to suggest – as the application does – that it is impossible to remodel the property if this application for a massive three-level house is not approved. Both we and other neighbors have invested substantial amounts into extensive remodels that did not adversely impact adjacent properties or require zoning adjustments.

For the above reasons we ask that the Zoning Adjustment Board either deny this proposal outright or request a major modification, in line with the changes originally suggested by the city project planner, before resubmission and continuation of the hearing. A proposal that eliminates the top floor and retains the fully finished basement would still double the size of the living space to ~2700 sq. ft. and would thus still be one of the largest houses on the block, while having no impact on the neighbors.

Most sincerely,

Adam Safir
cederfir@hotmail.com
510-725-9350

Anna Cederstav
acederstav@gmail.com
510-847-3371



Picture 1: View from our north-facing bedroom window at eye level. The beige house beyond our red garage is the one proposed for expansion. The current windows on that property are not visible from our bedroom, but windows on a top story would look directly into our bedroom.

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Picture 2: View from our west-facing kitchen window at eye level. The beige and stucco house behind their metal-bar gymnastics structure is where a third level blocking the trees and sky would be built.



Picture 3: View from our north-facing kitchen window at eye level. The current windows on back of 1643/1647 California house are not visible from our kitchen, but the windows on a top story would look directly into our kitchen.

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Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Attn: ZAB Secretary - Comments for December 9th ZAB Public Hearing regarding ZP2021-0001
Attachments: Response to Openheimer Zoning Application.pdf

From: Adam Safir <cederfir@hotmail.com>
Sent: Thursday, December 2, 2021 4:14 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: Attn: ZAB Secretary - Comments for December 9th ZAB Public Hearing regarding ZP2021-0001

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

Dear ZAB members,

Attached please find our comments related to the proposed project at 1643-1647 California Street (ZP2021-0001). Please note that these same comments were submitted to the project planner Nicholas Armour.

Sincerely,

Adam Safir & Anna Cederstav

NEXT ITEM IS 1643 CALIFORNIA STREET, 1643 AND 47 CALIFORNIA STREET. SAMANTHA, WHO IS OUR PLANNER ON THIS?

>> NICK ARMOUR.

>> LET ME SHARE MY SCREEN FOR A SECOND. ALL RIGHT. GOOD EVENING, WE ARE DISCUSSING USE PERMITS ZP2021-0001 AT 1643 AND 1647 CALIFORNIA STREET TO CREATE A NEW LOWER STOREY BASEMENT AND CONSTRUCT A NEW SECOND STOREY RESULTING IN 3,700 DUPLEX. THERE IS A USE PERMIT TO ENLARGE A CLEAR CONFORMING STANDARD. A STRUCTURE THAT IS NONCONFORMING BY REASONS OF THE ALLOWABLE DENSITY. ADMINISTRATIVE USE PERMITS TO HORIZONTALLY EXTEND TWO NONCONFORMING YARDS FRONT AND REAR AND MAJOR RESIDENTIAL A DECISION ANOTHER TO ALLOW OVER 4 FEET IN HEIGHT AND ADMINISTRATIVE USE PERMIT TO CONSTRUCT A FIFTH BEDROOM. THIS SUBJECT SIT ON THE EAST SIDE OF CALIFORNIA STREET AT THE CORNER OF CALIFORNIA AND VIRGINIA STREETS. SURROUNDING AREA CONSISTS OF ONE AND TWO-STOREY FAMILY DWELLINGS. SUBJECT PROPERTY IS A SMALL RECTANGULAR LOT. ORIENTED IN THE EAST/WEST DIRECTION AND APPROXIMATELY 3100 SQUARE FOOT IN MAIN AREA. ORIGINALLY CONSTRUCTED AS A DUPLEX. AT SOME POINT IN THE PAST THE KITCHEN OF THE LEFT SIDE UNIT WHICH IS 1643 CALIFORNIA WAS REMOVED WITHOUT PERMITS AND A DOORWAY CONVERTED THE HOUSE TO A SINGLE-FAMILY HOUSE WITHOUT THE NECESSARY APPROVAL OF A USE PERMIT TO REMOVE THE DWELLING. THE PROPERTY AND STRUCTURE IS CURRENTLY NONCONFORMING. IT'S NONCONFORMING TO THE LOT COVERAGE

AT 50% COVERAGE WHERE 45% IS THE LIMIT FOR ONE-STOREY STRUCTURE. ONE UNIT IS PERMITTED. THIS IS PRIOR TO THE UNAUTHORIZED REMOVAL OF 1643 AND THE STRUCTURE IS LOCATED WITHIN THE FRONT REAR AND LEFT SIDE YARDS. THE PROJECT WOULD MAKE SEVERAL ALTERATIONS. THE RESIDENTIAL STRUCTURE WOULD BE SHIFTED BY ONE INCH TO THE SOUTH FOR A SIDE SETBACK. PROPOSAL WOULD RESTORE THE LEFT DWELLING UNIT AND SHRINK IT TO 105 SQUARE FEET. THE FLOOR PLAN OF THE RIGHT UNIT WHICH IS 647 CALIFORNIA WOULD BE MODIFIED TO SERVE AS A MAY BE LIVING AREA WITH AN OPEN FLOOR PLAN KITCHEN, DINING, LIVING ROOM AND FULL BATHROOM. IT WILL CREATE A NEW BASEMENT LEVEL THAT IS SERVING 1647 CALIFORNIA. THIS WOULD ADD A NEW SECOND LEVEL ON TOP OF THE EXISTING STRUCTURE SOLELY SERVING 1647 CALIFORNIA AND STEP IN AT THE FRONT TO PROVIDE A BALCONY AND COMPLY WITH THE REAR YARD SET BACK. 1647 WOULD EXPAND BY 2,612 SQUARE FOOT. STAFF HAS RECEIVED SEVERAL COMMUNICATIONS REGARDING THIS PROJECT BOTH IN SUPPORT AND ON -- OPPOSITION. CONCERNS INCLUDE THE NEIGHBORS TO THE NORTHEAST AND SOUTH RAISING CONCERNS DUE TO THE PROPOSED INCREASE IN SIZE. CONCERNS FROM THE SAME NEIGHBORS REGARDING THE IMPACTS TO PRIVACY, SHADOWS AND LIGHT ACCESS FROM THE TWO-STOREY DESIGN AND INCREASE IN HEIGHT AND CONCERNS THAT THE PROJECT IS OUT OF SCALE WITH THE NEIGHBORHOOD AND THE SURROUNDING PROPERTIES ESPECIALLY GIVEN THE EXISTING NONCONFORMITY'S ON THE PROPERTY. SUPPORT OF THE APPLICATION INCLUDES THE IMPROVED STRUCTURE AND PROJECT SITE AND

RESTORATION OF THE SECOND DWELLING UNIT. THIS PROPERTY -- OR THIS PROJECT IS CONSIDERED TO BE SB-330 COMPLIANT AND THIS DECEMBER 9TH HEARING REPRESENTS THE FIRST PUBLIC HEARING FOR THE PROJECT. THE CITY CAN HOLD UP TO FOUR ADDITIONAL PUBLIC HEARINGS BUT ONE MUST BE CONCERNED FOR COUNCIL APPEAL WHEN NECESSARY. SIMILAR TO THE LAST PROJECT THAT WE DISCUSSED HERE, THE HOUSING ACCOUNTABILITY ACT IS A MAJOR COMPONENT OF THIS APPLICATION. THIS REQUIRES IF THE ZAB IS GOING TO DENY A PROJECT, IT MUST MAKE SPECIFIC WRITTEN FINDINGS SUPPORTED BY SUBSTANTIAL EVIDENCE THAT IT HAS A SIGNIFICANT IMPACT ON PUBLIC SAFETY. OR THERE IS NO FEASIBLE METHOD TO MITIGATE OR AVOID THE SPECIFIC ADVERSE IMPACTS. THIS EXISTING STRUCTURE IS NONCONFORMING. THE LOT COVERAGE DENSITY AND YARDS. THE PROPOSED CONDITIONS WOULD CONTINUE THE NONCONFORMITIES THUS IT DOES NOT COMPLY WITH THE EXISTING STANDARDS. ITAL IS ELIGIBLE FOR ZONING ADJUSTMENTS AND THERE ARE NO OBJECTIVE STANDARDS OR FINES. SO THEREFORE THE CITY MAY NOT DENY THE PROJECT OR APPROVE IT TO REDUCE DENSITY WITHOUT BASE THE DECISION ON THE FINDINGS. HOWEVER THE CITY MAY REQUEST MODIFICATIONS TO MITIGATE IMPACTS OR AVOID ADVERSE IMPACTS ON SURROUNDING NEIGHBORING PROPERTIES SO LONG THE PROJECT IS NOT APPROVED AS A REDUCED DENSITY. THERE ARE SEVERAL FINDINGS REQUIRED TO BE MADE IN ORDER TO APPROVE THE PROJECT. FIRSTLY, THIS INCLUDES AN EXPANSION OF A BUILDING THAT IS NONCONFORMING TO THE RESIDENTIAL LOTS COVERAGE. THE CURRENT SITE IS AT 50%

COVERAGE WHERE 45% IS THE LIMIT FOR THIS PROPERTY. THIS ADDITION WOULD REMOVE AN EXISTING SHED IN THE REAR YARD WHICH REDUCES THE LOT COVERAGE TO 42% AND DECREASE THE ALLOWABLE LOT COVERAGE 40%. BECAUSE THIS WOULD REDUCE IT FROM 5% TO 4% OVER THE ALLOWABLE LIMIT, THIS -- THIS ADDITION IS LOCATED OVER THE EXISTING COVERED AREA, IT DOES NOT INCREASE THE NONCONFORMING LOT COVERAGE. THE ADDITION DOES COMPLY WITH THE AVERAGE MAXIMUM HEIGHT OF 28 FEET. NEXT, THIS ADDITION IS ON A SITE OVER THE RESIDENTIAL DENSITY. BUT THAT -- BUT THAT IS ALLOWED THROUGH THE USE PERMIT IF IT DOESN'T EXCEED THE HEIGHT LIMIT. AS THIS PROPOSES TO RESTORE THE DENSITY TO TWO UNITS, IT DOES NOT INCREASE THE DENSITY ON THE SITE AND COMPLY WITH THE HEIGHT LIMIT. THIS PROJECT IS PROPOSING TO VERTICALLY EXTEND OR ALTER PORTIONS OF THE BUILDING THAT DOES NOT ENCROACH INTO NONCONFORMING YARDS. IT'S NONCONFORMING TO THE FRONT AND REAR AND SIDE YARD. THIS WOULD SHIFT IT A AN INCH TO EXPAND THE FRONT YARD EXISTING NONCONFORMITY BY GOING DOWN INTO THE BASEMENT AS WELL AS IF THE SECOND STOREY WOULD STEP BACK BY 3½ FEET, IT INCREASES HEIGHT IN THE NONCONFORMING SETBACK. IN THE REAR, THE SECOND STOREY WOULD COMPLY, BUT THE BASEMENT WOULD BE EXPANDED DOWN AT THE EXISTING NONCONFORMING REAR YARD. AS THE ENLARGEMENT WOULD COMPLY WITH THE PERMITTED USE OF THE PROPERTY AND THE VERTICAL EXPANSIONS WOULD NOT CAN [INDISCERNIBLE] ARE CONSIDERED PERMISSIBLE. THERE IS THE ADDITION OF A FIFTH BEDROOM. THIS

PROJECT PROPOSES TO INCREASE THE TOTAL BEDROOMS ON THE PROPERTY FROM FOUR TO FIVE BEDROOMS. THE ADDITION OF THE FIFTH BEDROOM WOULD NOT INTENSIFY THE USE OF THE RESIDENTIAL PROPERTY. THIS PROJECT ALSO PROPOSES THE MAJOR RESIDENTIAL ADDITION OVER 4 FEET HEIGHT AND THE ZAB MUST MAKE FINDINGS OF GENERAL NON-DETRIMENT IN THE R-2 ZONING DISTRICT. IT WOULD ADD 2429 SQUARE FEET TO THE EXISTING 1334 SQUARE FOOT COMPLEX. IT'S CONSIDERED NON-DETRIMENTAL BECAUSE IT WOULD ADD A SECOND LEVEL TO THE HOME. SECOND STOREY WOULD COMPLY WITH THE REQUIRED REAR YARD SETBACK. A BASEMENT IS PROPOSED TO BE ADDED WHILE THIS ADDS ADDITIONAL SQUARE FOOTAGE IT WOULD NOT -- IT WOULD MAINTAIN THE FIRST FLOOR LEVEL. THE NEIGHBORHOOD IS A MIX OF RESIDENTIAL UNITS OF SINGLE AND MULTI-FAMILY HOMES. EXISTING STRUCTURES IN THE NEIGHBORHOOD VARY FROM ONE TO TWO-STOREYS AND SUBJECT TO THE STANDARD CONDITIONS OF APPROVAL. BECAUSE THE PROJECT CONSISTENCY WITH THE ZONING ORDINANCE AND GENERAL PLAN ON, STAFF RECOMMENDS THE ZONING BOARD APPROVES SUBJECT TO FINDINGS AND CONDITIONS. THE ZAB COULD REQUIRE MODIFICATIONS TO REDUCE IMPACTS TO THE PROPERTY SO LONG AS IT'S NOT DENIED OR APPROVED AT A LOWER DENSITY. I CAN TAKE ANY QUESTIONS.

>> C. KAHN: GO AHEAD IGOR.

>> I. TREGUB: THANKS, NICK, FOR THAT DETAILED PRESENTATION.

OBVIOUSLY UNLIKE THE LAST PROJECT, THIS ONE JUST -- THE NATURE OF THE EXISTING CONDITIONS INTRODUCED SOME UNIQUE ATTRIBUTES

THAT HAVE TO BE DISCUSSED. BUT UNLIKE THE LAST PROJECT WE WENT THROUGH, I DIDN'T SEE A DISCUSSION IN THE STAFF REPORT REALLY, AROUND PRIVACY IMPACTS, SHADOW IMPACTS. AND I HAVE TO GO THROUGH 4. X SERIES OF DRAWINGS TO GET THE INFORMATION. SINCE ACCOUNT MAJORITY OF THE COMMENTS WITH CONCERNS AHAS WITH THIS REVOLVED AROUND SHADOWS, WHAT IS YOUR GENERAL RECOMMENDATION BASED ON THE IMPACTS WE'RE STUDYING?

>> THAT'S A GREAT QUESTION. WE DID LOOK AT SHADOW STUDIES AS THEY'RE SHOWN IN THE IMPACTS ON THE NEIGHBORS. GENERALLY WE SEE SHADOW IMPACTS FROM SECOND STOREY ADDITIONS. THE OTHER ISSUE IS THAT OUR CURRENT FINDINGS ARE NOT CONSIDERED OBJECTIVE AND THERE IS NO SPECIFIC FINDING ABOUT HOW MUCH SHADOW IMPACT ON A PROPERTY, WHAT THE PRIVACY IMPACTS MAY BE ON A SPECIFIC SITE. FOR AHA PURPOSES, IT'S NOT SOMETHING THAT CAN BE LOOKED AT TO OUR UNDERSTANDING.

>> C. KAHN: A FOLLOW-UP QUESTION, IGOR?

>> I. TREGUB: I WASN'T PLANNING ON IT, BUT, YEAH, THIS IS ONE OF THE FIRST PROJECTS WE'VE SEEN WHERE THE DISCUSSION ON SHADOWS AND PRIVACY IMPACTS LITERALLY WAS NOT IN THE STAFF REPORT. I UNDERSTAND THAT IT IS NOT SOMETHING UPON WHICH WE CAN BASE OUR DECISIONS AS THERE ARE NO OBJECTIVE STANDARDS. BUT GOING FORWARD AND MAYBE THIS IS A QUESTION ACTUALLY FOR SAMANTHA, IS THIS GOING TO BE THE PRACTICE THAT IT'S NOT GOING TO BE DISCUSSED IN STAFF REPORTS AT ALL?

>> THAT'S A GREAT QUESTION COMMISSIONER TREGUB. I DON'T HAVE AN ANSWER FOR YOU. OFF THE TOP OF MY HEAD. IT IS -- IT IS CHALLENGING BECAUSE THEY ARE NOT OBJECTIVE. AND I WOULD NEED TO LOOK A LITTLE MORE INTO THAT. I THINK I'M HEARING THAT THE BOARD WOULD LIKE TO SEE THOSE -- THAT ANALYSIS EVEN IF IT'S NOT SUBJECTIVE. EVEN IF IT'S NOT OBJECTIVE. SORRY.

>> I. TREGUB: I CAN'T SPEAK FOR MY COLLEAGUES, BUT WOULD I LIKE TO SEE THAT OR CONTINUE TO SEE THAT. MORE IMPORTANTLY, I THINK MEMBERS OF THE PUBLIC -- THEY WOULD BENEFIT FROM BOTH HEARING THAT DISCUSSION DURING STAFF PRESENTATIONS AND ALSO FOR THOSE THAT CAN'T COME TO THE MEETING OR EVEN THOSE WHO CAN IN PREPARATION FOR MEETING, IT WOULD BE HELPFUL FOR THEM TO UNDERSTAND THE ACTUAL IMPACT IF THEY LIVE IN ADJACENT PROPERTIES.

>> THANK YOU FOR THAT. AND I WILL TAKE THAT BACK AND WE'LL TALK ABOUT THAT.

>> C. KAHN: I THINK, TO ADD MY TWO CENTS WORTH, THAT AS NICK POINTED OUT, WE CAN'T DEMAND THAT THE APPLICANT REDUCE THE DENSITY, NUMBER OF UNITS. WE CAN, ACCORDING TO THE MEMO FROM STEVE, DEMAND THE NUMBER OF SQUARE FEET OR NUMBER OF BEDROOMS. HOWEVER, WE CAN SPEAK TO ISSUES OF PRIVACY AS CARRIE HAS FREQUENTLY DONE -- LED THE CHARGE. IT'S GOOD TO HAVE THAT AS PART OF THE STAFF DISCUSSION SO THAT WE HAVE THE OPTION DISCUSSING THAT WITH THE APPLICANT. PARTICULARLY PRIVACY. THERE

ARE OCCASIONS WHERE WE HAVE MADE RECOMMENDATIONS WHICH HAVE BEEN ACCEPT BY THE APPLICANT, THIS IS THE ZONING ADJUSTMENTS BOARD. ADJUSTMENTS TO MITIGATE SHADOW IMPACTS OR VIEW IMPACTS. WE HAVE THE POWER TO MAKE ADJUSTMENTS AS LONG AS AHA IS NOT VIOLATED. SO, YEAH, I SUPPORT IGOR'S POINT. THANK YOU, IGOR. WHY DON'T WE KEEP THINGS MOVING HERE. WE HAVE A LOT DO AND THERE ARE A LOT OF ATTENDEES THAT WOULD LIKE TO SPEAK. DEBBIE.

>> IF YOU DON'T WANT TO ANSWER ALL THESE QUESTIONS NOW, LET ME PUT THEM ON THE TABLE. AND NICHOLAS, IF YOU WANT TO COME BACK AND ANSWER THEM, THAT'S FINE. I SPENT A FAIR AMOUNT OF TIME LOOKING AT THE SHADOW IMPACT AND PRIVACY IMPACTS. I NEED CLARITY AND I WENT THROUGH ALL THE LETTERS SEVERAL TIMES. ANY CLARITY ON ALL THESE LITTLE GARAGES THAT ARE IN THE BACKS OF THE BUILDINGS. THE DIAGRAM I FOUND MOST USEFUL TO WORK FROM IS FROM PLAN SHEET ON THE PROPOSED SITE. THE WAY I THINK I UNDERSTAND IT IS THAT STARTING FROM THE RIGHT -- LOWER RIGHT SIDE, THE DUPLEX IS 1651. THE GARAGE DIRECTLY TO ITS EAST IS ITS GARAGE AS WELL AS THE ONE IN THE CORNER OF THE PROPERTY SO 651 HAS TWO GARAGES AND THEIR SIT AREA THAT THEY DISCUSSED IS KIND OF WITHIN THAT BUILDINGS ON THREE SIDES. THEN IF YOU GO TO THE LEFT SIDE OF THAT DIAGRAM, ARE MY DIRECTIONS MAKING ANY SENSE?

>> YES.

>> D. SANDERSON: THE HOUSE TO THE LEFT WHICH WOULD BE THE NORTH OF IT IS 1639 -- WHATEVER STREET WE WERE ON AND THE GARAGE GOES

TO 1639. THEN THERE IS -- WHEN YOU'RE AT 1637, THERE IS A GARAGE DIRECTLY TO THE EAST OF THEIR PROPERTY. DOES THAT GARAGE GO WITH 1609? I KNOW THERE IS A BUILDING REMOVED THAT DOESN'T SHOW UP APPROPRIATELY ON THE SHADOW MAP. IT LOOKS LIKE THERE IS A GARAGE THAT WOULD BE DIRECTLY TO THE EAST OF THE PROPOSED DECK.

NORTHEAST. DOES THAT GARAGE GO WITH 1609 VIRGINIA?

>> THAT'S MY UNDERSTANDING, YES.

>> D. SANDERSON: SO ITS DRIVEWAY GOES THE LENGTH OF THE 1609 PARCEL TOWARDS VIRGINIA. WHAT ACCEPT RATS VIRGINIA TO 1651 AND 1637 OR 40 IS THE DRIVEWAY IT'S BETWEEN THOSE TWO PROPERTIES.

>> RIGHT.

>> D. SANDERSON: THANK YOU. THAT'S VERY HELPFUL. SO I'VE SPENT -- I DON'T WANT TO GO OVER IT NOW UNLESS PEOPLE WANT ME TO, BUT I SPENT TIME LOOKING AT THE COMPLAINTS OR COMMENTS FROM THE NEIGHBORS AND THE DISTANCE BETWEEN THE BUILDING SUBJECT PROPERTY AND THE AREAS THAT PEOPLE REFER TO BECAUSE THAT WAS WITHIN OF MY CONCERNS IS WHAT IS THE PHYSICAL DISTANCE BETWEEN THE SUBJECT PROPERTY AND SITTING AREAS. WHAT IS IN BETWEEN SUBJECT PROPERTY AND SITTING AREAS AND WHAT IS -- WHAT'S ON THAT SIDE OF THE BUILDING? IF WE WANT TO TALK ABOUT THAT LATER, BUT THAT'S KIND OF WHERE I'VE SPENT A LOT OF TIME AND I WILL -- AS LONG AS I KNOW I HAVE THE LAYOUT RIGHT, THEN WE CAN GO ON. THANK YOU.

>> C. KAHN: CARRIE.

>> C. OLSON: I WANT TO SPEAK TO SAY THANK YOU IGOR AND CHARLES AND DEBBIE FOR TALKING ABOUT PRIVACY AND SHADOWS. THE SIMPLE REASON SAMANTHA IS BECAUSE THE PUBLIC DOESN'T KNOW WHAT YOU KNOW OR WHAT WE SEE IN OUR PACKET. BY THE TIME THOUGH WRITE THEIR LETTER TO US, THEY'RE REALLY MAKING SUPPOSITIONS ON THINGS THAT ARE NOT NECESSARILY RIGHT. WE NEED TO SET THE RECORD STRAIGHT. THEY NEED TO UNDERSTAND. BUT ALSO BECAUSE THERE ARE ALTERNATIVES. WE'RE NOT SHOWN -- AND I'VE ASKED FOR THIS MANY TIMES, WHAT THE CAN [INDISCERNIBLE] IS IN THE ADJACENT PROPERTIES. WE DON'T KNOW IF WE'RE ALLOWING FOR A LARGER WINDOW OR NEW WINDOW ADJACENT OR 8 FEET AWAY FROM ANOTHER PROPERTY. I GREW UP 8 FEET AWAY FROM MY NEIGHBOR'S HOUSE AND NOT KNOWING THAT THAT MAY BE WAS STARING AT ME AS A KID! IT'S REALLY CREEPY AND WE SHOULD KNOW AND THE NEIGHBORS SHOULD KNOW. IF YOU COULD PASS THAT ON TO THOSE MAKING THOSE DECISIONS, IT'S NOT THAT BIG OF AN ASK. THANK YOU.

>> C. KAHN: IF THERE ARE NO FURTHER QUESTIONS FOR STAFF FROM THIS COMMISSION, LET'S BRING IN THE APPLICANT. I BELIEVE THIS IS -- I'M LOOKING FOR THE APPLICANT.

>> IT'S SUNNY.

>> C. KAHN: THERE HE IS.

>> I BELIEVE THE PROPERTY OWNER IS --

>> C. KAHN: WOULD YOU LIKE TO JOIN FOR THE PRESENTATION? SUNNY.
, I HEAR YOU?

>> YES. CAN YOU HEAR ME?

>> C. KAHN: YES, YOU HAVE FIVE MINUTES TO PRESENT, BUT IT NEEDS TO BE YOU AND WHOEVER ELSE YOU WISH TO HAVE.

>> YES. BOTH OWNERS ARE HERE. IF THERE IS ANY TIME LEFT OVER, THEY'LL SPEAK. THANK YOU FOR THE GOOD EXPLANATION OF THE PROJECT. I WANTED TO JUST KIND OF REITERATE THAT WHEN WE FIRST STARTED THIS PROJECT, IT WAS A VERY DIFFERENT PROJECT THAN WHAT YOU ARE CURRENTLY SEEING. AND AFTER HAVING SOME DISCUSSIONS WITH THE NEIGHBORS LOOKING AT THE PRIVACY ISSUES, WE DID TAKE THOSE INTO CONSIDERATION AND ORIGINALLY WE ACTUALLY HAD A THREE-STOREY BUILDING WHERE WE DEVELOPED THE BASEMENT AS A FULL STOREY WITH A GARAGE WHICH IS WHAT THE HOMEOWNERS WANTED. BECAUSE A THREE-STOREY BUILDING WAS BECOMING PROBLEMATIC, TALKING WITH NICK WE DECIDED THAT WE WOULD ELIMINATE THE GARAGE AND DO NOT LIST THE -- WE WERE LIFTING THE EXISTING HOUSE UP TO ACCOMMODATE THE GARAGE LEVEL. IT WAS MAKING THE BUILDING MUCH TALLER. ONCE WE DECIDED THAT WE'RE GOING TO FORGO THE GARAGE AND NOT LIFT THE BUILDING AT ALL, WE WERE JUST GOING TO -- ONLY GOING TO ADD A SECOND STOREY ADDITION SO IT WOULD BE A TWO-STOREY BUILDING. AND WE CHANGED THE ROOFLINE CONSIDERABLY TO HAVE A SMALLER IMPACT ON AT ADJACENT PROPERTIES. AND WE ALSO RECONFIGURED SOME OF THE BEDROOMS ON THE UPPER FLOOR SO ON THE BACK OF THE HOUSE, WE ONLY HAVE ONE BEDROOM AND THEN WE HAVE TWO BATHROOMS WHICH HAVE HIGH WINDOWS LOOKING TOWARDS THE EAST. AND THAT WAS THE NEIGHBORS AT

1609 CONCERNS ABOUT PRIVACY. SO WE HAVE TWO HIGH WINDOWS IN THE BATHROOMS WHICH TECHNICALLY, IRE NOT REALLY LOOKING DOWN. THE OTHER BEDROOM ON THE NORTH SIDE, RIGHT ACROSS FROM THERE IS A VERY LARGE TREE. THAT'S WHAT WE WOULD BE LOOKING AT PLUS THE NEIGHBOR'S GARAGE BACK THERE AND ACCESSORY BUILDING. YOU CAN'T SEE MUCH INTO THEIR YARD. AND BY LOWERING THE BUILDING, CHANGING THE ROOFLINE, WE REDUCED THE ORIGINAL SHADOW IMPACT THAT WE WERE HAVING. SAME THING WITH THE NEIGHBORS ON THE LEFT SIDE AND THE RIGHT SIDE. WE REDUCED THE SHADOW IMPACT AND THE SHADOW IMPACT THAT WE HAVE IS MINIMAL AT THIS POINT. I CAN MIND FOR SECOND STOREY ADDITIONS IN THE BAY AREA. IT'S HARD TO DESIGN SOMETHING THAT YOU HAVE ZERO IMPACT IN THIS URBAN ENVIRONMENT. REPLY DO AS MUCH AS WE CAN. WE CHANGE ROOFLINES -- CHANGE THE ROOF PITCH. WE ARE DOING ALL THE THINGS WE DID HERE. TO MINIMIZE THE IMPACT ON THE NEIGHBORS. ORIGINALLY THE NEIGHBOR ON THE LEFT-HAND SIDE AND RIGHT-HAND SIDE HAD GIVEN US THEIR SUPPORT ON THIS PROJECT. AND THAT'S WHEN WE MOVED FORWARD WITH THINGS. AS FAR AS THE SCALE OF THE PROJECT, IT'S BASICALLY A SECOND STOREY ADDITION. AND THE BASEMENT BUILD OUT IS A BONUS AT THIS POINT, BUT THAT WHOLE BASEMENT IS GENERALLY BELOW GRADE. WE'RE ABLE TO GET WINDOWS IN THE FRONT AND NO WINDOWS IN BACK AND VERY LITTLE ON THE SIDE. YOU ASK FOR A SECOND STOREY ADDITION WHICH IS NOT UNREASONABLE, WE SET THE FRONT OF THE FACADE BACK TO STAY WITHIN THE 20-FOOT SETBACK AND DID THE SAME THING IN THE REAR. WE SET THE REAR

WALL BACK SO WE'RE 20 FEET FROM THE SETBACK. THE BUILDING ITSELF HAS A FAIRLY GOOD SEPARATION BETWEEN THE ADJACENT PROPERTIES TECHNICALLY THE PROPERTY FROM THE REAR SO PRIVACY IS IT IS THERE. WILL SOMEBODY BE ABLE TO STAND THERE AND LOOK OUT? YES, BUT I DON'T THINK IT'S THAT INTRUSIVE. WE'VE DONE AS MUCH AS WE CAN GIVEN THIS SMALL LOT WE HAVE AND THE REASON FOR ALL OF THE AMOUNT OF USE PERMITS AND ADMINISTRATIVE USE PERMITS IS BECAUSE OF THE CONSTRAINTS WE HAVE TO DEAL WITH A SMALL LOT AND IT WAS OVER-FILLED. IN ORDER -- I MEAN, IF THIS WAS AN EMPTY LOT WE'D BE BUILDING A DIFFERENT STRUCTURE ON THE SITE. BUT WE'RE WORKING WITH A GIVEN CONDITION. WE WOULD LIKE DO AS MUCH AS WE CAN AND GIFT HOMEOWNERS A PROJECT THAT THEY WANT TO CONTINUE LIVING IN. I'M RUNNING OUT OF TIME, BUT THIS IS A PROJECT THAT IS DESIGNED FOR THEIR FAMILY AND ONE OF THE SONS WHO GOING TO CONTINUE LIVING IN THE APARTMENT NEXT DOOR IS VISUALLY IMPAIRED. HE DOES NOT DRIVE.

>> C. KAHN: SUNNY, YOU'RE OUT OF TIME. THANK YOU VERY MUCH FOR THE PRESENTATION. YOU WILL HAVE A COUPLE MORE MINUTES AFTER THE PUBLIC SPEAKS TO ADDRESS ANY CONCERNS THAT THEY BRING UP. SO, NOW IS THE TIME -- ANY QUESTIONS FOR THE APPLICANT? FROM THIS COMMISSION? SEEING NONE, I WOULD LIKE TO MOVE FORWARD WITH THE PUBLIC PARTICIPATION. I SEE ONE HAND UP. IF YOU WISH TO SPEAK ON THIS PROJECT, THIS IS YOUR OPPORTUNITY. PLEASE RAISE YOUR HAND NOW. SO THAT I'LL HAVE A CLEAR IDEA OF HOW MANY PEOPLE WISH TO

SPEAK ON THIS. I ONLY SEE -- I SEE ANNA, ADAM, TAMAR AND BARBARA. DOES ANYONE ELSE WISH TO SPEAK ON 1643, 1647 CALIFORNIA? YES NO? OKAY. WE HAVE --

>> I. TREGUB: CHAIR.

>> C. KAHN: WE HAVE FOUR PEOPLE SHOWING INTEREST IN SPEAKING. I'LL GIVE YOU EACH TWO MINUTES TO SPEAK. IF YOU CAN KEEP IT TO LESS, THAT'S GREAT. BUT YOU HAVE TWO MINUTES. WE'LL START WITH ANNA. ANNA, YOU NEED TO UNMUTE.

>> CAN I RESPOND TO THE COMMENT THAT SUNNY MADE FIRST BEFORE I BEGIN MY TWO MINUTES?

>> C. KAHN: NO, YOU HAVE TO SPEND YOUR TWO MINUTES HOWEVER YOU WISH.

>> THE ARCHITECT OR THE NEIGHBORS HAVE NEVER SPOKEN TO US ABOUT THIS PROJECT. SUNNY CAME TO ASK US IF WE HAD ANY QUESTIONS ON THE SAME DAY THEY SUBMITTED THE SECOND SUBMISSIONS. OUR PROPERTY HAS TOO MUCH LARGE TREES. THE REMAINING SUN SPOTS ARE THE REAR DECK AND OPEN AREA TO THE WEST. THEY WOULD BE SHADED. THIS POSES A DRAMATIC IMPACT ON OUR PROPERTY. THE PROPOSED UPPER LEVEL WILL PROVIDE A CLEAN LINE OF SIGHT TO OUR KITCHEN AND BEDROOM. IF THIS REMODEL HAPPENS AND WE LEAVE OUR BEDROOM AND BATHROOM DOORS OPEN, THE PROJECT PROPONENTS WOULD BE ABLE TO SEE ME SITTING ON THE TOILET. THE PRIVACY OF OUR HOUSE WILL BE GONE. RECENTLY SIGNIFICANTLY REMODELED OUR HOME MAKING CHANGES SO WE WOULD NOT HAVE TO LOOK AT THIS DILAPIDATED PROPERTY. WE MOVED THE WINDOWS.

THE VIEW PROVIDED INTO AND OUT OF OUR HOUSE ARE THREATENED BY THIS PROJECT. THE MATERIAL SUBMITTED MISSED KEY FACTS. ALL THREE ADJACENT NEIGHBORS OPPOSE THE PROJECT BECAUSE OF THE IMPACT ON PRIVACY AND SHAPE. THE RATIONALE IS TO HOUSE THE FAMILIES EVEN THOUGH THEY'RE EXTREMELY SUCCESSFUL IN THEIR CAREERS AND ABLE TO LIVE INDEPENDENTLY WHILE THE FAMILY OWNS AN APARTMENT COMPLEX LESS THAN A MILE AWAY. THIS WOULD BE A TWO UNIT SIX BEDROOM HOUSE WITH NO PARKING. IT'S KEY TO KNOW IT WAS THE OPPENHEIMERS THEMSELVES THAT WOULD --

>> C. KAHN: ANNA.

>> IT SHOULD NOT BE CONSIDERED IN FAVOR OF PROJECT.

>> C. KAHN: ANNA -- ANNA, WHAT WILL IS YOUR ADDRESS JUST SO WE KNOW WHICH PROPERTY.

>> I'M ONE OF THE RESIDENTS ON THE 1609 UNIT IN BACK OF THIS HOUSE. THEIR ENTIRE BACKYARD --

>> C. KAHN: THAT'S OKAY. I JUST WANTED TO KNOW THE ADDRESS. THANK YOU. THANK YOU FOR COMING. ADAM, YOU ARE UP. YOU NEED TO UNMUTE.

>> CAN YOU HEAR ME IN.

>> C. KAHN: YES.

>> I'M THE OTHER RESIDENT AT -- 1609 VIRGINIA STREET. AND ALONG WITH OTHER NEIGHBORS THAT ARE ADJACENT PROPERTIES, WE'RE STRONGLY AGAINST THIS SHADOW STUDIES AND IMPACT ON PRIVACY AND SO A LOT OF PEOPLE LOOK AT THAT. WE ALL DO WANT TO SEE THE

OPPENHEIMERS FIX UP THEIR HOUSE. IT'S IN BAD SHAPE ON THE EXTERIOR. OVER THE PAST 20 YEARS ALL FOUR OF THESE HOUSEHOLDS HAD GOOD RELATIONS AND IT'S UNFORTUNATE THAT THIS PROPOSED PLAN IS ASKING FOR SO MUCH AND CREATING TENSION IN OUR CORNER OF COMMUNITY. THE PROPOSAL IS ASKING FOR SEVEN USE PERMITS. THAT WOULD ALLOW FOR ADDITIONAL OVER 2600 SQUARE FEET OF LIVING SPACE AND THEY HAVE A 2800 CAN SQUARE FOOT PROPERTY AND ONLY 3100 SQUARE FOOT LOT. THIS IS ALREADY NON-CONFORMING IN COVERAGE, DENSITY, YARD AND HAS NO PARKING ON THE STREET AT ALL. APPROVING THIS WOULD DEGRADE THE VALUE OF THE ZONING RULES AND WOULD INCREASE OF VALUE OF OUR PROPERTY AND OTHER PROPERTIES IN LIEU OF INCREASING THE VALUE OF THE OPPENHEIMER'S PROPERTY. NICK STATED IN HIS REPORT, THIS WILL PROPOSED PROJECT DOES NOT COMPLY WITH THE APPLICABLE ZONING STANDARDS AND THE CITY MAY REQUEST MODIFICATIONS TO MITIGATE OR AVOID THE IMPACT TO THE SURROUNDING PROPERTIES. NICK ALSO SPECIFICALLY SUGGESTED DURING THE PROCESS LAST YEAR THAT THE APPLICANTS REDUCE THE IMPACT TO THE NEIGHBORS BY ELIMINATING THE AMOUNT OF THE FLOOR GIVING THEM A 2700 SQUARE FOOT LIVING SPACE WHICH IS LARGER THAN THE OTHER NEIGHBORS AROUND THEM. WE THUS ASK THE BOARD TO REQUEST A MAJOR MODIFICATION IN LINE WITH THE SUGGESTION PRIOR TO CONTINUING THE HEARING.

>> C. KAHN: THANK YOU A -- THANK YOU DAM. I NOTE THAT BARBARA FRITZ -- I'M GOING TO RECOGNIZE YOU NEXT. WE.

>> I'M HERE. I LIVE AT 1639 SO I'M THE NORTH NEIGHBOR AND I'M HAPPY THAT THE OPPENHEIMERS ARE FINALLY GOING TO BE ABLE TO DO THIS PROJECT. I'VE LIVED HERE 40 YEARS SO I LIVED HERE SINCE THEY MOVED IN. AND ADAM AND ANNA AND THE OTHER NEIGHBOR KAY ON THE CORNER ARE AWARE OF I'M NOT HAPPY ABOUT THE SHADOW ISSUES, BUT I APPRECIATE THE EXPLANATION THAT THE BOARD HAS GIVEN ABOUT WHAT YOU CAN AND CANNOT DEAL WITH. SO I JUST WANT TO GIVE MY SUPPORT. I'M SAD THAT I AM GOING TO LOSE A CERTAIN AMOUNT OF LIGHT IN THE WINTER. IT IS SIGNIFICANT TO ME. BUT I -- BUT I DO WANT TO -- I'M NOT LOOKING FORWARD TO THE NOISE. BUT I'M HAPPY THAT THE OPPENHEIMERS ARE GOING TO FINALLY FIX UP THEIR HOUSE WHICH NEEDS WORK FOR A LONG TIME AND I LOOK FORWARD TO HAVING THEM AS NEIGHBORS FOR A LONG TIME. THAT'S ALL. I'M DONE.

>> C. KAHN: THANKS FOR COMING AND SPEAKING. THAT'S IT FOR PUBLIC COMMENT. WE DOLL HAVE -- I NOTICED TAMAR AND [INDISCERNIBLE] OPPENHEIMER. ARE THOSE TWO THE OWNERS?

>> TAMAR IS ONE OF THE OWNERS. AND [INDISCERNIBLE] IS THEIR SON.

>> C. KAHN: I'M GOING TO BRING THEM IN BECAUSE THEY ARE ALLOWED TO PARTICIPATE IN THE RESPONSE. THIS THEY HAVE TWO MINUTES TO RESPONSE AS DO YOU. BUT YOU ONLY HAVE TWO MINUTES BETWEEN THE THREE OF YOU SO USE IT WISELY.

>> I. TREGUB: MR. CHAIR --

>> CAN YOU HEAR ME?

>> C. KAHN: YES.

>> I. TREGUB: I THINK KAY ALSO KEEPS RAISING THEIR HAND BUT IT KEEPS GOING DOWN.

>> C. KAHN: TAMAR, BEFORE YOU SPEAK, THERE IS ANOTHER PERSON TRYING TO SPEAK THAT I THINK -- KAY. IT APPEARS AND DOESN'T APPEAR. NOT -- THERE SHE IS. KAY. HER CONNECTION MUST BE BAD. SHE KEEPS CAN -- SHE KEEPS DISAPPEARING. THERE IS A PROBLEM WITH HER CONNECTION, I THINK. ALL RIGHT. I DON'T WANT TO STOP THE PROCEEDINGS. THERE IS KAY. CAN YOU -- I DON'T KNOW WHAT THE PROBLEM IS WITH KAY. KAY. IS THERE ANYTHING THAT WE CAN DO TO GIVE HER A CHANCE TO SPEAK?

>> I FEEL LIKE I CAN HEAR SOMETHING LIGHT IN THE BACKGROUND. KAY, I WONDER IF YOU HAVE A SETTING OF SOME SORT TURNED DOWN OR YOUR MICROPHONE IS COVERED?

>> C. KAHN: WE NEED TO KEEP THE MEETING MOVING ALONG. KAY, I'LL GIVE YOU THE OPPORTUNITY TO SPEAK AFTER THESE NEXT TWO MINUTES IF YOU CAN IMAGINE TO CUT IN AND SAY SOMETHING.

>> BOARD SECRETARY: KAY COULD CALL IN.

>> C. KAHN: YOU CAN TRY THAT WITH A CELL PHONE POSSIBLY.

>> BOARD SECRETARY: YEAH.

>> C. KAHN: KAY, IF YOU COULD WOULD LIKE TO TRY CALLING IN YOU CAN PUT YOUR HAND DOWN AND TRY DO THAT. OKAY. I THINK WE NEED TOO KEEP ROLLING. SORRY KAY, BUT I DON'T WANT TO HOLD THIS UP. SUNNY, START WITH YOUR TWO MINUTES.

>> I'LL HAVE EITHER TAMAR OR ORR SPEAK.

>> CAN YOU HEAR ME?

>> C. KAHN: YES.

>> I ACTUALLY -- AND MY HUSBAND IS HERE. I WANTED TO TALK ABOUT
[INDISCERNIBLE]

>> ANNA IS HEAR.

>> C. KAHN: LET'S HAVE KAY SPEAK. KAY, WE CAN HEAR YOU NOW. KAY.
SPEAK UP. WE CAN HEAR YOU.

>> A --

>> C. KAHN: I DON'T KNOW WHAT TO DO.

>> I'M ON? OKAY.

>> C. KAHN: KAY, I DON'T KNOW IF YOU CAN HEAR ME BUT --

>> CAN YOU HEAR ME?

>> C. KAHN: YES.

>> I'M KAY RISTOL AND I OWN THE SMALL DUPLEX SOUTH OF THE
PROPOSED REMODEL. I LIVE AT 1651. I JUST WANT TO ASK, IT SEEMS
LIKE IN READING THINGS, THAT THIS PROJECT HAS BEEN APPROVED. BUT
I DON'T KNOW IF THAT'S TRUE. CAN YOU TELL ME?

>> C. KAHN: NO.

>> I CAN'T HEAR YOU, BUT I GUESS YOU CAN HEAR ME. I'M WONDERING,
THERE ARE 6 TO 7 USE PERMITS OR VARIANCES NEED FOR THIS PROJECT.
I'M WONDERING IF THOSE ARE ALL APPROVED, WHAT IS THE USE OF
HAVING THOSE PERMITS? ALL OF THE NEIGHBORS I THINK FEEL STRONGLY
THREE OF THE NEIGHBORS ON THIS -- ON THE NORTHEAST AND ON THE
SOUTH FEEL STRONGLY ABOUT THE PRIVACY ISSUE. AND ALSO THE

DECREASED VALUE OF OUR PROPERTY IF THIS HUGE PROJECT IS GOING TO BE OKAYED. SO, IT SEEMS LIKE THAT A LOT OF THE CONSIDERATION OF THE SHADE HAS NOT BEEN FULLY MADE -- DONE -- HAS NOT DONE -- HAS NOT BEEN EVALUATED CORRECTLY. IT'S A BIG PROBLEM.

>> C. KAHN: PLEASE WRAP IT UP.

>> AND PRIVACY IS ALSO THE BIGGEST PROBLEM. I GUESS MY TIME IS RUNNING OUT. I JUST WANT TO SAY THAT ALL OF US FEEL SO STRONGLY ABOUT THIS. AND THANK YOU VERY MUCH FOR YOUR ATTENTION. SORRY ABOUT THE MIX-UP.

>> C. KAHN: THANK YOU. I'M GLAD YOU GOT A CHANCE TO SPEAK. WE'LL TRY TO ADDRESS YOUR QUESTIONS IN THE DISCUSSION. NOW, SUNNY OR TAMAR, YOU HAVE YOUR TWO MINUTES.

>> I'LL LET TAMAR SPEAK.

>> C. KAHN: GO FOR IT TAMAR. YOU NEED TO YOU BE MUTE IF YOU WISH TO SPEAK.

>> CAN YOU HEAR ME NOW?

>> C. KAHN: YES. THE MAIN THING IS THAT ONE OF THE UNITS WOULD -- HE'S YOUNG AND VISION IMPAIRED AND NEVER HAVE A CAR. THERE WON'T BE A PROBLEM WITH THE PARKING. HE CANNOT USE A CAR AND HE'LL USE PUBLIC TRANSPORTATION AND WALK TO SHOPS. WHEN WE GIVE HIM ONE UNIT, IF WE DON'T DO ANY REMODELING WE STAY WITH A ONE-BEDROOM APARTMENT FOR THE FAMILY WHEN WE HAVE FOUR KIDS THAT LIKE TO COME OVER AND WE HAVE A FAMILY GATHERING AND HOPE THAT WE'LL GET TO THE PART OF GRANDKIDS ONE DAY THAT WE'D LIKE TO

HOST THE BIG FAMILY PARTIES INSIDE ASK OUTSIDE IN OUR YARD LIKE WE DID MOST IN THE CORONAVIRUS TIME. I SENT A PICTURE FROM THE SECOND FLOOR AND WENT TO THE AREA WHERE THE BEDROOM IS IN THE CORNER CLOSE TO KAY'S AREA. IN THE PICTURE BEING SEE WE DON'T SEE ANY OF THE KAY'S AREA. THERE IS NO REASON TO BE CONCERNED ABOUT THAT AREA. THEY'LL HAVE BATHROOMS AND THEY WON'T BE THE WINDOWS YOU SEE THROUGH. IN ANNA'S AREA, THERE ARE TWO PICTURES IN THOSE PHOTOS THAT I SENT TODAY THAT SHOW THAT DIRECTLY FROM THAT BEDROOM IS THE TREES. SO WE DON'T SEE ANYTHING. YOU CAN SEE ON THE SIDE THE BEDROOM WINDOWS BUT DEFINITELY YOU CANNOT SEE ANYTHING IN THEIR YARD OR. ONE OF THE PICTURES SHOWS THAT RIGHT NOW WE CAN SEE THEIR KITCHEN WINDOW. AND THAT WOULD STAY SAME FROM THE YARD.

>> C. KAHN: YOU NEED TO WRAP IT UP.

>> AND CASE WINDOWS WILL BE THE SAME. WE CAN SEE IT NOW AND KEEP SEEING IT. ALSO MY HUSBAND WOULD LIKE TO TALK.

>> C. KAHN: YOU USED YOUR TIME. THANK YOU VERY MUCH. SO, I WOULD LIKE TO BRING IT BACK TO THE COMMISSION. FOR COMMENT. WE WILL HAVE ANY DISCUSSION THAT YOU MAY WANT TO HAVE. I WOULD LIKE TO RESPOND TO SOME OF THE QUESTIONS THAT WERE VOICED IN PARTICULAR BY KAY THERE. AT THE END. KAY, I APPRECIATE YOUR CONCERN THAT THIS FEELS LIKE A FOREGONE CONCLUSION. AND TO SOME EXTENT IT IS. BECAUSE OF THE STATE STATUTE THAT RESTRICTS WHAT WE CAN DO, NOT 100 PERCENT. WE CAN MAKE ADJUSTMENTS THAT CAN HELP WITH THE

PRIVACY CONCERNS. BUT WE CAN'T RULE ON PARKING BECAUSE THE CITY HALL NO LONGER REQUIRES PARKING OF NEW UNITS. AND WE AREN'T EMPOWERED TO GO AGAINST THE WILL OF THE COUNCIL AND WE CAN'T DENY THE NEW UNIT BECAUSE THE STATE LAW DOESN'T ALLOW THAT. IF ANY OF YOU MEMBERS OF THE COMMUNITY MAKE SPECIFIC REQUESTS OR RECOMMENDATION ABOUT REDUCING OR MODIFYING ARCHITECTURAL ELEMENTS TO THE BUILDING, THAT'S THE KIND OF THING THAT WE HAVE REQUESTED IN THE PAST AND WOULD REQUEST AGAIN. I DIDN'T HEAR ANYTHING SPECIFIC REQUESTS ALONG THOSE LINES. SO I DON'T -- I DON'T KNOW IF THERE IS ANYTHING WE CAN DO TO HELP YOU OUT HERE. IGOR, I SEE YOU HAVE YOUR HAND UP.

>> I. TREGUB: I HAD A COUPLE OF QUESTIONS FOR STAFF IN RESPONSE TO SOME OF THE COMMENTS I HEARD. THE FIRST ONE, ON THE NUMBER OF USE PERMITS BEING REQUESTED AND I RECOGNIZE THIS IS A TERM OF EYE ART FOR US. WE DEAL WITH THIS EVERY TWO WEEKS BUT THIS IS NEW TO A LOT OF MEMBERS OF THE PUBLIC. JUST TO CONFIRM, STAFF, CAN YOU CONFIRM THERE ARE IN TOTAL TWO USE PERMITS AND FOUR ADMINISTRATIVE USE PERMITS THAT TYPICALLY WOULD BE, YOU KNOW, IF IT WAS JUST ADMINISTRATIVE USE PERMITS AND NO USE PERMITS, THIS COULD BE APPROVED THROUGH STAFF REVIEW. WOULDN'T EVEN GO TO US.

>> YOU ARE CORRECT. TWO USE PERMITS, THERE ARE FIVE TOTAL ADMINISTRATIVE USE PERMITS. THE THIRD BULLET ON THE PERMITS REQUESTED MENTIONS ADMINISTRATIVE USE PERMITS FOR HORIZONTAL SETBACKS. THOSE ARE TWO ADMINISTRATIVE TERMS. TYPICALLY,

ADMINISTRATIVE USE PERMITS WOULD BE DONE OUTSIDE OF THE ZAB'S PURVIEW.

>> I. TREGUB: THANK YOU SO MUCH. MY NEXT QUESTION IS IF YOU COULD, ONCE AGAIN, CLARIFY WHAT YOU SAID ABOUT OBJECTIVE STANDARDS BECAUSE I THINK I HEARD IT DIFFERENTLY THAN THE WAY THAT A NEIGHBOR HEARD IT, BUT I JUST WANTED TO MAKE SURE, ARE THERE ANY OBJECTIVE STANDARDS INVOLVED THAT GOVERN THIS PARCEL AND IF SO, WHAT ARE THEY?

>> THERE ARE ACTUALLY THE TWO USE PERMITS HAVE SPECIFIC OBJECTIVES REQUIREMENTS THAT MUST BE MADE. THE USE PERMIT OF BEING OVER THE DENSITY SAYS THAT YOU'RE NOT INCREASING THE DENSITY OR GOING OVER THE HEIGHT LIMIT. SIMILARLY WITH THE USE PERMIT FOR NONCONFORMING LOT COVERAGE AS LONG AS THEY'RE NOT INCREASING THE LOT COVERAGE OR GOING OVER THE HEIGHT LIMIT, THEY ARE PERMITTED. STILL THROUGH THE USE PERMIT STANDARDS AND GENERAL NON-DETRIMENT FINDINGS. AND THE ADDITIVE USE PERMITS WITHOUT EXTENDING THE YARDS STIPULATES THEY'RE NOT FURTHER DECREASING THE NONCONFORMING YARDS AND THEY ARE NOT DOING THAT.

>> I. TREGUB: THANK YOU. AND MY LAST QUESTION, ONE MEMBER OF THE PUBLIC COMMENTED THAT IT WAS SOME BACK AND FORTH ALLEGEDLY BETWEEN YOU AND THE APPLICANT TEAM AND RECOMMENDATIONS WERE MADE TO REDUCE THE FLOOR AREA. COULD YOU SPEAK TO THAT? BECAUSE I DIDN'T HEAR THAT PART IN THE INTRODUCTORY REPORT.

>> DURING THE COMPLETENESS REVIEW PROCESS OF APPLICATIONS, WE

SOMETIMES INCLUDE ISRAELI COMMENTS TO APPLICANTS. THEY AREN'T SPECIFIC INCOMPLETENESS THAT THEY MUST BE RESOLVED, BUT COMMENT THAT STAFF CAN DO IF IT NEEDS A BETTER PROJECT. WE INCLUDED ADVISORY COMMENTS SPECIFICALLY AROUND THE TOP LEVEL OF THE BUILDING. IN THE INITIAL APPLICATION AS SUNNY MENTIONED, IT WAS A THREE-STOREY DESIGN. THAT PROJECT WOULD HAVE REQUIRED A VARIANCE TO THE LOT COVERAGE. ONE OF THE ADVISORY COMMENTS WAS THAT THEY REMOVE THE VARIANCE REQUIREMENT BY WAY OF NOT LIFTING THE HOUSE AND CREATING A BASEMENT STOREY, WITH YOU BY KEEPING IT AS A TWO-STOREY ELEMENT. ONE OF THE SUGGESTIONS WAS AN AS OPTION TO LIFT THE HOUSE TO CREATE THE BASEMENT LEVEL BUT NOT TO ADD THE TOP LEVEL OF THE BUILDING. THEY CHOSE TO DO THE OTHER OPTION WHICH WAS NOT TO RAISE THE HOUSE BUT STILL KEEP THE TOP LEVEL. THEY ALSO DID MODIFY, THEY HAD A BUTTERFLY SHED ROOF DESIGN THAT PUSHED OUT THE TALLER ELEMENTS OF THE OUTER EDGES OF THE BUILDINGS AND THAT WAS MODIFIED TO A GABLED ROOF DESIGN TO REDUCE THE IMPACTS AND REDUCE THE AVERAGE HEIGHT OF THE BUILDING.

>> C. KAHN: ANY MORE QUESTIONS, IGOR?

>> I. TREGUB: THANK SO MUCH.

>> C. KAHN: DEBBIE.

>> MY QUESTION IS, I'VE BEEN STRUGGLING WITH THE SHADOW STUDIES TRYING TO FIGURE OUT WHAT KIND OF CONFIGURATION MIGHT REDUCE THE SHADOWS ON 1639 AND 1609. AND THEY'VE ALREADY MOVED THE FRONT OF

THE BUILDING BACK, THEY'VE PULLED THE BACK OF THE BUILDING IN. THE ONLY OTHER WAY I COULD SEE TO REDUCE THAT SHADOW IMPACT WOULD BE TO ACTUALLY LOWER THE ROOF. THAT GETS INTO WHAT YOU JUST DESCRIBED, NICK, ABOUT, YOU KNOW, RAISING THE HOUSE AND MAKING THE BASEMENT A FULL STOREY WHICH WOULD MAKE IT MUCH MORE FUNCTIONAL. IT'S NOT GOT A LOT OF LIGHT. IT'S GOING TO BE A REC ROOM PRIMARILY. SO IF THEY HAD RAISED THE HOUSE SO THEY HAD -- EITHER WAY, THEY WOULD HAVE HAD THE SAME AMOUNT OF SHADOW AND I GUESS THAT'S MY QUESTION. I DON'T SEE A WAY TO REDUCE THE AMOUNT OF SHADOW ON 1639 OR 1609 WITHOUT SAYING NO SECOND STOREY. I'M TRYING TO SEE IF THERE IS A WAY THAT WE COULD TWEAK THE SECOND STOREY AND HAVE LESS SPACE AND MAKE DUE WITH THE BASEMENT. THERE AREN'T MANY WINDOWS AND THEY ARE HIGH UP. I WAS TRYING TO FIND IF THERE ARE ANY OPTIONS FOR REDUCING THE SHADOWS AND IT SEEMS TO ME UNLESS WE JUST SAY REDUCE THE SQUARE FOOTAGE OF THE SECOND FLOOR, CUT THE SECOND FLOOR IN HALF, I DON'T KNOW WHAT OTHER OPTIONS WE WOULD HAVE. IT LOOKED TO ME THAT THEY HAD ALREADY MADE THE CHANGES -- MADE A NUMBER OF CHANGES THAT REDUCE SHADOWS. BUT NOT COMPLETELY. SO, AND I GUESS -- SO I GUESS MY QUESTION IS AS YOU LOOKED AT THESE POSSIBLE CHANGES OF THE FIRST FLOOR OR SECOND FLOOR AND WHAT THE RESTRICTIONS ARE ON US BY THE STATE, WE CAN'T DENY THE UNIT. CAN WE REDUCE THE SQUARE FOOTAGE? I'M NOT SAY WE GO WANT TO, BUT I WANT TO BETTER UNDERSTAND THE PARAMETERS ON WHAT WE MAY OR MAY NOT DO. IF IT'S IN THAT GRAY

AREA, I NEED SOME GUIDANCE.

>> AS ONE POINT OF CLARITY, THE SECOND UNIT IS NOT ADDED TO THE PROPERTY BECAUSE IT WILL HAVE BEEN REMOVED. THEY HAVE TO RESTORE IT. BECAUSE IT WAS ILLEGALLY REMOVED. THERE IS NOT ANYTHING IN THE AHA THAT THERE IS A STRUCTURE THAT NEEDS TO BE REMOVED BUT YOU CAN'T APPROVE IT AS A LOWER DENSITY OR DENY THE PROJECT. IT DOESN'T SAY THAT YOU COULD NOT REDUCE THE SQUARE FOOTAGE OF PROJECT.

>> C. KAHN: HOLD THAT THOUGHT, NICK. I'M REFERRING I'M PULLING UP THE DATA FROM STEVE. I'LL BE ABLE TO QUOTE IT TO MAKE SURE THAT WE'RE DOING THE RIGHT THING. ANY OTHER QUESTIONS HERE OR COMMENTS?

>> D. SANDERSON: WE'RE AT 8:55, WE'LL NEED A CAPTIONER'S BREAK AT 9:00.

>> C. KAHN: HOPEFULLY WE CAN GET TO A VOTE BEFORE THEN. MY COMPUTER IS TAKING ITS OWN SWEET TIME. I'M READING THE MEMORANDUM. THE -- LET'S SEE, IS THERE ANYONE ELSE THAT WOULD LIKE TO SPEAK WHILE I'M -- BRINGING THIS UP.

>> D. SANDERSON: CARRIE, YOU HAVE YOUR HAND UP.

>> C. KAHN: WHILE I'M LOOKING AT THIS, SHOSHANA, COULD YOU TAKE OVER AS CHAIR?

>> S. O'KEEFE: SURE, CARRIE.

>> C. OLSON: I'M NOT SURE IF WE HAVE ANY WIGGLE ROOM ON THIS. I'M ASSUMING THAT WE DON'T, BUT STAFF CAN TELL ME IF WE DO. THIS

IS -- I'M SORRY, MY KIDS GREW UP AND LEFT HOME. IT'S MY HUSBAND AND I. THIS IS A HOUSE WHERE IT'S JUST GOING TO BE MOM, DAD AND ONE SON, YET WE APPROVE SIX BEDROOMS? JUST LET ME KNOW, NICK.

>> FIVE BEDROOM.

>> C. OLSON: OKAY. FIVE BEDROOMS. I JUST DON'T WANT DO A MINI DORM HERE. SORRY.

>> S. O'KEEFE: NICK, DO YOU WANT TO ANSWER? I THINK THAT WAS ADDRESSED TO YOU.

>> AGAIN, OUR UNDERSTANDING OF AHA IS THAT IT CAN'T BE DENIED OR REDUCED IN DENSITY. IF THERE IS A SPECIFIC EFFORT, WE HAD A PROJECT THAT THE ZAB CONSIDERED PREVIOUSLY IN THE HILLSIDE THAT DID REQUIRE THE MOVING OF THE STRUCTURE WHILE HE WAS AHA COMPLIANT.

>> S. O'KEEFE: YOU SAY MOVING.

>> THE TECHNICALLY THE SQUARE FOOTAGE WAS REDUCED BUT THE MAJOR COMPONENTS WERE NOT.

>> C. KAHN: I FOUND THE PARAGRAPH. THE SMOKING GUN. THIS IS FROM PAGE 3 OF STAFF COMMUNICATION TO ZAB 8/26/2021 FROM STEVE BUCKLEY, PLANNING DIRECTOR. MANAGER, SORRY. FOR PURPOSES OF THE AHA LOWER DENSITY INCLUDES ANY CONDITIONS THAT HAVE THE SAME EFFECT OR IMPACT OF THE ABILITY FOR THE PROJECT TO PROVIDE HOUSING GENERALLY UNDERSTOOD TO BE THE TOTAL NUMBER OF DWELLING UNITS, BUT ALSO RELATED TO OVERALL SQUARE FOOTAGE, NUMBER OF BEDROOMS, ET CETERA. THAT WAS NOT THE OLD POLICY OF THE CITY.

THAT'S WHY I MADE NOTE OF IT AT THE TIME. THE PRIOR POLICY OF THE CITY WAS THAT IT WAS ONLY NUMBER OF UNIT PROTECTED BY THE AHA. HE DID HIS HOMEWORK ON THIS. THAT'S FROM 8/26/21, I'LL SEND YOU THE LINK SO YOU CAN SHARE IT. WE CAN'T REDUCE THE NUMBER OF BEDROOMS PER AHA. SO, OUR HANDS ARE -- I MEAN IT DOES SEEM LIKE OUR HANDS ARE TIDE ON THESE ISSUES. SHOSHANA, I'LL GO AHEAD AND RESUME THE CHAIR WITH YOUR PERMISSION.

>> S. O'KEEFE: I WAS GOING IT MAKE A COMMENT BUT I SEE YOU'RE BACK. SO, THAT WAS MY THING AS WELL. THANK YOU SO MUCH FOR CLARIFYING. I DON'T THINK WE CAN REDUCE THE SQUARE FOOTAGE. IN RESPONSE TO CARRIE'S COMMENTS, I WANT TO REMIND THE BOARD WHEN WE MAKE DECISIONS, WE CANNOT, SHOULD NOT AND CANNOT TAKE INTO ACCOUNT THE STATED PURPOSE BY THE APPLICANT. IT DOESN'T MATTER WHO IS GOING TO LIVE THERE BECAUSE WE'RE GRANTING A USE PERMIT THAT GOES TO THE HOUSE. THEY COULD SELL THE SECOND THEY GET THE PERMIT AND SOMEONE ELSE CAN BUILD IT. WE NEED TO LIKE CAREFULLY AT WHAT WE'RE APPROVING. THANK YOU.

>> C. KAHN: I HAVE TWO HANDS UP, CARRIE AND DEBBIE AND I'LL RECOGNIZE YOU IN THAT ORDER.

>> C. OLSON: THANK YOU SHOSHANA FOR THAT. I'M NOT ASKING FOR MYSELF, I'M ASKING BECAUSE WE HAVE VERY INTERESTED NEIGHBORS. AND THEY NEED TO UNDERSTAND WHY IT IS THAT WILL THEY NEED TO UNDERSTAND WHY THIS ZONING BOARD MAKES DECISION. THIS IS THE SIZE OF THE PROJECT WE'RE PRESENTED WITH.

>> C. KAHN: DO YOU WANT TO EXPAND ON THESE IDEAS, CARRIE? OR DO YOU WANT TO WAIT?

>> C. OLSON: I THINK THERE ARE A LOT OF WINDOWS THAT LOOK DOWN ON NEIGHBORS AND THEY'RE CONCERNED ABOUT PRIVACY. WE COULD ASK THAT THOSE WINDOWS ON THE SECOND FLOOR BE WE CUT IN HALF. A COUPLE OF THEM ON THE FIRST FLOOR ON THE NORTH SIDE THAT ARE ALREADY SMALL NOW, SO THEY COULD REMAIN SMALL. AND I THINK THAT WOULD HELP. I AGREE WITH DEBBIE, I DON'T SEE ANY WAY TO CHANGE THE BULK OF THIS THING UNLESS WE MADE THE ROOF LOWER. BUT CHARLES, I WOULD HAVE TO RELY ON YOU TO COME UP WITH AN IDEA ON THAT. THAT'S ALL I HAVE TO SUGGEST. THE OTHER THING IS THAT PATHWAY THAT GOES TO UNIT NUMBER TWO ON THE NORTH SIDE OF THE BUILDING, THERE IS NO FENCE THERE. AND IT JUST SEEMS LIKE EYE IT'S EXPECTED THIS TO BE A GATE TO AN ENTRYWAY AND DRIVEWAY THAT PROBABLY DOESN'T EXIST. SHOULD WE ASK FOR A FENCE? JUST PUTTING IT OUT THERE.

>> C. KAHN: I WOULD LIKE TO -- DEBBIE, WITH YOUR PERMISSION I WOULD LIKE TO RESPOND TO CARRIE'S QUESTION ABOUT THE WINDOWS AND STUFF.

>> WE NEED TO TAKE A BREAK.

>> C. KAHN: OKAY, IT'S 9:00. THEN I'LL HOLD THAT AND DEBBIE, YOU'LL BE THE FIRST ONE HEARD WHEN WE COME BACK. AND I GUESS IT'S STANDARD TO TAKE A 10-MINUTE BREAK. WE HAVE ONE MORE. I THINK WE HAVE TO STOP AT 10:00 ANYWAY. LET'S BE BACK AT 9:12.

WE'LL MAKE IT 9:12 ON BUTTON. THANKS.

>> C. KAHN: OKAY. LET'S GET THIS UNDERWAY. IT BY, WHY DON'T YOU GO AHEAD AND SAY YOUR PEACE. CAN YOU HEAR ME, DEBBIE? CAN ANYONE HEAR ME? HOLD YOUR THUMB UP IF YOU CAN HEAR ME. DEBBIE DOESN'T SEEM TO BE HEARING ANYTHING. I'LL TRY TO TEXT HER. DEBBIE. CAN YOU HEAR ME? HOLD YOUR THUMB UP IF YOU CAN HEAR ME. NO? WELL, I THINK WE SHOULD MOVE FORWARD. DEBBIE, CAN YOU HEAR ME? YES? NO? SAMANTHA, CAN YOU HEAR ME?

>> BOARD SECRETARY: I CAN HEAR YOU.

>> C. KAHN: THIS SEALS TO BE A PROBLEM WITH DEBBIE'S SYSTEM. I SENT HER A TEXT -- SHE IS GOING TO SIGN OFF AND TRY TO GET BACK ON. SO, MOST OF THE CONCERNS VOICED WHICH THE NEIGHBORS WERE RELATED TO SHADOW AND LIGHT. AND I DON'T SEE ANYTHING MORE THAN WE CAN TO. THIS IS AS LOW AS IT CAN GO AND RECOMMENDATION FROM STAFF TO GO UP INTO THE BUTTERFLY ROUTE WHICH THEY COULD HAVE REQUESTED TO THE AVAILABLE ROUTE IS GOOD ADVICE, VERY THOUGHTFUL THAT THE NEIGHBOR'S PRIVACY AND SHADOWING CONCERNS, LIGHT AND AIR. THAT WAS A GOOD MOVE DROPPING -- NOT PUSHING UP THE HIGHEST THAT THEY COULD GO IS HELPING. THESE ARE NOT HIGH CEILING HEIGHTS. I'M KIND OF -- OTHER THING IS THEY DID RESPECT THE 20-FOOT SETBACK AT THE REAR AND THE FRONT ON THE NEW SECOND FLOOR. WHICH REALLY DOES MITIGATE THE SHADOW LINES OF THE FLOORS SUBSTANTIALLY. I FEEL LYING MOST OF THE MITIGATIONS ARE IN PLACE. I DIDN'T HEAR ANYTHING FROM THE NEIGHBORS EXPRESSING

CONCERNS ABOUT WINDOWS AND WINDOW PRIVACY. AND I LISTENED TO NEIGHBORS AND TRY TO RESPOND TO THEIR CONCERNS RATHER THAN JUST TRYING TO APPLY A RESTRICTION FOR THE SAKE OF APPEALING TO BE APPEARING TO BE ACCOMMODATING OF NEIGHBOR'S CONCERNS. IT DOESN'T ADDRESS THE CONCERNS THAT THEY VOICED. I HEARD VOICES ABOUT PARKING AND LIGHT AND ACTUALLY, HONESTLY, I LOOKED AT THE SHADOW PLANS AND I DON'T THINK THAT THIS IS DRAMATICALLY INCREASING THE AMOUNT OF SHADOW THAT THE NEIGHBORS ARE CURRENTLY EXPERIENCING. IT'S A SECOND STOREY ADDITION AND THE OWNER HAS THE RIGHT FOR A SECOND STOREY. I'M GOING TO MOVE FOR APPROVAL. IS DEBBIE BACK ON? SHE SEEMS TO BE HAVING TROUBLE WITH HER --

>> D. SANDERSON: NO I HAVE TO REMEMBER TO TURN THE HEAD SET ON. I TURN IT OFF. I HAVE COME TO THE SAME CONCLUSION. I SPENT A FAIR AMOUNT OF TIME LOOKING AT THE DISTANCES BETWEEN THE HOUSE AND THE DIFFERENT SITTING AREAS. AND NOTICED THAT THE SOUTHEAST, THE SOUTHEAST CORNER THAT LOOKS OUT OVER -- I MEAN I UNDERSTAND FROM THE NEIGHBORS' CONCERN THAT THIS IS DIFFERENT AND IT WILL INCLUDE CHANGES IN HOW THEY ARRANGE THEIR LIVING PATTERN WITH THEIR NEIGHBORS. I LIVE IN A HOUSE WHERE I CAN SEE INTO MY A NEIGHBOR'S DINING ROOM WINDOW ON ONE SIDE AND DIRECTLY INTO THE KITCHEN WINDOW ON THE OTHER SIDE. SOMEHOW IT EVOLVED. IF YOU PUT SEE-THROUGH CURTAINS WHERE YOU CAN'T SEE THE PEOPLE BUT IT LETS THE LIGHT IN. I UNDERSTAND THAT THE CHANGE IS UPSETTING AND IRE CONCERNED WITH THE IMPACT. BUT THE IMPACT HAVE OTHER WAYS OF

BEING ACCOMMODATING WITHOUT SAYING NO, YOU CAN'T BUILD THE BUILDING. AS FAR AS THE SHADOWS GO, I DON'T SEE ANY OTHER WAY AROUND IT. THE SHADOWS MENTIONED ARE TRANSITORY. ONE TIME OF THE YEAR AND TWO OR THREE MONTHS AND IT WON'T BE THE WINDOWS WILL BE SHADED ALL DAY. SO I'M WITH YOU, CHARLES, I MEAN I'VE LOOKED AT WHO IS SITTING IN WHAT ROOM AND LOOKING OUT WHERE AND HOW FAR AWAY IT IS. I THINK IT'S -- THESE ARE THE TYPICAL IMPACTS IN AN URBAN AREA EVEN THOUGH FOR THESE NEIGHBORS, I RECOGNIZE AND APPRECIATE THAT IT'S DIFFERENT THAN WHAT YOU'RE USED TO. BUT THAT SAID, I THINK I WOULD SUPPORT THE PROJECT.

>> C. KAHN: THANK YOU FOR YOUR COMMENTS. CARRIE.

>> C. OLSON: I DON'T DISAGREE. AND -- BUT I THINK IT'S IMPORTANT THAT WE HAVE THIS DISCUSSION. AGAIN IN FRONT OF THE PUBLIC. SO THEY UNDERSTAND WHY WE'RE MAKING THE DECISIONS WE MAKE. I'LL SECOND YOUR MOTION, CHARLES.

>> C. KAHN: THANK YOU, CARRIE. OKAY. WE HAVE A MOTION, WE HAVE A SECOND. IF THERE IS NO FURTHER DISCUSSION, I WOULD LIKE TO HAVE A VOTE SO WE CAN HAVE OUR FINAL ITEM TONIGHT. SAMANTHA.

>> CLERK: THANK YOU. THIS IS TO APPROVE 1643, 1647 CALIFORNIA STREET. COMMISSIONER DUFFY.

>> YES.

>> COMMISSIONER THOMPSON.

>> YES.

>> COMMISSIONER OLSON.

>> YES.

>> COMMISSIONER GAFFNEY.

>> YES.

>> COMMISSIONER KIM.

>> YES.

>> COMMISSIONER KAHN.

>> YES.

>> COMMISSIONER SANDERSON.

>> YES.

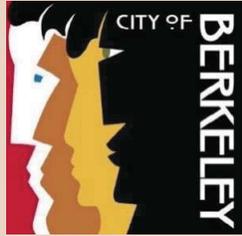
>> VICE CHAIR O'KEEFE.

>> YES.

>> AND COMMISSIONER TREGUB.

>> YES.

>> C. KAHN: THANK YOU SAMANTHA, THAT WAS A UNANIMOUS VOTE IN FAVOR OF THE USE PERMIT WHICH IS NOW GRANTED SUBJECT TO ALL THE TERMS AND CONDITIONS THAT APPLY.



Land Use / Zoning

Planning and Development

All new uses, structures, and modifications to structures in the City of Berkeley are required to be in conformance with the Zoning Ordinance.

Information on different types of permits can be found at the links below.

Overview of the Permitting Process
https://www.cityofberkeley.info/Planning_and_Development/Permit_Service_Center/Permitting_Process.aspx

Types of Permits
https://www.cityofberkeley.info/Planning_and_Development/Home/Types_of_Land_Use_Permits.aspx

Zoning Project Submittal Requirements
<https://tinyurl.com/rahe8ld>

Land Use / Zoning
 1947 Center Street
 2nd Floor
 Berkeley, CA 94704
 Phone: 510-981-7410
 TDD: 510-981-7450
planning@cityofberkeley.info

Zoning Project Application

<p style="text-align: center;"><i>(This box for staff use only.)</i></p> <p>ZP20 _____</p> <p> <input type="checkbox"/> Administrative Use Permit <input type="checkbox"/> Variance <input type="checkbox"/> Use Permit <input type="checkbox"/> Modification of any of the Above </p> <p>Zoning District(s): _____</p> <p>Intake Planner: _____</p>	<p>DATE STAMP HERE</p>
---	------------------------

Project Information:

Project Address: 1643 and 1647 California St. Unit/Suite #: _____

Assessor Parcel Number: 58-2156-18

Project Description:

- Reconfigure existing duplex to create one larger unit and one smaller apartment.
- All work shall be within the building footprint. The building shall remain as a duplex
- Create new new first floor and new third floor.
- See attachment for full description.

Expedited Services Requested? Yes No

Property Owner's Name: Ido and Tamar Oppenheimer

Owner's Mailing Address: 1643 & 1647 California St. Berkeley CA 94703

Phone #: 510-486-8387

Email: idoopp@gmail.com

Applicant's Name (or enter "same"): Sundeep Grewal - Studio G+S Architects

Applicant's Mailing Address: 2223 5th. St. Berkeley, CA 94710

Phone #: 510-548-7448

Email: sunny@sgsarch.com

Under penalty of perjury, I certify that:
(1) the application materials are true and complete to the best of my knowledge;
(2) the attached paper and electronic copies of this application are the same; and
(3) I agree to pay all expenses associated with this application.
 (*Owner's signature, or signed letter authorizing applicant to apply on owner's behalf, is required for all applications)

<p>Applicant Signature:</p> <p style="text-align: center;"></p> <p>Printed Name: <u>Sundeep Grewal</u></p> <p>Date: <u>12-22-2020</u></p>	<p>Owner Signature:</p> <p style="text-align: center;"></p> <p>Printed Name: <u>Ido Oppenheimer</u></p> <p>Date: <u>12-22-2020</u></p>
---	--

(This page is for staff use only)

Zoning District(s):	
Zoning Section	Description
1. 23___._____.	UP/AUP to
2. 23___._____.	UP/AUP to
3. 23___._____.	UP/AUP to
4. 23___._____.	UP/AUP to
5. 23___._____.	UP/AUP to
6. 23___._____.	UP/AUP to
7. 23___._____.	UP/AUP to
8. 23___._____.	UP/AUP to
9. 23___._____.	UP/AUP to
10. 23___._____.	UP/AUP to



Permit Service Center
 Building and Safety Division
 1947 Center St. 3rd Floor
 Berkeley, CA 94704

INVOICE

Date: 01/06/21

Invoice #: 450164

Record #: ZP2021-0001

Bill to:

Address: 1643 CALIFORNIA ST

Sundeeep Grewel
 2223 5TH ST
 BERKELEY CA 94710-2216

Date Assessed	Invoiced Fee Item	Fee	Paid	Balance
1/6/2021	Records Management RM	\$50.00	\$0.00	\$50.00
1/6/2021	Community Planning Fee CPF1	\$300.00	\$0.00	\$300.00
1/6/2021	UPPH: Additional Use Permit (on same project) UPPH060	\$400.00	\$0.00	\$400.00
1/6/2021	VAR: Additional Variances VAR040	\$400.00	\$0.00	\$400.00
1/6/2021	Community Planning Fee (15%) ADDCPF	\$660.00	\$0.00	\$660.00
1/6/2021	UPPH: ZAB Public Hearing Fee UPPH070	\$1,025.00	\$0.00	\$1,025.00
1/6/2021	AUP: Additional Administrative Use Permits AUP080	\$2,000.00	\$0.00	\$2,000.00
1/6/2021	UPPH: Base Tier 1 (all other projects) UPPH010	\$3,600.00	\$0.00	\$3,600.00
Totals:		\$8,435.00	\$0.00	\$8,435.00



2223 5th St. | Berkeley, CA 94710 | 510.548.7448 | info@sgsarch.com | www.sgsarch.com

Dec. 22, 2020

Applicant's Statement

Project address:

1643 & 1647 California St.
Berkeley, CA 94702

Existing Conditions:

The existing slight uphill parcel contains a one-story duplex in the R-2 restricted two-family residential district. Each duplex is 667 square feet. The existing building and density do not conform to the current maximum density or lot coverage requirements. However, the building was legally built with building permit and hence is considered legal non-conforming. See zoning research letter from Jan. 3, 2017 attached here. Both units are currently owner occupied. Please note unit 2 (1643 California Ave.) is a rent controlled unit. There is currently no on-site parking.

Proposed project: The proposed project includes an addition to and remodeling of the two units. Major components of the project include reconfiguration of the existing duplex to create one larger unit (unit 1) and one smaller, one bedroom unit (unit 2). All work shall be within the building footprint. The building shall remain a duplex.

The preliminary program includes the following:

Basement/First floor:

- Raise existing building to create new basement level for new garage (2 car parking, mech. room, storage and gym and family room.

Second floor:

- Reconfigure layout to create one large unit (unit 1) and one smaller, one bedroom unit (unit 2)
- Rebuild/reconfigure existing front entry porch and entry stairs for unit 1
- Create new side entry porch on left side for unit 2
- Create new stairs to basement and second floor levels
- Create new deck at rear of house

Third floor:

- Create new bedrooms, bathrooms and laundry room
- Create new balcony

Miscellaneous:

- Create new driveway and curb cut for new garage
- Remove existing accessory building at rear yard

Planning Application includes:

- Use Permit (UP) for enlarging a non-conforming density
- Use Permit (UP) for addition and expansion for non-conforming lot coverage
- Administrative Use Permit (AUP) for extension of non-conforming rear yard setback
- Administrative Use Permit (AUP) for extension of non-conforming front yard setback
- Administrative Use Permit (AUP) for major addition of 600 s.f.
- Administrative Use Permit (AUP) to create a fifth bedroom
- Administrative Use Permit (AUP) for building addition exceeding 14 feet in height
- Variance for exceeding lot coverage

Arguments in support of this project are as follows:

- A. The requested AUPs for major addition of 600 s.f., fifth bedroom and additions exceeding 14' in height are typical for any similar proposed project. There are no special exceptions requested for these various AUPs.
- B. The AUPs for the rear and front yard setback requirement is needed to extend the non-conforming walls for new first floor basement and the third story addition. Please note existing building was originally built within the front and rear setbacks in 1924. Please note that the left side set back is currently 3'-11" where 4'-0" required. The proposed building shall be shifted to the right to meet the 4'-0" setback.
- C. The two use permits required for enlarging a non-conforming density and lot coverage are unavoidable. The two legal units are very small at 667 s.f. each. Adding even one additional square foot the building triggers this use permit.
- D. The variance is sought for exceeding the lot coverage. This too is an unavoidable situation. Any amount of expansion of the existing building triggers the variance. The existing lot is one of the smallest parcels in this neighborhood. It is only 3,142 s.f. in size. However, the proposed project makes the existing condition much better than it is currently. The existing lot coverage is 49.94% (1,569 s.f.). The proposed lot coverage is reduced to 43.98% (1,382 s.f.). But because we are going from a single story building to a three story structure, it is still over the maximum lot coverage of 35% for a three story structure. Even if we were to reduce the project to a two story structure, it would still require a variance. It appears nothing can be proposed without this variance. We believe this to be a hardship for the homeowners.
 - I believe similar variances have been granted in the past (ZP2015-0077 and ZP2017-0100).
 - **ZP2017-0100** variance was approved because *"the Zoning Adjustments Board finds that the proposed project is permissible as it will not increase the existing non-conforming density, number of units, and substandard usable open space on the site. The project would not exceed the district height limit."* This is very similar to our case.

- **ZP2015-0077** also approved a lot coverage variance. It is somewhat of a similar situation as we also have a legal non-conforming lot coverage. In our proposed project we are reducing the lot coverage from 49.94% to 43.98%. I believe we have done as much as possible that can be done without removing a substantial section of the existing structure.
- A. Two new off-street parking spaces proposed (one regular and compact size). Therefore taking two cars off the street. Previously no parking was provided.
- B. The proposed project meets the required height limit
- C. The usable open space requirement now exceeds the minimum space requirement of 400 s.f. per dwelling unit. The existing open space is +/-500 s.f. The total open space proposed is over 1,000 s.f. By removing the existing accessory building at the rear of the property, we are creating a better outdoor space than existed.
- D. Has negligible impact to neighboring properties. (See shadow study)
- E. The proposed project has support from the adjoining neighbors. See attached letters.
- F. The scale of the new addition is compatible with many other houses with a similar height and scale in this neighborhood.



Sundeep Grewal
Applicant and Project Architect



area of new addition



1643 & 1647 California St.

Oppenheimer Residence
1643 & 1647 California St.
Berkeley, CA 94703

Site Photos

2223 Fifth Street.
Berkeley, CA 94710
Ph: 510. 548. 7448
www.sgsarch.com





Right Side



Left Side

Oppenheimer Residence
1643 & 1647 California St.
Berkeley, CA 94703

Site Photos

2223 Fifth Street.
Berkeley, CA 94710
Ph: 510. 548. 7448
www.sgsarch.com





Rear



Rear

Oppenheimer Residence
1643 & 1647 California St.
Berkeley, CA 94703

Site Photos

2223 Fifth Street.
Berkeley, CA 94710
Ph: 510. 548. 7448
www.sgsarch.com





1636 California St.

1634 California St.



1656 California St.



1639 California St.

1643 & 1647 California St.

1651 & 1653 California St.

Oppenheimer Residence
1643 & 1647 California St.
Berkeley, CA 94703

Neighborhood Context

2223 Fifth Street.
Berkeley, CA 94710
Ph: 510. 548. 7448
www.sgsarch.com





1600 Lincoln St.
Apartments

1631 California St.

1635 California St.

1639 California St.

AUP for 2nd story
addition approved



1634 California St.

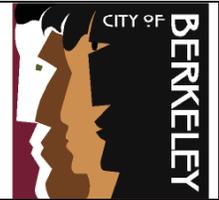
1628 California St.

Oppenheimer Residence
1643 & 1647 California St.
Berkeley, CA 94703

Neighborhood Context

2223 Fifth Street.
Berkeley, CA 94710
Ph: 510. 548. 7448
www.sgsarch.com



	<h1 style="margin: 0;">Zoning Project Application Submittal Requirements</h1> Page 1 of 18	
<i>(This box for staff use only.)</i>		DATE STAMP HERE
ZP202 _____ <input type="checkbox"/> Administrative Use Permit <input type="checkbox"/> Variance <input type="checkbox"/> Use Permit <input type="checkbox"/> Modification to any of the Above		
Intake Planner: _____		

SUBMITTAL REQUIREMENTS DURING COVID-19 SHELTER-AT-HOME ORDER

Please note: While the City is following the County Health Official's orders to shelter-at-home, this document has been modified to allow applicants to submit new Planning applications, while avoiding person-to-person contact. During this order, only the submittal requirements shown in **RED** will be required upon initial submittal of materials. Your project planner will review the submitted materials and contact you regarding any additional requirements for completion.

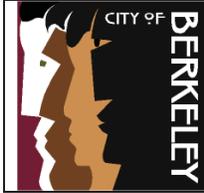
The Zoning Project Submittal Requirements packet describes all of the materials required to submit a complete Zoning Project Application to the Planning and Development Department, Land Use Division. Section 1 is a checklist of materials required for all projects; Sections 2-7 comprise a list of materials that may be required based on the project type or location. Other information not included on this checklist may be requested to address unique situations. All documents, reports and plans must be provided in hard copy and digital format.

Each submittal requirement on the checklist is described further in this packet, starting on page 3. Each description: 1) identifies whether an item is required, and 2) indicates how to prepare each document, drawing, material, and/or report.

Pages 1 and 2 of this packet must be completed and submitted with the Application. Staff will verify that the minimum submittal requirements have been included with your package during the application submittal appointment. Applications that are missing the materials in this checklist will not be accepted for review.

Section 1 – Required for all Projects

- | | |
|---|--|
| <p>A. <input checked="" type="checkbox"/> Completed Zoning Project Application Packet comprised of the following individual sections:</p> <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Zoning Project Application Form 2. <input checked="" type="checkbox"/> Completed copy of this Zoning Project Submittal Requirements Checklist (Pages 1-2) <p>B. <input checked="" type="checkbox"/> Applicant Statement / Waiver Request</p> <p>C. <input type="checkbox"/> Payment of Application Fees (Please Refer to Current Fee Schedule)</p> <p>D. <input checked="" type="checkbox"/> Hazardous Waste and Substances Statement</p> | <p>E. <input checked="" type="checkbox"/> Tabulation Form</p> <p>F. <input type="checkbox"/> Zoning Use Questionnaire N/A</p> <p>G. <input type="checkbox"/> Pre-Application Yellow Poster</p> <p>H. <input checked="" type="checkbox"/> Pre-Application Neighborhood Contact</p> |
|---|--|



Zoning Project Application Submittal Requirements

Page 2 of 18

Section 2 – Required for All Development Projects

(Involving New Structures, Additions, Demolitions, or Exterior Alterations)

- | | |
|--|---|
| A. <input checked="" type="checkbox"/> Site Plan | E. <input type="checkbox"/> Street Strip Elevation |
| B. <input checked="" type="checkbox"/> Lot Coverage/Usable Open Space Plan | F. <input checked="" type="checkbox"/> Section Drawings |
| C. <input checked="" type="checkbox"/> Floor Plans | G. <input checked="" type="checkbox"/> Boundary and/or Topographic Survey |
| D. <input checked="" type="checkbox"/> Building Elevations | H. <input type="checkbox"/> Grading Plan |

Section 3 – Supporting Documents, Studies, Graphics, and Depictions for All Development Projects

- | | |
|---|--|
| A. <input checked="" type="checkbox"/> Site Photographs | F. <input type="checkbox"/> Parking Survey |
| B. <input checked="" type="checkbox"/> Shadow Study | G. <input type="checkbox"/> Traffic Impact Analysis Memorandum |
| C. <input type="checkbox"/> Story Pole Plan | H. <input type="checkbox"/> Photo Simulations |
| D. <input type="checkbox"/> Arborist Report | I. <input type="checkbox"/> Public Art Declaration |
| E. <input type="checkbox"/> Structural Evaluation | |

Section 4 –Environmental Review

- | | |
|---|---|
| A. <input type="checkbox"/> Creek Protection Documentation | D. <input type="checkbox"/> Seismic Hazard Investigation |
| B. <input type="checkbox"/> Historic Resource Evaluation | E. <input type="checkbox"/> State General Construction Permit |
| C. <input type="checkbox"/> Phase I or Phase II Site Assessment | F. <input type="checkbox"/> Stormwater Requirements Checklist |

Section 5 – Required for Projects Subject to Affordable Housing Requirements

- | | |
|--|---|
| A. <input type="checkbox"/> Housing Affordability Statement | C. <input type="checkbox"/> Density Bonus Eligibility Statement |
| B. <input type="checkbox"/> Anti-Discrimination Housing Policies | D. <input type="checkbox"/> Area of Potential Effects (APE) Statement |

Section 6 – Landscape and Green Building Requirements

- | | |
|---|---|
| A. <input type="checkbox"/> Landscape Requirements | C. <input type="checkbox"/> Green Building Requirements |
| B. <input type="checkbox"/> Natural Gas Prohibition, Berkeley Energy Code and Berkeley Green Code | |

Section 7 – Related Land Use Planning Division Applications

- | | |
|---|--|
| A. <input type="checkbox"/> Design Review | B. <input type="checkbox"/> Structural Alteration Permit |
|---|--|

PLANNING & DEVELOPMENT

Land Use Planning Division, 1947 Center Street, 2nd Floor, Berkeley, CA 94704

Tel: 510.981.7410 TDD: 510.981.6903

Fax: 510.981.7420 Email: Planning@CityofBerkeley.info

A note from the homeowners:

Dear planning department and Zoning Adjustment Board,

Our family purchased this home in 1989 and was very happy to move into the neighborhood and was immediately welcomed by our neighbors (many of whom still live on the street!). When we first purchased this house, we knew that it needed a lot of work to make it our home. But life had different plans. In just a few short years, we found ourselves raising four children, two of which had disabilities. We focused all of our time, energy and efforts into raising our kids and remodeling/upgrading the house just wasn't a priority anymore.

Now, after 30 years, our home is in a bad condition and in need of dire work. Our kids are all adults now, three of them graduated college and now live in the bay area while the youngest is home studying for a college degree online. We are finally able to refocus our energy and time on the house to ensure it can remain our home for a very long time. Our home is a duplex and we'd like extend our living space to meet our needs. We would like to build a larger main residence while maintaining a smaller apartment for our youngest son, Ron (22). Ron was born with retinoschisis, a vision impairment which means he will never be capable of driving a car. Hence public transportation is very important to us. Our home is in a perfect location for him: just a 5 minute walk from BART, accessible busses and grocery stores within walking distance to provide him with an independent life. No child wants to be dependent on his parents for ever.

Therefore, it's important to us that he has a home to live in while we get to remain in our neighborhood with our incredible neighbors who we've known for over 30 years. We've spoken to our neighbors on both sides of our house and across the street and all support our project to remodel our home so we can remain on the same street.

Thank you for considering our request.

Tamar and Ido Oppenheimer

Project Description:

The proposed project includes an addition to and remodeling of the two units. Major components of the project include reconfiguration of the existing duplex to create one larger unit (unit 1) and one smaller, one bedroom unit (unit 2). All work shall be within the building footprint. The building shall remain a duplex.

The preliminary program includes the following:

Basement/First floor:

- Raise existing building to create new basement level for new garage (2 car parking, mech. room, storage and gym and family room.

Second floor:

- Reconfigure layout to create one large unit (unit 1) and one smaller, one bedroom unit (unit 2)
- Rebuild/reconfigure existing front entry porch and entry stairs for unit 1
- Create new side entry porch on left side for unit 2
- Create new stairs to basement and second floor levels
- Create new deck at rear of house

Third floor:

- Create new bedrooms, bathrooms and laundry room
- Create new balcony

Miscellaneous:

- Create new driveway and curb cut for new garage
- Remove existing accessory building at rear yard



PLANNING & DEVELOPMENT

Land Use Planning, 1947 Center Street, Berkeley, CA 94704

Tel: 510.981.7410 TDD: 510.981.6903 Email: Planning@CityofBerkeley.info

TABULATION FORM

Project Address: 1643 and 1647 California St. Date: 12-22-2020

Applicant's Name: Sundeep Grewal - Studio G+S Architects

Zoning District: R-2

Please print in ink the following numerical information for your Administrative Use Permit, Use Permit, or Variance application:

	<i>Existing</i>	<i>Proposed</i>	<i>Permitted/ Required¹</i>
Units, Parking Spaces & Bedrooms			
Number of Dwelling Units (#)	2	2	1
Number of Parking Spaces (#)	0	1	2
Number of Bedrooms (#) (R-1, R-1A, R-2, R-2A, and R-3 only)	3	5	N/A
Yards and Height			
Front Yard Setback (Feet)	10'-10'	10'-10"	20'-0"
Side Yard Setbacks: (facing property)			
Left: (Feet)	3'-11'	4'-0"	4'-0"
Right: (Feet)	5'-6'	5'-5"	4'-0"
Rear Yard Setback (Feet)	16'-10'	16'-10"	20'-0"
Building Height* (# Stories)	1	3	3
Average* (Feet)	13'-6'	26'-6"	28'-0"
Maximum* (Feet)	13'-6'	28'-0"	35'-0"
Areas			
Lot Area (Square-Feet)	3,100 s.f.	3,100 s.f.	4,500 s.f.
Gross Floor Area* (Square-Feet)	1,334 s.f.	3,412 s.f.	
Total Area Covered by All Floors			
Building Footprint* (Square-Feet)	1,569 s.f.	1,382 s.f.	1,085 s.f. for 3 stories
Total of All Structures			
Lot Coverage* (%) Residential only (Building Footprint/Lot Area)	49.94 %	43.98 %	35 % for 3 stories
Useable Open Space* (Square-Feet)	500 s.f.	1,029 s.f.	800 s.f. 400 s.f./unit
Floor Area Ratio* Non-Residential only (Except ES-R)	N/A	N/A	N/A

*See Definitions – Zoning Ordinance Title 23F.

Revised: 11/19

¹ See development standards for your Zoning District, per the Berkeley Municipal Code, Sub-Titles 23D and 23E
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PLANNING & DEVELOPMENT

Land Use Planning, 1947 Center Street, Berkeley, CA 94704
 Tel: 510.981.7410 TDD: 510.981.7474 Email: Planning@cityofberkeley.info

HAZARDOUS WASTE AND SUBSTANCES STATEMENT

Pursuant to the Permit Streamlining Act (PSA), a development permit application may not be accepted as complete unless and until the applicant has submitted a signed statement indicating whether the proposed project site or any alternative site(s) is on the lists of hazardous waste sites compiled pursuant to Government Code Section [65962.5](#) by the California Secretary for Environmental Protection.

Data lists / maps are available at the following websites (check multiple lists and categories):

<http://www.calepa.ca.gov/SiteCleanup/CorteseList/>

<https://www.envirostor.dtsc.ca.gov/public/>

Applicant's Information:

Name: Sundeep Grewal

Street Address: 2223 5th. St

City, State, Zip Code: Berkeley CA 94710

Phone Number: 510-548-7448 Email: sunny@sgsarch.com

Project Information:

Address: 1643 and 1647 California St

City, State, Zip Code: Berkeley CA 94703

Assessor's book, page, and parcel number: _____

Specify any list that the site appears on:

Regulatory identification number: _____

Date of list: _____

Site Use (if known):

Past: Residential - duplex Present: Residential - duplex

Proposed: Residential - duplex

Submittals (check all that are available):

Phase I Report Phase II Report Closure Letter Other: _____

Applicant's verification:

Signature:  Date: 12-22-2020

Cell: 415.385.5777
Jmalmuth@aol.com

The Malmuth Family
1636 California Street
Berkeley, CA 94703

November 1, 2020

Re: Proposed renovation at 1643 & 1647 California Street

To whom it may concern:

My wife and I moved into 1636 California Street in April 1983. During the intervening 37 years we raised our 3 children and have continued to enjoy what has essentially been decades very close and stable relationships with our neighbors. Ido and Tamar Oppenheimer moved into 1643 & 1647 California Street a very small duplex, at the end of 1989. We, as our other long-term neighbors, count them as an integral part of our California Street community. During the intervening 31 years that Ido and Tamar lived across the street from us they also raised their lovely children, Gal, Tal, Or and Ron. The house that Ido and Tamar bought back in 1989 can be best described as a fixer upper. Ido was a tile installer and worked hard leaving early and getting home late. He actually tiled our home during its renovation. However, with the costs of raising their four children, Ido and Tamar could not afford the expense of renovating their home. As the years past our neighborhood watched as their home fell into greater disrepair. It was sad to see but there was nothing they could do.

Gal, Tal, and Or are now adults, have secured jobs in the Bay Area and moved out of their childhood home at 1643 & 1647 California Street. Ron however is disabled. He has been diagnosed with a genetic disorder called X-linked retinoschisis XLR5 gene and is losing his limited sight. Ron is not permitted to drive. He relies exclusively on BART and the bus for some semblance of independence. The North Berkeley BART is two blocks from our homes as is the nearest bus stop. Now that 3 of Ido and Tamar's children have finished college they have an opportunity to renovate their home. Ido and Tamar are ecstatic, as are we, and their other neighbors; after so many years living in a rapidly dilapidating and unsafe structure, they will finally be able fix up their home while securing a place for Ron to live.

Ido and Tamar's home is very small and their lot is one of the smallest in the surrounding area. Their family has grown and they regularly have large family gatherings of one kind or another. As such, their needs have grown but the size of their house remains, small and cramped. It is for this reason I am writing the City of Berkeley. I understand that a principle exists regarding percentage of lot coverage. However, less tangible but no less important things that may not be included in the building codes include, long-term and stable neighborhoods, community, and assistance with a disabled child.

I have reviewed the proposed renovation plans and I am in full agreement with them. I believe the renovation will result in a positive contribution for their family and for our neighborhood.

I have spoken to Ido and Tamar. Their dream is to remain in Berkeley in the house of their dreams where they have lived for 31 years, raised their children and have been such an integral part of our neighborhood. And as one of their close neighbors I pray that Berkeley will find a way to allow them to remodel their home to fit their needs and Ron's.

Thank you,



Jeff Malmuth

November 17, 2020

To Whom It May Concern:

I am the homeowner living at 1639 California St. since 1979. It has been my pleasure to be a neighbor of the Oppenheimer Family since they arrived in 1989. I have been invited to dance, circus performances, graduations, front yard visits and profited from their apricot and lemon tree for many years. As their family grew, they decided to enlarge their living space, rather than move to a bigger home. While this is against City of Berkeley housing regulations, the outside of their home has deteriorated and I support their plans to upgrade, improve and remodel their home to suit their changing needs. The stairs are steep and showing separation from the foundation. Their safety, as well as visitors and essential workers will continue to be at risk, and City of Berkeley impediments only add to the time delay in this repair. I recently invested in a complete renovation of my front yard, and this leaves the Oppenheimers home looking vulnerable and frankly, unattractive. This remodel makes sense and should be allowed to proceed.

Sincerely,

Barbara Fritz
1639 California St.
Berkeley, 94703