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1346 ORDWAY STREET
Administrative Use Permit #ZP2018-0174
Prepared: September 18, 2020

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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
JUNE 11, 2020

1346 Ordway Street

Appeal of Zoning Officer's decision to approve Administrative Use Permit #ZP2018-0174 to legalize additions on an approximately 4,480 sq. ft. lot with an existing one-story approximately 1,152 sq. ft. single family dwelling. The scope of work includes: 1) legalize a 9 ft. tall wood fence and 14 ft. tall hedge within north and south side setbacks; 2) legalize a 128 sq. ft., 12 ft. 2 in. tall habitable accessory building within the required side and rear setbacks; 3) legalize an approximately 9 ft. tall, 5 ft. X 21 ft. trellis located at 3 in. from the south side property line; and 4) locate front yard off-street parking space by modifying AUP and Variance requirements in order to provide reasonable accommodation for fair access to housing.

I. Background

A. Land Use Designations:

- General Plan: LMDR – Low Medium Density Residential
- Zoning: R-1A – Limited Two-Family Residential District

B. Zoning Permits Approved:

- Reasonable Accommodation for Fair Access to Housing, under Berkeley Municipal Code (BMC) Section 23B.52.010, for a front yard off-street parking space;
- Administrative Use Permit, under BMC Section 23D.08.005.A1, to legalize a habitable accessory building;
- Administrative Use Permit, under BMC Section 23D.08.020.A, to legalize a habitable accessory building that is over 10 ft. in average height within 4 ft. of the property line;
- Administrative Use Permit, under BMC Section 23D.08.020.B, to legalize a habitable accessory building that is over 12 ft. in average height within 4 to 10 ft. of the property line;
- Administrative Use Permits, under BMC Section 23D.08.060.A2, to legalize hedge over 6 ft. in height; and
- Administrative Use Permit, under BMC Section 23D.08.060.B, to legalize an unenclosed accessory structure (trellis).

C. Zoning Permits Waived (Under BMC Section 23B.52.010 for Reasonable Accommodation):

- Variance under BMC 23B.44.030 to eliminate the 2 ft. landscaped strip that separates the paved parking area from the side lot line; and
- Administrative Use Permit, under BMC Section 23D.12.080.B, for locating an off-street parking space within the required front yard.

D. Zoning Permits Denied:

- Administrative Use Permits, under BMC Section 23D.08.060.A2, to legalize boundary fence over 6 ft. in height.

E. CEQA Determination: Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).

F. Parties Involved:

- Applicant/owner: Jennie Durant & Keki Burjorjee, 1346 Ordway Street, Berkeley, CA 94702
- Appellant: Lawrence Hickman, 1333 Hopkins Street, Berkeley, CA 94702

Figure 1: Aerial View

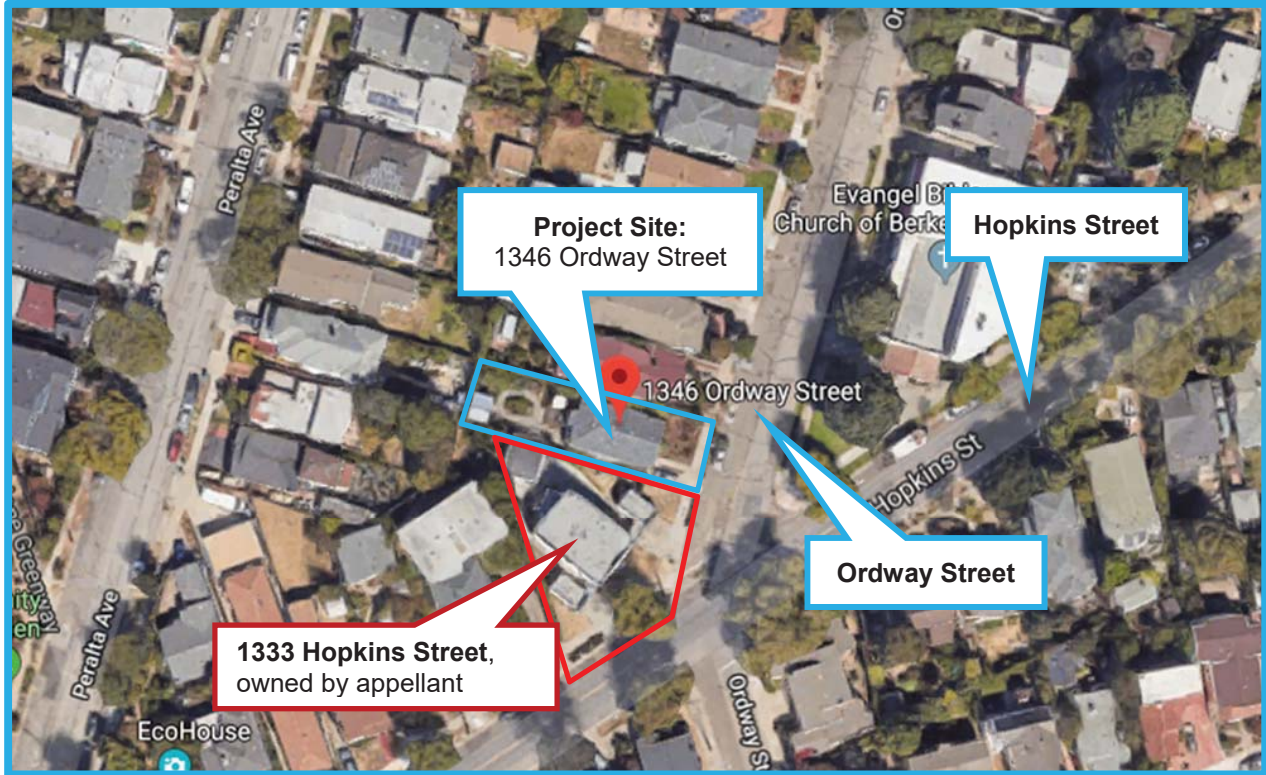
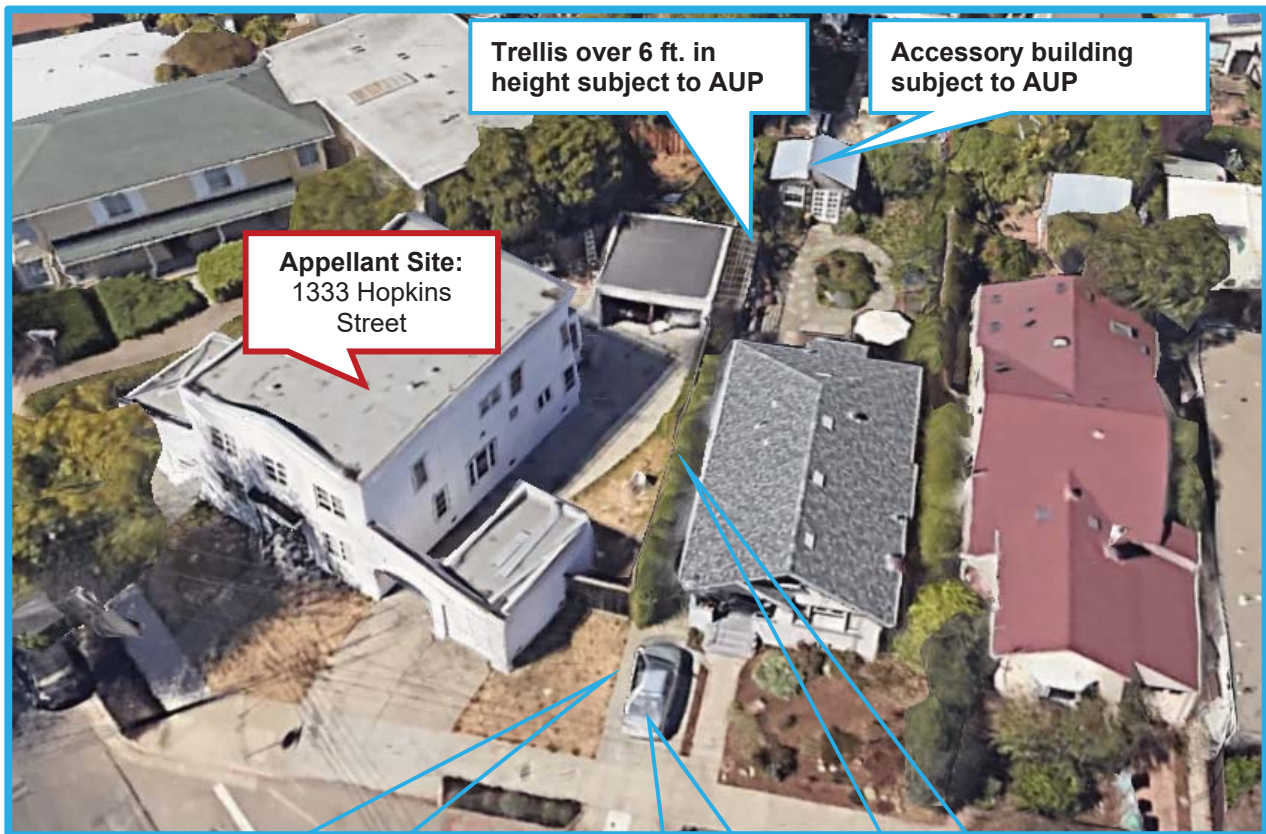


Figure 2: Birds-eye View



Required 2 ft. landscaped strip subject to Variance

Front Yard parking subject to AUP

Hedge & fence over 6 ft. in height subject to AUP



Figure 3: Parcel Map



R-1A: Limited Two-Family Residential District
R-2: Restricted Two-Family Residential District



Figure 4: Site Survey

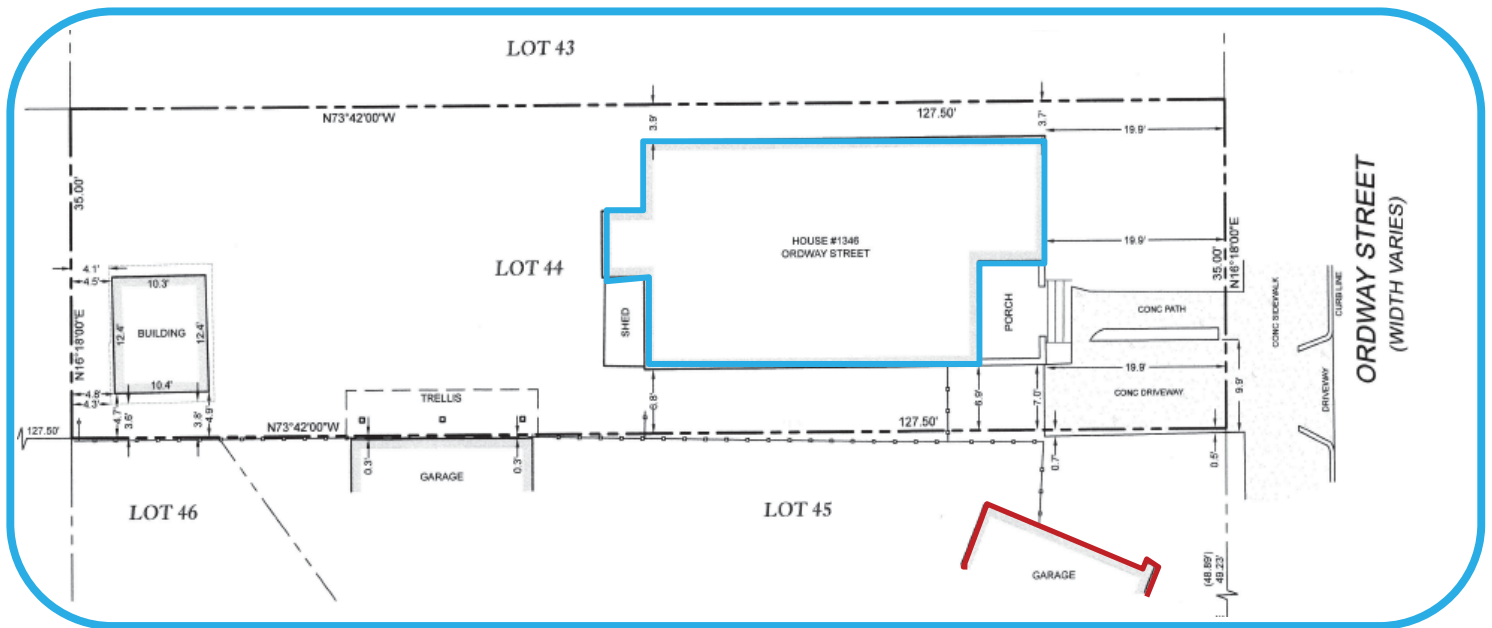


Figure 5: Site Plan

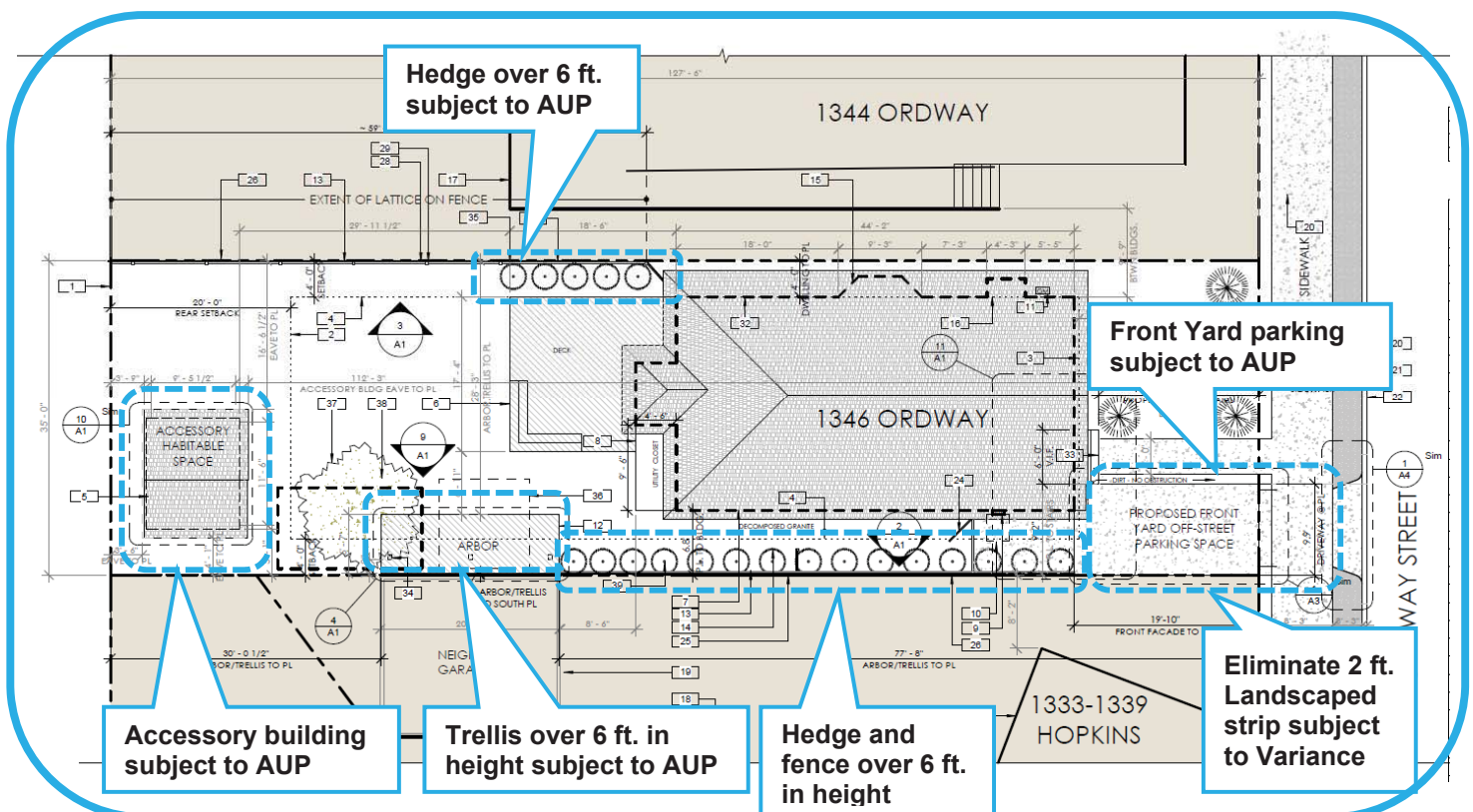


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		One-story single family residence	Limited Two-Family Residential District (R-1A)	Low Medium Density Residential (LMDR)
Surrounding Properties	North	One-story building with 1 dwelling units (1344 Ordway Street)	Limited Two-Family Residential District (R-1A)	
	South	Two-story multi-family dwelling (1333 Hopkins Street/Appellant) & two-story multi-family dwelling (1327 Hopkins Street)	Restricted Two-Family Residential (R-2) & Limited Two-Family Residential (R-1A)	
	East	Three-story Evangel Bible Church of Berkeley (1343 Hopkins Street)	Restricted Two-Family Residential (R-2)	
	West	Two-story single family residence (1341 Peralta Avenue)	Limited Two-Family Residential District (R-1A)	

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	These fees apply to projects with more than 7,500 square feet of new non-residential gross floor area. This project is not subject to these resolutions because no new non-residential space is proposed.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	
Creeks	No	No open creek or culvert exists within 40 ft. of the site.
Housing Accountability Act (Gov't Code Section 65589.5)	No	The proposed project is not a "Housing Development Project" ¹ as defined by Government Code because it does not propose to add dwelling units.
Oak Trees	No	There are no oak trees on the site.
Rent Controlled Units	No	No rent controlled units are at this site.
Residential Preferred Parking (RPP)	No	The site is not within a Residential Preferred Parking Area.
Seismic Hazards Mapping Act (Liquefaction, Fault-rupture, Landslide)	No	The site is not located within an area susceptible to liquefaction, Fault-rupture or Landslide as shown on the State Seismic Hazard Zones map.
Soil/Groundwater Contamination	No	The site is not located on a hazardous waste site pursuant to Government Code Section 65962.5
Transit	No	There is a bus stop near the project site along Gilman Street that provides access to an AC Transit bus routes (12).

¹ Per Government Code Section 65589.5(h)(2) "Housing development project" means a use consisting of any of the following: (A) Residential units only; (B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses with at least two-thirds of the square footage designated for residential use; and (C) Transitional housing or supportive housing.

Table 3: Project Chronology

Date	Action
September 7, 2018	Application submitted
September 19, 2019	Application deemed complete
May 28 2020	Public hearing notices mailed/posted
June 11, 2020	ZAB hearing

Table 4: Development Standards

Standards per BMC Sections 23D.28.070		Existing	Proposed	Permitted/ Required
Lot Area (sq. ft.)		4,480	No Change	5,000 min.
Gross Floor Area (sq. ft.)		1,152	No Change	N/A
Bedrooms		2	No Change	4 max. (without AUP or UPPH)
Dwelling Units	Total	1	No Change	1 max (for a lot of this size)
	Average	13 ft. 2 in.	No Change	28 ft. max.
Building Height	Stories	1	No Change	3 max.
	Front	19 ft. 9 in.	No Change	20 ft. min.
Building Setbacks	Rear	58 ft. 4 in.	No Change	20 ft. min.
	Left Side (south)	6 ft. 9 in.	No Change	4 ft. min.
	Right Side (north)	3 ft. 8 in.	No Change	4 ft. min.
Lot Coverage (%)		30	32	40 max.
Usable Open Space (sq. ft.)		Greater than min. 400	Greater than min. 400	400 min.
Parking Automobile		0	1	1

II. Project Setting

A. Neighborhood/Area Description: The subject site is located in a generally flat residential neighborhood that consists primarily of one and two-story residential properties which range in density to include single-family dwellings, duplexes, and multi-family dwellings with conforming and non-conforming setbacks and densities. While the majority of the surrounding uses are residential, Evangel Bible Church of Berkeley confronts the subject site to the east.

B. Site Conditions:

The project site is located at north-west of Hopkins and Ordway Streets intersection (to the east of Peralta Avenue), confronting the Evangel Bible Church of Berkeley. The nearest abutting neighbor's residence at 1344 Ordway Street is located approximately 8 ft. to the north of the subject property. The appellant's property (at 1333 Hopkins Street) is located at the west corner of the noted intersection to the south of the subject property and its closest accessory structures (two of its garages) are separated from the main dwelling on the subject property by approximately 14 ft.

The subject lot is flat and the site is occupied by a single-story single family dwelling; an accessory building; twenty (15 on the south and 5 on the north), 14 ft. tall hedges; a 5' X 21', 9 ft. tall trellis; and a 9'-6" X 4'-6" storage shed. The existing non-conforming driveway located on the south side yard, ranges in width from approximately 6'-9" to 6'-10" in width and is over 90 ft. long. It previously led to a now-demolished 9'X16" single-space garage. The north side yard ranges from approximately 3'-8" to 3'-10" in

width. The rear setback is approximately 58 ft. and the front setback is 19'-9". The property complies with the R-1A District requirements for height, lot coverage and usable open space and is legal non-conforming for density and front setback. Furthermore, the project involves a request for a front yard off-street parking space under the City's Reasonable Accommodation provisions and permits to legalize an existing accessory building, trellis, hedge and fence.

An application was submitted on September 7, 2018 to legalize the unpermitted fence and hedge over 6 ft. in height within required setbacks. After the review of submitted application by staff, it was determined that the existing accessory building over 12 ft. in maximum height within required side and rear setbacks, the existing trellis over 6 ft. within the south side yard and the front off-street parking space requires additional Administrative Use Permits. Due to narrow width and length of the existing non-conforming driveway, staff initially determined that the subject property's legal off-street parking space can be abandoned (*No legal off-street parking status*) or a request for an AUP for a front yard off-street parking space and Variance to waive the required landscaped strip must be made. However due to applicant's medical condition, a front yard off-street parking space was requested under Reasonable Accommodations (BMC Section 23B.52.010).

Figure 6: Street View, looking west

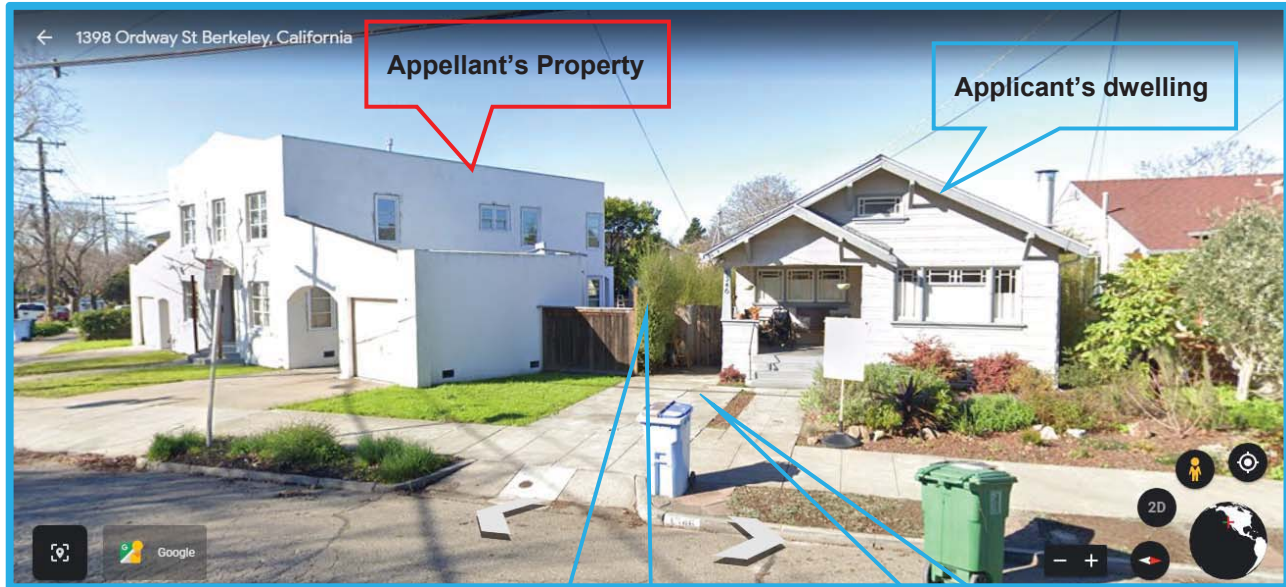


Figure 7: Looking west

Hedge & fence over 6 ft. in height subject to AUP

Front Yard parking subject to AUP



Figure 8: Looking south

Appellant's garage behind trellis



Figure 9: Looking southwest

Trellis subject to AUP

Trellis located within south setback

Appellant's garage



III. Approved Project

The project approved by the Zoning Officer would involve the legalization of an existing 128 sq. ft. accessory building in the southwest corner of the subject lot, an existing 5' x 21', 9 ft. tall trellis located in the south setback and existing 14 ft. tall hedge in north and south setbacks. Additionally, to comply with the Federal Fair Housing Act, the Americans with Disabilities Act and the California Fair Employment and Housing Act, it would allow for a front yard off-street parking space under BMC's Reasonable Accommodation Section. A recommendation for the approval of the fence over 6 ft. in height cannot be made by staff because the fence is located outside the subject property lot line and on the appellant's property at 1333 Hopkins Street.

IV. Community Discussion

- A. Neighbor/Community Concerns:** Prior to submitting the application to the City, a pre-application poster was erected by the applicant. Staff posted the Notice of Decision on February 25, 2020, at the site and 3 nearby locations and sent notices to abutting and confronting property owners and occupants and to interested neighborhood groups.
- B. Zoning Officer's Decision to Approve:** The Zoning Officer determined that the non-detriment finding could be made because the site would continue to comply with the R-1A-district standards for density, height, maximum lot coverage and usable open space. The conditions of approval would ensure that the accessory building functions as an office, which is a quiet activity, and requires that a "Notice of Limitation of Use" be placed on the deed to the property. Additionally, The Conditions included in this permit requires that the maximum hedge height be limited to 14 ft. and side or rear yard parking space be restored in the case that the property is sold, the tenant with medical condition moves out or the disability no longer prevents accessible access.
- C. Public Notice:** On May 28, 2020 the City sent out public hearing notices to all adjacent property owners and occupants within 300 feet of the subject property, and to interested neighborhood organizations. Staff also posted the Notice of Public Hearing at three locations within the immediate vicinity of the subject site. Aside from what was submitted by the appellant (See Attachment 2), staff has received correspondence from neighbors at 1334 Ordway Street, 1340 Hopkins Street, 1336 Ordway Street, 1349 Ada Street, 1342 Hopkins Street, 1344 Ordway Street and Listing Agents Norman Gee and Priscilla Rice from Better Homes and Gardens in support of project and the applicants (See Attachment 5).

V. Appeal Issues and Analysis

1. Appeal Issue 1 – Appellant appeals the Zoning Officer’s decision to modify the AUP (for front yard off-street parking space) and Variance (for not providing the 2 ft. landscaped strip) requirements under Reasonable Accommodations Section (23B.52.010) to allow for Fair Housing Access.

Appellant notes that: “Appellant appeals the Findings and Approval on the grounds that legalizing off-street parking in the front yard setback:

A. Creates a hazardous and unsafe condition.”

Staff Response: This is not a commercial district with high volumes of traffic and hence a front yard off-street parking space is not expected to create hazardous or unsafe conditions.

B. “Is detrimental and injurious to the economic value of neighboring property.”

Staff Response: The BMC Section 23D.12.080.B allows for a front yard off-street parking space with an AUP and the BMC’s Section 23B.52.050.B (Factors considered in making a determination regarding the reasonableness of any application under Reasonable Accommodation Chapter) if applicable, allows for modifications to this requirement. Furthermore, front yard off-street parking space is a common practice in the subject property’s immediate neighborhood. Since the appellant has not provided evidence to suggest that the Zoning Officer was incorrect in determining the reasonableness of this application to modify the AUP and Variance requirements for a front yard off-street parking space to comply with Fair Housing Access, staff recommends that the ZAB dismiss this appeal point.

C. “The record is absent of sufficient proof to establish applicant qualifies as disabled pursuant to the provisions of the Americans with Disability and the California Fair Employment and Housing Acts.”

Staff Response: Proof of a medical condition including a copy of applicants' application for the placard, authorizing documentation signed by a qualifying medical professional and a copy of the placard have been submitted to staff but not disclosed to protect applicant’s privacy. Because the appellant’s claim regarding lack of evidence is not accurate, staff recommends that the ZAB dismiss this appeal point.

D. “The claim of possessing a "temporary disability placard" is NOT dispositive proof of a need qualifying under the aforementioned Acts.”

Staff Response: The applicant has requested reasonable accommodation in the form of modification in the application of a zoning law due to a medical condition. The Zoning Officer has considered all factors required in making a determination regarding the reasonableness of this application under the Reasonable Accommodation Chapter (BMC 23B.52.050.B item 1 through 6). Since the appellant has not provided evidence to show that the Zoning Officer has failed to consider all factors required in making a determination, staff recommends that the ZAB dismiss this appeal point.

- E. "The Zoning and Transportation departments determined that applicants has no legal [off-street] parking space on the 1346 Ordway Street property."

Staff Response: Considering the driveway's narrow width, the property could be considered non-conforming and be recognized as having no required parking on site. However, the Applicant chose to pursue the AUP option for a front yard off-street parking space and Reasonable Accommodation.

- F. "Except for applicants' claim of temporary disability placard, there is nothing more in the record to substantiate that claim."

Staff Response: See response to item 1-C and 1-D above.

- G. "Allowing a front yard parking space inside the required setbacks, especially since there is a newly installed 6 ft. fence on the South property line, creates a public health hazard."

Staff Response: Staff is aware of the recently-installed fence, which extends to the front property line of the appellant's property and along the south side of the applicant's driveway and front yard.

Figure 10: Looking west toward both properties



This fence is conforming to the zoning regulations and is similar to other commonly found conditions in the neighborhood and throughout the City. The driveway would continue to accommodate one personal vehicle, which would not create a hazard for pedestrians under normal operating conditions.

- H. "Parking along the street appears to be a safer option for all involved (view of pedestrians and on-coming vehicles is obscured. Proper setbacks allow time for persons to see what is going on around them)"

Staff Response: An on-street handicapped parking space is not an equivalent alternative to an off-street parking space for the residence as it does not guarantee a parking space for the applicants.

- I. "Detrimental/Injurious to Property and Improvements: Legalizing a parking space, with front yard setbacks, rewards applicants for long-standing history of non-compliance. It creates a potential economic injury to appellant, because his property would become situated next to property with non-conforming uses."

Staff Response: Berkeley Zoning Ordinance allows for applicants to legalize unpermitted structures and buildings by going through the zoning application process. Furthermore, City Council Resolution No. 67, 985-N.S. requires applicants to pay a penalty for applications that are submitted as a result of a Notice of Violation. When a zoning application is submitted to legalize existing buildings and structures, staff reviews the application as if the unpermitted structures and buildings did not exist today. Staff evaluates the proposal to determine if the non-detriment findings can be made. Since the Zoning Ordinance has gone through several revisions, legal non-conforming conditions are very common for most properties in this neighborhood as well other neighborhoods in Berkeley. Because the appellant has not provided evidence to suggest that the Zoning Officer was incorrect in determining the reasonableness of this application, staff recommends that the ZAB dismiss this appeal point.

- J. "Making other findings: Here, the Zoning Officer appears to fail to make the finding that altering the BMC was not the only option for granting applicants' reasonable and fair access to the property. Applicants, if truly eligible under the American with Disabilities and California Fair Housing and Employment Acts, could easily apply for the privilege to have a handicap parking space directly in front of the house."

Staff Response: Having an on-street handicapped parking space is not a guaranteed parking space for the applicant. Because the appellant has not provided evidence to suggest that the Zoning Officer was incorrect in making a determination regarding the reasonableness of this application under the Reasonable Accommodation Chapter, and the appeal does not provide evidence to suggest that the non-detriment finding made by the Zoning Officer was in error, staff does not recommend relocating the parking space to an on-street space. Thus, staff suggests that the ZAB dismiss the appeal as to this point.

- K. "No Tenants (only owners) and Health Condition Unconfirmed: the applicants are not tenants and it is NOT clear that applicants' temporary health condition prevents accessible access."

Staff Response: staff's use of the word "tenant" was a misstatement. This property is occupied by its owners. However, this does not affect the Zoning Officer's decision and as stated above, the request for reasonable accommodation is adequately supported.

In conclusion, because the appellant has not provided evidence to suggest that the Zoning Officer was incorrect in making a determination regarding the reasonableness of this application under the Reasonable Accommodation Chapter, or that the conditions of approval were inadequate to make this determination, staff recommends that the ZAB dismiss this appeal point.

2. Appeal Issue 2: Appellant appeals the Zoning Officer's decision to approve the AUP to legalize habitable accessory building:

Appellant states that: "appellant appeal the Findings and Approval on the grounds that the City failed to act responsibly when approving this AUP, because authorizing construction of a building that projects into the setbacks, diminishes the use, quiet enjoyment and economical value of neighboring property". Appeal points regarding this item include:

- A. "Permitting an accessory structure to be constructed as planned ignores the fact that shadows will be created over the most usable area of the neighboring yard."

Staff Response: This one-story, approximately 12 ft. tall, 128 sq. ft. accessory building is situated at the southwest corner of the lot that abuts the neighbor at 1327 Hopkins Street and not the appellant's lot (1333 Hopkins Street). Since the accessory building is situated to the north of appellant's lot, it is unlikely that it cast shadows to the neighboring yards to the south. Furthermore, existing vegetation that separates the subject lot from the south abutting properties is taller than the accessory building, blocking any potential shadows caused by the accessory building. Since this appeal point does not provide evidence to suggest that the non-detriment finding made by the Zoning Officer was in error staff suggests that the ZAB dismiss the appeal as to this point.

- B. "The quiet enjoyment of the neighboring property will be interfered with and the neighbors (appellant and applicants) will complain about activity and noise when either of them do building and yard maintenance, office work, and/ or entertain."

Staff Response: The BMC regulates the construction of an accessory building, but does not regulate the activity and behavior of those using the accessory building. The accessory building is used as an office and is separated from the main building on the neighboring property at 1333 Hopkins Street by approximately 50 ft. and from its detached accessory structure (Garage) by approximately 17 ft. Because the appellant has not provided evidence to suggest that the Zoning Officer was incorrect in making the non-detriment finding regarding the legalization of an accessory building, or that the conditions of approval were inadequate to make the non-detriment finding, staff recommends that the ZAB dismiss this appeal point.

- C. "There is no evidence any site visit was conducted on the subject, appellant disagrees with Zoning Officer's assumptions."

Staff Response: Adequate documentations were provided in plans, elevations and photographs to determine the conditions on the property and the neighborhood.

- D. "The prospective economic value of the neighboring property is likely to be diminished; because, having a non-conforming condition on the property next door will create limits upon what a new owner could get approved should the appellant choose to sell the Hopkins Street property."

Staff Response: See response to item 1-I (Above).

In conclusion, because the appellant has not provided evidence to suggest that the Zoning Officer was incorrect in making non-detriment finding or that the conditions of approval were inadequate to make this determination, staff recommends that the ZAB dismiss this appeal point.

3. Appeal Issue 3: Appellant appeals the Zoning Officer's decision to approve the AUP to legalize unenclosed accessory structure (Trellis):

Appellant notes that: "Appellant Appeal the Finding and Approval on the grounds that the Zoning Officer ignored the needs of the neighboring property owner, by permitting an illegally constructed trellis to remain in place right up against the neighbor's garage." Appeal points regarding this item include:

- A. "Appellant's garage has legally existed on the property line since 1948. Approving this illegally constructed – 9 ft. tall, 5' x 21' - trellis to exist, only 3 inches from side of a neighbor's garage, is obscured and negligence."

Staff Response: Since this trellis is the same height and length as the appellant's garage, it is not expected to create detrimental impacts for the appellant's property. Furthermore, the BMC does not reward or penalize residents based on seniority of their buildings or structures. All residents are entitled to apply for building and structures according to zoning development standards of their district and Staff evaluates proposals to determine if the non-detriment findings can be made. Staff recommends that the ZAB dismiss this appeal point.

- B. "This approval interferes with neighbor's quiet enjoyment and denies access to the garage for painting, maintenance and other improvements."

Staff Response: As mentioned earlier, City of Berkeley has a process in place to legalize unpermitted buildings and structures. A trellis adjacent to garage and with the same height and length is not expected to create detrimental sunlight, air and view impacts. Furthermore, Agreements for maintenance of adjacent buildings and structures are civil matters and not a zoning concern and cannot be a factor for the City to consider in making the non-detriment finding. Because the appeal does not provide evidence that the Zoning Officer made an error in making the non-detriment finding, staff recommends that the ZAB dismiss the appeal as to this point.

In conclusion, because the appellant has not provided evidence to suggest that the Zoning Officer was incorrect in making non-detriment finding or that the conditions of approval were inadequate to make this determination, staff recommends that the ZAB dismiss this appeal point.

4. Appeal Issue 4: Appellant appeals the Zoning Officer's decision to approve the AUP to legalize accessory structure (Hedge):

Appellant states that: "Appellant Appeals the Finding and Approval on the grounds Zoning Officer misstate the non-conforming condition of applicants' application." Other appeal points regarding this item include:

- A. "What the Zoning Officer is calling "a 14 ft. tall hedge" is actually sixteen or more 14 ft. tall, illegally planted trees -NOT A HEDGE"

Staff Response: City of Berkeley Zoning Ordinance defines a hedge as "any line or row of plants, trees or shrubs planted in a continuous line to form a dense thicket or barrier which is designed to delineate, screen or enclose a lot" (BMC Section 23F.04.10).

- B. "This condition is tantamount to creating a much taller fence than the 6 ft. allowed."

Staff Response: The Zoning Ordinance allows for a fence, a tree or a hedge to be taller than 6 ft. with an AUP, if the necessary findings can be supported. The Zoning Officer made those findings subject to Condition of Approval and staff recommends that the ZAB dismiss the appeal point.

- C. "It's only a matter of time before the trees began to push against the fence, creating cost and an argument over maintenance - the disturbing the quiet enjoyment of the community."

Staff Response: A condition of approval on this permit, allows for a maximum height of 14 ft. for the proposed hedge. Maintenance of the fence must be handled by the Good Neighbor Law and is not a zoning matter.

In conclusion, because the appellant has not provided evidence to suggest that the Zoning Officer was incorrect in making non-detriment finding or that the conditions of approval were inadequate to make this determination, staff recommends that the ZAB dismiss this appeal point.

VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board **APPROVE** Administrative Use Permit #ZP2018-0174 pursuant to Section 23B.28.060.C.1 and subject to the attached Findings and Conditions (see Attachment 1) and **DISMISS** the Appeal.

Attachments:

1. Findings, Conditions and approved plans, February 25, 2020
2. Letter of Appeal, received March 17, 2020.
3. Notice of Public Hearing.
4. Applicant's Response to Appeal, received May 25, 2020.
5. Neighbors support letters, received May 23, 2020, May 22, 2020, May 21, 2020, November 22, 2019, November 2, 2019, December 1, 2018 (X2), and November 30, 2018.
6. Communications received from the appellant between Septembers 19, 2018 to June 1, 2020.

Staff Planner: Nilu Karimzadegan, nkarimzadegan@cityofberkeley.info, (510) 981-7419

Attachment 1

Findings and Conditions

FEBRUARY 25, 2019

1346 Ordway Street

Administrative Use Permit #ZP2018-0174 for additions on an approximately 4,480 sq. ft. lot with an existing one-story approximately 1,152 sq. ft. single family dwelling. The scope of work includes: 1) legalize a 9 ft. tall wood fence and 14 ft. tall hedge within north and south side setbacks; 2) legalize a 128 sq. ft., 12 ft. 2 in. tall habitable accessory building within the required side and rear setbacks; 3) legalize an approximately 9 ft. tall, 5 ft. X 21 ft. trellis located at 3 in. from the south side property line; 4) locate the off-street parking space within the front yard; and 5) eliminate the required 2 ft. landscaped strip that separates the uncovered off-street parking space from the adjacent property line.

PERMITS APPROVED

- Administrative Use Permit, under Berkeley Municipal Code (BMC) Section 23B.52.010 for Reasonable Accommodation for Fair Access to Housing;
- Administrative Use Permit, under BMC Section 23D.08.005.A1 to construct a habitable accessory building;
- Administrative Use Permit, under BMC Section 23D.08.020.A to construct a habitable accessory building that is over 10 ft. in average height within 4 ft. of the property line;
- Administrative Use Permit, under BMC Section 23D.08.020.B to construct a habitable accessory building that is over 12 ft. in average height within 4 to 10 ft. of the property line; and
- Administrative Use Permits, under BMC Section 23D.08.060.A2 for construction of accessory structures.

PERMITS DENIED

- Administrative Use Permit, under BMC Section 23D.08.060.B legalize a boundary fence over 6 ft. in height.

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 CEQA Guidelines Section 153301 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 BMC Section 23B.28.050.A, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

A. The subject property is equal to or below the Single Family Residential District (R-1A) standards (BMC Section 23D.20.070) for density, height, setbacks, maximum lot coverage, usable open space (1 dwelling on a lot where 1 dwelling is allowed; 32% lot coverage where 40% maximum lot coverage is allowed; and the subject property preserves well beyond 400 sq. ft. of required usable open space). One off-street parking space within the front setback is allowed to comply with BMC Section 23B.52.010 for Reasonable Accommodation for Fair Access to Housing. The project would legalize construction of an accessory building in the rear and side yards which is consistent with the single-family use of the subject property, functions as an extension of the main dwelling, is accessory to the residential use, and is not used as a separate dwelling. The accessory building is located outside required front and north side setbacks. Despite the fact that the accessory building projects a few inches into rear and south side setbacks, it is not anticipated to create significant changes to the existing sunlight conditions in the immediate vicinity of the project due to its location and limited scale. The project would also legalize a 14 ft. tall hedge within the north and south side yards in addition to a 9 ft. tall, 21 ft. X 5 ft. trellis, located 3 in. from the south property line and 30 ft. from the rear property line. The proposed hedge and the trellis are small in scale and are not expected to create significant impact to sunlight, air and view for the surrounding neighborhood.

B. Privacy, sunlight, air & view:

- Accessory building: The 128 sq. ft. accessory building functions as an office, which is a quiet activity, and is subject to condition of approval #14 that requires that a "Notice of Limitation of Use" be placed on the deed to the property. This deed restriction prohibits the use or conversion of this habitable accessory building to a dwelling unit unless authorized by an applicable permit.

The accessory building preserves privacy for abutting residences because the entry point (located on the east elevation) faces the main dwelling and while windows are located on south and west elevations, they are small in size and the existing vegetation on the side and rear property lines screen the adjacent properties.

The accessory building is found to be consistent with the existing development and building-to-building separation pattern – or air – in this R-1A neighborhood. It is separated from the main building on the neighboring property at 1333 Hopkins Street (to the south) by approximately 50 ft. and from its detached accessory structure

(Garage) by approximately 17 ft. This accessory building is separated from the building on neighboring property at 1327 Hopkins (also to the south) by approximately 33 ft.; from the building on the neighboring property at 1341 Peralta Avenue (to the west) by approximately 56 ft.; from the building at neighboring property at 1344 Ordway Street (to the north) by approximately 17 ft.; and from the main dwelling on the subject lot by more than 40 ft.

The accessory building is located at approximately 8 ft. 6 in. from the side property line to the north; about 56 ft. from front property line to the east; 3 ft. 7 in. to 3 ft. 9 in. from side property line to the south; and 4 ft. 1 in. to 4 ft. 3 in. from the rear property line to the west. The accessory building is one story in a district that permits three story main buildings. It is not taller than the main dwelling on the subject lot nor adjacent properties. Due to location and scale, this accessory building does not create significant changes to existing sunlight conditions in the vicinity of the project.

The accessory building's maximum height is 12 ft. 2 in. which is lower than the main dwelling and all abutting buildings. This low roof height and the generally flat topography of the area will ensure that this building would not obstruct or significantly reduce any prominent views that may exist for surrounding neighbors, such as a view of Golden Gate or Bay Bridge, the Downtown San Francisco skyline, the bay, or Treasure Island as defined in BMC Chapter 23F.04.

- Trellis:
While the 105 sq. ft. 9 ft. tall trellis is located at 3 in. from the south side property line, it matches the neighbor's abutting garage in height and length. Additionally, this structure is designed with well-spaced members (1 ft. 9 in. between wood members) which allows for passage of air and light and hence is not expected to create light and air impacts to the nearest property at 1333 Hopkins Street.
- Hedge:
Since the hedge is more than 8 ft. from the nearest abutting property to the south and are light penetrable, it is not expected to significantly obstruct sunlight, air, and views for this neighborhood.

2. BMC Section 23B.52.010 for Reasonable Accommodations, provides that it is the policy of the City to comply with the Federal Fair Housing Act, the Americans with Disabilities Act and the California Fair Employment and Housing Act to provide reasonable accommodation by modifying the application of its zoning and subdivision regulations for persons with disabilities seeking fair access to housing. Therefore, the City will allow the establishment of a front yard off-street parking space 1 ft. 4 in. from the front property line where 20 ft. is required, and 8 in. from the side property line where 2 ft. is required because:
 - A. The parking pad will provide fair access to the home of the applicant who has lived there for 4 years and needs an accessible off-street parking space due to a disability as defined by the Fair Employment and Housing Act of 1959, codified as Government Code §§12900 – 12996;
 - B. The Berkeley Zoning Ordinance allows a person to request a reasonable accommodation in the form of modification in the application of a zoning law that acts as a barrier to fair housing access. According to Section 23D.12.080.B, no portion of an off-street parking space may be located in a required front yard unless such location is authorized by an AUP and approved by the Traffic Engineer. Additionally, Section 23D.12.080.E requires that all paved areas for off-street parking spaces and driveways be separated from any adjacent interior side lot line by a landscaped strip at least two feet wide. In this case the modification will apply to: 1) Section 23D.12.080.B in order to allow a new off-street parking space to be created within the required front yard setback; and to 2) Section 23D.12.080.E in order to allow elimination of the required two feet wide landscaped strip. Therefore, allowing a front yard parking space without a two feet landscaped strip is considered a modification in zoning policy for reasonable accommodation for fair housing access; and
 - C. Due to the City's current practice of not permitting a front yard parking space without a two-foot wide landscaped strip, Condition #11 has been added to this permit requiring the restoration of the front yard and restoration of rear or side off-street parking space, if the property is sold, the tenant with medical condition moves out or the disability no longer prevents accessible access.

III. FINDINGS FOR DENIAL

As required by BMC Section 23D.08.060, no fence or other unenclosed accessory structure located on a property line or within the required yard area for a main building may exceed six feet in height at any point, unless so authorized by an AUP. The existing 6 ft. to 8 ft. tall wood fence (proposed to become a 8 ft. to 9 ft. tall wood fence by adding a 2-3 ft. wood lattice above) separates the subject property from the neighbor's property to the south. Based on the property survey submitted by the applicant, it appears that the existing fence is located on the neighbor's property. Fences are usually a shared responsibility between neighbors. In this case, because the fence is located outside the subject property lot line and on the neighbor's property at 1333 Hopkins Street and the neighbor has objected, a recommendation for approval cannot be made by staff.

STANDARD CONDITIONS

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

1. Conditions Shall be Printed on Plans

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

2. Applicant Responsible for Compliance with Conditions

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

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

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

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

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

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

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

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

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

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

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

11. The parking pad must be removed, and the curb cut in filled if the property is sold, the tenant moves out or disability no longer prevents accessible access.
12. Hedge shall not exceed 14 ft. in height.
13. To legalize the construction of the accessory building and trellis, a building permit application must be submitted within 30-days after the AUP approval.

Prior to Issuance of Any Building Permit:

14. **Accessory Building:** All owners of record of the subject property shall sign and record with the Alameda County Clerk-Recorder a "Notice of Limitation on Use of Property" (available from Land Use Planning Division) and provide a recorded copy thereof to the project planner. This Notice of Limitation shall stipulate that no part of this Accessory Building shall be used or converted to use as a dwelling unit unless and until permission is requested of the City of Berkeley and authorized a Use Permit, Administrative Use Permit, or Zoning Certificate, whichever is applicable. This limitation shall include the explicit acknowledgment that a full bathroom and cooking facilities may be installed, as long as the cooking facilities do not constitute a Kitchen per BMC Chapter 23F.04. This limitation may not be revised or removed from this property without the prior written permission of the Zoning Officer of the City of Berkeley.

Standard Construction-related Conditions Applicable to all Projects:

15. **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.

16. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.

17. 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.
18. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
19. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter in thickness and secured to the ground.
20. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
21. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
22. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
23. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
24. 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.
25. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
26. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
27. 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.
- 28. Human Remains (Ongoing throughout demolition, grading, and/or construction).** In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to CEQA Guidelines Section 15064.5 (e)(1) . If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to Health and Safety Code Section 7050.5(c), and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
- 29. 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

1346 ORDWAY STREET
Page 10 of 10

NOTICE OF ADMINISTRATIVE DECISION - Findings and Conditions
Administrative Use Permit #ZP2018-0174

resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

Prior to Issuance of Occupancy Permit or Final Inspection:

30. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
31. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated December 3, 2019

At All Times (Operation):

32. 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. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.



Prepared by: Nilu Karimzadegan, Assistant Planner
For Steven Buckley, Zoning Officer

PLAT OF SURVEY
 LOT 44, BLOCK 6
 KEY ROUTE TERRACE NO. 3 (21 M 59)
 LOCATED AT 1346 ORDWAY STREET
 BERKELEY, ALAMEDA COUNTY, CALIFORNIA

MARCH 14, 2019 SCALE: 1" = 8'

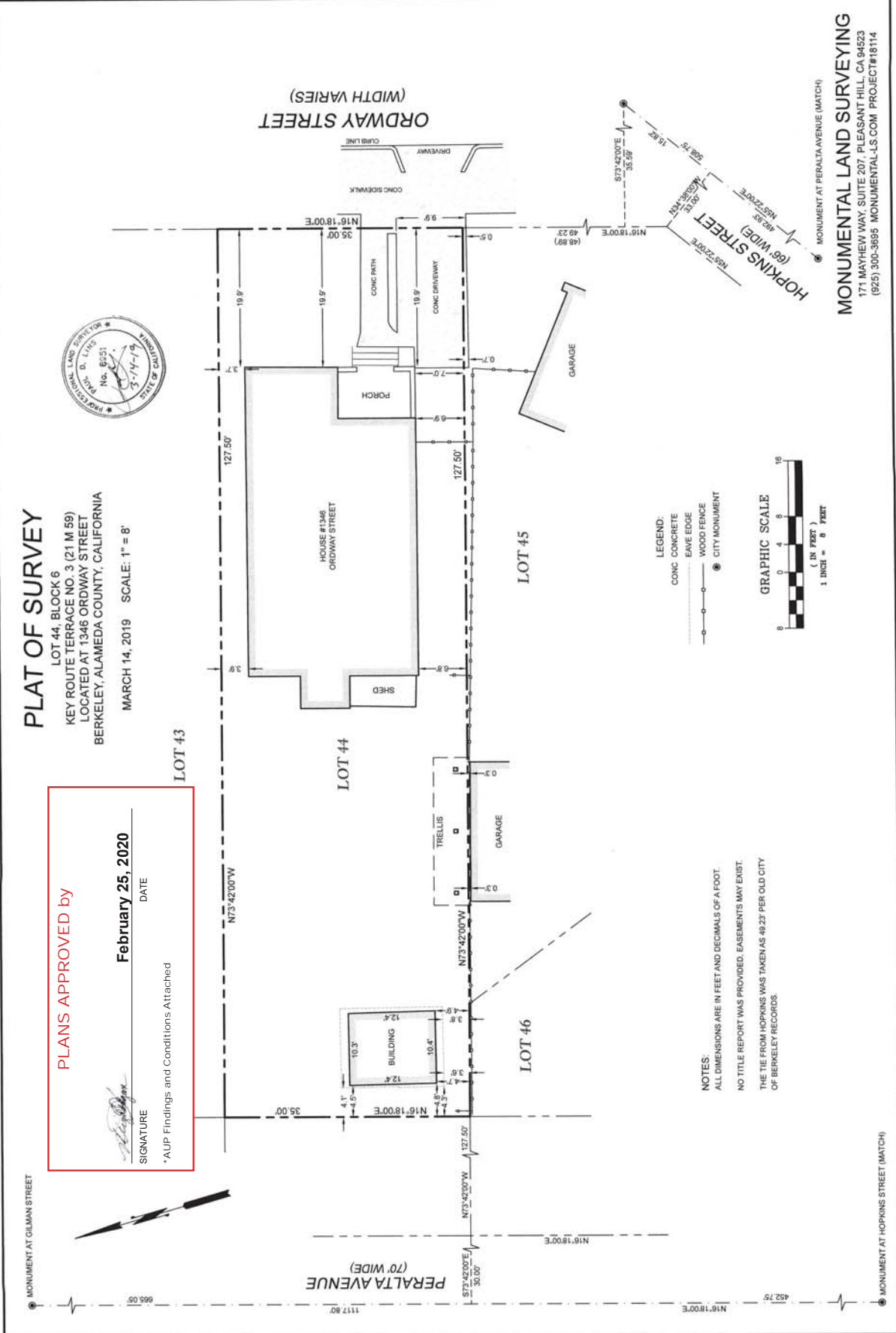
PLANS APPROVED by

February 25, 2020

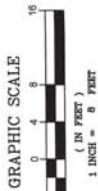
DATE

SIGNATURE

*AUP Findings and Conditions Attached



LEGEND:
 CONC CONCRETE
 SAVE EDGE
 WOOD FENCE
 CITY MONUMENT



NOTES:
 ALL DIMENSIONS ARE IN FEET AND DECIMALS OF A FOOT.
 NO TITLE REPORT WAS PROVIDED. EASEMENTS MAY EXIST.
 THE TIE FROM HOPKINS WAS TAKEN AS 49.23' PER OLD CITY OF BERKELEY RECORDS

MONUMENTAL LAND SURVEYING
 171 MAYHEW WAY, SUITE 207, PLEASANT HILL, CA 94523
 (925) 300-3695 MONUMENTAL-LS.COM PROJECT#18114

MONUMENT AT HOPKINS STREET (MATCH)

MONUMENT AT PERALTA AVENUE (MATCH)

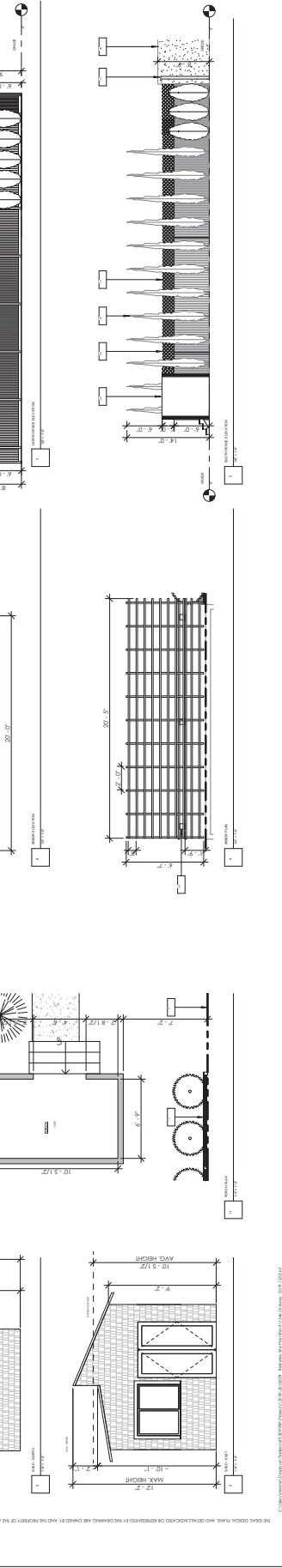
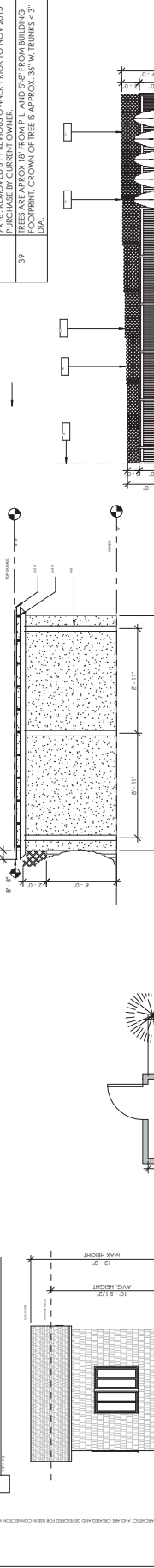
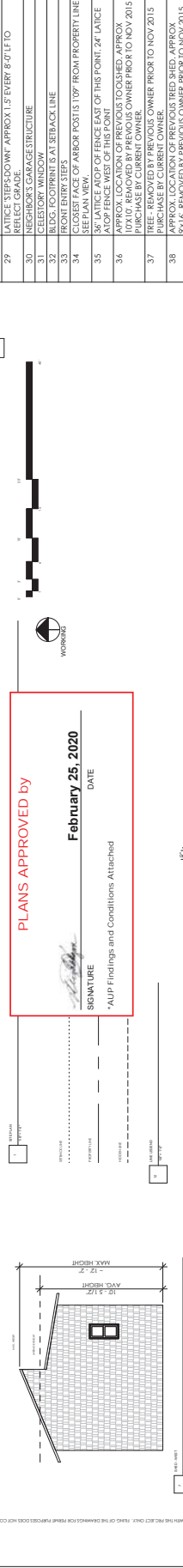
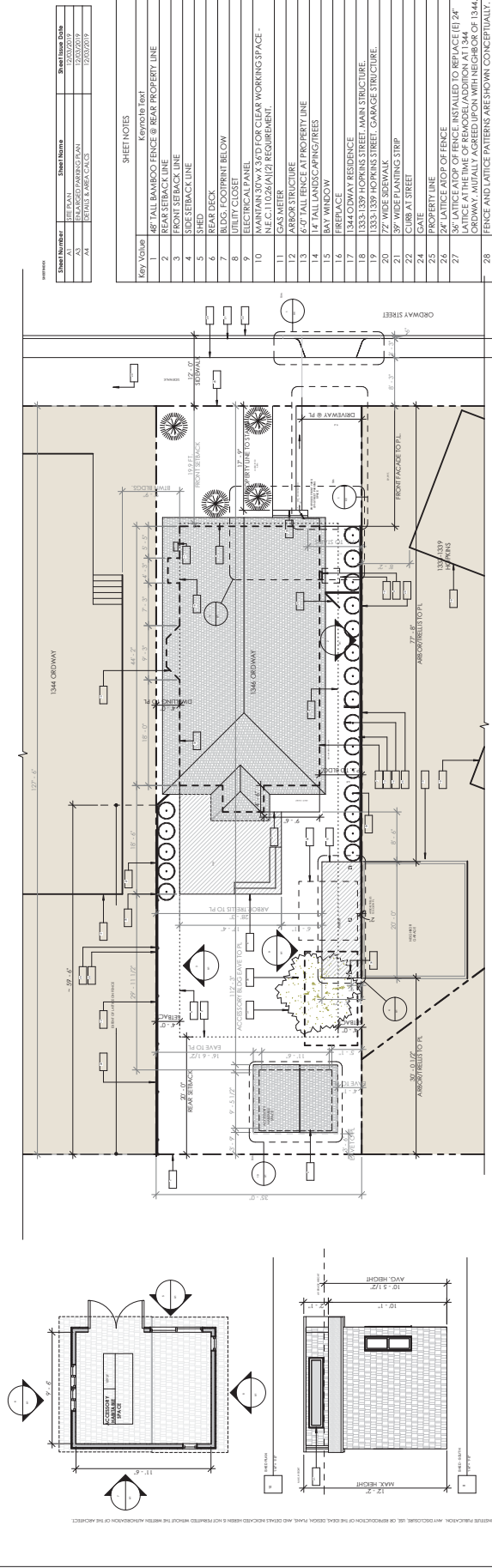
TRADE CRAFT
 30115 DAVIS DRIVE, ORLANDO, FL 32835
 (407) 221-1111
 TRADE CRAFT CONSTRUCTION COMPANY
 14100 COLLETTA ROAD, SUITE 100
 ORLANDO, FL 32826

PROJECT NO.	1346 ORDRWAY
DATE	11/19/18
REVISION	3/16/19
1	ALP PERMIT
2	REVISION

DATE	11/19/18
REVISION	3/16/19
1	ALP PERMIT
2	REVISION

DATE	11/19/18
REVISION	3/16/19
1	ALP PERMIT
2	REVISION

DATE	11/19/18
REVISION	3/16/19
1	ALP PERMIT
2	REVISION



PLANS APPROVED by

February 25, 2020

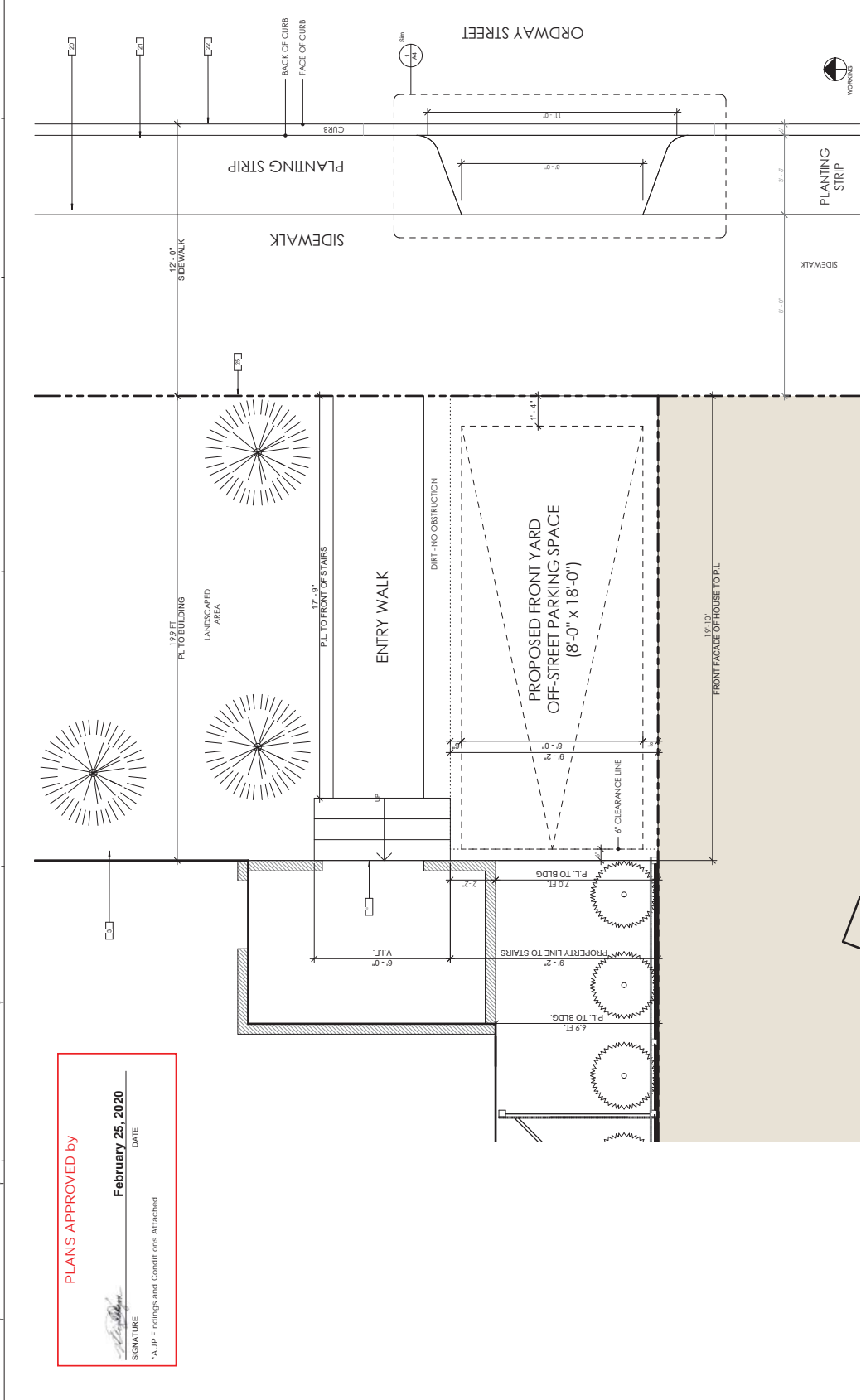
DATE

SIGNATURE

*ALP Findings and Conditions Attached

THESE PLANS, SPECIFICATIONS AND CONDITIONS ARE PREPARED BY THE ARCHITECT AND ENGINEER AND SHALL BE CONSIDERED THE BASIS FOR THE CONTRACT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES.

TRADE CRAFT	TRADE CRAFT <small>300 W. 10TH STREET, SUITE 200, BERKELEY, CA 94710</small> ARCHITECT LICENSE # 184009 PROJECT ARCHITECT INFORMATION 146 BRADDOCK AVENUE, BERKELEY, CA 94702	CLIENT Jennie Davout & Keri Bujorie	1346 ORDWAY STREET BERKELEY, CA 94702
<small>TRADE CRAFT ARCHITECTURE, INC. IS AN EQUAL OPPORTUNITY FIRM. WE DO NOT DISCRIMINATE ON THE BASIS OF RACE, GENDER, ETHNICITY, RELIGION, SEXUAL ORIENTATION, OR ANY OTHER PROTECTED CLASSIFICATION. WE ARE AN AIA MEMBER FIRM.</small>			
PROJECT # 1346 ORDWAY STREET DATE 2/25/2020		SHEET # 13 OF 14	



PLANS APPROVED by

 SIGNATURE
February 25, 2020
 DATE
 *AUP Findings and Conditions Attached

KEY / GROUP	DESCRIPTION
3	FRONT SETBACK LINE
16	FRONT FACE
20	7'-0" WIDE SIDEWALK
21	5'-0" WIDE PLANTING STRIP
22	CURB AT STREET
23	PROJECTIONS
24	FRONT ENTRY STEPS

SHEET NOTES

1. ALL DIMENSIONS UNLESS OTHERWISE NOTED ARE IN FEET AND INCHES.

2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.

4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

5. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

A3

Lawrence Hickman

1333 Hopkins Street
Berkeley, CA 94702
Phone: (510) 467-4250
E-Mail: lpacificquest@aol.com

APPEAL LETTER

March 16, 2020

Igor Tregub, Chairperson
City of Berkeley
Land Use Planning Division
Attn: Zoning Adjustments Board Members
1947 Center Street
Berkeley, CA 94704

**RE: APPEAL- AUP #ZP2018-0174 FOR 1346 ORDWAY STREET; AND
REQUEST ZONING ADJUSTMENTS BOARD PUBLIC HEARING**

Dear Chair Tregub and Board Members:

I, Lawrence Hickman ("Appellant"), do hereby Appeal the City of Berkeley Zoning Officer's Findings and Approvals of the above referenced Administrative Use Permit (AUP); and, I request a Public Hearing before the Zoning Adjustments Board on this matter. This Appeal is filed on the grounds the Zoning Officer's Findings and Approvals are unsupported by evidence in the record and inconsistent with the administration of fair and equitable justice, as required by the City of Berkeley Municipal Code (BMC). Moreover, the Zoning Officer appears to ignore the need to recognize the importance of sustaining and maintaining harmony among longtime home owners. The proposed Conditions are inadequate to protect Appellant unreasonable diminution of property value.

INTRODUCTION

This matter arises out of a real property dispute between neighbors. For over twenty-nine years Appellant has owned the large parcel of real property located at the corners of Hopkins and Ordway Streets, also known as, 1333 Hopkins Street, Berkeley, California. For over twenty-five of those years, Appellant experienced quiet enjoyment of ownership with his previous neighbor, Ms. Taylor, owner of the smaller parcel next door at 1346 Ordway Street without incident. Shortly after Ms. Taylor's death, her property was sold to Jennie Durant and Keki Burjorjee ("Applicants") and they began engaging in illegal outdoor construction projects; projects that were unpermitted and non-conforming, all violations of the Berkeley Municipal Code (BMC). The illegal projects infringed upon Appellant's property rights. Moreover, the Applicants continued to initiate and maintain unpermitted conditions even after being notified and warned about some of their illegal construction.

So now, in the form of an application for an Administrative Use Permit, Applicants are seeking forgiveness, permissions, approvals and the legal right to keep and maintain all of the unpermitted, non-conforming and illegal construction projects. The forgiveness, permissions, approvals and legal rights being sought by these outlaws appear to be on the verge of being granted, despite Appellant's Notice of Opposition (NOO), City of Berkeley's Code Enforcement Notice of Violation (NOV), Administrative Citation Warning (ACW) and Order for non-compliance, and their continued infringement on the quiet enjoyment and health and safety of the community at large.

Based upon the foregoing, facts set forth herein, other documents and statements on file, and statements during oral arguments before the Board, Appellant ask this Board to uphold the BMC and affirm this Appeal.

STATEMENT OF FACTS

Since 1990 Appellant has peacefully owned the property located at 1333 and 1346 Hopkins Street. In 2005, the Appellant consulted the City of Berkeley, and with the consent of the prior owner of the 1346 Ordway Street property, legally constructed a 6' fence along the property line of 1333 Hopkins Street.

In 2015, Applicants purchased the subject property at 1346 Ordway Street, Berkeley, California.

In, or around, 2017, Applicants approached Appellant attempting to discuss their (Applicants') intent to add a 4' lattice of top of Appellant's fence. Appellant informed Applicants that he (Appellant) had no interest in adding anything to the top of the fence.

About 2018, Applicants planted a row of tall tree along the entire South border of Appellant's property line, except the area where the garage sits on the property line – approximately 3" from Appellant's property line.

Next, Applicant (Keki Burjorjee) came onto Appellant's property, using profanity and in a threatening tone and manner, attempting to discuss adding the 4' lattice to the fence, or adding lattice to the tall 4 x 4s that had been placed in the ground. Appellant told Applicant that he had no interest in discussing his property improvements; and, advised him to direct his concerns to the City of Berkeley's Planning and Land Use Division.

The next day, Appellant noticed and approached a workman (carpenter) in the Applicants' yard, setting tall post up against his fence. Appellant approached the workman and inquired "do you have a permit to build a fence over 6' tall?" Workman came over into Appellant driveway and began to argue for consent to continue building. Appellant told the workman only the City of Berkeley can grant you a permit to build the fence over 6' tall.

Appellant told Applicants' workman, "Let's call the City's Code Enforcement Unit right now." Appellant, in fact, called Code Enforcement shortly thereafter.

On May 10, 2018, the City of Berkeley's Code Enforcement Inspector, Tim Kittor, conducted a brief site visit at the 1346 Ordway Street property. As a result of Inspector Kittor's finding, he issued a Notice of Violation (NOV) Case #397755 – both noticing and warning Applicants of unpermitted and non-conforming conditions on their property. As a matter of fact, Inspector Kittor instructed Applicants to reduce the size of the trees to 6' tall. (See Exhibit A – NOV)

On September 7, 2018, Applicants submitted an application for an Administrative Use Permit (AUP) ZP2018-0174 to: 1) install a two foot (2') lattice on top of Appellant's six feet (6') fence; and, 2) plant fifteen (15), approximately 14' trees alongside – the full length – of the subject fence and property line; the application was for conditions they had already created and constructed.

On September 19, 2018, the City of Berkeley's Planning Dept. Technician, Nilu Karimzadegan, via letter, acknowledged receipt of the aforementioned AUP application, and advised Applicants she would be processing the application in due course.

On September 20, 2018, Appellant filed a letter serving Notice of Opposition (NOO) to Applicants' proposed plans, as set forth in the AUP application under consideration by the Planning Department. It should be noted that Appellant's Letter of Opposition was not included in Applicants' application package. Equally important, Appellant's NOO letter informed the Planning Department of the fact the AUP application omitted the fact that the trees Applicants requested to plant were already planted without permit, along with other non-conforming conditions, e.g., the trees were planted 3" from the subject fence - within 2' of the property line. In short, it was Appellant's complaint to Code Enforcement that spurred Applicants' impetus to apply for the AUP – otherwise, the subject non-conforming unpermitted conditions would have likely continued unabated. This conclusion is reasonable in view of the fact that the architectural drawing submitted with the original application failed to show certain non-conforming and unpermitted conditions; conditions that would have gone unnoticed but for Appellant's bringing omitted matters to the attention of the City Planner. (See Exhibit B – NOO) ,

On October 5, 2018, the City's Planning Department issued a letter requesting and setting forth requirements necessary to proceed with the AUP application. The letter speaks to permit requests that were not mentioned in the initial AUP application. For example, the letter addresses 1) proposed parking space on site plan, trellis, tree trunks crowns, and sheds. It appears another AUP application, or an updated version, was submitted after the September 7, 2018 AUP application. These aforementioned matters appear to have been intentionally omitted in the original application.

However, on December 3, 2018, Applicants completed and submitted the City's required Tabulation Form (showing the property's existing status and what conditions were non-conforming/unpermitted and requiring permits), was submitted back to the Planning Department, evidencing that the required Southside yard setback is 7'-2" and a parking space requires a permit.

On February 8, 2019, the City responded to Applicants' revised AUP application materials. Therein the City requested additional information to complete Applicants' application requests.

Specifically, the letter noted that "because the application is a result of NOV and it also includes an unpermitted accessory building and an unpermitted trellis. Moreover, the letter appears to request information and details on non-conforming and unpermitted conditions omitted in the initial AUP application. (See Exhibit C – Re-submittal/Revised Application)

July 2, 2019, the City informed Applicants "after reviewing the submitted materials, staff has determined that the existing off-street parking space is not accessible and there is no other feasible location for parking on the parcel ... all paved areas for off-street parking spaces, driveway and any other vehicle-related paving must be removed as a condition of approval of this permit." Hence, revised plans were required showing the changes regarding parking were to be submitted to continue processing the AUP application. Applicants were invoiced an additional \$1600.00 additional AUP permits (AUP080). (See Exhibit D – No off-street parking determination)

On July 16, 2019, 2:02 p.m. Applicant (Jennie Durant) emailed Peter Chun, at the City's Transportation – Public Works Department regarding off-street parking. Applicant was seeking an answer as to whether she could apply for an AUP for her front yard parking space, with only a 6'-9" wide driveway – from house to property line. It was previously determined that Applicant has no legal parking space on the 1346 Ordway Street property. At 3:02 p.m., Nilu, the Applicants' City Planner emailed Peter, with a CC to Jennie stating "to clarify, after the review of this application with the zoning officer, it is determined that this [1346 Ordway Street] property has no legal [off-street] parking." Further Nilu stated "Jennie ... there is a Zoning determination as well and a Traffic Engineer review of the application. The off-street parking space in the front setback will not accommodate the 2' landscaping strip which requires a variance."

On July 17, 2019, at 10:22 a.m., Traffic Engineer, Peter Chun emailed Nilu, with a CC to Jennie, stating "my recommendation would be to restore the original parking space or remove the driveway and restore on street parking as Planning has recommended ... I generally support the setback requirements (or parking space restriction) and therefore favor the removal of driveways and restoration of the curb, sidewalk, and on street parking if you choose not to re-establish the rear parking. (See Exhibit E – Recommendation to remove driveway)

On July 17, 2019, at 12:09 p.m., Nilu emailed Applicant (Jennie), with CC to Peter Chun stating "I also discussed options regarding this project with the Zoning Officer this morning. It seems like you have three options: 1) Restore site to its original state – remove all unpermitted accessory building, shed, trellis, hedge and fence; 2) Staff will recommend approval of AUP application, with Conditions of Approval (COA) – remove curb cut and parking; or, 3) You can apply for (a) an AUP for a front yard off-street parking space; and (b) a Variance – there is not enough space to provide the 2' landscaping strip.

On August 27, 2019, at 11:11 a.m., Nilu emailed Applicants, with CC to Code Enforcement Office, Wanda Drouillard. Therein, Nilu set forth: 1) Required Fees for AUP and penalties; 2) Required revisions on Site Plan; 3) Variance statement requirements – **“staff can recommend a Variance only if there are no other option available on the site...** in your case, **there is the option of relocating the stairs to create room for the 2' landscaping strip.”**; and, 4) Code Enforcement will follow up regarding deadlines.

September 10, 2019, the City's Code Enforcement Unit issued an Administrative Citation Warning (ACW), wherein Applicants were reminded the NOV, issued May 10, 2018 – requiring correction of violation on the subject property; the Citation Warning for outstanding violations the Berkeley Municipal Code (BMC), issued August 30, 2018. Pursuant to NOV and ACW, Applicant was required to reduce the height of the hedges that exceed 6', without a permit. Code Enforcement further reminded Applicant that their plans submitted on September 2018 for a Variance on the hedges were additionally unpermitted construction (accessory building and trellis – identified by the Planning Department and, as of Sept 9, 2019, the violations remain; and, Applicants have failed to comply with Planning Department's deadlines for submitting corrections regarding plan check requested via letter and email. (See Exhibit F – AWC)

Since the project is associated with a Code Enforcement case, specified deadlines are enforced and take precedent over any timelines related to the permit process. In sum, Applicant were Ordered to comply with certain deadlines, and were put on Notice that, **“in light of the history of non-compliance on the property,”** further failures to timely comply would, as of September 25, 2019, result in Citation penalties.

On September 17, 2019, Applicants submitted a Variance Statement, because City had determined the 1346 Ordway Street property does not have a legal parking space. Applicants acknowledge they have an option to achieve off-street parking – in the setback area of their front yard - other than being granted the requested Variance. Nevertheless, Applicants persist in asking the City to take the extraordinary step of granting a special exception Variance, although to do so would violate the City's rules - present policy, practice and procedure - **“staff can only recommend a Variance if there is no other option available on the site.”** Applicants' argument the City should make a special exception for them and waive or reduce the 2' landscaping requirement to accommodate their desire to save money - eliminate their cost/expense associated with adjusting their front steps and rebuilding the curb cut accordingly. Also, they claim Applicant (Jennie Durant) has a “temporary handicapped” placard, giving rise to the question of whether her temporary condition requires an exceptional Variance granting off-street parking on a property deemed to have no legal parking space.

In sum, Applicants responded to the City's requirement for Variance follows: 1) the need for exceptional or extraordinary circumstance is met because Jennie Durant has a “temporary handicapped” placard; 2) necessary for preservation and enjoyment of substantial property rights: here Applicant assert a parking space is necessary for the enjoyment and full use of home; 3) does the use materially impact health, safety, public welfare, injurious to property or improvement – generally benefit the City: answer is non-responsive –

Applicants merely states, “we are simply requesting that our current parking space be allowed to remain where it is.” Granting the variance would reduce environmental waste associated with remodeling stairs and curb cuts.

On November 5, 2019, the Planning Departments Tabulation Form appears re-submitted, including sizes, dimension, existing and permitted required details, including: 1) Units, Parking spaces, and bedrooms; 2) yards, heights and setbacks; Areas – building, lot, usable space, etc.; 3) Arbor specifics – setbacks and area; 4) Accessory habitable space specifics; Area calculations; and, 5) Plat survey map.

On November 19, 2019, the City Planning Department communicated its need for clarity for the Zoning Office. Noted there is the fact that the application say 15 [trees] hedges, but the site plan only show twelve. Also, on November 19, 2020, Applicants submitted an update/revised Variance Request. Therein, Applicant set forth a quasi-promise, if the Variance is granted – “we would install/build a green, ecologically friendly and attractive parking spot.”

On November 20, 2020, Applicant sent email to Nilu, with updated Tabulation Form and Updated Variance Request.

On November 25, 2020, Nilu emailed Applicant (Jennie Durant) and advised that she needed certain corrections on the Tabulation Form A.S.A.P.

On November 26, 2019, Jennie forwarded Nilu’s email of November 25 to her architect, Nick Leone, regarding the Tabulation Form revisions/correction requested.

On November 27, 2019, at 10:59 a.m., Nick Leone emailed Nilu, requesting a telephone conversation to review her comments regarding the 1346 Ordway Street project. At 3:14 p.m., on November 27, 2019, Nick Leone emailed Nilu, sending her, in an attachment, the aforementioned revisions requested pursuant to their telephone conversation.

On December 3, 2019, Nilu emailed Nick, with CC to Applicant (Jennie Durant), advising that “Enlarged site plan submitted on 11-20-19 does not show accurate dimensions ... this needs to be corrected.” Nilu further advised that the “enlarged plan for parking is very confusing and busy. Please look at what I drew and draw something simple and clear ... the Variance Statement should reflect the correct dimension for the remaining landscape area as well (8”) ...”

On December 4, 2020, Applicant (Jennie Durant) sent another (3rd) Variance Statement. Again, restating their willingness to remove the existing concrete and install permeable paver parking strips, a dymondia lawn to act as a 1” landscaping barrier.

On December 19, 2019, the City provided a list of addresses of community members to which Notices of the 1346 Ordway Street project could be mailed – 126 names and addresses.

On February 13, 2020, Applicant submitted a request for fee adjustment or refund, claiming that a change of permit type qualifies Applicants for an adjustment and/or refund.

On February 25, 2020, the City Approved AUP #ZP-2018-0174 and sent post card Notice of Decision (NOD) to 1346 Ordway Street neighborhood residents – 36 names and addresses.

The NOD reads as follows:

ZONING OFFICER DECISION: The Zoning Officer of the City of Berkeley has **APROVED** the following permits pursuant to Berkeley Municipal Code (BMC) § 23B.28.050, and based on the attached findings and conditions (attachment 1) and plans (attachment 2):

- **Administrative Use Permit, under Berkeley Municipal Code (BMC) Section 23B.52 010 for Reasonable Accommodation for Fair Access to Housing;**
- **Administrative Use Permit, under BMC Section 23D.08.005.A1 to construct a habitable accessory building;**
- **Administrative Use Permit, under BMC Section 23D.08.020.A to construct a habitable accessory building that is over 10 ft. in average height within 4 ft. of the property line;**
- **Administrative Use Permit, under BMC Section 23D.08.020.B to construct a habitable accessory building that is over 12 ft. in average height within 4 to 10 ft. of the property line; and**
- **Administrative Use Permits, under BMC Section 23D.08.060.A2 for construction of accessory structures.**

BMC § 23B.52.010, in pertinent part, provides for reasonable accommodation by modifying the application of its zoning and subdivision regulations for persons with disabilities seeking fair access to housing, pursuant to the American with Disabilities Act and California Fair Housing and Employment Act. In determining whether a requested modification of zoning or subdivision regulations is reasonable, the City will consider, among other relevant factors, the extent to which the requested modification might be in conflict with the legitimate purposes of its existing zoning or subdivision regulations. The finding for Issuance, Denial and/or Conditions follows:

- A. The Zoning Officer may issue an AUP, either as submitted or as modified, only upon finding that establishment, maintenance or operation of the use, or the construction of a building, structure or addition thereto, under the circumstances of the particular case existing at the time at which the application is granted, will 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.
- B. Prior to issuing any AUP, the Zoning Officer must also make any other findings required by either the general or District regulations applicable to that particular AUP.
- C. The Zoning Officer shall deny an application for an AUP if he/she determines that he/she is unable to make any of the required findings, in which case he/she shall state the reasons for that determination.

D. The Zoning Officer may attach such conditions to an AUP as he/she deems reasonable or necessary to achieve the purposes of this Ordinance, and which otherwise promote the municipal health, safety and welfare. (Ord. 6478-NS § 4 (part), 1999)

ISSUES ON APPEAL

I

APPROVAL OF AUP FOR REASONABLE ACCOMODATION FOR FAIR ACCESS TO HOUSING, UNDER, BMC § 23B.52.010

Finding 1: One off-street parking space, within setback, is allowed to comply with BMC § 23B.52.010 for Reasonable Accommodation for Fair Access to Housing.

Finding 2: The City also recognizes the importance of sustaining and enhancing neighborhoods.

Conditions: Pursuant to the above referenced AUP, Zoning Officer has attached the following conditions: The parking pad must be removed, and the curb cut in filled if: 1) the property is sold; 2) the tenant move moves out; or, 3) the disability no longer prevents accessible access.

Appellant Appeal the Findings and Approval on the grounds that legalizing off-street parking in the front yard setback creates a hazardous and unsafe condition and is detrimental and injurious to the economic value of neighboring property. Furthermore, the record is absent of sufficient proof to establish Applicants qualifies as disabled, pursuant to the provisions of the Americans with Disability and the California Fair Employment and Housing Acts.

Applicants' states "one of the owners, Jennie Durant, has a temporary handicapped placard for a spine condition and needs a parking [space] spot close to the front door." The claim of possessing a "temporary disability placard" is **NOT** dispositive proof of a need qualifying under the aforementioned Acts, such that a need for reasonable accommodation is necessary to access housing. Therefore, the need for off-street parking is not established.

In reviewing Applicants' application, the Zoning and Transportation departments determined that Applicants has no legal [off-street] parking space on the 1346 Ordway Street property. Furthermore, it was determined that the off-street parking space in the front setback will not accommodate the 2' landscaping strip required, which would require a Variance. Instead of applying for a Variance to circumvent the 2' landscaping requirement, here, it appears Applicants chose to apply for an AUP.

Except for Applicants claim of temporary disability placard, there is nothing more in the record to substantiate that claim, e.g., there is no copy of Applicants' application for the placard, nor is there any authorizing documentation signed by a qualifying medical professional, nor is there a copy of the placard.

Health and Safety

Allowing a front yard parking space inside the required setbacks, especially since there is a newly installed 6' fence on the South property line, creates a public health hazard. The view of pedestrians and on-coming vehicles is obscured. Proper setbacks allow time for persons to see what is going on around them. Parking along the street appears to be a safer option for all involved. Applicants' health and well being is NOT jeopardized and/or compromised should they have to walk from the curb to the front porch; the difference in distance in walking from the car to the porch and walking from the curb to the porch is approximately minimal - 8' to 10'. Accessing the house from the curb appears not be too difficult, as Applicant is frequently seen walking throughout the neighborhood, cleaning her car, pushing a stroller and carrying groceries.

Detrimental/Injurious to Property and Improvements

Legalizing a parking space, with front yard setbacks, rewards Applicants for long-standing history of non-compliance. It creates a potentially economic injury to Appellant, situating because his property become situated next property with non-conforming uses.

Making other Findings

Here, the Zoning Officer appears to fail to make the finding that altering the BMC was not the only option for granting Applicants' reasonable and fair access to the property. Applicants, if truly eligible under the American with Disabilities and California Fair Housing and Employment Acts, could easily apply for the privilege to have a handicap parking space directly in front of the house.

No Tenants (only owners) and Health Condition Unconfirmed

The Zoning Officer's requirement that the concrete parking pad be removed effectively represents the spirit of the Ordinance. Additionally, the Applicants are not tenants and it is NOT clear that Applicants' temporary health condition prevents accessible access.

For the foregoing reasons, this Appeal must be affirmed, the AUP must be rescinded, and the parking pad removed.

II

APPROVAL OF AUP TO CONSTRUCT A HABITABLE ACCESSORY BUILDING OVER 10' AY HT. W/I "4" FT OF PROPERTY LINE, UNDER BMC § 23D.08.020 and APPROVAL OF AUP TO CONSTRUCT A HABITABLE ACCESSORY BUILDING UNDER, BMC § 23D.08.005.A1

Finding 1: The project would legalize construction building in the rear and side yards, which is consistent with the single-family use of the subject property function as an extension of the main dwelling is a accessory to the residential use, and is not used as a separate dwelling. The accessory building is located outside required front and north side setbacks. Despite the fact that the accessory building projects a few inches into rear and south side setbacks, it is not anticipated to create significant changes to the existing sunlight conditions in the immediate vicinity of the project due to its location and limited scales, under BMC §§ 23D.08.005.A and 23D.08.005.A1 to Construct a Habitable Accessory Building.

Conditions: To legalize the construction of the accessory building and trellis, a building permit application must be submitted within 30 days after the AUP approval.

Appellant Appeal the Findings and Approval on the grounds that the City failed to act responsibly when approving this AUP, because authorizing construction of a building that projects into the setbacks, diminishing the use, quiet enjoyment and economical value of neighboring property?

BMC § 23D.08.005 Addresses Permitted Uses in Accessory Buildings and Structures; BMC § 23D.08.005.A1 provides that no Accessory Building may be constructed unless authorized by an AUP. A Zoning Certificate shall be required for alteration of an existing Accessory Building.

Appellant argues that permitting an Accessory Structure to be constructed as planned ignores the fact that shadows will be created over the most usable area of the neighboring yard. Furthermore, the quiet enjoyment of the neighboring property will be interfered with and the neighbors (Appellant and Applicants) will complain about activity and noise when either of them do building and yard maintenance, office work, and/or entertain. Additionally, Appellant does anticipate significant change in sunlight and lighting generally; and, since there is no evidence any site visit was conducted on the subject, Appellant disagrees with Zoning Officer's assumptions.

Moreover, the prospective economic value of the neighboring property is likely to be diminished; because, having a non-conforming condition on the property next door will create limits upon what a new owner could get approved should the Appellant choose to sell the Hopkins Street property.

For the foregoing reasons, the approval of this AUP must be rescinded and this Appeal affirmed.

III

APPROVAL OF AUP TO CONSTRUCT A HABITABLE ACCESSORY BUILDING THAT IS OVER 12 FT. IN AVERAGE HEIGHT, WITHIN 4 TO 10 FT. OF THE PROPERTY LINE, UNDER BMC 23D.08.020.B

Finding: AUP would legalize 9 ft. tall, 21 x 5 ft. trellis, located 3 inches from the South property line and 30 ft. from the rear property line.

Conditions: To legalize the construction of the accessory building and trellis, a building permit application must be submitted within 30 days after the AUP approval.

Appellant Appeal the Finding and Approval on the grounds that the Zoning Officer ignored the needs of the neighboring property owner, by permitting an illegally constructed trellis to remain in place right up against the neighbor's garage. Appellant's garage has legally existed on the property line since 1948. Approving this illegally constructed - 9' tall, 21' x 5' - trellis to exist, only 3 inches from side of a neighbor's garage, is obscured and negligence.

Furthermore, this approval interferes with neighbor's quiet enjoyment and denies access to the garage for painting, maintenance and other improvements. In fact, Applicants are presently growing vines over the top of the trellis, which are already growing onto roof of the garage and fence.

Moreover, the property value is diminished by virtue of having illegally constructed conditions so close to the neighboring structure; and, as it relates to the Condition, please note that the trellis is already constructed.

Accordingly, this appeal should be affirmed, this AUP rescinded and the trellis ordered removed.

IV

APPROVAL OF AUP FOR CONSTRUCTION OF ACCESSORY STRUCTURES, UNDER BMC § 23D.08.060.A2

Finding: AUP legalizes a 14 ft. tall hedge within the South and North side yards.

Appellant Appeals the Finding and Approval on the grounds Zoning Officer misstate the non-conforming condition of Applicants' application. What the Zoning Officer is calling "a 14' tall hedge" is actually sixteen or more 14' tall, illegally planted trees – **NOT A HEDGE**. These trees were illegally planted within 3" of the property line, up against the existing fence. This condition is tantamount to creating a much taller fence than the 6' allowed. The trees were illegally planted along the entire length of the property line from front to back, except the space where the illegally constructed trellis was built. Furthermore, the trees are presently growing over the fence and into the fence. It's only a matter of time before the trees began to push against the fence, creating cost and an argument over maintenance – the disturbing the quiet enjoyment of the community.

Accordingly, this appeal should be affirmed, this AUP rescinded and the trellis ordered removed.

V

CONCLUSION

WHEREFORE, Appellant LAWRENCE HICKMAN herein prays for a RULING affirming this Appeal.

Respectfully submitted

By: 
Lawrence Hickman

EXHIBITS

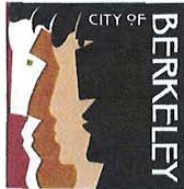
EXHIBITS

EXHIBITS

EXHIBIT A

EXHIBIT A

EXHIBIT A



Office of the City Manager
Code Enforcement Unit
2180 Milvia Street
Berkeley, California 94704
Tel 510.981.2489 Fax 510.981.2499

NOTICE OF VIOLATION

- First Notice
Final Citation Warning

Date: 5/10/18 Time: 4:12 PM Re-inspection Date: 5/24/18

Name of Person Contacted: KEKI BURJORJEE / JENNIE DURANT

The property at: 1346 ORDUAY ST. BERKELEY, CA
was inspected because of concerns expressed to this office. The following code violation(s) were identified during this site visit:

- Illegal Dumping Berkeley Municipal Code Chapter 12.40.080
Accumulation of Trash & Debris Berkeley Municipal Code Chapter 12.32.020
Graffiti Nuisance Berkeley Municipal Code Chapter 13.98.030
Blight Nuisance Berkeley Municipal Code Chapter 12.92.030
Zoning Berkeley Municipal Code Title 22 & Sub-Title 23
Building & Safety Berkeley Municipal Code Chapter 19.28
Obstruction of Streets or Sidewalks Berkeley Municipal Code Chapter 14.48.020
Signage Berkeley Municipal Code Chapter 20.16.010

Other (Code/Section/Title): BMC 23D.08.060 FENCES

(The entire Berkeley Municipal Code may be viewed or printed from the City's web site at www.cityofberkeley.info/Home, specifically www.codepublishing.com/CA/Berkeley).

Attached brochure(s) will give you more code information:

Please perform the following corrections before the re-inspection date to avoid citations, fees, and/or fines starting at \$100-500 per violation/per day:

- NO FENCE ON PROPERTY LINE MAY EXCEED 6 FEET IN HEIGHT.

PLEASE SEE ATTACHED DEFINITIONS.

* HEDGE MUST BE TRIMMED TO 6' - THANK YOU

It is our intent to work with property owners to encourage voluntary compliance. Your cooperation in correcting the violation(s) is greatly appreciated. If you have any questions, please contact the Enforcement Officer at 510.981.2481.

Issued by: [Signature] Enforcement Officer Case #: 397755

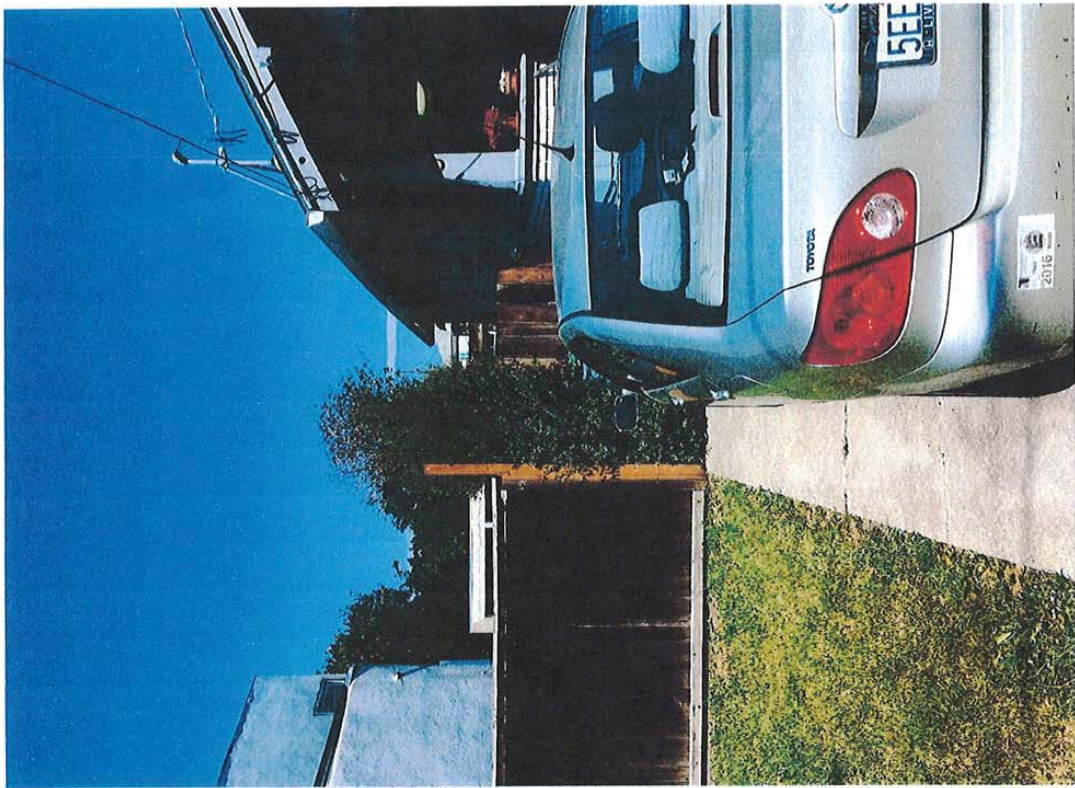


EXHIBIT B

EXHIBIT B

EXHIBIT B

Lawrence Hickman	1333 Hopkins Street Berkeley, CA 94702 Phone: (510) 467-4250 E-Mail: lpacificquest@aol.com
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RECEIVED

SEP 19 2018

LAND USE PLANNING

September 19, 2018

Ms. Nilu Karimzadegan, Planner
City of Berkeley – Zoning/Planning
1947 Center Street, 3rd Floor
Berkeley, CA 94704

SUBJECT
1346 ORDWAY STREET APPLICATION

NOTICE OF OPPOSITION ZONING VARIANCE

Dear Ms. Karimzadegan:

As the adjacent property owner, this writing serves notice that I am opposed to any consideration of the subject application.

Here, the issue is whether **BMC Ch. 23D.08.060 § A(2)** is violated where a resident/neighbor created a fence-wall by planting fifteen (15) trees – in a row - each approximately fourteen (14) feet in height creating a wall, with trees planted less than two feet away from an existing legal community-fence and property line, then builds a 9 foot in height arbor 2” away from the side of my garage without a building permit.

BMC Ch. 23D.08.060 § A(2) provides any fence, hedge, gate, pergola, trellis, arbor or retaining wall when located on a lot in, or on the zoning boundary line of, any residential District is subject to the following “**no fence or other unenclosed accessory structure located on a property line or within the required yard area for a main building set forth in each residential District’s provisions may not exceed six feet in height at any point ... unless so authorized by an AUP ...**”

Here, it appears that the 1346 Ordway Street Resident Applicant (hereafter “Resident Applicant”) has violated and continues in violation of the above referenced municipal code, because Resident Applicant has already planted fifteen (15) trees - in a row - each approximately fourteen (14) feet in height, supported by unpermitted construction method(s), using four-by-fours (4x4s) exceeding six feet in height. In addition, the trees were planted within two feet of the property line, also a violation. This violation(s) is further evidenced by the fact that, after my complaint to Code Enforcement, Resident Applicant received a citation, from the Code Enforcement Unit of the Mayor’s Office. If I had not complained to Code Enforcement, resulting in the citation, Resident Applicant would not have applied for an AUP.

It should be noted that the subject application fails to mention that Resident Applicant has also already created the same and similar fence/wall condition on the opposite side of the property at the 1346 Ordway Street address. The application also fails to mention that Resident Applicant has constructed a 9 foot in height arbor 2" away from my garage without a building permit.

The present state of Resident Applicant current fence/wall configuration substantially interferes with my peaceful and quiet enjoyment of my property by eliminating my entitled air space, around the most useful part of my yard; making my yard small. Allowing the existing nonconforming conditions would diminish the value of my property. In addition, Resident Applicant's fence/wall height, proposed trellis, including the nine (9) foot high arbor – **two (2) inches from my garage** - prevents me from maintaining my property adequately.

I've owned my property at 1333 Hopkins Street for twenty-eight years, without incident. However, Resident Applicant recently approached me in my yard initiating an argument about the complaint I lodged with Code Enforcement. I believe Resident Applicant was attempting to intimidate me prior to filing this deceptive AUP application.

Furthermore, the subject application was only made after the aforementioned conditions were exposed, reported and cited. Moreover, the **Resident Applicant is seeking approval for conditions that already exists**, as if they are correctly planning to create a new condition.

On its face, this application should be denied because it's deceptive and lacks full disclosure. Even the Site Plan submitted is incomplete and lacks full disclosure. Additionally, the trellis description is ambiguous.

I oppose the subject application for the reasons stated herein. Accordingly, Resident Applicant's request for variance should be denied.

Also, The unauthorized 14 feet in height trees/fence, arbor that's 2" away from my garage, and the four-by-fours (4x4) posts taller than 6 feet need to be removed.

Respectfully Submitted,



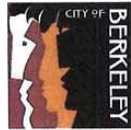
Lawrence Hickman

EXHIBIT C

EXHIBIT C

EXHIBIT C

Handwritten notes: JL/4/8/19 18, 10/6/18, 5/8/2019, 10/5/18, 5/8/19 (5)



Planning and Development Department
Land Use Planning Division

5/8/2019 Response Letter III

February 8, 2019

Sent via email:
jenniedurant@gmail.com

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702

Re: Administrative Use Permit #ZP2018-0174 for 1346 Ordway Street

Dear Jennie,

This letter is in response to the resubmittal of revised application materials, submitted on January 09, 2019. To complete this application, please respond to the following:

1) A New Invoice will be provided

- List of additional Fees
- 1) \$1970 for Fence + hedge NOV
 - 2) Establish an accessory building
 - 3) Accessory building in rear + side setback (x2)
 - 4) Trellis
 - 5) Frontyard parking (to be confirmed by the Traffic Eng. + zoning officer)

1) **Additional AUPs & Fees:** At the time of project submittal, fees were assessed as \$970 for one Tier 3 AUP to construct an accessory structure over 6' within required setbacks. However, because the application is a result of a Notice of Violation and it also includes an unpermitted accessory building and an unpermitted trellis, additional AUPs will apply to the project resulting in a fee increase. We will issue an additional invoice upon the receipt of additional information (requested below).

2) Dimensions on site plan do not match dimensions on survey

2) **Survey:**
A. Provide dimensions from the main dwelling and the front porch to the front and side property lines.

Survey	Site Plan
Driveway 7'-11"	Driveway 10'-2"
DW to Front Pl. 19'-9"	DW to Front Pl. 20'-6"
DW to side pl. 6'-8"-7'	DW to side pl. 7'-2"-8'-3"

B. Provide the width of driveway on the front property line.
C. Include the accessory building's dimensions on the survey and exhibit the distance from its eave to the rear and side property lines.

3) **Site Plan:**
A. **Accessory building:** Please revise the accessory building's name to read as "Accessory Habitable Space" and not a "Shed" on Site Plan. Additionally, include the average and maximum height on the elevation.

3) Any Hot tubs yet?

B. **Trellis:** include trellis's coverage in the overall lot coverage on Tabulation Form.

C. Exhibit the front porch and its dimensions.

D. Include the shed (and its dimensions) that is shown on survey and is attached to the rear of the dwelling.

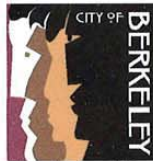
EXHIBIT D

EXHIBIT D

EXHIBIT D

8 9

9



Planning and Development Department
Land Use Planning Division

July 2, 2019

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702

Sent via email:
jenniedurant@gmail.com

Re: Administrative Use Permit #ZP2018-0174 for 1346 Ordway Street

Dear Jennie,

Thank you for the electronic resubmittal of the revised Site Plan on June 5, 2019. After reviewing the submitted materials, staff has determined that the existing off-street parking space is not accessible and there is no other feasible location for parking on the parcel. Note that all paved areas for off-street parking spaces, driveway and any other vehicle-related paving must be removed as a condition of approval on this permit. (Additionally on Site Plan, remove the label "Existing Parking Space" within the front yard setback and include a note for the removal of parking related paved areas and curb cut.). To complete your application, submit revised plans that reflect these changes and submit the additional required payment (see attached invoice).

In your resubmittal, include a cover letter stating how you have addressed the incomplete items. Any changes or corrections must be clouded, and accompanied by a number to allow for easier identification. If new plans are submitted, please deliver two **(2) sets** of plans (at least one set to scale) and submit **both a paper and an electronic copy** of the resubmittals to the zoning counter during normal business hours (Monday thru Thursday 8:30 am – 4:00 pm). If you take no action to address the above items **within 30 days**, the application may be deemed withdrawn and returned to you. Please contact me if you have any questions at (510) 981-7419.

Sincerely,
Nilu Karimzadegan, Planning Technician
CC: Greg Powell, Principal Planner

EXHIBIT E

EXHIBIT E

EXHIBIT E

2. The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner;

3. The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole;

4. Any other variance findings required by the Section of the Ordinance applicable to that particular Variance.

B. The Board shall deny an application for a Variance if it determines that it is unable to make any of the required findings, in which case it shall state the reasons for that determination. (Ord. 6478-NS § 4 (part), 1999)

Please consider your options and let me know which path you would like to take.

Thank you,

Nilu

From: Chun, Peter
Sent: Wednesday, July 17, 2019 10:22 AM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Cc: 'Jennie Durant' <jenniedurant@gmail.com>
Subject: RE: Parking spot AUP

Hi Jennie,

My recommendation would be to restore the original parking space or remove the driveway and restore on street parking as Planning has recommended. I was not aware of the 7 ft. threshold and the Planning Dept. document you provided. I have reviewed and approved many projects with 7 ft. driveways, even 6' – 6" as applicants have indicated their driveway is existing and they squeeze through. I generally support the setback requirement (or parking space restriction) and therefore favor the removal of driveways and restoration of the curb, sidewalk, and on street parking if you choose not to re-establish the rear parking.

Sorry I am sure this is not what you were hoping to hear from our office.

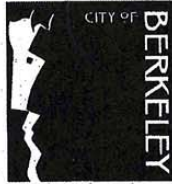
Sincerely,

Peter Chun, T.E.
Associate Traffic Engineer

EXHIBIT F

EXHIBIT F

EXHIBIT F



Office of the City Manager
Neighborhood Services-Enforcement Division

September 10, 2019

Jennie Durant/Keki Burjoree
1346 Ordway Street
Berkeley CA 94702-1124

Subject: **Administrative Citation Warning**

Dear Property Owner:

This letter is confirming that on May 10, 2018 the Code Enforcement Unit issued Notices of Violation requiring that you correct all violations at 1346 Ordway Street. On August 30, 2018 a Citation Warning for the outstanding violations of the Berkeley Municipal Code (BMC). Pursuant to the Notice of Violations and Administrative Citation Warning, you were required to reduce the height of your hedges that exceed 6 feet allowed without a permit.

On September 7, 2018, plans were submitted to the Planning Department for a variance on the hedges where additional unpermitted construction (accessory building & trellis) was identified by the planning department.

As of September 9, 2019, the violations remain and you have failed to comply with the Planning Department requirements and deadlines in submitting corrections to the plan check request by letters and email.

Since this project is associated with a Code Enforcement case specified deadlines are enforced and take precedence over any timelines specific to the permit process.

YOU ARE HEREBY ORDERED TO:

- Within fifteen (15) days of this Administrative Citation Warning respond to the Planning Department emails regarding the Plan check revisions;
- You must respond to any other plan checks comments issued by all reviewing agencies within fifteen (15) days of issuance of comments;
- Within thirty (30) days of the issuance of the required zoning permit, obtain all required building, electrical, plumbing and mechanical permits from the Building and Safety Division; and
- Upon issuance of building permits, complete all work within one hundred eighty (180) days.

Keki Borjorjee/Jennie Durant
1346 Ordway Street
Berkeley, CA 94702


Administrative Citation Warning
September 10, 2019
Page 2 of 2

Please note: Given the history on non-compliance on the property as described above, the City is putting you on notice that any future failure to comply completely will all City laws and regulations will result in daily administrative citations without further notice to you, which will increase as time passes until all violations are corrected. Part compliance or correction of any violation will be regarded as non-compliance.

Commencing September 25, 2019, if you have failed to comply in full with the May 10, 2018 Notice of Violation and the Plan Check corrections request by planning you may be issued administrative citations on a daily basis for each of the above violations without further notice to you. **Citation penalties will begin at a rate of one hundred dollars (\$100.00) per violation, per day and may increase with subsequent citations to two hundred dollars (\$200.00) per violation, per day and five hundred dollars (\$500.00) per violation, per day.**

If you have any questions regarding this Citation Warning Letter, you may contact me at (510) 981-2482 or e-mail me at wdrouillard@cityofberkeley.info.

Sincerely,



Wanda Drouillard
Code Enforcement Officer

cc: Planning Department
David Lopez, Deputy Building Official
Erin Steffen, Assistant to the City Manager



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

1346 Ordway Street

Appeal of Zoning Officer's decision to approve Administrative Use Permit #ZP2018-0174 to legalize additions on an approximately 4,480 sq. ft. lot with an existing one-story approximately 1,152 sq. ft. single family dwelling. The scope of work includes: 1) legalize a 9 ft. tall wood fence and 14 ft. tall hedge within north and south side setbacks; 2) legalize a 128 sq. ft., 12 ft. 2 in. tall habitable accessory building within the required side and rear setbacks; 3) legalize an approximately 9 ft. tall, 5 ft. X 21 ft. trellis located at 3 in. from the south side property line; and 4) Reasonable Accommodation for Fair Access to Housing to modify AUP and Variance requirements to allow for a front yard off-street parking space.

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 **June 11, 2020, conducted via Zoom, see the Agenda for details, which can be found here:** https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2020-06-11%20Draft_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: LMDR – Low Medium Density Residential
- Zoning: R-1A – Limited Two-Family Residential District

B. Zoning Permits Required:

- Administrative Use Permit, under Berkeley Municipal Code (BMC) Section 23D.08.005.A1, to legalize a habitable accessory building;
- Administrative Use Permit, under BMC Section 23D.08.020.A, to legalize a habitable accessory building that is over 10 ft. in average height within 4 ft. of the property line;
- Administrative Use Permit, under BMC Section 23D.08.020.B, to legalize a habitable accessory building that is over 12 ft. in average height within 4 to 10 ft. of the property line;
- Administrative Use Permits, under BMC Section 23D.08.060.A2, to legalize a boundary fence and hedge over 6 ft. in height;

- Administrative Use Permit, under BMC Section 23D.08.060.B, to legalize an unenclosed accessory structure; and
- Administrative Use Permit, under BMC Section 23D.12.080.B, for locating an off-street parking space within the required front yard.
- Variance under BMC 23B.44.030 to eliminate the 2 ft. landscaped strip that separates the paved parking area from the side lot line.
- Accommodation for Fair Access to Housing, under BMC Section 23B.52.010, for Administrative Use Permit and Variance for the front yard parking and waiver of the landscape strip requirement.

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

D. Parties Involved:

- Applicant/Owner : Jennie Durant & Keki Burjorjee, 1346 Ordway Street, Berkeley, CA 94702
- Appellant: Lawrence Hickman, 1333 Hopkins Street, Berkeley, CA 94702

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, Niloufar Karimzadegan, at (510) 981-7419 or NKarimzadegan@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.

May 25, 2020

Dear Members of the Zoning Adjustment Board,

Thank you for taking the time to read our materials for this appeal hearing. We would like to respond to the points made in the "Issues on Appeal" section starting on page 8 of the Appellant's (Lawrence Hickman's) appeal letter to ZAB. To keep this rejoinder letter to the point, we choose not to respond to the many falsehoods about our personal interactions with the Appellant in the "Statement of Facts" section and instead focus on the Appellant's "Issues on Appeal."

Regarding Point 1 of the "Issues on Appeal" section of the Appellant's letter: Approval of AUP for reasonable accommodation for Fair Access to Housing under §23B.52.010:

1. The Appellant is not aware of the full nature of the Applicant's handicap. This is by design, as the Applicant wishes to preserve her privacy on this matter. We have submitted documentation to the City Zoning office, including doctor's forms, photocopies of the placard application, and the final placard, all of which informed the Zoning Office's determination.
2. Regarding the "Health and Safety section": The newly installed 6' fence mentioned by the Appellant was installed *after* the Zoning Office's findings were posted (during the window of appeal). It's hard not to surmise that this fence was installed by the Appellant for the express purpose of making the argument that our "view of pedestrians and oncoming traffic is obscured." That said, oncoming traffic approaches us from the direction opposite to the location of the fence, so we can see it just fine. Secondly, we have not had any problems spotting pedestrians as we slowly pull out of our lot. Additionally, we have noted that several garages on Ordway street extend out to the sidewalk. The view of the street and sidewalk from inside these garages is more obscured than ours, but this does not seem to make them non-conforming.
3. As to the point that the "Applicant's health and well-being is NOT jeopardized and/or compromised should they have to walk from the curb": Again, the Appellant is unaware of the Applicant's physical condition. The Applicant's prognosis is degenerative and currently under evaluation. Carrying heavy items can cause excruciating pain. Having to walk from a parking space (whether from the curb, or from down the street) carrying heavy bags of groceries, our child, or an infant car seat should we expand our family, would be an untenable situation. This is why we have requested an AUP be granted for our front parking space.
4. Numerous residents on our street park in front of their houses. We have included several photos of this in our immediate neighborhood (Figure 1), so approving the AUP would not undermine the aesthetic of our neighborhood.



Figure 1. Cars parked in front parking spaces on the 1300 block of Ordway Street (our block), on our side of the street (right photo) and across the street (left photo). Orange arrows indicate parked cars.

5. Finally, we would like to point out that the Appellant and his tenant consistently park in a manner that blocks the sidewalk in front of the Appellant’s property, forcing people with strollers or wheelchairs out into the street. Our neighbors frequently express their frustration with this to us. We have included examples below (Figure 2).



Figure 2. The upper left photo shows the Appellant’s van blocking the sidewalk, a frequent occurrence. The other three photos are of a tenant or frequent visitor, who consistently parks in the sidewalk. These three photos were taken on May 18, 19, and 20, 2020.

Regarding Point II: Approval of AUP to construct a habitable accessory building over 10' AV HT. W/1 "4" FT of Property Line, under BMC §23D.08.020 and Approval of AUP to construct a habitable accessory building under BMC § 23D.08.005.A1

1. The accessory building casts no shadows on the Appellant's property because it is A) NOT adjacent to the Appellant's property (it is adjacent to Lot 46 on the Survey Plat Map in Fig. 3) and B) It is north-east of the Appellant's property and is therefore physically unable to cast shadows on the Appellant's property.
2. In fact, it is the Appellant's garage ("Garage" on Lot 45 in section of Survey Plat Map, Fig. 3), on our southern property line that casts a shadow onto *our* property from late morning onwards (Figure 3). A full Survey Plat Map with a compass is at the end of the letter and in our application.



Figure 3. Upper left: Note the shadows cast by the Appellant's garage wall into our property. Upper right: Google map of the Appellant's property (bottom half of photo) and 1346 Ordway Street (yellow arrow notes approximate property line). Note how the shadows are cast towards our property, not the Appellant's as he has stated in his appeal. Bottom photo: Section of Plat Map showing that the Accessory Building is adjacent to Lot 46, and not the Appellant's property, Lot 45. A full Plat Map is available at the end of this letter and in our application.

Regarding Point III: The legalization of the 9' Trellis under BMC §23D.08.020.

1. As you can see from the photo of the Trellis below (Figure 4), we specifically constructed the Trellis in a way that allows the Appellant to access his garage for repairs if needed. Nothing prevents the Appellant from maintaining his garage wall.
2. That said, the Appellant's garage has been in a state of disrepair since we took ownership of the property in November 2015. The trellis was designed to improve the aesthetics of our property given that our neighbor's garage wall was on the property line and loomed over our property. We have included several photos below (Figure 5) of our neighbor's property to bring attention to the general state of disrepair that has frustrated not only us, but many members of our neighborhood for over a decade. We hope ZAB members will take into account this long history of dereliction when considering the Appellant's far-fetched point about wanting to maintain his property.



Figure 4. Left: Wall prior to painting and installation of trellis, April 2016. Right: Installed trellis, January 2018.



Figure 5. The upper left and right photo were taken May 18, 2020 and would be the views from our daughter's window if the hedge was not there. The lower left photo was taken May 30, 2017 (from the sidewalk), and demonstrate the disrepair of the Appellant's property that has existed since we moved in.

Regarding Point IV: Approval of AUP for construction of accessory structures, under BMC § 23D.08.060.A2

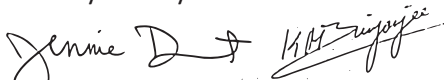
1. According to Berkeley Code, Title 23F.04¹ a hedge is defined as: Any line or row of plants, trees or shrubs planted in a continuous line to form a dense thicket or barrier. Additionally, for permitting purposes, a hedge is subject to the same permit requirements as a fence, and thus subject to the same restrictions as a fence.
2. As ZAB knows, fences are not allowed to be over 6' according to this code, unless authorized by an AUP², which we have applied for through the Zoning Office.
3. Regarding the Appellant's point about the tree branches growing onto his property: Our gardeners have asked the Appellant for permission to prune the trees on his side of the property (or to pick up branches that fall during pruning). The Appellant has consistently refused. This has made it challenging to prune the parts of the trees facing his side of the property, though we have now found a pruner who can do so from our side. We will, of course, keep the trees below the 14' requirement, and have consistently done so since the beginning of this application process.

Finally, we would like to apologize for not obtaining the necessary zoning permits prior to construction of the hedge and trellis. We were first-time homeowners when we took possession of our home one month before our daughter's birth. We simply had no idea we needed permits for the work we did since they are small projects that we have seen on numerous properties in our neighborhood. Given the stress of that time and the demands of our personal and work lives, we were so overwhelmed that we did not do the research we clearly should have done. Once cited for our violation of the City's ordinances we began the approval process. This process was complicated by the removal of a dilapidated garage on the property prior to our taking ownership.

Regarding the accessory building mentioned in Point III of the Appellant's appeal letter, we researched the square footage, height, and setbacks needed to build an accessory building without a zoning permit and acted accordingly. Unfortunately, we were not aware that the required setbacks are with respect to eaves of the accessory building, not the outside walls.

We have spent \$1380 to bring the accessory building into compliance and over \$10,000 (in permit fees and fines, as well as survey and architectural fees) to bring the overall property into compliance. The additions we made improve the value of our home and the value of our neighbors' properties as well. We have good relationships with many of our neighbors, which we hope is reflected by their letters of support. Additionally, our improvements—two attractive xeriscaped, low-water pollinator gardens, an office we can use to work from home during this pandemic; and finally, more trees, which help support the city's commitment to carbon neutrality—are aligned with the values of the city (Figure 6). We hope ZAB will see that our improvements do not pose any real detriment to the Appellant.

Thank you for your time.

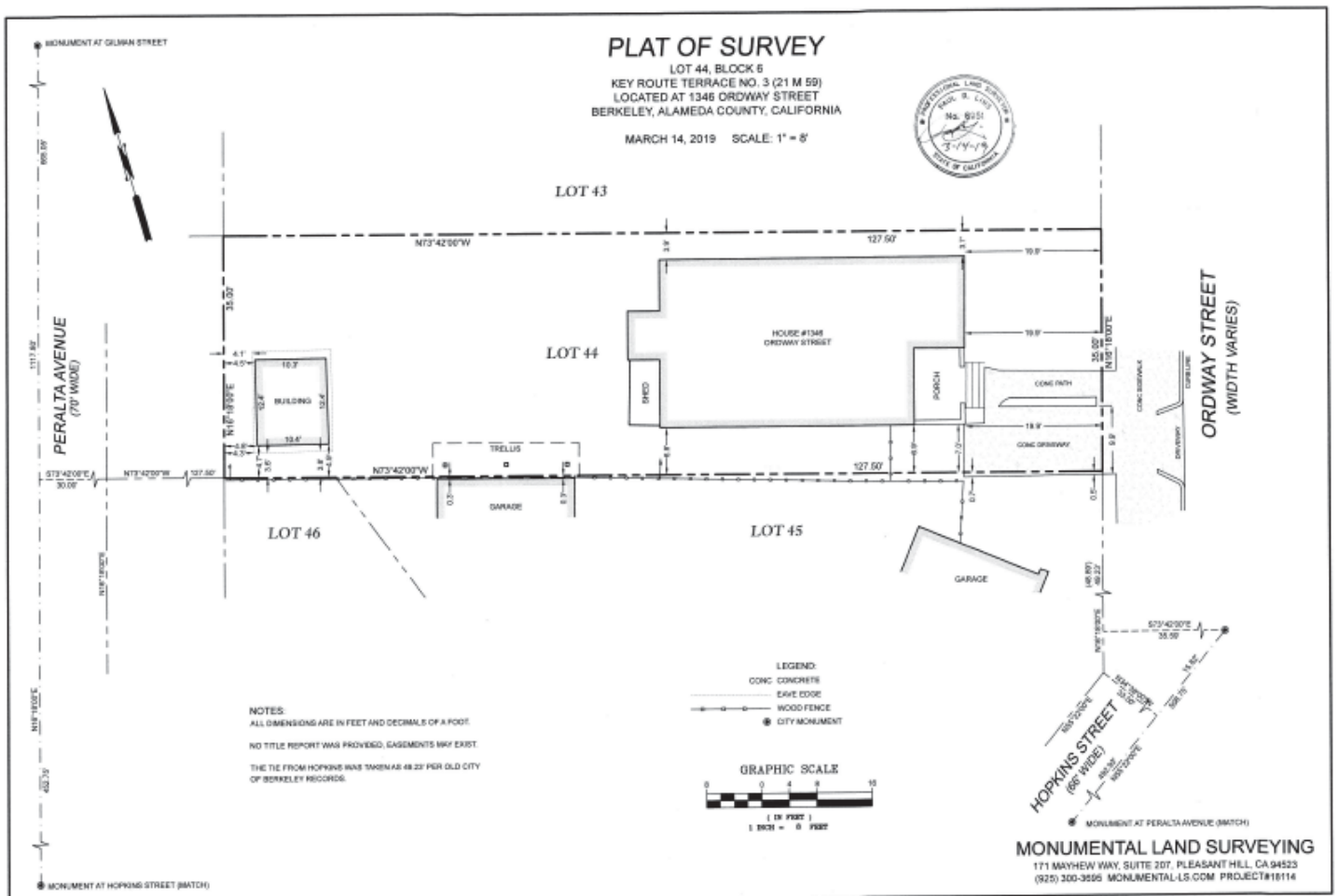

Jennie Durant and Keki Burjorjee

¹ https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_BMC/BMC-Part2--032508.pdf

² <https://www.codepublishing.com/CA/Berkeley/html/Berkeley23D/Berkeley23D08/Berkeley23D08060.html>



Figure 6. Improvements made in the backyard. Left: Photo of backyard upon purchase in November 2015. Right: Photo of backyard, taken May 15, 2020.



Karimzadegan, Niloufar

From: John Whaley <johnw@goodwinsimon.com>
Sent: Saturday, May 23, 2020 11:31 AM
To: Karimzadegan, Niloufar
Cc: jmlw@me.com
Subject: RE: 1346 Ordway St. zoning requests
Attachments: IMG_2117.jpg; IMG_2118.jpg; IMG_2121.jpg; IMG_2122.jpg; IMG_2123.jpg; IMG_2124.jpg; IMG_2125.jpg; IMG_2126.jpg

Attached please find pictures of 1333 Hopkins related to the email below.

Thank you,
John Whaley

From: John Whaley <johnw@goodwinsimon.com>
Sent: Saturday, May 23, 2020 11:28 AM
To: 'nkarimzadegan@cityofberkeley.info' <nkarimzadegan@cityofberkeley.info>
Cc: 'jmlw@me.com' <jmlw@me.com>
Subject: 1346 Ordway St. zoning requests

Good day Ms. Karimzadegan,

My name is John Whaley and I live at 1334 Ordway Street along with my wife, Jennifer Lynn-Whaley. We moved into this house in January 2007, and have raised both of our children here (one is @ King Middle and the other @ BAM).

I'm am writing in support of our neighbors Jennie Durant and Keki Burjorjee and their zoning efforts related to erecting a hedge and parking at 1346 Ordway St. Jennie and Keki have been a fantastic addition to our neighborhood, and we especially love visiting with them during their nightly post-dinner walks with their young daughter Asha. Their property is beautifully landscaped and maintained, and at only 5 houses away, we pass it frequently.

In contrast, the property next door to them at 1333 Hopkins has been a continual detriment to the neighborhood. For the 13 years we've lived here, that building has been under sporadic construction and has remained an eyesore. It has never been clear to me if anyone resides there, nor what the owner intends to do with the property in the long term. For example, Berkeley Fire Department was recently deployed to remove a squatter from the property due to its apparent vacancy and neglect.

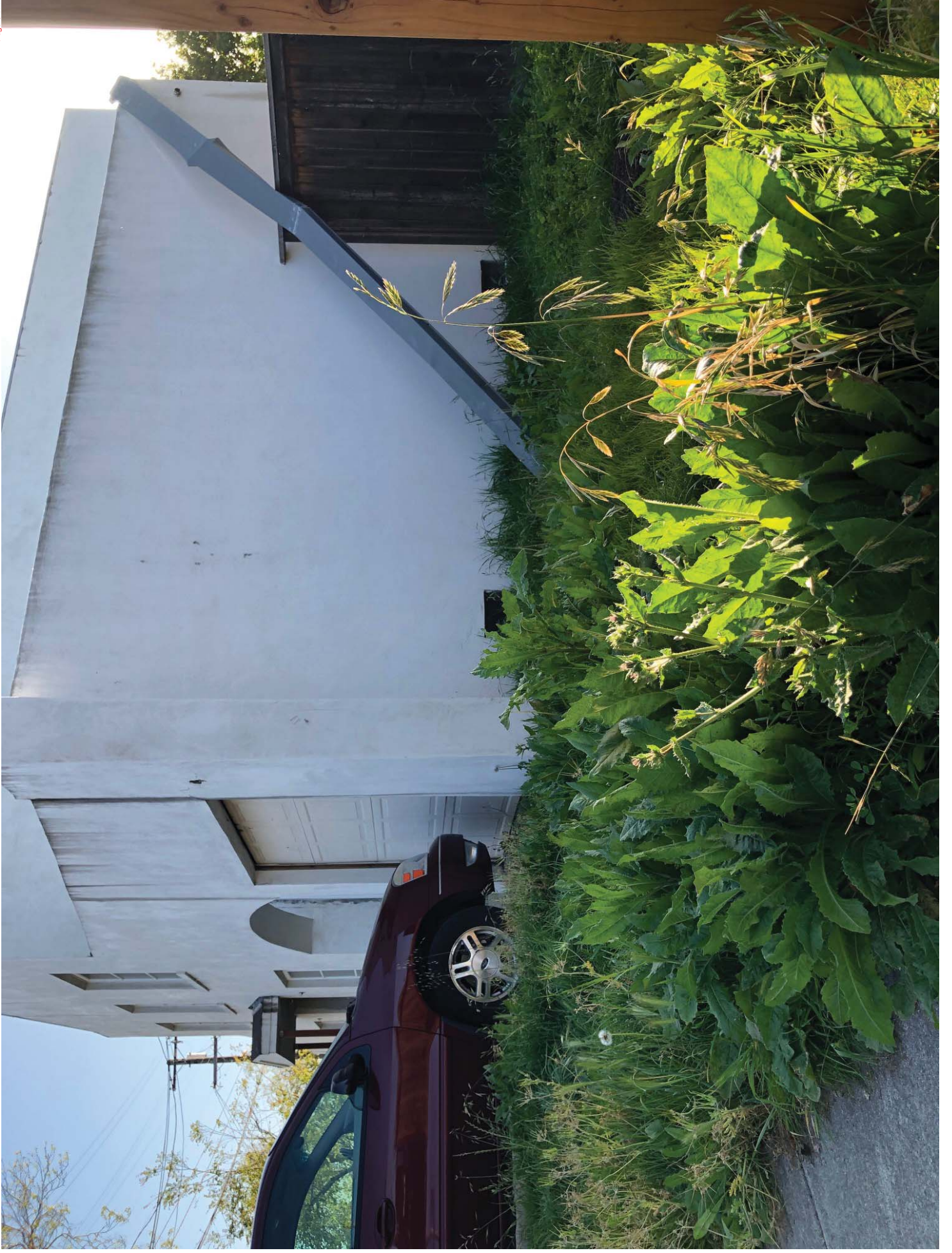
I am not surprised in the least that our neighbors Jennie and Keki would want to construct a hedge between their property and 1333 Hopkins in order to shield themselves from that poorly-maintained building (and yard). I will email you separately pictures taken on May 1, 2020 depicting the building's poor condition, including a broken rain gutter lying against the side of the house as well as the dense, prickly weeds that fill the yard. Another picture also depicts how car is frequently parked in the driveway in such a way that blocks the sidewalk. In short, if we were in their shoes, we would make the same request to block from view as much of the property as possible.

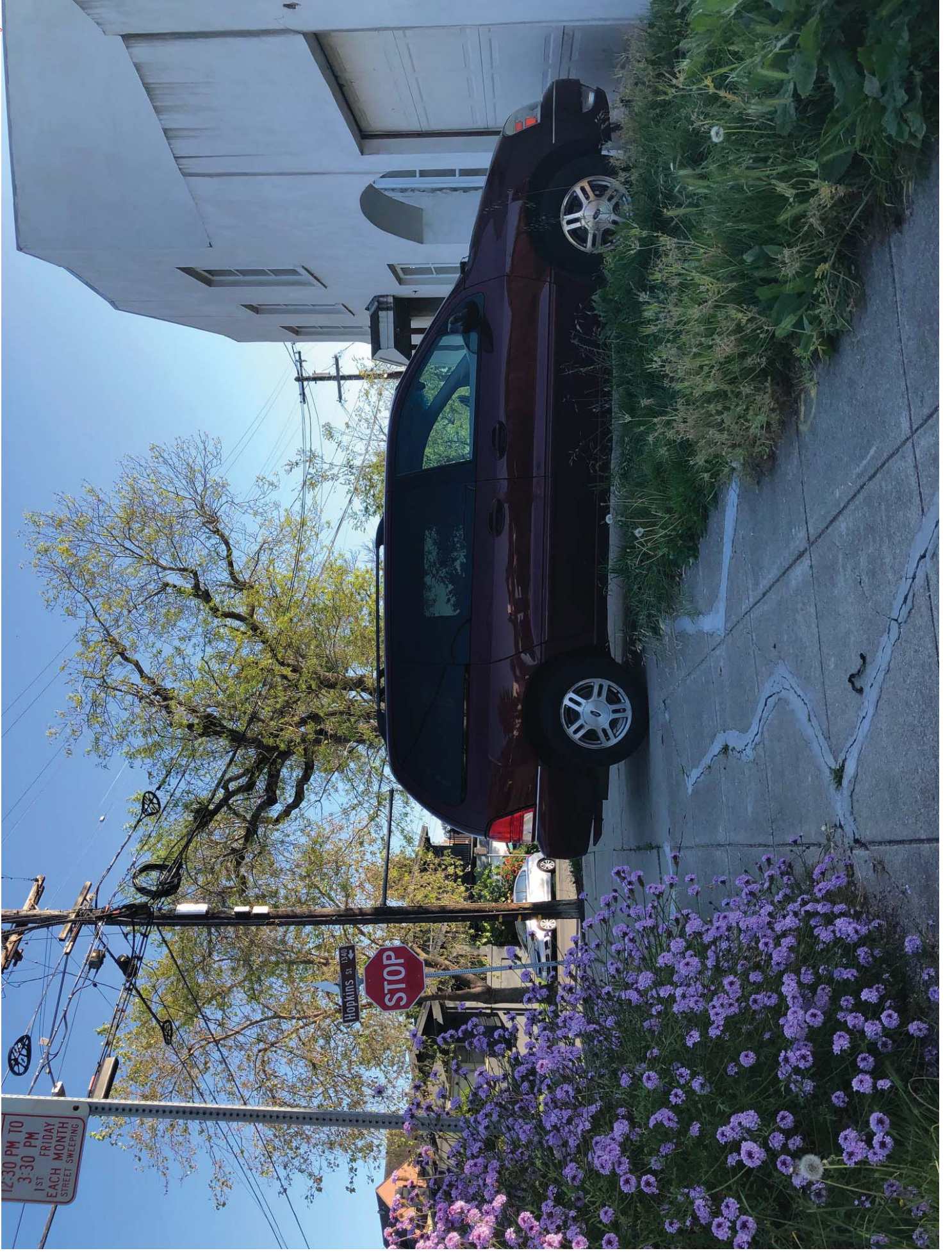
Please feel free to contact me with any questions or concerns.

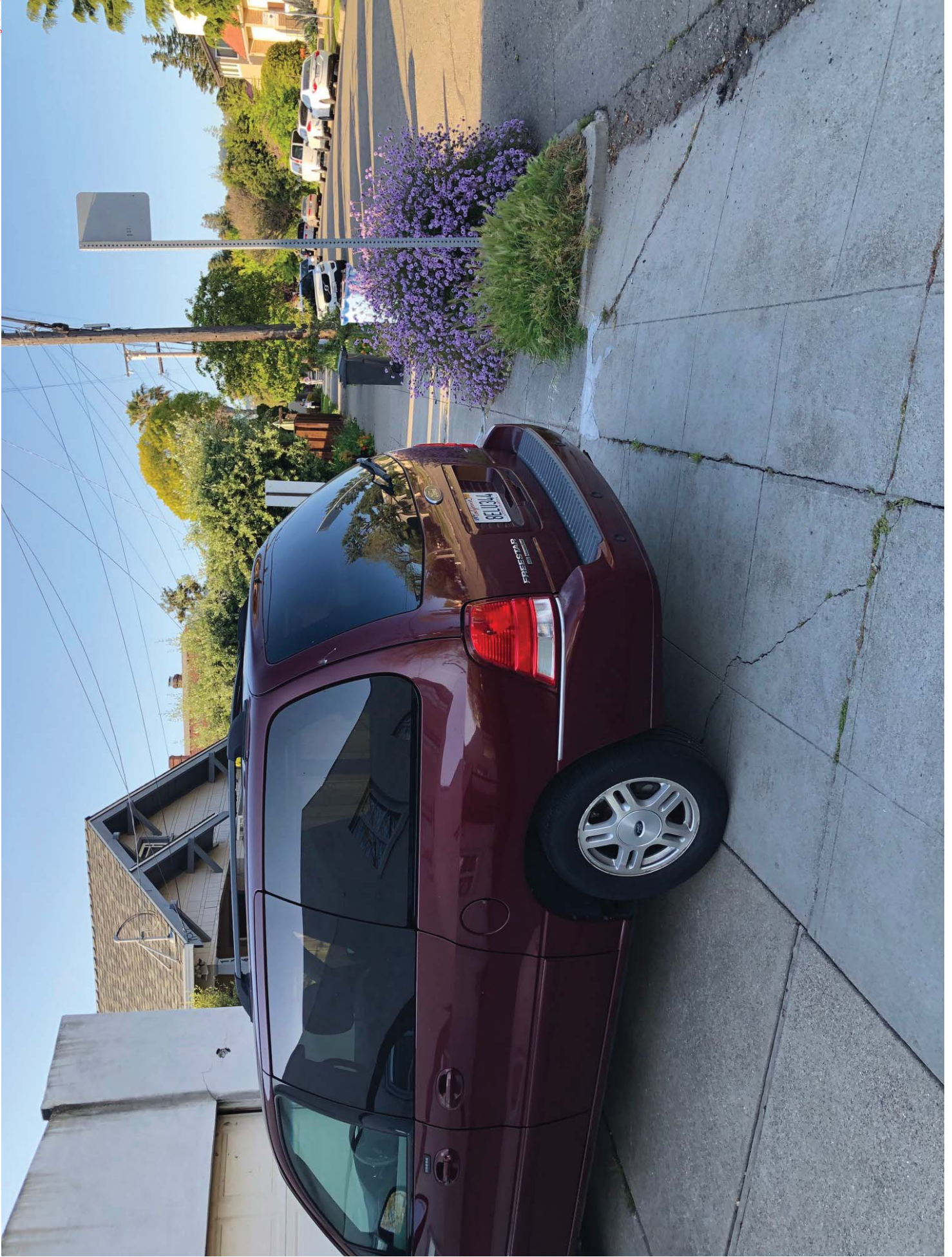
Sincerely,
John Whaley

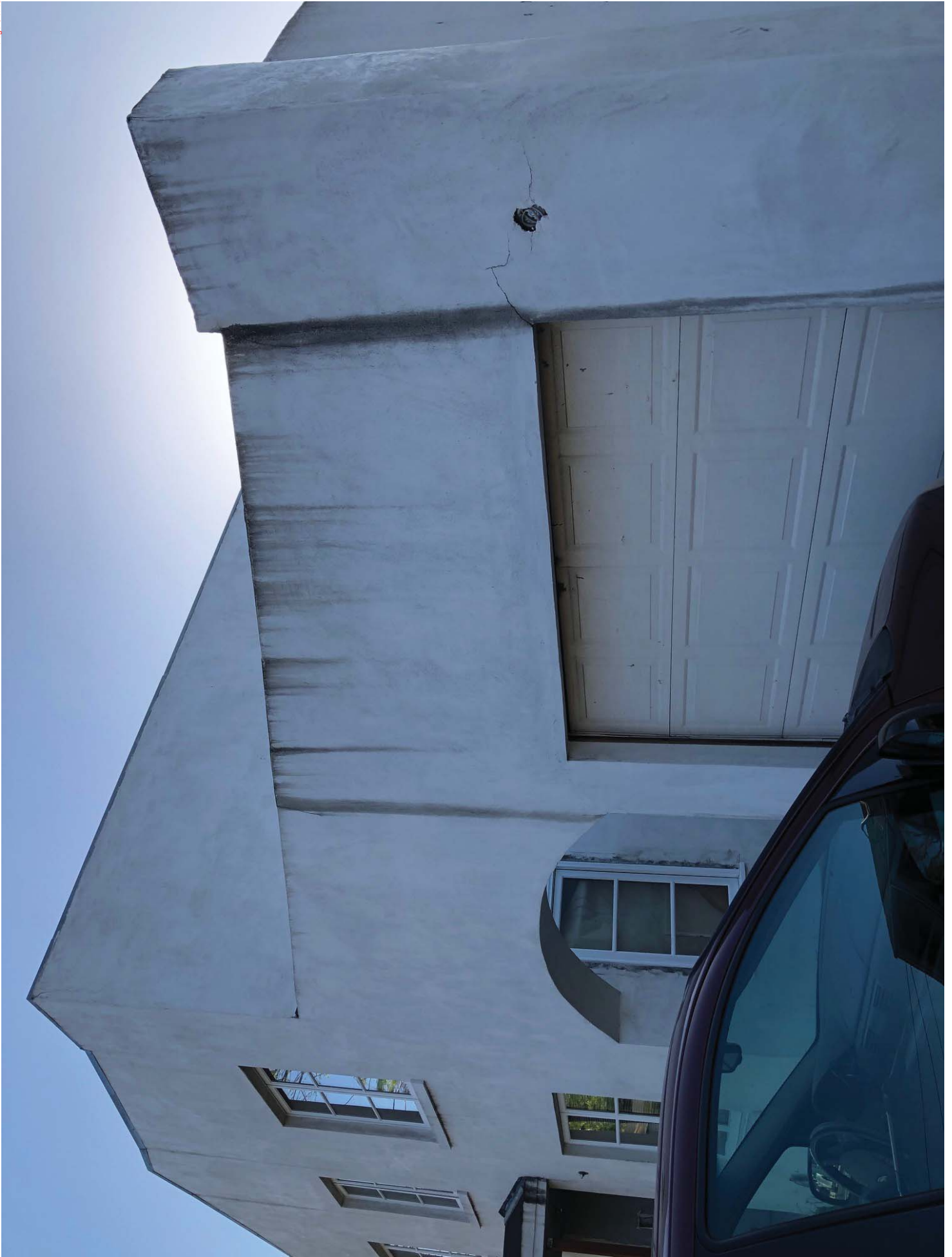
ATTACHMENT 5
ZAB 06-11-2020
Page 2 of 19

John D. Whaley, PhD
Senior Research Director
Goodwin Simon Strategic Research
m: 510-393-2673
o: 510-428-9995

















Karimzadegan, Niloufar

From: andrea.traber@gmail.com
Sent: Friday, May 22, 2020 3:37 PM
To: Karimzadegan, Niloufar
Subject: 1346 Ordway AUP Hearing 5/25
Attachments: view from corner.jpg; looking toward corner from 1346.jpg; xxxx Hopkins.jpg

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms. Karimzadegan,

I am writing you today in reference to the upcoming Administrative Use Permit hearing regarding 1346 Ordway Street submitted by Jennie Durant and Keki Burjorjee. My name is Andrea Traber, I am a neighbor residing in the duplex at 1340 Hopkins Street, and I have lived here for two years.

As I understand it, the AUP seeks approval of the following:

- An existing 8'8" tall x 20' wide arbor
- An existing 24" x 36" lattice along the north fence
- A proposed 24" lattice along the southern fence
- An existing row of 15 silver sheen trees of maximum 14' in height along the southern fence
- An existing shed of under 120 sq. ft. and 12 feet in height

I understand that the neighbor, Larry Hickman at xxxx Hopkins St (no address is visible on his structure) has raised complaints.

As a neighbor in have no concerns or complaints about the existing or proposed uses as described above. In fact, I think they will improve and have improved this corner given the disrepair and unsightly nature of Mr. Hickman's property. They will certainly improve Jennie and Keki's experience of their home and yard. Please see attached for current photos of the properties.

Specifically:

- I support all of the permit approvals in the AUP
- I have no reservation about using the driveway as a parking spot. This is common in Berkeley and in fact helps the neighborhood experience as a respite from on street parking. In my opinion it does not ruin the esthetic of the block or the neighborhood.
- I fully support the hedge between the properties. If I owned 1346 Ordway, I would not want to look at the adjacent property given it's state of disrepair and generally unappealing architectural style. It also seems out of scale in this neighborhood, so shielding its view from multiple vantage points is a benefit. The hedge most certainly does not impact my enjoyment of the neighborhood, in fact it improves it as a lush bit of green and a visual screen.

This neighborhood is well cared for by almost all residents, with the exception of Larry's property. As you can see in pictures the exterior is unfinished, there is a constant stream of construction and "repairs" at the structure, the windows are papered over or covered and it is generally unsightly. It is an eyesore in this neighborhood.

I have no reservations whatsoever about the approval of this AUP. Jennie and Keki's plans do no do anything that would detract from my enjoyment of the neighborhood, in fact, it would improve the visual quality of this corner and our neighborhood. I support the City approving this AUP in its entirety as submitted.

Sincerely,

ATTACHMENT 5
ZAB 06-11-2020
Page 12 of 19

Andrea Traber
1340 Hopkins Street
Berkeley, CA 94702

Karimzadegan, Niloufar

From: Huiying Jin <jinhy1007@gmail.com>
Sent: Thursday, May 21, 2020 11:53 AM
To: Karimzadegan, Niloufar
Subject: Writing in support of 1346 Ordway's permit request - from 1336 Ordway

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr. Karimzadegan,

My name is Huiying Jin, I'm writing to share my support for our 1346 Ordway neighbor - Jennie Durant's multiple permit approvals. My husband Orion Richardson and I have lived at 1336 Ordway since 2017.

Jennie Durant and her family has always been a super considerate and caring neighbor. Jennie also maintains one of the most beautiful front yards in our neighborhood, which greatly increases the property value of the block.

After reading the content of her permit application, I have no doubt that the projects will further beautify the neighborhood and make it a more family-friendly environment.

We're shocked to see the appeal letter against such reasonable development from her next-door neighbor Larry, whose property has always been the eyesore on the block, and he's occasionally mean to some other neighbors kids. We've seen his tenants using recreational drugs in front of his property and making lots of noise and smoke. I think Jennie's idea of planting a beautiful hedge to protect the young family's privacy is very reasonable considering the presence of such not-so-kids-friendly neighbor.

We also fully support the various other permit requests Jennie has made. We'd be happy to answer any questions by phone or in-person if necessary for making her case. Please feel free to reach out. Thank you very much for your consideration. =)

Warm regards,
Huiying Jin and Orion Richardson
Residents of 1336 Ordway Street
Tel: 224-619-2186

November 22, 2019

Dear Nilu,

My name is Elizabeth Hubbell and I live at 1349 Ada Street - I am the neighbor of Jennie Durant & Keki Burjorjee at 1346 Ordway. I am writing in support of Jennie & Keki - case number: 1346 Ordway/ZP2018-0174

1.
to have a front parking spot (authorized use permit).

AND

2.
to create privacy/visual barrier and beautify their yard by planting a pittosporum hedge between their home and their next-door neighbor, Larry Hickman (1333 Hopkins Street).

I've lived here for 23 years and love our neighborhood -- a real community. For much of the time I've lived here, the building at 1333 Hopkins Street has been in a state of "construction" - with windows installed and removed countless times, "construction" vans coming and going at all hours of the day/night. In the course of the past 15 years I've seen the door & window trim sanded & painted I don't know how many times. Simply put, the building is an eyesore. Apparently it's a duplex, though I'm not sure who's actually living there. I don't understand why Larry would have issues with a pittosporum hedge planted between the properties - as added screen/privacy - his property is in a seeming constant state of upheaval.

Thank you for considering my support.

Elizabeth Hubbell

Karimzadegan, Niloufar

From: Susie Wallenstein <berkeleysusie@gmail.com>
Sent: Saturday, November 2, 2019 3:28 PM
To: Karimzadegan, Niloufar
Cc: Susie Wallenstein
Subject: 1346 Ordway neighbor support

Dear Nilu,

My name is Susie Wallenstein and I am the across-the-street neighbor of Jennie Durant and Keki Burjorjee at 1346 Ordway. I live at 1342 Hopkins, just across the street. My husband, Eduardo Pineda and I built our home on a vacant lot in 1986 and have lived there since, raising our children there and actively participating in the neighborhood activities. We love our neighborhood and our very friendly neighbors.

We are writing with a couple of issues in mind:

First, we want to support Jennie and Keki in their request for a use permit for a front parking spot. Theirs is an older house, as most in our neighborhood are, and has a curb cut with a parking pad in the front of their house. They use the parking pad to park their only car. The curb cut and parking pad have been there as long as we can remember. They have informed us of their city case number which is 1346 Ordway/ZP2018-0174

Most of our neighbors park their cars either on the street or in the driveway parking pad in front of their homes. In our neighborhood of smaller homes, most of those who have enclosed garages seem to use them for purposes other than storing their cars. The authorization of a parking spot for Jennie and Keki is completely in line with the rest of the neighborhood.

Secondly, we want to express both our support for them having a tall hedge between their house and their next-door neighbor, at the corner of Hopkins and Ordway, and to register our concern regarding that property. That building has been vacant and a neighborhood eyesore for about 15 years. The well maintained hedge provides visual screening between their home and the hulking eyesore next door..

The current owner of the nextdoor building, Larry Hickman, got rid of the tenants in the previously 4-unit building, took down all the interior walls, and has left it vacant since he purchased it about 15 years ago. He has installed and REMOVED windows on all sides of the building REPEATEDLY; I would estimate at least 5 times in the last 15 years, although there has been no other visible work or improvement on the property. There is no landscaping, although he does keep the weeds down. The windows are covered with paper or crooked blinds and there are no lights. Cars park there overnight, and others come and go, but there are no inhabitants. There seems to be an open building permit for the property,(we have met with the inspector, by chance) but there has been no visible progress made on whatever project they are doing, other than constant window replacement.

No one appears to live there, although I have personally witnessed a fist fight and shouting matches in front of the building. Just a few weeks ago, there was a lot of shouting and police come and took someone away in handcuffs.

Visual screening between Jennie and Keki's home and Mr. Hickman's building is important for Jennie and Keki's feeling of safety and security in our otherwise delightful neighborhood.

Thank you for considering my support for Jennie and Keki's parking space and hedge.

Susie Wallenstein and Eduardo Pineda

December 1, 2018

Dear Nilu Karimzadegan and Greg Powell,

This is a letter of support for Jennie Durant and Keki Burjorjee's AUP for the lattice on the northern fence of 1346 Ordway Street, as well as to support them as my neighbors more broadly.

The home was previously occupied by a 99-year-old woman, Coesther Taylor, who passed away before her family trust put the home on the market. When Jennie and Keki moved in, they expended a lot of effort to landscape the yard from weeds and grass to the lovely garden it is now. My kitchen window looks out onto their yard, and so I could see all the changes they were making.

In 2017, Jennie and Keki asked if they could replace the lattice between our properties with one slightly higher since the lattice had degraded from some vines and then they could also have more privacy in their yard since our kitchen and dining room looked right onto their back yard. We agreed, and they had a custom-built lattice installed which we think looks nice, and which gives us greater privacy as well.

In addition, I just want to attest that Jennie and Keki are good neighbors. We watch their daughter (a toddler) from time to time; we have shared meals, traded home ideas, and regularly chat and help each other out. In short, we have a great relationship with them and are so happy to have them next door.

We just wanted to share our perspective and hope it is helpful. Feel free to reach out to me at tamarg08@yahoo.com with any questions.

Best,

A handwritten signature in black ink that reads "Tamar Gershon". The signature is written in a cursive style with a large, looped "G" at the end.

Tamar Gershon
1344 Ordway Street,
Berkeley CA 94702

PRISCILLA RICE
Realtor Associate

priscilla@priscillarice.com



MASON-McDUFFIE

510.304.5124 Cell
510.868.1550 Office
510.540.9957 Fax
2095 Rose Street
Berkeley, California 94709
www.priscillarice.com
BRE #01816796

December 1, 2018

Dear Nilu Karimzadegan and Greg Powell,

I am writing on behalf of Jennie Durant and Keki Burjorjee, my clients who purchased 1346 Ordway Street on November 9th, 2015. I am writing to address two points. The first is to support the statement that the listing agent, Norman Gee, made in his letter, which is that the garage was removed before Jennie and Keki moved in because it was structurally unsound and unsafe. The structure had been removed entirely by the time Jennie and Keki closed on the property.

Secondly, I want to affirm the efforts they have made to improve the beauty of the property, the first home they have owned. The house was previously owned by a 99-year-old woman who passed away while living there. The place had not been updated since she purchased the unit in the 1970's and Keki and Jennie have improved the beauty and value of the home tremendously since they took ownership. The yard and office are lovely and not only increase the value of their property, but the value of their neighbors' properties by extension. I just wanted to add my perspective as a real estate agent that they are good neighbors and kind people. I do hope that you'll consider granting them the permit they are asking for to have extra privacy and an added safety measure from the vacant property next door.

Please feel free to contact me with any questions.

Best,

A handwritten signature in cursive script that reads "Priscilla Rice".

Priscilla Rice
Realtor at Better Homes and Gardens
2095 Rose Street #101
Berkeley, CA 94709



MASON-McDUFFIE

November 30, 2018

Dear Sir / Madame,

I represented the Taylor Family trust in 2015 for the sale of 1346 Ordway St. in Berkeley following the passing of their long time family matriarch. Prior to the sale of the property the remnants of the detached garage were removed from the premises. The garage itself had essentially collapsed and had a large tree growing through the center of it which held up what little remained of the slumping dilapidated structure.

Best Regards,

Norman Gee

Better Homes & Gardens | Reliance Partners
2095 Rose St. Suite 100
Berkeley CA 94709
Ph: 510-868-1400
Dir: 510-552-0878

Karimzadegan, Niloufar

From: Larry Hickman <Lpacificquest@aol.com>
Sent: Monday, June 1, 2020 8:25 PM
To: Karimzadegan, Niloufar
Subject: Tree within Required Setback

Nilu,

Attached are two better pictures illustrating how the trees planted within the required setback are growing over the property line and invading my space. Please include these pictures and email as part of my appeal regarding 1346 Ordway Street. To permit these trees, planted without a permit, creates an ongoing issue for me and and future owners of my property.

Thank you,

Larry Hickman
1333 Hopkins Street
Berkeley, CA 94702
(510) 467-4250





Sent from my iPhone

Karimzadegan, Niloufar

From: Larry Hickman <Lpacificquest@aol.com>
Sent: Tuesday, April 7, 2020 8:58 AM
To: Karimzadegan, Niloufar
Subject: 1346 Ordway Street

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Good morning Nilu,

Please include these additional photos with my appeal. The trees will soon smother my Lemon Tree and are a nuisance. I think any reasonable person will agree.

Thank you,

Larry Hickman
1333 Hopkins Street
Berkeley, CA 94702
(510) 467-4250









Karimzadegan, Niloufar

From: Larry Hickman <Lpacificquest@aol.com>
Sent: Saturday, April 4, 2020 5:49 PM
To: Karimzadegan, Niloufar
Subject: Appeal 1346 Ordway

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Hello Nilu,

Please add this photo to my appeal. As you can see the neighbors 14-15ft tall trees are growing into my yard and will eventually cover up my Lemon tree and fence; pushing the fence over. This is an inappropriate condition.

Thank you,

Larry Hickman
1333 Hopkins Street
Berkeley, CA 94702
(510) 467-4250



Karimzadegan, Niloufar

From: Larry Hickman <Lpacificquest@aol.com>
Sent: Wednesday, June 12, 2019 10:29 AM
To: Karimzadegan, Niloufar
Subject: 1346 Ordway
Attachments: IMG_0508.jpg; ATT00001.txt

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning Nilou,

I'm curious about the status of my neighbors application. The non permitted fence is continuing to grow taller, despite the citation already issued by the City of Berkeley. Please see the attached photo. I'm just wondering if the City intends to enforce the citation(s) related to my neighbors growing a fence greater than 6' tall.

Thank you,

Larry Hickman
1333 Hopkins Street
Berkeley, CA 94702
(510) 467-4250



Karimzadegan, Niloufar

From: Larry Hickman <Lpacificquest@aol.com>
Sent: Thursday, January 10, 2019 11:18 AM
To: Karimzadegan, Niloufar
Subject: No Sign
Attachments: IMG_0371.jpg; ATT00001.txt

Thanks Nilu,

There's no sign in front of 1346 Ordway and there has been for a approximately 2 months. The applicants letter stated they would place a sign in from of their property in early December, however, that has not yet occurred.

Thanks again,

Larry Hickman
1333 Hopkins Street
Berkeley, CA 94702
510 467-4250



Lawrence Hickman

1333 Hopkins Street
Berkeley, CA 94702
Phone: (510) 467-4250
E-Mail: lpacificquest@aol.com

RECEIVED

SEP 20 2018

LAND USE PLANNING 8.9.

September 20, 2018

Ms. Nilu Karimzadegan, Planner
City of Berkeley – Zoning/Planning
1947 Center Street, 3rd Floor
Berkeley, CA 94704

SUBJECT
1346 ORDWAY STREET APPLICATION

NOTICE OF OPPOSITION ZONING VARIANCE
REVISED

Dear Ms. Karimzadegan:

As the adjacent property owner, this writing serves notice that I am opposed to any consideration of the subject application.

Here, the issue is whether **BMC Ch. 23D.08.060 § A(2)** is violated where a resident/neighbor created a fence-wall by planting fifteen (15) trees – in a row - each approximately fourteen (14) feet in height creating a wall, with trees planted less than two feet away from an existing legal community-fence and property line, then builds a 9 foot in height arbor 2" away from the side of my garage without a building permit.

BMC Ch. 23D.08.060 § A(2) provides any fence, hedge, gate, pergola, trellis, arbor or retaining wall when located on a lot in, or on the zoning boundary line of, any residential District is subject to the following **"no fence or other unenclosed accessory structure located on a property line or within the required yard area for a main building set forth in each residential District's provisions may exceed six feet in height at any point ... unless so authorized by an AUP"**

Here, it appears that the 1346 Ordway Street Resident Applicant (hereafter "Resident Applicant") has violated and continues in violation of the above referenced municipal code, because Resident Applicant has already planted fifteen (15) trees - in a row - each approximately fourteen (14) feet in height, supported by unpermitted construction method(s), using four-by-fours (4x4s) exceeding six feet in height. In addition, the trees were planted within two feet of the property line, also a violation. This violation(s) is further evidenced by the fact that, after my complaint to Code Enforcement, Resident Applicant received a citation, from the Code Enforcement Unit of the Mayor's Office. If I had not complained to Code Enforcement, resulting in the citation, Resident Applicant would not have applied for an AUP.

It should be noted that the subject application fails to mention that Resident Applicant has also already created the same and similar fence/wall condition on the opposite side of the property at the 1346 Ordway Street address. The application also fails to mention that Resident Applicant has constructed a 9 foot in height arbor 2" away from my garage without a building permit.

The present state of Resident Applicant current fence/wall configuration substantially interferes with my peaceful and quiet enjoyment of my property by eliminating my entitled air space, around the most useful part of my yard; making my yard small. Even the proposed **two (2) feet in height lattice** that Resident Applicant wants to install, creating an eight (8) feet in height fence, is nonconforming and negatively impacts my site line and air space. Allowing these nonconforming conditions would diminish the value of my property. In addition, Resident Applicant's fence/wall height, proposed trellis, including the nine (9) foot high arbor – **two (2) inches from my garage** -, and proposed lattice prevents me from maintaining my property adequately.

I've owned my property at 1333 Hopkins Street for twenty-eight years, without incident. However, Resident Applicant recently approached me in my yard initiating an argument about the complaint I lodged with Code Enforcement. I believe Resident Applicant was attempting to intimidate me prior to filing this deceptive AUP application.

Furthermore, the subject application was only made after the aforementioned conditions were exposed, reported and cited. Moreover, the **Resident Applicant is seeking approval for conditions that already exists**, as if they are correctly planning to create a new condition.

On its face, this application should be denied because it's deceptive and lacks full disclosure. Even the Site Plan submitted is incomplete and lacks full disclosure. Additionally, the trellis description is ambiguous.

I oppose the subject application for the reasons stated herein. Accordingly, Resident Applicant's request for variance should be denied.

Also, The unauthorized 14 feet in height trees/fence, arbor that's 2" away from my garage, and the four-by-fours (4x4) posts taller than 6 feet need to be removed.

Respectfully Submitted,



Lawrence Hickman

Lawrence Hickman	1333 Hopkins Street Berkeley, CA 94702 Phone: (510) 467-4250 E-Mail: lpacificquest@aol.com
------------------	---

RECEIVED

SEP 19 2018

LAND USE PLANNING

ZP2018-0174 (LV)

September 19, 2018

Ms. Nilu Karimzadegan, Planner
City of Berkeley – Zoning/Planning
1947 Center Street, 3rd Floor
Berkeley, CA 94704

SUBJECT
1346 ORDWAY STREET APPLICATION

NOTICE OF OPPOSITION ZONING VARIANCE

Dear Ms. Karimzadegan:

As the adjacent property owner, this writing serves notice that I am opposed to any consideration of the subject application.

Here, the issue is whether **BMC Ch. 23D.08.060 § A(2)** is violated where a resident/neighbor created a fence-wall by planting fifteen (15) trees – in a row - each approximately fourteen (14) feet in height creating a wall, with trees planted less than two feet away from an existing legal community-fence and property line, then builds a 9 foot in height arbor 2" away from the side of my garage without a building permit.

BMC Ch. 23D.08.060 § A(2) provides any fence, hedge, gate, pergola, trellis, arbor or retaining wall when located on a lot in, or on the zoning boundary line of, any residential District is subject to the following "**no fence or other unenclosed accessory structure located on a property line or within the required yard area for a main building set forth in each residential District's provisions may not exceed six feet in height at any point ... unless so authorized by an AUP**"

Here, it appears that the 1346 Ordway Street Resident Applicant (hereafter "Resident Applicant") has violated and continues in violation of the above referenced municipal code, because Resident Applicant has already planted fifteen (15) trees - in a row - each approximately fourteen (14) feet in height, supported by unpermitted construction method(s), using four-by-fours (4x4s) exceeding six feet in height. In addition, the trees were planted within two feet of the property line, also a violation. This violation(s) is further evidenced by the fact that, after my complaint to Code Enforcement, Resident Applicant received a citation, from the Code Enforcement Unit of the Mayor's Office. If I had not complained to Code Enforcement, resulting in the citation, Resident Applicant would not have applied for an AUP.

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The present state of Resident Applicant current fence/wall configuration substantially interferes with my peaceful and quiet enjoyment of my property by eliminating my entitled air space, around the most useful part of my yard; making my yard small. Allowing the existing nonconforming conditions would diminish the value of my property. In addition, Resident Applicant's fence/wall height, proposed trellis, including the nine (9) foot high arbor – **two (2) inches from my garage** - prevents me from maintaining my property adequately.

I've owned my property at 1333 Hopkins Street for twenty-eight years, without incident. However, Resident Applicant recently approached me in my yard initiating an argument about the complaint I lodged with Code Enforcement. I believe Resident Applicant was attempting to intimidate me prior to filing this deceptive AUP application.

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I oppose the subject application for the reasons stated herein. Accordingly, Resident Applicant's request for variance should be denied.

Also, The unauthorized 14 feet in height trees/fence, arbor that's 2" away from my garage, and the four-by-fours (4x4) posts taller than 6 feet need to be removed.

Respectfully Submitted,



Lawrence Hickman

ROUGHLY EDITED COPY
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THURSDAY, JUNE 11, 2020

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This text is being provided in a rough draft format.
Communication Access Realtime Translation (CART) is provided in
order to facilitate communication accessibility and **may not be
totally verbatim record of the proceedings.**

* * * * *

>> S. O'KEEFE: GO BACK TO YOUR CAGE. ALL RIGHT. SO WE'LL TAKE A MINUTE -- OKAY, WE'RE GOING TO MOVE ON TO 1346 ORDWAY STREET WHICH IS AN APPEAL OF AN AUP. WITH APPEALS, JUST SO EVERYONE ON THE BOARD AND THE PUBLIC KNOWS THE APPEALS HAVE A SLIGHTLY DIFFERENT ORDER. WE BEGIN WITH THE STAFF REPORT AS ALWAYS. THEN WE'RE GOING TO HAVE THE APPELLANT GO FIRST AND APPELLANT, YOU'RE GOING TO BE GIVEN FIVE MINUTES TO SPEAK, THEN WE'LL LET THE ORIGINAL APPLICANT SPEAK FOR FIVE MINUTES. AND AFTER THAT, WE'RE GOING TO HAVE OPEN IT UP FOR MEMBERS OF THE PUBLIC TO MAKE COMMENTS IF THEY WISH. AFTER THAT, WE'RE GOING TO CLOSE THE PUBLIC HEARING AND BRING BACK FOR BOARD COMMENTS. THAT'S THE PROCEDURE. I BELIEVE WE HAVE THE APPLICANT AND APPELLANT HAVE BEEN ELEVATED TO PANELISTS. IS THAT CORRECT? I THINK SO. WE'LL BEGIN WITH THE STAFF REPORT.

>> GOOD EVENING. I'M NILU KARIMZADEGAN. THIS IS TO APPROVE ADMINISTRATIVE UNIT ZP-2018-0174 TO LEGALIZE A HABITABLE BUILDING, TRELIS, FENCE AND HEDGE FOR A SINGLE-FAMILY DWELLING. THIS INCLUDES LOCATING AN OFF-STREET PARKING SPACE BY MODIFYING REQUIREMENTS ON THE REASONABLE ACCOMMODATION 23B.52. THE PROJECT SITE IS LOCATED IN THE R-1A DISTRICT OF THE NORTHWEST SIDE OF THE INTERSECTION ON HOPKINS AND ORDWAY AND EAST TO PEARL AVENUE. THE NEAREST ABUTTING NEIGHBORS' RESIDENT AT 1344 ORDWAY STREET IS LOCATED APPROXIMATELY EIGHT FEET TO THE NORTH OF SUBJECT

PROPERTY. THE APPELLANT'S PROPERTY AT 1333 HOPKINS IS LOCATED 209 NORTH OF THE INTERSECTION AND SOUTH OF THE PROPERTY AND CLOSEST BUILDINGS ARE SEPARATED FROM THE MAIN DWELLING ON THE SUBJECT PROPERTY BY APPROXIMATELY 14 FEET. IN NOTICE OF VIOLATION WAS ISSUED IN MAY 2018 FOR A HEDGE OVER 6 FEET IN HEIGHT WITH REQUIRED SETBACKS. A ZONING APPLICATION WAS SUBMITTED IN SEPTEMBER 2018 TO LEGALIZE THE FENCE ON THE HEDGE. AFTER REVIEW OF THE APPLICATION, STAFF DETERMINED THAT ADDITIONAL AUPS ARE REQUIRED TO LEGALIZE AN EXISTING ACCESSORY BUILDING, A TRELIS AND FRONT YARD PARKING SPACE. AFTER AN OFFICIAL SURVEY WAS SUBMITTED, THE APPLICANT WAS PRESENTED WITH THE FOLLOWING THREE OPTIONS. ONE, TO RESTORE SITE TO THE ORIGINAL CONDITION INCLUDING USE OF THE LEGAL NONCONFORMING DRIVEWAY WITH A REAR PARKING SPACE. TWO TO ACCEPT THE LEGAL -- APPROVAL TO REMOVE ALL PARKING-RELATED SURFACES INCLUDING REMOVAL OF THE CAR PAD AND TO APPLY FOR AN AUP VARIANCE FOR THE FRONT YARD PARKING SPACE AND WAIVER OF THE REQUIRED LANDSCAPE STRIP. THE APPLICATION WAS DEEMED COMPLETE IN DECEMBER 2019. AND WAS TENTATIVELY SCHEDULED FOR A ZAB HEARING IN JANUARY 2020. HOWEVER, APPLICANTS INCLUDED A STATEMENT FOR A MEDICAL CONDITION AND NEED FOR A FRONT YARD PARKING SPACE. STAFF REPORTS THAT DOCUMENTATION FOR EVALUATION IN ORDER FOR APPROVAL OF PARKING. AFTER RECEIVING A COPY -- A COPY OF THE APPLICATION FOR TEMPORARY DISABILITY AND MEDICAL REPORT AND CONSIDERING

FACTORS REGARDING REASONABLENESS OF THE APPLICATION ON THEIR REASONABLE ACCOMMODATE CHAPTER, THE ZONING OFFICER DETERMINED THAT AUP REQUIREMENTS CAN BE WAIVED TO ALLOW FOR A FRONT STREET PARKING SPACE. NOTICE OF APPROVAL WAS SENT OUT ON FEBRUARY 25TH, 2020. THIS RECOMMENDATION INCLUDED APPROVAL TO LEGALIZE ACCESSORY BUILDING, TRELIS, HEDGE AND FRONT YARD OFF-STREET PARKING SPACE. HOWEVER, THE REQUEST TO LEGALIZE FENCE OVER 6 FEET IF HEIGHT WAS DENIED SINCE THE SURVEY SHOWED THAT THE FENCE IS LOCATED OUTSIDE THE APPLICANT'S PROPERTY LINE AND APPELLANT LOT. APPEAL OF THE AUP WAS SUBMITTED ON MARCH 17TH, 2020. INCLUDES SEVERAL POINTS IN MY STAFF REPORT. BECAUSE OF THE PROJECT CONSISTENCY WITH THE ZONING ORDINANCE AND GENERAL PLAN AND MINIMAL IMPACT ON THE SURROUNDING PROFITS STAFF RECOMMENDED APPROVAL. I HAVE SOME ADDITIONAL IMAGES IN THIS SLIDE YOU CAN SEE THAT -- YOU CAN SEE THE HEDGE AND LOCATION FOR FRONT YARD PARKING SPACE BEFORE A NEWLY-INSTALLED FENCE WAS INSTALLED BY APPELLANT. THIS THE APPELLANT'S NEW FENCE. IN THIS IMAGE, YOU CAN SEE THE ACCESSORY BUILDING IN THE SOUTHWEST CORNER OF THE SUBJECT REPORT. THIS IS THE TRELIS WITHIN THE SOUTH SETBACK. AS YOU CAN SEE, IT HAS THE SAME HEIGHT AND LENGTH AS THE APPELLANT'S GARAGE. AND WITH THAT, I END MY PRESENTATION. PLEASE LET ME KNOW IF YOU HAVE ANY QUESTIONS.

>> S. O'KEEFE: GREAT, THANK YOU VERY MUCH. ARE THERE QUESTIONS FOR STAFF? WAIT. ONE SECOND. TERESA HAS HER HAND UP

PATRICK IN THE PROPER WAY.

>> T. CLARKE: YOU SAID THAT THERE WAS A VARIANCE. WAS THAT JUST YOU'RE SAYING -- WAS THERE A VARIANCE? IN THE PRESENTATION YOU MENTIONED "VARIANCE." I DON'T SEE ONE ON HERE.

>> THE VARIANCE REQUIREMENT FOR NOT PROVIDING THE TWO FEET LANDSCAPE STRIP IS WAIVE UNDER REASONABLE ACCOMMODATION.

>> T. CLARKE: OKAY. AND THE OTHER QUESTION I HAD WAS YOU'RE SAYING APPELLANT BUILT A FENCE OVER 6 FEET?

>> STAFF: IT'S NOT OVER 6 FEET, HE BUILT IT AFTER WE SENT OUT THE NOTICES.

>> T. CLARKE: SO THE FENCE OVER 6 FEET IS NOW IN COMPLIANCE.

>> STAFF: THE WAY IT WORKED WAS WE GOT A NOTICE OF VIOLATION FOR HAVING A FENCE AND HEDGE OVER 6 FEET WITHIN THE SIDE SETBACK. BUT AFTER THE SURVEY WAS SUBMITTED, WE REALIZED THAT THE FENCE IS NOT EVEN ON APPLICANT'S LOT, IT'S ON THE APPELLANT'S LOT SO WE DENIED. THERE IS NO FENCE OVER 6 FEET.

>> T. CLARKE: OKAY SO IS THE PERSON AT 1333 HOPKINS HAS THE FENCE OVER 6 FEET?

>> STAFF: NO.

>> T. CLARKE: WHOSE PROPERTY IS OFF?

>> STAFF: IT'S ON THE APPELLANT'S LOT AND IS NOT OVER 6 FEET.

>> T. CLARKE: OK.

>> S. O'KEEFE: THERE WAS A FENCE OVER 6 FEET BUT WAS NOT APPROVED AND IT'S GONE.

>> STAFF: THEY WANTED TO ADD TWO TO THREE FEET OVER THE 6 FEET TO MAKE IT HIGHER.

>> T. CLARKE: THEN THE TRELIS IS THERE, IT'S ON THE GARAGE, SO THAT'S WHAT THEY WANTED TO ADD FARTHER DOWN WHICH WASN'T ALLOWED, BUT YOU LEFT THE TRELIS OVER BY THE GARAGE.

>> STAFF: YES.

>> T. CLARKE: THANK YOU.

>> S. O'KEEFE: IGOR.

>> I. TREGUB: I THINK I HAD A SIMILAR QUESTIONS. SORRY TO BE DENSE. AT WHAT POINT WAS PART OF THE FENCE DENIED? WAS IT WHEN THEY SUBMITTED THE APPLICATION TO LEGALIZE IT? AND WAS IT BECAUSE IT'S ACTUALLY ON THE --

>> STAFF: THE AUP WAS DENIED, THE NOTICES, THE ZONING OFFICER DENIED THE FENCE OVER 6 FEET AND WE SENT NOTICES OUT. EVERYTHING ELSE WAS APPROVED IN FEBRUARY EXCEPT FROM THE FENCE.

>> I. TREGUB: BECAUSE THE FENCE WAS ACTUALLY PROPOSED TO BE -- THE APPELLANT'S LOT LINE?

>> STAFF: YES. IT WAS OUTSIDE THE APPLICANT'S LOT.

>> T. CLARKE: YOU'RE LETTING THEM HAVE THE HEDGE.

>> STAFF: YES THERE IS A CONDITION OF APPROVAL TO KEEP IT AT 14 FEET.

>> I. TREGUB: GOT IT. THANK YOU.

>> S. O'KEEFE: QUESTIONS FOR STAFF. PATRICK.

>> P. SHEAHAN: SO THE QUESTION FOR STAFF, SO IS THE TRELLIS OVER 6 FEET, IS THAT ATTACHED TO THE NEIGHBOR'S GARAGE?

>> STAFF: IT'S THREE INCHES FROM THE COMMON PROPERTY LINE.

>> P. SHEAHAN: SO IT IS WITHIN THE PROPERTY.

>> STAFF: YES.

>> P. SHEAHAN: AND THERE IS NO CONNECTION.

>> STAFF: NOT AS FAR AS THE SURVEY SHOWS.

>> P. SHEAHAN: OKAY. I'M NOT SURE OF THE ANSWER, BUT THAT MAY BE PROHIBITED BY BUILDING CODE HAVING A FLAMMABLE STRUCTURE ADJACENT TO THE PROPERTY LINE. BUT IT COULD BE A BUILDING CODE ISSUE.

>> STAFF: OKAY.

>> S. O'KEEFE: ALL RIGHT. THANK YOU, PATRICK. ANY MORE QUESTIONS FOR STAFF BEFORE WE HEAR FROM THE APPELLANT? SEEING NONE. OKAY. APPELLANT. I BELIEVE IT'S MR. HICKMAN. I'M GOING TO GIVE YOU FIVE MINUTES TO MAKE YOUR PRESENTATION.

>> CAN YOU HEAR ME?

>> S. O'KEEFE: YES, GO AHEAD. SIR, ONE SECOND YOUR TIME HASN'T STARTED YET. CAN YOU SEE US RIGHT NOW?

>> I'M USING MY CELL PHONE.

>> S. O'KEEFE: BECAUSE WE HAVE A VISUAL INDICATOR OF TIME. HOW ABOUT I'M GOING TO GO AHEAD AND LET YOU KNOW WHEN YOU HAVE A MINUTE LEFT.

>> I MAY NOT NEED FIVE MINUTES TO EXPLAIN HOW RIDICULOUS ALL OF THIS IS.

>> S. O'KEEFE: LET'S HEAR IT. GO FOR IT.

>> THIS APPLICATION ON THE PART OF THE NEIGHBORS AND THE REASON FOR MY APPEAL IS IT'S SO RIDICULOUS. THE BERKELEY MUNICIPAL CODE INDICATES THAT GROWING, YOU KNOW, A ROW OF TREES ON THE PROPERTY LINE OR WITHIN TWO FEET OF THE PROPER LINE TO CREATE A HEDGE IS CONSIDERED A FENCE. ALTHOUGH THE PLANNER CONTINUES TO SEPARATE FROM THE FENCE ISSUE, IT'S CONSIDERED A FENCE ACCORDING TO THE BERKELEY MUNICIPAL CODE. ALL I'M ASKING FOR IS FOR THE BOARD TO UP HOLD THE BERKELEY MUNICIPAL CODE WHERE THIS IS CONCERNED. HAVING A 14-FOOT FENCE MADE OF TREES OR ANY OTHER MATERIAL AROUND THE MOST DESIRABLE PART OF MY YARD IS RIDICULOUS! I MEAN JUST AS RIDICULOUS AS IF THEY HAD ASKED TO PUT UP A CYCLONE FENCE. THE ORIGINAL DECISION MENTIONED THE PLANNER MENTIONED THAT HE WAS APPROVING IT BECAUSE THERE IS SOME FILTERED LIGHT THAT, YOU KNOW, POTENTIALLY COULD PASS THROUGH THE HEDGES. BUT YOU KNOW, LIGHT CAN PASS THROUGH A CYCLONE FENCE. THOSE HEDGES ARE A FENCE. THAT'S WHAT THEY ARE ACCORDING TO THE BERKELEY MUNICIPAL CODE AND ACCORDING TO CODE ENFORCEMENT. CODE ENFORCEMENT CAME OUT AND WROTE A REPORT AND SAID IT WAS ILLEGAL AND ISSUED A WARNING AND CITATION. I'LL MOVE ON TO ADDRESS THE TRELLIS ISSUE. THAT'S THREE INCHES AWAY FROM MY GARAGE. I NOTICED THAT THE PLANNER IN HER EXPLANATION KEEPS

SAYING THAT THE TRELIS IS NEAR THE PROPERTY LINE. SHE SAID THAT NUMEROUS TIMES. BUT SHE FAILED TO SAY THAT IN 1948 THE SIDE OF MY GARAGE WAS CONSTRUCTED ON THAT PROPERTY LINE. AND TO ALLOW SOME SORT OF ILLEGAL ACCESSORY STRUCTURE TO BE BUILT THREE INCHES AWAY FROM MY PROPERTY LINE MEANS THAT I WILL NEVER BE ABLE TO MAINTAIN MY GARAGE. HOW WILL I EVER PAINT MY GARAGE? WHAT WILL IF THERE IS DRY ROT. WHAT -- WHAT IF I NEVER HAVE ACCESS TO IT AGAIN. I BELIEVE THE MUNICIPAL CODE SPECIFIES STRUCTURES SHOULD BE FOUR FEET AWAY FROM THE PROPERTY LINE. THERE ARE SETBACKS REQUIRED. ALSO, WHERE PARKING IS CONCERNED, THERE IS VERY LOW VISIBILITY FROM THAT PARKING SPACE ESPECIALLY WITH A FENCE THERE. A CHILD COULD GET HURT WITH A CAR BACKING OUT OF THAT SPACE. IT'S JUST -- THERE IS A LOT OF NONCONFORMING STUFF GOING ON NEXT DOOR TO ME WHICH IF APPROVED, MAKES MY PROPERTY NOT CONFORMING BECAUSE ALL OF THIS STUFF IS GOING ON ON MY PROPERTY LINE. SOME OF THE TREES PLANTED NEAR THE REAR OF MY PROPERTY BEHIND MY REAR GARAGE ARE WELL OVER 14 FEET TALL. THEY'RE PROBABLY OVER 20 FEET TALL. I GUESS THE NEIGHBORS DIDN'T REALIZE THAT'S PART OF MY PROPERTY BACK THERE AS WELL BEHIND MY GARAGE. ALL OF THIS IS YOU KNOW LIKE RIDICULOUS!

>> S. O'KEEFE: SIR, YOU HAVE ONE MINUTE LEFT.

>> I WOULD LIKE TO MENTION THAT ONLY EVIDENCE WE HAVE OF A DISABILITY ON THE PART OF THE APPLICANT AT 1346 ORDWAY IS A TEMPORARY DISABILITY FACTOR. NOT EVEN A PERMANENT DISABILITY.

WHY WOULD SOMEBODY BE ALLOWED TO CONSTRUCT SOMETHING BASED ON A
DISABILITY WHEN ALL THEY'VE PRESENTED TO THE CITY IS A
TEMPORARY. TO END MY STATEMENT, I'LL SAY THAT EVERYTHING
CONSTRUCTED THERE WAS CONSTRUCTED ILLEGALLY.

>> S. O'KEEFE: OKAY. YOUR TIME IS UP.

>> THEY'VE DONE NOTHING LEGAL.

>> S. O'KEEFE: OKAY. THANK YOU SO MUCH FOR STICKING TO YOUR
TIME. WE CERTAINLY APPRECIATE YOU COMING TO TELL US WHAT IS
GOING ON. WE HAVE A COUPLE OF QUESTIONS. JOHN HAS A QUESTION FOR
THE APPELLANT.

>> J. SELAWSKY: NOT -- YES, I DO, BUT LET ME POINT OUT --

>> S. O'KEEFE: JUST QUESTIONS, JOHN.

>> J. SELAWSKY: THE ICON THAT SHOWS UP FOR THE APPELLANT
SAYS 1346 ORDWAY -- I SEE THAT'S NOT HIS ADDRESS.

>> S. O'KEEFE: THAT'S THE PROJECT.

>> J. SELAWSKY: PROJECT ADDRESS. OKAY. OKAY. I'M CURIOUS
ABOUT THE 14-FOOT -- THE LINE OF TREES WHICH YOU CONTEND IS
LEGALLY A FENCE. AND I'M NOT SURE -- HOW DID YOU ASCERTAIN THAT?

>> I LOOKED ON LINE AT THE BERKELEY MUNICIPAL CODE
REGARDING ALLOWABLE FENCE HEIGHT. AND THE CODE IS VERY SPECIFIC,
IT STATES AT THAT A FENCE SHALL NOT BE CONSTRUCTED -- I'M
PARAPHRASING -- OVER 6 FEET TALL WITHOUT A PERMIT NOR HAVE TREES
OR HEDGES BE USED TO TRY TO CIRCUMVENT THE LAW BY CREATING A
FENCE WALL MADE OF HEDGES OR TREES. AND IT SHOULD NOT BE DONE

WITHOUT A PERMIT. THEY TOOK IT UPON THEMSELVES TO INSTALL THIS ANYWAY. WE WOULDN'T BE HERE RIGHT NOW DISCUSSING THIS HAD I NOT REPORTED THIS TO CODE ENFORCEMENT. CODE ENFORCEMENT EVENTUALLY CAME OUT, WARNED HIM THAT WHAT THEY HAD CONSTRUCTED THERE IS ILLEGAL. AND THAT'S WHAT INITIATED ALL OF THIS. THEN THEY CONTINUED AFTER THEY LEARNED THAT CERTAIN CONSTRUCTION WAS ILLEGAL, THEY CONTINUED TO BUILD MORE AND MORE ILLEGAL THINGS.

>> S. O'KEEFE: OKAY. JOHN, DID YOU GET AN ANSWER TO YOUR QUESTION?

>> J. SELAWSKY: YES, THANK YOU FOR THE RESPONSE.

>> S. O'KEEFE: THANKS. TERESA. DO YOU HAVE A QUESTION FOR APPELLANT?

>> T. CLARKE: YES. SO BASICALLY THE HEDGE THAT YOU ARE OBJECTING TO IS THE ONE ON YOUR PROPERTY LINE. THEY HAVE ANOTHER HEDGE ON THE OTHER SIDE, IT SOUNDS LIKE.

>> T. CLARKE: YOUR PROPERTY IS TO THE SOUTH OF THE PROPERTY, IS THAT CORRECT?

>> THAT'S CORRECT.

>> T. CLARKE: YOU'RE NOT GOING TO BE GETTING SHADING FROM THOSE HEDGES, ARE YOU? NOT MUCH. ARE YOU OBJECTING TO IT BECAUSE OF THE -- IS THERE AN OBJECTION BASED ON SHADING OR SOMETHING LIKE THAT? THE HEDGE.

>> I OBJECT TO IT BECAUSE I FEEL ENCLOSED, IT INTERFERES WITH MY AIRSPACE AND THE OPEN FEELING THAT I'VE ALWAYS HAD. I

OWNED MY PROPERTY FOR 30 YEARS. WE CLOSED UP FROM MAY 1ST, 1990
ON THIS PROPERTY. AND I'VE --

>> T. CLARKE: SO YOU HAVE THE FEELING OF ENCLOSURE AT THE
EDGE.

>> YES. HOW WOULD YOU LIKE IT IF SOMEBODY BUILT A 14-FOOT
WALL AROUND YOUR YARD.

>> S. O'KEEFE: TERESA, SAY AGAIN.

>> T. CLARKE: HE'S OBJECT BE TO THE HEDGE BEING -- CLOSING
IN HIS VIEWS.

>> I HAVE A WALL AROUND ME.

>> S. O'KEEFE: TERESA HAS ANOTHER QUESTION.

>> AND -- IT WAS PLANTED WITHIN THE SETBACK, THOSE HEDGES
ARE ACTUALLY CAUSING MY FENCE TO LEAN OVER.

>> T. CLARKE: THAT'S WHAT I WANTED. IT'S NOT SHADING BUT
IT'S A TALL ELEMENT NEXT TO THE PROPERTY LINE AND DAMAGING YOUR
FENCE.

>> YES.

>> T. CLARKE: IS YOUR OBJECTION TO THE TRELLIS? JUST FOR
MAINTENANCE. THAT TRELLIS, YOU CAN STILL MAINTAIN YOUR GARAGE
EVEN THOUGH THE TRELLIS IS THERE, CAN YOU NOT?

>> I CANNOT. HOW WOULD I? THEY'VE GOT PLANT MATERIAL
GROWING IN THAT AREA ALL OVER THE SIDE OF MY GARAGE. SOME OF IT
GROWING UP ON TO THE ROOF.

>> T. CLARKE: THE PICTURES WE SAW DID NOT SHOW ANY

VEGETATION. IT JUST SHOWED A TRELIS. AND THEN THE OTHER --

>> IT PREVENTS ME FROM MAINTAINING MY GARAGE.

>> S. O'KEEFE: SIR, THANK YOU SO MUCH.

>> T. CLARKE: OKAY, THEN THE NEXT ONE IS THE ACCESSORY
STRUCTURE. IS THAT IMPACTING YOU?

>> WHICH ACCESSORY STRUCTURE.

>> T. CLARKE: YOU SAID THAT THE BUILD --

>> S. O'KEEFE: THE BUILDING IN THE BACK.

>> T. CLARKE: THE BUILDING IN THE BACK.

>> THAT IMPACTING ME?

>> T. CLARKE: IS THAT NEGATIVELY AFFECTING YOUR PROPERTY IN
SOME WAY?

>> IT'S NONCONFORMING.

>> T. CLARKE: BUT IS IT AFFECTING THE USE OF YOUR PROPERTY
IN SOME WAY?

>> I DON'T KNOW. BECAUSE I DON'T KNOW WHAT THEY PLAN TO DO
WITH IT. THEY'VE APPLIED TO MAKE IT HABITABLE. THEY HAVE A LOT
OF NONCONFORMING STUFF GOING ON. THAT RENDERS MY PROPERTY
NONCONFORMING BECAUSE MY PROPERTY IS ADJACENT TO THEIRS. CAN.

>> T. CLARKE: THANK YOU, SIR.

>> C. KAHN: I HAVE A QUESTION. YOU SAY AT THAT TIME HEDGE
IS PUSHING YOUR FENCE OVER, BUT OUR RECORDS INDICATE THAT IS A
NEWLY INSTALLED FENCE. AM I CORRECT?

>> NO. NOT THAT PORTION. THERE IS A NEWLY INSTALLED PORTION

NEAR THE FRONT -- NEAR THE SIDE WALL NEAR THE FRONT OF BOTH PROPERTIES.

>> C. KAHN: THANK YOU FOR THE CLARIFICATION.

>> S. O'KEEFE: ANY OTHER QUESTIONS FOR THE APPELLANT? OKAY. THANK YOU SO MUCH SIR, WE APPRECIATE YOU COMING. I'M GOING TO GO AHEAD AND MUTE YOU AND WE'LL HEAR FROM THE APPLICANT. ALL RIGHT. APPLICANT. YOU HAVE FIVE MINUTES.

>> I HAVE TO SHARE MY SCREEN.

>> S. O'KEEFE: AND IF YOU COULD RESPOND TO SOME OF THE THINGS SAID BY THE APPELLANT, THAT WOULD BE HELPFUL.

>> CAN EVERYONE SEE MY SCREEN?

>> NO, I CAN'T.

>> NOW WE CAN SEE IT.

>> ALL RIGHT. GOOD EVENING, I'M JENNIE DURANT TO ADDRESS OUR NEIGHBORS APPEALS AGAINST OUR ZONING APPROVALS. EACH FOUR POINTS OF APPEAL CORRESPOND TO OUR UNIT. WE HAVE AN ARBOR WE BUILT NEAR HIS GARAGE AND HEDGE. HERE IS A PHOTO OF THE FRONT OF OUR HOUSE AND THE PARKING SPACE FOR WHICH WE RECEIVED AN AUP. THE APPELLANT SAID I'M NOT HANDICAPPED ENOUGH TO QUALIFY FOR THE AUP. HOWEVER THE APPELLANT IS NOT AWARE OF THE FULL NATURE OF MY DISABILITY. THIS IS BY DESIGN BECAUSE I WISH TO PRESERVE MY PRIVACY BUT WE SUBMITTED DOCUMENTATION AND PHOTO COPIES AND THE FINAL PLACARD ALL OF WHICH INFORM THE ZONING OFFICE'S DETERMINATION. MY CONDITION IS DEGENERATIVE. HAVING TO WALK FROM

A PARKING SPACE WHETHER FROM THE CURB OR DOWN THE STREET CARRYING HEAVY BAGS OF GROCERIES, OUR 4-YEAR-OLD DAUGHTER WOULD BE UNTENABLE. THIS IS WHY WE HAVE REQUESTED AN AUP FOR OUR FRONT PARKING SPACE. THE APPELLANT MENTIONS A NEWLY INSTALLED 6-FOOT FENCE AFTER THE FINDS WERE POSTED. HE PRESCRIPTIONS CONCERN THAT OUR PARKING SPACE IS NOW UNSAFE BECAUSE OF THE FENCE AND OUR VIEW OF PEDESTRIANS AND ON COMING TRAFFIC IS OBSCURED BUT THIS IS NOT A CONCERN. SECONDLY WAVE' NOT HAD ANY PROBLEMS SPOTTING PEDESTRIANS AS WE SLOWLY PULL OUT OF OUR LOT. WE NOTED THAT SEVERAL GARAGES EXTEND OUT TO THE SIDEWALK ON ORDWAY LIKE THESE. THE VIEW IS MORE OBSCURED FROM OURS BUT IT DOESN'T MAKE IT NONCONFORMING. THIS SLIDE SHOWS FOUR CARS PARKED IN FRONT SO IT'S NOT DETRIMENTAL TO THE ESTHETIC OF OUR NEIGHBORHOOD. SECOND ISSUE IS THE HABITABLE ACCESSORY BUILDING. HE CLAIMS IT WILL CAST SHADOWS ON HIS PROPERTY IS NOT POSSIBLE. IN THE BOTTOM IMAGE YOU CAN SEE THE ACCESSORY BUILDING IS ADJACENT TO LOT 46 WHILE OUR NEIGHBORS PROPERTY IS LOT 45. I'VE INCLUDED A COMPASS IN THE SURVEY. YOU CAN SEE THE SHADOWS ARE CAST TOWARDS OUR PROPERTY. THE PHOTO IN THE UPPER LEFT SHOWS THE SHADOWS CAST BY HIS GARAGE ON OUR YARD AND THIS OCCURS YEAR AROUND. ISSUE THREE IS THE TRELIS ADJACENT TO THE APPELLANT'S GARAGE WALL. COMPLAINED HE WILL NOT BE ABLE TO ACCESS IT FOR REPAIRS. ONLY THE TOP IS THREE INCHES FROM HIS GARAGE. THE POSTS ARE 22-INCHES FROM THE WALL. WE'D LIKE TO PUT HIS COMMENTS ABOUT MAINTENANCE

AND RADIO PAIR IN CONTEXT. HERE ARE SEVERAL PHOTOS OF THE DERELICT STATE OF THE APPELLANT'S GARAGE AND THE BACK OF HIS PROPERTY WHICH OUR DAUGHTER'S ROOM LOOKS ON TO. THIS IS ONE REASON WE PLANTED A HELEN SO WE DON'T HAVE TO LOOK AT HIS PROPERTY. ON THE LOWER LEFT IS A PHOTO FROM MAY 2017 WITH. ACCORDING TO OUR NEIGHBORS AND GOOGLE EARTH, HIS PROPERTY HAS BEEN IN A STATE OF DISREPAIR FOR OVER A DECADE. LASTLY WE APPEALED FOR THE HEDGE STATING IT'S NOT NON-CONFORMING AND DISTURBS THE PEACE AND ENJOYMENT OF OUR NEIGHBORHOOD. ONCE THE PERMITS ARE GRANTED, IT WILL BE CONFORMING. AS FOR DISTURBING THE PEACE AND ENJOYMENT OF THE NEIGHBOR I WANT TO SHOW THE NEIGHBORS. PEOPLE WITH WHEELCHAIRS AND STROLLERS MUST WALK IN THE STREET TO PASS. THIS WAS A PHOTO OF THIS PROPERTY IN DECEMBER. THE WINDOWS ARE CONSTANTLY BEING REPLACE AND REMAIN UNFINISHED TO DATE. THE GUTTER PICTURE HERE HAS OPINION HANGING LIKE THIS SINCE OCTOBER AND IS CURRENTLY STILL THERE. ADDITIONALLY, THE UNIT ON THE SIDE OF HIS BUILDING FACING US ARE VACANT WHICH MAKES IT DIFFICULT TO ACCEPT HIS CLAIMS ABOUT THE SPACE ABOUT THE HEDGE. ADDITIONALLY THE FRONT DOOR HAS BEEN UNFINISHED FOR FOUR YEARS AND CARDBOARD AND PAPER ON THE WINDOWS. IT APPEAR ABANDONED. THIS IS THE MAIN REASON WE LIKE THE HEDGE AS A VISUAL BARRIER. AND WE PUT CEMENT REINFORCEMENT. WE INVESTED IN OUR HOME TO MAKE IT ATTRACTIVE AND WE HOPE THAT THE ZONING BOARD WILL SEE THE IMPROVEMENTS ARE NOT DETRIMENTAL

TO THE NEIGHBORS AND ARE BENEFICIAL FOR THE NEIGHBORHOOD.

>> S. O'KEEFE: ANY QUESTIONS FOR THE APPLICANT? TERESA.

>> T. CLARKE: SO WHAT IS YOUR NAME?

>> JENNIE.

>> SO ON THE HEDGE, WHY DOES IT NEED TO BE 14 IS FEET HIGH?
IT SEEMS EXCESSIVE.

>> IT'S CURRENTLY 10 FEET.

>> T. CLARKE: I WONDER WHY YOU NEED IT TO BE THAT HIGH.

>> IN THE PHOTO I POSTED HERE, IT'S CURRENTLY 10 FEET.
SOMETIMES SOME OF THE BRANCHES WILL KIND OF EXTEND UP A LITTLE
BIT. WE'RE FINE KEEPING IT CLOSER TO THE 10 FEET THAT IT
CURRENTLY IS. BUT WE WANTED TO HAVE A LITTLE EXTRA ROOM IN CASE
THIS GROWS UP OR DURING THE PANDEMIC, IT WAS HARD TO FIEND A
PRUNER TO COME. IT GAVE US SOME LEEWAY.

>> T. CLARKE: THAT WAS MY MAIN CONCERN ABOUT THAT. I THINK
THAT WAS MY ONLY QUESTION WAS THAT. DID SEEMS LIKE THE OTHER
THINGS ARE SELF-EXPLANATORY. THANK YOU.

>> S. O'KEEFE: CHARLES.

>> C. KAHN: I APPRECIATE THAT QUESTION. I THINK THAT'S A
WORTHWHILE SOLUTION. TO THE -- A RECOMMENDATION THAT YOU LOOK UP
ASSEMBLY BILL 68 WHICH ADDRESSES ADUS. WHATEVER ACTION WE TAKE
TONIGHT, THAT CAN BE LEGALIZED UNDER THE STATE ASSEMBLY BILL 68
AS I UNDERSTAND IT COULD BE LARGER THAN YOU HAVE THERE. FOR
RESIDENTIAL PURPOSES.

>> S. O'KEEFE: DO YOU HAVE A QUESTION FOR THE APPLICANT?

>> C. KAHN: THAT WAS A BIT OF ADVICE, NO QUESTION.

>> S. O'KEEFE: IGOR.

>> I. TREGUB: I'M GOING TO ASK STAFF. SO NO QUESTIONS FOR THE APPLICANT.

>> S. O'KEEFE: OKAY. ANY OTHER QUESTIONS? I HAVE A QUESTION. MISS DURANT. HELP ME UNDERSTAND WHAT ALL THESE PICTURES AND INFORMATION ABOUT YOUR NEIGHBOR'S STATE OF THE REPAIR OF HIS HOUSE HAS TO DO WITH THE APPEAL WHICH ABOUT YOUR PROPERTY? I DON'T UNDERSTAND HOW IT'S RELEVANT. IF YOU COULD BRIEFLY ANSWER BECAUSE I'M CONFUSED.

>> WE WANT A VISUAL BARRIER, WE'RE TRYING TO EXPLAIN WHY WE PLANTED THE HEDGE IN THE FIRST PLACE BECAUSE HIS PROPERTY IS UNATTRACTIVE AND OUR BEDROOM WINDOWS LOOK OUT ON TO HIS PROPERTY.

>> S. O'KEEFE: OKAY. YOU DON'T NEED A REASON -- YOU DON'T NEED A GOOD REASON TO DO SOMETHING. YOU'RE ENTITLED TO IT OR NOT UNDER ZONING CODE. OKAY SO WE'RE GOING TO OPEN IT UP TO MEMBERS OF THE PUBLIC WHO WOULD LIKE TO SPEAK. THERE IS -- STAFF HELP ME OUT. THERE IS ONE PERSON WITH THEIR HAND UP FOR A WHILE. I THINK IT'S THE APPELLANT. HE'S SPOKEN.

>> STAFF: YES CAN.

>> S. O'KEEFE: ANYWAY, I WANTED TO MAKE SURE I WASN'T MISSING SOMETHING. THERE IS JILL JIN IS HERE.

>> T. CLARKE: DOESN'T THE APPELLANT GET TO SPEAK AGAIN?

>> T. CLARKE: NO, WE DON'T DO THAT WITH APPEAL. WE DO ONE OR THE OTHER AND THEN THE PUBLIC. SO JILL JIN, I'M GOING TO ALLOW YOU TO TALK AND YOU'LL HAVE TWO MINUTES TO SPEAK.

>> CAN YOU HEAR ME? I AM A NEIGHBOR ON ORDWAY STREET AND WE'VE BEEN HERE TWO YEARS CLOSE TO THREE NOW. FIRST OF ALL, I WANT TO EXPRESS THAT WE 100 PERCENT ARE IN SUPPORT OF THE APPLICANT'S APPLICATION FOR ALL THOSE PERMITS. I THINK AFTER HEARING BOTH SIDES, I THINK IT IS TOTALLY REASONABLE AND IT'S JUST NECESSARY FOR HER TO CREATE A VISUAL BARRIER AGAINST THE UNDER MAINTENANCE OF HER NEXT DOOR NEIGHBOR. AND ALSO, AS A NEIGHBOR, I WALK THE DOG PAST THIS AREA ALL THE TIME. I'VE SEEN TENANTS OF HER NEIGHBOR HAVING LIKE RECREATION DRUG USE IN FRONT OF THE PARKING LOT AND ANOTHER DAY THERE WAS A POLICE CAR TAKING SOMEONE AWAY IN HANDCUFFS. IT'S NOT VERY CHILD FRIENDLY ENVIRONMENT. SO I THINK IT'S TOTALLY REASONABLE TO TRY TO BUILD SOME BARRIER AGAINST ALL THAT CHAOS. AND THE PICTURES THEMSELVES SPEAK LOUDLY LIKE THE APPELLANT'S CONCERN ABOUT MAINTENANCE DOESN'T SEEM TO BE VERY VALID BECAUSE IT SEEMS LIKE AFTER ALL THESE YEARS LIVING HERE, HE DOESN'T MAKE ANY MAINTENANCE. FROM THE PICTURES THAT I SEE, IT WILL ACTUALLY TOTALLY IS AVAILABLE FOR MAINTAINING HIS GARAGE. YES, I JUST WANT TO EXPRESS MY SUPPORT TO ALL THE PERMITS JENNIE HAS APPLIED FOR.

>> S. O'KEEFE: THANK YOU VERY MUCH. OKAY. AND NOW I'M GOING

TO RECOGNIZE ELIANA AND TAMAR. LET'S UNMUTE YOU. YOU HAVE -- CAN YOU SEE US?

>> WE CAN -- I CAN SEE YOU NOW.

>> S. O'KEEFE: SO THERE SHOULD BE, IF YOU LOOK -- I'LL TELL YOU WHEN YOUR TIME IS UP BUT IT SAYS COB STAFF ALLISON, THAT'S YOUR TIMER.

>> I DON'T SEE IT, BUT YOU CAN TELL US.

>> S. O'KEEFE: YOU HAVE TWO MINUTES.

>> GOOD EVENING WE'RE AT 1334 AND WE'D LIKE TO SHOW OUR SUPPORT FOR OUR NEIGHBORS AT 1336 ORDWAY. NOTHING TO IMPROVE THEIR HOME HAS DISTURBED THE PEACE OF OUR NEIGHBORHOOD RATHER WE BELIEVE IT HAS BEEN BENEFICIAL. THEY'VE BEEN GOOD AND REASONABLE NEIGHBORS AND WE WORKED WITH THEM TO TRIM THE TREES BETWEEN OUR TWO PROPERTIES AND EVERYTHING THEY'VE DONE HAS BEAUTIFIED THEIR PROPERTY. IT WAS QUITE DESOLATE BEFORE WHEN THEY MOVED IN. AND WE JUST ENJOY BEING THEIR NEIGHBORS AND WE SUPPORT EVERYTHING THAT THEY'RE DOING. THEY'RE CONSIDERATE AND POLITE AND THOUGHTFUL AND I THINK THAT IS ALL WE'D LIKE TO SAY. WE SUPPORT EVERYTHING THAT THEY'RE TRYING TO DO WITH THIS.

>> S. O'KEEFE: OKAY. THANK YOU VERY MUCH. THANKS FOR COMING.

>> T. CLARKE: WHAT ADDRESS ARE YOU AT AGAIN? ELIANA AND TAMAR, WHAT ADDRESS ARE YOU AT? I THINK WE LOST THEM.

>> WE'RE BACK. WE'RE AT 1344 SO WE'RE RIGHT ON OTHER SIDE

OF JENNIE. AND KEKI.

>> S. O'KEEFE: ALL RIGHT. ANYONE ELSE FROM THE PUBLIC WISH TO SPEAK? SEEING NONE, WE'LL BRING IT BACK TO THE BOARD FOR COMMENTS. CLOSING THE PUBLIC HEARING. I DON'T THINK ANYTHING MAGIC HAPPENS WHEN I SAY THAT BUT THE PUBLIC HEARING IS CLOSED. JOHN.

>> J. SELAWSKY: THANK YOU. I THOUGHT THAT WAS A MAGICAL MOMENT. COULD I ASK STAFF A QUESTION?

>> S. O'KEEFE: YES. SURE, ANYTHING GOES NOW.

>> J. SELAWSKY: THERE IS SOME CONFUSION WITH THE APPELLANT AND THE APPLICANT ABOUT THE HEDGE. SO STAFF, IS THE HEDGE, THE LINE OF TREES LEGALLY CONSIDERED A FENCE?

>> STAFF: ZONING ORDINANCE CHAPTER 23F DEFINES A HEDGE THE SAME AS A FENCE. SO YEAH, WE CONSIDER IT IN OUR REVIEW. WE CONSIDER IT LIKE A FENCE. BUT A FENCE OVER 6 FEET WITHIN SETBACK IS ALLOWED WITH AN AUP. THAT'S THE APPLICANT IS APPLYING FOR.

>> J. SELAWSKY: RIGHT. BUT IT IS LEGAL HE.

>> STAFF: WE TREAT IT LIKE A FENCE.

>> J. SELAWSKY: THANK YOU.

>> S. O'KEEFE: IGOR.

>> I. TREGUB: I HAD A COUPLE OF QUESTIONS FOR STAFF AS WELL. WITH A FENCE, PLEASE REMIND ME, IS THERE A MAXIMUM LIMIT -- I MEAN YOU CAN DO OVER 6 FEET FOR A FENCE WITH AN AUP, BUT IS THERE AN ABSOLUTE HEIGHT LIMIT FOR A FENCE IN WHICH YOU

HAVE TO GET A VARIANCE?

>> S. O'KEEFE: STEVE, GO AHEAD.

>> S. BUCKLEY: I'M SHARING MY SCREEN WHICH SHOWS THE FENCE AND HEDGE DESIGN. I'M NOT SURE IF EVERYONE CAN SEE THAT.

>> S. O'KEEFE: YOU'RE NOT -- YES YOU'RE SHARING IT.

>> S. BUCKLEY: I WANTED TO CLARIFY ALSO THERE IS THE TRELLIS WHICH WE'VE DISCUSSED ALONG THE SIDE OF THE GARAGE WHICH IS ON POSTS AND A TRELLIS ABOVE. THIS IS THE LATTICE. MAYBE THAT'S A BETTER TERM. THE LATTICE ON TOP OF THE FENCE IS WHAT WAS REQUESTED TO GO ABOVE 6 FEET. SO THERE IS THE EXISTING BOARD FENCE WHICH IS 6 FEET WHICH AS NILU MENTIONED IS SURVEYED AS BEING ACROSS THE PROPERTY LINE. THE LATTICE WAS GOING TO BE ABOVE AND THAT HAS NOT BEEN INSTALLED AND HAS BEEN DENIED AS PART OF THE PERMIT. THE HEDGE IS THE TALL TREES THAT ARE SHOWN BESIDE THE FENCE. SO A FENCE, A WALL, A HEDGE IF IT'S DENSE ENOUGH, YOU CAN'T PASS THROUGH IT, THEN IT'S CONSIDERED A FENCE. IT'S CONSIDERED THE SAME AS A FENCE. THE HEIGHT OF THAT IS LIMITED REALLY BY OUR ACCESSORY STRUCTURE REGULATIONS WHICH ARE PRETTY LIBERAL. YOU CAN GO UP TO SAY 12 OR 24 OR 35 FEET WITH THOSE DEPENDING ON WHAT KIND OF PERMIT. THIS PERMIT IS TO NOT EXCEED 6 FEET. THERE IS -- CERTAINLY AT 12 OR 14 FEET, THAT IS NORMAL.

>> I. TREGUB: THANK YOU, THAT VISUAL IS REALLY HELPFUL, BUT I'M STILL A LITTLE BIT UNCLEAR LOOKING AT THE HEIGHT DIAGRAMS

HERE. IS THIS SUPPOSED TO BE FOR ILLUSTRATIVE PURPOSES? I SEE, SO THE HEDGE WOULD BE AT THE BOTTOM, NOT THE TOP OF THE PICTURE. IS THAT THE SIX PLUS TWO PLUS SIX, THE 14 FEET?

>> S. BUCKLEY: THAT'S CORRECT. THEY'RE PROPOSING A MAXIMUM OF 14 FEET FOR HOWEVER TALL MIGHT GROW AND THEN IT WOULD GET TRIMMED BACK AND GROW SOME MORE.

>> I. TREGUB: MY LAST QUESTION THEN IS THEY'RE PROPOSING A MAXIMUM. SO EVEN WITH AN AUP, IS IT WITHIN OUR POWER TO PUT AN ABSOLUTE HEIGHT LIMIT AND IF SO, HOW COMMON IS IT TO GET AN APPLICATION FOR A 14-FOOT HEDGE OR FENCE OR OTHER KIND OF ACCESSORY STRUCTURE OF THAT NATURE?

>> S. BUCKLEY: I'VE SEEN A FEW. AS TALL AS 12 OR 14 FEET. THE CIRCUMSTANCES ARE OFTEN ON HILLSIDES WHERE IS THERE IS A GRADE DIFFERENTIAL OR A PRIVACY CONCERN. FENCES AND WALLS WOULD BE LESS LIKELY TO BE APPROVED WHERE AS HEDGES TEND TO BE MORE ACCEPTABLE. THEY'RE MORE OF A GREEN SCREEN. I CAN THINK OF TWO THAT WE'RE CURRENTLY CONSIDERING AS A PRIVACY MEASURE.

>> I. TREGUB: OKAY. THANK YOU.

>> S. O'KEEFE: TERESA.

>> T. CLARKE: I THINK 14 FEET IS A LITTLE HIGH FOR MY COMFORT. I MEAN I THINK A HEDGE IS DEFINITELY BETTER THAN A FENCE. I AGREE THAT THE FENCE SHOULD ONLY BE SIX FEET. BUT 14 FEET SEEMS A LITTLE BIT HIGH. I'D BE MORE AMENABLE TO 10 OR 12 FEET. I WANTED TO HEAR FROM OTHER PEOPLE. IT'S NOT SHADING THE

NEIGHBOR. AND THE OTHER NEIGHBOR IS FINE APPARENTLY WITH THAT BECAUSE THEY SPOKE. THAT NEIGHBOR COULD MOVE. BUT I THINK A HEDGE IS JUST NOT AS IMPOSING THAT MUCH. IT'S GREEN AND LIVE. I DON'T WANT A FENCE THERE OF 12 FEET, BUT I THINK A HEDGE I CAN LIVE WITH. I THINK 14 IS A LITTLE HIGH. BECAUSE IT'S SO SOLID. THOSE THINGS GROW SOLID. THEY CREATE A HEDGE. AND THEY'RE VERY DENSE. SO IT IS ALMOST LIKE A GREEN WALL WHICH IS NOT THAT BAD. SO I WOULD LIKE TO MAKE A MOTION THAT WE PROVE THE PROJECT. I THINK THE PARKING SPOT IS ACCEPTABLE TO ME. EVEN IF THE RESIDENT GETS BETTER OR WHATEVER, I THINK THE PARKING SPOT WE MAY ALREADY WANT TO APPROVE THAT. ANYWAY, WE'VE DONE THAT BEFORE WHERE THE SITUATION WHERE THE DRIVEWAY HAS BEEN SO NARROW IS TRYING TO GET IT IN THE SIDE YARD DOESN'T MAKE ANY SENSE. IF THEY DON'T NEED IT IN THE FUTURE, THEY WON'T PARK IN IT. I DON'T THINK THE SAFETY ISSUE IS A PROBLEM BECAUSE EVERYBODY BACKS OUT OF THEIR DRIVEWAYS. SO AND I THINK THE ACCESSORY BUILDING IS FINE. I DON'T SEE ANY ISSUES WITH THAT. I DO BELIEVE THAT THE GARAGE CAN BE MAINTAINED WITH THAT TRELIS THERE. AS A GOOD NEIGHBOR, THEY DON'T HAVE TO ALLOW HIM TO MAINTAIN IT, IT'S NOT -- BUT I THINK IT DOES ALLOW FOR MAINTENANCE OF THE PAINTING. IT LOOKS LIKE THEY DID PAINT IT IN THE 2017 PICTURE. I WOULD LIKE TO HEAR ANYBODY ELSE HE -- WHAT DID I SAY 10 OR 12 FEET?

>> S. O'KEEFE: DO YOU WANT 10 OR 12.

>> T. CLARKE: I THINK 12 IS OKAY. SO I WOULD LIKE TO MAKE A

MOTION TO APPROVE EVERYTHING EXCEPT INSTEAD OF 14 FEET, GO FOR 12 FEET ON THAT.

>> S. O'KEEFE: CHARLES.

>> C. KAHN: I WOULD LIKE TO SECOND HER MOTION. I WOULD LIKE TO STATE IT AS A 10 TO 12 FEET EDGE THE UNDERSTANDING THAT THE APPLICANT WOULD ATTEMPT TO KEEP IT TO 10 FEET AS THEY STATED WOULD BE ADEQUATE FOR THEIR NEEDS FOR SCREENING PURPOSES, BUT IT MIGHT GROW A FOOT OR TWO BEFORE THEY GET AROUND TO CUTTING IT AGAIN. SO 10 TO 12.

>> S. O'KEEFE: YOU CAN PUT THAT IN THE MOTION IF YOU WANT, BUT IT'S ONLY ENFORCEABLE -- YOU HAVE TO HAVE A MAXIMUM.

>> C. KAHN: I SECOND THE 12 FEET. SHOSHANA, YOU'RE RIGHT.

>> S. O'KEEFE: SO THERE IS A MOTION AND A SECOND FOR 12-FOOT MAXIMUM ON THE FENCE HEDGE. DOHEE.

>> I WANTED TO SUPPORT THE MOTION. I APPRECIATED SHOSHANA'S QUESTION FOCUSING ON THE AREA AT HAND AND THE ISSUES AT HAND AND SEEING THE PARKING FOR -- TO ACCOMMODATE DISABILITIES AND THE AUP IS NOT BEING RELATIVELY AS BIG AS OTHER AUPS COULD BE. ALSO CONSIDERING THAT THE APPLICANT WAS WILLING TO TRIM THE HEDGE TO AROUND 10 TO 12 FEET MAXIMUM. I WOULD LIKE TO SPORT MOTION.

>> S. O'KEEFE: PATRICK.

>> P. SHEAHAN: I WOULD LIKE TO MAKE A FRIENDLY AMENDMENT TO LIMIT THE HEDGE GROWTH TO 10 FEET. MY REASONING IS FIRST OF ALL IT WOULD BE GREAT TO SEE SOME LEVEL OF [INDISCERNIBLE] BETWEEN

THE NEIGHBORS. I THINK TO OBSERVE A 10-FOOT LIMIT TO THE HEDGE MAY SIMPLY HELP AND THE APPLICANT HAS INDICATED THAT THEY'RE SATISFIED WITH A 10-FOOT HEIGHT FOR THEIR PURPOSES. SO I WOULD LIKE TO ADD THAT AS A FRIENDLY AMENDMENT.

>> S. O'KEEFE: TERESA, WHAT DO YOU THINK ABOUT THAT?

>> T. CLARKE: I'M OKAY WITH THAT. I THINK TESTIMONY DOES GO TOWARD THE NEIGHBOR AND GIVES THE NEIGHBOR -- THAT'S A COMPROMISE. I THINK THAT THAT'S ACCEPTABLE.

>> S. O'KEEFE: CHARLES.

>> C. KAHN: I'D LIKE TO SPLIT THE BABY AND SAY 11 FEET. YOU CAN'T CUT IT EVERY DAY. TO ACHIEVE 10 FEET, I THINK ALLOWING IT TO GROW TO 11 FEET AND CUT IT BACK TO 10 FEET. IS THAT OKAY, PATRICK?

>> P. SHEAHAN: I THINK IT RELIES ON A GOOD FAITH EFFORT AND GOOD FAITH UNDERSTANDING. AND YES, PLANT GROW AND MAYBE YOU TRIM IT ONCE I YEAR, THAT'S A REASONABLE EXPECTATION.

>> S. O'KEEFE: SO WE'LL COMPROMISE AT 11. GREAT. JOHN.

>> T. CLARKE: I LIKE THE ROUND NUMBER OF 12.

>> S. O'KEEFE: 11 IS PRIME.

>> S. O'KEEFE: 11 FEET IT IS. I RECOGNIZE JOHN.

>> J. SELAWSKY: HOW ABOUT 10.95. I DIDN'T KNOW ANY TENSION OR ANIMOSITY -- NEVER MINE. THANK YOU FOR YOUR COMMENTS EARLIER SHOSHANA ABOUT RELEVANCY OF TESTIMONY. I THINK WE HAVE TO DISMISS ALL THE APPEAL POINTS TO BE LEGAL ON THIS. THERE WERE

FOUR APPEAL POINT.

>> S. O'KEEFE: I THINK WE CAN DENT APPEAL.

>> J. SELAWSKY: NOBODY SAID THAT. THEY ARE A MOVING FORWARD WITHOUT DENIAL OF THE APPEAL. THEY'RE MOVING THE PROJECT WITHOUT DENYING THE APPEAL. BUT THERE ARE TECHNICALLY THERE ARE FOUR APPEAL POINT.

>> S. O'KEEFE: WE WILL HE RESTATE THE MOTION WITH THE CORRECT LANGUAGE.

>> J. SELAWSKY: WONDERFUL. SO WE'RE AT 11 FEET?

>> S. O'KEEFE: YES.

>> S. O'KEEFE: I WANT TO MAKE A COMMENT, A FOLLOW-UP TO MY QUESTION BEFORE. I JUST -- FOR ALL MEMBERS OF THE PUBLIC, THE APPELLANT. APPLICANT AND ANYONE ELSE LISTENING, I JUST WANT TO MAKE IT CLEAR THAT AT ZAB WHEN WE MAKE THE DECISIONS WE MAKE THEM ON WHAT PEOPLE ARE ENTITLED TO OR NOT UNDER THE LAW. WE OBVIOUSLY HAVE SOME DISCRETION, BUT WE'RE DECIDING IS THE APPLICANT ENTITLED TO THIS? YES OR NO. IT'S OBJECTIVE. THERE IS NO "DO YOU HAVE A GOOD REASON" ELEMENT TO IT. THERE IS NO, ARE YOU A GOOD PERSON? OR GOOD NEIGHBOR? THOSE ARE NOT PARTS OF OUR DECISION-MAKING PROCESS. MORE IMPORTANTLY IS WHEN YOU ARE APPEALING SOMETHING THAT'S ADJACENT TO YOUR PROPERTY, YOU HAVE A LEGAL RIGHT TO DO THAT. THERE IS NO BOX ON THE APPEAL FORM THAT SAYS "DO YOU HAVE A NICE HOUSE," "DO YOU MAINTAIN YOUR STUFF?" A PERSON THAT HAS PROPERTY IN DISARRAY HAS A LEGAL RIGHT TO MAKE

AN APPEAL AS SOMEONE WHOSE PROPERTY IS WELL KEPT. I THINK THAT -- I DON'T THINK THE APPEAL HAS MERIT AND I THINK STAFF HAS DONE A GOOD JOB GOING THROUGH THE POINTS POINT BY POINT. I WANT TO MAKE IT CLEAR THAT'S WHY I'M SUPPORTING IT IS ON A LEGAL BASIS AND HAS NOTHING TO DO HOW THE PEOPLE MAINTAIN THEIR PROPERTY. THAT IS IRRELEVANT TO THE PROCESS. STEVE, I SAW YOU DO THIS.

>> S. BUCKLEY: THE FINDINGS ARE IS THERE A DETRIMENT REGARDING SUNLIGHT AIR VIEWS AND COMMUNITY CHARACTER. I THINK THOSE ARE FACTORS WHEN WE EVALUATE THESE AND LOOK AT THE HEIGHTS AND LOCATIONS OF THE PHYSICAL STRUCTURE AND THE PARKING.

>> S. O'KEEFE: THAT'S OF THE PROJECT BEING PROPOSED, NOT THE NEIGHBORING PROPERTIES.

>> CORRECT.

>> S. O'KEEFE: I WANTED TO SAY THAT. THANK YOU FOR LISTENING AND INDULGING ME. IGOR HAS HIS HAND UP.

>> I. TREGUB: THANK YOU SO MUCH SHOSHANA SO FOR ELOQUENTLY STATING THE WAY THE ZAB OPERATES. I COULD NOT AGREE MORE. I WILL ADD BECAUSE THIS IS A PRETTY UNIQUE SITUATION IN THE SENSE THAT I DON'T THINK THAT ALL MY YEARS ON ZAB I'VE SEEN ONE WHERE A REASONABLE ACCOMMODATION IS GRANTED. I WANTED TO BE CLEAR. BECAUSE THE PROCESS OF REQUESTING A REASONABLE ACCOMMODATION CAN PUT AN APPLICANT IN A REALLY CHALLENGING POSITION. THEY HAVE TO PROVIDE A LOT OF RECORDS THAT ARE PRIVATE. AND I JUST WANT TO GO

ON RECORD AND SAY THAT I BELIEVE STAFF 100% WHETHER THEY SAID THEY WENT THROUGH A PROCESS TO ENSURE THAT A BASIS EXISTS FOR A REASONABLE ACCOMMODATION TO BE GRANTED. SO THANK YOU.

>> S. O'KEEFE: ANY OTHER COMMENTS BEFORE WE VOTE?

>> SO JUST TO SAY THAT WE'RE -- IN MY MOTION I MEANT TO SAY WE WERE AGREEING WITH STAFF'S RECOMMENDATION TO DENY THE APPEAL, EXCEPT FOR ONE THAT THE HEDGE BE NO TALLER THAN 11 FEET.

>> S. O'KEEFE: OKAY. THE WORDING OF OUR RECOMMENDATION IS APPROVE ADU AND DISMISS THE APPEAL. THEN WITH THE MODIFICATION OF 11-FOOT MAXIMUM ON THE HEDGE. ARE WE READY TO TAKE A ROLL CALL VOTE? LOOKS LIKE IT. LET'S DO IT.

>> S. BUCKLEY: ON THE MATTER OF OF 1346 ORDWAY STREET, THE APPEAL RELATED TO ZONING PERMIT 2018-0174, MOTION BY BOARD MEMBER CLARKE AND SECONDED BY BOARD MEMBER KAHN TO DENY THE APPEAL AND APPROVE THE PROJECT WITH THE MODIFICATION AT 11 FEET FOR THE HEDGE. BOARD MEMBER TREGUB.

>> AYE.

>> CLARKE.

>> YES.

>> BOARD MEMBER SHEAHAN.

>> [INDISCERNIBLE]

>> BOARD MEMBER SELAWSKY.

>> YES.

>> BOARD MEMBER OLSON IS ABSENT. BOARD MEMBER KAHN.

>> YES.

>> BOARD MEMBER KIM.

>> YES.

>> BOARD MEMBER PINKSTON IS ABSENT. CHAIR O'KEEFE.

>> S. O'KEEFE: YES. SO THE MOTION PASSES. MOTION CARRIES.

SO ORDWAY STREET, YOU HAVE YOUR PERMIT AND IT IS APPEALABLE TO THE CITY COUNCIL. THANK YOU EVERYONE FOR COMING. SO MEETING IS ALMOST OVER, BUT NOT QUITE. DON'T GO ANYWHERE, FRIENDS. WE HAVE SUBCOMMITTEE REPORTS. YOU DIDN'T MEET, RIGHT, IGOR?

>> I. TREGUB: I WAS DEMOTED AND PROMOTED AGAIN. WE HAVE NOT MET.

>> S. O'KEEFE: JULY WHAT, IGOR?

>> I. TREGUB: OH, MY GOODNESS.

>> S. O'KEEFE: IT DOESN'T MATTER. AND DRC, YOU MET, RIGHT?

>> WE HAVEN'T MET SINCE OUR LAST ZAB MEETING. WE'LL MEET NEXT THURSDAY.

>> S. O'KEEFE: OKAY, THEN I GUESS WE CAN ADJOURN.

>> I. TREGUB: JULY 22ND.

>> S. O'KEEFE: GREAT. COOL. OKAY. WELL, GREAT TO SEE EVERYBODY.

>> T. CLARKE: NICE TO SEE EVERYBODY.

>> I. TREGUB: DO WE NEED A MOTION TO ADJOURN?

>> S. O'KEEFE: WE'VE NEVER NEEDED IT.

>> MOTION TO ADJOURN.

>> I. TREGUB: SECOND.

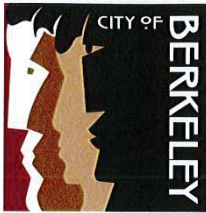
>> SHOSHANA, NICE JOB. BYE, EVERYBODY, SEE YOU IN TWO
WEEKS.

>> GOOD-BYE.

>> BYE.

>> GOOD-BYE.

>> I'M HERE TO LET PEOPLE CASUALLY LEAVE AND THEN I HIT
END.



**Office of the City Manager
Code Enforcement Unit**
2180 Milvia Street
Berkeley, California 94704
Tel 510.981.2489 Fax 510.981.2499

NOTICE OF VIOLATION

- First Notice
- Final Citation Warning

Date: 5/10/18 Time: 4:12pm Re-inspection Date: 5/24/18

Name of Person Contacted: KEKI BORJORJEE / JENNIE DURANT

The property at: 1346 ORDLWAY ST. BERKELEY, CA
was inspected because of concerns expressed to this office. The following code violation(s) were identified during this site visit:

- | | | |
|--|-------------------------|-------------------------|
| <input type="checkbox"/> Illegal Dumping | Berkeley Municipal Code | Chapter 12.40.080 |
| <input type="checkbox"/> Accumulation of Trash & Debris | Berkeley Municipal Code | Chapter 12.32.020 |
| <input type="checkbox"/> Graffiti Nuisance | Berkeley Municipal Code | Chapter 13.98.030 |
| <input type="checkbox"/> Blight Nuisance | Berkeley Municipal Code | Chapter 12.92.030 |
| <input checked="" type="checkbox"/> Zoning | Berkeley Municipal Code | Title 22 & Sub-Title 23 |
| <input type="checkbox"/> Building & Safety | Berkeley Municipal Code | Chapter 19.28 |
| <input type="checkbox"/> Obstruction of Streets or Sidewalks | Berkeley Municipal Code | Chapter 14.48.020 |
| <input type="checkbox"/> Signage | Berkeley Municipal Code | Chapter 20.16.010 |

Other (Code/Section/Title): BMC 23D.08.060 FENCES

(The entire Berkeley Municipal Code may be viewed or printed from the City's web site at www.cityofberkeley.info/Home, specifically www.codepublishing.com/CA/Berkeley).

Attached brochure(s) will give you more code information: _____

Please perform the following corrections before the re-inspection date to avoid citations, fees, and/or fines starting at \$100-500 per violation/per day:

- NO FENCE ON PROPERTY LINE MAY EXCEED 6 FEET IN HEIGHT.

PLEASE SEE ATTACHED DEFINITIONS.

* HEDGEG MUST BE TRIMMED TO 6' - THANK YOU

It is our intent to work with property owners to encourage voluntary compliance. Your cooperation in correcting the violation(s) is greatly appreciated. If you have any questions, please contact the Enforcement Officer at 510.981. 2481.

Issued by: Tim Krotzer Enforcement Officer Case #: 397755





I. ZONING PROJECT APPLICATION FORM

(This box for staff use only.)

ZP2018 - 0174 <input checked="" type="checkbox"/> Administrative Use Permit <input type="checkbox"/> Use Permit / Variance <input type="checkbox"/> Modification of any of the Above	PLN201 - _____ <input type="checkbox"/> Pre-Application Intake Planner: <u>Vicky Schlepp</u>	<div style="border: 1px solid black; padding: 5px; color: blue; font-weight: bold; font-size: small;">RECEIVED</div> DATE STAMP HERE SEP 07 2018 <div style="border: 1px solid black; padding: 5px; color: blue; font-weight: bold; font-size: small;">LAND USE PLANNING</div>
---	--	--

- **Project Address:** 1346 Ordway St., Berkeley, CA 94702 Unit/Suite #: _____
 Project Description: 1) A wooden trellis, two feet high, six feet above the ground, attached to posts adjacent to an existing six foot fence along the property line with 1333 Hopkins Street
2) Fifteen Silver Sheen trees, fourteen feet high along the same fence

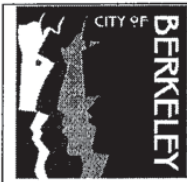
- **Property Owner Name:** Keki Burjorjee and Jennie Durant
 Owner's Mailing Address: 1346 Ordway St., Berkeley, CA 94702
 Phone #: 916-220-9806 Home Mobile Business E-mail: jenniedurant@gmail.com

- **Applicant Name** (or write "same"): Same
 Applicant's Mailing Address: _____
 Phone #: _____ Home Mobile Business E-mail: _____

For projects involving <u>only</u> the following four items and <u>none</u> of the items on pages 2-3 of this form, please refer to the handout indicated in the right-hand column <u>instead</u> of filling out this form.	
1. Converting existing Rental or Tenant In Common (TIC) Units to Condominiums?	Refer to the "Condominium Conversion Procedures: Guide for Applicants"
2. Demolition of, or exterior alterations to, a designated City of Berkeley Landmark, Structure of Merit, or structure in a City Historic District (or interior alterations to such buildings if publicly owned)?	Refer to the "Landmark Preservation Commission: Structural Alteration Permit and Design Review Submittal Requirements"
3. Application to designate a City Landmark, Structure of Merit or Historic District?	Refer to the "Landmark, Structure of Merit or Historic District Designation Form"
4. Exterior changes (including signs) to (1) any structure (new or existing) in a non-residential zoning district OR (2) a commercial or mixed-use building in the R-4 District?	Refer to the Design Review Submittal Packet
Continued on Page 2	

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

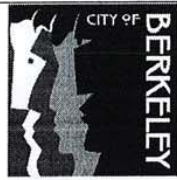


I. ZONING PROJECT APPLICATION FORM

Submittal Requirements Checklist – Instructions

1. Complete the checklist below and **sign the bottom of page 3.** (*Owner must also sign, or provide a letter authorizing the applicant to sign on the owner's behalf.*)
2. For each question for which you check "yes", review the Zoning Project Submittal Requirements to learn more and to provide the item indicated in the right-hand column.
3. **Submit a pdf copy of the entire application, along with the paper application to the Planner at the Permit Service Center, Zoning Counter.**

Does the project include:	No	Yes	Handout / Application Requirement
1. Any work requiring an Administrative Use Permit, Use Permit, Variance, or Modification of any these permits?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Required For All Projects
2. Any new structure(s), addition(s), demolition(s), exterior alteration(s), or change(s) of use?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Required For All Projects Involving Construction
3. A new main building, OR a new accessory building/structure or main building addition within 2 feet of a required setback?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Boundary/Topographic Survey
4. More than 50 cubic yards of grading?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Grading Plan
5. A request to waive or reduce required parking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Parking Survey
6. (1) a building over three stories in height, (2) a Density Bonus, (3) an FAR over 2.0, (4) over 10,000 sq. ft. of gross floor area; OR any wireless installation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Photo Simulations
7. A new main building or an addition exceeding 14 feet in average height in the 'H' Overlay District?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Section Drawings Story Poles
8. A new main building or an addition exceeding 14 feet in average height on a site adjacent to a residential use?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Shadow Study
9. A new main building (except accessory buildings/structures)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Street Strip Elevation
10. Creation of (1) 5 or more dwelling or live/work units, or (2) additional condominium units resulting in 5 or more condominium units on the site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Housing Affordability Statement Applicant Anti-Discriminatory Housing Policies
11. Under Government Code Section 65915: a. A request for a Density Bonus? b. A request for any concessions or incentives in addition to a Density Bonus?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Housing Affordability Statement Additional Incentives or Concessions Documents
12. Creation of (1) 10 or more dwelling units, (2) 5,000 sq. ft. of floor area, OR (3) 25 or more peak hour vehicle trips (based on ITE trip generation rates)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Traffic Impact Analysis
13. Creation or replacement of 2,500 square feet or more of impervious surface area? (Includes additions and new buildings but not routine maintenance and re-surfacing).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Stormwater Requirements Checklist
14. Any new dwelling unit(s), or addition or renovation of 10,000 sq. ft. or more of non-residential space?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Green Building Checklist Energy Efficiency Analysis (<i>nonresidential mixed-use only</i>)
15. 2,500 sq. ft. or more of new landscape area or 2,500 sq. ft. or more of rehabilitated landscape?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Berkeley Water Efficient and Bay Friendly Landscape Requirements
16. A new building on a site with a history of soil and/or groundwater contamination or within Environmental Management Areas?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Phase I or II Assessment
17. A new building or addition in a liquefaction, landslide, or fault zone shown on the "Environmental Constraints Map"	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Seismic Hazard Investigation
18. Federal funding, either directly or through the City of Berkeley Housing Trust Fund?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Area of Potential Effects (APE) Statement
19. A new business, or a new commercial space with tenant/operator already selected? (Does not include home occupations.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Zoning Use Questionnaire

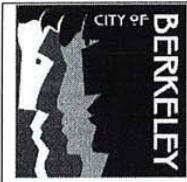


I. ZONING PROJECT APPLICATION FORM

You must disclose whether or not any of the following are true of the project:	No	Yes
<ul style="list-style-type: none"> Over 7,500 square feet of office, retail, restaurant, hotel, lodging, manufacturing, light industrial, research and development, warehouse or storage? If so, Affordable Child Care and Affordable Housing Fees apply. Refer to Council Resolutions #66,618-N.S. & #66,617-N.S. 	✓	<input type="checkbox"/>
<ul style="list-style-type: none"> Any new commercial or industrial building, more than five or more Dwelling Units; or an addition or more than 10,000 square feet. If so, Percent for Public Art on Private Projects Program applies, per BMC Chapter 23C.23. 	✓	<input type="checkbox"/>
<ul style="list-style-type: none"> Project involves the elimination or rehabilitation of any dwelling units, and/or are any of the dwelling units on the property controlled rental units? If so, your application will be referred to the Rent Stabilization Board. No action is required on your part. You may contact them at (510) 981-7368 if you have any questions. 	✓	<input type="checkbox"/>
<ul style="list-style-type: none"> Construction activity within the drip line of a Coast Live Oak tree with circumference over 18" at 4'-6" above ground (or 26" aggregate circumference for multi-trunked trees)? If so, the Moratorium on the removal of Coast Live Oaks Ordinance applies, per BMC Chapter 6.52. 	✓	<input type="checkbox"/>
<ul style="list-style-type: none"> Removal of 25% or more of a main building's exterior walls and roof (including replacement of existing structural members)? If so, the Demolition Ordinance may apply, per BMC Chapter 23C.08. 	✓	<input type="checkbox"/>
<ul style="list-style-type: none"> Smoke Shops or Drug Paraphernalia? 	✓	<input type="checkbox"/>
<ul style="list-style-type: none"> Cultivation, Distribution, Manufacture or Sale of Cannabis? 	✓	<input type="checkbox"/>
<ul style="list-style-type: none"> Demolition or substantial change of a building >40 years old? If so, the Demolition Ordinance will apply, per BMC Chapter 23C.08, as well as Section 15300.2 of the CEQA Guidelines. 	✓	<input type="checkbox"/>
<ul style="list-style-type: none"> Construction on a parcel that is within 40' of an open creek or 25' of a culverted creek? If so, the Preservation and Restoration of Natural Watercourses Ordinance applies, per BMC Chapter 17.08 	✓	<input type="checkbox"/>

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

Applicant Signature: <u>Jennie Durant</u>	Owner's Signature: <u>Jennie Durant</u>
Printed: <u>Jennie Durant</u>	Printed: <u>Jennie Durant</u>
Date: <u>9/7/2018</u>	Date: <u>9/7/2018</u>

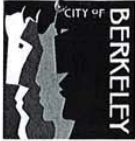


I. ZONING PROJECT APPLICATION FORM

(This page is for staff use only.)

Zoning District(s):

Zoning Section	Description
1. 23 <u>D.08.060</u>	UP/AUP to <i>Fence over 6'</i>
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



CITY OF BERKELEY

Permit Service Center
1947 Center St, 3rd floor
Berkeley, CA 94704

Receipt Date:

9/7/2018

Receipt Number:

544055

**RECEIPT
ZP2018-0174**

Applicant Information

Jennie Durant
1346 ORDWAY ST
BERKELEY CA 94702-1124

Property Information

Parcel Number: 060 241605000

Project Information

Type: Planning
Group: Zoning Permit
Category: NA
Sub-Category: NA
Project: 1346 Ordway Street
Work Description: Add 2' trellis on top of 6' fence.

Location

1346 ORDWAY St
BERKELEY, CA 94702

RECEIVED

SEP 07 2018

LAND USE PLANNING

Payor: Jennie Durant	Payment Status: Paid	Date Printed: 9/7/2018
Cashier: BLECKY	Payment Method: Credit Card	Auth: 6517
Fees:		Amount
AUP030 - AUP Base Tier 3 - Least complex projects in or adjacent to Residential District		\$800.00
AUP110 - Records Management		\$50.00
CPF1 - Community Planning Fee		\$120.00
Property Address: 1346 ORDWAY St BERKELEY, CA 94702	Total:	\$970.00



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

INVOICE

Date: 9/7/2018 2:15:26 PM

Invoice #: 380697

Record #: ZP2018-0174

Bill to:

Address: 1346 ORDWAY ST

1346 Ordway Street
Jennie Durant
1346 ORDWAY ST
BERKELEY CA 94702-1124

RECEIVED

SEP 07 2018

LAND USE PLANNING

Date Assessed	Invoiced Fee Item	Fee	Paid	Balance
9/7/2018	Records Management	\$50.00	\$0.00	\$50.00
9/7/2018	Community Planning Fee	\$120.00	\$0.00	\$120.00
9/7/2018	AUP Base Tier 3 - Least complex projects in or adjacent to Residential District	\$800.00	\$0.00	\$800.00
Totals:		\$970.00	\$0.00	\$970.00

Applicant Statement

We are applying for a permit for:

- 1) Fifty five horizontal feet of wooden trellis, 2' high, 6' above the ground, adjacent to a preexisting 55' long, 6' high fence along our property line with the lot at 1333 Hopkins St. The lattice will be attached to posts adjacent to the preexisting fence.
- 2) Fifteen Silver Sheen trees 14' high along the pre-existing fence.

The lattice and trees are to form a visual and physical barrier that screens off the bedroom and bathroom windows of our home at 1346 Ordway St. from the neighboring property at 1333 Hopkins St. This property has a four unit building with unfinished interiors (exposed walls and ceilings). We see random people entering and leaving the property (sometimes late at night) and homeless folks sleeping in the back porch on occasion. The back porch overlooks our two and a half year old daughter's window, and we worry about her and our own safety.

In addition, the neighboring property has been in a state of disrepair for the two and a half years we have lived in our home (and longer according to neighbors we have spoken with). The disrepair includes:

- 1) Ugly cement around window frames
- 2) Exposed wires where light fixtures should be
- 3) Metal sheathing sticking up from the top of a garage
- 4) An ugly unfinished wooden garage door

The proposed trellis and trees will provide privacy and security for our family over and above that provided by the existing six foot fence.

Sincerely

Jennie Durant & Keki Burjorjee





























PLANNING & DEVELOPMENT

Land Use Planning, 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.7474 Fax: 510.981.7420
Email: Planning@ci.berkeley.ca.us

II.E. 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/>

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

<https://geotracker.waterboards.ca.gov/>

Applicant's Information:

Name: Jennie Durant and Keki Burjorjee

Street Address: 1346 Ordway Street

City, State, Zip Code: Berkeley, CA 94702

Phone Number: 916-220-9806

Project Information:

Address: 1346 Ordway Street

City, State, Zip Code: Berkeley, CA 94702

Assessor's book, page, and parcel number: 60-2416-50


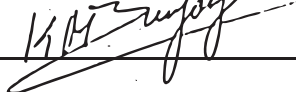
Specify any list pursuant to Section 65962.5 of the Government Code:

N/A

Regulatory identification number: _____

Date of list: _____

Applicant's verification:

Signature:   Date: 9-5-2018

Jennie Durant & Keki Burjorjee

1346 Ordway St
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

5th September 2018

To Our Neighbor at
1333 Hopkins Street
Berkeley, CA 94702

Dear Neighbor,

We are applying to the City of Berkeley for a permit for :

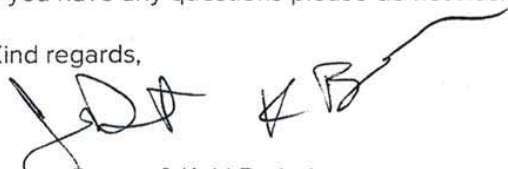
1. A two foot high lattice alongside and immediately above a pre-existing six foot high fence on the border between our property at 1346 Ordway Street and the property at 1333 Hopkins Street.
2. Fifteen silver sheen trees fourteen feet in height alongside the pre-existing fence.

Two copies of a site diagram of the planned work are enclosed and we have posted a pre-application poster outlining the same on our front yard.

The city requires us to notify all neighbors with whom we share a property boundary. We would appreciate it if you could sign and date one of the copie of the site diagram, print your name and address, and return it to us in the envelope provided by October 1, 2018. Your signature on this diagram only indicates your receipt of this letter, not your approval of the project described. If you do approve the project, please check the column headed "Have No Objections."

If you have any questions please do not hesitate to contact us via email or regular mail.

Kind regards,


Jennie Durant & Keki Burjorjee

Jennie Durant & Keki Burjorjee

1346 Ordway St
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

5th September 2018

To Our Neighbor at

1327 Hopkins Street
Berkeley, CA 94702

Dear Neighbor,

We are applying to the City of Berkeley for a permit for :

1. A two foot high lattice alongside and immediately above a pre-existing six foot high fence on the border between our property at 1346 Ordway Street and the property at 1333 Hopkins Street.
2. Fifteen Silver Sheen trees alongside the pre-existing fence, *which will be 14' tall.*

Two copies of a site diagram of the planned work are enclosed and we have posted a pre-application poster outlining the same on our front yard.

The city requires us to notify all neighbors with whom we share a property boundary. We would appreciate it if you could sign and date one of the copie of the site diagram, print your name and address, and return it to us in the envelope provided by October 1, 2018. Your signature on this diagram only indicates your receipt of this letter, not your approval of the project described. If you do approve the project, please check the column headed "Have No Objections."

If you have any questions please do not hesitate to contact us via email or regular mail.

Kind regards,

Jennie Durant & Keki Burjorjee

Jennie Durant & Keki Burjorjee

1346 Ordway St
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

5th September 2018

To Our Neighbor at

1341 Peralta Ave.
Berkeley, CA 94702

Dear Neighbor,

We are applying to the City of Berkeley for a permit for :

1. A two foot high lattice alongside and immediately above a pre-existing six foot high fence on the border between our property at 1346 Ordway Street and the property at 1333 Hopkins Street.
2. Fifteen silver sheen trees fourteen feet in height alongside the pre-existing fence.

Two copies of a site diagram of the planned work are enclosed and we have posted a pre-application poster outlining the same on our front yard.

The city requires us to notify all neighbors with whom we share a property boundary. We would appreciate it if you could sign and date one of the copie of the site diagram, print your name and address, and return it to us in the envelope provided by October 1, 2018. Your signature on this diagram only indicates your receipt of this letter, not your approval of the project described. If you do approve the project, please check the column headed "Have No Objections."

If you have any questions please do not hesitate to contact us via email or regular mail.

Kind regards,


Jennie Durant & Keki Burjorjee

Jennie Durant & Keki Burjorjee

1346 Ordway St
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

5th September 2018

To Our Neighbor at

1337 Peralta Ave.
Berkeley, CA 94702

Dear Neighbor,

We are applying to the City of Berkeley for a permit for :

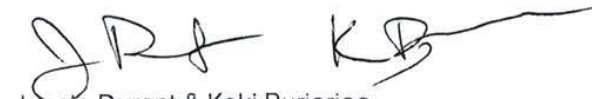
1. A two foot high lattice alongside and immediately above a pre-existing six foot high fence on the border between our property at 1346 Ordway Street and the property at 1333 Hopkins Street.
2. Fifteen silver sheen trees fourteen feet in height alongside the pre-existing fence.

Two copies of a site diagram of the planned work are enclosed and we have posted a pre-application poster outlining the same on our front yard.

The city requires us to notify all neighbors with whom we share a property boundary. We would appreciate it if you could sign and date one of the copie of the site diagram, print your name and address, and return it to us in the envelope provided by October 1, 2018. Your signature on this diagram only indicates your receipt of this letter, not your approval of the project described. If you do approve the project, please check the column headed "Have No Objections."

If you have any questions please do not hesitate to contact us via email or regular mail.

Kind regards,



Jennie Durant & Keki Burjorjee

Jennie Durant & Keki Burjorjee

1346 Ordway St
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

5th September 2018

Tamar Gershon
1344 Ordway Street
Berkeley, CA 94702

Dear Tamar,

We are applying to the City of Berkeley for a permit for :

1. A two foot high lattice alongside and immediately above a pre-existing six foot high fence on the border between our property at 1346 Ordway Street and the property at 1333 Hopkins Street.
2. Fifteen silver sheen trees fourteen feet in height alongside the pre-existing fence.

Two copies of a site diagram of the planned work are enclosed and we have posted a pre-application poster outlining the same on our front yard.

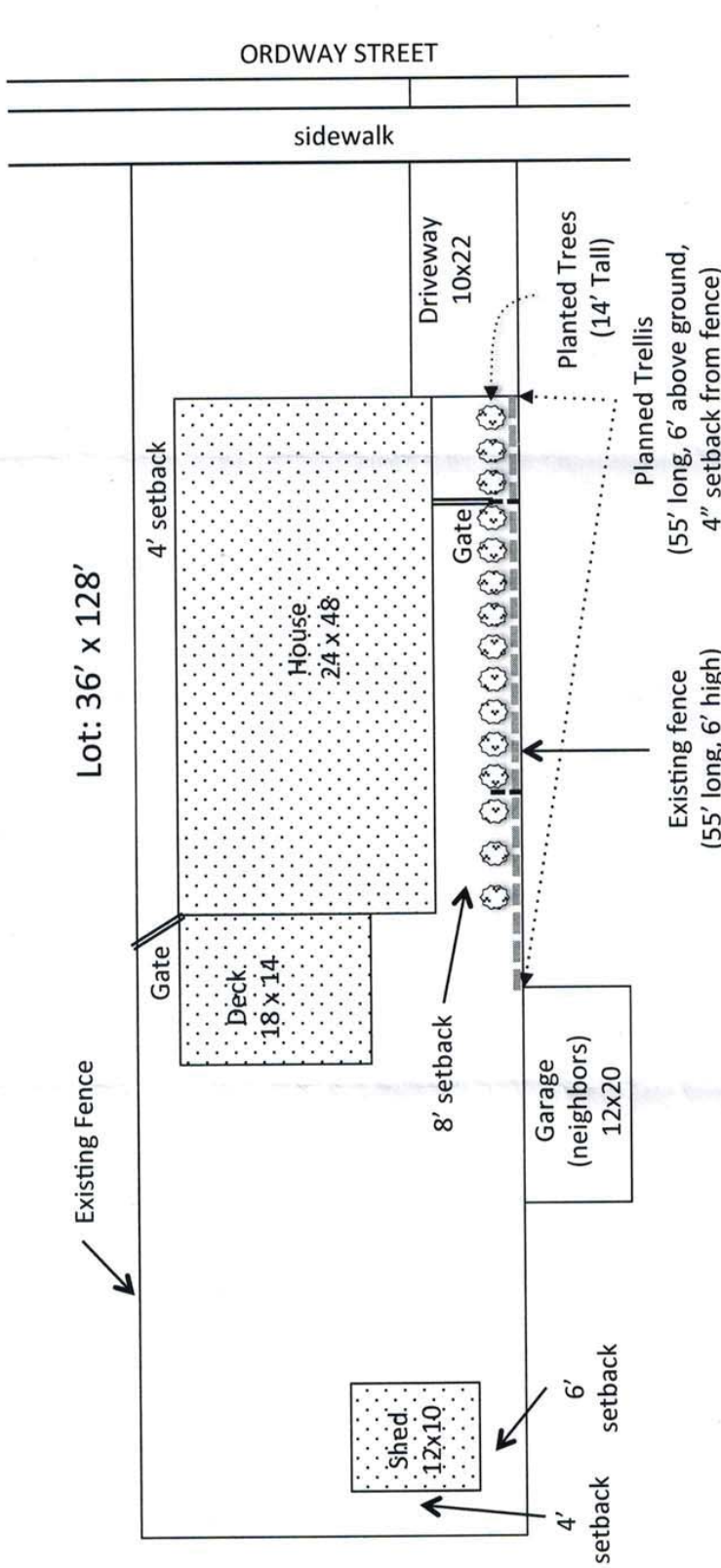
The city requires us to notify all neighbors with whom we share a property boundary. We would appreciate it if you could sign and date one of the copie of the site diagram, print your name and address, and return it to us in the envelope provided by October 1, 2018. Your signature on this diagram only indicates your receipt of this letter, not your approval of the project described. If you do approve the project, please check the column headed "Have No Objections."

If you have any questions please do not hesitate to contact us via email or regular mail.

Kind regards,



Jennie Durant & Keki Burjorjee



SITE PLAN

1346 Ordway St., Berkeley, CA

Name (printed)	Signature	Address	Renter or Owner	Date	Have no objections	Have objections (Please state briefly)	Have no objection
TAMAR Gershon	Tamar Gershon	1344 Ordway St.	Owner	9/7/18	✓		✓

7018 0680 0001 7846 9607

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
BERKELEY, CA 94702	
OFFICIAL USE	
Certified Mail Fee \$3.45	0053 15
Extra Services & Fees (check box, add fee as appropriate) <input type="checkbox"/> Return Receipt (hardcopy) \$0.00 <input type="checkbox"/> Return Receipt (electronic) \$0.00 <input type="checkbox"/> Certified Mail Restricted Delivery \$0.00 <input type="checkbox"/> Adult Signature Required \$0.00 <input type="checkbox"/> Adult Signature Restricted Delivery \$0.00	Postmark Here
Postage \$0.50	09/06/2018
Total Postage and Fees \$3.95	
Sent To	
Street and Apt. No., or PO Box No. 1337 Peralta Ave	
City, State, ZIP+4® Berkeley CA 94702	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

7018 0680 0001 7846 9614

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
BERKELEY, CA 94702	
OFFICIAL USE	
Certified Mail Fee \$3.45	0053 15
Extra Services & Fees (check box, add fee as appropriate) <input type="checkbox"/> Return Receipt (hardcopy) \$0.00 <input type="checkbox"/> Return Receipt (electronic) \$0.00 <input type="checkbox"/> Certified Mail Restricted Delivery \$0.00 <input type="checkbox"/> Adult Signature Required \$0.00 <input type="checkbox"/> Adult Signature Restricted Delivery \$0.00	Postmark Here
Postage \$0.50	09/06/2018
Total Postage and Fees \$3.95	
Sent To	
Street and Apt. No., or PO Box No. 1327 Hopkins St.	
City, State, ZIP+4® Berkeley CA 94702	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

7018 0680 0001 7846 9621

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
BERKELEY, CA 94702	
OFFICIAL USE	
Certified Mail Fee \$3.45	0053 15
Extra Services & Fees (check box, add fee as appropriate) <input type="checkbox"/> Return Receipt (hardcopy) \$0.00 <input type="checkbox"/> Return Receipt (electronic) \$0.00 <input type="checkbox"/> Certified Mail Restricted Delivery \$0.00 <input type="checkbox"/> Adult Signature Required \$0.00 <input type="checkbox"/> Adult Signature Restricted Delivery \$0.00	Postmark Here
Postage \$0.50	09/06/2018
Total Postage and Fees \$3.95	
Sent To	
Street and Apt. No., or PO Box No. 1341 Peralta Ave	
City, State, ZIP+4® Berkeley CA 94702	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

7018 0680 0001 7846 9638

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
BERKELEY, CA 94702	
OFFICIAL USE	
Certified Mail Fee \$3.45	0053 15
Extra Services & Fees (check box, add fee as appropriate) <input type="checkbox"/> Return Receipt (hardcopy) \$0.00 <input type="checkbox"/> Return Receipt (electronic) \$0.00 <input type="checkbox"/> Certified Mail Restricted Delivery \$0.00 <input type="checkbox"/> Adult Signature Required \$0.00 <input type="checkbox"/> Adult Signature Restricted Delivery \$0.00	Postmark Here
Postage \$0.50	09/06/2018
Total Postage and Fees \$3.95	
Sent To	
Street and Apt. No., or PO Box No. Larry Heckman 1333 Hopkins St.	
City, State, ZIP+4® Berkeley CA 94702	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

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ALBANY
1191 SOLANO AVE
ALBANY
CA
94706-1682
0506430053
09/06/2018 (800)275-8777 2:54 PM

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Product Description	Sale Qty	Final Price
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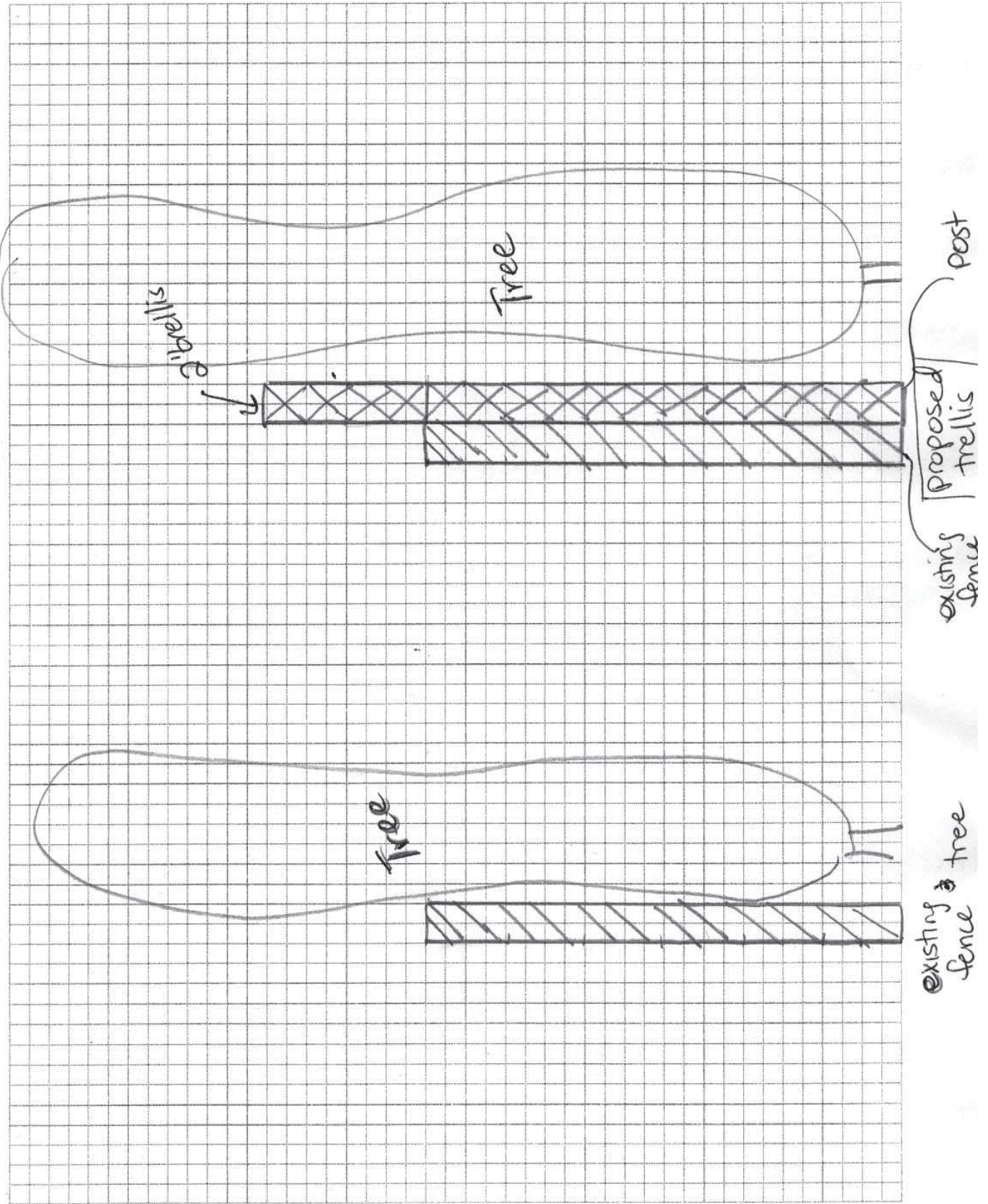
First-Class Mail Letter (Domestic) (BERKELEY, CA 94702) (Weight:0 Lb 1.00 Oz) (Estimated Delivery Date) (Saturday 09/08/2018)	1	\$0.50
Certified (@@USPS Certified Mail #) (70180680000178469607)	1	\$3.45
First-Class Mail Letter (Domestic) (BERKELEY, CA 94702) (Weight:0 Lb 0.90 Oz) (Estimated Delivery Date) (Saturday 09/08/2018)	1	\$0.50
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ClrTape1.88"x8 00" (Unit Price:\$3.49)	1	\$3.49

Total \$19.29

Credit Card Remitd \$19.29
(Card Name:MasterCard)
(Account #:XXXXXXXXXX6517)
(Approval #:54424P)
(Transaction #:514)
(AID:A0000000041010 Chip)
(AL:MasterCard)
(PIN:Not Required)

Durant - Burgerjee
1346 Ordway St.

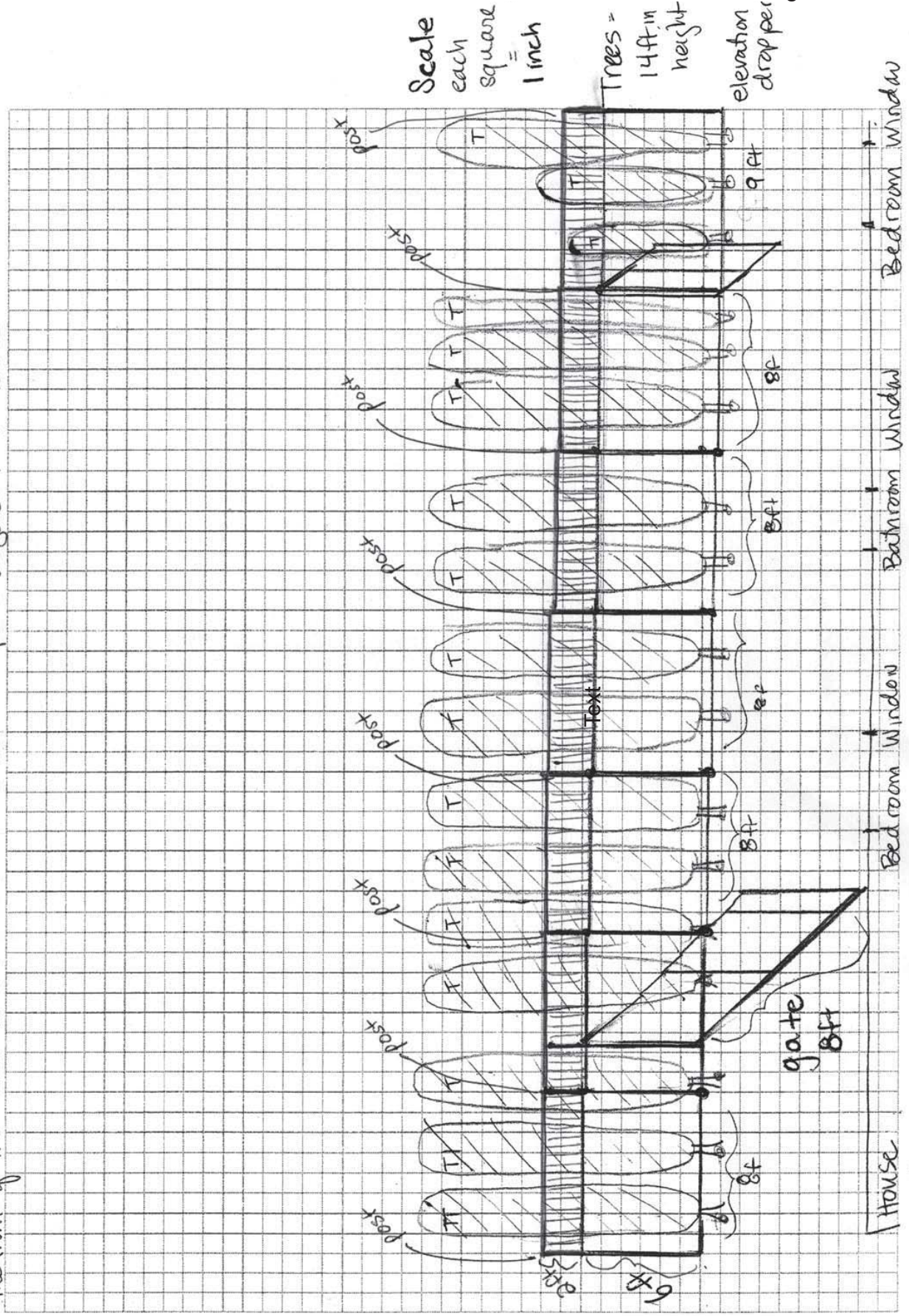
Proposed Plan - Side View



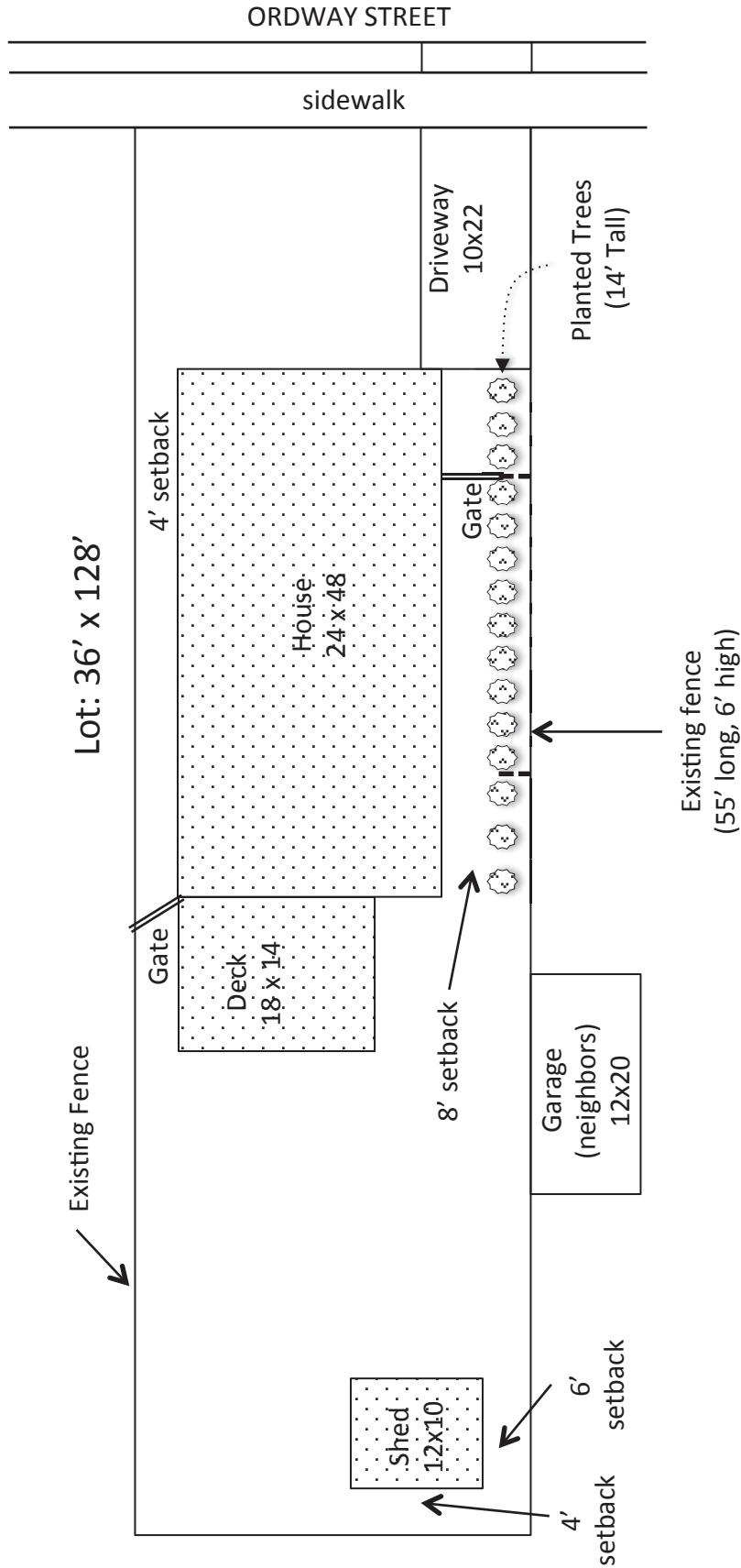
Proposed Plan

Proposed trellis:
 2ft in height
 attached to posts adjacent to fence

After Each 8ft section, there
 is a drop of 1.5 inches from
 the front of the house to the back

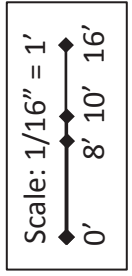


Durant-Burgoyne
 346 Ordway St.



SITE PLAN

1346 Ordway St., Berkeley, CA





Planning & Development Department
Land Use Planning Division

September 19, 2018

Jennie Durant and Keki Burjoree
1346 Ordway Street
Berkeley, CA 94702

Sent via email:
jenniedurant@gmail.com

RE: 1346 Ordway Street, Application #ZP2018-0174

Administrative Use Permit to:

Add 2 foot trellis on top of 6 foot fence.

Dear Applicant:

On behalf of the City of Berkeley, I would like to introduce myself as the project planner for the above referenced application. Your application is currently being reviewed by City departments, including the Building and Safety and Planning departments, as well as other interested parties, for their comments and to ensure that the project is complete as submitted. If any questions arise, City staff will either contact you in writing or via the telephone at the phone number supplied on the application you submitted. It is also prudent to expect site visits by various staff members over the course of the City's review of your project. These visits will be from the public right-of-way, unless an appointment is made with you in advance.

If you have any questions or concerns, please feel free to contact me at 510-981-7419 or nkarimzadegan@cityofberkeley.info. If I have any questions, I will contact you within 30 days of your application date to follow-up with the status of the project and to request any additional information needed to complete the application. Please note that due to staffing reductions and the level of permit activity, applicants should be prepared to expect longer processing times than in the past. Answers to frequently asked questions related to Administrative Use Permits, including "what is the process" and "how long does it take" can be found by visiting the City of Berkeley's website at the following address:
http://www.ci.berkeley.ca.us/Planning_and_Development/Land_Use_Division/Administrative_Use_Permit.aspx

Please know that this application is subject to the Permits Streamlining Act, Government Code Section 65921, which (1) sets forth various time limits within which state and local government agencies must either approve or disapprove permits and (2) providing that these time limits may be extended once (and only once) by agreement between the parties.

I look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Nilu Karimzadegan".

Nilu Karimzadegan
Planning Technician



Planning & Development Department
Land Use Planning Division

September 21, 2018

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702

Sent via email:
jenniedurant@gmail.com

RE: 1346 Ordway Street, Application #ZP2018-0174

Administrative Use Permit to:

Add 2 foot trellis on top of 6 foot fence.

Dear Applicant:

On behalf of the City of Berkeley, I would like to introduce myself as the project planner for the above referenced application. Your application is currently being reviewed by City departments, including the Building and Safety and Planning departments, as well as other interested parties, for their comments and to ensure that the project is complete as submitted. If any questions arise, City staff will either contact you in writing or via the telephone at the phone number supplied on the application you submitted. It is also prudent to expect site visits by various staff members over the course of the City's review of your project. These visits will be from the public right-of-way, unless an appointment is made with you in advance.

If you have any questions or concerns, please feel free to contact me at 510-981-7419 or nkarimzadegan@cityofberkeley.info. If I have any questions, I will contact you within 30 days of your application date to follow-up with the status of the project and to request any additional information needed to complete the application. Please note that due to staffing reductions and the level of permit activity, applicants should be prepared to expect longer processing times than in the past. Answers to frequently asked questions related to Administrative Use Permits, including "what is the process" and "how long does it take" can be found by visiting the City of Berkeley's website at the following address:
http://www.ci.berkeley.ca.us/Planning_and_Development/Land_Use_Division/Administrative_Use_Permit.aspx

Please know that this application is subject to the Permits Streamlining Act, Government Code Section 65921, which (1) sets forth various time limits within which state and local government agencies must either approve or disapprove permits and (2) providing that these time limits may be extended once (and only once) by agreement between the parties.

I look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Nilu Karimzadegan".

Nilu Karimzadegan
Planning Technician



Planning and Development Department
Land Use Planning Division

October 5, 2018

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702

Sent via email:
jenniedurant@gmail.com

Re: Administrative Use Permit #ZP2018-0174 for 1346 Ordway Street

Dear Jennie,

On September 7, 2018, you submitted an Administrative Use Permit application for a single family dwelling to 1) install a 2' lattice over an existing 6' fence, resulting in an 8' Accessory Structure within the setback and 2) to plant fifteen approximately 14' tall trees alongside the proposed fence. Based on my preliminary review, the following is needed for your project:

- Administrative Use Permit, under [Berkeley Municipal Code](#) (BMC) Section 23D.08.060 for constructing an Accessory Structure over 6' within setbacks.

In order to complete your application please respond to the following:

- 1) Neighbor Pre-Application Contact: Per our Neighbor Pre-Application Contact requirements, please provide proof of contact for all owners & occupants of 1343 Peralta Avenue.
- 2) Tabulation Form: Per our [Zoning Project Submittal Requirements](#), please provide a Tabulation Form.
- 3) Site Plan: Please provide the following:
 - A) Exhibit all existing and required setbacks
 - B) Include any portion of neighborhood building within 20' of property line.
 - C) Depict the proposed parking space on site plan, fully dimension the space and show dimensions to the property line and the residence. Please note that any proposed parking space must comply with BMC 23D.12.080 and be separated from the adjacent property line by a 2 foot landscaping planter.
 - D) Include the existing trellis on the lot and its distance to property lines.
 - E) Include the tree's trunk and crown diameters and their distances to the property line and the main residence.

- 4) Accessory Structure/Building :
- A. Shed: Please provide dimensioned plans, elevations and photos (from inside and outside) of the shed structure.
 - B. Trellis: Please provide dimensioned plans, elevations and photos of the Trellis.
- 5) Additional Photos: Please provide additional photos of the fence on the north and east property lines.
- 6) Additional Comment: I was not able to confirm that City approved a removal of a 9'X16' garage, addition of trellis and addition of shed on this lot. Please note that any unpermitted addition or removal of buildings or structures will be added to this permit.

In your resubmittal, **include a cover letter stating how you have addressed the incomplete items. Any changes or corrections must be clouded, and accompanied by a number** to allow for easier identification. If new plans are submitted, please deliver two **(2) sets** of plans (at least one set to scale) and submit **both a paper and an electronic copy** of the resubmittals to the zoning counter during normal business hours (Monday thru Thursday 8:30 am – 4:00 pm).

If you take no action to address the above items within 60 days, the application may be deemed withdrawn and returned to you. Please contact me if you have any questions at (510) 981-7419.

Sincerely,



Nilu Karimzadegan, Planning Technician
CC: Greg Powell, Principal Planner



I. ZONING PROJECT APPLICATION FORM

(This box for staff use only.)

ZP2018-0174 PLN201- DATE STAMP HERE
 Administrative Use Permit Pre-Application
 Use Permit / Variance
 Modification of any of the Above Intake Planner: *Vicky Schlepp*

RECEIVED
SEP 07 2018
LAND USE PLANNING

- **Project Address:** 1346 Ordway St., Berkeley, CA 94702 Unit/Suite #: _____
 Project Description: 1) A wooden trellis, two feet high, six feet above the ground, attached to posts adjacent to an existing six foot fence along the property line with 1333 Hopkins Street
2) Fifteen Silver Sheen trees, fourteen feet high along the same fence
- **Property Owner Name:** Keki Burjorjee and Jennie Durant
 Owner's Mailing Address: 1346 Ordway St., Berkeley, CA 94702
 Phone #: 916-220-9806 Home Mobile Business E-mail: jenniedurant@gmail.com
- **Applicant Name** (or write "same"): Same
 Applicant's Mailing Address: _____
 Phone #: _____ Home Mobile Business E-mail: _____

For projects involving <u>only</u> the following four items and <u>none</u> of the items on pages 2-3 of this form, please refer to the handout indicated in the right-hand column <u>instead</u> of filling out this form.	
1. Converting existing Rental or Tenant In Common (TIC) Units to Condominiums?	Refer to the "Condominium Conversion Procedures: Guide for Applicants"
2. Demolition of, or exterior alterations to, a designated City of Berkeley Landmark, Structure of Merit, or structure in a City Historic District (or interior alterations to such buildings if publicly owned)?	Refer to the "Landmark Preservation Commission: Structural Alteration Permit and Design Review Submittal Requirements"
3. Application to designate a City Landmark, Structure of Merit or Historic District?	Refer to the "Landmark, Structure of Merit or Historic District Designation Form"
4. Exterior changes (including signs) to (1) any structure (new or existing) in a non-residential zoning district OR (2) a commercial or mixed-use building in the R-4 District?	Refer to the Design Review Submittal Packet

Continued on Page 2

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



I. ZONING PROJECT APPLICATION FORM

Page 2 of 4

Submittal Requirements Checklist – Instructions

1. Complete the checklist below and **sign the bottom of page 3.** (*Owner must also sign, or provide a letter authorizing the applicant to sign on the owner's behalf.*)
2. For each question for which you check “yes”, review the Zoning Project Submittal Requirements to learn more and to provide the item indicated in the right-hand column.
3. **Submit a pdf copy of the entire application, along with the paper application to the Planner at the Permit Service Center, Zoning Counter.**

Does the project include:	No	Yes	Handout / Application Requirement
1. Any work requiring an Administrative Use Permit, Use Permit, Variance, or Modification of any these permits?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Required For All Projects
2. Any new structure(s), addition(s), demolition(s), exterior alteration(s), or change(s) of use?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Required For All Projects Involving Construction
3. A new main building, OR a new accessory building/structure or main building addition within 2 feet of a required setback?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Boundary/Topographic Survey
4. More than 50 cubic yards of grading?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Grading Plan
5. A request to waive or reduce required parking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Parking Survey
6. (1) a building over three stories in height, (2) a Density Bonus, (3) an FAR over 2.0, (4) over 10,000 sq. ft. of gross floor area; OR any wireless installation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Photo Simulations
7. A new main building or an addition exceeding 14 feet in average height in the 'H' Overlay District?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Section Drawings Story Poles
8. A new main building or an addition exceeding 14 feet in average height on a site adjacent to a residential use?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Shadow Study
9. A new main building (except accessory buildings/structures)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Street Strip Elevation
10. Creation of (1) 5 or more dwelling or live/work units, or (2) additional condominium units resulting in 5 or more condominium units on the site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Housing Affordability Statement Applicant Anti-Discriminatory Housing Policies
11. Under Government Code Section 65915: a. A request for a Density Bonus? b. A request for any concessions or incentives in addition to a Density Bonus?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Housing Affordability Statement Additional Incentives or Concessions Documents
12. Creation of (1) 10 or more dwelling units, (2) 5,000 sq. ft. of floor area, OR (3) 25 or more peak hour vehicle trips (based on ITE trip generation rates)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Traffic Impact Analysis
13. Creation or replacement of 2,500 square feet or more of impervious surface area? (Includes additions and new buildings but not routine maintenance and re-surfacing).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Stormwater Requirements Checklist
14. Any new dwelling unit(s), or addition or renovation of 10,000 sq. ft. or more of non-residential space?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Green Building Checklist Energy Efficiency Analysis <i>(nonresidential mixed-use only)</i>
15. 2,500 sq. ft. or more of new landscape area or 2,500 sq. ft. or more of rehabilitated landscape?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Berkeley Water Efficient and Bay Friendly Landscape Requirements
16. A new building on a site with a history of soil and/or groundwater contamination or within Environmental Management Areas?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Phase I or II Assessment
17. A new building or addition in a liquefaction, landslide, or fault zone shown on the "Environmental Constraints Map"	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Seismic Hazard Investigation
18. Federal funding, either directly or through the City of Berkeley Housing Trust Fund?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Area of Potential Effects (APE) Statement
19. A new business, or a new commercial space with tenant/operator already selected? (Does not include home occupations.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Zoning Use Questionnaire





I. ZONING PROJECT APPLICATION FORM

Page 3 of 4

You must disclose whether or not any of the following are true of the project:	No	Yes
<ul style="list-style-type: none"> Over 7,500 square feet of office, retail, restaurant, hotel, lodging, manufacturing, light industrial, research and development, warehouse or storage? If so, Affordable Child Care and Affordable Housing Fees apply. Refer to Council Resolutions #66,618-N.S. & #66,617-N.S. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Any new commercial or industrial building, more than five or more Dwelling Units; or an addition or more than 10,000 square feet. If so, Percent for Public Art on Private Projects Program applies, per BMC Chapter 23C.23. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Project involves the elimination or rehabilitation of any dwelling units, and/or are any of the dwelling units on the property controlled rental units? If so, your application will be referred to the Rent Stabilization Board. No action is required on your part. You may contact them at (510) 981-7368 if you have any questions. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Construction activity within the drip line of a Coast Live Oak tree with circumference over 18" at 4'-6" above ground (or 26" aggregate circumference for multi-trunked trees)? If so, the Moratorium on the removal of Coast Live Oaks Ordinance applies, per BMC Chapter 6.52. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Removal of 25% or more of a main building's exterior walls and roof (including replacement of existing structural members)? If so, the Demolition Ordinance may apply, per BMC Chapter 23C.08. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Smoke Shops or Drug Paraphernalia? 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Cultivation, Distribution, Manufacture or Sale of Cannabis? 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Demolition or substantial change of a building >40 years old? If so, the Demolition Ordinance will apply, per BMC Chapter 23C.08, as well as Section 15300.2 of the CEQA Guidelines. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Construction on a parcel that is within 40' of an open creek or 25' of a culverted creek? If so, the Preservation and Restoration of Natural Watercourses Ordinance applies, per BMC Chapter 17.08 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

Applicant Signature:  Owner's Signature: 
 Printed: Jennie Durant Printed: Jennie Durant
 Date: 9/7/2018 Date: 9/7/2018

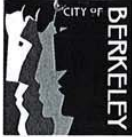


I. ZONING PROJECT APPLICATION FORM

Page 4 of 4

(This page is for staff use only.)

Zoning District(s):	
Zoning Section	Description
1. 23 <u>D.08.060</u>	UP/AUP to <i>Fence over 6'</i>
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



CITY OF BERKELEY

Permit Service Center
1947 Center St, 3rd floor
Berkeley, CA 94704

Receipt Date:

9/7/2018

Receipt Number:

544055

**RECEIPT
ZP2018-0174**

Applicant Information

Jennie Durant
1346 ORDWAY ST
BERKELEY CA 94702-1124

Property Information

Parcel Number: 060 241605000

Project Information

Type: Planning
Group: Zoning Permit
Category: NA
Sub-Category: NA
Project: 1346 Ordway Street
Work Description: Add 2' trellis on top of 6' fence.

Location

1346 ORDWAY St
BERKELEY, CA 94702

RECEIVED

SEP 07 2018

LAND USE PLANNING

Payor: Jennie Durant	Payment Status: Paid	Date Printed: 9/7/2018
Cashier: BLECKY	Payment Method: Credit Card	Auth: 6517
Fees:		Amount
AUP030 - AUP Base Tier 3 - Least complex projects in or adjacent to Residential District		\$800.00
AUP110 - Records Management		\$50.00
CPF1 - Community Planning Fee		\$120.00
Property Address: 1346 ORDWAY St BERKELEY, CA 94702	Total:	\$970.00



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

INVOICE

Date: 9/7/2018 2:15:26 PM

Invoice #: 380697

Record #: ZP2018-0174

Bill to:

Address: 1346 ORDWAY ST

1346 Ordway Street
Jennie Durant
1346 ORDWAY ST
BERKELEY CA 94702-1124

RECEIVED

SEP 07 2018

LAND USE PLANNING

Date Assessed	Invoiced Fee Item	Fee	Paid	Balance
9/7/2018	Records Management	\$50.00	\$0.00	\$50.00
9/7/2018	Community Planning Fee	\$120.00	\$0.00	\$120.00
9/7/2018	AUP Base Tier 3 - Least complex projects in or adjacent to Residential District	\$800.00	\$0.00	\$800.00
Totals:		\$970.00	\$0.00	\$970.00

Applicant Statement

We are applying for a permit for:

- 1) Fifty five horizontal feet of wooden trellis, 2' high, 6' above the ground, adjacent to a preexisting 55' long, 6' high fence along our property line with the lot at 1333 Hopkins St. The lattice will be attached to posts adjacent to the preexisting fence.
- 2) Fifteen Silver Sheen trees 14' high along the pre-existing fence.

The lattice and trees are to form a visual and physical barrier that screens off the bedroom and bathroom windows of our home at 1346 Ordway St. from the neighboring property at 1333 Hopkins St. This property has a four unit building with unfinished interiors (exposed walls and ceilings). We see random people entering and leaving the property (sometimes late at night) and homeless folks sleeping in the back porch on occasion. The back porch overlooks our two and a half year old daughter's window, and we worry about her and our own safety.

In addition, the neighboring property has been in a state of disrepair for the two and a half years we have lived in our home (and longer according to neighbors we have spoken with). The disrepair includes:

- 1) Ugly cement around window frames
- 2) Exposed wires where light fixtures should be
- 3) Metal sheathing sticking up from the top of a garage
- 4) An ugly unfinished wooden garage door

The proposed trellis and trees will provide privacy and security for our family over and above that provided by the existing six foot fence.

Sincerely

Jennie Durant & Keki Burjorjee



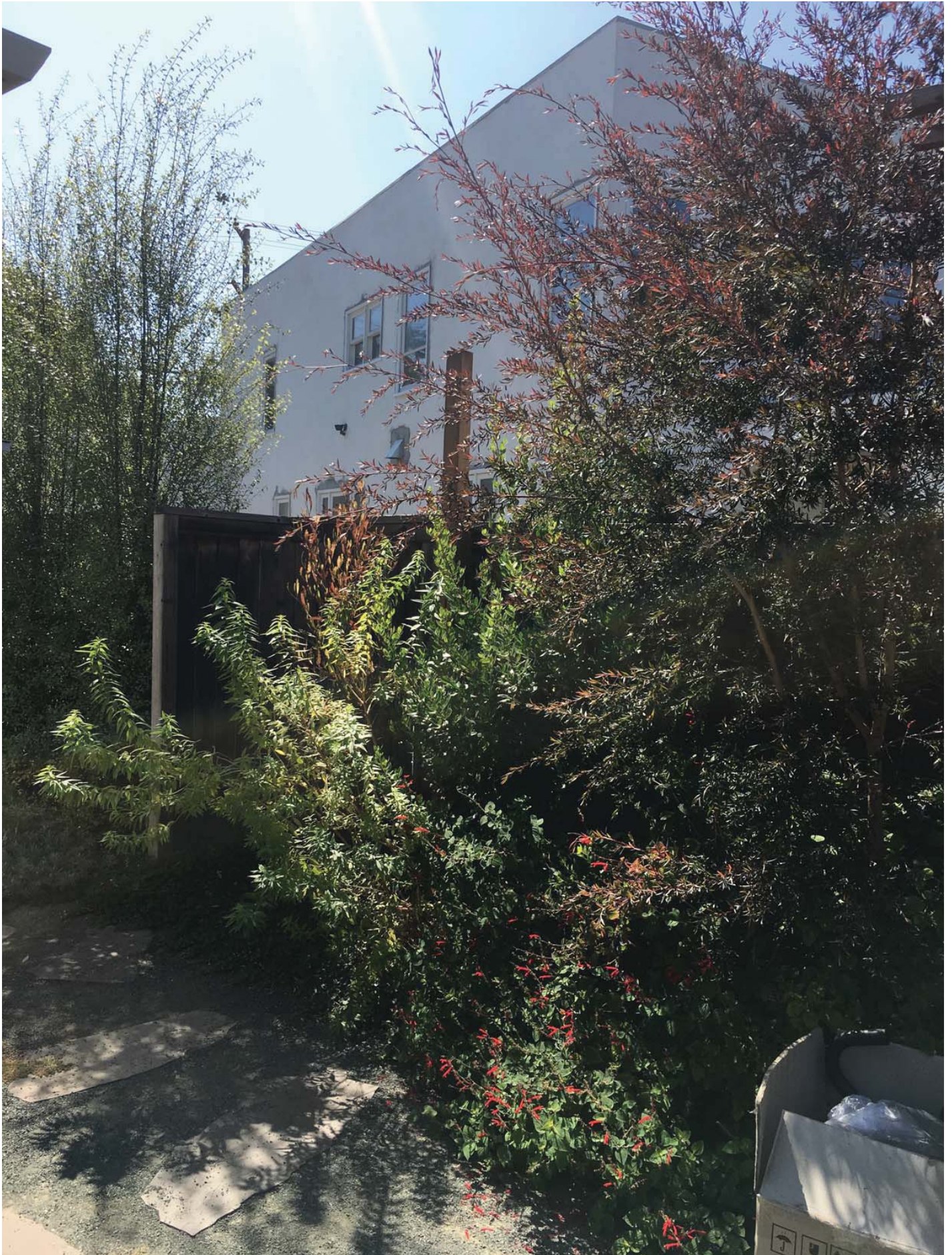








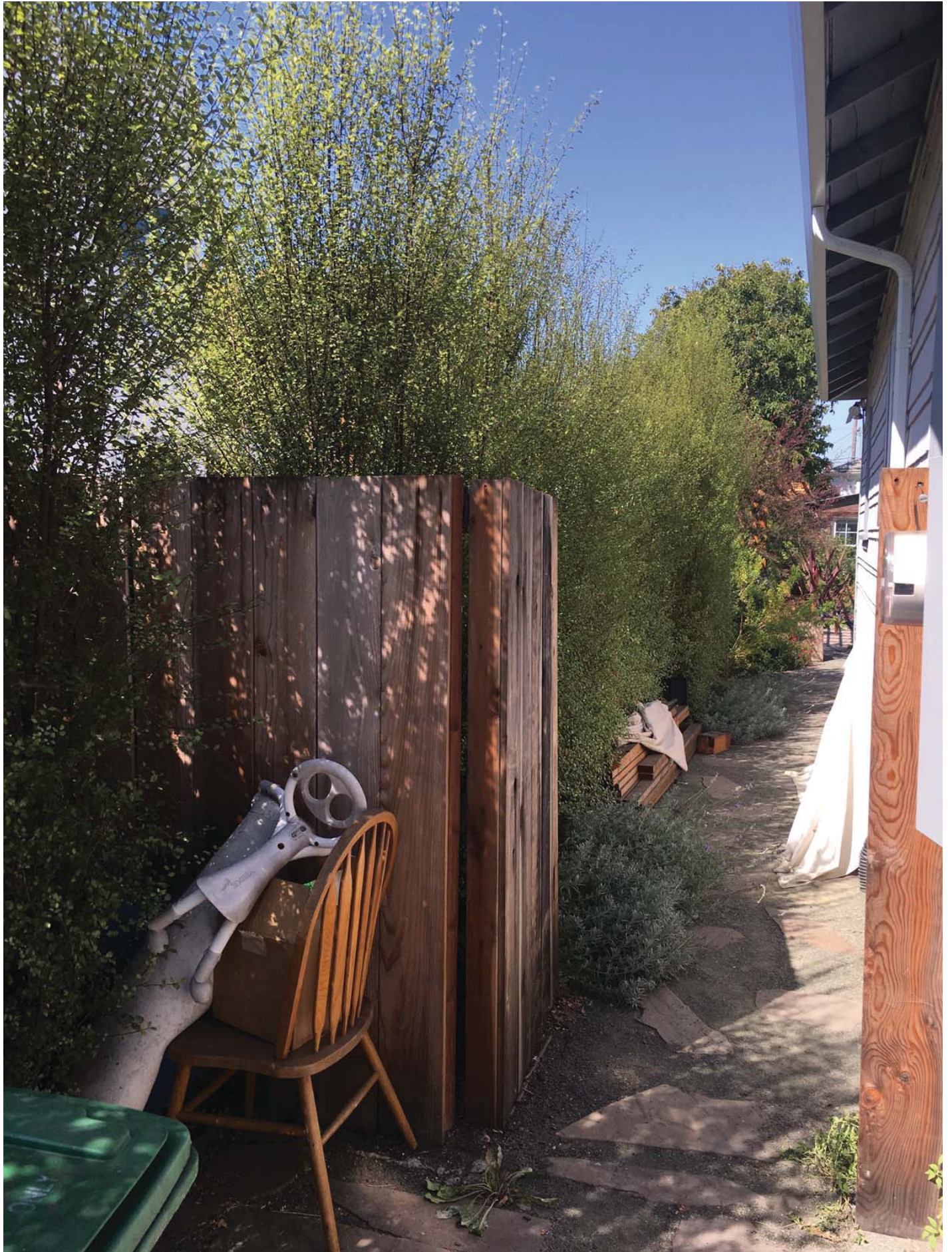


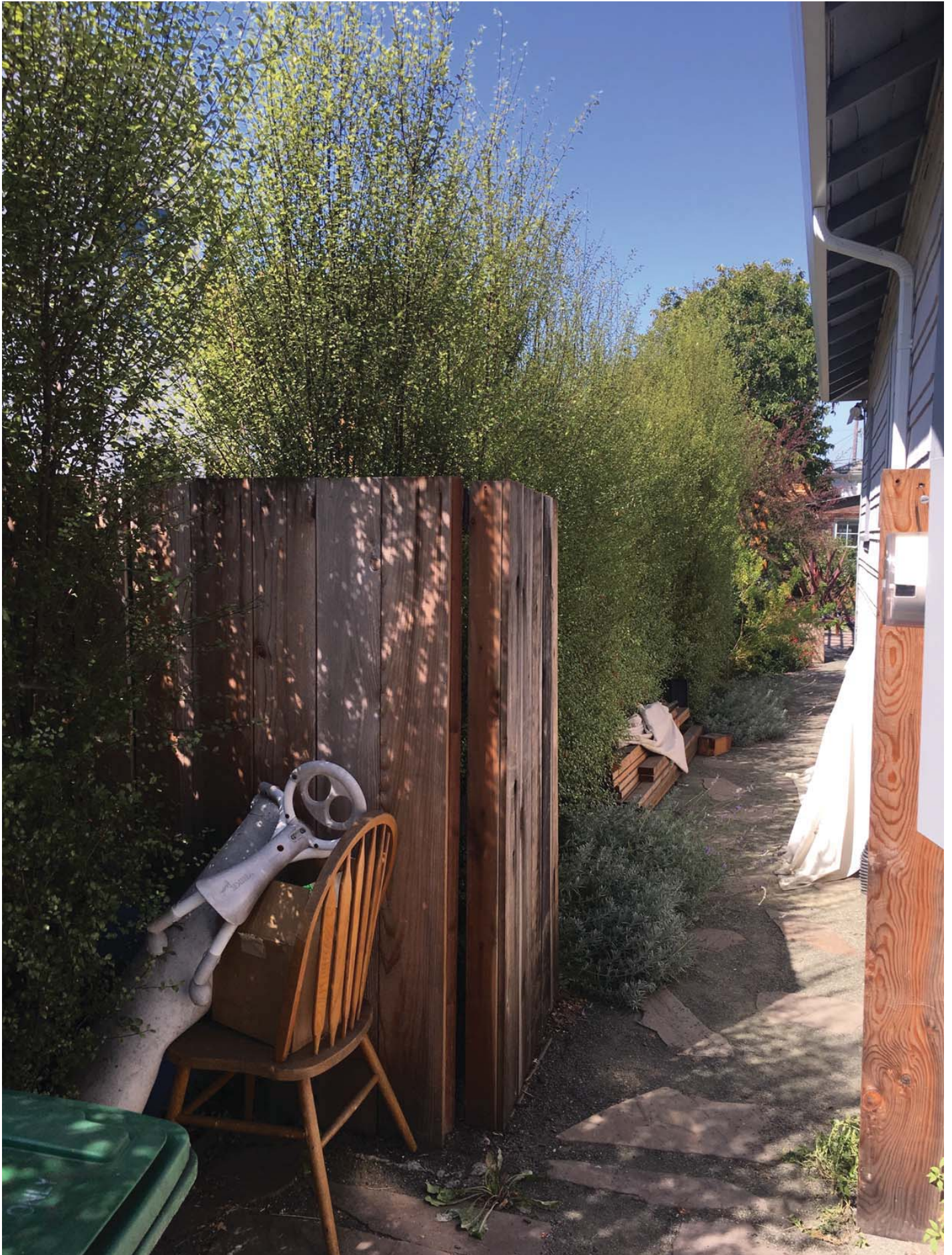
















PLANNING & DEVELOPMENT

Land Use Planning, 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.7474 Fax: 510.981.7420
Email: Planning@ci.berkeley.ca.us

II.E. 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/>

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

<https://geotracker.waterboards.ca.gov/>

Applicant's Information:

Name: _____

Street Address: _____

City, State, Zip Code: _____

Phone Number: _____

Project Information:

Address: _____

City, State, Zip Code: _____

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

Specify any list pursuant to Section 65962.5 of the Government Code:

Regulatory identification number: _____

Date of list: _____

Applicant's verification:

Signature: Jennie D. [Signature] [Signature] Date: _____

Jennie Durant & Keki Burjorjee

1346 Ordway St
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

5th September 2018

To Our Neighbor at
1333 Hopkins Street
Berkeley, CA 94702

Dear Neighbor,

We are applying to the City of Berkeley for a permit for :

1. A two foot high lattice alongside and immediately above a pre-existing six foot high fence on the border between our property at 1346 Ordway Street and the property at 1333 Hopkins Street.
2. Fifteen silver sheen trees fourteen feet in height alongside the pre-existing fence.

Two copies of a site diagram of the planned work are enclosed and we have posted a pre-application poster outlining the same on our front yard.

The city requires us to notify all neighbors with whom we share a property boundary. We would appreciate it if you could sign and date one of the copie of the site diagram, print your name and address, and return it to us in the envelope provided by October 1, 2018. Your signature on this diagram only indicates your receipt of this letter, not your approval of the project described. If you do approve the project, please check the column headed "Have No Objections."

If you have any questions please do not hesitate to contact us via email or regular mail.

Kind regards,

Handwritten signatures of Jennie Durant and Keki Burjorjee. The signature on the left is 'J Durant' and the signature on the right is 'K Burjorjee'.

Jennie Durant & Keki Burjorjee

Jennie Durant & Keki Burjorjee

1346 Ordway St
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

5th September 2018

To Our Neighbor at
1327 Hopkins Street
Berkeley, CA 94702

Dear Neighbor,

We are applying to the City of Berkeley for a permit for :

1. A two foot high lattice alongside and immediately above a pre-existing six foot high fence on the border between our property at 1346 Ordway Street and the property at 1333 Hopkins Street.
2. Fifteen Silver Sheen trees alongside the pre-existing fence, *which will be 14' tall.*

Two copies of a site diagram of the planned work are enclosed and we have posted a pre-application poster outlining the same on our front yard.

The city requires us to notify all neighbors with whom we share a property boundary. We would appreciate it if you could sign and date one of the copie of the site diagram, print your name and address, and return it to us in the envelope provided by October 1, 2018. Your signature on this diagram only indicates your receipt of this letter, not your approval of the project described. If you do approve the project, please check the column headed "Have No Objections."

If you have any questions please do not hesitate to contact us via email or regular mail.

Kind regards,

Jennie Durant & Keki Burjorjee

Jennie Durant & Keki Burjorjee

1346 Ordway St
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

5th September 2018

To Our Neighbor at

1341 Peralta Ave.
Berkeley, CA 94702

Dear Neighbor,

We are applying to the City of Berkeley for a permit for :

1. A two foot high lattice alongside and immediately above a pre-existing six foot high fence on the border between our property at 1346 Ordway Street and the property at 1333 Hopkins Street.
2. Fifteen silver sheen trees fourteen feet in height alongside the pre-existing fence.

Two copies of a site diagram of the planned work are enclosed and we have posted a pre-application poster outlining the same on our front yard.

The city requires us to notify all neighbors with whom we share a property boundary. We would appreciate it if you could sign and date one of the copie of the site diagram, print your name and address, and return it to us in the envelope provided by October 1, 2018. Your signature on this diagram only indicates your receipt of this letter, not your approval of the project described. If you do approve the project, please check the column headed "Have No Objections."

If you have any questions please do not hesitate to contact us via email or regular mail.

Kind regards,


Jennie Durant & Keki Burjorjee

Jennie Durant & Keki Burjorjee

1346 Ordway St
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

5th September 2018

To Our Neighbor at
1337 Peralta Ave.
Berkeley, CA 94702

Dear Neighbor,

We are applying to the City of Berkeley for a permit for :

1. A two foot high lattice alongside and immediately above a pre-existing six foot high fence on the border between our property at 1346 Ordway Street and the property at 1333 Hopkins Street.
2. Fifteen silver sheen trees fourteen feet in height alongside the pre-existing fence.

Two copies of a site diagram of the planned work are enclosed and we have posted a pre-application poster outlining the same on our front yard.

The city requires us to notify all neighbors with whom we share a property boundary. We would appreciate it if you could sign and date one of the copie of the site diagram, print your name and address, and return it to us in the envelope provided by October 1, 2018. Your signature on this diagram only indicates your receipt of this letter, not your approval of the project described. If you do approve the project, please check the column headed "Have No Objections."

If you have any questions please do not hesitate to contact us via email or regular mail.

Kind regards,


Jennie Durant & Keki Burjorjee

Jennie Durant & Keki Burjorjee

1346 Ordway St
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

5th September 2018

Tamar Gershon
1344 Ordway Street
Berkeley, CA 94702

Dear Tamar,

We are applying to the City of Berkeley for a permit for :

1. A two foot high lattice alongside and immediately above a pre-existing six foot high fence on the border between our property at 1346 Ordway Street and the property at 1333 Hopkins Street.
2. Fifteen silver sheen trees fourteen feet in height alongside the pre-existing fence.

Two copies of a site diagram of the planned work are enclosed and we have posted a pre-application poster outlining the same on our front yard.

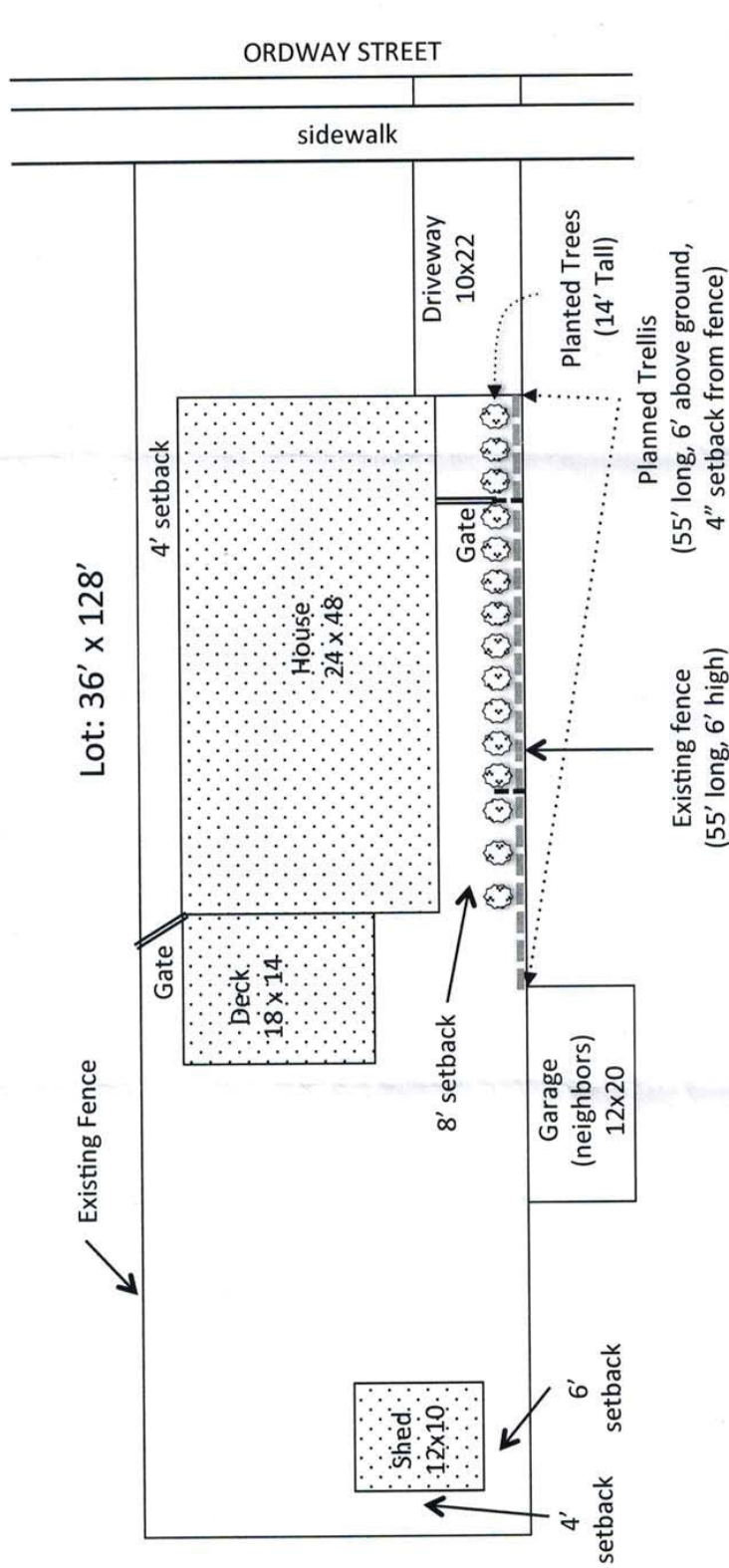
The city requires us to notify all neighbors with whom we share a property boundary. We would appreciate it if you could sign and date one of the copie of the site diagram, print your name and address, and return it to us in the envelope provided by October 1, 2018. Your signature on this diagram only indicates your receipt of this letter, not your approval of the project described. If you do approve the project, please check the column headed "Have No Objections."

If you have any questions please do not hesitate to contact us via email or regular mail.

Kind regards,

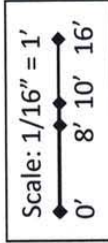
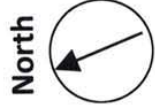


Jennie Durant & Keki Burjorjee



SITE PLAN

1346 Ordway St., Berkeley, CA



Name (printed)	Signature	Address	Renter or Owner	Date	Have no objections	Have objections (Please state briefly)	Have no objection
TAMAR Gershon	Tamar Gershon	1344 Ordway St.	Owner	9/7/18	✓		✓

7018 0680 0001 7846 9607

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Certified Mail Fee	\$3.45	0053
\$	\$0.00	15
Extra Services & Fees (check box, add fee as appropriate)	\$0.00	Postmark Here
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.50	09/06/2018
Total Postage and Fees	\$3.95	
Sent To		
Street and Apt. No., or PO Box No. 1337 Peralta Ave		
City, State, ZIP+4® Berkeley CA 94702		

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Certified Mail Fee	\$3.45	0053
\$	\$0.00	15
Extra Services & Fees (check box, add fee as appropriate)	\$0.00	Postmark Here
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.50	09/06/2018
Total Postage and Fees	\$3.95	
Sent To		
Street and Apt. No., or PO Box No. 1327 Hopkins St.		
City, State, ZIP+4® Berkeley CA 94702		

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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BERKELEY, CA 94702

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Certified Mail Fee	\$3.45	0053
\$	\$0.00	15
Extra Services & Fees (check box, add fee as appropriate)	\$0.00	Postmark Here
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.50	09/06/2018
Total Postage and Fees	\$3.95	
Sent To		
Street and Apt. No., or PO Box No. 1341 Peralta Ave		
City, State, ZIP+4® Berkeley CA 94702		

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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BERKELEY, CA 94702

OFFICIAL USE

Certified Mail Fee	\$3.45	0053
\$	\$0.00	15
Extra Services & Fees (check box, add fee as appropriate)	\$0.00	Postmark Here
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.50	09/06/2018
Total Postage and Fees	\$3.95	
Sent To		
Street and Apt. No., or PO Box No. Larry Hickman 1333 Hopkins St.		
City, State, ZIP+4® Berkeley CA 94702		

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

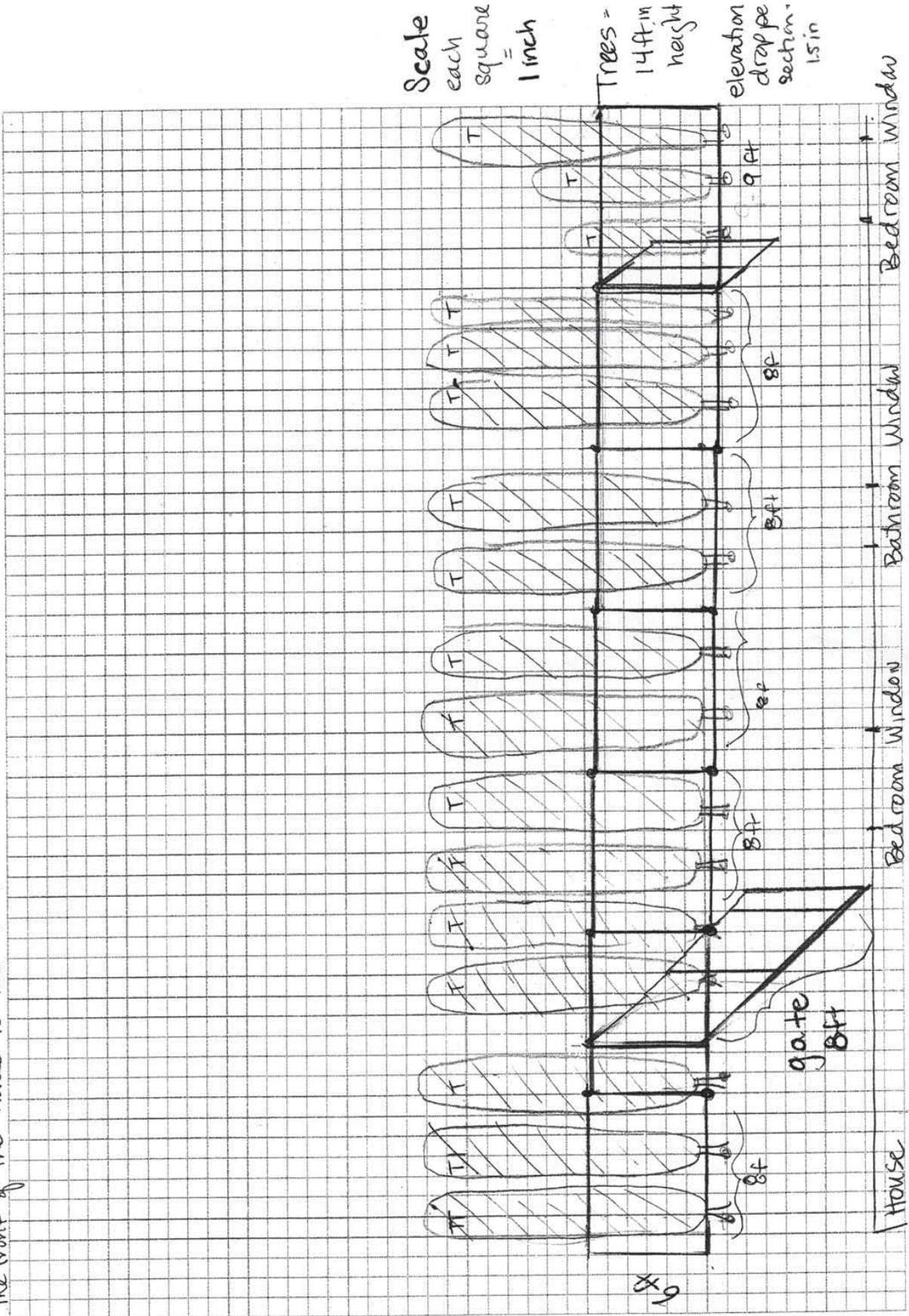
 ALBANY
 1191 SOLANO AVE
 ALBANY
 CA
 94706-1682
 0506430053
 09/06/2018 (800)275-8777 2:54 PM

Product Description	Sale Qty	Final Price
First-Class Mail Letter (Domestic) (BERKELEY, CA 94702) (Weight:0 Lb 1.00 Oz) (Estimated Delivery Date) (Saturday 09/08/2018)	1	\$0.50
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ClrTape1.88"x8 00" (Unit Price:\$3.49)	1	\$3.49
Total		\$19.29
Credit Card Remitd (Card Name:MasterCard) (Account #:XXXXXXXXXXXX6517) (Approval #:54424P) (Transaction #:514) (AID:A0000000041010) (AL:MasterCard) (PIN:Not Required)		\$19.29 Chip)

Durant-Burgess
1346 Ordway St

Existing Plan

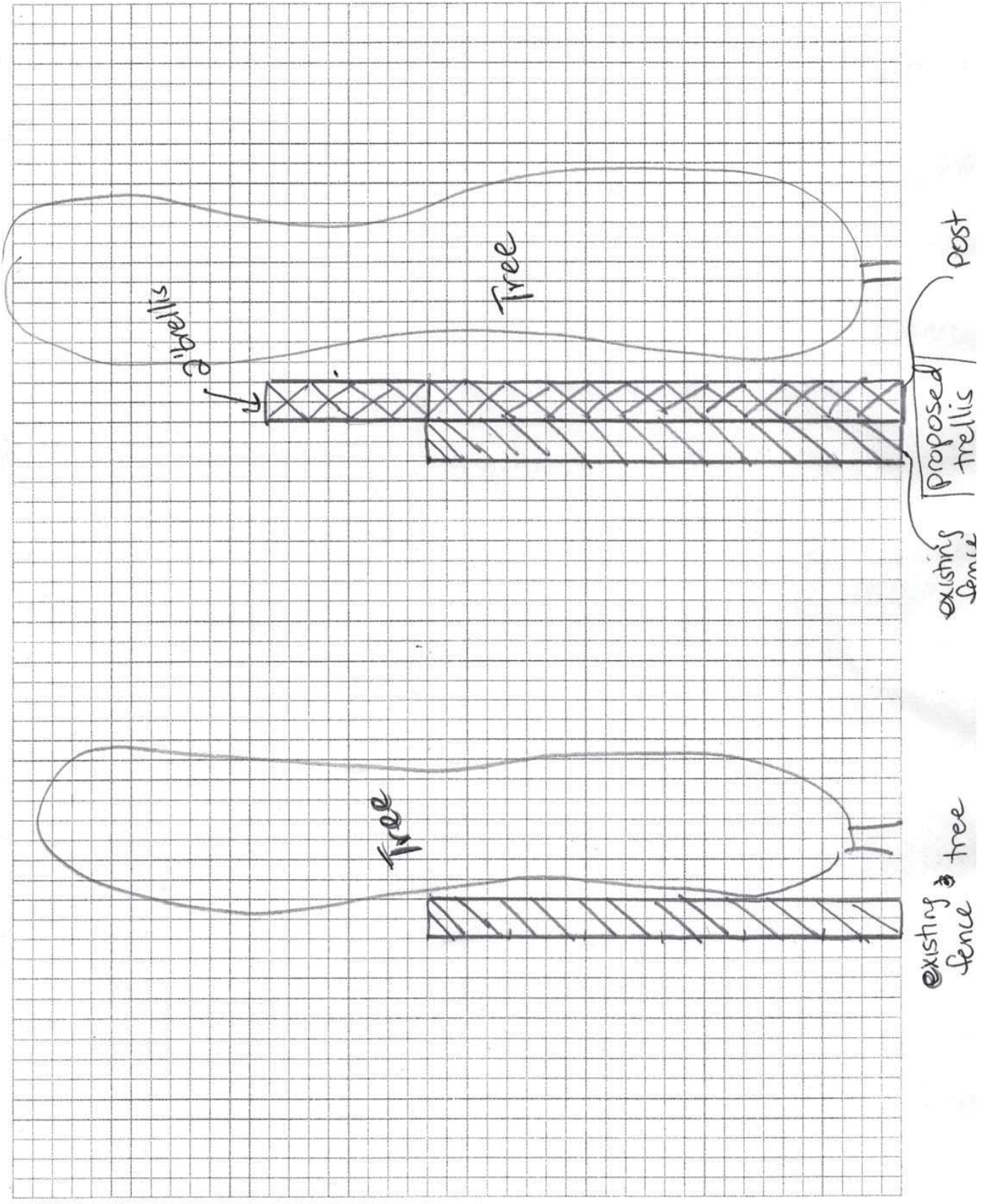
unclear
After Each 8ft section, there
is a drop of 1.5 inches from
the front of the house to the back



Scale
each
square
= 1 inch

Durant - Burgerjee
1346 Ordway St.

Proposed Plan - Side View



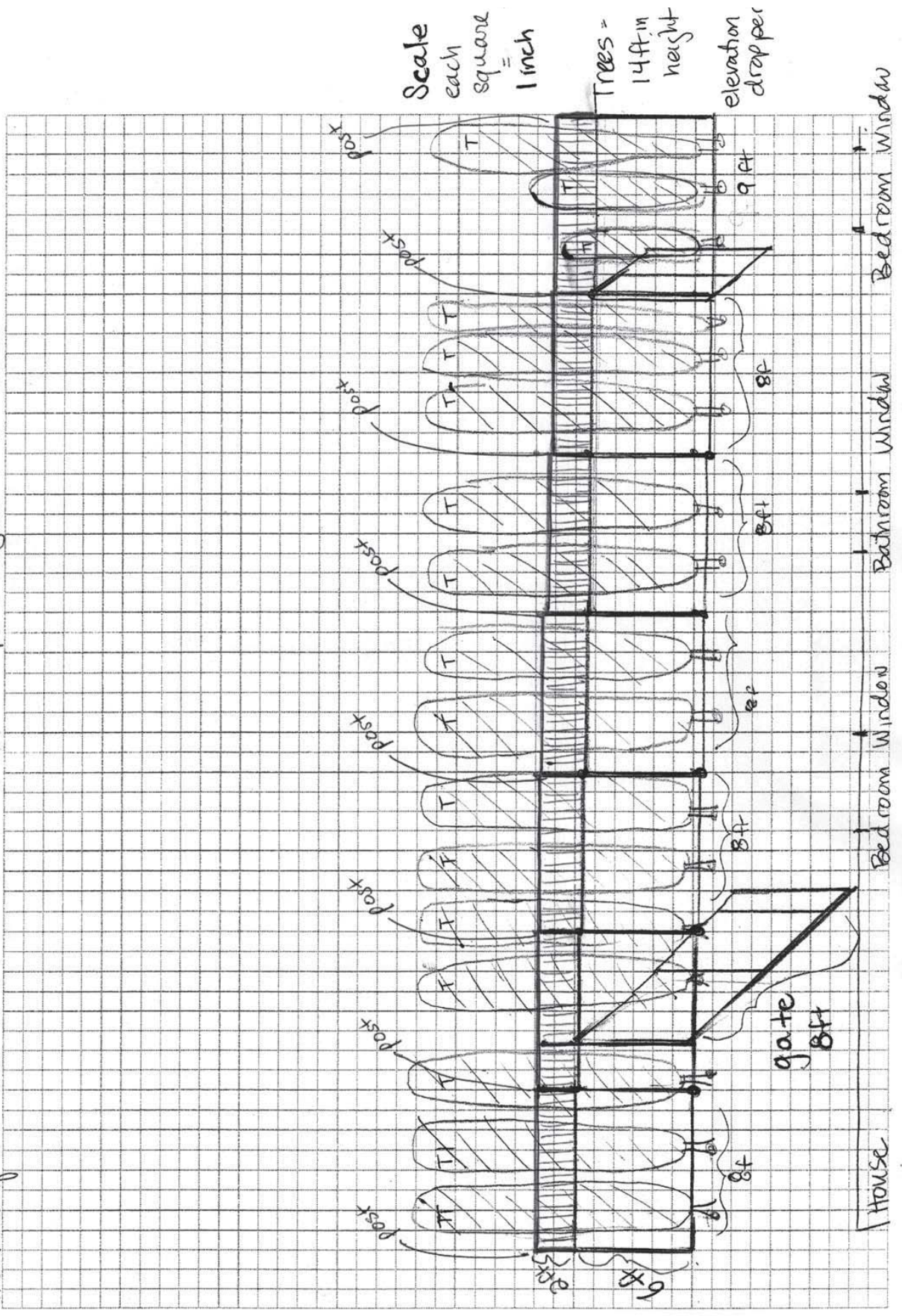
existing tree
fence

proposed trellis
post

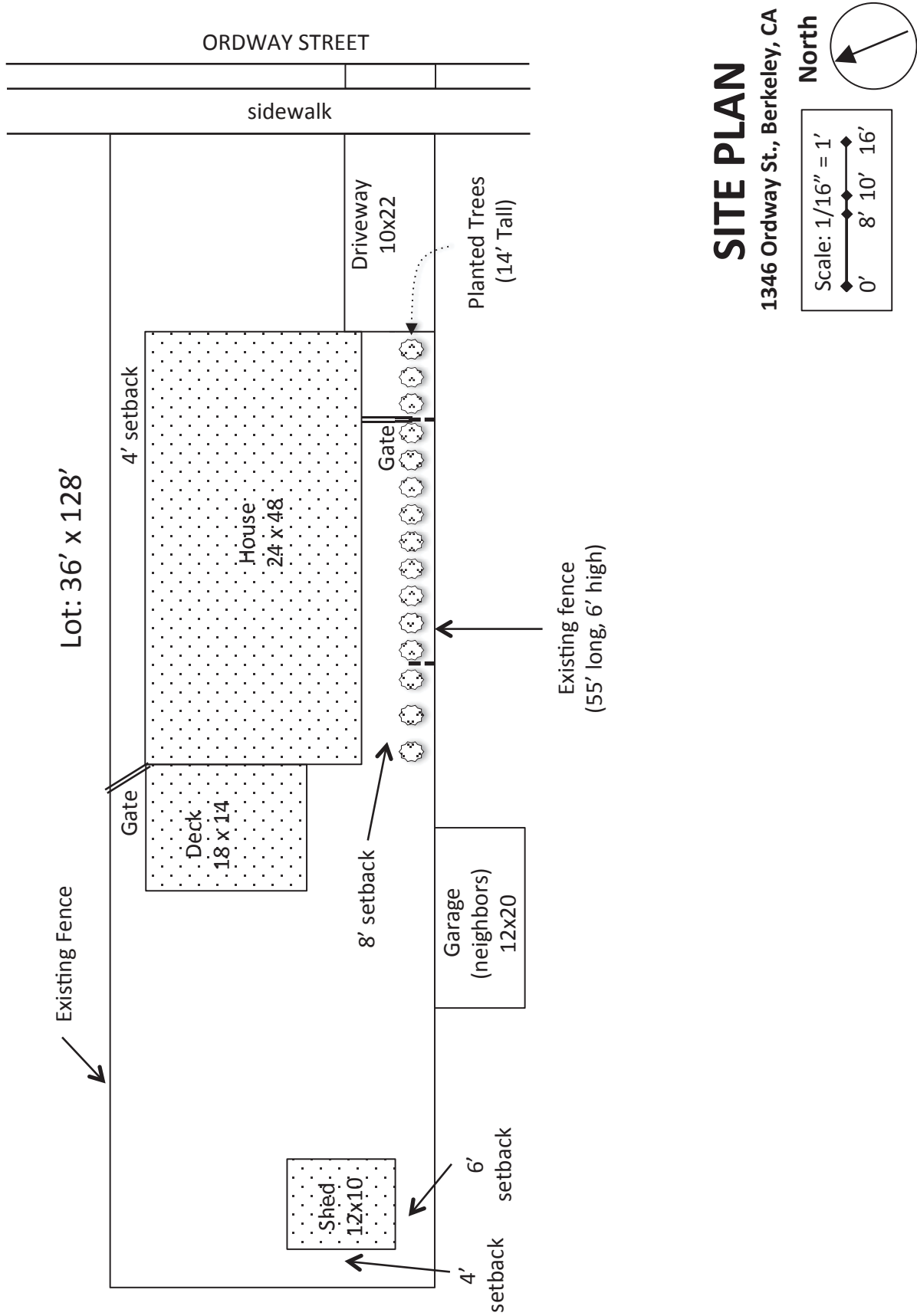
Proposed Plan

Proposed trellis:
2ft in height
attached to posts adjacent to fence

After Each 8ft section, there
is a drop of 1.5 inches from
the front of the house to the back



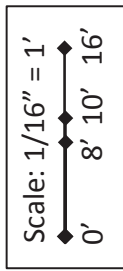
Durant-Burgoyne
346 Ordway, SL



SITE PLAN

1346 Ordway St., Berkeley, CA

North





Planning & Development Department
Land Use Planning Division

September 19, 2018

Jennie Durant and Keki Burjoree
1346 Ordway Street
Berkeley, CA 94702

Sent via email:
jenniedurant@gmail.com

RE: 1346 Ordway Street, Application #ZP2018-0174

Administrative Use Permit to:

Add 2 foot trellis on top of 6 foot fence.

Dear Applicant:

On behalf of the City of Berkeley, I would like to introduce myself as the project planner for the above referenced application. Your application is currently being reviewed by City departments, including the Building and Safety and Planning departments, as well as other interested parties, for their comments and to ensure that the project is complete as submitted. If any questions arise, City staff will either contact you in writing or via the telephone at the phone number supplied on the application you submitted. It is also prudent to expect site visits by various staff members over the course of the City's review of your project. These visits will be from the public right-of-way, unless an appointment is made with you in advance.

If you have any questions or concerns, please feel free to contact me at 510-981-7419 or nkarimzadegan@cityofberkeley.info. If I have any questions, I will contact you within 30 days of your application date to follow-up with the status of the project and to request any additional information needed to complete the application. Please note that due to staffing reductions and the level of permit activity, applicants should be prepared to expect longer processing times than in the past. Answers to frequently asked questions related to Administrative Use Permits, including "what is the process" and "how long does it take" can be found by visiting the City of Berkeley's website at the following address:

[http://www.ci.berkeley.ca.us/Planning_and_Development/Land Use Division/Administrative Use Permit.aspx](http://www.ci.berkeley.ca.us/Planning_and_Development/Land_Use_Division/Administrative_Use_Permit.aspx)

Please know that this application is subject to the Permits Streamlining Act, Government Code Section 65921, which (1) sets forth various time limits within which state and local government agencies must either approve or disapprove permits and (2) providing that these time limits may be extended once (and only once) by agreement between the parties.

I look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Nilu Karimzadegan".

Nilu Karimzadegan
Planning Technician



Planning & Development Department
Land Use Planning Division

September 21, 2018

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702

Sent via email:
jenniedurant@gmail.com

RE: 1346 Ordway Street, Application #ZP2018-0174

Administrative Use Permit to:

Add 2 foot trellis on top of 6 foot fence.

Dear Applicant:

On behalf of the City of Berkeley, I would like to introduce myself as the project planner for the above referenced application. Your application is currently being reviewed by City departments, including the Building and Safety and Planning departments, as well as other interested parties, for their comments and to ensure that the project is complete as submitted. If any questions arise, City staff will either contact you in writing or via the telephone at the phone number supplied on the application you submitted. It is also prudent to expect site visits by various staff members over the course of the City's review of your project. These visits will be from the public right-of-way, unless an appointment is made with you in advance.

If you have any questions or concerns, please feel free to contact me at 510-981-7419 or nkarimzadegan@cityofberkeley.info. If I have any questions, I will contact you within 30 days of your application date to follow-up with the status of the project and to request any additional information needed to complete the application. Please note that due to staffing reductions and the level of permit activity, applicants should be prepared to expect longer processing times than in the past. Answers to frequently asked questions related to Administrative Use Permits, including "what is the process" and "how long does it take" can be found by visiting the City of Berkeley's website at the following address:

http://www.ci.berkeley.ca.us/Planning_and_Development/Land_Use_Division/Administrative_Use_Permit.aspx

Please know that this application is subject to the Permits Streamlining Act, Government Code Section 65921, which (1) sets forth various time limits within which state and local government agencies must either approve or disapprove permits and (2) providing that these time limits may be extended once (and only once) by agreement between the parties.

I look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Nilu Karimzadegan".

Nilu Karimzadegan
Planning Technician



Planning and Development Department
Land Use Planning Division

October 5, 2018

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702

Sent via email:
jenniedurant@gmail.com

Re: Administrative Use Permit #ZP2018-0174 for 1346 Ordway Street

Dear Jennie,

On September 7, 2018, you submitted an Administrative Use Permit application for a single family dwelling to 1) install a 2' lattice over an existing 6' fence, resulting in an 8' Accessory Structure within the setback and 2) to plant fifteen approximately 14' tall trees alongside the proposed fence. Based on my preliminary review, the following is needed for your project:

- Administrative Use Permit, under [Berkeley Municipal Code](#) (BMC) Section 23D.08.060 for constructing an Accessory Structure over 6' within setbacks.

In order to complete your application please respond to the following:

- 1) Neighbor Pre-Application Contact: Per our Neighbor Pre-Application Contact requirements, please provide proof of contact for all owners & occupants of 1343 Peralta Avenue.
- 2) Tabulation Form: Per our [Zoning Project Submittal Requirements](#), please provide a Tabulation Form.
- 3) Site Plan: Please provide the following:
 - A) Exhibit all existing and required setbacks
 - B) Include any portion of neighborhood building within 20' of property line.
 - C) Depict the proposed parking space on site plan, fully dimension the space and show dimensions to the property line and the residence. Please note that any proposed parking space must comply with BMC 23D.12.080 and be separated from the adjacent property line by a 2 foot landscaping planter.
 - D) Include the existing trellis on the lot and its distance to property lines.
 - E) Include the tree's trunk and crown diameters and their distances to the property line and the main residence.

4) Accessory Structure/Building :

A. Shed: Please provide dimensioned plans, elevations and photos (from inside and outside) of the shed structure.

B. Trellis: Please provide dimensioned plans, elevations and photos of the Trellis.

5) Additional Photos: Please provide additional photos of the fence on the north and east property lines.

6) Additional Comment: I was not able to confirm that City approved a removal of a 9'X16' garage, addition of trellis and addition of shed on this lot. Please note that any unpermitted addition or removal of buildings or structures will be added to this permit.

In your resubmittal, **include a cover letter stating how you have addressed the incomplete items. Any changes or corrections must be clouded, and accompanied by a number** to allow for easier identification. If new plans are submitted, please deliver two **(2) sets** of plans (at least one set to scale) and submit **both a paper and an electronic copy** of the resubmittals to the zoning counter during normal business hours (Monday thru Thursday 8:30 am – 4:00 pm).

If you take no action to address the above items within 60 days, the application may be deemed withdrawn and returned to you. Please contact me if you have any questions at (510) 981-7419.

Sincerely,



Nilu Karimzadegan, Planning Technician
CC: Greg Powell, Principal Planner

Karimzadegan, Niloufar

From: Karimzadegan, Niloufar
Sent: Friday, October 19, 2018 12:43 PM
To: 'Jennie Durant'
Subject: RE: 1346 Ordway/ZP2018-0174

Jennie,

I also wanted to let you know that since this is a result of a Notice of Violation, you will have to pay another \$970 on this application. Please let me know when you are ready to submit the requested material and I will create an invoice for you. You can pay at the Cashier on 3rd floor.

Thank you,

Nilu

From: Jennie Durant [mailto:jenniedurant@gmail.com]
Sent: Wednesday, October 17, 2018 11:57 AM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Cc: Keki Burjorjee <keki.burjorjee@gmail.com>
Subject: Re: 1346 Ordway/ZP2018-0174

Thank you for your quick response! We will get back to you with our updates soon (and any further questions).

Jennie Durant

On Wed, Oct 17, 2018 at 11:50 AM Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info> wrote:

Hello Jennie,

Thank you for your email. Please see my responses below in blue. You can also give me a call if you needed more assistance.

Best,

Nilu

510-981-7419

From: Jennie Durant [mailto:jenniedurant@gmail.com]
Sent: Tuesday, October 16, 2018 10:58 PM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Cc: Keki Burjorjee <keki.burjorjee@gmail.com>
Subject: Re: 1346 Ordway/ZP2018-0174

Dear Nilu,

Thank you for your overview of our permit application. We will get the requested materials to you shortly.

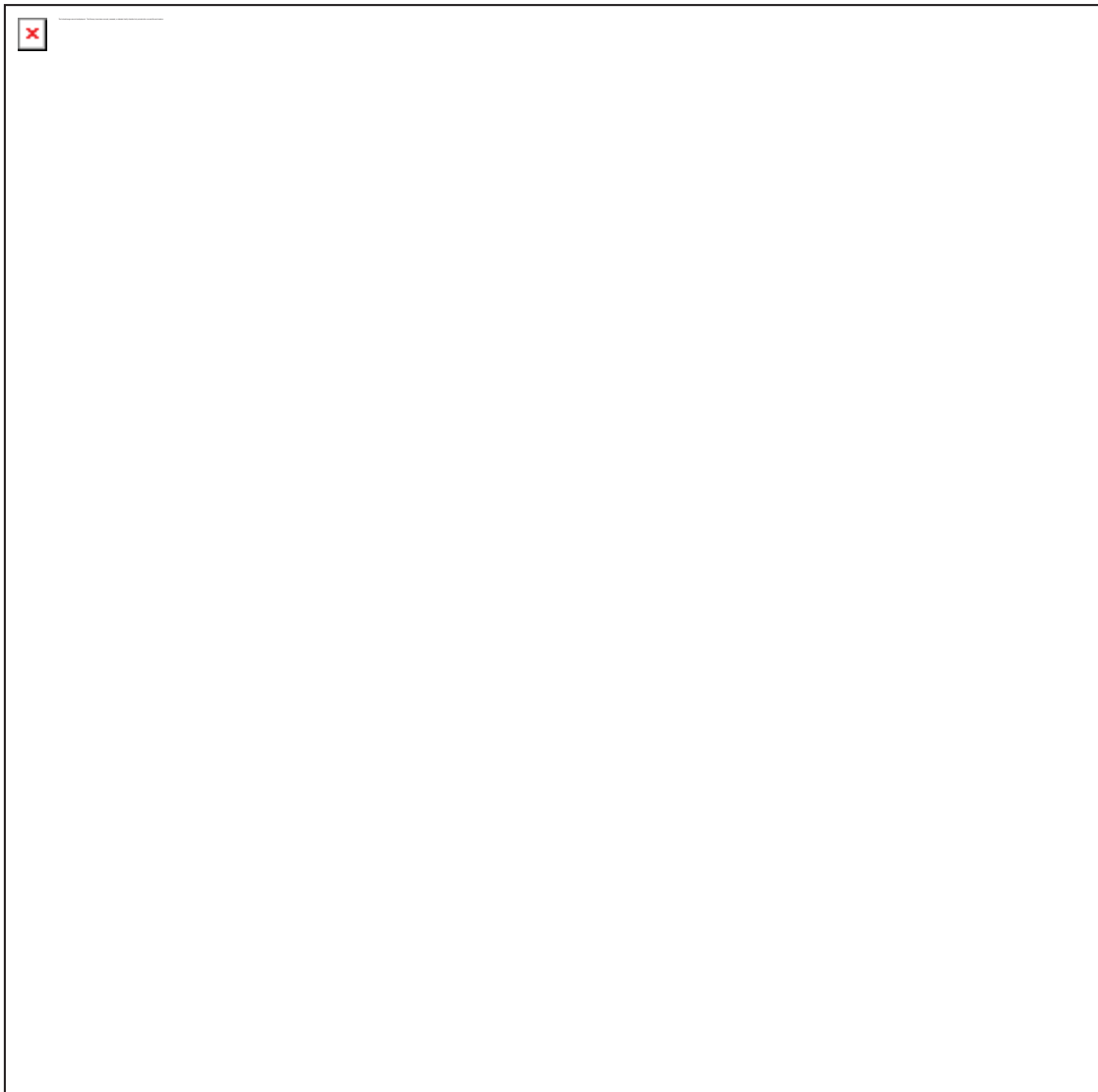
Some follow-up questions and comments as we prepare these materials:

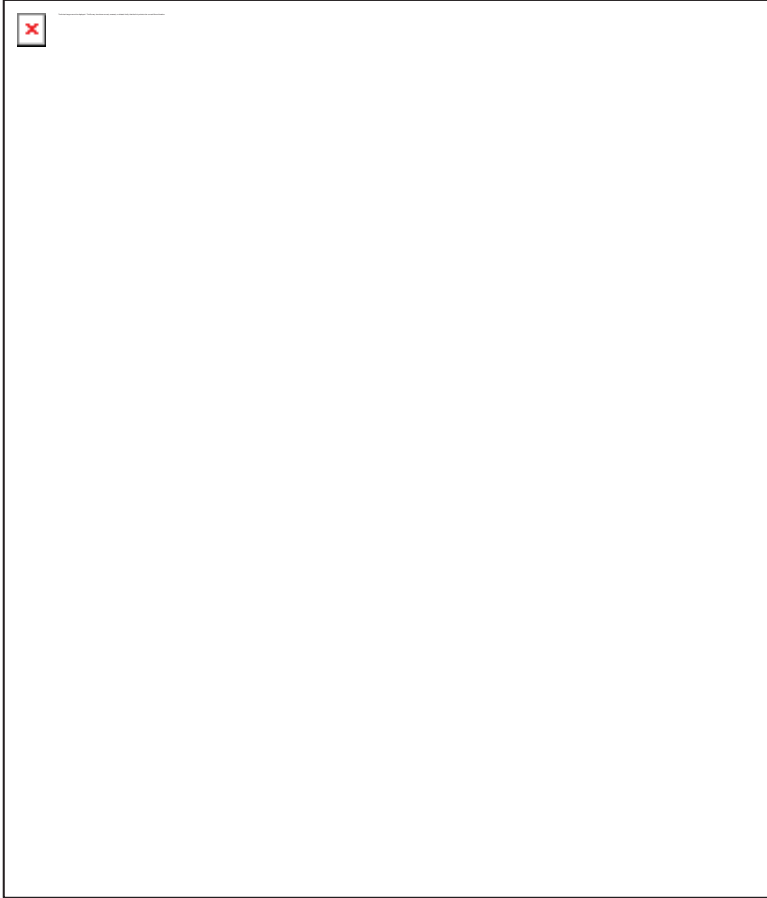
1. We realized we need to include an **arbor** and an additional **trellis** (that we didn't realize violated city code when we built it) in the AUP application. We will include it in the new site plan. Do we need to update other forms? Please refer to comment # 3 and 4 on the letter (need site plan and elevation information regarding these two items). You also need to include relevant information regarding shed and trellis on Tabulation form (i.e.: Lot Coverage)
2. The 10x12 shed at the back of our property meets the requirements listed in chapter 23D.08.030 of the Berkeley Municipal code, and we aren't planning to include it in the permit, but will submit the information you requested in point 4A. I will be able to determine after I receive the requested material from you.
3. In the closing paragraph, your letter states that we should provide two new sets of plans. We were confused by this. How should the two plans be different from each other? Please provide two sets of identical plans. They need to be to scale so that I can verify dimensions.
4. Re: Neighbor Pre-Application Contract: Do we need to send the updated site plans (which will include the arbor and the trellis already installed on the north fence) to all of our adjacent neighbors again along with proof (certified mail) that we resent it? Or just our 1343 Peralta Ave. neighbor? Yes. You need to update plans (after responding to all items on the letter) and obtain signatures or provide certified mail receipts.
5. Re: Section 3-C: Nothing in our proposal includes a change in our parking space. Does part 3-C still apply to our application? We park in the area currently labeled 'driveway' in the site plan. That is not a

permitted off-street parking space recognized by City of Berkeley. Since the garage is removed without a permit, a permit is required for an alternative space.

6. Re: Additional comment: The garage you mentioned was removed by the previous owners before we took ownership of the property. Do we still need to include it in our permit? We had nothing to do with its removal. I understand. That happens all the time. When you request an AUP, everything on the site has to come to compliance. We will just include the removal of the garage to this permit so that it'll be part of the record.

7. What does it mean for the changes to be “clouded”? Please see the two examples below:





8. Do we need to bring in all of our photos, proof of the neighbor pre-applications contact, and drawings of the trellis and the shed? Or can those be uploaded to a website? [Please follow direction on last paragraph regarding resubmittal.](#) You do need to bring in hard copies and a pdf version of the resubmittal.

9. Also, our neighbor wrote a letter that unfairly characterizes us and our interactions with him. In what format should we respond? [Please respond in form of a letter, stating the facts and submit it to me at the time of resubmittal.](#)

We are finishing up our revisions and additions to the AUP and will get them to you shortly. We are new homeowners and figuring our way around the zoning and permit requirements is taking longer than anticipated. We appreciate your patience. [No worries. I am here to help.](#)

Best,

Jennie Durant and Keki Burjorjee

On Fri, Oct 5, 2018 at 4:12 PM Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info> wrote:

Hello Jennie,

Please see attached for my comments. Please don't hesitate to contact me for any questions.

Best,

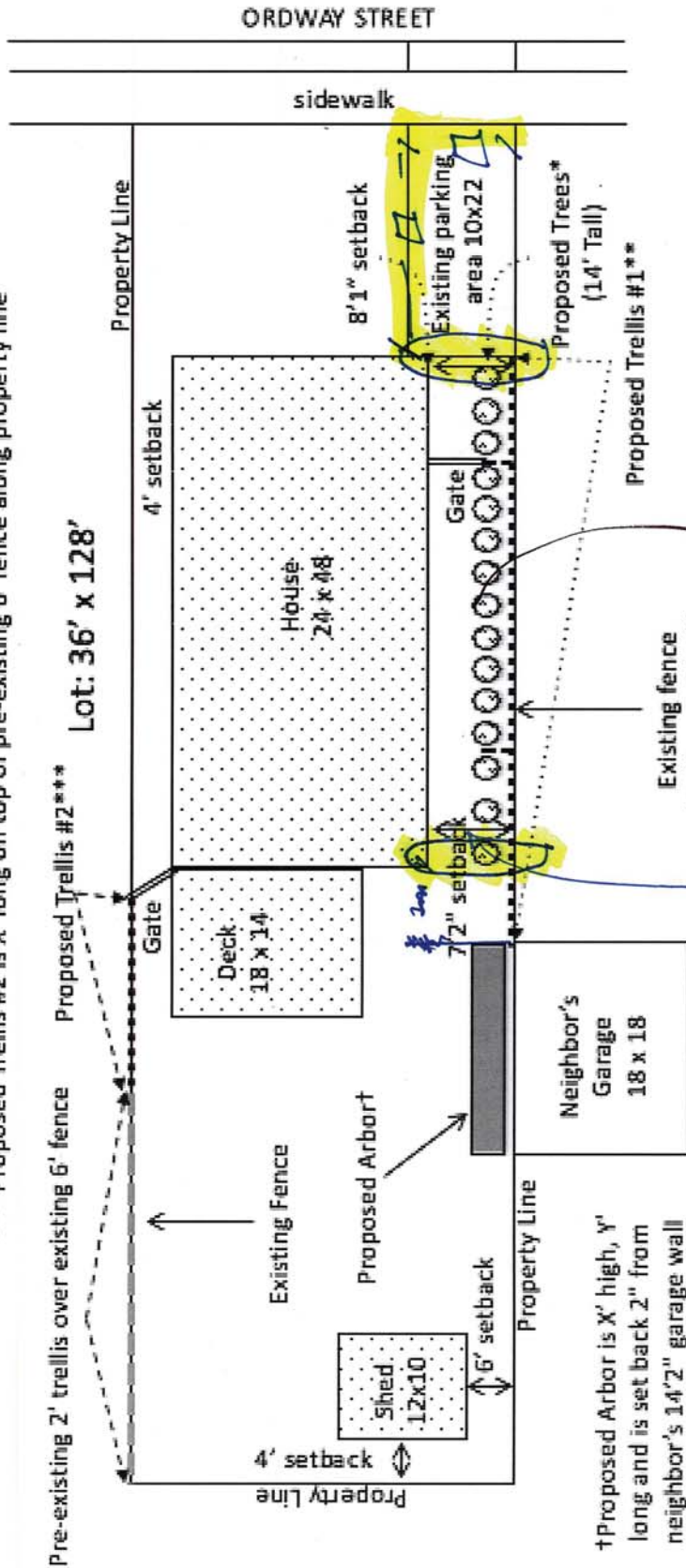
Nilu Karimzadegan | Land Use Planning

nkarimzadegan@cityofberkeley.info

510.981.7419

11/5/18

- * Proposed tree trunks have a 4" setback from existing fence along property line. Trunk diameter: 3". Crown diameter: 1'
- ** Proposed Trellis #1 is 55' long, 6' above ground on posts set back 4" from existing fence along property line
- *** Proposed Trellis #2 is X' long on top of pre-existing 6' fence along property line



any other physical barrier
bony w/ ribbon

she said this distance ranges from 8' to ± 12'

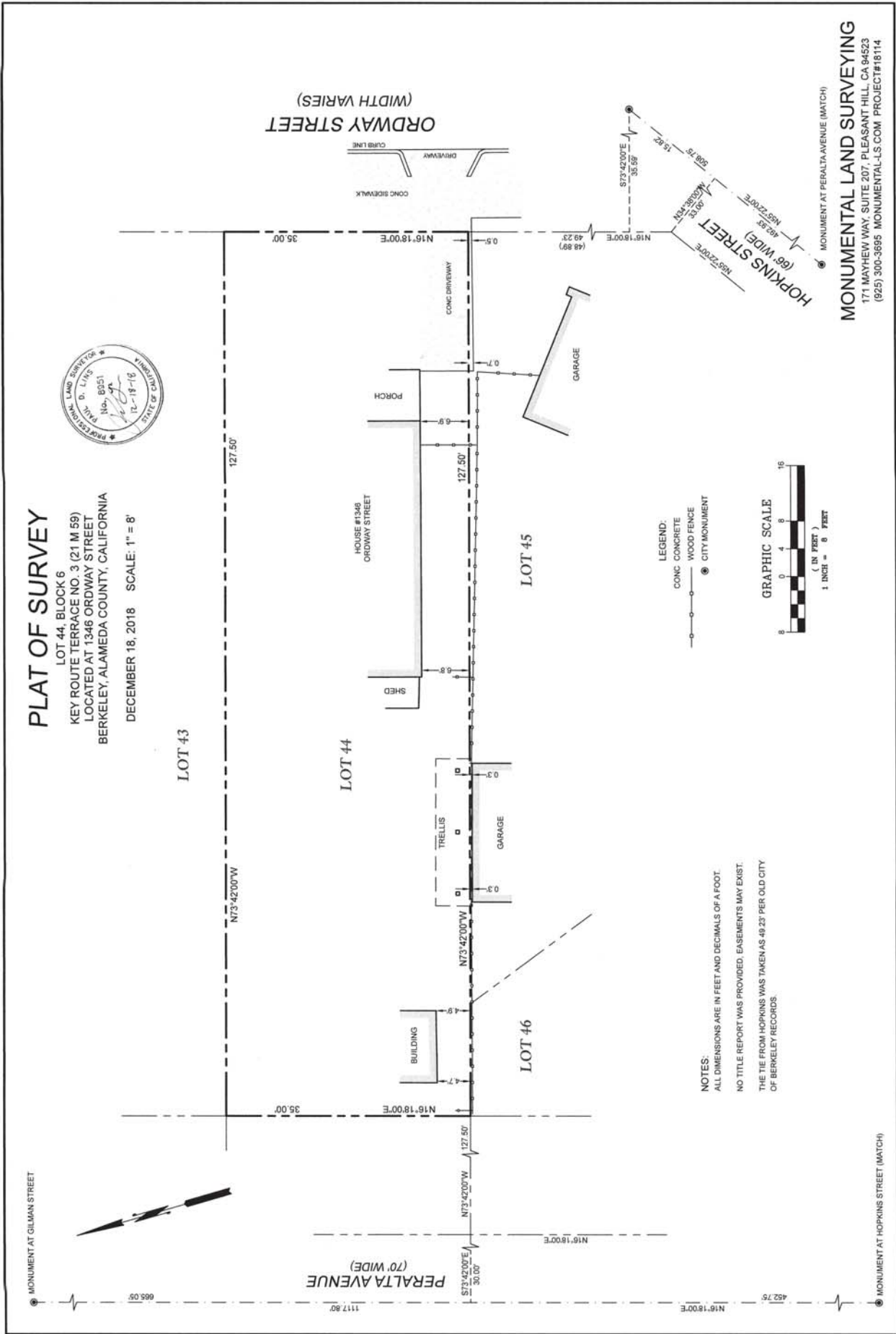
with the property line
Chimney's bony w/ ribbon

† Proposed Arbor is X' high, Y' long and is set back 2" from neighbor's 14'2" garage wall

PLAT OF SURVEY

LOT 44, BLOCK 6
KEY ROUTE TERRACE NO. 3 (21 M 59)
LOCATED AT 1346 ORDMAN STREET
BERKELEY, ALAMEDA COUNTY, CALIFORNIA

DECEMBER 18, 2018 SCALE: 1" = 8'



NOTES:
ALL DIMENSIONS ARE IN FEET AND DECIMALS OF A FOOT.
NO TITLE REPORT WAS PROVIDED, EASEMENTS MAY EXIST.
THE TIE FROM HOPKINS WAS TAKEN AS 49.25' PER OLD CITY OF BERKELEY RECORDS

MONUMENT AT PERALTA AVENUE (MATCH)

MONUMENTAL LAND SURVEYING
171 MAYHEW WAY, SUITE 207, PLEASANT HILL, CA 94523
(925) 300-3895 MONUMENTAL-LS.COM PROJECT#18114

MONUMENT AT HOPKINS STREET (MATCH)

December 1, 2018

Dear Nilu Karimzadegan and Greg Powell,

This is a letter of support for Jennie Durant and Keki Burjorjee's AUP for the lattice on the northern fence of 1346 Ordway Street, as well as to support them as my neighbors more broadly.

The home was previously occupied by a 99-year-old woman, Coesther Taylor, who passed away before her family trust put the home on the market. When Jennie and Keki moved in, they expended a lot of effort to landscape the yard from weeds and grass to the lovely garden it is now. My kitchen window looks out onto their yard, and so I could see all the changes they were making.

In 2017, Jennie and Keki asked if they could replace the lattice between our properties with one slightly higher since the lattice had degraded from some vines and then they could also have more privacy in their yard since our kitchen and dining room looked right onto their back yard. We agreed, and they had a custom-built lattice installed which we think looks nice, and which gives us greater privacy as well.

In addition, I just want to attest that Jennie and Keki are good neighbors. We watch their daughter (a toddler) from time to time; we have shared meals, traded home ideas, and regularly chat and help each other out. In short, we have a great relationship with them and are so happy to have them next door.

We just wanted to share our perspective and hope it is helpful. Feel free to reach out to me at tamarg08@yahoo.com with any questions.

Best,

A handwritten signature in black ink that reads "Tamar Gershon". The signature is written in a cursive style with a large, looping initial "T" and a long, sweeping underline.

Tamar Gershon
1344 Ordway Street,
Berkeley CA 94702



MASON-McDUFFIE

November 30, 2018

Dear Sir / Madame,

I represented the Taylor Family trust in 2015 for the sale of 1346 Ordway St. in Berkeley following the passing of their long time family matriarch. Prior to the sale of the property the remnants of the detached garage were removed from the premises. The garage itself had essentially collapsed and had a large tree growing through the center of it which held up what little remained of the slumping dilapidated structure.

Best Regards,

Norman Gee

Better Homes & Gardens | Reliance Partners
2095 Rose St. Suite 100
Berkeley CA 94709
Ph: 510-868-1400
Dir: 510-552-0878

PRISCILLA RICE
Realtor Associate

priscilla@priscillarice.com



MASON-McDUFFIE

510.304.5124 Cell
510.868.1550 Office
510.540.9957 Fax
2095 Rose Street
Berkeley, California 94709
www.priscillarice.com
BRE #01816796

December 1, 2018

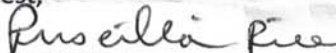
Dear Nilu Karimzadegan and Greg Powell,

I am writing on behalf of Jennie Durant and Keki Burjorjee, my clients who purchased 1346 Ordway Street on November 9th, 2015. I am writing to address two points. The first is to support the statement that the listing agent, Norman Gee, made in his letter, which is that the garage was removed before Jennie and Keki moved in because it was structurally unsound and unsafe. The structure had been removed entirely by the time Jennie and Keki closed on the property.

Secondly, I want to affirm the efforts they have made to improve the beauty of the property, the first home they have owned. The house was previously owned by a 99-year-old woman who passed away while living there. The place had not been updated since she purchased the unit in the 1970's and Keki and Jennie have improved the beauty and value of the home tremendously since they took ownership. The yard and office are lovely and not only increase the value of their property, but the value of their neighbors' properties by extension. I just wanted to add my perspective as a real estate agent that they are good neighbors and kind people. I do hope that you'll consider granting them the permit they are asking for to have extra privacy and an added safety measure from the vacant property next door.

Please feel free to contact me with any questions.

Best,


Priscilla Rice

Realtor at Better Homes and Gardens
2095 Rose Street #101
Berkeley, CA 94709

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

November 30, 2018

Dear Neighbor(s),

We want to share our site plan for an authorized use permit (AUP) from the City of Berkeley for our home. We are applying for a permit for the following:

1. A 2-foot high lattice adjacent to and immediately above a pre-existing six-foot-high fence on the border between our property at 1346 Ordway Street and the property at 1333 Hopkins Street (item 2 on the plan).
2. Fifteen silver sheen trees alongside the pre-existing fence, which will be no greater than 14' tall (item 2 on the plan).

We are also applying for retroactive permits or notifying the city that we have built:

1. An arbor of 8'8" in height adjacent to the garage wall of 1333 Hopkins Street (item 9 on the plan).
2. An office shed of 12' in height at its highest point (item 10)
3. Lattice on the northern fence shared with 1344 Ordway Street (item 3)

Two copies of a site diagram of the planned work are enclosed and we will post a pre-application poster outlining the same on our front yard by December 4th.

The city requires us to notify all neighbors with whom we share a property boundary. We would appreciate it if you could sign and date one of the copies of the site diagram, print your name and address, and return it to us in the envelope provided at your convenience. Your signature on this diagram only indicates your receipt of this letter, not your approval of the project described. If you approve of the project, please check the column headed "Have no objections".

If you have any questions, please do not hesitate to contact us via email (jenniedurant@gmail.com) or regular mail at 1346 Ordway Street, Berkeley, CA 94702.

Kindly,

The image shows two handwritten signatures in black ink. The signature on the left is 'Jennie D' with a stylized flourish. The signature on the right is 'Keki Burjorjee' with a similar flourish.

Jennie Durant and Keki Burjorjee

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

Dear Nilu Karimzadegan and Greg Powell,

Enclosed are the following updates to our AUP application. All changes and corrections are clouded and accompanied by a number as requested.

1. **Neighbor Pre-Application Contact:** We have re-notified all our adjoining neighbors (including 1343 Peralta Ave) with an updated site plan reflecting all items included in this AUP. Please see the photocopies of the certified mail plus the sample letter we have included.
2. **Tabulation form:** Provided
3. **Site plan:** We have produced a formal site plan to address all comments in your 10/5/2018 letter:
 - a. All existing and required setbacks are noted
 - b. All neighboring buildings within 20' are included
 - c. Proposed parking space is TBD
 - i. Please note the electrical panel on the side yard (**item 9**), and the side yard width of 7'2" at its narrowest
 - ii. Because our garage was removed prior to taking ownership, we are requesting a parking waiver per Berkeley Municipal Code Section 23D.48.090, ordinance # 7426-N.S.¹
 1. See item #5 in the section "Additional Items" below for details
 - d. The existing trellis and distance to property lines are included (**item 35 & 27**)
 - e. The tree trunk and crown diameters are included (**Item 39**)
4. **Accessory Structure Building:**
 - a. Shed (**item 10**): dimensioned floor plans, elevations and photos (from inside and outside) have been included.
 - b. Trellis/Arbor (**item 9**): We have provided photos, dimensioned plans and elevations in the site plan. To avoid confusion, we have renamed the 'trellis' listed under 4, B to 'Arbor' on the site plan, so as to not be confused with the trellis/lattice on the fences.
5. **Additional photos:** We have provided additional photos of the fence on the north and east property lines
6. **Additional comment:** We address the removal of the 9x16 garage in our letter (**Point 1 below**), but in short, this was removed due to safety concerns before we purchased the house. We have included a letter from the listing agent and our real estate agent that confirms that the shed was removed by the listing agency and the family trust that previously owned the property. We do not believe that we should have to pay fees for the removal of the shed/garage since it was removed before we owned the property.

¹ <https://www.codepublishing.com/CA/Berkeley/?Berkeley23D/Berkeley23D48/Berkeley23D48090.html&?f>

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

The section labeled “Additional items” offers further explanation on these points.

ADDITIONAL ITEMS:

City comment #6: No previous permit for previous garage removal

Owner response: We have included a letter from the listing agent outlining why they removed the shed/garage. For safety reasons, the shed/garage was removed by the former owner prior to Durant/Burjorjee assumption of ownership at close of escrow on 11/9/15.

We have also included photos from the 2015 listing (Figure 1) that indicate how the garage had been overtaken by a tree which grew within the garage. In addition, the garage was full of abandoned old appliances (Figure 1 and 3) and at least one feral bee hive. The garage was unsafe for the future occupants and had little if no utility.

We are unable to conceive of a scenario where the shed/garage would have previously been used as a garage. Not only was it dilapidated and structurally unsound, there was a white tool shed located (See Figure 2) in front of the shed/garage which would have also prevented vehicular access to the backyard.



Figure 1: Items removed from the shed



Figure 2: The tool shed and garage (the red structure). The garage was dilapidated, full of junk appliances, and had been overtaken by a tree full of feral bees.

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com



Figure 3: Items within the garage during removal

City comment #3-C: Depict the proposed parking space on site plan

Owner response: We are unable to envision the side yard able to accommodate a parking spot or a driveway, and so we are uncertain where to place the parking space, besides in the front. The side yard measures 7'-2" at its narrowest point and it would be impossible for a vehicle to pass through such a tight opening. In addition, the home's electrical panel is located on the southern side yard and it would present a hazard to have vehicles passing so closely to an active electrical panel. Accessing a parking space in the rear yard would likely require the removal of an existing fence and landscaping along with an easement from our neighbor, Larry Hickman, as our side yard does not have enough room to maneuver a car to the rear of the property. This would be a hardship for our family and an easement seems impossible given the nature of our relationship. We also believe that use of the side yard as a driveway or parking stall would not meet the 10 foot spacing from doors & windows requirement as outlined in BMC 23D.12.080.C.

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

When we closed on the property in November 2015, the garage had not been in use, and likely was not for decades. We do not know when the fence was installed. However, you can see in Figure 4, taken in 2011 and in Figure 5, a listing photo from 2015 that there is a walkway along the side of the house, and the area out front served as a parking spot.



Figure 4: Side yard in 2011



Figure 5: Side yard in 2015 listing photo

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

Given these conditions (the width of the side yard and the location of the electrical panel), we would like to apply for a parking waiver. Berkeley Municipal Code Section 23D.36.090 states the following:

C. To approve a parking waiver the Zoning Officer or Board must find that additional or new on-site parking would be detrimental, and that the existing parking supply in the immediate neighborhood is adequate, or that other mitigating conditions are present and apply to the property (p. 16)²

We believe that creating new on-site parking in the back yard would be detrimental to the property and is “not financially feasible or practical” (Ord. 7167-NS § 2, 2011: Ord. 6856-NS § 7 (part), 2005). Trying to create an unsafe driveway in a narrow side yard is not practical, given where the electric panel is currently located. Our street has plenty of on-street parking at all times during the day and we feel that a parking waiver is warranted for this unique situation.

City comment # 3-D: Include the existing trellis (lattice) and its distance to property lines

Owner response: We have included this on the site plan. In addition, we have included a letter from our neighbor, Tamar Gershon, with whom we collaborated to develop a mutually agreeable design for the 36” lattice on top of the northern fence. This new 36” lattice (Figure 9) was installed to replace a portion of an existing lattice that was degraded and overcome with vines. This fence had featured a lattice prior to our purchasing of the home in 2015 – we’ve provided photographs below to exhibit the current lattice (Figure 6 and 8) and original lattice shortly before purchase (Figure 7).



Figure 6: North fence with 24" lattice (2018)

² [https://www.cityofberkeley.info/uploadedFiles/Planning_\(new_site_map_walk-through\)/Level_3_-_General/2011-09-27_SSP_OTHER%20ZONING%20ORD_FINAL_Att%206\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_(new_site_map_walk-through)/Level_3_-_General/2011-09-27_SSP_OTHER%20ZONING%20ORD_FINAL_Att%206(1).pdf)

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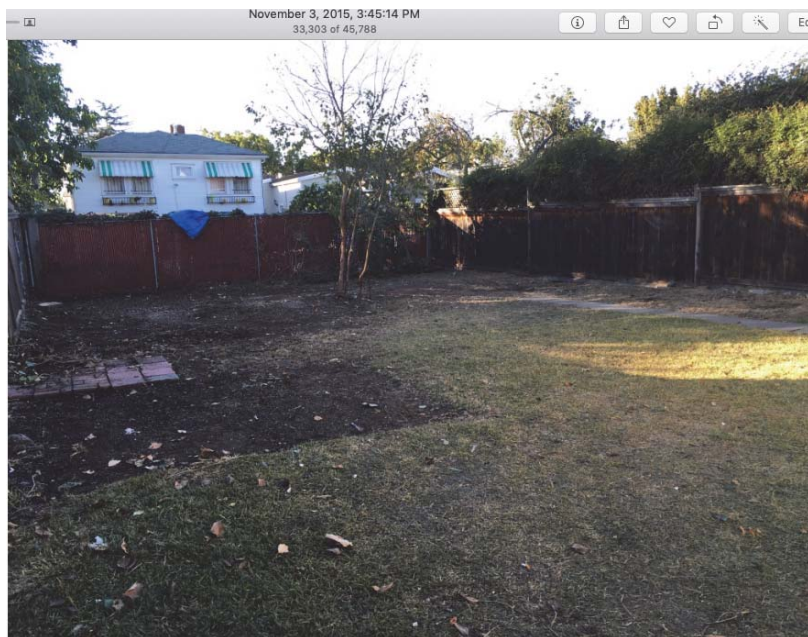


Figure 7: North fence prior to purchase--note existing lattice



Figure 8: North fence 36" lattice

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

City comment #4-B Please provide dimensioned plans, elevations and photos of the Trellis (Arbor)

Owner response: We have included all of these in our site plan, labeled as “arbor” to avoid confusion with existing and proposed trellis/lattice. Please note the unpainted wall in the original listing photos of the house (Figure 9). We have made numerous updates to the backyard to increase our enjoyment of the yard and the home’s value. The wall continued to remain an eyesore, so we put an arbor up to reduce the visual impact of this garage that abuts our property line (Figure 10). We specifically built the arbor at the wall’s height, so our neighbor could access the entire wall for maintenance purposes. We do not understand the nature of his complaint as it does not block his ability to maintain his garage nor does it block any view from his property (which is currently vacant).



Figure 9: Garage wall on left



Figure 10: Garage wall behind arbor

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

RESPONSE TO NEIGHBOR COMPLAINT (Lawrence Hickman) about AUP application:

Our neighbor's property (1333 Hopkins St) is largely vacant and generally neglected. Our neighbor, Larry Hickman, has been adversarial and has refused to work through this conflict with us. **We do not feel safe in his presence and do not want him to have any visual contact with our daughter** (his property looks directly into our daughter's window if there is no visual barrier). In addition, we do not trust him; he agreed to a solution with us in the past and then back pedaled on it. As such, we have been unable to find a mutually agreeable solution directly with Mr. Hickman. We are not alone in our concerns—other neighbors have expressed that they feel uncomfortable or unsafe around him as well and make deliberate efforts to avoid all contact with him.

Figures 11-13 show the existing trees on the south fence. Note the efforts we have made to keep the trees trimmed to a reasonable height and that they do not extend onto our neighbor's property.

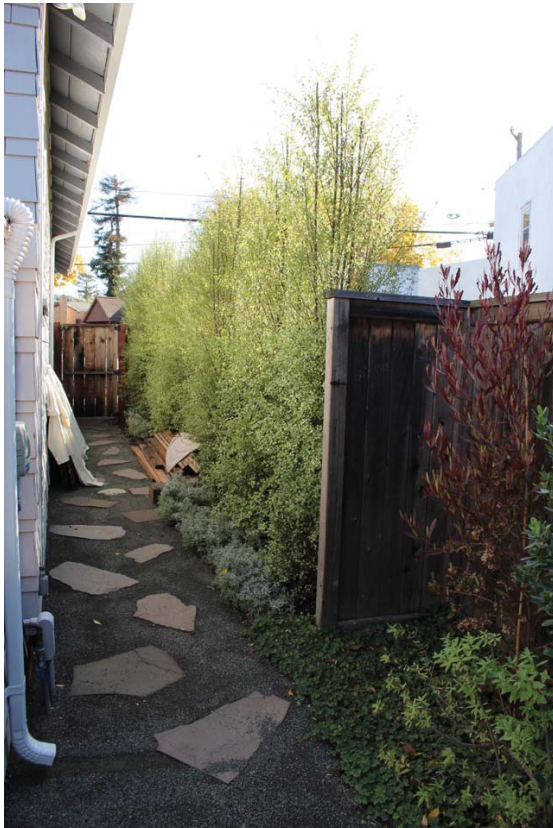


Figure 11: South fence with trees from back yard



Figure 12: South fence with trees from front yard

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com



Figure 13: South fence from sidewalk

Below is our account of the encounter Mr. Hickman mentions in his complaint against our AUP (written by Jennie Durant):

We put in the trees and wanted to put in the lattice because we were concerned for our family's privacy and particularly my and our young daughter's safety. The unit is largely vacant; **we have seen homeless people sleeping on the Mr. Hickman's porch on numerous occasions.** In addition, it is frequently unlit and empty, and anyone could jump over our shared fence and into our yard. We would like to have both the lattice and the trees to help us feel safe.

In the following photos (Fig. 14-21), you can see that the property is not currently well-maintained, with broken blinds and cardboard in the front (Figure 16). There are numerous cars parked there (Figure 14), despite the fact that there are no regular occupants. The front door, for example, has been unfinished since at least 2015 as evidenced in Figure 21, and remains unfinished as evidenced in Figure 18.

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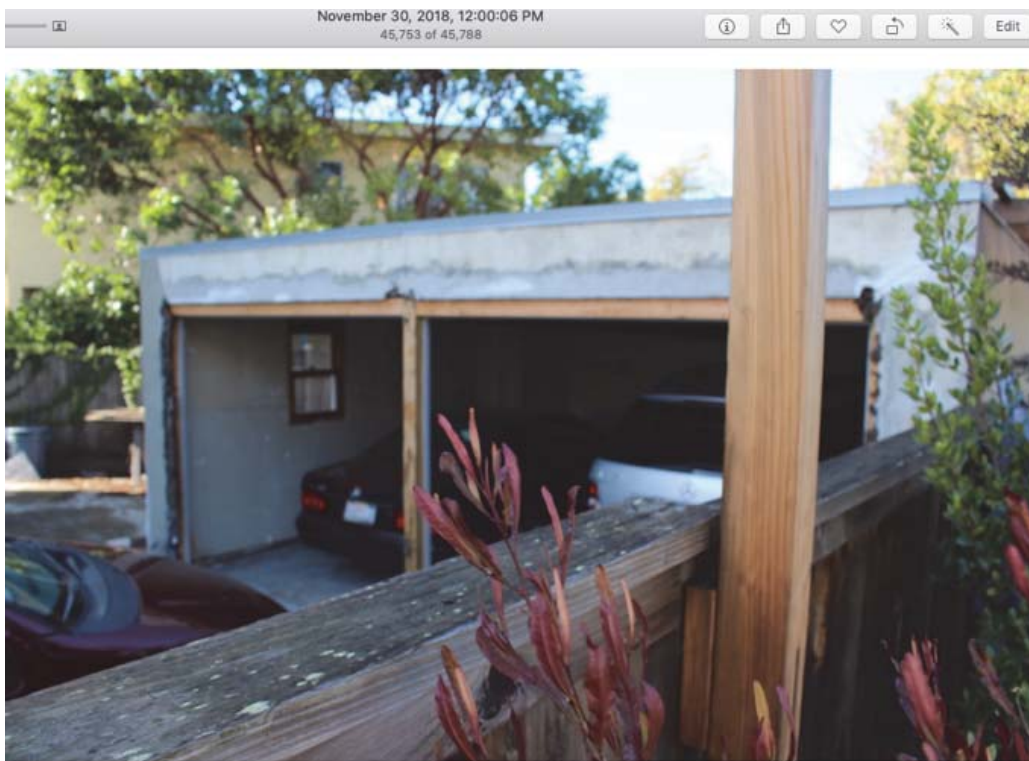


Figure 14: View of garage from south fence



Figure 15: Front of neighbor's house--note covered windows and unfinished door

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Figure 16: View of neighbor's backyard (1333 Hopkins Street) from south fence



Figure 17: View of neighbor's house (1333 Hopkins St) from south fence

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Figure 18: Unfinished front door, Nov. 2018



Figure 19: Neighbor's yard adjacent to our property.
Note the planted tree.

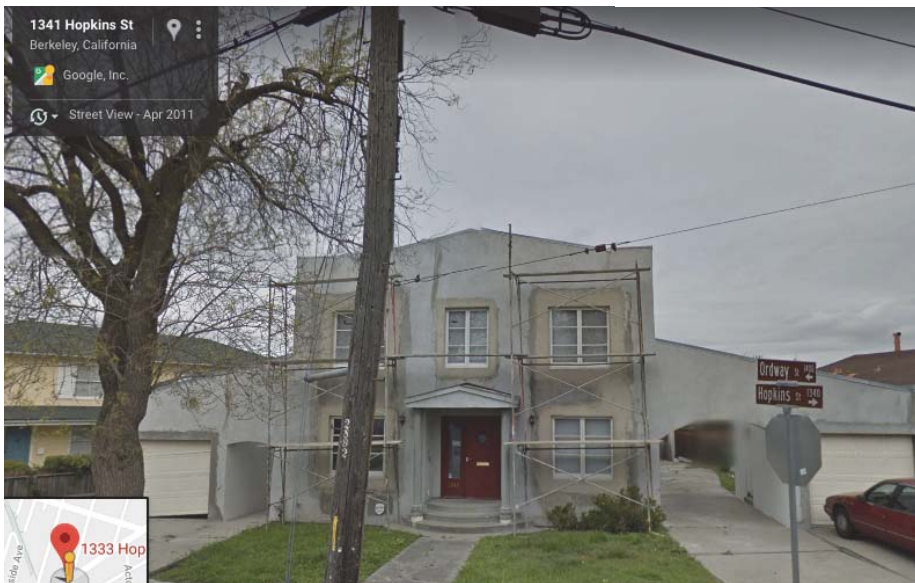


Figure 20: Repairs on 1333 Hopkins Street in 2011

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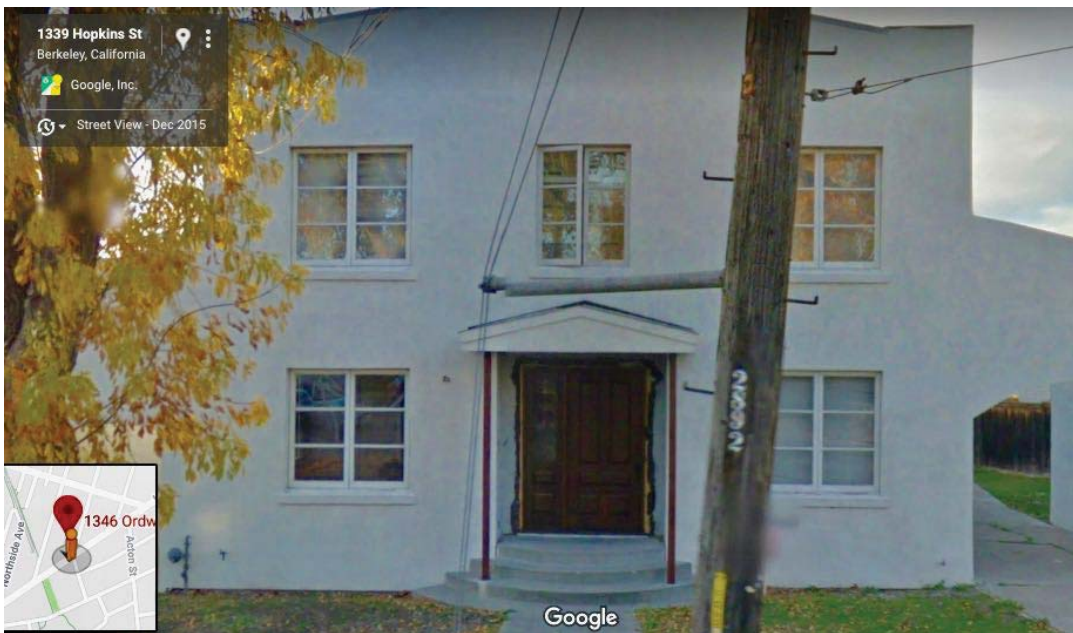


Figure 21: 1333 Hopkins St in 2015--note covered windows and unfinished door (same as one in Figure 18)



Figure 22: 1333 Hopkins St. in Jan 2015

Jennie Durant and Keki Burjorjee

1346 Ordway Street

Berkeley, CA 94702

916-220-9806

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We understand that it has been vacant and in this same condition for at least 10 years. I have included a photo from a Google street view of 2011 (Figure 20) where you can see that the house was under repair, and again in January 2015 before we purchased the property (Fig. 22), where you can see that the windows are unfinished and unpainted. The windows facing our property are still unfinished and unattractive.

Figures 14-19 further demonstrate the current state of the property. Note the holes in the walls with exposed wires in several photos of the back of the unit (Fig 16 and 17), the unfinished windows facing our property, etc. **Also, there is a back porch which I have photographed where we have seen homeless people sleeping in the past**, as mentioned earlier. Note the garage, which is also unfinished (Fig. 14) and the multiple cars parked there. These cars are directly adjacent to our bedroom windows.

The building at 1333 Hopkins is vacant, with the exception of one unit that the owner occasionally visits as well as several other people who never speak to us (often a woman with whom he gets into yelling matches with. I documented one such fight on). They have made no attempt to be neighborly, even before this conflict arose. Often, cars drive into the driveway late at night with lights and conversations that can wake us up and our daughter.

As such, we wanted a visual barrier between our properties. We tried discussing this some time ago with Mr. Hickman and he said that he would plant a tree in front of the window on his side of the property. He did (see Fig 19). It was planted approx. 2 years ago, and he has not made an effort to see this tree grow and thrive. We wanted more of a visual barrier, so we planted the silver sheen trees on our property in 2017. We were unaware that this configuration would be considered a fence/hedge. At some point, Mr. Hickman said he liked our trees and we interpreted Mr. Hickman's comments to mean that we finally had a mutually agreeable solution. I had also discussed with Mr. Hickman the idea of putting up a few lattice panels atop the fence to give both parties extra privacy. He said as long as the lattices were on our property (and not on the fence itself), we could do what we wanted. So, we started to put in posts to put in panels in front of the windows, such that the posts would be adjacent to the fence but not on the fence itself. Then he came over and complained and said that he would report us to the city.

He has repeatedly said to us: How much privacy do you need? Why do you need so much privacy? This comment makes us feel uncomfortable, as if he wants to have a direct view into our home.

My husband tried to discuss this matter with Mr. Hickman in 2018 after we found out he had reported us to the city. He refused to have a conversation or come to a compromise. We decided to get a permit then. We didn't know we needed it until we were cited, since we see lattice everywhere on many people's homes and had it on the north fence when we moved in.

Jennie Durant and Keki Burjorjee

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However, we were delayed in submitting the permit because of a family situation that took up a lot of our time.

Mr. Hickman's complaint is frustrating, since 1333 Hopkins Street does not seem to be Mr. Hickman's or anyone's primary residence. The house is always vacant and dark, with one unit on the south side occasionally in use. We feel frustrated that he neglects his property, is rarely there, and yet is taking issue with our decision to have a visual and safety barrier on our property **Again, this neighboring property is largely used to store cars and other items, but no one appears to be living there.**

We mention this because it feels egregious to have him complain about our property despite the appearance of his. Since becoming owners of our property, we have invested significant money and labor to improve the neighborhood and our property. To the contrary, Mr. Hickman's property has remained unkempt and objectively less attractive than our property. **Given this set of conditions, we hope the city will approve our AUP for the trees along the southern fence (for a visual barrier) and for the lattice (for a visual and safety barrier).**

IN CONCLUSION

Finally, we want to highlight the numerous efforts we have made to make our house attractive, to make it more environmentally conscious by xeriscaping the front and back yard, planting trees to increase privacy for our neighbors, and by installing an office shed (that is under 120 sq feet). We have included a note from our real estate agent (Priscilla Rice) who saw the home when it was purchased and has since seen our improvements. We have also included a note from our adjacent neighbor on Ordway 1344 about our good relationship with her and communication about building projects that would affect her. As you can see, she feels the maintenance we have done has improved the value of her home and improved the view of our yard from the back of her home. **You can see the difference in our yard in the before and after photo at the bottom of this letter.**

We have worked hard to be good neighbors and help maintain Berkeley's reputation as a nice place to live and raise a family. We feel that the other party has not made an effort to maintain his property and it seems unfair to have our family be bullied by the other party, who lacks the pride of ownership that we possess.

In closing, we hope you can see that we have done our best to be neighborly, to increase the beauty and value of our property, and have also tried to give ourselves a visual and safety barrier from our neighbor, whose property is largely empty and not well maintained. We hope the city will see that parking in front or on-street parking/parking waiver is the sensible path forward and help us find a solution to do so.

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

Thank you very much,

Jennie Durant and Keki Burjorjee



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<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: Neighbor
Street and Apt. No., or PO Box No.: 1327 Hopkins St.
City, State, ZIP+4®: Berkeley CA 94702

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Postage	\$
Total Postage and Fees	\$

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City, State, ZIP+4®: Berkeley CA 94702

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Total Postage and Fees	\$

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Total Postage and Fees	\$

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Street and Apt. No., or PO Box No.: 1343 Peralta Ave
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Postage	\$
Total Postage and Fees	\$

Sent To: Larry Hickman
Street and Apt. No., or PO Box No.: 1333 Hopkins St
City, State, ZIP+4®: Berkeley CA 94702

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Nov. 30, 2018

Dear Neighbor,

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1. An existing 8' 8" tall x 20' wide arbor adjacent to our neighbor's garage (1333 Hopkins Street)—*Item 9 on the drawing*
2. An existing 24" and 36" lattice along our north fence (shared with 1344 Ordway Street)—*Item 35*
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5. An existing shed of under 120 sq. feet and 12 feet in height—*Item 10*

Please fill out the bottom of this paper and return in the enclosed SASE at your convenience. Thank you!

Jennie Durant and Keki Burjorjee

Name (printed)	TAMAR GERSTON	
Signature	<i>Tamar Gerston</i>	
Address	1344 ORDWAY ST	
Renter or Owner?	Owner	
Date	12/4/18	
Have no objections	✓	
Have Objections (please state briefly)	No objections	

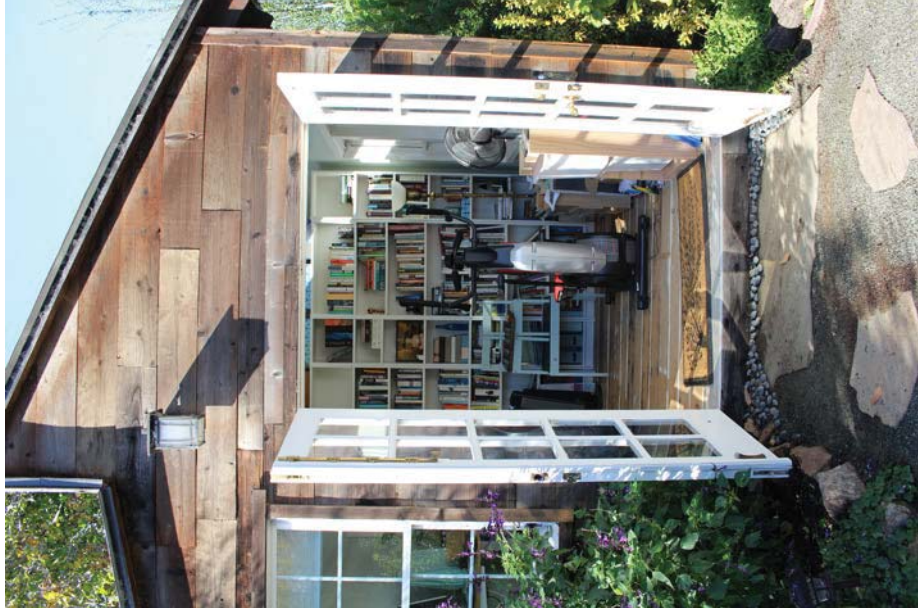
Exterior of shed (photos on right) and interior of shed (left) — 1346
Ordway St.



Interior photos of office shed (south wall on left and north wall on right)—1346 Ordway St.



Exterior photos of shed interior--1346 Ordway St.



Photos of arbor on south wall-- 1346 Ordway Street



Photos of east fence—1346 Ordway Street



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2500 W. 10TH AVENUE, SUITE 100
DENVER, CO 80202
PHONE: 303.733.1000
WWW.TRADECRAFT.COM

DATE: 11/18/18

PROJECT: 1346 ORDWAY

CLIENT: JOHN DOE

DESIGNER: JENNIE DUMPLAT

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

DATE: 11/18/18

PROJECT: 1346 ORDWAY

CLIENT: JOHN DOE

DESIGNER: JENNIE DUMPLAT

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

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DESIGNER: JENNIE DUMPLAT

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

DATE: 11/18/18

PROJECT: 1346 ORDWAY

CLIENT: JOHN DOE

SEBACK LINE

PROPERTY LINE

HIDDEN LINE

LINE LEGEND

12 1/8" = 1'-0"

SHEET NOTES

Key Value

1 48" TALL BAMBOO FENCE @ REAR PROPERTY LINE

2 36" SEBRACK LINE

3 SIDE SEBRACK LINE

4 SHED

5 REAR DECK

6 BLDG. FOOTPRINT BELOW

7 ELECTRIC PANEL

8 10' x 10' CLEAR WORKING SPACE - N.E.C. 110.2(A)(9) REQUIREMENT.

9 GAS METER

10 1344 ORDWAY RESIDENCE

11 1344 ORDWAY DRIVE

12 1344 ORDWAY DRIVE

13 1344 ORDWAY DRIVE

14 14' TALL LANDSCAPING/TREES

15 BAY WINDOW

16 FIREPLACE

17 1344 ORDWAY DRIVE

18 1344 ORDWAY DRIVE

19 1333-1339 HOPKINS STREET GARAGE STRUCTURE

20 72" WIDE SIDEWALK

21 3" WIDE PLANNING STRIP

22 CURB AT STREET

23 GATE

24 LATTICE AT OP OF FENCE

25 36" LATTICE AT OP OF FENCE INSTALLED TO REPLACE (E) 24"

26 LATTICE AT THE TIME OF REMODEL/ADDITION AT 1344

27 FENCE AND LATTICE PATTERNS OR SHOWING CONCENTRICALLY

28 LATTICE 'STEPS-DOWN' APPROX. 1.5" EVERY 8'-0" FT TO REFLECT

29 GRADE

30 NEIGHBOR'S GARAGE STRUCTURE

31 CELESTIAL WINDOW

32 SEBRACK LINE

33 FRONT ENTRY STEPS

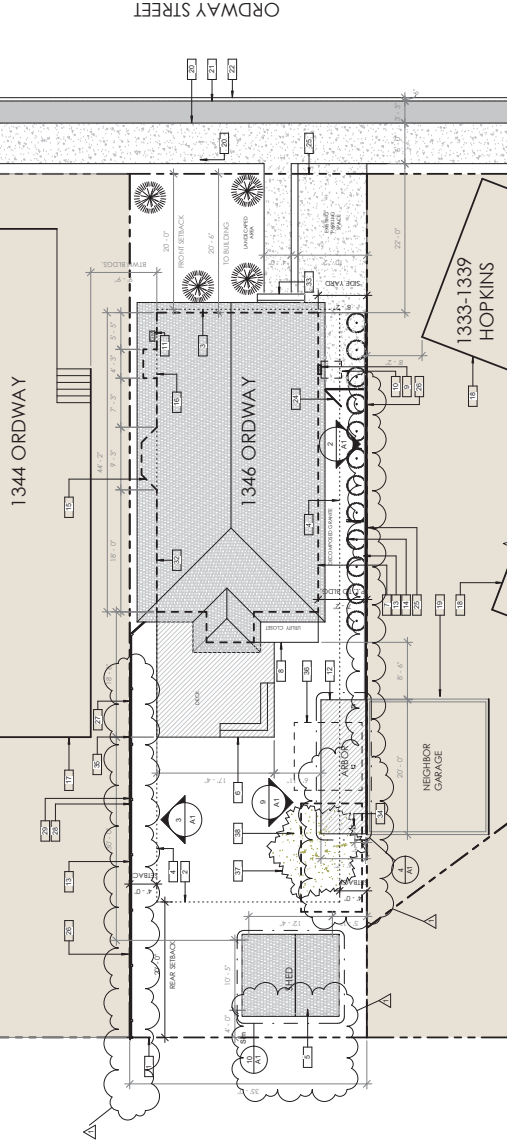
34 CLOSEST FACE OF ARBOR POST IS 1'09" FROM PROPERTY LINE. SEEP PLAN VIEW.

35 APPROX. LOCATION OF PREVIOUS FENCE EAST OF THIS POINT. 24" LATTICE AT OP FENCE WEST OF THIS POINT.

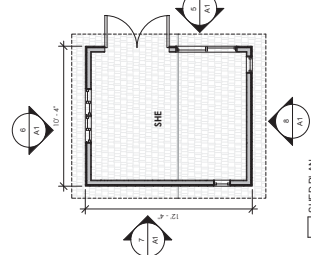
36 APPROX. LOCATION OF PREVIOUS TOOLSHED. APPROX. 10' X 10'. REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.

37 APPROX. LOCATION OF PREVIOUS SHED/GARAGE. APPROX. 10' X 10'. REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.

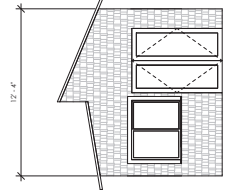
38 APPROX. LOCATION OF PREVIOUS SHED/GARAGE. APPROX. 10' X 10'. REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.



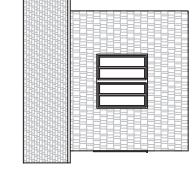
1 SITE PLAN
1/8" = 1'-0"



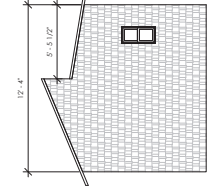
10 SHED PLAN
1/4" = 1'-0"



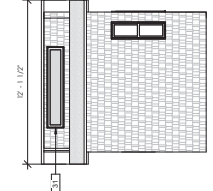
5 SHED - EAST
1/4" = 1'-0"



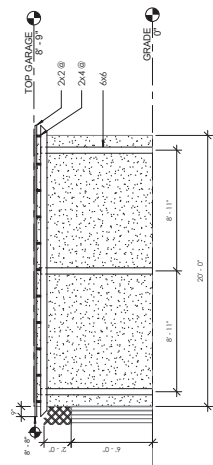
6 SHED - NORTH
1/4" = 1'-0"



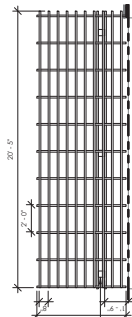
7 SHED - WEST
1/4" = 1'-0"



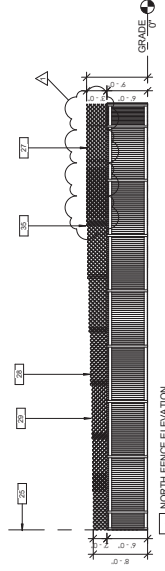
8 SHED - SOUTH
1/4" = 1'-0"



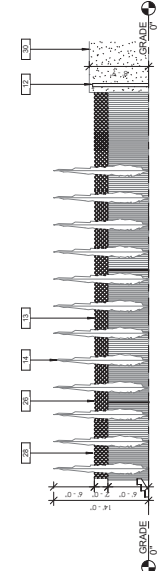
9 ARBOR ELEVATION
1/4" = 1'-0"



4 ARBOR PLAN
1/4" = 1'-0"



3 NORTH FENCE ELEVATION
1/8" = 1'-0"



2 SOUTH FENCE ELEVATION
1/8" = 1'-0"

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Nov. 30, 2018

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Jennie Durant and Keki Burjorjee

Name (printed)	
Signature	
Address	
Renter or Owner?	
Date	
Have no objections	
Have Objections (please state briefly)	



PLANNING & DEVELOPMENT

Land Use Planning, 1947 Center Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.6903 Fax: 510.981.7420 Email: Planning@CityofBerkeley.info

TABULATION FORM

Project Address: 1346 Ordway Street Date: 12/03/2018
 Applicant's Name: Jennie Durant and Keki Burjorjee
 Zoning District R-1A

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/Required</i>
Units, Parking Spaces & Bedrooms			
Number of Dwelling Units (#)	1	0	1
Number of Parking Spaces (#)	1	0	1
Number of Bedrooms (#) (R-1, R-1A, R-2, R-2A, and R-3 only)	2	N/A	2
Yards and Height			
Front Yard Setback (Feet)	20'-6"	N/A	20'-0"
Side Yard Setbacks: (facing property)			
Left: (Feet)	7'-2"	N/A	4'-0"
Right: (Feet)	4'-0"	N/A	4'-0"
Rear Yard Setback (Feet)	58'-4"	N/A	20'-0"
Building Height* (# Stories)	1	0	3
Average* (Feet)	< 28 FT	N/A	28 FT
Maximum* (Feet)	< 35 FT	N/A	35 FT
Areas			
Lot Area (Square-Feet)	~4,462 SF	0	> 5,000 SF
Gross Floor Area* (Square-Feet) Total Area Covered by All Floors	~993 SF	0	Existing Structure Complies
Building Footprint* (Square-Feet) Total of All Structures	~1,110 SF	0	1,784 SF
Lot Coverage* (%) (Footprint/Lot Area)	~24.87%	~24.87%	< 45%
Useable Open Space* (Square-Feet)	~3,309 SF	~3,309 SF	> 400 SF
Floor Area Ratio* Non-Residential only (Except ES-R)	N/A	N/A	N/A

*See Definitions – Zoning Ordinance Title 23F.

Revised: 05/15

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3015 AVENUE 108, BERKELEY, CA 94702
PH: 415.863.0800 FAX: 415.863.0801
WWW.TRADECRAFT.COM

PROJECT NO: 18-019

DATE: 11/19/18

DESIGNER: JENNIE DURANT

CLIENT: JENNIE DURANT

1346 ORDWAY

1346 ORDWAY STREET
BERKELEY, CA 94702

11/19/18

1 A/UP PERMIT

11/19/18

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11/19/18

SETBACK LINE

PROPERTY LINE

HIDDEN LINE

12 LINE LEGEND
1/8" = 1'-0"

SHEET NOTES

Keynote to #

1 48" TALL BAMBOO FENCE @ REAR PROPERTY LINE

2 FRONT SETBACK LINE

3 SIDE SETBACK LINE

4 SHED

5 REAR DECK

6 BLDG. FOOTPRINT BELOW

7 UTILITY CLOSET

8 1/2" DIA. HOLE

9 MAINTAIN 30" W. X 5' 0" FOR CLEAR WORKING SPACE - N.E.C. 110.26(A)(2) REQUIREMENT.

10 GAS METER

11 ARBOR STRUCTURE

12 6'-0" TALL FENCE AT PROPERTY LINE

13 72" WIDE SIDEWALK

14 18" WINDO

15 FREERACE

16 1344 ORDWAY RESIDENCE

17 1333-1339 HOPKINS STREET, MAIN STRUCTURE.

18 1333-1339 HOPKINS STREET, GARAGE STRUCTURE.

19 72" WIDE SIDEWALK

20 20" WIDE SIDEWALK

21 20" WIDE SIDEWALK

22 20" WIDE SIDEWALK

23 20" WIDE SIDEWALK

24 GATE

25 PROPERTY LINE

26 24" LATTICE ATOP OF FENCE

27 36" LATTICE ATOP OF FENCE, INSTALLED TO REPLACE (B) 24" LATTICE ATOP OF FENCE. 36" LATTICE SHALL BE INSTALLED AT THE ORDWAY. ANNUALLY AGREED UPON WITH THE OWNER OF 1344 ORDWAY.

28 FENCE AND LATTICE PATTERNS ARE SHOWN CONCEPTUALLY.

29 NEIGHBOR'S GARAGE STRUCTURE

30 NEIGHBOR'S GARAGE STRUCTURE

31 NEIGHBOR'S GARAGE STRUCTURE

32 BLDG. FOOTPRINTS AT SETBACK LINE

33 FRONT ENTRY STEPS

34 CLOSEST FACE OF ARBOR POSTS IS 1'0" FROM PROPERTY LINE. SEE PLAN VIEW.

35 24" LATTICE ATOP OF FENCE, INSTALLED TO REPLACE (B) 24" LATTICE ATOP OF FENCE. 24" LATTICE SHALL BE INSTALLED AT THE ORDWAY. ANNUALLY AGREED UPON WITH THE OWNER OF 1344 ORDWAY.

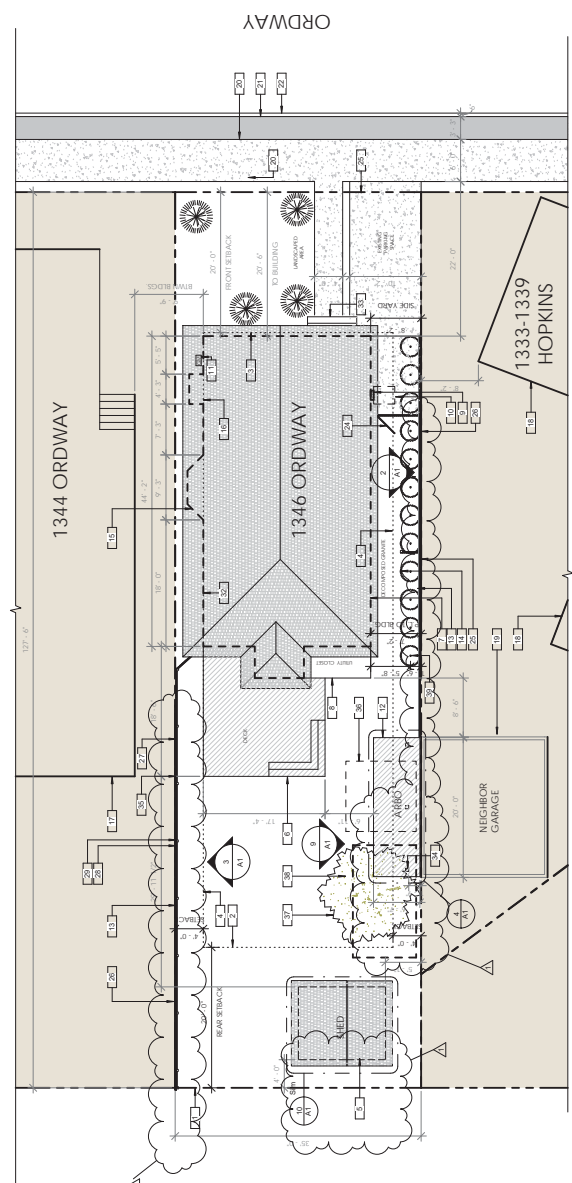
36 APPROX. LOCATION OF PREVIOUS TOOLSHED, APPROX. 10'X10'. REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.

37 APPROX. LOCATION OF PREVIOUS TIRE SHED, APPROX. 9'X16'. REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.

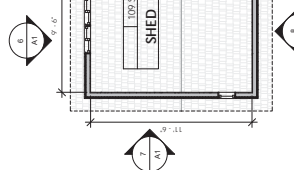
38 APPROX. LOCATION OF PREVIOUS TIRE SHED, APPROX. 9'X16'. REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.

39 APPROX. LOCATION OF PREVIOUS TIRE SHED, APPROX. 9'X16'. REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.

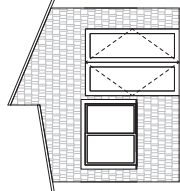
DA.



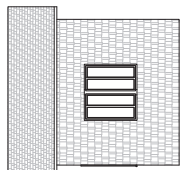
1 SITE PLAN
1/8" = 1'-0"



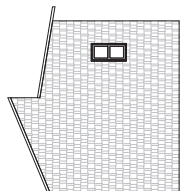
10 SHED PLAN
1/4" = 1'-0"



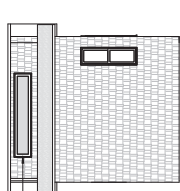
5 SHED - EAST
1/8" = 1'-0"



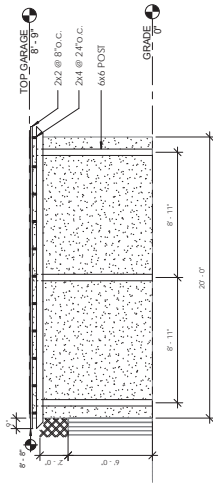
6 SHED - NORTH
1/4" = 1'-0"



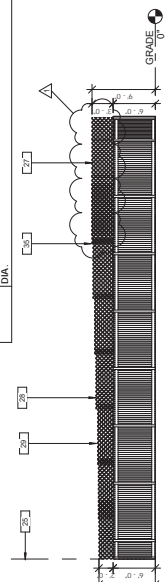
7 SHED - WEST
1/4" = 1'-0"



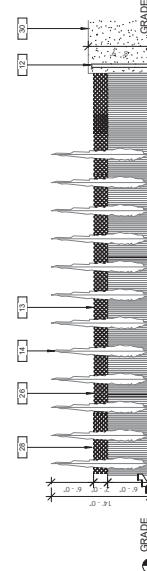
8 SHED - SOUTH
1/4" = 1'-0"



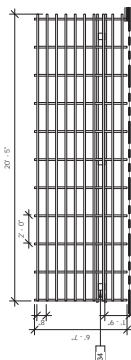
9 ARBOR ELEVATION
1/4" = 1'-0"



3 NORTH FENCE ELEVATION
1/8" = 1'-0"



2 SOUTH FENCE ELEVATION
1/8" = 1'-0"



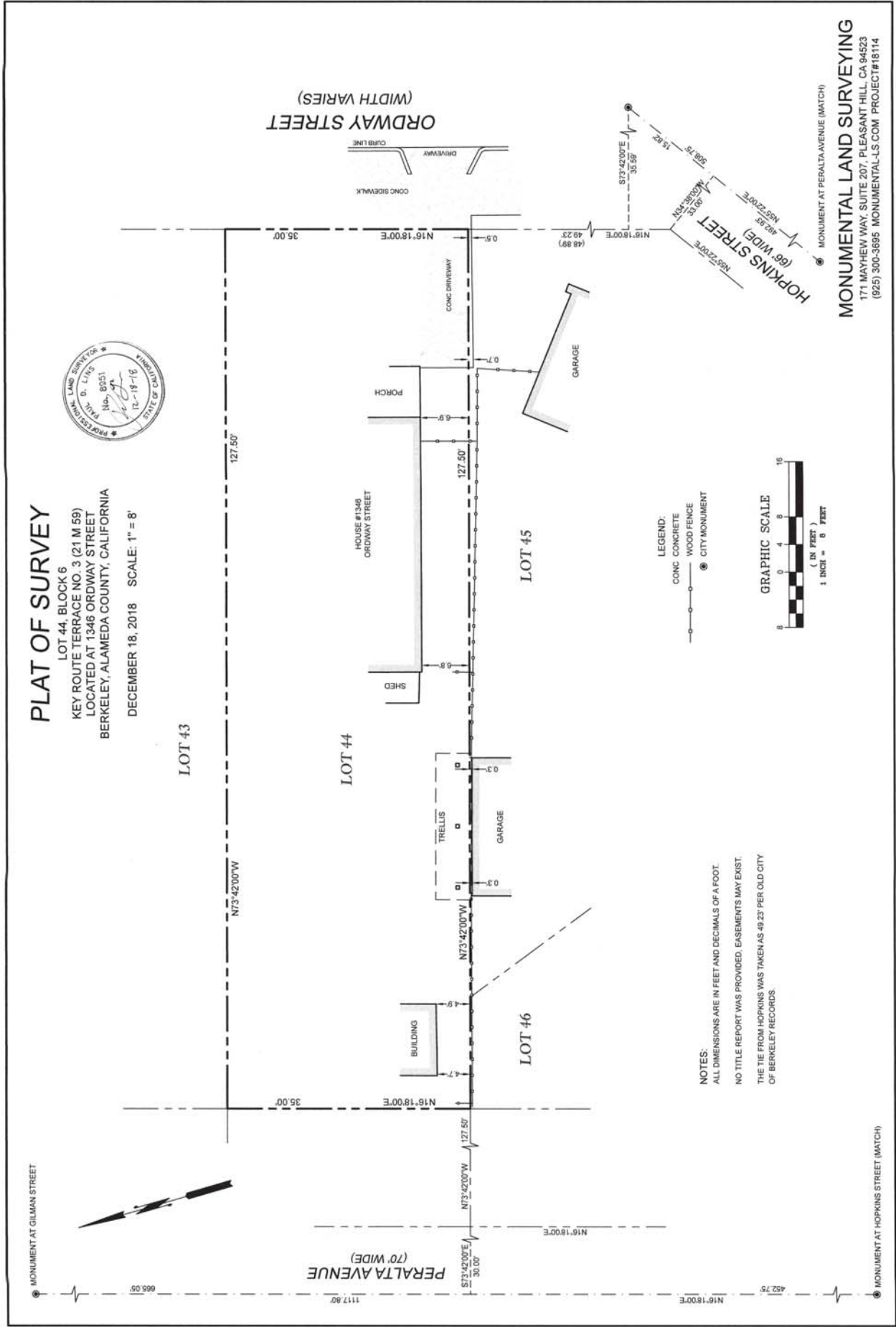
4 ARBOR PLAN
1/4" = 1'-0"

A1

PLAT OF SURVEY

LOT 44, BLOCK 6
KEY ROUTE TERRACE NO. 3 (21 M 59)
LOCATED AT 1346 ORDMAN STREET
BERKELEY, ALAMEDA COUNTY, CALIFORNIA

DECEMBER 18, 2018 SCALE: 1" = 8'



MONUMENTAL LAND SURVEYING
171 MAYHEW WAY, SUITE 207, PLEASANT HILL, CA 94523
(925) 300-3895 MONUMENTAL-LS.COM PROJECT#18114

MONUMENT AT HOPKINS STREET (MATCH)

December 1, 2018

Dear Nilu Karimzadegan and Greg Powell,

This is a letter of support for Jennie Durant and Keki Burjorjee's AUP for the lattice on the northern fence of 1346 Ordway Street, as well as to support them as my neighbors more broadly.

The home was previously occupied by a 99-year-old woman, Coesther Taylor, who passed away before her family trust put the home on the market. When Jennie and Keki moved in, they expended a lot of effort to landscape the yard from weeds and grass to the lovely garden it is now. My kitchen window looks out onto their yard, and so I could see all the changes they were making.

In 2017, Jennie and Keki asked if they could replace the lattice between our properties with one slightly higher since the lattice had degraded from some vines and then they could also have more privacy in their yard since our kitchen and dining room looked right onto their back yard. We agreed, and they had a custom-built lattice installed which we think looks nice, and which gives us greater privacy as well.

In addition, I just want to attest that Jennie and Keki are good neighbors. We watch their daughter (a toddler) from time to time; we have shared meals, traded home ideas, and regularly chat and help each other out. In short, we have a great relationship with them and are so happy to have them next door.

We just wanted to share our perspective and hope it is helpful. Feel free to reach out to me at tamarg08@yahoo.com with any questions.

Best,

A handwritten signature in black ink that reads "Tamar Gershon". The signature is written in a cursive style with a large, looping initial "T".

Tamar Gershon
1344 Ordway Street,
Berkeley CA 94702



MASON-McDUFFIE

November 30, 2018

Dear Sir / Madame,

I represented the Taylor Family trust in 2015 for the sale of 1346 Ordway St. in Berkeley following the passing of their long time family matriarch. Prior to the sale of the property the remnants of the detached garage were removed from the premises. The garage itself had essentially collapsed and had a large tree growing through the center of it which held up what little remained of the slumping dilapidated structure.

Best Regards,

Norman Gee

Better Homes & Gardens | Reliance Partners
2095 Rose St. Suite 100
Berkeley CA 94709
Ph: 510-868-1400
Dir: 510-552-0878

PRISCILLA RICE
Realtor Associate

priscilla@priscillarice.com



MASON-McDUFFIE

510.304.5124 Cell
510.868.1550 Office
510.540.9957 Fax
2095 Rose Street
Berkeley, California 94709
www.priscillarice.com
BRE #01816796

December 1, 2018

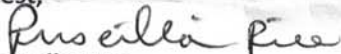
Dear Nilu Karimzadegan and Greg Powell,

I am writing on behalf of Jennie Durant and Keki Burjorjee, my clients who purchased 1346 Ordway Street on November 9th, 2015. I am writing to address two points. The first is to support the statement that the listing agent, Norman Gee, made in his letter, which is that the garage was removed before Jennie and Keki moved in because it was structurally unsound and unsafe. The structure had been removed entirely by the time Jennie and Keki closed on the property.

Secondly, I want to affirm the efforts they have made to improve the beauty of the property, the first home they have owned. The house was previously owned by a 99-year-old woman who passed away while living there. The place had not been updated since she purchased the unit in the 1970's and Keki and Jennie have improved the beauty and value of the home tremendously since they took ownership. The yard and office are lovely and not only increase the value of their property, but the value of their neighbors' properties by extension. I just wanted to add my perspective as a real estate agent that they are good neighbors and kind people. I do hope that you'll consider granting them the permit they are asking for to have extra privacy and an added safety measure from the vacant property next door.

Please feel free to contact me with any questions.

Best,


Priscilla Rice

Realtor at Better Homes and Gardens
2095 Rose Street #101
Berkeley, CA 94709

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

November 30, 2018

Dear Neighbor(s),

We want to share our site plan for an authorized use permit (AUP) from the City of Berkeley for our home. We are applying for a permit for the following:

1. A 2-foot high lattice adjacent to and immediately above a pre-existing six-foot-high fence on the border between our property at 1346 Ordway Street and the property at 1333 Hopkins Street (item 2 on the plan).
2. Fifteen silver sheen trees alongside the pre-existing fence, which will be no greater than 14' tall (item 2 on the plan).

We are also applying for retroactive permits or notifying the city that we have built:

1. An arbor of 8'8" in height adjacent to the garage wall of 1333 Hopkins Street (item 9 on the plan).
2. An office shed of 12' in height at its highest point (item 10)
3. Lattice on the northern fence shared with 1344 Ordway Street (item 3)

Two copies of a site diagram of the planned work are enclosed and we will post a pre-application poster outlining the same on our front yard by December 4th.

The city requires us to notify all neighbors with whom we share a property boundary. We would appreciate it if you could sign and date one of the copies of the site diagram, print your name and address, and return it to us in the envelope provided at your convenience. Your signature on this diagram only indicates your receipt of this letter, not your approval of the project described. If you approve of the project, please check the column headed "Have no objections".

If you have any questions, please do not hesitate to contact us via email (jenniedurant@gmail.com) or regular mail at 1346 Ordway Street, Berkeley, CA 94702.

Kindly,

The image shows two handwritten signatures in black ink. The first signature on the left is 'Jennie D' with a stylized flourish. The second signature on the right is 'Keki Burjorjee' with a similar flourish.

Jennie Durant and Keki Burjorjee

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

Dear Nilu Karimzadegan and Greg Powell,

Enclosed are the following updates to our AUP application. All changes and corrections are clouded and accompanied by a number as requested.

1. **Neighbor Pre-Application Contact:** We have re-notified all our adjoining neighbors (including 1343 Peralta Ave) with an updated site plan reflecting all items included in this AUP. Please see the photocopies of the certified mail plus the sample letter we have included.
2. **Tabulation form:** Provided
3. **Site plan:** We have produced a formal site plan to address all comments in your 10/5/2018 letter:
 - a. All existing and required setbacks are noted
 - b. All neighboring buildings within 20' are included
 - c. Proposed parking space is TBD
 - i. Please note the electrical panel on the side yard (**item 9**), and the side yard width of 7'2" at its narrowest
 - ii. Because our garage was removed prior to taking ownership, we are requesting a parking waiver per Berkeley Municipal Code Section 23D.48.090, ordinance # 7426-N.S.¹
 1. See item #5 in the section "Additional Items" below for details
 - d. The existing trellis and distance to property lines are included (**item 35 & 27**)
 - e. The tree trunk and crown diameters are included (**Item 39**)
4. **Accessory Structure Building:**
 - a. Shed (**item 10**): dimensioned floor plans, elevations and photos (from inside and outside) have been included.
 - b. Trellis/Arbor (**item 9**): We have provided photos, dimensioned plans and elevations in the site plan. To avoid confusion, we have renamed the 'trellis' listed under 4, B to 'Arbor' on the site plan, so as to not be confused with the trellis/lattice on the fences.
5. Additional photos: We have provided additional photos of the fence on the north and east property lines
6. Additional comment: We address the removal of the 9x16 garage in our letter (**Point 1 below**), but in short, this was removed due to safety concerns before we purchased the house. We have included a letter from the listing agent and our real estate agent that confirms that the shed was removed by the listing agency and the family trust that previously owned the property. We do not believe that we should have to pay fees for the removal of the shed/garage since it was removed before we owned the property.

¹ <https://www.codepublishing.com/CA/Berkeley/?Berkeley23D/Berkeley23D48/Berkeley23D48090.html&?f>

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The section labeled “Additional items” offers further explanation on these points.

ADDITIONAL ITEMS:

City comment #6: No previous permit for previous garage removal

Owner response: We have included a letter from the listing agent outlining why they removed the shed/garage. For safety reasons, the shed/garage was removed by the former owner prior to Durant/Burjorjee assumption of ownership at close of escrow on 11/9/15.

We have also included photos from the 2015 listing (Figure 1) that indicate how the garage had been overtaken by a tree which grew within the garage. In addition, the garage was full of abandoned old appliances (Figure 1 and 3) and at least one feral bee hive. The garage was unsafe for the future occupants and had little if no utility.

We are unable to conceive of a scenario where the shed/garage would have previously been used as a garage. Not only was it dilapidated and structurally unsound, there was a white tool shed located (See Figure 2) in front of the shed/garage which would have also prevented vehicular access to the backyard.



Figure 1: Items removed from the shed



Figure 2: The tool shed and garage (the red structure). The garage was dilapidated, full of junk appliances, and had been overtaken by a tree full of feral bees.

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Figure 3: Items within the garage during removal

City comment #3-C: Depict the proposed parking space on site plan

Owner response: We are unable to envision the side yard able to accommodate a parking spot or a driveway, and so we are uncertain where to place the parking space, besides in the front. The side yard measures 7'-2" at its narrowest point and it would be impossible for a vehicle to pass through such a tight opening. In addition, the home's electrical panel is located on the southern side yard and it would present a hazard to have vehicles passing so closely to an active electrical panel. Accessing a parking space in the rear yard would likely require the removal of an existing fence and landscaping along with an easement from our neighbor, Larry Hickman, as our side yard does not have enough room to maneuver a car to the rear of the property. This would be a hardship for our family and an easement seems impossible given the nature of our relationship. We also believe that use of the side yard as a driveway or parking stall would not meet the 10 foot spacing from doors & windows requirement as outlined in BMC 23D.12.080.C.

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When we closed on the property in November 2015, the garage had not been in use, and likely was not for decades. We do not know when the fence was installed. However, you can see in Figure 4, taken in 2011 and in Figure 5, a listing photo from 2015 that there is a walkway along the side of the house, and the area out front served as a parking spot.



Figure 4: Side yard in 2011



Figure 5: Side yard in 2015 listing photo

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Given these conditions (the width of the side yard and the location of the electrical panel), we would like to apply for a parking waiver. Berkeley Municipal Code Section 23D.36.090 states the following:

C. To approve a parking waiver the Zoning Officer or Board must find that additional or new on-site parking would be detrimental, and that the existing parking supply in the immediate neighborhood is adequate, or that other mitigating conditions are present and apply to the property (p. 16)²

We believe that creating new on-site parking in the back yard would be detrimental to the property and is “not financially feasible or practical” (Ord. 7167-NS § 2, 2011: Ord. 6856-NS § 7 (part), 2005). Trying to create an unsafe driveway in a narrow side yard is not practical, given where the electric panel is currently located. Our street has plenty of on-street parking at all times during the day and we feel that a parking waiver is warranted for this unique situation.

City comment # 3-D: Include the existing trellis (lattice) and its distance to property lines

Owner response: We have included this on the site plan. In addition, we have included a letter from our neighbor, Tamar Gershon, with whom we collaborated to develop a mutually agreeable design for the 36” lattice on top of the northern fence. This new 36” lattice (Figure 9) was installed to replace a portion of an existing lattice that was degraded and overcome with vines. This fence had featured a lattice prior to our purchasing of the home in 2015 – we’ve provided photographs below to exhibit the current lattice (Figure 6 and 8) and original lattice shortly before purchase (Figure 7).



Figure 6: North fence with 24" lattice (2018)

² [https://www.cityofberkeley.info/uploadedFiles/Planning_\(new_site_map_walk-through\)/Level_3_-_General/2011-09-27_SSP_OTHER%20ZONING%20ORD_FINAL_Att%206\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_(new_site_map_walk-through)/Level_3_-_General/2011-09-27_SSP_OTHER%20ZONING%20ORD_FINAL_Att%206(1).pdf)

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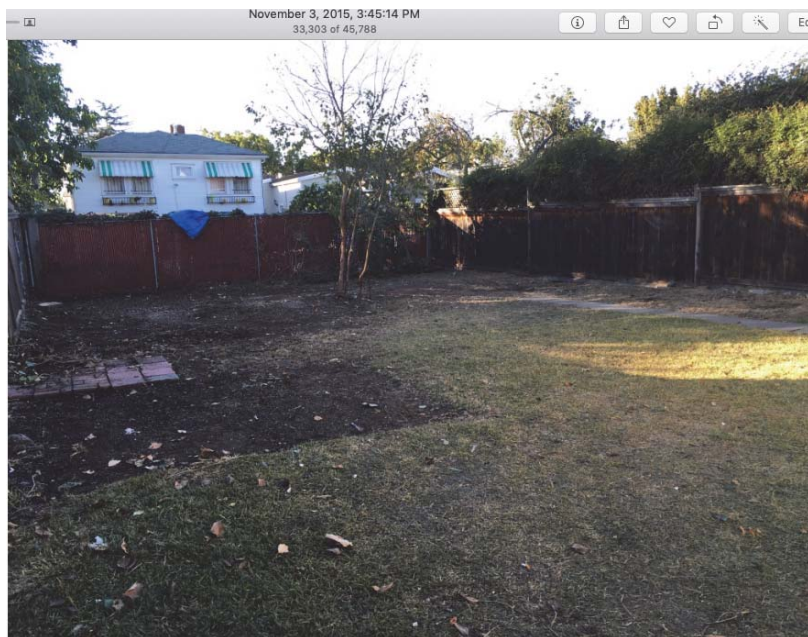


Figure 7: North fence prior to purchase--note existing lattice



Figure 8: North fence 36" lattice

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City comment #4-B Please provide dimensioned plans, elevations and photos of the Trellis (Arbor)

Owner response: We have included all of these in our site plan, labeled as “arbor” to avoid confusion with existing and proposed trellis/lattice. Please note the unpainted wall in the original listing photos of the house (Figure 9). We have made numerous updates to the backyard to increase our enjoyment of the yard and the home’s value. The wall continued to remain an eyesore, so we put an arbor up to reduce the visual impact of this garage that abuts our property line (Figure 10). We specifically built the arbor at the wall’s height, so our neighbor could access the entire wall for maintenance purposes. We do not understand the nature of his complaint as it does not block his ability to maintain his garage nor does it block any view from his property (which is currently vacant).



Figure 9: Garage wall on left



Figure 10: Garage wall behind arbor

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RESPONSE TO NEIGHBOR COMPLAINT (Lawrence Hickman) about AUP application:

Our neighbor’s property (1333 Hopkins St) is largely vacant and generally neglected. Our neighbor, Larry Hickman, has been adversarial and has refused to work through this conflict with us. **We do not feel safe in his presence and do not want him to have any visual contact with our daughter** (his property looks directly into our daughter’s window if there is no visual barrier). In addition, we do not trust him; he agreed to a solution with us in the past and then back pedaled on it. As such, we have been unable to find a mutually agreeable solution directly with Mr. Hickman. We are not alone in our concerns—other neighbors have expressed that they feel uncomfortable or unsafe around him as well and make deliberate efforts to avoid all contact with him.

Figures 11-13 show the existing trees on the south fence. Note the efforts we have made to keep the trees trimmed to a reasonable height and that they do not extend onto our neighbor’s property.



Figure 11: South fence with trees from back yard



Figure 12: South fence with trees from front yard

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Figure 13: South fence from sidewalk

Below is our account of the encounter Mr. Hickman mentions in his complaint against our AUP (written by Jennie Durant):

We put in the trees and wanted to put in the lattice because we were concerned for our family's privacy and particularly my and our young daughter's safety. The unit is largely vacant; **we have seen homeless people sleeping on the Mr. Hickman's porch on numerous occasions.** In addition, it is frequently unlit and empty, and anyone could jump over our shared fence and into our yard. We would like to have both the lattice and the trees to help us feel safe.

In the following photos (Fig. 14-21), you can see that the property is not currently well-maintained, with broken blinds and cardboard in the front (Figure 16). There are numerous cars parked there (Figure 14), despite the fact that there are no regular occupants. The front door, for example, has been unfinished since at least 2015 as evidenced in Figure 21, and remains unfinished as evidenced in Figure 18.

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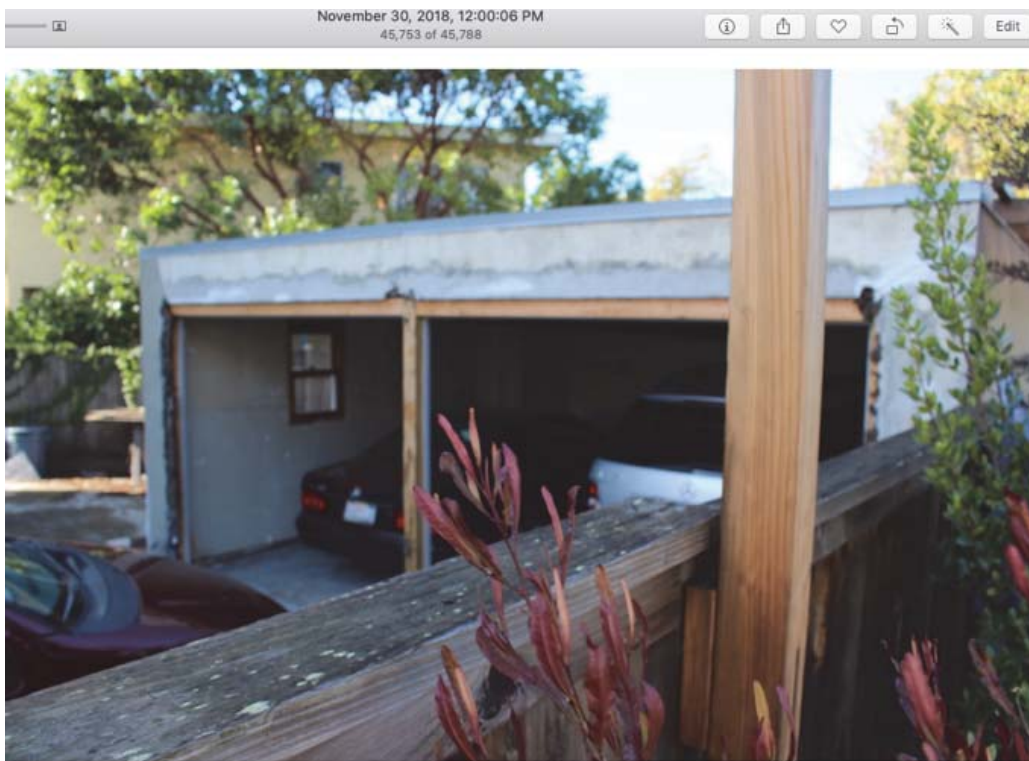


Figure 14: View of garage from south fence



Figure 15: Front of neighbor's house--note covered windows and unfinished door

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Figure 16: View of neighbor's backyard (1333 Hopkins Street) from south fence



Figure 17: View of neighbor's house (1333 Hopkins St) from south fence

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Figure 18: Unfinished front door, Nov. 2018



Figure 19: Neighbor's yard adjacent to our property.
Note the planted tree.

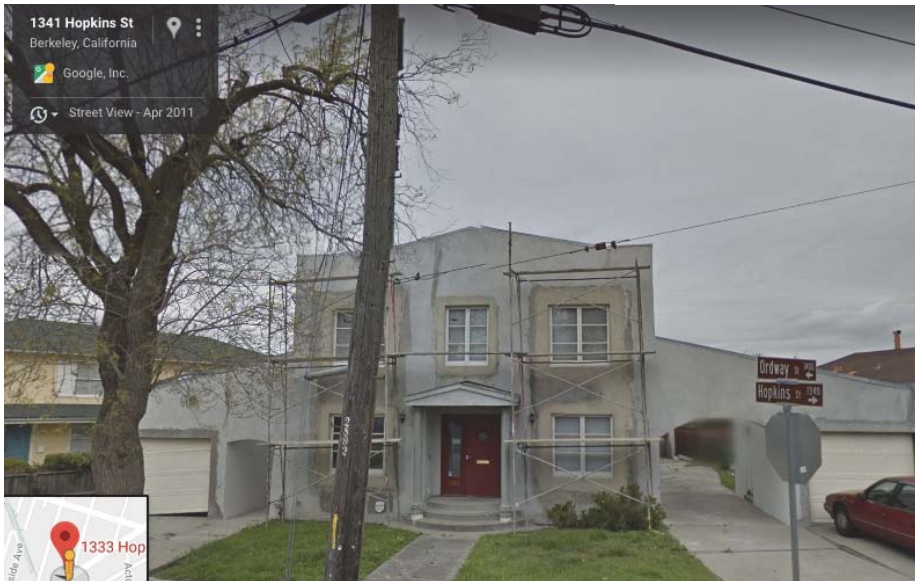


Figure 20: Repairs on 1333 Hopkins Street in 2011

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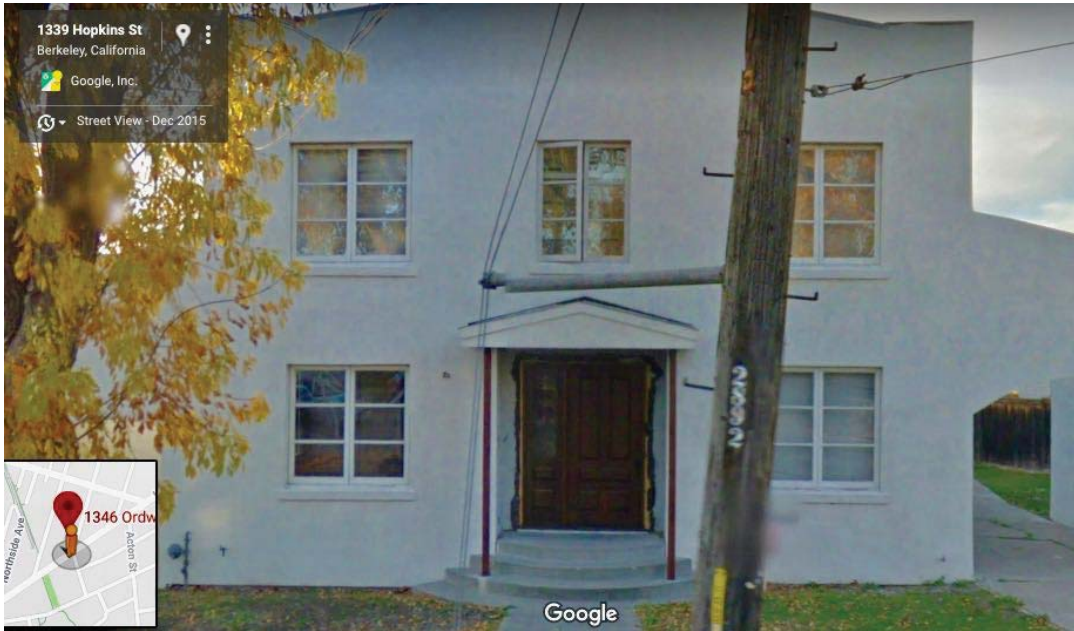


Figure 21: 1339 Hopkins St in 2015--note covered windows and unfinished door (same as one in Figure 18)



Figure 22: 1333 Hopkins St. in Jan 2015

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jenniedurant@gmail.com

We understand that it has been vacant and in this same condition for at least 10 years. I have included a photo from a Google street view of 2011 (Figure 20) where you can see that the house was under repair, and again in January 2015 before we purchased the property (Fig. 22), where you can see that the windows are unfinished and unpainted. The windows facing our property are still unfinished and unattractive.

Figures 14-19 further demonstrate the current state of the property. Note the holes in the walls with exposed wires in several photos of the back of the unit (Fig 16 and 17), the unfinished windows facing our property, etc. **Also, there is a back porch which I have photographed where we have seen homeless people sleeping in the past**, as mentioned earlier. Note the garage, which is also unfinished (Fig. 14) and the multiple cars parked there. These cars are directly adjacent to our bedroom windows.

The building at 1333 Hopkins is vacant, with the exception of one unit that the owner occasionally visits as well as several other people who never speak to us (often a woman with whom he gets into yelling matches with. I documented one such fight on). They have made no attempt to be neighborly, even before this conflict arose. Often, cars drive into the driveway late at night with lights and conversations that can wake us up and our daughter.

As such, we wanted a visual barrier between our properties. We tried discussing this some time ago with Mr. Hickman and he said that he would plant a tree in front of the window on his side of the property. He did (see Fig 19). It was planted approx. 2 years ago, and he has not made an effort to see this tree grow and thrive. We wanted more of a visual barrier, so we planted the silver sheen trees on our property in 2017. We were unaware that this configuration would be considered a fence/hedge. At some point, Mr. Hickman said he liked our trees and we interpreted Mr. Hickman's comments to mean that we finally had a mutually agreeable solution. I had also discussed with Mr. Hickman the idea of putting up a few lattice panels atop the fence to give both parties extra privacy. He said as long as the lattices were on our property (and not on the fence itself), we could do what we wanted. So, we started to put in posts to put in panels in front of the windows, such that the posts would be adjacent to the fence but not on the fence itself. Then he came over and complained and said that he would report us to the city.

He has repeatedly said to us: How much privacy do you need? Why do you need so much privacy? This comment makes us feel uncomfortable, as if he wants to have a direct view into our home.

My husband tried to discuss this matter with Mr. Hickman in 2018 after we found out he had reported us to the city. He refused to have a conversation or come to a compromise. We decided to get a permit then. We didn't know we needed it until we were cited, since we see lattice everywhere on many people's homes and had it on the north fence when we moved in.

Jennie Durant and Keki Burjorjee

1346 Ordway Street

Berkeley, CA 94702

916-220-9806

jenniedurant@gmail.com

However, we were delayed in submitting the permit because of a family situation that took up a lot of our time.

Mr. Hickman's complaint is frustrating, since 1333 Hopkins Street does not seem to be Mr. Hickman's or anyone's primary residence. The house is always vacant and dark, with one unit on the south side occasionally in use. We feel frustrated that he neglects his property, is rarely there, and yet is taking issue with our decision to have a visual and safety barrier on our property **Again, this neighboring property is largely used to store cars and other items, but no one appears to be living there.**

We mention this because it feels egregious to have him complain about our property despite the appearance of his. Since becoming owners of our property, we have invested significant money and labor to improve the neighborhood and our property. To the contrary, Mr. Hickman's property has remained unkempt and objectively less attractive than our property. **Given this set of conditions, we hope the city will approve our AUP for the trees along the southern fence (for a visual barrier) and for the lattice (for a visual and safety barrier).**

IN CONCLUSION

Finally, we want to highlight the numerous efforts we have made to make our house attractive, to make it more environmentally conscious by xeriscaping the front and back yard, planting trees to increase privacy for our neighbors, and by installing an office shed (that is under 120 sq feet). We have included a note from our real estate agent (Priscilla Rice) who saw the home when it was purchased and has since seen our improvements. We have also included a note from our adjacent neighbor on Ordway 1344 about our good relationship with her and communication about building projects that would affect her. As you can see, she feels the maintenance we have done has improved the value of her home and improved the view of our yard from the back of her home. **You can see the difference in our yard in the before and after photo at the bottom of this letter.**

We have worked hard to be good neighbors and help maintain Berkeley's reputation as a nice place to live and raise a family. We feel that the other party has not made an effort to maintain his property and it seems unfair to have our family be bullied by the other party, who lacks the pride of ownership that we possess.

In closing, we hope you can see that we have done our best to be neighborly, to increase the beauty and value of our property, and have also tried to give ourselves a visual and safety barrier from our neighbor, whose property is largely empty and not well maintained. We hope the city will see that parking in front or on-street parking/parking waiver is the sensible path forward and help us find a solution to do so.

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702
916-220-9806
jenniedurant@gmail.com

Thank you very much,

Jennie Durant and Keki Burjorjee



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Certified Mail Fee	\$
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<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: Neighbor
Street and Apt. No., or PO Box No.: 1327 Hopkins St.
City, State, ZIP+4®: Berkeley CA 94702

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7016 0750 0000 7225 7126
\$0.00⁰
US POSTAGE
12/5/2018
071S01112048
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Certified Mail Fee	\$
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<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: Neighbor
Street and Apt. No., or PO Box No.: 1337 Peralta Ave
City, State, ZIP+4®: Berkeley CA 94702

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7016 0750 0000 7225 7126
\$0.00⁰
US POSTAGE
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Certified Mail Fee	\$
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<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
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Postage	\$
Total Postage and Fees	\$

Sent To: Neighbor
Street and Apt. No., or PO Box No.: 1341 Peralta Ave
City, State, ZIP+4®: Berkeley CA 94702

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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\$0.00⁰
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Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
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<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: Neighbor
Street and Apt. No., or PO Box No.: 1343 Peralta Ave
City, State, ZIP+4®: Berkeley CA 94702

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7016 0750 0000 7225 7096
\$0.00⁰
US POSTAGE
12/5/2018
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OFFICIAL

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
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<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: Larry Hickman
Street and Apt. No., or PO Box No.: 1333 Hopkins St
City, State, ZIP+4®: Berkeley CA 94702

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7016 0750 0000 7225 7133
\$0.00⁰
US POSTAGE
12/5/2018
071S01112048
94707

Nov. 30, 2018

Dear Neighbor,

Here is a site plan of our proposed and existing work for which we are seeking an Authorized Use Permit from the city. The major items are:

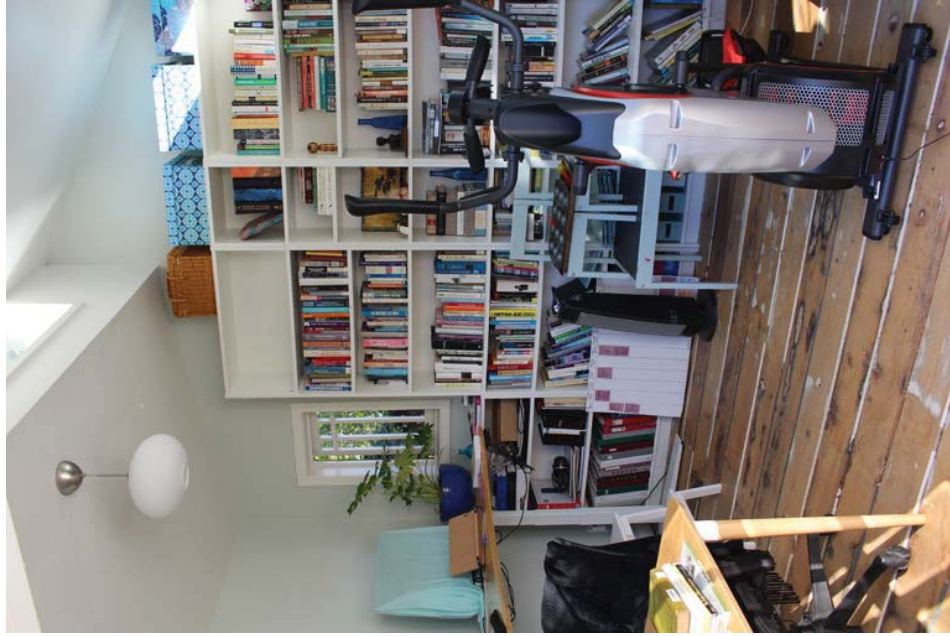
1. An **existing** 8' 8" tall x 20' wide arbor adjacent to our neighbor's garage (1333 Hopkins Street)—*Item 9 on the drawing*
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3. A **proposed** 24" lattice along our south fence (shared with 1333 Hopkins Street)—*Item 26*
4. An **existing** row of 15 silver sheen trees of maximum 14' in height along our southern fence (shared with 1333 Hopkins St)—*Item 14*
5. An **existing** shed of under 120 sq. feet and 12 feet in height—*Item 10*

Please fill out the bottom of this paper and return in the enclosed SASE at your convenience. Thank you!

Jennie Durant and Keki Burjorjee

Name (printed)	TAMAR GERSTON
Signature	Tamar Gerston
Address	1344 ORDWAY ST
Renter or Owner?	Owner
Date	12/4/18
Have no objections	<input checked="" type="checkbox"/> No objections
Have Objections (please state briefly)	

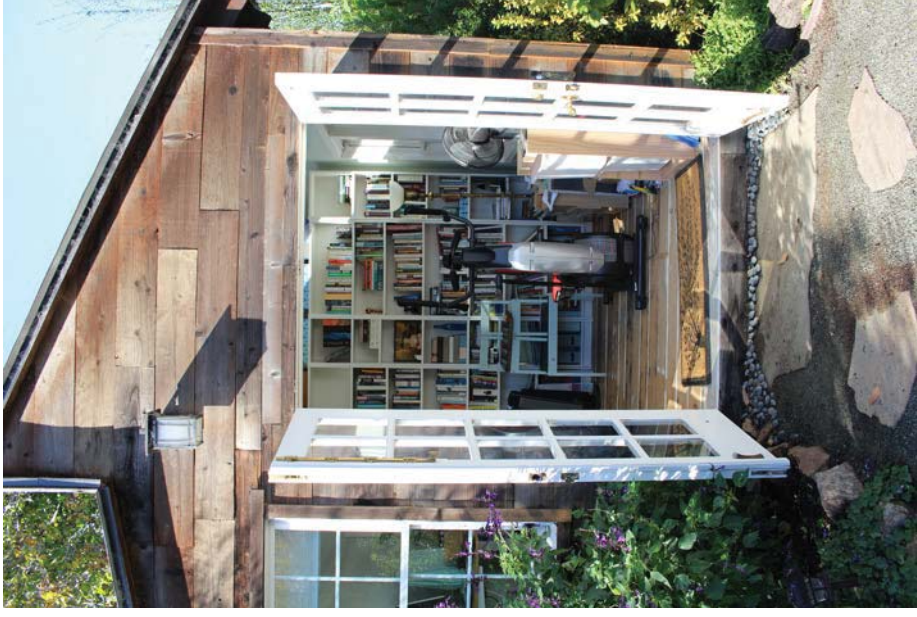
Exterior of shed (photos on right) and interior of shed (left) — 1346
Ordway St.



Interior photos of office shed (south wall on left and north wall on right)—1346 Ordway St.



Exterior photos of shed interior--1346 Ordway St.



Photos of arbor on south wall-- 1346 Ordway Street



Photos of east fence—1346 Ordway Street



TRADE
CRAFT

TRADECRAFT
2500 W. 10TH AVENUE, SUITE 100
DENVER, CO 80202
PHONE: (303) 733-1000
WWW.TRADECRAFT.COM

PROJECT: 1346 ORDWAY
DATE: 11/18/18

OWNER: John Doe
ADDRESS: 1346 ORDWAY
CITY: DENVER, CO 80000

PERMIT: 13181818

DATE: 11/18/18

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

DATE: 11/18/18

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

DATE: 11/18/18

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

SEBACK LINE

PROPERTY LINE

HIDDEN LINE

LINE LEGEND

12

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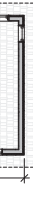
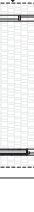
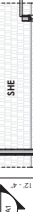
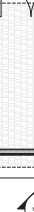
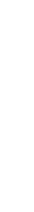
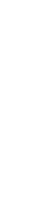
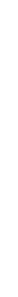
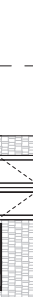
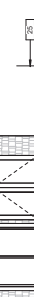
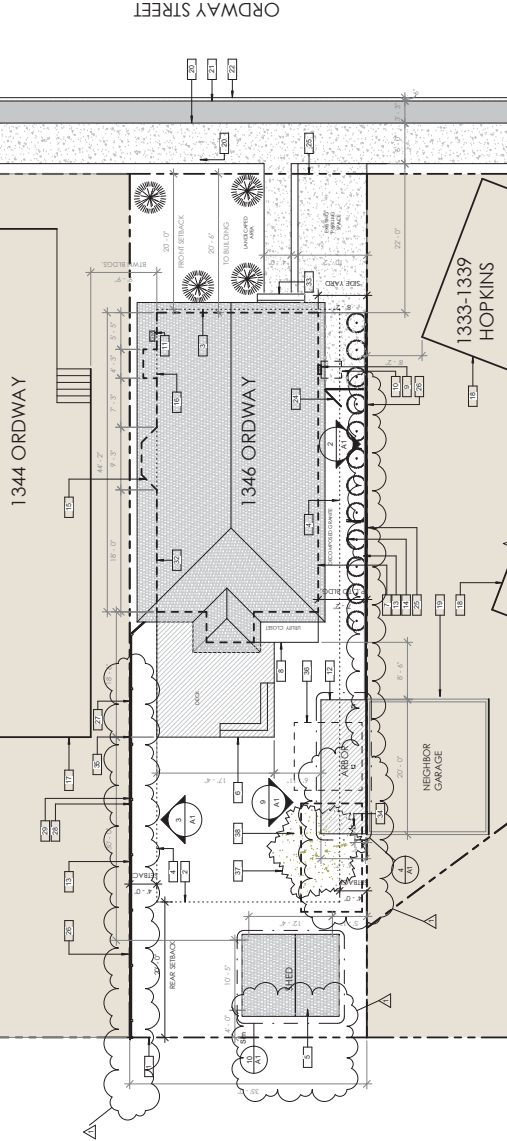
KEY VALUE

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Nov. 30, 2018

Dear Neighbor,

Here is a site plan of our proposed and existing work for which we are seeking an Authorized Use Permit from the city. The major items are:

1. An **existing** 8' 8" tall x 20' wide arbor adjacent to our neighbor's garage (1333 Hopkins Street)—*Item 9 on the drawing*
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5. An **existing** shed of under 120 sq. feet and 12 feet in height—*Item 10*

Please fill out the bottom of this paper and return in the enclosed SASE at your convenience. Thank you!

Jennie Durant and Keki Burjorjee

Name (printed)	
Signature	
Address	
Renter or Owner?	
Date	
Have no objections	
Have Objections (please state briefly)	



PLANNING & DEVELOPMENT

Land Use Planning, 1947 Center Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.6903 Fax: 510.981.7420 Email: Planning@CityofBerkeley.info

TABULATION FORM

Project Address: 1346 Ordway Street Date: 12/03/2018
 Applicant's Name: Jennie Durant and Keki Burjorjee
 Zoning District R-1A

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/ Required</i>
Units, Parking Spaces & Bedrooms			
Number of Dwelling Units (#)	1	0	1
Number of Parking Spaces (#)	1	0	1
Number of Bedrooms (#) (R-1, R-1A, R-2, R-2A, and R-3 only)	2	N/A	2
Yards and Height			
Front Yard Setback (Feet)	20'-6"	N/A	20'-0"
Side Yard Setbacks: (facing property)			
Left: (Feet)	7'-2"	N/A	4'-0"
Right: (Feet)	4'-0"	N/A	4'-0"
Rear Yard Setback (Feet)	58'-4"	N/A	20'-0"
Building Height* (# Stories)	1	0	3
Average* (Feet)	< 28 FT	N/A	28 FT
Maximum* (Feet)	< 35 FT	N/A	35 FT
Areas			
Lot Area (Square-Feet)	~4,462 SF	0	> 5,000 SF
Gross Floor Area* (Square-Feet) Total Area Covered by All Floors	~993 SF	0	Existing Structure Complies
Building Footprint* (Square-Feet) Total of All Structures	~1,110 SF	0	1,784 SF
Lot Coverage* (%) (Footprint/Lot Area)	~24.87%	~24.87%	< 45%
Useable Open Space* (Square-Feet)	~3,309 SF	~3,309 SF	> 400 SF
Floor Area Ratio* Non-Residential only (Except ES-R)	N/A	N/A	N/A

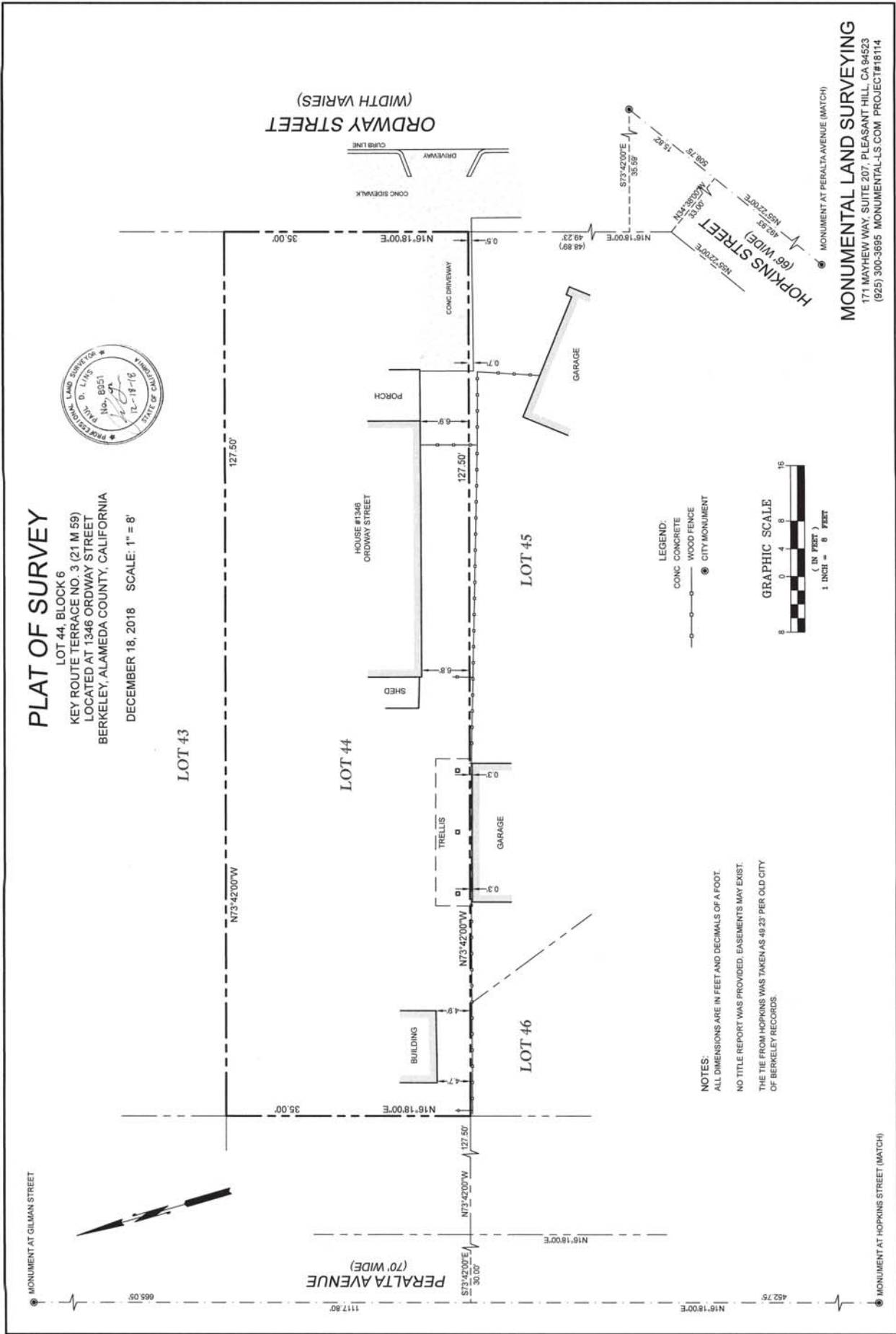
*See Definitions – Zoning Ordinance Title 23F.

Revised: 05/15

PLAT OF SURVEY

LOT 44, BLOCK 6
KEY ROUTE TERRACE NO. 3 (21 M 59)
LOCATED AT 1346 ORDMAN STREET
BERKELEY, ALAMEDA COUNTY, CALIFORNIA

DECEMBER 18, 2018 SCALE: 1" = 8'



MONUMENTAL LAND SURVEYING
171 MAYHEW WAY, SUITE 207, PLEASANT HILL, CA 94523
(925) 300-3895 MONUMENTAL-LS.COM PROJECT#18114



Planning and Development Department
Land Use Planning Division

February 8, 2019

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702

Sent via email:
jenniedurant@gmail.com

Re: Administrative Use Permit #ZP2018-0174 for 1346 Ordway Street

Dear Jennie,

This letter is in response to the resubmittal of revised application materials, submitted on January 09, 2019. To complete this application, please respond to the following:

- 1) Additional AUPs & Fees: At the time of project submittal, fees were assessed as \$970 for one Tier 3 AUP to construct an accessory structure over 6' within required setbacks. However, because the application is a result of a Notice of Violation and it also includes an unpermitted accessory building and an unpermitted trellis, additional AUPs will apply to the project resulting in a fee increase. We will issue an additional invoice upon the receipt of additional information (requested below).
- 2) Survey:
 - A. Provide dimensions from the main dwelling and the front porch to the front and side property lines.
 - B. Provide the width of driveway on the front property line.
 - C. Include the accessory building's dimensions on the survey and exhibit the distance from its eave to the rear and side property lines.
- 3) Site Plan:
 - A. Accessory building: Please revise the accessory building's name to read as "Accessory Habitable Space" and not a "Shed" on Site Plan. Additionally, include the average and maximum height on the elevation.
 - B. Trellis: include trellis's coverage in the overall lot coverage on Tabulation Form.
 - C. Exhibit the front porch and its dimensions.
 - D. Include the shed (and its dimensions) that is shown on survey and is attached to the rear of the dwelling.

- E. Provide the dimension from the main dwelling and the front porch to the front property line and not to a point in the Public Right of Way.
- F. Show the sidewalk and its width on Site Plan (See attached map)
- 4) Tabulation Form: Please see the attached document for definitions and examples of Lot Coverage and Usable Open Space and revise the numbers on the Tabulation Form accordingly.
- 5) Number of Bedrooms: Please provide the floor plan of the main dwelling (dimensioned) that verifies the number of bedrooms included on this parcel.

Berkeley Municipal Code Section 13.42.020B defines a "Bedroom" as:

"Bedroom means any Habitable Space in a Dwelling Unit or habitable Accessory Structure other than a kitchen or living room that is intended for or capable of being used for sleeping with a door that closes the room off from other common space such as living and kitchen areas that is at least 70 square feet in area, exclusive of closets and other appurtenant space, and meets Building Code standards for egress, light and ventilation. A room identified as a den, library, study, loft, dining room, or other extra room that satisfies this definition will be considered a bedroom for the purposes of applying this requirement."

According to Berkeley Municipal Code Section 23D.28.050 A (Special Provisions: Addition of Bedrooms to Parcels), for the addition of a fifth bedroom to a parcel, an Administrative Use Permit (AUP) shall be required. For the addition of any bedroom beyond the fifth, a Use Permit with Public Hearing (UPPH) shall be required.

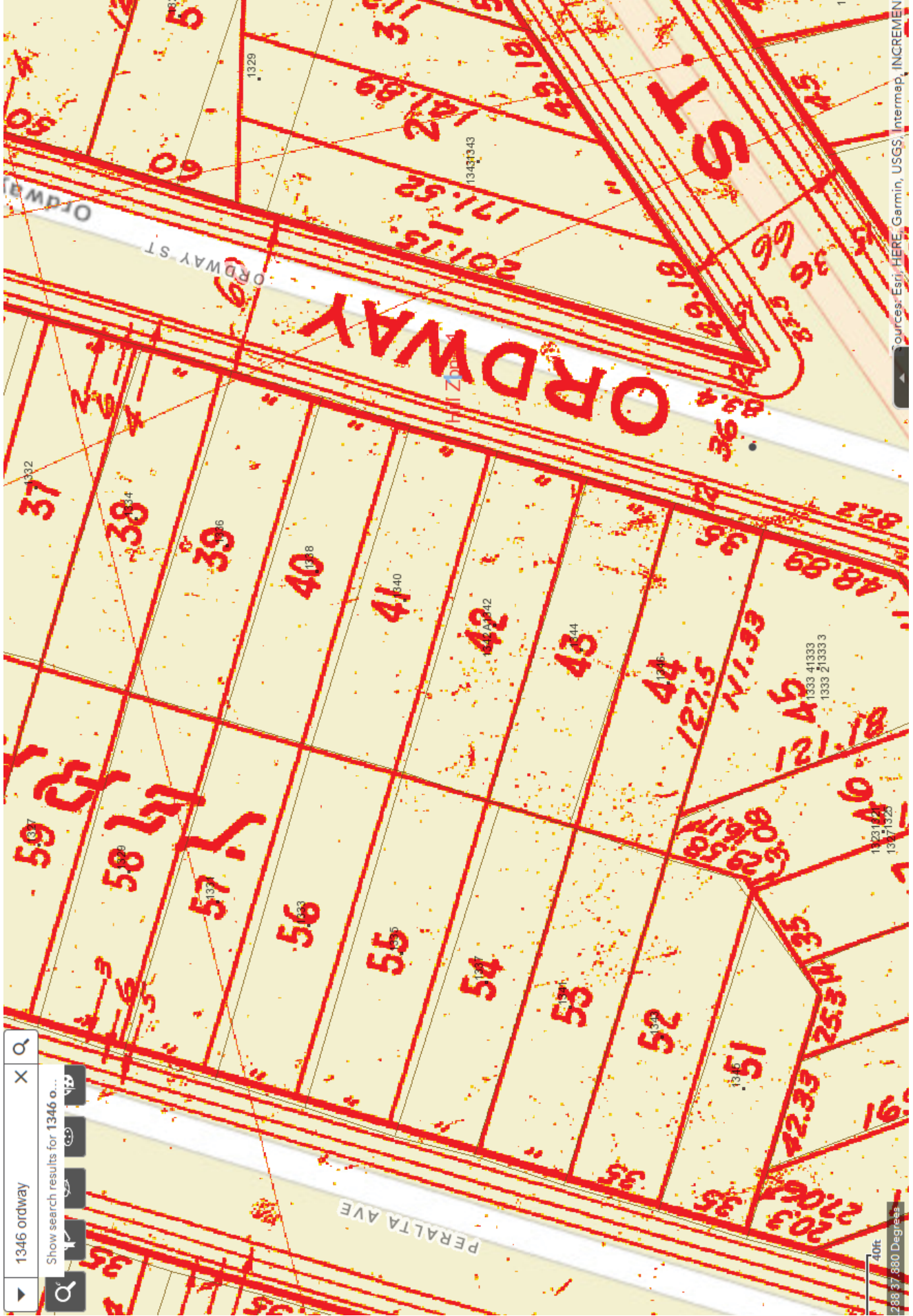
- 6) Additional comment: Please note that all owners of the subject property will need to sign and record with the Alameda County Clerk-Recorder a "Notice of Limitation on Use of Property". This Notice of Limitation requires that no part of this Accessory Building be used or converted to use as a dwelling unit.

In your resubmittal, **include a cover letter stating how you have addressed the incomplete items. Any changes or corrections must be clouded, and accompanied by a number** to allow for easier identification. If new plans are submitted, please deliver two **(2) sets** of plans (at least one set to scale) and submit **both a paper and an electronic copy** of the resubmittals to the zoning counter during normal business hours (Monday thru Thursday 8:30 am – 4:00 pm). If you take no action to address the above items within 60 days, the application may be deemed withdrawn and returned to you. Please contact me if you have any questions at (510) 981-7419.

Sincerely,



Nilu Karimzadegan, Planning Technician
CC: Greg Powell, Principal Planner



23D.04.040 Lot Coverage

A. The calculation of area for lot coverage shall exclude uncovered decks, porches, landings and stairs, except that any deck on the roof of a building or accessory structure or over an enclosed space or paved ground area shall be included in such calculation.

B. The area of the roof of a subterranean structure, when such a structure is not more than three feet above finish grade, shall be excluded from the calculation of area for lot coverage.

C. Solar energy equipment in compliance with this chapter may exceed the maximum coverage area limit.

D. Wheelchair ramps and lifts in compliance with this chapter may exceed the maximum coverage area limit. (Ord. 6478-NS § 4 (part), 1999)

23F.04.010 Definitions/Coverage Area: All the area of a lot, as projected on a horizontal plane, which is enclosed by the exterior walls of buildings or enclosed Accessory Structures; or covered by decks, porches, stairs and/or landings which cover an enclosed space or paved ground area. Also see Section [23D.04.040](#).

23D.04.050 Usable Open Space

The area of each lot which is reserved for Usable Open Space purposes shall be for active or passive recreation use and shall be accessible to the occupants of the building, unless otherwise specified in individual District standards. In addition, such areas shall satisfy the following conditions.

A. No area shall qualify as usable open space unless it has a minimum width and length of ten feet, except that no balcony area may be used to satisfy a usable open space requirement unless it has a minimum width and length of six feet and has at least one exterior side open and unobstructed except for required railings.

B. No more than 50% of the total usable open space required may be satisfied by balconies.

C. An area which is accessible and/or usable only by the occupants of a particular dwelling unit shall be used to satisfy the usable open space area requirements of only that particular dwelling unit.

D. Except in the case of balconies, usable open space shall be at least 75% open to the sky.

E. No area which exceeds 8% grade shall qualify as usable open space.

F. At least 40% of the total area required as usable open space, exclusive of balconies above the first floor, shall be a landscaped area. For multiple dwelling uses, such landscaped areas shall incorporate automatic irrigation and drainage facilities adequate to assure healthy growing conditions for plants.

G. Any usable open space which is not planted shall be developed to encourage outdoor active or passive recreational use and shall include such elements as decks, sports courts, outdoor seating, decorative paved areas and walkways which do not serve as entrance walkways.

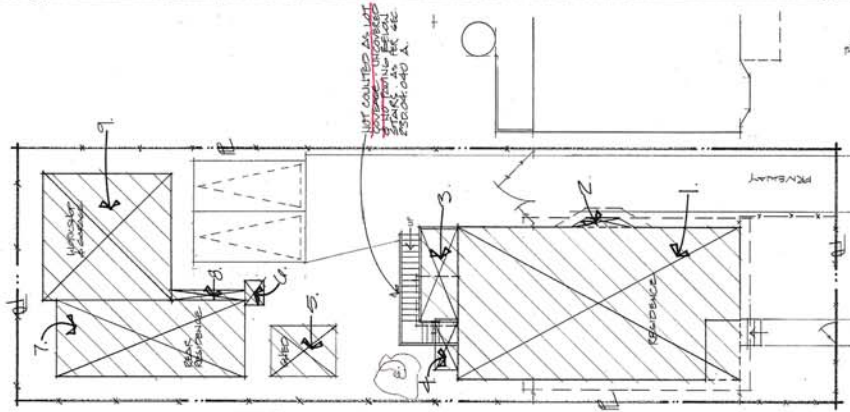
H. Areas of the lot which do not qualify as usable open space and which are not designated as driveways, off-street parking spaces or required walkways, shall be retained as landscaped areas.

I. No area designated for off-street parking and loading areas, service areas, driveways, required walkways or portions thereof or any features that are used for required access to dwelling units, shall be counted as satisfying any usable open space area requirement. (Ord. 6478-NS § 4 (part), 1999)

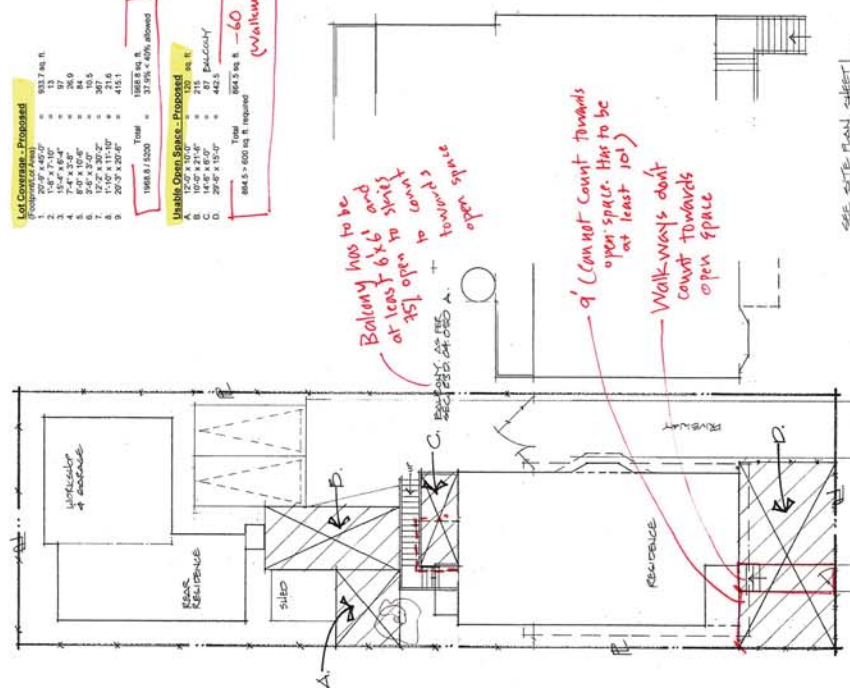
Lot Coverage

Open Space

Lot Coverage - Proposed	
1	131.7 sq. ft.
2	148.7 sq. ft.
3	34.0 sq. ft.
4	84.0 sq. ft.
5	84.0 sq. ft.
6	17.2 sq. ft.
7	17.2 sq. ft.
8	11.0 sq. ft.
9	11.0 sq. ft.
10	11.0 sq. ft.
11	11.0 sq. ft.
12	11.0 sq. ft.
13	11.0 sq. ft.
14	11.0 sq. ft.
15	11.0 sq. ft.
16	11.0 sq. ft.
17	11.0 sq. ft.
18	11.0 sq. ft.
19	11.0 sq. ft.
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72	11.0 sq. ft.
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74	11.0 sq. ft.
75	11.0 sq. ft.
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87	11.0 sq. ft.
88	11.0 sq. ft.
89	11.0 sq. ft.
90	11.0 sq. ft.
91	11.0 sq. ft.
92	11.0 sq. ft.
93	11.0 sq. ft.
94	11.0 sq. ft.
95	11.0 sq. ft.
96	11.0 sq. ft.
97	11.0 sq. ft.
98	11.0 sq. ft.
99	11.0 sq. ft.
100	11.0 sq. ft.



PROPOSED LOT COVERAGE
SITE PLAN 1/8"=1'-0"



PROPOSED OPEN SPACE
SITE PLAN 1/8"=1'-0"

RECALL BY

Architect

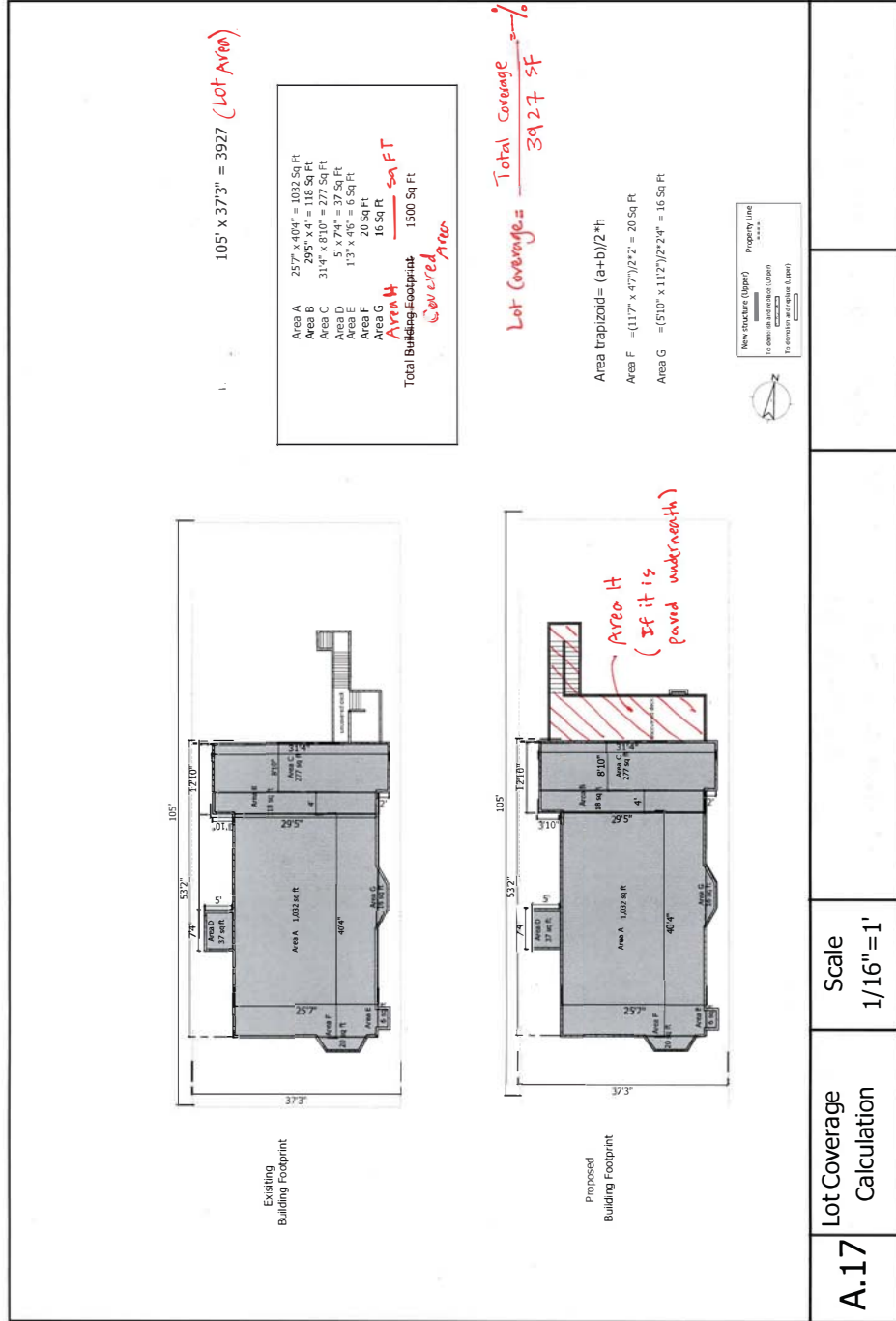
RESIDENTIAL REMODEL

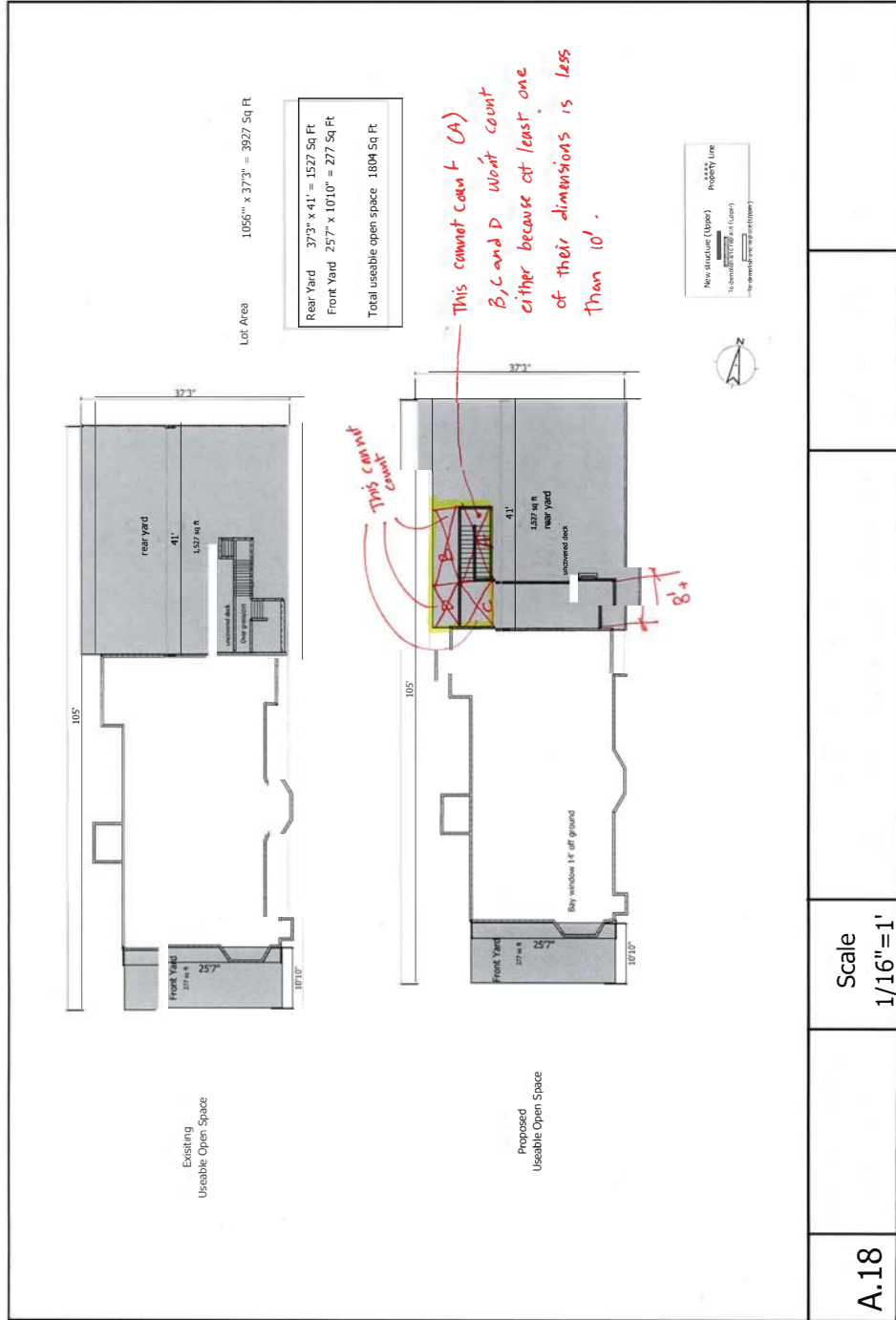
DATE: 11/17/17

SCALE: AS SHOWN

PROJECT: 17-0000

SHEET: 17-0000-01





Jennie Durant and Keki Burjorjee

1346 Ordway St.,
Berkeley, CA 94702

4/5/2019

Dear Ms. Karimzadegan,

Please find the following documents attached:

1) Land survey that

- Provides dimensions from the main dwelling and the front porch to the front and side property lines.
- Provides the width of driveway on the front property line.
- Includes the accessory building's dimensions and exhibit the distance from its eave to the rear and side property lines.

2) Site plan that

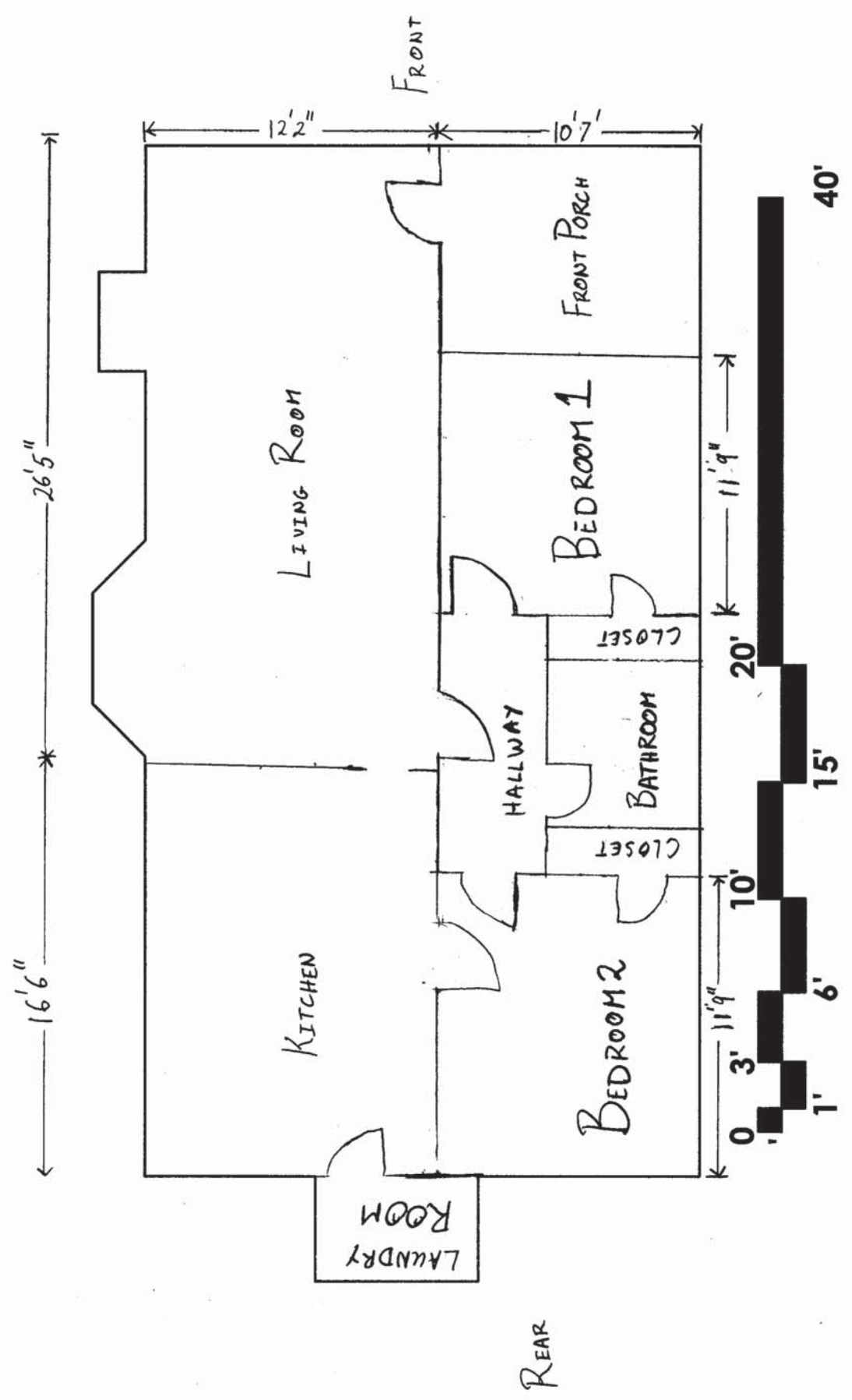
- Revises the accessory building's name to read as "Accessory Habitable Space" and not a "Shed" on Site Plan. Additionally, include the average and maximum height on the elevation.
- Includes trellis's coverage in the overall lot coverage on Tabulation Form.
- Exhibits the front porch and its dimensions.
- Include the shed (and its dimensions) that is shown on survey and is attached to the rear of the dwelling.
- Provides the dimension from the main dwelling and the front porch to the front property line and not to a point in the Public Right of Way.

3) Tabulation Form

4) Floor plan of the main dwelling (dimensioned) that verifies the number of bedrooms included on this parcel.

Kind Regards

Keki Burjorjee



TRADE CRAFT

TRADECRAFT
220 VILVA DRIVE, BERKELEY, CA
94704-1000
PH: 415.342.2200
WWW.TRADECRAFT.COM

PROJECT NUMBER: 18-009

PROJECT LOCATION: 1346 ORDWAY

DATE: 11/19/18

PERMIT NUMBER: 31519

PERMIT DATE: 11/19/18

PROJECT NAME: 1346 ORDWAY

SHEET NAME: SITE PLAN

SCALE: 1/8" = 1'-0"

DATE: 11/19/18

PROJECT NUMBER: 18-009

PROJECT LOCATION: 1346 ORDWAY

DATE: 11/19/18

PERMIT NUMBER: 31519

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PERMIT DATE: 11/19/18

SETRACK LINE

PROPERTY LINE

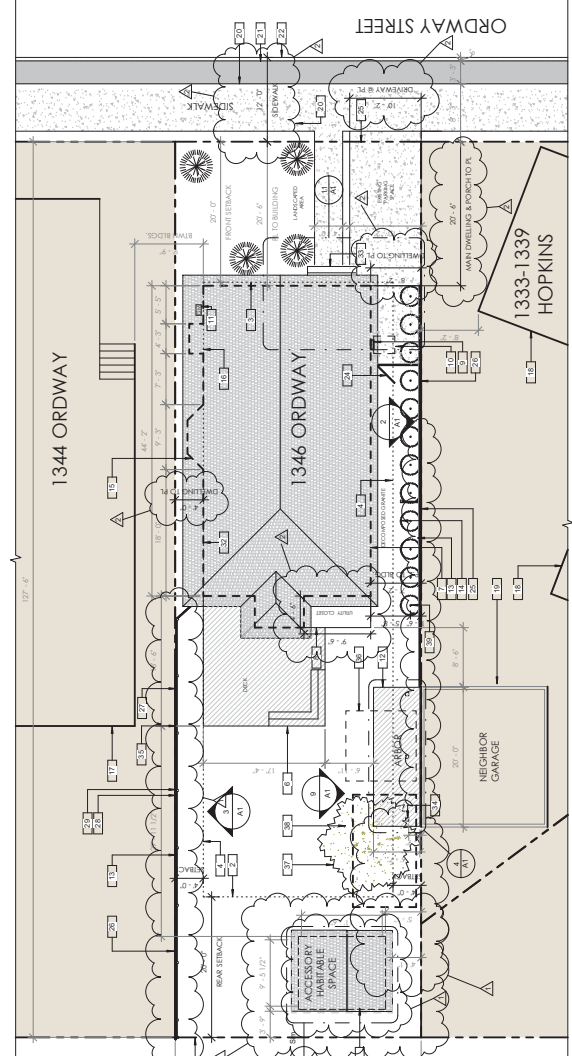
HIDDEN LINE

1/2" LINE LEGEND

1/8" = 1'-0"

KEY VALUE

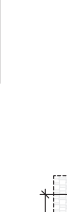
- 1 48" TALL BAMBOO FENCE @ REAR PROPERTY LINE
- 2 48" TALL BAMBOO FENCE @ FRONT PROPERTY LINE
- 3 FRONT SETBACK LINE
- 4 SIDE SETBACK LINE
- 5 SHED
- 6 REAR DECK
- 7 BLDG. FOOTPRINT BELOW
- 8 UTILITY CLOSET
- 9 PORCH
- 10 MAIN FLOOR
- 11 GAL. METER
- 12 ARBOR STRUCTURE
- 13 2'-0" TALL FENCE AT PROPERTY LINE
- 14 2'-0" TALL FENCE AT PROPERTY LINE
- 15 1/2" WIDE SIDEWALK
- 16 FREERACE
- 17 1344 ORDWAY RESIDENCE
- 18 1333-1339 HOPKINS STREET MAIN STRUCTURE
- 19 1333-1339 HOPKINS STREET GARAGE STRUCTURE
- 20 7'-0" WIDE SIDEWALK
- 21 2'-0" WIDE SIDEWALK
- 22 2'-0" WIDE SIDEWALK
- 23 2'-0" WIDE SIDEWALK
- 24 GATE
- 25 PROPERTY LINE
- 26 24" LATTICE ATOP OF FENCE
- 27 36" LATTICE ATOP OF FENCE
- 28 FENCE AND LATTICE PATTERNS ARE SHOWN CONCEPTUALLY. OWNERS MUST VERIFY WITH NEIGHBOR OF 1344 ORDWAY.
- 29 NEIGHBOR'S GARAGE STRUCTURE
- 30 NEIGHBOR'S GARAGE STRUCTURE
- 31 NEIGHBOR'S GARAGE STRUCTURE
- 32 BLDG. FOOTPRINTS AT SETBACK LINE
- 33 FRONT ENTRY STEPS
- 34 CLOSEST FACE OF ARBOR POSTS IS 1'-0" FROM PROPERTY LINE. SEE PLAN VIEW.
- 35 FENCE POSTS ARE LOCATED AT THIS POINT. 24" LATTICE ATOP OF FENCE IS SHOWN CONCEPTUALLY. OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.
- 36 APPROX. LOCATION OF PREVIOUS TOOLSHED. APPROX 10'X10'. REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.
- 37 APPROX. LOCATION OF PREVIOUS SHED. APPROX 9'X14'. REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.
- 38 APPROX. LOCATION OF PREVIOUS SHED. APPROX 9'X14'. REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.
- 39 FOOTPRINT OF PREVIOUS SHED. APPROX 9'X14'. REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.



1 SITE PLAN
1/8" = 1'-0"



8 SHED - WEST
1/4" = 1'-0"



10 SHED - SOUTH
1/4" = 1'-0"



7 SHED - WEST
1/4" = 1'-0"



6 SHED - NORTH
1/4" = 1'-0"



5 SHED - EAST
1/4" = 1'-0"



9 ARBOR ELEVATION
1/4" = 1'-0"



4 ARBOR PLAN
1/4" = 1'-0"



11 PORCH PLAN
1/4" = 1'-0"



3 NORTH FENCE ELEVATION
1/8" = 1'-0"



2 SOUTH FENCE ELEVATION
1/8" = 1'-0"



12 LINE LEGEND
1/8" = 1'-0"



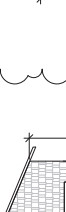
13 LINE LEGEND
1/8" = 1'-0"



14 LINE LEGEND
1/8" = 1'-0"



15 LINE LEGEND
1/8" = 1'-0"



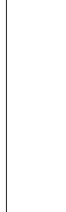
16 LINE LEGEND
1/8" = 1'-0"



17 LINE LEGEND
1/8" = 1'-0"



18 LINE LEGEND
1/8" = 1'-0"



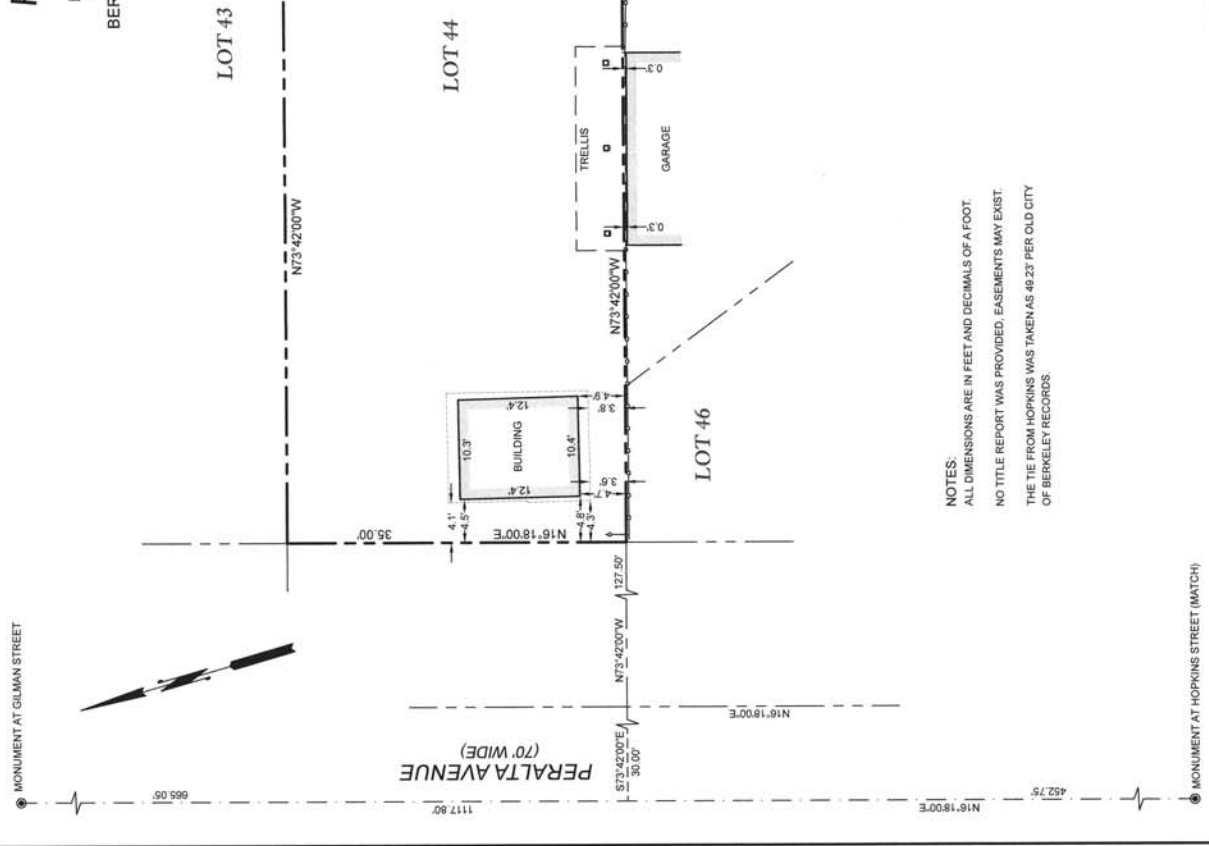
19 LINE LEGEND
1/8" = 1'-0"



PLAT OF SURVEY

LOT 44, BLOCK 6
KEY ROUTE TERRACE NO. 3 (21 M 59)
LOCATED AT 1346 ORDWAY STREET
BERKELEY, ALAMEDA COUNTY, CALIFORNIA

MARCH 14, 2019 SCALE: 1" = 8'



- LEGEND:
- CONC CONCRETE
 - EAVE EDGE
 - WOOD FENCE
 - CITY MONUMENT



NOTES:
ALL DIMENSIONS ARE IN FEET AND DECIMALS OF A FOOT.
NO TITLE REPORT WAS PROVIDED. EASEMENTS MAY EXIST.
THE TIE FROM HOPKINS WAS TAKEN AS 49.23 PER OLD CITY OF BERKELEY RECORDS.

MONUMENT AT PERALTA AVENUE (MATCH)
MONUMENTAL LAND SURVEYING
1771 MAYHEW WAY, SUITE 207, PLEASANT HILL, CA 94523
(925) 300-3695 MONUMENTAL-LS.COM PROJECT#18114

MONUMENT AT HOPKINS STREET (MATCH)



PLANNING & DEVELOPMENT

Land Use Planning, 1947 Center Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.6903 Fax: 510.981.7420 Email: Planning@CityofBerkeley.info

TABULATION FORM

Project Address: 1346 Ordway Street Date: 12/03/2018
 Applicant's Name: Jennie Durant and Keki Burjorjee
 Zoning District R-1A

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/ Required</i>
Units, Parking Spaces & Bedrooms			
Number of Dwelling Units (#)	1	0	1
Number of Parking Spaces (#)	1	0	1
Number of Bedrooms (#) (R-1, R-1A, R-2, R-2A, and R-3 only)	2	N/A	2
Yards and Height			
Front Yard Setback (Feet)	20'-6"	N/A	20'-0"
Side Yard Setbacks: (facing property)			
Left: (Feet)	7'-2"	N/A	4'-0"
Right: (Feet)	4'-0"	N/A	4'-0"
Rear Yard Setback (Feet)	58'-4"	N/A	20'-0"
Building Height* (# Stories)	1	0	3
Average* (Feet)	< 28 FT	N/A	28 FT
Maximum* (Feet)	< 35 FT	N/A	35 FT
Areas			
Lot Area (Square-Feet)	4,463 SF	0	> 5,000 SF
Gross Floor Area* (Square-Feet) Total Area Covered by All Floors	1,336 SF	1,336 SF	
Building Footprint* (Square-Feet) Total of All Structures	1,279 SF	1,279 SF	1,784 SF
Lot Coverage* (%) (Footprint/Lot Area)	30%	30%	< 45%
Useable Open Space* (Square-Feet)	~2,404 SF	~2,404 SF	> 400 SF
Floor Area Ratio* Non-Residential only (Except ES-R)	0.30	0.30	1.0

*See Definitions – Zoning Ordinance Title 23F.

Revised: 05/15



Planning and Development Department
Land Use Planning Division

5/8/2019 Response Letter III

February 8, 2019

Sent via email:
jenniedurant@gmail.com

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702

Re: Administrative Use Permit #ZP2018-0174 for 1346 Ordway Street

Dear Jennie,

This letter is in response to the resubmittal of revised application materials, submitted on January 09, 2019. To complete this application, please respond to the following:

①
A New
invoice will
be provided

1) Additional AUPs & Fees: At the time of project submittal, fees were assessed as \$970 for one Tier 3 AUP to construct an accessory structure over 6' within required setbacks. However, because the application is a result of a Notice of Violation and it also includes an unpermitted accessory building and an unpermitted trellis, additional AUPs will apply to the project resulting in a fee increase. We will issue an additional invoice upon the receipt of additional information (requested below).

- List of additional Fees
- ① \$1970 for fence + hedge NOV
 - ② Establish an accessory building
 - ③ Accessory building in rear + side setback (x2)
 - ④ Trellis

②
Dimensions
on Site Plan
do not match
dimensions on
survey

2) Survey:

A. Provide dimensions from the main dwelling and the front porch to the front and side property lines.

B. Provide the width of driveway on the front property line.

C. Include the accessory building's dimensions on the survey and exhibit the distance from its eave to the rear and side property lines.

⑤ Front yard parking
(to be confirmed by the
Traffic Eng. + zoning
officer)

Survey	Site Plan
Driveway 9'-9"	Driveway 10'-2"
DU to Front PL 19'-9"	DU to Front PL 20'-6"
DU to side PL 6'-8" - 7'	DU to side PL 7'-2" - 8'-2"

3) Site Plan:

A. Accessory building: Please revise the accessory building's name to read as "Accessory Habitable Space" and not a "Shed" on Site Plan. Additionally, include the average and maximum height on the elevation.

B. Trellis: include trellis's coverage in the overall lot coverage on Tabulation Form.

C. Exhibit the front porch and its dimensions.

D. Include the shed (and its dimensions) that is shown on survey and is attached to the rear of the dwelling.

③
Any
hot tubs
yet?

**TRADE
CRAFT**

TRADECRAFT
220 VIVADO DRIVE, BERKELEY, CA
FACILITY PHONE: 510.529.1809
FACILITY FAX: 510.529.1808
WWW.TRADECRAFT.COM

DATE: 11/18/18
PROJECT: 1346 ORDWAY

OWNER: Jennie Durant

PROJECT ADDRESS: 1346 ORDWAY STREET, BERKELEY, CA 94702

PERMIT: 1118718
ISSUED: 11/18/18
REVISION: 311519

SHEET NAME: SITE PLAN

SCALE: 1/8" = 1'-0"

DATE: 11/18/18

PROJECT: 1346 ORDWAY

OWNER: Jennie Durant

PROJECT ADDRESS: 1346 ORDWAY STREET, BERKELEY, CA 94702

PERMIT: 1118718

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OWNER: Jennie Durant

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PERMIT: 1118718

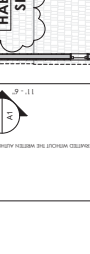
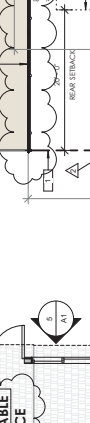
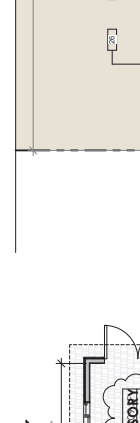
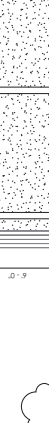
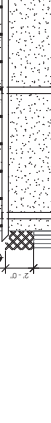
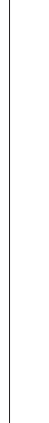
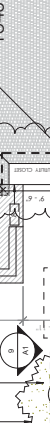
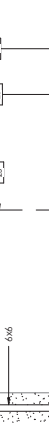
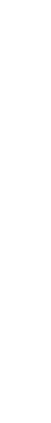
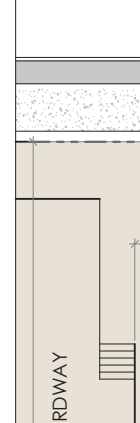
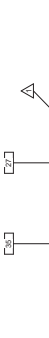
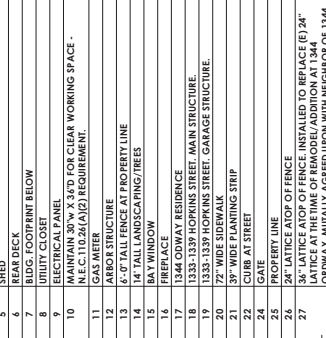
ISSUED: 11/18/18

REVISION: 311519

SHEET NAME: SITE PLAN

SETRACK LINE
PROPERTY LINE ----
HIDDEN LINE ---
12" LINE LEGEND
1/8" = 1'-0"

SHEET NOTES
Keynote Ref
1 48" TALL BAMBOO FENCE @ REAR PROPERTY LINE
2 48" TALL BAMBOO FENCE @ FRONT PROPERTY LINE
3 FRONT SETBACK LINE
4 SIDE SETBACK LINE
5 SHED
6 REAR DECK
7 BLDG. FOOTPRINT BELOW
8 UTILITY CLOSET
9 UTILITY CLOSET
10 MAINTAIN 30" X 5' VOID FOR CLEAR WORKING SPACE - N.E.C. 10.26(A)(2) REQUIREMENT.
11 GAL. METER
12 ARBOR STRUCTURE
13 2'-0" TALL FENCE AT PROPERTY LINE
14 2'-0" TALL FENCE AT PROPERTY LINE
15 1/2" WIDE SIDEWALK
16 1/2" WIDE SIDEWALK
17 1344 ORDWAY RESIDENCE
18 1333-1339 HOPKINS STREET MAIN STRUCTURE.
19 1333-1339 HOPKINS STREET GARAGE STRUCTURE.
20 72" WIDE SIDEWALK
21 20' WIDE FASHION STRIP
22 20' WIDE FASHION STRIP
23 20' WIDE FASHION STRIP
24 GATE
25 PROPERTY LINE
26 24" LATTICE ATOP OF FENCE
27 36" LATTICE ATOP OF FENCE (E 24")
28 FENCE AND LATTICE PATTERNS ARE SHOWN CONCEPTUALLY. OWNERS MUST BE MUTUALLY AGREED UPON WITH NEIGHBOR OF 1344 ORDWAY.
29 NEIGHBOR'S GARAGE STRUCTURE
30 NEIGHBOR'S GARAGE STRUCTURE
31 NEIGHBOR'S GARAGE STRUCTURE
32 BLDG. FOOTPRINTS AT SETBACK LINE
33 FRONT ENTRY STEPS
34 CLOSEST FACE OF ARBOR POSTS IS 1'07" FROM PROPERTY LINE. SEE PLAN VIEW.
35 FENCE POSTS ARE LOCATED 1'07" FROM PROPERTY LINE. APPROX. LOCATION OF PREVIOUS TOOLSHED, APPROX. 10'X10'. REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.
36 APPROX. LOCATION OF PREVIOUS TOOLSHED, APPROX. 10'X10'. REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.
37 APPROX. LOCATION OF PREVIOUS TOOLSHED, APPROX. 10'X10'. REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.
38 APPROX. LOCATION OF PREVIOUS TOOLSHED, APPROX. 9'X14'. REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER. AND 5' FROM BUILDING FOOTPRINT. CROWN OF TREE IS APPROX. 3.5' W. TRUNKS < 3" DIA.
39





Planning and Development Department
Land Use Planning Division

July 2, 2019

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702

Sent via email:
jenniedurant@gmail.com

Re: Administrative Use Permit #ZP2018-0174 for 1346 Ordway Street

Dear Jennie,

Thank you for the electronic resubmittal of the revised Site Plan on June 5, 2019. After reviewing the submitted materials, staff has determined that the existing off-street parking space is not accessible and there is no other feasible location for parking on the parcel. Note that all paved areas for off-street parking spaces, driveway and any other vehicle-related paving must be removed as a condition of approval on this permit. (Additionally on Site Plan, remove the label "Existing Parking Space" within the front yard setback and include a note for the removal of parking related paved areas and curb cut.). To complete your application, submit revised plans that reflect these changes and submit the additional required payment (see attached invoice).

In your resubmittal, include a cover letter stating how you have addressed the incomplete items. **Any changes or corrections must be clouded, and accompanied by a number** to allow for easier identification. If new plans are submitted, please deliver two **(2) sets** of plans (at least one set to scale) and submit **both a paper and an electronic copy** of the resubmittals to the zoning counter during normal business hours (Monday thru Thursday 8:30 am – 4:00 pm). If you take no action to address the above items **within 30 days**, the application may be deemed withdrawn and returned to you. Please contact me if you have any questions at (510) 981-7419.

Sincerely,
Nilu Karimzadegan, Planning Technician
CC: Greg Powell, Principal Planner

A handwritten signature in black ink, appearing to read "Nilu Karimzadegan".



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

INVOICE

Date: 7/2/2019 2:39:01 PM

Invoice #: 411328

Record #: ZP2018-0174

Bill to:

Address: 1346 ORDWAY ST

1346 Ordway Street
Jennie Durant
1346 ORDWAY ST
BERKELEY CA 94702-1124

Date Assessed	Invoiced Fee Item	Fee	Paid	Balance
7/2/2019	Records Management AUP110	\$50.00	\$0.00	\$50.00
7/2/2019	Community Planning Fee (15%) ADDCPF_ACP97	\$120.00	\$0.00	\$120.00
7/2/2019	Community Planning Fee (15%) ADDCPF_ACP97	\$240.00	\$0.00	\$240.00
7/2/2019	AUP Base Tier 3 - Least complex projects in or adjacent to Residential District AUP030	\$800.00	\$0.00	\$800.00
7/2/2019	AUP: Additional Administrative Use Permits AUP080	\$1,600.00	\$0.00	\$1,600.00
Totals:		\$2,810.00	\$0.00	\$2,810.00



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

INVOICE

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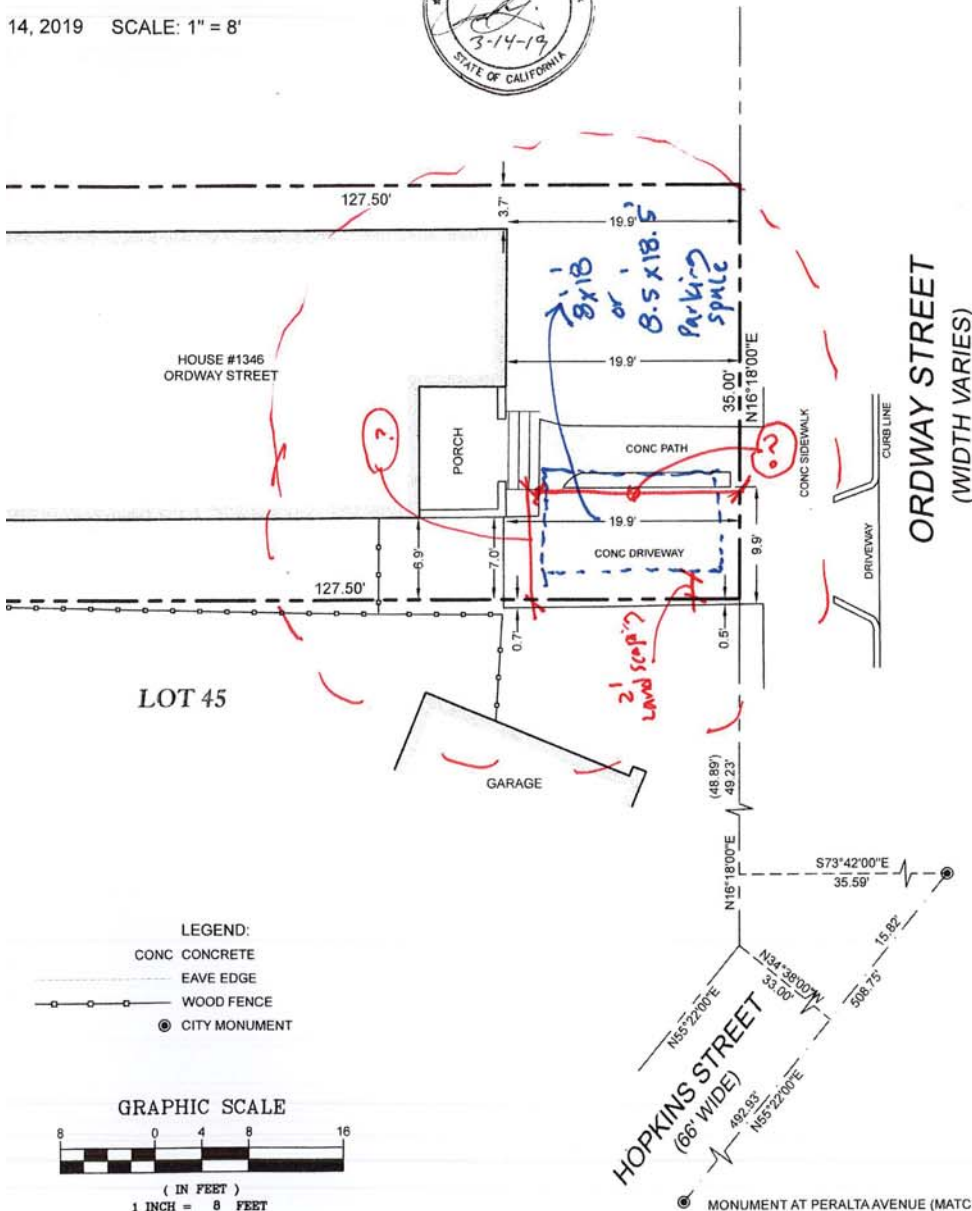
COB1\inkarimzadegan

Print Date: 7/2/2019

OF SURVEY

LOT 44, BLOCK 6
E TERRACE NO. 3 (21 M 59)
AT 1346 ORDWAY STREET
AMEDA COUNTY, CALIFORNIA

14, 2019 SCALE: 1" = 8'



ORDWAY STREET
(WIDTH VARIES)

MONUMENTAL LAND SURVEYING
171 MAYHEW WAY, SUITE 207, PLEASANT HILL, CA 94523
(925) 300-3695 MONUMENTAL-LS.COM PROJECT#18114

**TRADE
CRAFT**

TRADECRAFT
2201 VAN DYKE STREET, SUITE 100
SAN FRANCISCO, CA 94133
415.440.2200
WWW.TRADECRAFT.COM

PROJECT NUMBER: 18-009

PROJECT LOCATION: 1346 ORDWAY

DATE: 08/20/2018

DESIGNER: Jennie Durrant

CLIENT: 1346 ORDWAY

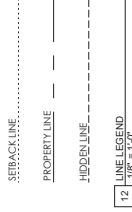
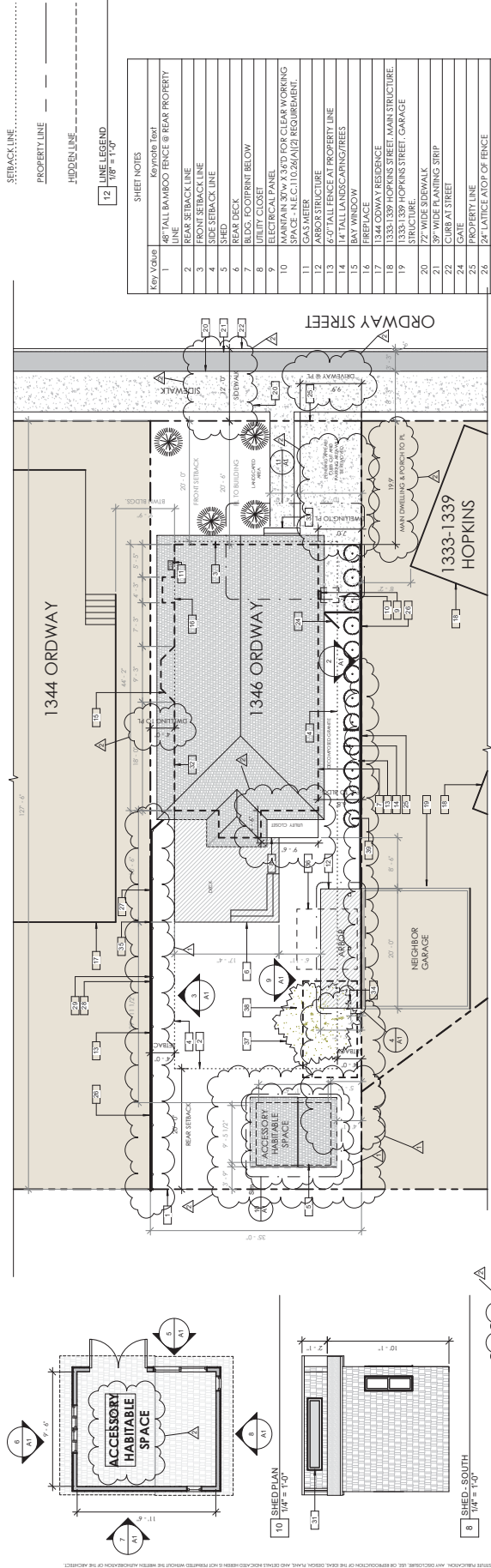
1346 ORDWAY
1346 ORDWAY STREET
BERKELEY, CA 94702

DATE: 11/19/18
1 AUP PERMIT 31519
2 AUP PERMIT 31519

DATE: 11/19/18

APPROVED FOR THE CITY OF BERKELEY
APPROVED FOR THE COUNTY OF ALAMEDA
APPROVED FOR THE COUNTY OF CONTRA COSTA
APPROVED FOR THE COUNTY OF SACRAMENTO
APPROVED FOR THE COUNTY OF SOLANO
APPROVED FOR THE COUNTY OF YUBA

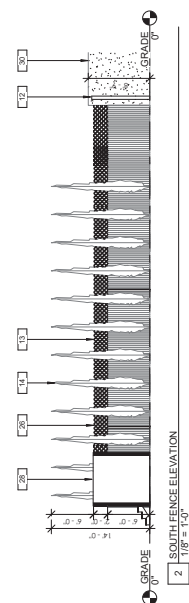
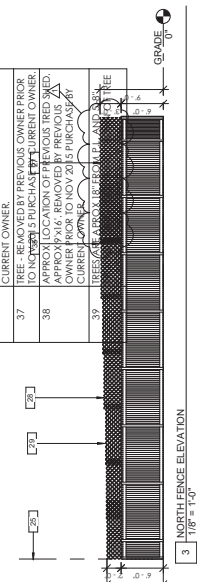
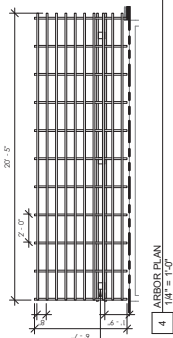
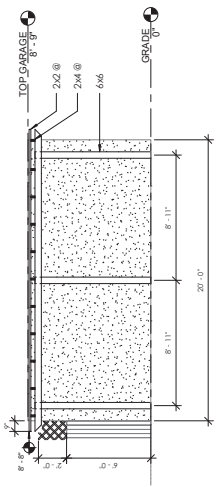
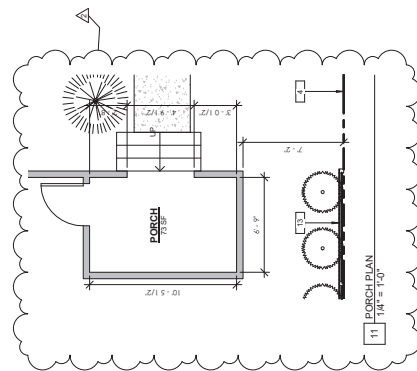
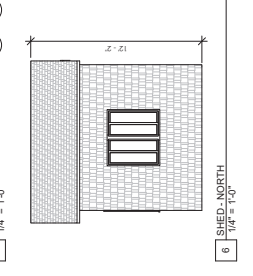
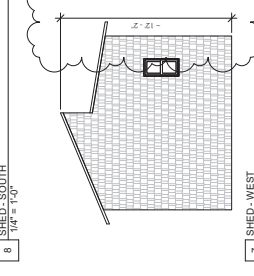
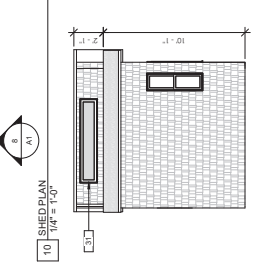
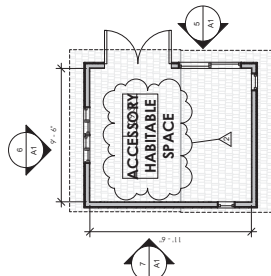
A1



Key	Notes
1	36" TALL BAMBOO FENCE @ REAR PROPERTY LINE
2	REAR SETBACK LINE
3	FRONT SETBACK LINE
4	SIDE SETBACK LINE
5	SHED
6	REAR DECK
7	BLDG. FOOTPRINT BELOW
8	ELECTRICAL PANEL
9	MAN/AIN 30"X36" FOR CLEAR WORKING SPACE - NEC 110.24(A)(2) REQUIREMENT.
10	GAS METER
11	APROR STRUCTURE
12	6"0" TALL FENCE AT PROPERTY LINE
13	6"0" TALL FENCE AT PROPERTY LINE
14	6"0" TALL FENCE AT PROPERTY LINE
15	6"0" TALL FENCE AT PROPERTY LINE
16	PREPLACE
17	1346 ORDWAY RESIDENCE
18	1333-1339 HOPKINS STREET, MAIN STRUCTURE
19	1333-1339 HOPKINS STREET, GARAGE STRUCTURE
20	STRUCTURE
21	36" WIDE PLANNING STRIP
22	CURB AT STREET
23	GATE
24	PROPERTY LINE
25	24" LATTICE ATOP OF FENCE
26	36" LATTICE ATOP OF FENCE INSTALLED TO REMODEL ADDITION AT 1346 ORDWAY. MUTUALLY AGREED UPON WITH NEIGHBOR OF 1344 ORDWAY.
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1 SITE PLAN
3/8" = 1'-0"



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2201 VAN DYKE STREET, SUITE 100
SAN FRANCISCO, CA 94133
415.774.8888
WWW.TRADECRAFT.COM

PROJECT NUMBER: 18-009
PROJECT LOCATION: 1346 ORDWAY
DATE: 10/20/2018
DRAWN BY: JENNIE DURANT
CHECKED BY: JENNIE DURANT

1346 ORDWAY
1346 ORDWAY STREET
BERKELEY, CA 94702

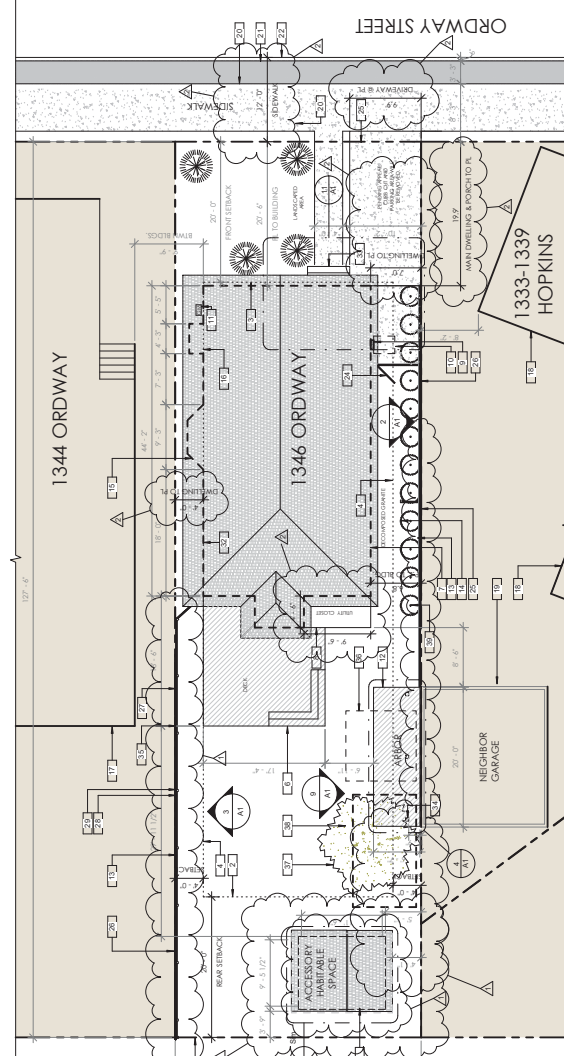
DATE: 11/19/18
1 AUP PERMIT 31519
2 AUP PERMIT 31519

APPROVED FOR THE CITY OF BERKELEY
APPROVED FOR THE COUNTY OF ALAMEDA
APPROVED FOR THE COUNTY OF CONTRA COSTA
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APPROVED FOR THE COUNTY OF SUTTER
APPROVED FOR THE COUNTY OF YUBA

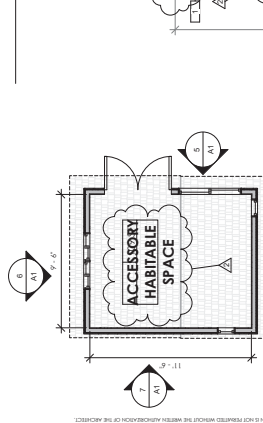
A1

SEBACKLINE
PROPERTY LINE
HIDDEN LINE
1/2" LINE LEGEND
1/8" = 1'-0"

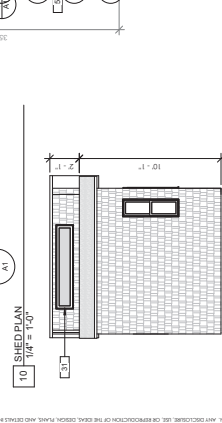
Key	Symbol	Notes
1	1/2" FALL BAMBOO FENCE @ REAR PROPERTY LINE	KEYNOTE TEXT
2	REAR SEBACKLINE	
3	FRONT SEBACKLINE	
4	SIDE SEBACKLINE	
5	SHED	
6	REAR DECK	
7	BLDG. FOOTPRINT BELOW	
8	ELECTRICAL PANEL	
9	MAN/AIN 30"X36"X6" FOR CLEAR WORKING SPACE - NEC 110.24(A)(2) REQUIREMENT.	
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11	APROR STRUCTURE	
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26	36" LATTICE ATOP OF FENCE INSTALLED TO REMODEL ADDITION AT 1346 ORDWAY. MUTUALLY AGREED UPON WITH NEIGHBOR OF 1344 ORDWAY.	
27	36" LATTICE ATOP OF FENCE WEST OF THIS POINT. 24" LATTICE ATOP FENCE EAST OF THIS POINT.	
28	36" LATTICE ATOP OF FENCE WEST OF THIS POINT. 24" LATTICE ATOP FENCE EAST OF THIS POINT.	
29	LATTICE STEPS-DOWN APPROX. 1.5' EVERY 6"0" LF TO REFLECT GRADE CONCEPTUALLY.	
30	NEIGHBOR'S GARAGE STRUCTURE	
31	CELESTORY WINDOW	
32	CELESTORY WINDOW	
33	CELESTORY WINDOW	
34	CLOSEST FACE OF ARBOR POSTS IS 10'0" FROM PROPERTY LINE. SEE PLAN VIEW.	
35	APPROX. LOCATION OF PREVIOUS TOOLSHED. APPROX. 10'0"0" REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY TREE - REMOVED BY PREVIOUS OWNER TO ACQUIRE 5 PURCHASE BY CURRENT OWNER. APPROX. LOCATION OF PREVIOUS TRED SHED. APPROX. 10'0"0" REMOVED BY PREVIOUS OWNER PRIOR TO NOV 2015 PURCHASE BY CURRENT OWNER.	
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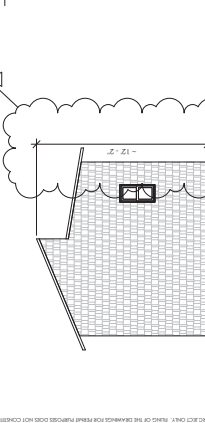
1 SITE PLAN
1/8" = 1'-0"



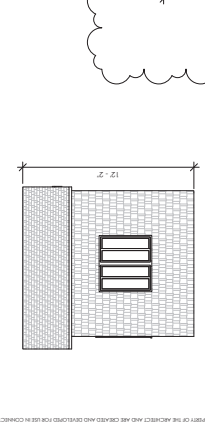
5 SHED - NORTH
1/4" = 1'-0"



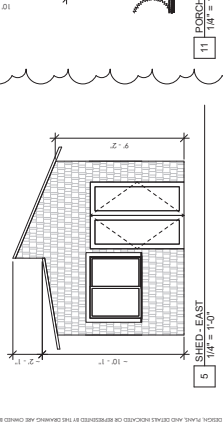
6 SHED - EAST
1/4" = 1'-0"



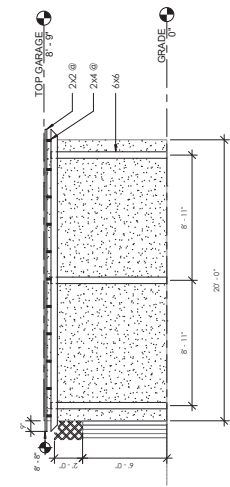
7 SHED - SOUTH
1/4" = 1'-0"



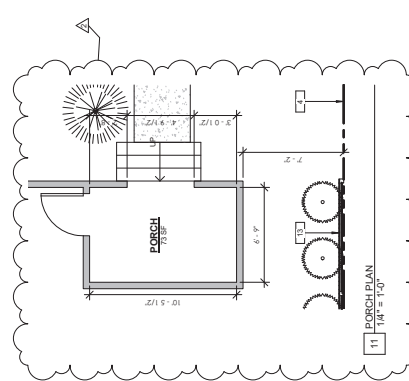
8 SHED - WEST
1/4" = 1'-0"



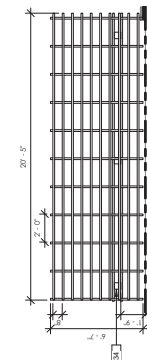
10 SHED - EAST
1/4" = 1'-0"



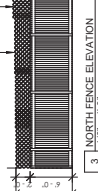
9 ARBOR ELEVATION
1/4" = 1'-0"



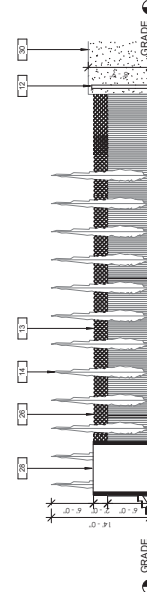
11 PORCH PLAN
1/4" = 1'-0"



4 ARBOR PLAN
1/4" = 1'-0"



3 NORTH FENCE ELEVATION
1/8" = 1'-0"



2 SOUTH FENCE ELEVATION
1/8" = 1'-0"

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220 S 14th Street, Suite 100
Berkeley, CA 94702

ARCHITECT PROJECT # 18-0709
ARCHITECT CONTACT INFORMATION
ARCHITECT CONTACT NAME
ARCHITECT CONTACT PHONE
ARCHITECT CONTACT EMAIL
OWNER

OWNER
Jennie Durant

1346 ORDWAY
1346 ORDWAY STREET
BERKELEY, CA 94702

DATE
PROJECT NO.

DATE
PROJECT NO.

DATE
PROJECT NO.

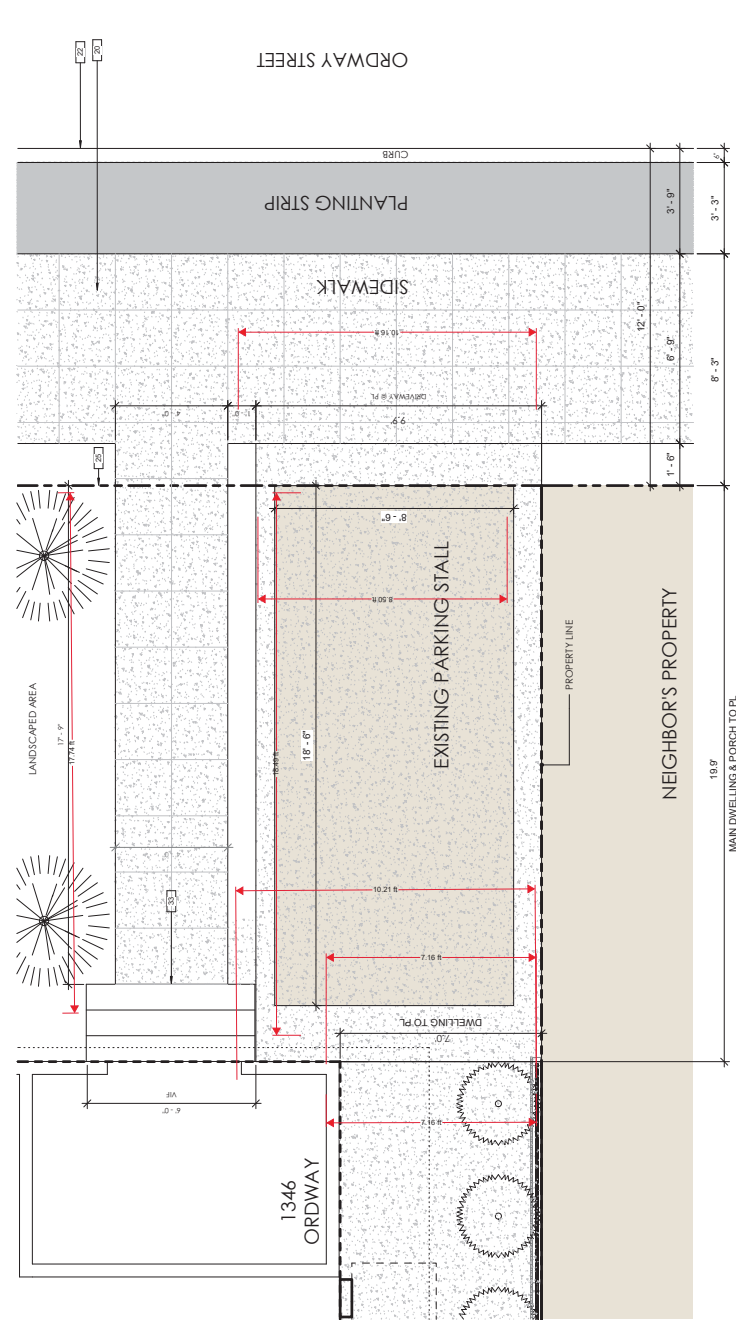
DATE
PROJECT NO.

DATE
PROJECT NO.

DATE
PROJECT NO.

DATE
PROJECT NO.

SHEET NOTES	
Key Value	Keynote Text
20	7'2" WIDE SIDEWALK
21	LANDSCAPED AREA
22	PROPERTY LINE
23	FRONT ENTRY STEPS



1 EXISTING PARKING
12'-0" = 1'-0"

DATE
PROJECT NO.

EXISTING PARKING
A2

THE OWNER (OR HER ARCHITECT) IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT. THE ARCHITECT'S RESPONSIBILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE WORK SHOWN ON THIS PLAN. THE ARCHITECT DOES NOT WARRANT OR GUARANTEE THE ACCURACY OF THE INFORMATION PROVIDED TO HER BY THE OWNER OR ANY OTHER PARTY. THE ARCHITECT'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE WORK SHOWN ON THIS PLAN. THE ARCHITECT DOES NOT WARRANT OR GUARANTEE THE ACCURACY OF THE INFORMATION PROVIDED TO HER BY THE OWNER OR ANY OTHER PARTY.



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

Statement

Date: 08/29/19

Invoice #: Statement

Record #: ZP2018-0174

Bill to:

Address: 1346 ORDWAY ST

1346 Ordway Street
Jennie Durant
1346 ORDWAY ST
BERKELEY CA 94702-1124

Invoiced Fee Item	Description	Fee	Paid	Balance
1. AUP Base Tier 3 - Least complex projects in or adjacent to Residential District	Fence	\$800.00	(\$800.00)	\$0.00
2. AUP Base Tier 3 - Penalty for legalization	Penalty on Fence	\$800.00	\$0.00	\$800.00
3. AUP: Additional Administrative Use Permits	6 Additional Administrative Use Permits	\$2,400.00	\$0.00	\$2,400.00
4. VAR: Base Tier 1 - Yard, Height, Usable Open Space, Lot Coverage, Parking	Parking Requirement	\$1,000.00	\$0.00	\$1,000.00
5. AUP: ZAB Public Hearing Fee	Public Hearing	\$1,025.00	\$0.00	\$1,025.00
6. AUP: Base Fee Traffic Eng. Review (base fee for up to 2 hrs)	Traffic Engineering Review	\$320.00	\$0.00	\$320.00
7. Records Management	Records Management	\$50.00	(\$50.00)	\$0.00
8. Community Planning	%15 fee based on fees 1-4	\$750.00	(\$120.00)	\$630.00
Totals:		\$7,145.00	(\$970.00)	\$6,175.00

Karimzadegan, Niloufar

From: Karimzadegan, Niloufar
Sent: Tuesday, August 27, 2019 11:11 AM
To: 'Keki Burjorjee'; Jennie Durant
Cc: Drouillard, Wanda
Subject: 1346 Ordway/ required steps to proceed
Attachments: 2019-08-26_Balance Statement_1346 Ordway.pdf

Hello Keki and Jennie,

I met with the zoning office on Friday regarding this application and below are what we need in order to deem the application complete and proceed with this process:

1) Required fees: Please discard the previous invoice and make a payment on the revised invoice (attached). Here is the summary of the unpaid fees:

- a. Penalty fee for the fence (\$920)
- b. AUP that was never charged for the hedge (\$460)
- c. Penalty fee for the hedge (\$460)
- d. AUP to establish an accessory building (\$460)
- e. AUP to establish an accessory building over 10' in average height within the 4' required side setback (\$460)
- f. AUP for Trellis (\$460)
- g. AUP for front yard parking (\$460)
- h. Variance for not providing a 2 ft. landscaping strip (\$2,175)
- i. Traffic Engineer Review Fee (\$320)

Total= \$6175

2) Required revisions on site plan: Please make the following revisions on Site Plan: (it should match the official survey)

- a. The driveway length of 19'-10" (from front property line to the front facade of house) should be added to site plan and enlarged plan
- b. The 17'-9" length from front property line to the stairs and 9'-2" from side property line to the stairs should be added to site plan and enlarged plan (should match dimensions on official survey).
- c. **ALL** notes from the area that you are proposing a front yard off-street parking space should be removed. Instead, add "proposed front yard off-street parking space" for the area considered for the proposed off-street parking space.
- d. Curb cut must be shown on site plan and enlarged plan and it should be drawn accurately (It should match the official survey). Currently a planter is drawn instead of a curb cut!!
- e. Depict a **6" clearance** dimension from the proposed parking space to the side property line, to the stairs and to the front façade of the house. After adding these dimensions on the enlarged plan, you can draw an 8' X 18' rectangle shape for the proposed parking space.
- f. Add a note clarifying that the square space right next to the stairs is just dirt and not an obstruction.

3) Variance statement: Amend your application by adding a Variance statement: **This statement shall describe the project in detail, and must consider the following findings required to approve a Variance:**

- a. There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District;
- b. The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner;
- c. The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole;
- d. Any other variance findings required by the Section of the Ordinance applicable to that particular Variance.

As I have mentioned this before, staff can recommend a Variance only if there are no other option available on the site. In your case, there is the option of relocating the stairs to create room for the 2 ft. landscaping strip. So what will happen is that staff will have to recommend denial for the Variance and it will be up to ZAB to approve or deny staff's recommendation. You can appeal ZAB's decision to the City Council. Does that make sense?

Please also note that Wanda from Code Enforcement will follow up with you regarding their department's deadlines.

Please let me know if you have any questions.

Best,

Nilu Karimzadegan | Land Use Planning
nkarimzadegan@cityofberkeley.info
510.981.7419

*City of Berkeley Holidays:

https://www.cityofberkeley.info/IT/Holiday_and_Reduced_Service_Days.aspx

* Public Counter Hours:

https://www.cityofberkeley.info/Planning_and_Development/Permit_Service_Center/Location_and_Hours.aspx

September 17, 2019

Re: Variance Request

To Whom It May Concern:

We are writing to request the approval of a parking variance for our property at 1346 Ordway Street to waive the requirement for a 2" landscaping barrier between our front parking space and the property line. We are requesting that the Zoning Office waive the 2" landscaping barrier requirement (or reduce it) so that we will not have to A) augment (i.e. demolish and rebuild) our front stairs to accommodate the parking spot, and B) demo and rebuild our curb cut to match the new parking spot.

Some background: A preexisting structure at the rear of our property was in a state of extreme disrepair and was removed by the previous owners right before we took ownership of the property. This structure was marked as a "garage" in the site-plan the zoning office had for our property, even though it was not used as one by the previous owner (see attached photo evidence from 2008). As far as we know, the previous resident, who owned the property since the 70s, parked on the front of the property.

The Zoning Office noted the removal of the structure marked as a garage when we applied for an AUP to plant a hedge along the side of our property to have a privacy screening from our neighbor, whose 4-unit property is currently vacant, poorly maintained, looks directly into our and our young daughter's bedroom. Based on the results of our site plan and land surveys, the Zoning Office subsequently determined that we do not have a legal, usable parking spot on the property because the distance from our house to the side property line is 6'9" its narrowest and a car could not be expected to pass through. We were then asked to remove our front parking area and curb cut.

One of the owners, Jennie Durant, has a temporary handicapped placard for a spine condition and requires a parking spot close to the front door. We have requested an AUP to keep the front parking area and are applying for a variance to waive (or reduce) the requirement for a 2' landscaping strip between the front parking space and the property line.

We have brought our case to the attention of City Council Member Rashi Kesarwani, who discussed it with Council Member Susan Wengraf. Both council members agreed that our home was non-conforming to begin with. Kesarwani expressed support for the AUP given our property limitations and the handicapped parking consideration.

The variance we are requesting would allow us to keep our current parking spot and curb cut as is, without augmentation. Both of these would be a significant expense for us and would also produce substantial unnecessary environmental waste (in the form of concrete and rebar)—neither of which support the well-being of Berkeley residents nor the city's stated [Zero Waste goals](#).

Below, we detail the reasons we think our parking space qualifies for a variance. First, we address several points that we hope Zoning administrators/the Zoning Board will consider in our case. Second, we respond to the City's requirements to approve a variance and respond to each point.

1. As stated above, **needlessly demolishing our stairs** just to add a landscaping barrier to meet the code **would result in the production of significant concrete and rebar waste**, and the possible demo of our curb cuts as well, again adding more waste. We hope the Zoning Board will see the value in granting the variance to support the city's [Zero Waste goals](#) and overall environmental ethics.
2. **Our proposed parking space allows for a 1'8" landscaping strip (if needed)** between the property line and our proposed parking spot, so the variance would only be to waive 6" off the required 2'. By looking at the enlarged drawing on our site plan (A3), it's clear that there is 1'8" of clearance from the property line to the proposed parking spot (1.5 feet from the space to the property line, and 8" from the parking space to the stairs, including clearances).
3. **It would be a significant financial burden to augment the stairs and/or curb cut/driveway:** To have a 2' landscaping barrier would require us to demolish and rebuild our stairs to create the additional 6" space to meet the zoning requirements and may require us to augment the curb cut (which has a septic main in it). All of this would add **significant** cost to the process of obtaining permits for our house, which has now gone over \$11,000, including the cost of two land surveys, architect fees, and permit expenses. Augmenting the stairs by 6" (in a way that would not lower the property value) would add significant expense, particularly if we have to augment the curb cut as well.



Figure 1: Photo of grass between parking space and neighbor's property

4. **Our neighbor's property has a large grass patch adjacent to our parking spot, so a landscaping strip would be redundant.** (See attached photo)

Second, we respond to the City's requirements to approve a variance (as shared by our zoning officer), by addressing each point of the following requirements:

- A. *There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District*

Our request to have a front parking spot in the current location is exceptional because of the handicapped placard.

- B. *The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner;*

As property owners, we feel that having a parking space is necessary for the enjoyment and full use of our home. If the variance is not approved, we will have to spend thousands of dollars we do not have to demolish and rebuild our stairs (to add 6" to allow the landscape barrier) and quite possibly augment the curb cut as well (which has a sewer main). These costs alone could add up to more than ten thousand dollars—which seems like an extreme burden to add an extra 6" to meet the code.

- C. *The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole.*

We are simply requesting that our current parking space be allowed to remain where it is, though if needed, we would remove the existing concrete and install a permeable parking space. Requiring us to additionally demo and rebuild the stairs, and demo and redo the curb cut would all produce significant environmental waste, which we believe is detrimental to the health and welfare of the City. Granting the variance will reduce environmental waste.

We hope the city will see that needlessly demolishing 6" of stairs and moving the curb cut is at extreme odds with the environmental ethics that guide the city of Berkeley, not to mention the unnecessary emotional and financial toll it places on us as homeowners, all so we can have a front parking spot that is handicap accessible.

We hope that you understand the undue burden it would place on us and grant us the variance.

Kind regards,

Jennie Durant and Keki Burjorjee
1346 Ordway Street
916-220-9806
jenniedurant@gmail.com

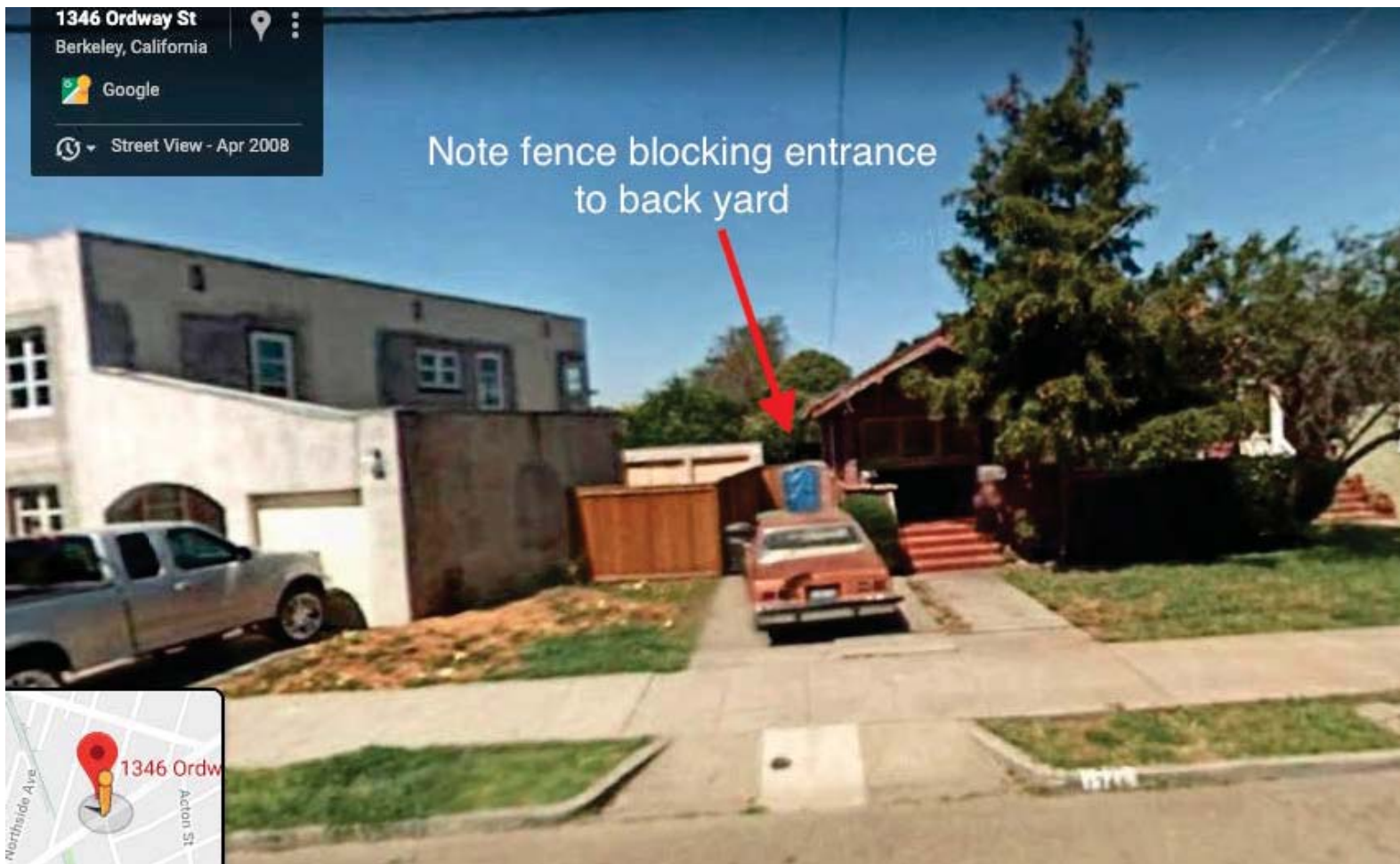


Photo of parking space from 2008. Note that our neighbor's house has been in a state of disrepair since at least 2008—over 11 years, making that an 11-year remodel process. This is one of the reasons that drove us to plant the hedge in the first place.



PLANNING & DEVELOPMENT

Land Use Planning, 1947 Center Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.6903 Fax: 510.981.7420 Email: Planning@CityofBerkeley.info

TABULATION FORM

Project Address: 1346 Ordway Street Date: 12/03/2018
 Applicant's Name: Jennie Durant and Keki Burjorjee
 Zoning District R-1A

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/ Required</i>
Units, Parking Spaces & Bedrooms			
Number of Dwelling Units (#)	1	0	1
Number of Parking Spaces (#)	1	0	1
Number of Bedrooms (#) (R-1, R-1A, R-2, R-2A, and R-3 only)	2	N/A	2
Yards and Height			
SEE ATTACHED SHEET FOR SHED & ARBOR. Front Yard Setback (Feet)	20'-6"	N/A	20'-0"
Side Yard Setbacks: (facing property)			
Left: (Feet)	7'-2"	N/A	4'-0"
Right: (Feet)	4'-0"	N/A	4'-0"
Rear Yard Setback (Feet)	58'-4"	N/A	20'-0"
Building Height* (# Stories)	1	0	3
Average* (Feet)	< 28 FT	N/A	28 FT
Maximum* (Feet)	< 35 FT	N/A	35 FT
Areas			
Lot Area (Square-Feet)	4,462.5 SF	0	> 5,000 SF
Gross Floor Area* (Square-Feet) Total Area Covered by All Floors	1,411 SF	1,411 SF	N/A
Building Footprint* (Square-Feet) Total of All Structures	1,152 SF	1,152 SF	1,784 SF
Lot Coverage* (%) (Footprint/Lot Area)	30%	32%	< 40%
Useable Open Space* (Square-Feet)	~2,270 SF	~2,270 SF	> 400 SF
Floor Area Ratio* Non-Residential only (Except ES-R)	0.32	0.32	1.0

*See Definitions – Zoning Ordinance Title 23F.

Revised: 05/15



PLANNING & DEVELOPMENT

Land Use Planning, 1947 Center Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.6903 Fax: 510.981.7420 Email: Planning@CityofBerkeley.info

TABULATION FORM

Project Address: 1346 Ordway Street Date: 12/03/2018
 Applicant's Name: Jennie Durant and Keki Burjorjee
 Zoning District: R-1A

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/ Required</i>
ARBOR		

Side Yard Setbacks: (facing property)	Left: (Feet)	0"	0"	0"
	Right: (Feet)	28'-3"	28'-3"	28'-3"
Rear Yard Setback	(Feet)	30'-0"	30'-0"	30'-0"
Building Height*	(# Stories)	1	1	1
Average*	(Feet)	8'-8"	8'-8"	8'-8"
Maximum*	(Feet)	8'-8"	8'-8"	8'-8"



PLANNING & DEVELOPMENT

Land Use Planning, 1947 Center Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.6903 Fax: 510.981.7420 Email: Planning@CityofBerkeley.info

TABULATION FORM

Project Address: 1346 Ordway Street Date: 12/03/2018
 Applicant's Name: Jennie Durant and Keki Burjorjee
 Zoning District R-1A

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/ Required</i>
ACCESSORY HABITABLE SPACE			

Side Yard Setbacks: (facing property)	Left: (Feet)	5'-1"	N/A	5'-1"
	Right: (Feet)	17'-5"	N/A	17'-5"
Rear Yard Setback	(Feet)	3'-9"	N/A	3'-9"
	Building Height*	(# Stories)	1	0
Average*	(Feet)	11'-3"	N/A	11'-3"
Maximum*	(Feet)	12'-2"	N/A	12'-2"

TRADE CRAFT

TRADECRAFT
22116 ORDWAY STREET, SUITE 100
BERKELEY, CA 94702
PH: 415.863.1111
WWW.TRADECRAFTLANDSCAPE.COM

PROJECT NUMBER: 18-009

PROJECT LOCATION: 1346 ORDWAY STREET, BERKELEY, CA 94702

DATE: 08/20/2018

DESIGNER: Jennie Durrant

PROJECT: 1346 ORDWAY STREET

DATE: 08/20/2018

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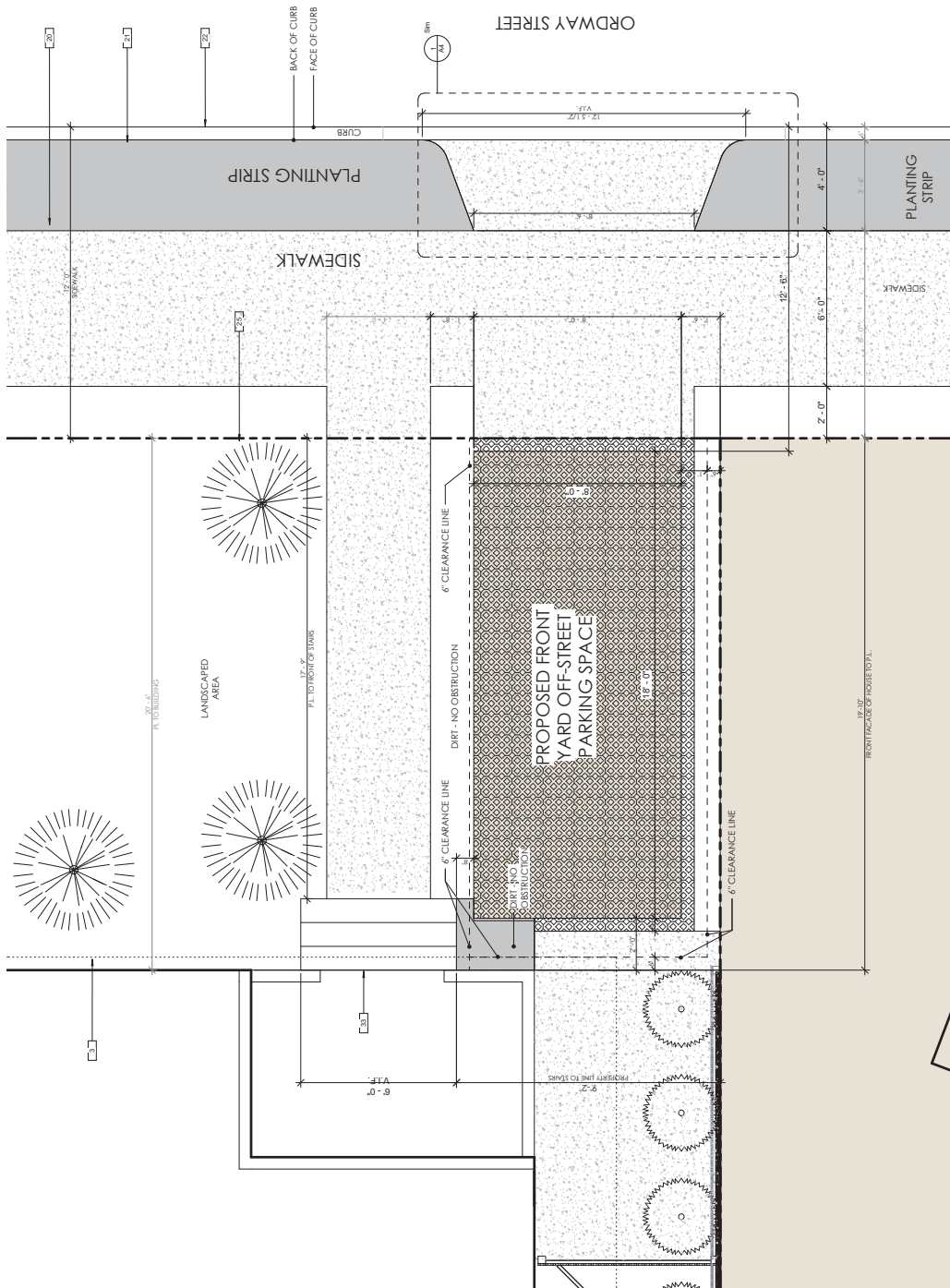
PROJECT: 1346 ORDWAY STREET

DATE: 08/20/2018

PROJECT: 1346 ORDWAY STREET

DATE: 08/20/2018

PROJECT: 1346 ORDWAY STREET



1 PARKING PLAN
1/2" = 1'-0"

SHEET NOTES

KEY NUMBER	KEYNOTE TEXT
3	FRONT SETBACK LINE
16	FIREPLACE
20	7'-0" WIDE SIDEWALK
21	3'-0" WIDE PLANTING STRIP
22	CURB STREET
23	BACK OF CURB
33	FRONT ENTRY STEPS

ENLARGED PARKING PLAN

KEY NUMBER	KEYNOTE TEXT
3	FRONT SETBACK LINE
16	FIREPLACE
20	7'-0" WIDE SIDEWALK
21	3'-0" WIDE PLANTING STRIP
22	CURB STREET
23	BACK OF CURB
33	FRONT ENTRY STEPS

THE CLIENT (OWNER) HAS REVIEWED AND APPROVED THIS PLAN AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT. THE CLIENT HAS REVIEWED AND APPROVED THIS PLAN AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT. THE CLIENT HAS REVIEWED AND APPROVED THIS PLAN AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT.

Karimzadegan, Niloufar

From: Jennie Durant <jenniedurant@gmail.com>
Sent: Wednesday, November 20, 2019 12:14 PM
To: Karimzadegan, Niloufar
Subject: Re: need additional info
Attachments: Ordway Work - 2019.11.01.docx; 1346 Ordway - 2019.11.06.pdf; Tabulation_Form - 1346 Ordway 2019.11.05.pdf; Variance statement_Durant-Burjorjee_2.docx

Hi Nilu,

My apologies for this delayed response. I got incredibly sick last week and was out of commission for nearly a week and unable to proof everything and update our letter.

Enclosed are updated PDFs, Tabulation, and a Word doc summary of the changes you have requested and notes where relevant. If the item is highlight, it means it's complete (hence all the highlights). The only thing we updated really in addition to your requests was our letter. There are no major changes to our plan, just our arguments and some added pictures. If you want to include it as an amendment rather than the original letter, we understand, though if it's possible to replace the original we'd be very grateful. I don't think it changes anything significantly from last time.

Thank you.

Jennie Durant

On Mon, Oct 28, 2019 at 5:34 PM Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info> wrote:

Hi Jennie and Keki,

As I am writing the reports for this project, I realize there are minor changes that need to happen to plans and Tab form in order for us to be ready to present at the Public Hearing.

Site Plan:

- 1) For clarity, please remove clouds, label fence and lattice on both side PLs (on south and north) and the 4 ft. bamboo fence on the rear PL.
- 2) Please add a north arrow on all plans.
- 3) How many hedges total are there on the site? On the application, it is noted that there are 15 but 12 are drawn on Site Plan. I also see that there are hedges on the north side of the lot but they are not drawn on Site Plan. The number of hedges should match on plans and all other documents.
- 4) Unfortunately the survey does not show the distance from the accessory building's eave to the south and rear property lines. Currently the Site Plan shows 4'-1" to South PL (Abutting Larry Hickman's property) and 3'-9" to the rear PL. Because different numbers were presented on earlier

sets, I need that the numbers on the latest resubmittal be confirmed. (Please confirm 4'-1" to South PL & 3'-9" to the rear PL from eave)

5) Shows distance to ALL PLs from accessory building's eave and Trellis.

Elevations:

Please show average and maximum heights for the accessory building and specify average and maximum on dimension lines.

On Tab Form:

- 1) Please include a GFA and building footprint number for the accessory building
- 2) Accessory building setbacks should be from its eave and not face of its wall. (It is only for main house that we measure to the face of wall).
- 3) Include trellis' footprint on Tab Form
- 4) Main building's existing exact average and maximum height should be noted on Tab form

Please provide the above information as soon as possible.

Thank you,

Nilu

From: Karimzadegan, Niloufar
Sent: Tuesday, October 8, 2019 3:53 PM
To: 'Jennie Durant' <jenniedurant@gmail.com>
Cc: Keki Burjorjee <keki.burjorjee@gmail.com>
Subject: RE: Tentative hearing date

Hi Jennie,

I think you will have 5 minutes to speak and that includes presentation etc. Your neighbors will have 2 minutes to talk.

You will need 2 ft. + 8.5 to the edge of stairs from the PL. (Total of 10.5 ft.) Does that answer your questions? . If not, I am not sure what you are asking. Please give me a call and we can discuss.

Thanks,

Nilu

From: Jennie Durant [<mailto:jenniedurant@gmail.com>]
Sent: Tuesday, October 8, 2019 3:14 PM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Cc: Keki Burjorjee <keki.burjorjee@gmail.com>
Subject: Re: Tentative hearing date

Thank you for this, Nilu.

Two quick questions. How long will we have to speak at our hearing? We are just wondering how the format works.

Also, we have a question. When you say that we could augment our stairs, what do you mean exactly? How far over the limit are the stairs currently? Would altering the stairs require altering the curb cut as well? And lastly, will we have to pull out the concrete for the entire new parking space, if granted, or just where the 2' landscape barrier will go, or not at all? Thank you for any details you have on that.

Thank you,

Jennie

On Mon, Oct 7, 2019 at 4:20 PM Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info> wrote:

Hello Jennie and Keki,

Please keep 12/12/19 and 1/09/2020 open for possible ZAB dates. I will know 3 weeks before the hearing dates if we can go or not.

Thanks,

Nilu

From: Karimzadegan, Niloufar
Sent: Tuesday, September 17, 2019 4:20 PM
To: 'Jennie Durant' <jenniedurant@gmail.com>; Keki Burjorjee <keki.burjorjee@gmail.com>
Subject: Tentative hearing date

Hello Keki and Jennie,

I have not reviewed your plans or talked to the zoning officer but had to pencil you in a for a hearing to at least have a spot before end of year. By any chance is 12/12/19 going to work with your schedule? Please let me know.

Thank you,

Nilu

TRADE CRAFT

TRADE CRAFT
22015 DAVIS STREET, BERKELEY, CA
415.875.1100

PROJECT NUMBER: 18-009
PROJECT COMMENCEMENT DATE: 09/17/2017
PROJECT COMPLETION DATE: 09/17/2017

OWNER:
JENNIFER DURANT
KATHI BURGETTE

1346 ORDWAY
1346 ORDWAY STREET
BERKELEY, CA 94702

DATE: 11/19/18
AUP PERMIT: 31519
AUP NUMBER: 1

PROJECT NUMBER: 18-009
PROJECT COMMENCEMENT DATE: 09/17/2017
PROJECT COMPLETION DATE: 09/17/2017

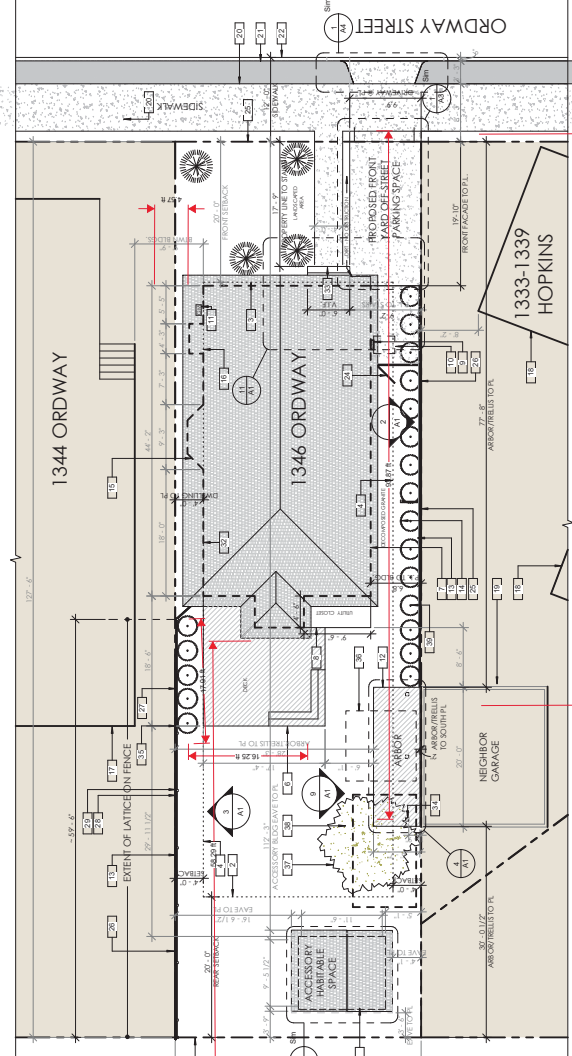
A1

SHEET INDEX

Sheet Number	Sheet Name	Sheet Issue Date
A1	Site Plan	09/17/2017
A2	Accessory Habitable Space Plan	09/17/2017
A3	Shed Plan	09/17/2017

SHEET NOTES

- 1 KEY 1/8"=1'-0"
- 2 48" TALL BAMBOO FENCE @ REAR PROPERTY LINE
- 3 FRONT SE BACK LINE
- 4 SIDE SE BACK LINE
- 5 SHED
- 6 REAR DECK
- 7 REAR PORCH
- 8 ELECTRICAL PANEL
- 9 GAS METER
- 10 MAINTAIN 30" W CLEAR WORKING SPACE - NEC. 110.26(A) REQUIREMENT.
- 11 ARBOR STRUCTURE
- 12 6" LATTICE AT PROPERTY LINE
- 13 6" LATTICE AT GARAGES
- 14 6" LATTICE AT GARAGES
- 15 6" LATTICE AT GARAGES
- 16 FIREPLACE
- 17 1344 ORDWAY RESIDENCE
- 18 1333-1339 HOPKINS STREET, MAIN STRUCTURE
- 19 72" WIDE SIDEWALK
- 20 24" WIDE SIDEWALK
- 21 24" WIDE SIDEWALK
- 22 24" WIDE SIDEWALK
- 23 24" WIDE SIDEWALK
- 24 GATE
- 25 PROPERTY LINE
- 26 24" LATTICE AT TOP OF FENCE
- 27 36" LATTICE AT TOP OF FENCE
- 28 FENCE AND LATTICE PATTERNS ARE SHOWN CONCENTRICALLY. REFLECT GRADE.
- 29 NEIGHBOR'S GARAGE STRUCTURE
- 30 CELESTORY WINDOW
- 31 FRONT ENTRY STEPS
- 32 CLOSEST FACE OF ARBOR POSTS 1'0" FROM PROPERTY LINE. SEE PLAN VIEW.
- 33 36" LATTICE AT TOP OF FENCE EAST OF THIS POINT. 24" LATTICE AT TOP OF FENCE WEST OF THIS POINT.
- 34 10X10" REMOVED BY PREVIOUS OWNER PRIOR TO NOV. 2015 PURCHASE BY CURRENT OWNER.
- 35 10X10" REMOVED BY PREVIOUS OWNER PRIOR TO NOV. 2015 PURCHASE BY CURRENT OWNER.
- 36 10X10" REMOVED BY PREVIOUS OWNER PRIOR TO NOV. 2015 PURCHASE BY CURRENT OWNER.
- 37 10X10" REMOVED BY PREVIOUS OWNER PRIOR TO NOV. 2015 PURCHASE BY CURRENT OWNER.
- 38 10X10" REMOVED BY PREVIOUS OWNER PRIOR TO NOV. 2015 PURCHASE BY CURRENT OWNER.
- 39 10X10" REMOVED BY PREVIOUS OWNER PRIOR TO NOV. 2015 PURCHASE BY CURRENT OWNER.



1 SITE PLAN
1/8" = 1'-0"

2 NORTH FENCE ELEVATION
1/8" = 1'-0"

3 SOUTH FENCE ELEVATION
1/8" = 1'-0"

4 ARBOR PLAN
1/4" = 1'-0"

5 ARBOR ELEVATION
1/4" = 1'-0"

6 PORCH PLAN
1/4" = 1'-0"

7 PORCH ELEVATION
1/4" = 1'-0"

8 SHED PLAN
1/4" = 1'-0"

9 SHED SOUTH ELEVATION
1/4" = 1'-0"

10 SHED WEST ELEVATION
1/4" = 1'-0"

11 SHED NORTH ELEVATION
1/4" = 1'-0"

12 SHED EAST ELEVATION
1/4" = 1'-0"

13 LINE LEGEND
1/8" = 1'-0"

14 SETBACK LINE

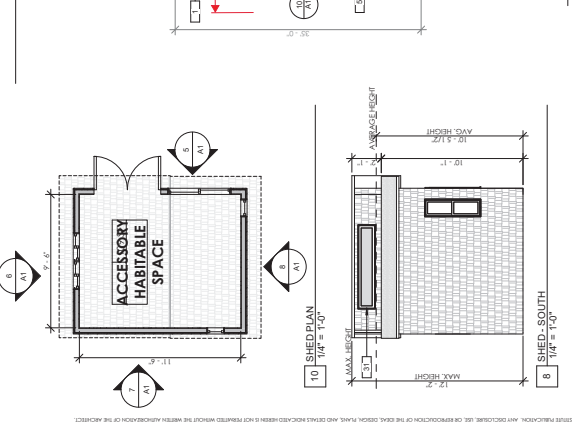
15 PROPERTY LINE

16 HIDDEN LINE

17 LINE LEGEND
1/8" = 1'-0"

18 SETBACK LINE

19 PROPERTY LINE



10 SHED PLAN
1/4" = 1'-0"

11 SHED SOUTH ELEVATION
1/4" = 1'-0"

12 SHED WEST ELEVATION
1/4" = 1'-0"

13 SHED NORTH ELEVATION
1/4" = 1'-0"

14 SHED EAST ELEVATION
1/4" = 1'-0"

15 PORCH PLAN
1/4" = 1'-0"

16 ARBOR PLAN
1/4" = 1'-0"

17 ARBOR ELEVATION
1/4" = 1'-0"

18 PORCH ELEVATION
1/4" = 1'-0"

19 LINE LEGEND
1/8" = 1'-0"

20 SETBACK LINE

21 PROPERTY LINE

22 HIDDEN LINE

23 LINE LEGEND
1/8" = 1'-0"

24 SETBACK LINE

25 PROPERTY LINE

26 HIDDEN LINE

27 LINE LEGEND
1/8" = 1'-0"

28 SETBACK LINE

29 PROPERTY LINE

30 HIDDEN LINE

31 LINE LEGEND
1/8" = 1'-0"

32 SETBACK LINE

33 PROPERTY LINE

34 HIDDEN LINE

35 LINE LEGEND
1/8" = 1'-0"

36 SETBACK LINE

37 PROPERTY LINE

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TRADE CRAFT

TRADECRAFT
22115 DAVENPORT BLVD
SAN DIEGO, CA 92126
TEL: 619.451.1000
WWW.TRADECRAFT.COM

PROJECT NUMBER: 18-009

PROJECT LOCATION: 1346 ORDWAY STREET, BERKELEY, CA 94702

DATE: 08/14/2018

DESIGNER: Jennie Durant
Kelli Burgejole

1346 ORDWAY
1346 ORDWAY STREET
BERKELEY, CA 94702

PROJECT TITLE: ENLARGED PARKING PLAN

DATE: 08/14/2018

ALL DIMENSIONS ARE UNLESS OTHERWISE NOTED.
DIMENSIONS TO FACE UNLESS NOTED OTHERWISE.
DIMENSIONS TO CENTERLINE UNLESS NOTED OTHERWISE.
DIMENSIONS TO SURFACE UNLESS NOTED OTHERWISE.
DIMENSIONS TO FINISH UNLESS NOTED OTHERWISE.
DIMENSIONS TO EXISTING UNLESS NOTED OTHERWISE.
DIMENSIONS TO PROPOSED UNLESS NOTED OTHERWISE.

SCALE: 1/8" = 1'-0"

DATE: 08/14/2018

PROJECT NUMBER: 18-009

PROJECT LOCATION: 1346 ORDWAY STREET, BERKELEY, CA 94702

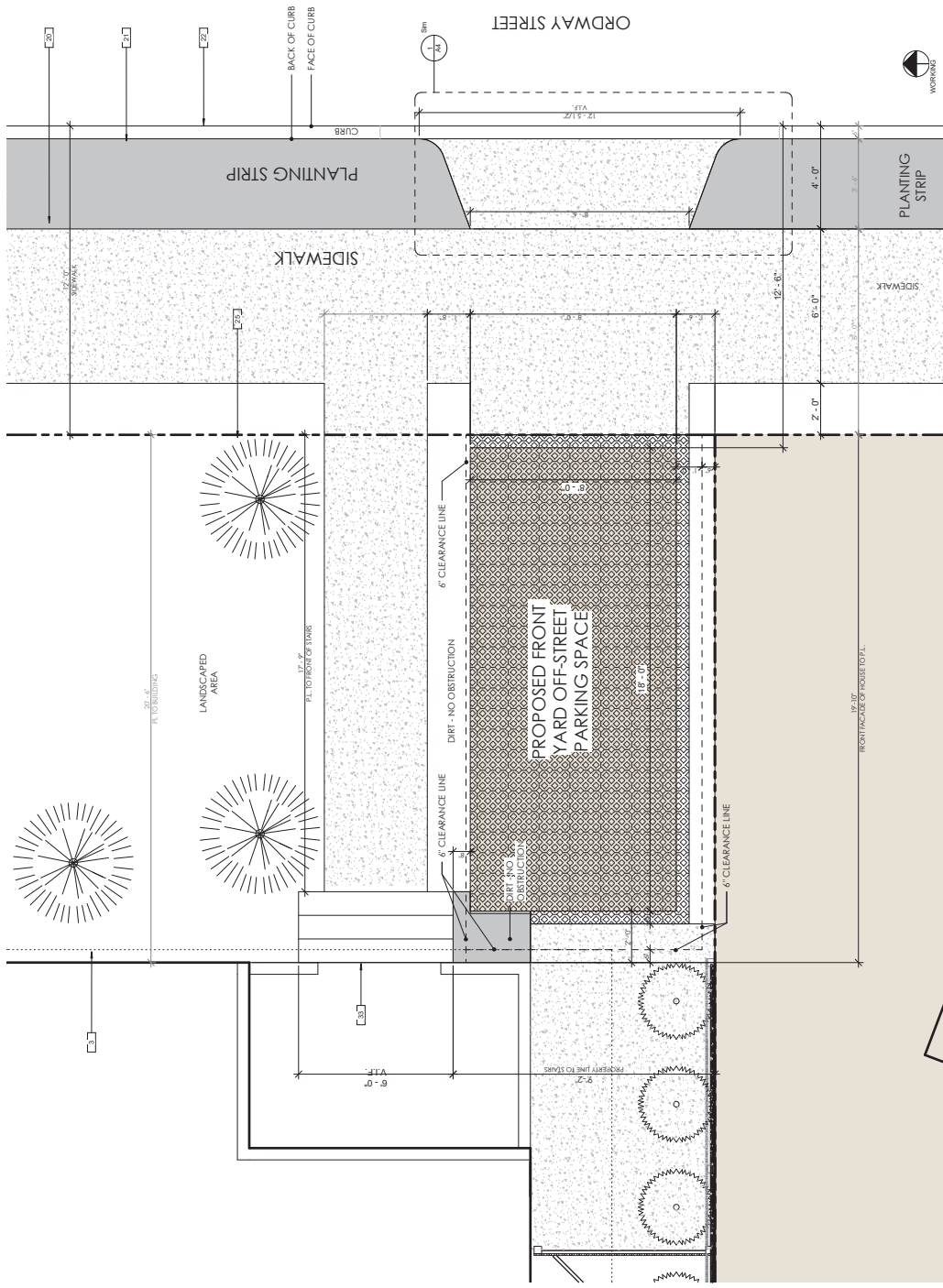
DATE: 08/14/2018

DESIGNER: Jennie Durant
Kelli Burgejole

1346 ORDWAY
1346 ORDWAY STREET
BERKELEY, CA 94702

PROJECT TITLE: ENLARGED PARKING PLAN

DATE: 08/14/2018



SHEET NOTES

KEY NUMBER	KEYNOTE TEXT
3	FRONT SETBACK LINE
16	FIREPLACE
20	7' WIDE SIDEWALK
21	3' WIDE PLANTING STRIP
22	CURB STREET
23	BACK OF CURB
33	FRONT ENTRY STEPS

1 PARKING PLAN
1/2" = 1'-0"

THE CLIENT (OWNER) HAS REVIEWED AND APPROVED THIS PLAN AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT. THE CLIENT HAS REVIEWED AND APPROVED THIS PLAN AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT. THE CLIENT HAS REVIEWED AND APPROVED THIS PLAN AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT.

TRADE CRAFT

TRADECRAFT
220 VILLO DAVAS DRIVE, BERKELEY, CA
94702

PROJECT NUMBER: 18-009
PROJECT START DATE: 09/17/2017
PROJECT END DATE: 09/17/2017

OWNER: Jannine Durant
Kobi Bujopolo

1346 ORDWAY
1346 ORDWAY STREET
BERKELEY, CA 94702

DATE: 11/19/18
AUP PERMIT: 315199
AUP NUMBER: 1

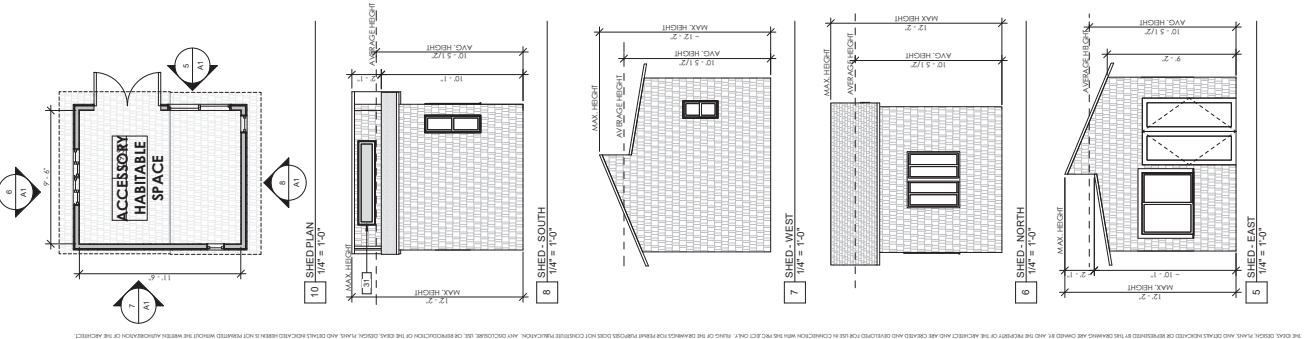
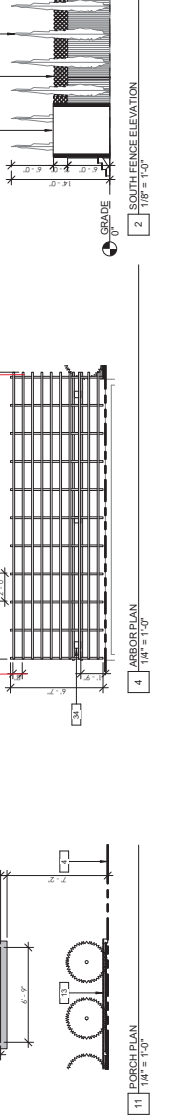
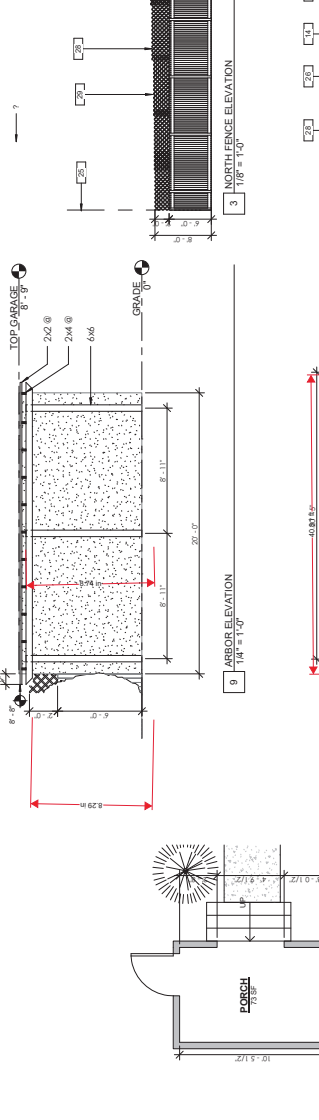
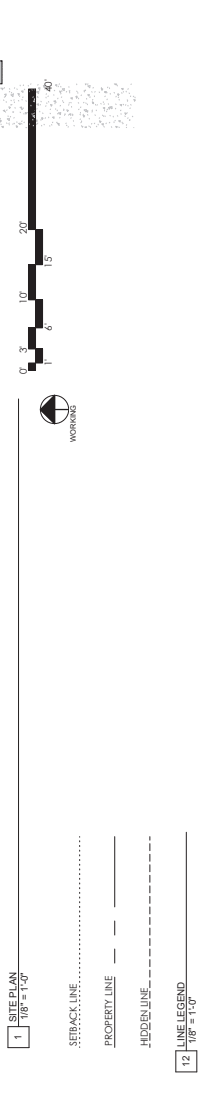
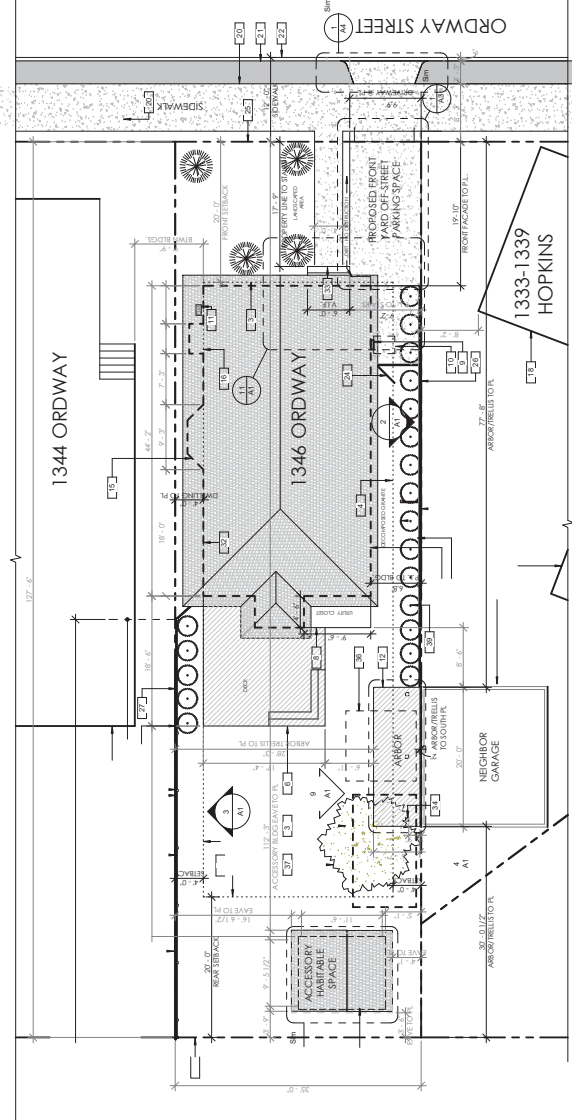
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SHEET NAME: SITE PLAN
SHEET NUMBER: A1

SHEET INDEX

Sheet Number	Sheet Name	Sheet Issue Date
A1	SITE PLAN	09/17/2017
A2	PROPOSED PORCH PLAN	09/17/2017
A3	SHED ELEVATIONS	09/17/2017

SHEET NOTES

- 1 48" TALL BAMBOO FENCE @ REAR PROPERTY LINE
- 2 REAR SETBACK LINE
- 3 FRONT SETBACK LINE
- 4 SIDE SETBACK LINE
- 5 SHED
- 6 REAR DECK
- 7 REAR PORCH
- 8 ELECTRICAL PANEL
- 9 GAS METER
- 10 MAINTAIN 30" W CLEAR WORKING SPACE - N.E.C. 110.26(A) (2) REQUIREMENT.
- 11 ARBOR STRUCTURE
- 12 6" WIDE CEILING PROPERTY LINE
- 13 6" WIDE CEILING GARAGES
- 14 6" WIDE CEILING GARAGES
- 15 6" WIDE CEILING GARAGES
- 16 FIREPLACE
- 17 1344 ORDWAY RESIDENCE
- 18 1333-1339 HOPKINS STREET, MAIN STRUCTURE
- 19 1333-1339 HOPKINS STREET, GARAGE STRUCTURE
- 20 72" WIDE SIDEWALK
- 21 24" WIDE SIDEWALK
- 22 24" WIDE SIDEWALK
- 23 24" WIDE SIDEWALK
- 24 GATE
- 25 PROPERTY LINE
- 26 24" LATTICE ADOP OF FENCE
- 27 36" LATTICE ADOP OF FENCE, INSTALLED TO REPLACE (E) 24" ADOP OF FENCE. THE ADOP OF FENCE SHALL BE INSTALLED FROM THE ADOP OF 1344 ORDWAY TO THE ADOP OF 1333-1339 HOPKINS STREET. THE ADOP OF 1344 ORDWAY AND LATTICE PATTERNS ARE SHOWN CONCURRENTLY. REFLECT GRADE.
- 28 LATTICE "SIPEDOWN" APPROX. 1.5' EVERY 8' TO 10'
- 29 REFLECT GRADE
- 30 NEIGHBOR'S GARAGE STRUCTURE
- 31 CELESTORY WINDOW
- 32 CELESTORY WINDOW
- 33 FRONT ENTRY STEPS
- 34 CLOSEST FACE OF ARBOR POSTS IS 10' FROM PROPERTY LINE. SEE PLAN VIEW.
- 35 36" LATTICE ADOP OF FENCE EAST OF THIS POINT. 24" LATTICE ADOP FENCE WEST OF THIS POINT. TOOK SHED, ARBORX 10' X 10' - REMOVED BY PREVIOUS OWNER PRIOR TO NOV. 2015 PURCHASE BY CURRENT OWNER.
- 36 TREE - REMOVED BY PREVIOUS OWNER PRIOR TO NOV. 2015 PURCHASE BY CURRENT OWNER. TREE SHED, ARBORX 7' X 14' - REMOVED BY PREVIOUS OWNER PRIOR TO NOV. 2015 PURCHASE BY CURRENT OWNER.
- 37 TREES ARE APPROX. 18' FROM P.L. AND 2.5' FROM BUILDING FOOTPRINT. CROWN OF TREES APPROX. 35' W. TREES < 3' DIA.



THESE PLANS, SPECIFICATIONS, AND OTHER INSTRUMENTS OF SERVICE ARE PREPARED BY TRADE CRAFT ARCHITECTURE AND ENGINEERING FOR THE CLIENT AND ARE NOT TO BE USED FOR ANY OTHER PROJECT WITHOUT THE WRITTEN PERMISSION OF TRADE CRAFT ARCHITECTURE AND ENGINEERING. TRADE CRAFT ARCHITECTURE AND ENGINEERING IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THESE PLANS, SPECIFICATIONS, AND OTHER INSTRUMENTS OF SERVICE. TRADE CRAFT ARCHITECTURE AND ENGINEERING IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THESE PLANS, SPECIFICATIONS, AND OTHER INSTRUMENTS OF SERVICE. TRADE CRAFT ARCHITECTURE AND ENGINEERING IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THESE PLANS, SPECIFICATIONS, AND OTHER INSTRUMENTS OF SERVICE.

TRADE CRAFT

TRADECRAFT
22116 DAVENPORT BLVD
BERKELEY, CA 94702

PROJECT NUMBER: 18-009

PROJECT CONTACT INFORMATION:
PROJECT MANAGER: JENNIE DURANT
PHONE: 415.778.3333
EMAIL: J.DURANT@TRADECRAFT.COM

DATE: 08/20/2018

CONTRACTOR:

OWNER:

Jessie Durant
Kati Burgejole

PROJECT ADDRESS:

1346 ORDWAY STREET
BERKELEY, CA 94702

DATE: 08/20/2018

SCALE:

1" = 10'-0"

DATE: 08/20/2018

PROJECT NUMBER: 18-009

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DATE: 08/20/2018

CONTRACTOR:

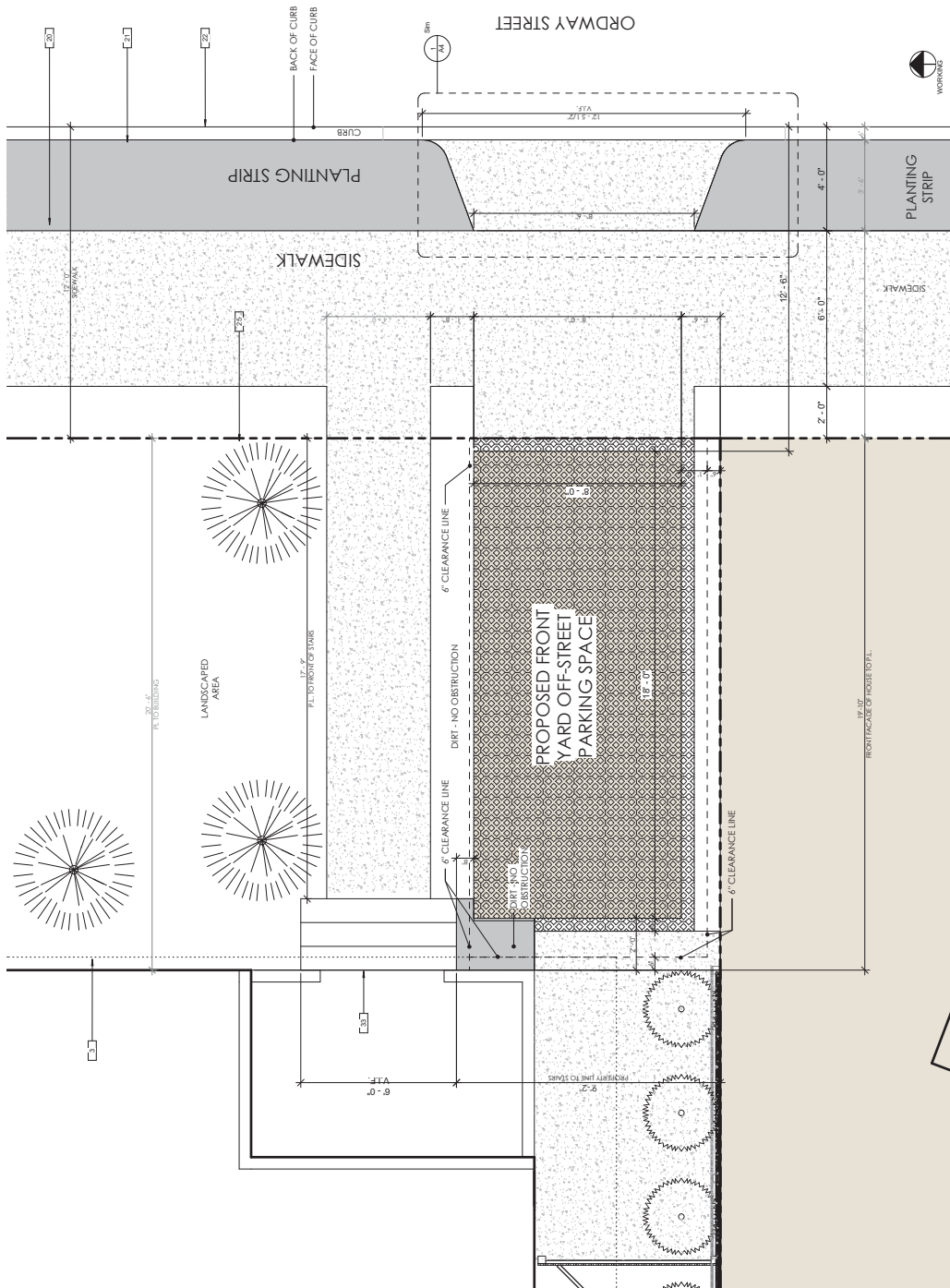
OWNER:

Jessie Durant
Kati Burgejole

PROJECT ADDRESS:

1346 ORDWAY STREET
BERKELEY, CA 94702

DATE: 08/20/2018



1 PARKING PLAN
1/2" = 1'-0"

SHEET NOTES

KEY NUMBER	KEYNOTE TEXT
3	FRONT SETBACK LINE
16	FIREPLACE
20	7'-0" WIDE SIDEWALK
21	3'-0" WIDE PLANTING STRIP
22	CURB
23	BACK OF CURB
33	FRONT ENTRY STEPS

ENLARGED PARKING PLAN
A3

TRADE CRAFT

TRADECRAFT
22015 DAVIS STREET, BERKELEY, CA
94702

PROJECT NUMBER: 18-009
PROJECT COMMENCEMENT DATE: 09/17/2017
PROJECT COMPLETION DATE: 09/17/2017

OWNER:
Jannine Durant
Kobi Bujopolo

1346 ORDWAY
1346 ORDWAY STREET
BERKELEY, CA 94702

DATE: 11/19/18
AUP PERMIT: 31519
AUP NUMBER: 1

PROJECT LOCATION: 1346 ORDWAY STREET, BERKELEY, CA 94702
SHEET NUMBER: 18-009-01
SHEET TITLE: FENCE PLAN

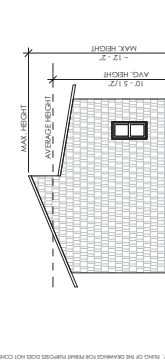
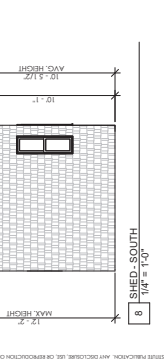
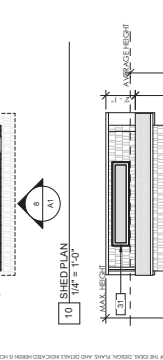
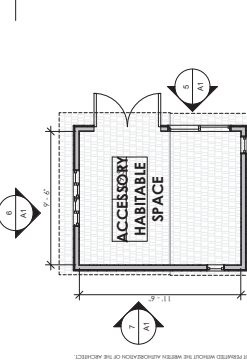
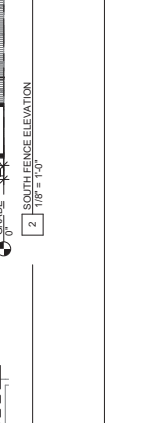
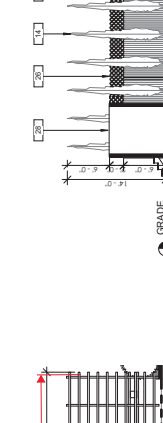
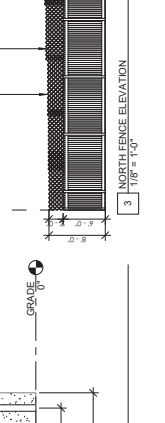
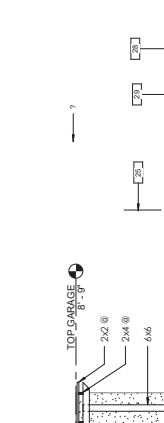
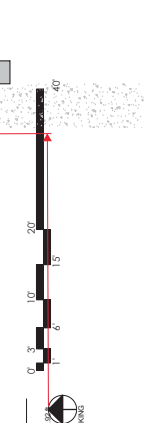
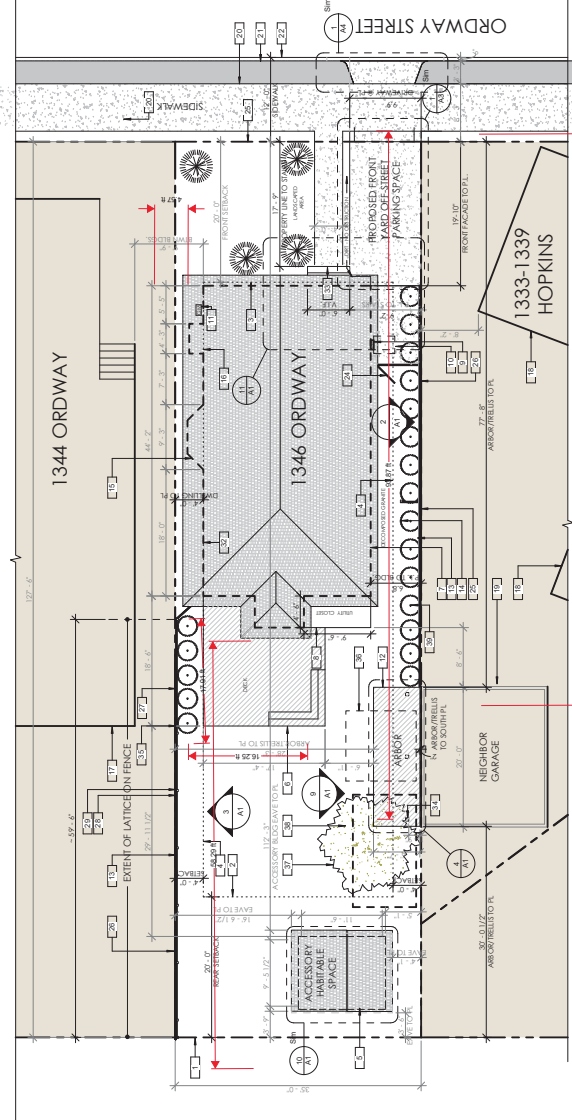
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SHEET INDEX

Sheet Number	Sheet Name	Sheet Issue Date
A1	FENCE PLAN	09/17/2017
A2	PROPOSED GARAGE PLAN	09/17/2017
A3	PROPOSED PORCH PLAN	09/17/2017
A4	PROPOSED SHED PLAN	09/17/2017

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- SIDE SETBACK LINE
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- REAR DECK
- REG. FOOTPRINT BELOW
- ELECTRICAL PANEL
- MAINTAIN 30"W X 3'6" OR CLEAR WORKING SPACE - NEC.110.26(A) REQUIREMENT.
- GAS METER
- ARBOR STRUCTURE
- 6" LATTICE AT PROPERTY LINE
- 6" LATTICE ON GARAGES/TIRES
- BAY WINDOW
- FRERFACE
- 1344 ORDWAY RESIDENCE
- 1333-1339 HOPKINS STREET, MAIN STRUCTURE
- 72" WIDE SIDEWALK
- CURB ON STREET
- GATE
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- LATTICE "STEP-DOWN" APPROX. 1.5" EVERY 8' TO 1' TO REFLECT GRADE.
- NEIGHBOR'S GARAGE STRUCTURE
- CELESTORY WINDOW
- FRONT ENTRY STEPS
- CLOSEST FACE OF ARBOR POSTS IS 10'7" FROM PROPERTY LINE. SEE PLAN VIEW.
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- TREES - REMOVED BY PREVIOUS OWNER PRIOR TO NOV. 2015 PURCHASE BY CURRENT OWNER. TREES SHED, ARBORX 9X16' REMOVED BY PREVIOUS OWNER PRIOR TO NOV. 2015 PURCHASE BY CURRENT OWNER.
- TREES ARE APPROX. 18' FROM P.L. AND 2.5' FROM BUILDING FOOTPRINT. CROWN OF TREES APPROX. 35' W. ROINS < 3' DIA.



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CLARIFICATIONS FOR ZONING OFFICE, 11/19/2019

Site Plan:

1) For clarity, please remove clouds, label fence and lattice on both side PLs (on south and north) and the 4 ft. bamboo fence on the rear PL.

NL: Fence has Keynote #13. Lattice has Keynote #26. Bamboo fence on Rear PL has Keynote #1. These are shown on the plans. Note added to plan noting extent of lattice along fence.

2) Please add a north arrow on all plans.

3) How many hedges total are there on the site? On the application, it is noted that there are 15 but 12 are drawn on Site Plan. I also see that there are hedges on the north side of the lot but they are not drawn on Site Plan. The number of hedges should match on plans and all other documents.

NL: Added 3 hedges on south side and 5 hedges of North side near deck.

4) Unfortunately the survey does not show the distance from the accessory building's eave to the south and rear property lines. Currently the Site Plan shows 4'-1" to South PL (Abutting Larry Hickman's property) and 3'-9" to the rear PL. Because different numbers were presented on earlier sets, I need that the numbers on the latest resubmittal be confirmed. (Please confirm 4'-1" to South PL & 3'-9" to the rear PL from eave)

NL: Confirming 4'-1" from eave to south PL and 3'-6" from eave to Rear PL.

5) Shows distance to ALL PLs from accessory building's eave and Trellis.

Elevations:

Please show average and maximum heights for the accessory building and specify average and maximum on dimension lines.

On Tab Form:

1) Please include a GFA and building footprint number for the accessory building

NL: Answer is 128SF AHS footprint. Tabulation form is included for more detailed summary of areas.

2) Accessory building setbacks should be from its eave and not face of its wall. (It is only for main house that we measure to the face of wall). (Included on Tab page titled "Accessory Habitable Space")

2) Include trellis' footprint on Tab Form (Included on Tab page titled "Arbor")

4) Main building's existing exact average and maximum height should be noted on Tab form. DONE (Included on first page)

NL: Top of gutter = 10'-3". Maximum height = 16'



PLANNING & DEVELOPMENT

Land Use Planning, 1947 Center Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.6903 Fax: 510.981.7420 Email: Planning@CityofBerkeley.info

TABULATION FORM

Project Address: 1346 Ordway Street Date: 11/5/2019
 Applicant's Name: Jennie Durant and Keki Burjorjee
 Zoning District R-1A

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/ Required</i>
Units, Parking Spaces & Bedrooms			
Number of Dwelling Units (#)	1	0	1
Number of Parking Spaces (#)	1	0	1
Number of Bedrooms (#) (R-1, R-1A, R-2, R-2A, and R-3 only)	2	N/A	2
Yards and Height			
SEE ATTACHED SHEET FOR SHED & ARBOR. Front Yard Setback (Feet)	20'-6"	N/A	20'-0"
Side Yard Setbacks: (facing property)			
Left: (Feet)	7'-2"	N/A	4'-0"
Right: (Feet)	4'-0"	N/A	4'-0"
Rear Yard Setback (Feet)	58'-4"	N/A	20'-0"
Building Height* (# Stories)	1	0	3
Average* (Feet)	~13'-2"	~13'-2"	28 FT
Maximum* (Feet)	~16'-0"	~16'-0"	35 FT
Areas			
Lot Area (Square-Feet)	4,462.5 SF	0	> 5,000 SF
Gross Floor Area* (Square-Feet) Total Area Covered by All Floors	1,411 SF	1,411 SF	N/A
Building Footprint* (Square-Feet) Total of All Structures	1,152 SF	1,152 SF	1,784 SF
Lot Coverage* (%) (Footprint/Lot Area)	30%	32%	< 40%
Useable Open Space* (Square-Feet)	~2,270 SF	~2,270 SF	> 400 SF
Floor Area Ratio* Non-Residential only (Except ES-R)	0.32	0.32	1.0

*See Definitions – Zoning Ordinance Title 23F.

Revised: 05/15



PLANNING & DEVELOPMENT

Land Use Planning, 1947 Center Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.6903 Fax: 510.981.7420 Email: Planning@CityofBerkeley.info

TABULATION FORM

Project Address: 1346 Ordway Street Date: 12/03/2018
 Applicant's Name: Jennie Durant and Keki Burjorjee
 Zoning District R-1A

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/ Required</i>
ARBOR		

Side Yard Setbacks: (facing property)	Left: (Feet)	0"	0"	0"
	Right: (Feet)	28'-3"	28'-3"	28'-3"
Rear Yard Setback	(Feet)	30'-0"	30'-0"	30'-0"
Building Height*	(# Stories)	1	1	1
Average*	(Feet)	8'-8"	8'-8"	8'-8"
Maximum*	(Feet)	8'-8"	8'-8"	8'-8"



PLANNING & DEVELOPMENT

Land Use Planning, 1947 Center Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.6903 Fax: 510.981.7420 Email: Planning@CityofBerkeley.info

TABULATION FORM

Project Address: 1346 Ordway Street Date: 12/03/2018
 Applicant's Name: Jennie Durant and Keki Burjorjee
 Zoning District: R-1A

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/ Required</i>
ACCESSORY HABITABLE SPACE			

Side Yard Setbacks: (facing property)	Left: (Feet)	4'-1"	N/A	4'-1"
	Right: (Feet)	16'-6.5"	N/A	16'-6.5"
Rear Yard Setback	(Feet)	3'-6"	N/A	3'-6"
Building Height*	(# Stories)	1	0	1
Average*	(Feet)	~10'-5.5"	~10'-5.5"	11'-3"
Maximum*	(Feet)	~12'-2"	~12'-2"	12'-2"

**SETBACKS FROM
EAVE:**NORTH -
16'-6.5" SOUTH - 4'-1" EAST -
11'-3" WEST - 3'-6"

1346 ORDWAY - AREA CALCULATIONS

Lot Area (SF) **4,462.5**

Area Description	Area	Gross Floor Area (GFA)	Building Footprint	Lot Coverage	Useable Open Space (UOS)	Landscaped UOS	FAR (GFA/Lot Area)
Accessory Habitable Space	128	128	128	128			
Arbor/Trellis	131	131	131	131			
Rear Deck	276				276		
Home Footprint (Exclude Porch)	1,030	1,030	1,030	1,030			
Porch	79	79	79	79			
Utility Closet	43	43	43	43			
Side Yard (Upper)	152						
Front Landscape Area	404				404	404	
Lower Side Yard	317						
Walkway	71						
Stairs	17						
Parking Area	226						
Rear Yard (Less Arbor & Deck & AHS)	1,590				1,590	1,590	
SUBTOTAL*	4,464	1,411	1,411	1,411	2,270	1,994	32%
Percentage		32%	32%	32%	51%	88%	

May be subject to 1-2 SF discrepancy due to rounding.

Jennie Durant and Keki Burjorjee
1346 Ordway Street, 94702
ZP2018-0174

November 19, 2019

Re: UPDATED Variance Request

Dear Members of the Zoning Office and Zoning Adjustment Board,

We are writing to request the approval of a parking variance for our property at 1346 Ordway Street to reduce the requirement for a full 2' landscaping barrier between our front parking space and the property line. **We believe we can build a green, ecologically friendly, and attractive parking spot if the variance is granted.** This will be in part because with the variance we will not have to A) augment (i.e. demolish and rebuild) our front stairs to accommodate the parking spot, and B) demo and rebuild our curb cut to match the adjusted parking spot.



Figure 1: Inspiration for future parking space

Fig 1. demonstrates a similar parking space design to what we would like to install. We will remove the existing concrete and sustainably dispose of it by donating it to a landscaper who uses concrete in her installations. In place of the concrete, we will install permeable paver parking strips, a dymondia lawn on the left side which will act as a 1'6" landscaping barrier; and low, xeriscaped vegetation in between paver parking strips. **This design, which would only fall 6" short of the city's mandated 2' landscaping barrier,** would allow us to keep our stairs and curb cut. If we do not demolish the stairs, we will not have to pour new cement. **Demolishing the stairs would be at odds with the city's Zero Waste policy and pouring new cement for the stairs and augmented curb cut would contribute to carbon emissions.** Cement production is one of the worst emitters of carbon dioxide, accounting for over 8% of global carbon emissions¹.

We hope the Zoning Office and Board will see that granting our variance will allow us to create the most ecologically friendly parking space, without creating unnecessary waste, high carbon emissions, and loud demolition and reconstruction efforts that would disturb the peace in our neighborhood. Instead, this new design would fit in with our water-wise pollinator gardens in the front (Fig. 3) and back yard (Fig. 5). You can see a photo of how we have transformed our back garden into a pollinator garden in Fig. 4 and 5, as an example that highlights our aesthetic and environmental commitments. You can see that we have made great efforts to improve our property, make it more ecologically friendly, and contribute to the beauty of our neighborhood.

We provide detailed information in the following pages.

¹ <https://reader.chathamhouse.org/making-concrete-change-innovation-low-carbon-cement-and-concrete>

Jennie Durant and Keki Burjorjee
1346 Ordway Street, 94702
ZP2018-0174



Figure 2: Existing parking space



Figure 3: Water-wise pollinator garden out front

Background:

A preexisting structure at the rear of our property was in a state of extreme disrepair and was removed by the previous owners right before we took ownership of the property. This structure was marked as a “garage” in the site-plan the zoning office had for our property, even though it was not used as one by the previous owner (see attached photo evidence from 2008, Fig. 6—note that fence blocks entry to garage in back). As far as we and our neighbors know (some of whom have lived here for 20+ years), the previous resident, who owned the property since the 70s, parked on the front of the property in what is our current parking space (Fig. 2).

The Zoning Office noted the removal of the structure marked as a garage when we applied for an AUP to plant a hedge along the side of our property to have a privacy screening from our neighbor, whose 4-unit property is currently vacant, poorly maintained, looks directly into our and our young daughter’s bedroom (See Fig 7). Currently the windows are boarded-up and a gutter has been hanging off the front garage for over two weeks (as of November 19th).



Figure 4: Backyard when we took ownership of property, Nov. 2015.



Figure 5: Backyard after we had it landscaped, 2018.

Jennie Durant and Keki Burjorjee
1346 Ordway Street, 94702
ZP2018-0174



Figure 6: Photo of parking space from 2008. Note that our neighbor's house has been in a state of disrepair since at least 2008—over 11 years, making that an 11-year remodel process. This is one of the reasons that drove us to plant the hedge in the first place.



Figure 7: Larry Hickman's property, Nov. 19, 2019. These windows have been removed and replaced countless times, according to our neighbors. The gutter has been hanging off the wall since the end of October.

Jennie Durant and Keki Burjorjee
1346 Ordway Street, 94702
ZP2018-0174

Based on the results of our site plan and land surveys, the Zoning Office subsequently determined that we do not have a legal, usable parking spot on the property because the distance from our house to the side property line is 6'9" its narrowest and a car could not be expected to pass through. We were then asked to remove our front parking area and curb cut.

One of the owners, Jennie Durant, has a temporary handicapped placard for a spine condition and requires a parking spot close to the front door. In part because of this, we have requested an AUP to keep the front parking area and are applying for a variance to reduce the requirement for a 2' landscaping strip between the front parking space and the property line.

We have brought our case to the attention of City Council Member Rashi Kesarwani, who discussed it with Council Member Susan Wengraf. Both council members agreed that our home was non-conforming to begin with. Kesarwani expressed support for the AUP given our property limitations and the handicapped parking consideration.

The variance we are requesting would allow us to keep our existing stairs and curb cut as is, without augmentation. As mentioned, augmenting both of these would be a significant expense for us and would also produce substantial unnecessary environmental waste (in the form of concrete and rebar)—neither of which support the well-being of Berkeley residents nor the city's stated [Zero Waste goals](#).

Qualifications for Variance:

Below, we detail the reasons we think our parking space qualifies for a variance. First, we address several points that we hope Zoning administrators/the Zoning Board will consider in our case. Second, we respond to the City's requirements to approve a variance and respond to each point.

1. As stated above, **needlessly demolishing our stairs** just to add a landscaping barrier to meet the code **would result in the production of significant concrete and rebar waste**, and the possible demo of our curb cuts as well, again adding more waste. We hope the Zoning Board will see the value in granting the variance to support the city's [Zero Waste goals](#) and overall environmental ethics.
2. **Our proposed parking space allows for a 1'6" landscaping strip (if needed)** between the property line and our proposed parking spot, so the variance would only be to reduce 6" off the required 2'. By looking at the enlarged drawing on our site plan (A3), it's clear that there is 1'6" of clearance from the property line to the proposed parking spot (1.5 feet from the space to the property line, and 8" from the parking space to the stairs, including clearances).

Jennie Durant and Keki Burjorjee
1346 Ordway Street, 94702
ZP2018-0174

3. It would be a significant financial burden to augment the stairs and/or curb

cut/driveway: To have a 2' landscaping barrier would require us to demolish and rebuild our stairs to create the additional 6" space to meet the zoning requirements and may require us to augment the curb cut (which has a septic main in it). All of this would add *significant* cost to the process of obtaining permits for our house, which has now gone over \$11,000, including the cost of two land surveys, architect fees, and permit expenses. Augmenting the stairs by 6" (in a way that would not lower the property value) would add significant expense, particularly if we have to augment the curb cut as well. One contractor² estimated that the cost of demolishing and rebuilding the stairs and augmenting the curb cut would cost us from 10- to 20 thousand dollars.



Figure 8: Neighbor's property begins at edge of concrete in photo. Grass to left of car is on neighbor's property.

4. Our neighbor's property has a large grass patch adjacent to our parking spot, so a full 2' landscaping strip seems less necessary. (Fig. 8)

Below, we respond to the City's requirements to approve a variance (as shared by our zoning officer), by addressing each point of the following requirements:

- A. *There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District*

Our request to have a front parking spot in the current location is exceptional because of the handicapped placard.

- B. *The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner;*

As property owners, we feel that having a parking space is necessary for the enjoyment and full use of our home. If the variance is not approved, we will have to spend thousands of dollars we do not have to demolish and rebuild our stairs (to add 6" to allow the landscape

² Eric Burt, Licensed General Contractor: <https://www.burtengineeringandconstruction.com/>

Jennie Durant and Keki Burjorjee
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ZP2018-0174

barrier) and quite possibly augment the curb cut as well (which has a sewer main). These costs alone could add up to 10-20,000 thousand dollars—which seems like an extreme burden to add an extra 6” to meet the code.

C. The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole.

We are simply requesting that our current parking space be allowed to remain where it is, though if needed, we would remove the existing concrete and install a permeable parking space. Requiring us to additionally demo and rebuild the stairs, and demo and redo the curb cut would all produce significant environmental waste, which we believe is detrimental to the health and welfare of the City. Granting the variance will reduce environmental waste.

We hope the city will see that needlessly demolishing 6” of stairs and moving the curb cut is at extreme odds with the environmental ethics that guide the city of Berkeley, not to mention the unnecessary emotional and financial toll it places on us as homeowners, all so we can have a front parking spot that is handicap accessible.

We hope that you understand the undue burden it would place on us and grant us the variance.

Kind regards,

Jennie Durant and Keki Burjorjee
1346 Ordway Street
916-220-9806
jenniedurant@gmail.com



PLANNING & DEVELOPMENT

Land Use Planning, 1947 Center Street, Berkeley, CA 94704
 Tel: 510.981.7410 TDD: 510.981.6903 Fax: 510.981.7420 Email: Planning@CityofBerkeley.info

TABULATION FORM

Project Address: 1346 Ordway Street Date: 11/5/2019
 Applicant's Name: Jennie Durant and Keki Burjorjee
 Zoning District R-1A

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

SEE ATTACHED SHEETS FOR SHED & ARBOR.

	<i>Existing</i>	<i>Proposed</i>	<i>Permitted/Required</i>
Units, Parking Spaces & Bedrooms			
Number of Dwelling Units (#)	1	0	1
Number of Parking Spaces (#)	0	1	1
Number of Bedrooms (#) (R-1, R-1A, R-2, R-2A, and R-3 only)	2	N/A	2
Yards and Height			
Front Yard Setback (Feet)	~19'-10"	N/A	20'-0"
Side Yard Setbacks: (facing property)	Left: (Feet)	6.8 - 7.0'	4'-0"
	Right: (Feet)	3.7 - 3.9'	4'-0"
Rear Yard Setback (Feet)	58'-4"	N/A	20'-0"
Building Height* (# Stories)	1	0	3
Average* (Feet)	~13'-2"	~13'-2"	28 FT
Maximum* (Feet)	~16'-0"	~16'-0"	35 FT
Areas			
Lot Area (Square-Feet)	4,462.5 SF	0	> 5,000 SF
Gross Floor Area* (Square-Feet) Total Area Covered by All Floors	1,152 SF	1,280 SF	N/A
Building Footprint* (Square-Feet) Total of All Structures	1,152 SF	1,411 SF	<1,784 SF
Lot Coverage* (%) (Footprint/Lot Area)	26%	32%	< 40%
Useable Open Space* (Square-Feet)	~2,270 SF	~2,270 SF	> 400 SF
Floor Area Ratio* Non-Residential only (Except ES-R)	N/A	N/A	N/A

*See Definitions – Zoning Ordinance Title 23F.

Revised: 05/15



PLANNING & DEVELOPMENT

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Tel: 510.981.7410 TDD: 510.981.6903 Fax: 510.981.7420 Email: Planning@CityofBerkeley.info

TABULATION FORM

Project Address: 1346 Ordway Street Date: 12/03/2018

Applicant's Name: Jennie Durant and Keki Burjorjee

Zoning District R-1A

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

ARBOR

		<i>Existing</i>	<i>Proposed</i>	<i>Permitted/ Required</i>
Side Yard Setbacks: (facing property)	Left: (Feet)	0"	0"	0"
	Right: (Feet)	28'-3"	28'-3"	28'-3"
Rear Yard Setback	(Feet)	30'-0"	30'-0"	30'-0"
Building Height*	(# Stories)	N/A	N/A	N/A
Average*	(Feet)	N/A	N/A	N/A
Maximum*	(Feet)	8'-8"	8'-8"	8'-8"
Areas				
Building Footprint*		0 SF	105 SF	
Total of All Structures				



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Land Use Planning, 1947 Center Street, Berkeley, CA 94704
 Tel: 510.981.7410 TDD: 510.981.6903 Fax: 510.981.7420 Email: Planning@CityofBerkeley.info

TABULATION FORM

Project Address: 1346 Ordway Street Date: 12/03/2018
 Applicant's Name: Jennie Durant and Keki Burjorjee
 Zoning District R-1A

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/ Required</i>
-----------------	-----------------	--------------------------------

ACCESSORY HABITABLE SPACE

		<i>Existing</i>	<i>Proposed</i>	<i>Permitted/ Required</i>
Side Yard Setbacks: (facing property)	Left: (Feet)	3.6 - 3.8'	3.6 - 3.8'	4'-0"
	Right: (Feet)	4.1 - 4.3'	4.1 - 4.3'	16'-6.5"
Rear Yard Setback	(Feet)	3'-6"	N/A	3'-6"
Building Height*	(# Stories)	1	0	1
Average*	(Feet)	~10'-5.5"	~10'-5.5"	10'-0"
Maximum*	(Feet)	~12'-2"	~12'-2"	10'-0"
Areas				
Gross Floor Area*	(Square-Feet)	0 SF	128 SF	
Total Area Covered by All Floors				
Building Footprint*	(Square-Feet)	0 SF	128 SF	
Total of All Structures				

*See Definitions – Zoning Ordinance Title 23F.

Revised: 05/15

11/27/2019

1346 ORDWAY - AREA CALCULATIONS

Lot Area (SF) **4,462.5**

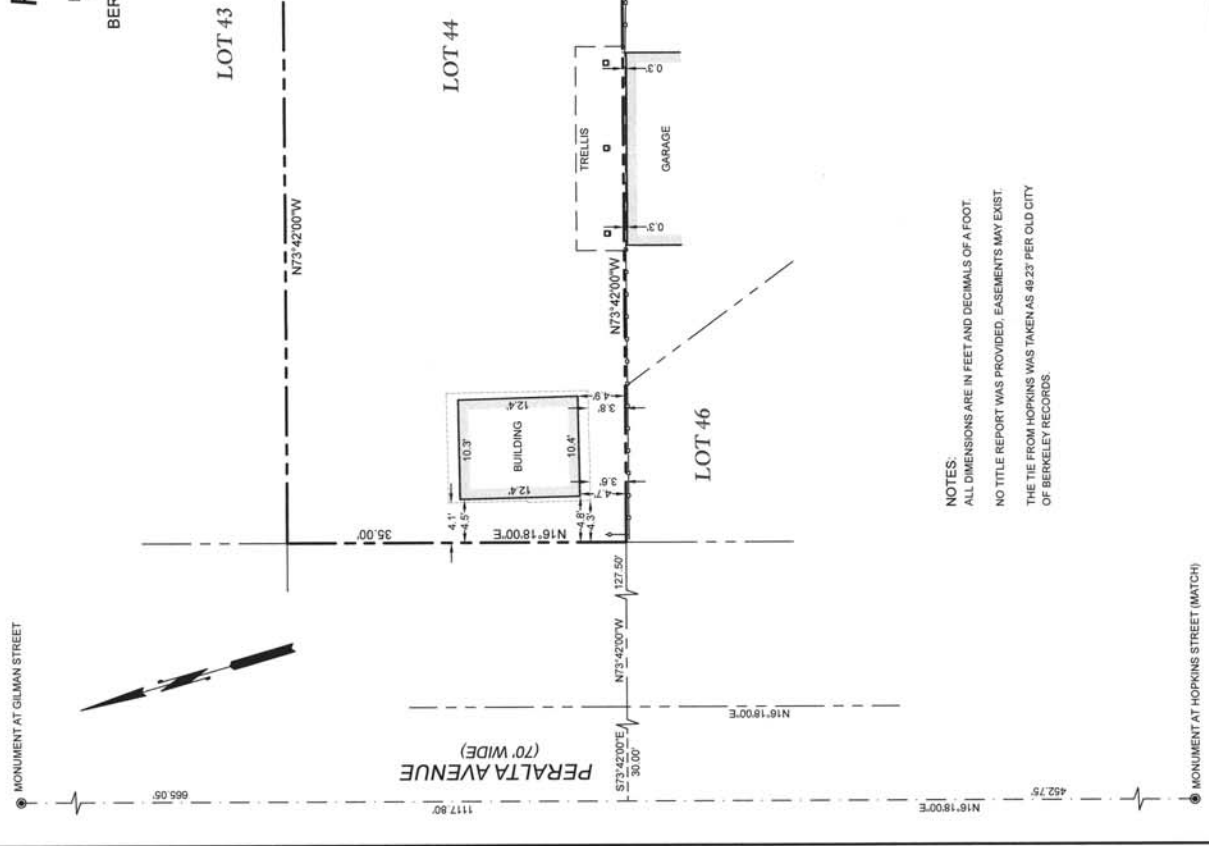
Area Description	Area	(E) Gross Floor Area (GFA)	(P) Gross Floor Area (GFA)	(E) Building Footprint	(P) Building Footprint	(E) Lot Coverage	(P) Lot Coverage	Useable Open Space (UOS)	Landscaped UOS	FAR (GFA/Lot Area)
Accessory Habitable Space (Shed)	128		128		128		128			
Arbor/Trellis	131		NO		131		131			
Rear Deck	276							276		
Home Footprint (Exclude Porch)	1,030	1,030		1,030		1,030	1,030			
Porch	79	79		79		79	79			
Utility Closet	43	43		43		43	43			
Side Yard (Upper)	152									
Front Landscape Area	404							404	404	
Lower Side Yard	317									
Walkway	71									
Stairs	17									
Parking Area	226									
Rear Yard (Less Arbor & Deck & AHS)	1,590							1,590	1,590	
SUBTOTAL*	4,464	1,152	1,280	1,152	1,411	1,152	1,411	2,270	1,994	29%
Percentage		26%	29%	26%	32%	26%	32%	51%	88%	29%

May be subject to 1-2 SF discrepancy due to rounding.

PLAT OF SURVEY

LOT 44, BLOCK 6
KEY ROUTE TERRACE NO. 3 (21 M 59)
LOCATED AT 1346 ORDWAY STREET
BERKELEY, ALAMEDA COUNTY, CALIFORNIA

MARCH 14, 2019 SCALE: 1" = 8'



- LEGEND:
- CONC CONCRETE
 - EAVE EDGE
 - WOOD FENCE
 - CITY MONUMENT



NOTES:
ALL DIMENSIONS ARE IN FEET AND DECIMALS OF A FOOT.
NO TITLE REPORT WAS PROVIDED. EASEMENTS MAY EXIST.
THE TIE FROM HOPKINS WAS TAKEN AS 49.23 PER OLD CITY OF BERKELEY RECORDS.

MONUMENT AT PERALTA AVENUE (MATCH)
MONUMENTAL LAND SURVEYING
1771 MAYHEW WAY, SUITE 207, PLEASANT HILL, CA 94523
(925) 300-3695 MONUMENTAL-LS.COM PROJECT#18114

MONUMENT AT HOPKINS STREET (MATCH)

Karimzadegan, Niloufar

From: Karimzadegan, Niloufar
Sent: Tuesday, December 3, 2019 10:38 AM
To: 'Nicholas Leone'
Cc: Jennie Durant
Subject: RE: Revisions for ZP2018-0174
Attachments: Sacnned trace for parking_1346 Ordway.pdf

Hello Nick and Jennie-

The Enlarged site plan submitted on 11-20-19 does not show accurate dimensions. **The width from the south property line to the stairs are 9'-2" (as you have shown) but when you subtract 8'-6" from that width of 9'-2", the remaining space will only be 8" and not 1'-6".** This needs to be corrected. Your enlarged plan for the parking is very confusing and busy. Please look at what I drew and draw something simple and clear. Please do not add unnecessary textures that will just make the plan busy and unreadable. Only use simple lines and dimensions. The variance statement should reflect the correct dimension for the remaining landscape area as well (8"). Please revise plans and email it back to me today.

Thanks,

Nilu

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Sent: Wednesday, November 27, 2019 3:14 PM
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Cc: Jennie Durant <jenniedurant@gmail.com>
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Thank you,

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Nilu Karimzadegan | Assistant Planner

Land Use Planning, City of Berkeley

510.981.7419

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[https://www.cityofberkeley.info/IT/Holiday and Reduced Service Days.aspx](https://www.cityofberkeley.info/IT/Holiday_and_Reduced_Service_Days.aspx)

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Jennie

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Nilu

--

NICK LEONE, AIA

415.272.7541 | NBL@tradecraftarch.com

--

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**TRADE
CRAFT**

TRADE CRAFT
22016 ORDWAY STREET, SUITE 100
BERKELEY, CA 94702
PH: 415.863.1111
WWW.TRADECRAFTLANDSCAPE.COM

PROJECT NUMBER: 18-009
PROJECT LOCATION: 1346 ORDWAY STREET, BERKELEY, CA 94702

DATE: 08/14/2018

DESIGNER: Jennie Duranti & Keli Burjorjee

SCALE: 1/8" = 1'-0"

DATE: 08/14/2018

PROJECT NUMBER: 18-009

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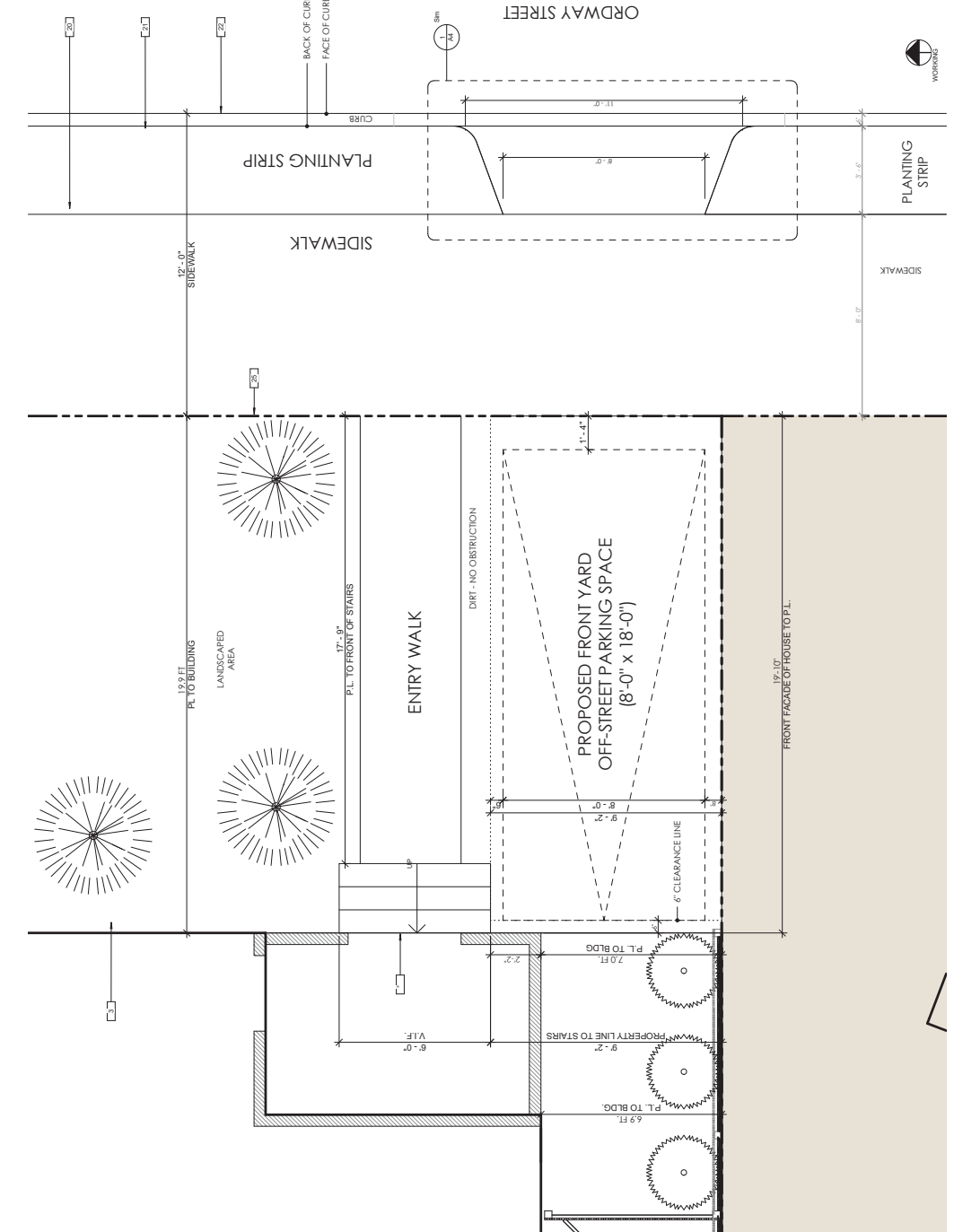
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SHEET NOTES

KEY NUMBER	KEYNOTE TEXT
3	FRONT SEBRACK LINE
16	FIREPLACE
20	7'2" WIDE SIDEWALK
21	3'9" WIDE PLANTING STRIP
22	ORDWAY STREET
25	BACKYARD STREET
33	FRONT ENTRY STEPS

ENLARGED PARKING PLAN

KEY NUMBER	KEYNOTE TEXT
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16	FIREPLACE
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22	ORDWAY STREET
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33	FRONT ENTRY STEPS

ALL DIMENSIONS ARE UNLESS OTHERWISE NOTED.
PROVIDE ALL DIMENSIONS TO FACE UNLESS OTHERWISE NOTED.
VERIFY ALL DIMENSIONS AND LOCATIONS WITH THE ARCHITECT.
CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF BERKELEY.
DATE: 08/14/2018

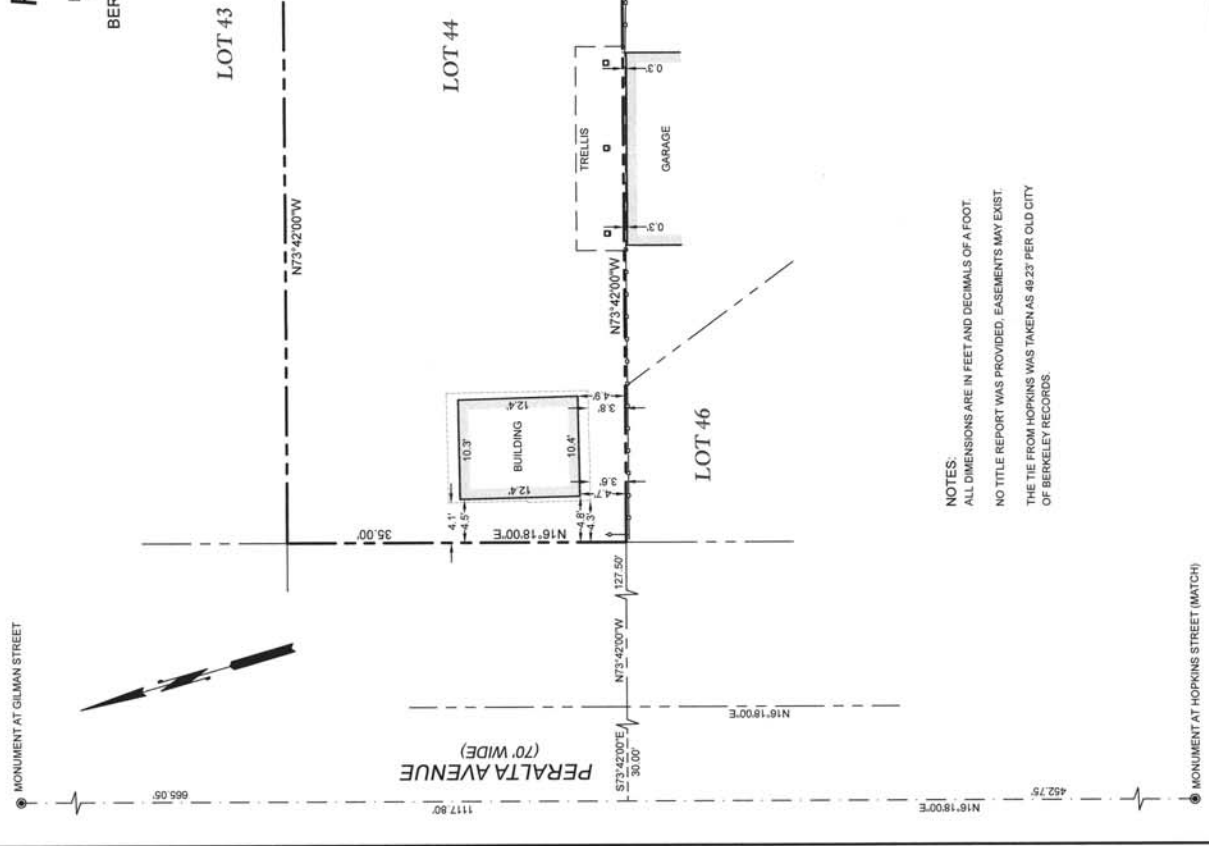
TRADE CRAFT LANDSCAPE ARCHITECTS
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MARCH 14, 2019 SCALE: 1" = 8'



LEGEND:

- CONC. CONCRETE
- EAVE EDGE
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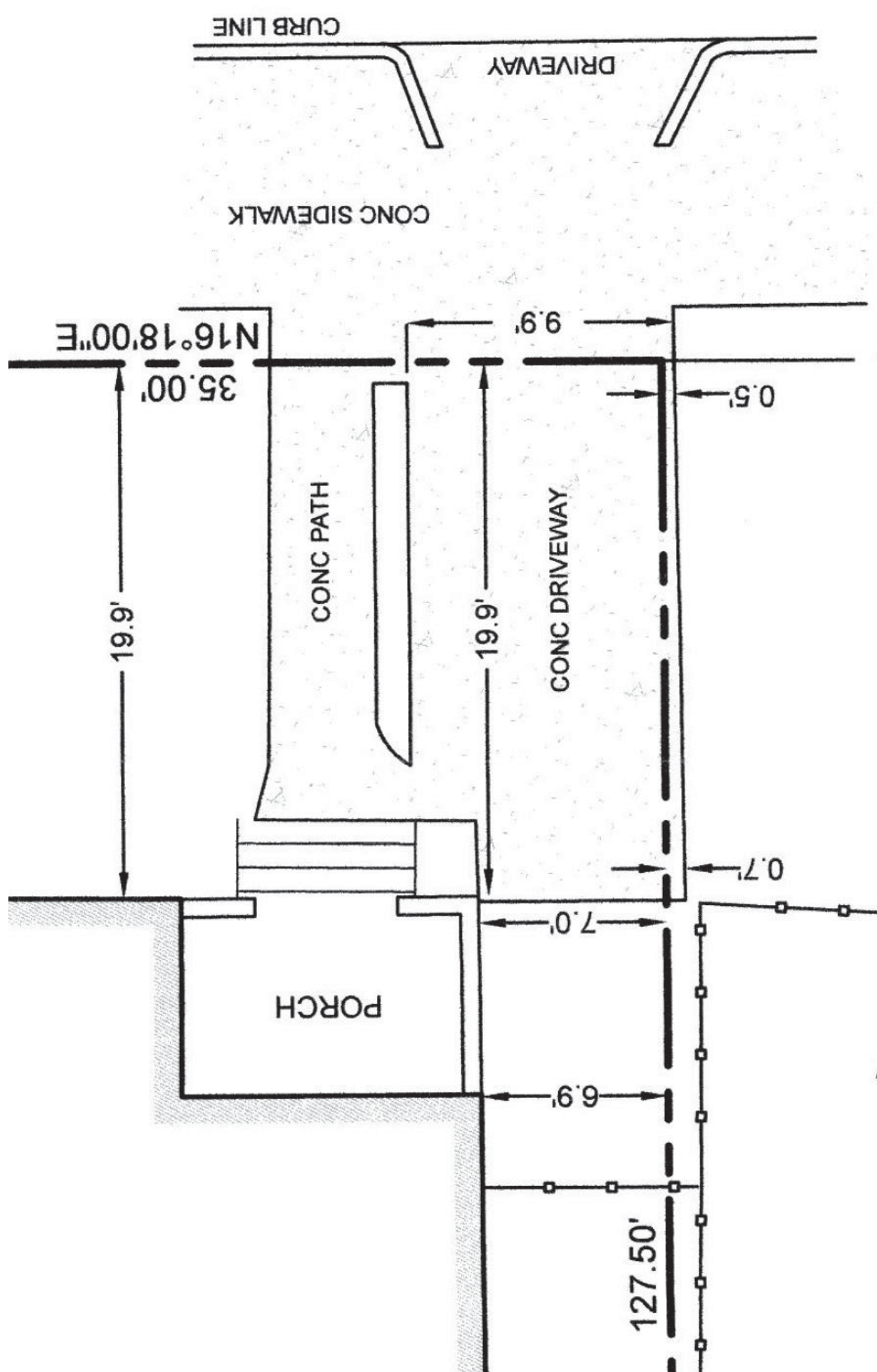
GRAPHIC SCALE
(IN FEET)
1 INCH = 8 FEET

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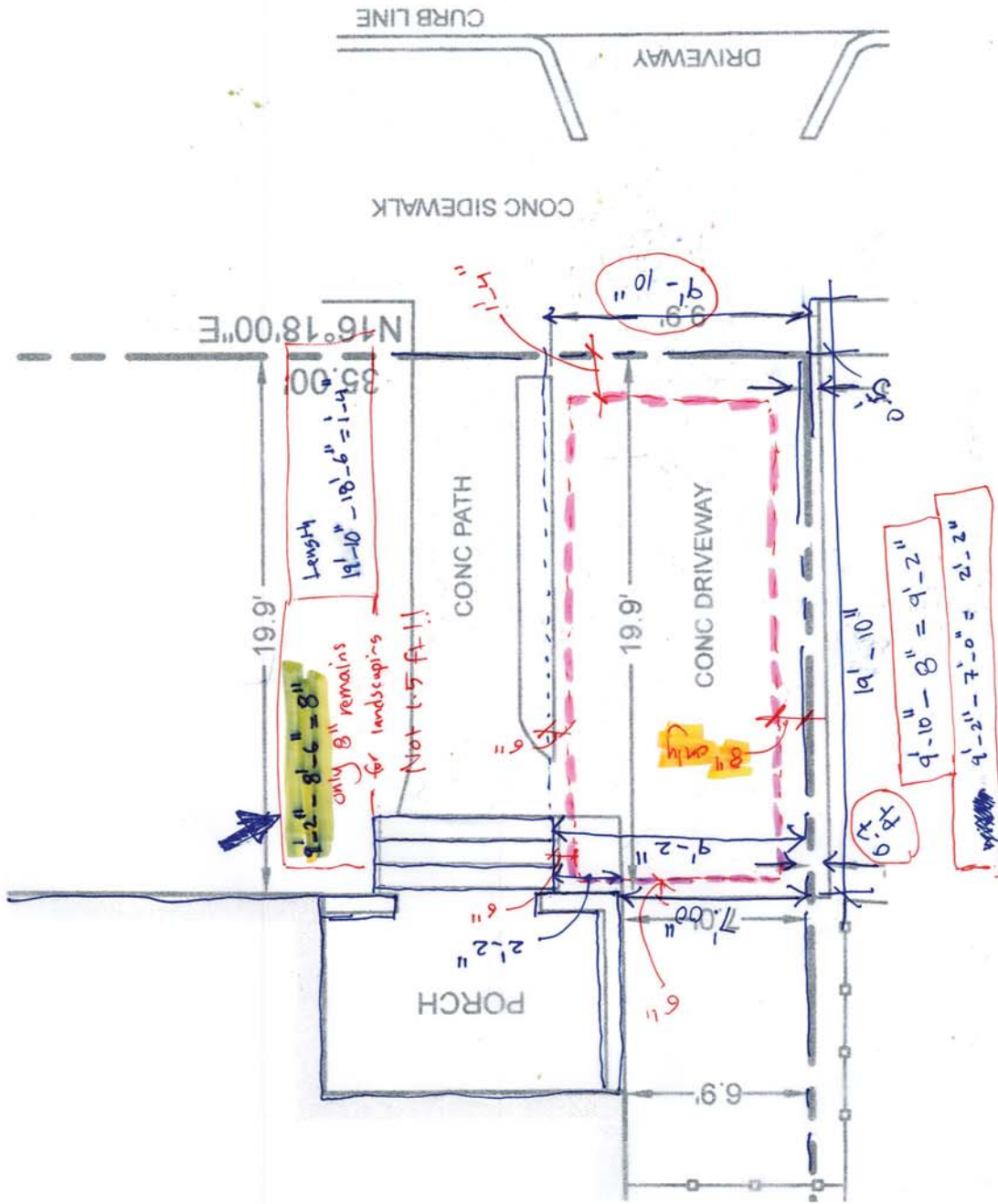
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171 MAYHEW WAY, SUITE 207, PLEASANT HILL, CA 94523
(925) 300-3695 MONUMENTAL-LS.COM PROJECT#18114

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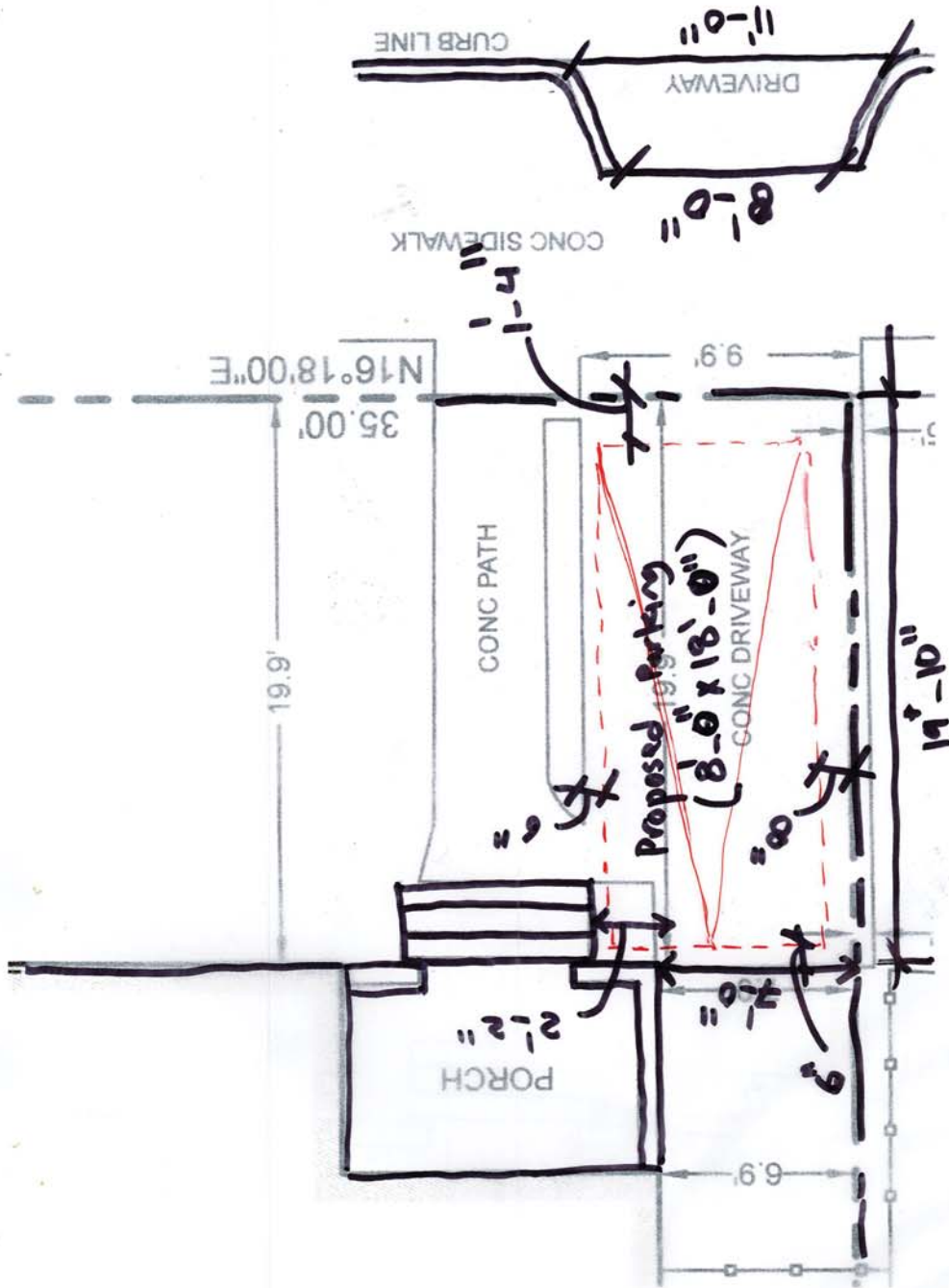
ORDWAY STRI



ORDWAY STREET (WIDTH VARIES)



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Jennie Durant and Keki Burjorjee
1346 Ordway Street, 94702
ZP2018-0174

December 4, 2019

Re: UPDATED Variance Request

Dear Members of the Zoning Office and Zoning Adjustment Board,

We are writing to request the approval of a parking variance for our property at 1346 Ordway Street to reduce the requirement for a full 2' landscaping barrier between our front parking space and the property line. **We believe we can build a green, ecologically friendly, and attractive parking spot if the variance is granted.** This will be in part because with the variance we will not have to A) augment (i.e. demolish and rebuild) our front stairs to accommodate the parking spot, and B) demo and rebuild our curb cut to match the adjusted parking spot.



Figure 1: Inspiration for future parking space

Fig 1. demonstrates a similar parking space design to what we would like to install. We will remove the existing concrete and sustainably dispose of it by donating it to a landscaper who uses concrete in her installations. In place of the concrete, we will install permeable paver parking strips, a dymondia lawn on the left side which will act as a 1" landscaping barrier; and low, xeriscaped vegetation in between paver parking strips. This design would allow us to keep our stairs and curb cut. If we do not demolish the stairs, we will not have to pour new cement. **Demolishing the stairs would be at odds with the city's Zero Waste goals¹. Additionally, pouring new cement for the stairs and augmented curb cut would contribute to carbon emissions, which is at odds with the city's Climate Action plan, which aims to reduce carbon emissions².** Cement production is one of the worst emitters of carbon dioxide, accounting for over 8% of global carbon emissions³.

We hope the Zoning Office and Board will see that granting our variance will allow us to create the most ecologically friendly parking space, without creating unnecessary waste, high carbon emissions, and loud demolition and reconstruction efforts that would disturb the peace in our neighborhood. Instead, this new design would fit in with our water-wise pollinator gardens in the front (Fig. 3) and backyard (Fig. 5). You can see a photo of how we have transformed our back garden into a pollinator garden in Fig. 4 and 5, as an example that highlights our aesthetic and environmental commitments. You can see that we have made great efforts to improve our property, make it more ecologically friendly, and contribute to the beauty of our neighborhood.

¹ <https://www.cityofberkeley.info/zerowaste/>

² <https://www.cityofberkeley.info/climate/>

³ <https://reader.chathamhouse.org/making-concrete-change-innovation-low-carbon-cement-and-concrete>

Jennie Durant and Keki Burjorjee
1346 Ordway Street, 94702
ZP2018-0174

We provide detailed information in the following pages.



Figure 2: Existing parking space



Figure 3: Water-wise pollinator garden out front

Background:

A preexisting structure at the rear of our property was in a state of extreme disrepair and was removed by the previous owners right before we took ownership of the property. This structure was marked as a “garage” in the site-plan the zoning office had for our property, even though it was not used as one by the previous owner (see attached photo evidence from 2008, Fig. 6—note that fence blocks entry to garage in back). As far as we and our neighbors know (some of whom have lived here for 20+ years), the previous resident, who owned the property since the 70s, parked on the front of the property in what is our current parking space (Fig. 2).

The Zoning Office noted the removal of the structure marked as a garage when we applied for an AUP to plant a hedge along the side of our property to have a privacy screening from our neighbor, whose 4-unit property is currently vacant, poorly maintained, looks directly into our and our young daughter’s bedroom (See Fig 7).



Figure 4: Backyard when we took ownership of property, Nov. 2015.



Figure 5: Backyard after we had it landscaped, 2018.

Jennie Durant and Keki Burjorjee
1346 Ordway Street, 94702
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Currently the windows are boarded-up and a gutter has been hanging off the front garage for over two months (as of December 4th).



Figure 6: Photo of parking space from 2008. Note that our neighbor's house has been in a state of disrepair since at least 2008—over 11 years, making that an 11-year remodel process. This is one of the reasons that drove us to plant the hedge in the first place.



Figure 7: Larry Hickman's property, Dec 4th, 2019. These windows have been removed and replaced countless times, according to our neighbors. The gutter has been hanging off the wall since the end of October.

Jennie Durant and Keki Burjorjee
1346 Ordway Street, 94702
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Based on the results of our site plan and land surveys, the Zoning Office subsequently determined that we do not have a legal, usable parking spot on the property because the distance from our house to the side property line is 6'9" its narrowest and a car could not be expected to pass through. We were then asked to remove our front parking area and curb cut.

One of the owners, Jennie Durant, has a temporary handicapped placard for a spine condition **and requires a parking spot close to the front door.** In part because of this, we have requested an AUP to keep the front parking area and are applying for a variance to reduce the requirement for a 2' landscaping strip between the front parking space and the property line.

We have brought our case to the attention of City Council Member Rashi Kesarwani, who discussed it with Council Member Susan Wengraf. Both council members agreed that our home was non-conforming to begin with. Kesarwani expressed support for the AUP given our property limitations and the handicapped parking consideration.

The variance we are requesting would allow us to keep our existing stairs and curb cut as is, without augmentation. As mentioned, augmenting both of these would be a significant expense for us and would also produce substantial unnecessary environmental waste (in the form of concrete and rebar)—neither of which support the well-being of Berkeley residents nor the city's stated [Zero Waste goals](#).

Qualifications for Variance:

Below, we detail the reasons we think our parking space qualifies for a variance. First, we address several points that we hope Zoning administrators/the Zoning Board will consider in our case. Second, we respond to the City's requirements to approve a variance and respond to each point.

1. As stated above, **needlessly demolishing our stairs** just to add a 2' landscaping barrier to meet the code **would result in the production of significant concrete and rebar waste**, and the possible demo of our curb cuts as well, again adding more waste. We hope the Zoning Board will see the value in granting the variance to support the city's [Zero Waste goals](#) and overall environmental ethics.
2. **It would be a significant financial burden to augment the stairs and/or curb cut/driveway:** To have a 2' landscaping barrier would require us to demolish and rebuild our stairs to create the additional 1'4" space to meet the zoning requirements and may require us to augment the curb cut (which has a septic main in it). All of this would add ***significant*** cost to the process of obtaining permits for our house, which has now gone over \$11,000, including the cost of two land surveys, architect fees, and permit expenses. Augmenting the stairs by 1'4" (in a way that would not lower the property value) would add significant expense, particularly if we have to augment the curb cut as

Jennie Durant and Keki Burjorjee
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ZP2018-0174

well. One contractor⁴ estimated that the cost of demolishing and rebuilding the stairs and augmenting the curb cut would cost us from 10- to 20 thousand dollars.



Figure 8: Neighbor's property begins at edge of concrete in photo. Grass to left of car is on neighbor's property.

3. Our neighbor's property has a large grass patch adjacent to our parking spot, so a full 2' landscaping strip seems less necessary. (Fig. 8)

Below, we respond to the City's requirements to approve a variance (as shared by our zoning officer), by addressing each point of the following requirements:

- A. *There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District*

Our request to have a front parking spot in the current location is exceptional because of the handicapped placard.

- B. *The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner;*

As property owners, we feel that having a parking space is necessary for the enjoyment and full use of our home. If the variance is not approved, we will have to spend thousands of dollars we do not have to demolish and rebuild our stairs and quite possibly augment the curb cut as well (which has a sewer main). These costs alone could add up to \$10,000-20,000—an extreme burden to meet the code.

- C. *The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or*

⁴ Eric Burt, Licensed General Contractor: <https://www.burtengineeringandconstruction.com/>

Jennie Durant and Keki Burjorjee
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working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole.

We are simply requesting that our current parking space be allowed to remain where it is, though if needed, we would remove the existing concrete and install a permeable parking space. Requiring us to additionally demo and rebuild the stairs, and demo and redo the curb cut would all produce significant environmental waste, which we believe is detrimental to the health and welfare of the City. Granting the variance will reduce environmental waste.

We hope the city will see that needlessly demolishing 1'4" of stairs and moving the curb cut is at extreme odds with the environmental ethics that guide the city of Berkeley, not to mention the unnecessary emotional and financial toll it places on us as homeowners, all so we can have a front parking spot that is handicap accessible.

We hope that you understand the undue burden it would place on us and grant us the variance.

Kind regards,

Jennie Durant and Keki Burjorjee
1346 Ordway Street
916-220-9806
jenniedurant@gmail.com



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

Post and Mail Date:
February 25, 2020

NOTICE OF ADMINISTRATIVE DECISION

AUP #ZP2018-0174 -- APPROVED

1346 ORDWAY STREET

Administrative Use Permit #ZP2018-0174 for additions on an approximately 4,480 sq. ft. lot with an existing one-story approximately 1,152 sq. ft. single family dwelling. The scope of work includes: 1) legalize a 9 ft. tall wood fence and 14 ft. tall hedge within north and south side setbacks; 2) legalize a 128 sq. ft., 12 ft. 2 in. tall habitable accessory building within the required side and rear setbacks; 3) legalize an approximately 9 ft. tall, 5 ft. X 21 ft. trellis located at 3 in. from the south side property line; 4) locate the off-street parking space within the front yard; and 5) eliminate the required 2 ft. landscaped strip that separates the uncovered off-street parking space from the adjacent property line.

Appeal Period: February 26, 2020 to March 17, 2020 (see reverse)

All application materials may be viewed online:

www.cityofberkeley.info/zoningapplications, or in person at the Permit Service Center at 1947 Center Street, 3rd Floor, open 8:30 AM to 4 PM Monday, Wednesday - Friday & 8:30 AM to 2:30 PM Tuesday (closed 2nd Friday of every month).

«NAME1»
«NAME2»
«ADDRESS1» «ADDRESS2»

TO APPEAL THIS DECISION (see Section 23B.28.060 of the Berkeley Municipal Code):

Please note that the new methods for appeal submissions described below are put in place to comply with the requirements of the Shelter In Place Order and shall be effective for the duration of Shelter In Place requirements.

1. Mail your complete appeal to the Planning Department, 1947 Center Street, Berkeley, CA 94704 with payment of fees by check or money order included. Appeals submitted by mail must be postmarked on or before the deadline date for filing the appeal.

-OR-

2. E-mail your complete appeal to the Planning Department, planning@cityofberkeley.info and include a telephone number where you can be reached during the day. Planning Department staff will call you within three business days to obtain credit card information over the phone for payment of required fees.

a. The basic fee for appeals of a Zoning Officer decision to the Zoning Adjustments Board is \$200. This fee may be reduced to \$75 if the appeal is signed by persons who lease or own at least 35 percent of the parcels or dwelling units within 300 feet of the project site, or at least 20 such persons (not including dependent children), whichever is less.

b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.

c. The fee for all appeals by Applicants is \$2500.

If no appeal is received, the permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time.

NOTICE CONCERNING YOUR LEGAL RIGHTS:

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

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised in an appeal of the decision.
2. You must appeal to the Zoning Adjustments Board within twenty (20) days after the Notice of Decision of the action of the Zoning Officer 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 decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.

5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must include the following information:

- A. That this belief is a basis of your appeal.
 - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
 - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.
- If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City and in court.

1346 ORDWAY

36 NOTICES

MAILED ON 02-25-20

NAME1	NAME2	ADDRESS1	ADDRESS2
Milvia-King Alliance	1731 MILVIA ST	BERKELEY CA	94709
Ada Street (1300 Block) Neighborhood Watch Group	1365 ADA ST	BERKELEY CA	94702
Albany-Berkeley Gilman-Curtis Neighborhood Association	1206 CURTIS ST	BERKELEY CA	94706
Schoolhouse-Lincoln Creeks Watershed Neighborhood Assoc.	1546 MILVIA ST, BERKELEY CA 94709	BERKELEY CA	94709
University of California Berkeley Facilities Services	A&E Building, Room 300	BERKELEY CA	94720
Urban Creeks Council	861 REGAL RD	BERKELEY CA	94708
Bananas Inc.	5232 CLAREMONT AVE	OAKLAND CA	94618
Berkeley Central Library	2090 KITTREDGE ST	BERKELEY CA	94704
Adams Broadwell Joseph & Cardoza	601 GATEWAY BLVD. Su 1000	SO SAN FRANCISCO	94080
WALLENSTEIN SUSAN D & PINEDA EDUARDO A TRS	1342 HOPKINS ST	BERKELEY CA	94702
WESTBRAE BIBLE CHURCH	1343 HOPKINS ST	BERKELEY CA	94702
TRABER ANDREA & VONDELING ALEXANDRA	1340 HOPKINS ST	BERKELEY CA	94702
STONE MERLE K TR & MERLE K TR	839 GALVIN DR	EL CERRITO CA	94530
SLOAN ROOSEVELT S SR & MYRNA L TRS	1345 PERALTA AVE	BERKELEY CA	94702
COLLIER NEIL A & JUDITH B TRS	1335 PERALTA AVE	BERKELEY CA	94702
WILSON THELMA TR	1341 PERALTA AVE	BERKELEY CA	94702
HICKMAN LAWRENCE	1333 HOPKINS ST	BERKELEY CA	94702
ALBIETZ JESSICA M	1442A WALNUT ST #440	BERKELEY CA	94709
GERSHON TAMAR TR	1344 ORDWAY ST	BERKELEY CA	94702
BURJORJEE KEKI M & DURANT JENNIE	1346 ORDWAY ST	BERKELEY CA	94702
RABINOVITZ MIRIAM TR	1343 PERALTA AVE	BERKELEY CA	94702
POTTER DEBORAH S & VILASECA JUAN F	1337 PERALTA AVE	BERKELEY CA	94702
OCCUPANTS	1403 ORDWAY ST	BERKELEY CA	94702
OCCUPANTS	1342 ORDWAY ST	BERKELEY CA	94702
OCCUPANTS	1342 ORDWAY ST A	BERKELEY CA	94702
OCCUPANTS	1333 HOPKINS ST 2	BERKELEY CA	94702
OCCUPANTS	1333 HOPKINS ST 3	BERKELEY CA	94702
OCCUPANTS	1333 HOPKINS ST 4	BERKELEY CA	94702
OCCUPANTS	1333 HOPKINS ST 1	BERKELEY CA	94702
OCCUPANTS	1323 HOPKINS ST	BERKELEY CA	94702
OCCUPANTS	1329 HOPKINS ST A	BERKELEY CA	94702
OCCUPANTS	1329 HOPKINS ST B	BERKELEY CA	94702
OCCUPANTS	1329 HOPKINS ST C	BERKELEY CA	94702
OCCUPANTS	1321 HOPKINS ST	BERKELEY CA	94702
OCCUPANTS	1325 HOPKINS ST	BERKELEY CA	94702
OCCUPANTS	1327 HOPKINS ST	BERKELEY CA	94702



N o t i c e o f A d m i n i s t r a t i v e D e c i s i o n

1346 Ordway Street

Administrative Use Permit #ZP2018-0174 for additions on an approximately 4,480 sq. ft. lot with an existing one-story approximately 1,152 sq. ft. single family dwelling. The scope of work includes: 1) legalize a 9 ft. tall wood fence and 14 ft. tall hedge within north and south side setbacks; 2) legalize a 128 sq. ft., 12 ft. 2 in. tall habitable accessory building within the required side and rear setbacks; 3) legalize an approximately 9 ft. tall, 5 ft. X 21 ft. trellis located at 3 in. from the south side property line; 4) locate the off-street parking space within the front yard; and 5) eliminate the required 2 ft. landscaped strip that separates the uncovered off-street parking space from the adjacent property line..

ZONING OFFICER DECISION: The Zoning Officer of the City of Berkeley has APPROVED the following permits pursuant to Berkeley Municipal Code (BMC) Section 23B.28.050, and based on the attached findings and conditions (attachment 1) and plans (attachment 2):

- Administrative Use Permit, under Berkeley Municipal Code (BMC) Section 23B.52.010 for Reasonable Accommodation for Fair Access to Housing;
- Administrative Use Permit, under BMC Section 23D.08.005.A1 to construct a habitable accessory building;
- Administrative Use Permit, under BMC Section 23D.08.020.A to construct a habitable accessory building that is over 10 ft. in average height within 4 ft. of the property line;
- Administrative Use Permit, under BMC Section 23D.08.020.B to construct a habitable accessory building that is over 12 ft. in average height within 4 to 10 ft. of the property line; and
- Administrative Use Permits, under BMC Section 23D.08.060.A2 for construction of accessory structures.

DATE NOTICE IS ISSUED: February 25, 2020

APPEAL PERIOD: February 26, 2020 to March 17, 2020

ATTACHMENTS:

1. Findings and Conditions
2. Project Plans, dated received December 3, 2019

FOR FURTHER INFORMATION:

All application materials for this project are available online at: <http://www.cityofberkeley.info/zoningapplications> and at the Permit Service Center, Third Floor, at 1947 Center Street, between 8:30 AM to 4 PM Monday, Wednesday - Friday & 8:30 AM to 2:30 PM Tuesday (closed 2nd Friday of every month). Questions about the project should be directed to the project planner, Nilu Karimzadegan, at (510) 981-7419 or nkarimzadegan@cityofberkeley.info.

PUBLIC NOTICE, PURSUANT TO BMC SECTION 23B.28.040 B&C:

This Notice of Administrative Decision was:

1. Forwarded to the Zoning Adjustments Board and sent to the Main Library;
2. Posted at three visible locations in the vicinity of the subject property and at a bulletin board at the Zoning counter.
3. Mailed to neighborhood and community organizations for which the project falls within their expressed area of interest, as set forth in BMC Section [23B.24.060](#);
4. Mailed to owners and residents of properties abutting and confronting the subject property -or- when for a major residential additions in the R-1(H) District, or any project within the C-T District, to property owners and residents in a 300 foot radius.

The validity of the proceedings, however, shall not be affected by the failure of any such property owner, occupant or neighborhood or community organization to receive such mailed notice.

TO APPEAL THIS DECISION, PURSUANT TO BMC SECTION 23B.28.060:

To appeal this decision, you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal, along with the required fee (see below) to the Zoning Officer, at the Permit Service Center, 1947 Center Street, 3rd Floor, Berkeley.
2. The appeal and required fee (see below) must be received prior to 4:00 p.m. on the last day of the appeal period shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
3. Submit the required fee to the Permit Service Center (see above; checks and money orders must be payable to 'City of Berkeley'):
 - a. The basic fee for appeals of a Zoning Officer decision to the Zoning Adjustments Board is \$200. This fee may be reduced to \$75 if the appeal is signed by persons who lease or own at least 35 percent of the parcels or dwelling units within 300 feet of the project site, or at least 20 such persons (not including dependent children), whichever is less.
 - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
 - c. The fee for all appeals by Applicants is \$2500.

If an appeal is filed, the Zoning Officer shall set the matter for consideration by the Zoning Adjustments Board. An appeal stays the issuance and exercise of the AUP until a decision is rendered or the appeal is withdrawn. If no appeal is received, the permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time.

NOTICE CONCERNING YOUR LEGAL RIGHTS:

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

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised in an appeal of the decision.
2. You must appeal to the Zoning Adjustments Board within twenty (20) days after the Notice of Decision of the action of the Zoning Officer 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 decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
 - A. That this belief is a basis of your appeal.
 - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
 - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

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

Attachment 1

Findings and Conditions

FEBRUARY 25, 2019

1346 Ordway Street

Administrative Use Permit #ZP2018-0174 for additions on an approximately 4,480 sq. ft. lot with an existing one-story approximately 1,152 sq. ft. single family dwelling. The scope of work includes: 1) legalize a 9 ft. tall wood fence and 14 ft. tall hedge within north and south side setbacks; 2) legalize a 128 sq. ft., 12 ft. 2 in. tall habitable accessory building within the required side and rear setbacks; 3) legalize an approximately 9 ft. tall, 5 ft. X 21 ft. trellis located at 3 in. from the south side property line; 4) locate the off-street parking space within the front yard; and 5) eliminate the required 2 ft. landscaped strip that separates the uncovered off-street parking space from the adjacent property line.

PERMITS APPROVED

- Administrative Use Permit, under Berkeley Municipal Code (BMC) Section 23B.52.010 for Reasonable Accommodation for Fair Access to Housing;
- Administrative Use Permit, under BMC Section 23D.08.005.A1 to construct a habitable accessory building;
- Administrative Use Permit, under BMC Section 23D.08.020.A to construct a habitable accessory building that is over 10 ft. in average height within 4 ft. of the property line;
- Administrative Use Permit, under BMC Section 23D.08.020.B to construct a habitable accessory building that is over 12 ft. in average height within 4 to 10 ft. of the property line; and
- Administrative Use Permits, under BMC Section 23D.08.060.A2 for construction of accessory structures.

PERMITS DENIED

- Administrative Use Permit, under BMC Section 23D.08.060.B legalize a boundary fence over 6 ft. in height.

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 CEQA Guidelines Section 153301 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 BMC Section 23B.28.050.A, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

A. The subject property is equal to or below the Single Family Residential District (R-1A) standards (BMC Section 23D.20.070) for density, height, setbacks, maximum lot coverage, usable open space (1 dwelling on a lot where 1 dwelling is allowed; 32% lot coverage where 40% maximum lot coverage is allowed; and the subject property preserves well beyond 400 sq. ft. of required usable open space). One off-street parking space within the front setback is allowed to comply with BMC Section 23B.52.010 for Reasonable Accommodation for Fair Access to Housing. The project would legalize construction of an accessory building in the rear and side yards which is consistent with the single-family use of the subject property, functions as an extension of the main dwelling, is accessory to the residential use, and is not used as a separate dwelling. The accessory building is located outside required front and north side setbacks. Despite the fact that the accessory building projects a few inches into rear and south side setbacks, it is not anticipated to create significant changes to the existing sunlight conditions in the immediate vicinity of the project due to its location and limited scale. The project would also legalize a 14 ft. tall hedge within the north and south side yards in addition to a 9 ft. tall, 21 ft. X 5 ft. trellis, located 3 in. from the south property line and 30 ft. from the rear property line. The proposed, hedge and the trellis are small in scale and are not expected to create significant impact to sunlight, air and view for the surrounding neighborhood.

B. Privacy, sunlight, air & view:

- Accessory building: The 128 sq. ft. accessory building functions as an office, which is a quiet activity, and is subject to condition of approval #14 that requires that a "Notice of Limitation of Use" be placed on the deed to the property. This deed restriction prohibits the use or conversion of this habitable accessory building to a dwelling unit unless authorized by an applicable permit.

The accessory building preserves privacy for abutting residences because the entry point (located on the east elevation) faces the main dwelling and while windows are located on south and west elevations, they are small in size and the existing vegetation on the side and rear property lines screen the adjacent properties.

The accessory building is found to be consistent with the existing development and building-to-building separation pattern – or air – in this R-1A neighborhood. It is separated from the main building on the neighboring property at 1333 Hopkins Street (to the south) by approximately 50 ft. and from its detached accessory structure

(Garage) by approximately 17 ft. This accessory building is separated from the building on neighboring property at 1327 Hopkins (also to the south) by approximately 33 ft.; from the building on the neighboring property at 1341 Peralta Avenue (to the west) by approximately 56 ft.; from the building at neighboring property at 1344 Ordway Street (to the north) by approximately 17 ft.; and from the main dwelling on the subject lot by more than 40 ft.

The accessory building is located at approximately 8 ft. 6 in. from the side property line to the north; about 56 ft. from front property line to the east; 3 ft. 7 in. to 3 ft. 9 in. from side property line to the south; and 4 ft. 1 in. to 4 ft. 3 in. from the rear property line to the west. The accessory building is one story in a district that permits three story main buildings. It is not taller than the main dwelling on the subject lot nor adjacent properties. Due to location and scale, this accessory building does not create significant changes to existing sunlight conditions in the vicinity of the project.

The accessory building's maximum height is 12 ft. 2 in. which is lower than the main dwelling and all abutting buildings. This low roof height and the generally flat topography of the area will ensure that this building would not obstruct or significantly reduce any prominent views that may exist for surrounding neighbors, such as a view of Golden Gate or Bay Bridge, the Downtown San Francisco skyline, the bay, or Treasure Island as defined in BMC Chapter 23F.04.

- Trellis:
While the 105 sq. ft. 9 ft. tall trellis is located at 3 in. from the south side property line, it matches the neighbor's abutting garage in height and length. Additionally, this structure is designed with well-spaced members (1 ft. 9 in. between wood members) which allows for passage of air and light and hence is not expected to create light and air impacts to the nearest property at 1333 Hopkins Street.
- Hedge:
Since the hedge is more than 8 ft. from the nearest abutting property to the south and are light penetrable, it is not expected to significantly obstruct sunlight, air, and views for this neighborhood.

2. BMC Section 23B.52.010 for Reasonable Accommodations, provides that it is the policy of the City to comply with the Federal Fair Housing Act, the Americans with Disabilities Act and the California Fair Employment and Housing Act to provide reasonable accommodation by modifying the application of its zoning and subdivision regulations for persons with disabilities seeking fair access to housing. Therefore, the City will allow the establishment of a front yard off-street parking space 1 ft. 4 in. from the front property line where 20 ft. is required, and 8 in. from the side property line where 2 ft. is required because:
 - A. The parking pad will provide fair access to the home of the applicant who has lived there for 4 years and needs an accessible off-street parking space due to a disability as defined by the Fair Employment and Housing Act of 1959, codified as Government Code §§12900 – 12996;
 - B. The Berkeley Zoning Ordinance allows a person to request a reasonable accommodation in the form of modification in the application of a zoning law that acts as a barrier to fair housing access. According to Section 23D.12.080.B, no portion of an off-street parking space may be located in a required front yard unless such location is authorized by an AUP and approved by the Traffic Engineer. Additionally, Section 23D.12.080.E requires that all paved areas for off-street parking spaces and driveways be separated from any adjacent interior side lot line by a landscaped strip at least two feet wide. In this case the modification will apply to: 1) Section 23D.12.080.B in order to allow a new off-street parking space to be created within the required front yard setback; and to 2) Section 23D.12.080.E in order to allow elimination of the required two feet wide landscaped strip. Therefore, allowing a front yard parking space without a two feet landscaped strip is considered a modification in zoning policy for reasonable accommodation for fair housing access; and
 - C. Due to the City's current practice of not permitting a front yard parking space without a two-foot wide landscaped strip, Condition #11 has been added to this permit requiring the restoration of the front yard and restoration of rear or side off-street parking space, if the property is sold, the tenant with medical condition moves out or the disability no longer prevents accessible access.

III. FINDINGS FOR DENIAL

As required by BMC Section 23D.08.060, no fence or other unenclosed accessory structure located on a property line or within the required yard area for a main building may exceed six feet in height at any point, unless so authorized by an AUP. The existing 6 ft. to 8 ft. tall wood fence (proposed to become a 8 ft. to 9 ft. tall. wood fence by adding a 2-3 ft. wood lattice above) separates the subject property from the neighbor's property to the south. Based on the property survey submitted by the applicant, it appears that the existing fence is located on the neighbor's property. Fences are usually a shared responsibility between neighbors. In this case, because the fence is located outside the subject property lot line and on the neighbor's property at 1333 Hopkins Street and the neighbor has objected, a recommendation for approval cannot be made by staff.

STANDARD CONDITIONS

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

1. Conditions Shall be Printed on Plans

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

2. Applicant Responsible for Compliance with Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Indemnification Agreement

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

ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER

Pursuant to BMC Section 23B.28.050.D, the Zoning Officer attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

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

Project Liaison

_____ Name

_____ Phone #

11. The parking pad must be removed, and the curb cut in filled if the property is sold, the tenant moves out or disability no longer prevents accessible access.
12. Hedge shall not exceed 14 ft. in height.
13. To legalize the construction of the accessory building and trellis, a building permit application must be submitted within 30-days after the AUP approval.

Prior to Issuance of Any Building Permit:

14. **Accessory Building:** All owners of record of the subject property shall sign and record with the Alameda County Clerk-Recorder a "Notice of Limitation on Use of Property" (available from Land Use Planning Division) and provide a recorded copy thereof to the project planner. This Notice of Limitation shall stipulate that no part of this Accessory Building shall be used or converted to use as a dwelling unit unless and until permission is requested of the City of Berkeley and authorized a Use Permit, Administrative Use Permit, or Zoning Certificate, whichever is applicable. This limitation shall include the explicit acknowledgment that a full bathroom and cooking facilities may be installed, as long as the cooking facilities do not constitute a Kitchen per BMC Chapter 23F.04. This limitation may not be revised or removed from this property without the prior written permission of the Zoning Officer of the City of Berkeley.

Standard Construction-related Conditions Applicable to all Projects:

15. **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.

16. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.

17. 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.
18. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
19. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter in thickness and secured to the ground.
20. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
21. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
22. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
23. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
24. 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.
25. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
26. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
27. 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.

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

29. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995, 1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the

resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

Prior to Issuance of Occupancy Permit or Final Inspection:

30. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
31. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated December 3, 2019

At All Times (Operation):

32. 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. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.



Prepared by: Nilu Karimzadegan, Assistant Planner
For Steven Buckley, Zoning Officer

PLAT OF SURVEY

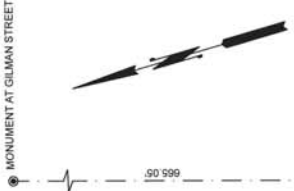
LOT 44, BLOCK 6
KEY ROUTE TERRACE NO. 3 (21 M 59)
LOCATED AT 1346 ORDMAN STREET
BERKELEY, ALAMEDA COUNTY, CALIFORNIA

MARCH 14, 2019 SCALE: 1" = 8'



PLANS APPROVED by

 SIGNATURE
February 25, 2020
 DATE
 *AUP Findings and Conditions Attached

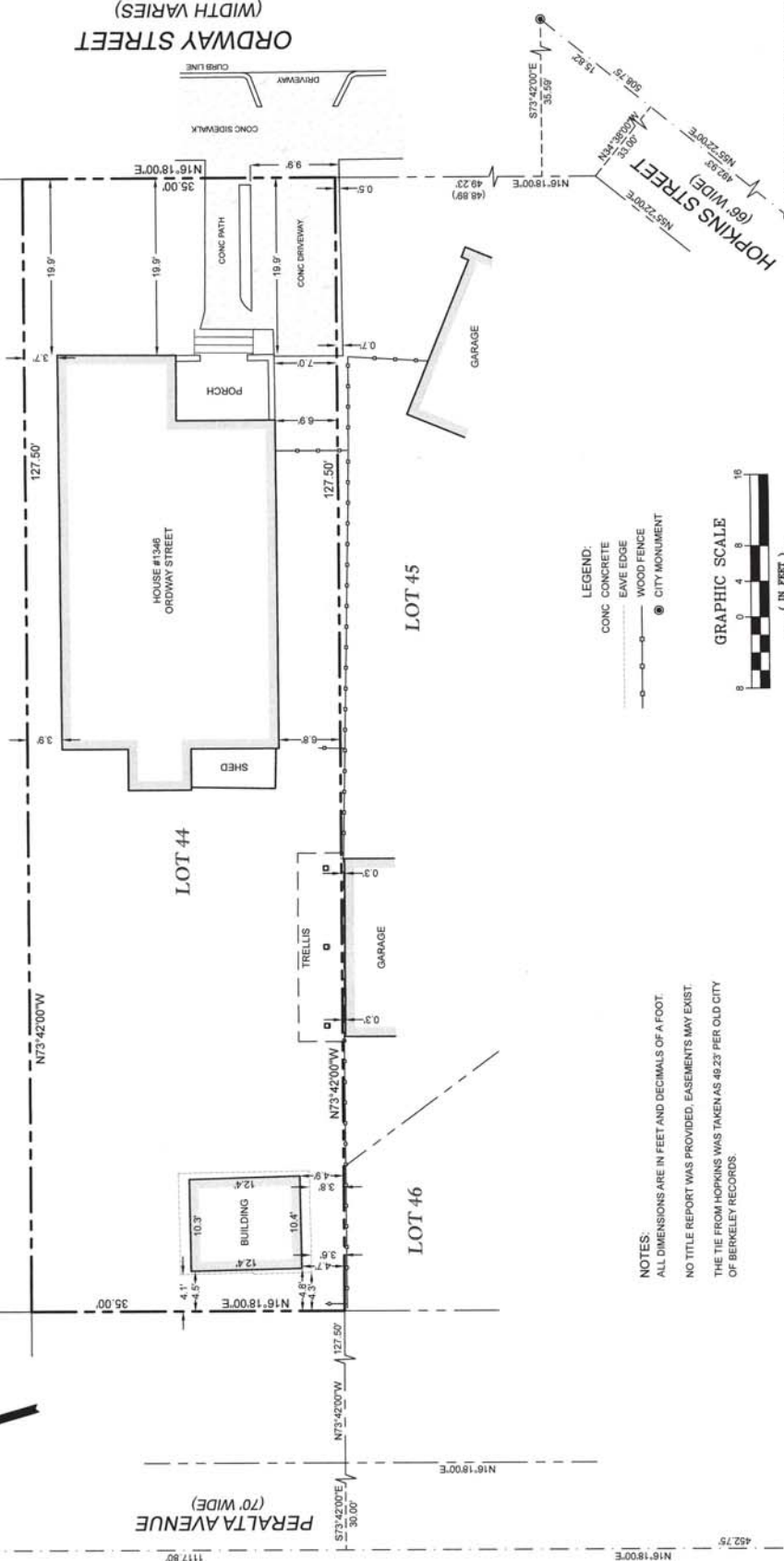


LOT 43

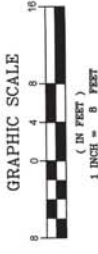
LOT 44

LOT 45

LOT 46



- LEGEND:
- CONC CONCRETE
 - EAVE EDGE
 - WOOD FENCE
 - CITY MONUMENT



NOTES:
ALL DIMENSIONS ARE IN FEET AND DECIMALS OF A FOOT.
NO TITLE REPORT WAS PROVIDED. EASEMENTS MAY EXIST.
THE TIE FROM HOPKINS WAS TAKEN AS 49.23 PER OLD CITY OF BERKELEY RECORDS.

MONUMENT AT PERALTA AVENUE (MATCH)

MONUMENT AT HOPKINS STREET (MATCH)

MONUMENTAL LAND SURVEYING
171 MAYHEW WAY, SUITE 207, PLEASANT HILL, CA 94523
(925) 300-3695 MONUMENTAL-LS.COM PROJECT#18114

TRADE CRAFT

TRADE CRAFT
2015 DAVIS DRIVE, SUITE 100
DUBLIN, CA 94568

PROJECT NUMBER: 2020-001
PROJECT LOCATION: 1346 ORDWAY STREET, DUBLIN, CA 94568

DATE: 02/25/2020

SCALE: AS SHOWN

PROJECT DESCRIPTION: FENCE REPLACEMENT AND GARAGE CONVERSION

CLIENT: 1346 ORDWAY STREET

DATE: 11/19/18

DATE: 3/15/19

DATE: 1/11/18

DATE: 1/11/18

DATE: 1/11/18

DATE: 1/11/18

DATE: 1/11/18

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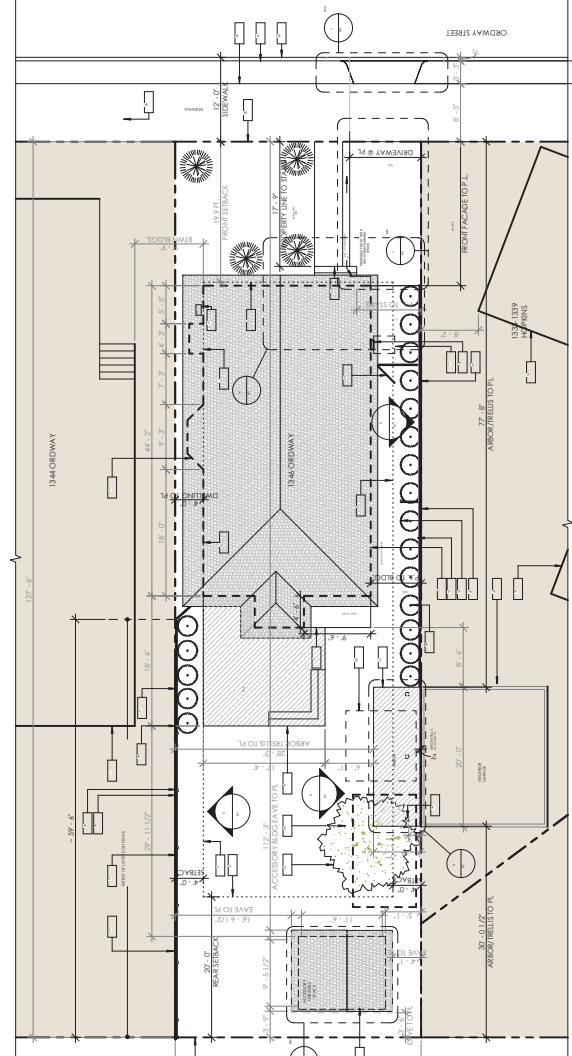
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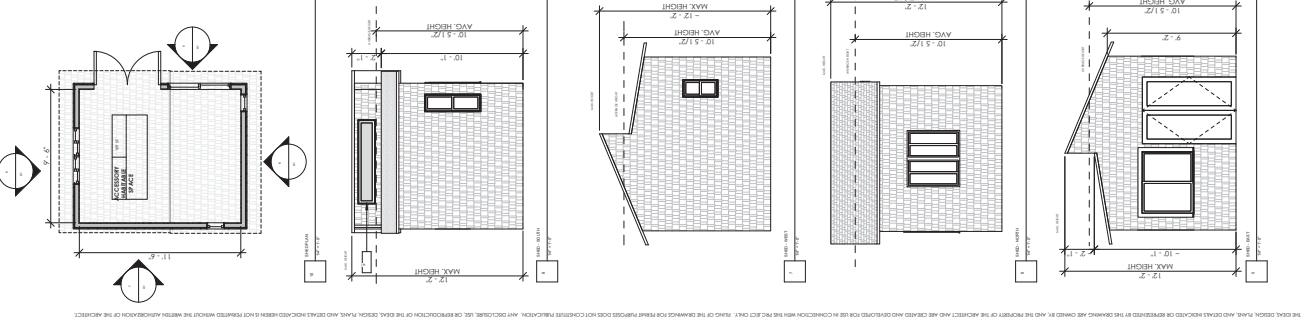


PLANS APPROVED by

February 25, 2020
DATE

SIGNATURE _____

*AUP Findings and Conditions Attached



THESE ELEVATION, PLAN, AND OTHER DRAWINGS OR SPECIFICATIONS OR ANY PART THEREOF WHICH THE ARCHITECT HAS PREPARED OR CAUSED TO BE PREPARED BY HIM OR HER OR BY ANY OTHER PERSON OR FIRM OR COMPANY ARE HEREBY OFFERED FOR THE USE OF THE ARCHITECT AND ARE NOT TO BE USED FOR ANY OTHER PROJECT OR FOR ANY OTHER PURPOSE WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT.

TRADE CRAFT
2015 DAVIS DRIVE, SUITE 100
DUBLIN, CA 94568
PHONE: (925) 835-1111
WWW.TRADECRAFT.COM

TRADE CRAFT

TRADECRAFT
2215 15th Avenue, Suite 100
Berkeley, CA 94710
PH: 415.863.1809
WWW.TRADECRAFT.COM

PROJECT NUMBER: 18-009
PROJECT LOCATION: 1346 ORDWAY STREET
DATE: 02/25/2020

OWNER:
Jennie Duranti & Keli
Burjorje

1346 ORDWAY
1346 ORDWAY STREET
BERKELEY, CA 94702

PROJECT TITLE:
ENLARGED PARKING PLAN

DATE:
02/25/2020

ALL DRAWINGS ARE THE PROPERTY OF TRADE CRAFT AND SHALL REMAIN THE PROPERTY OF TRADE CRAFT. NO PART OF THIS DRAWING SHALL BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF TRADE CRAFT. TRADE CRAFT SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THIS DRAWING.

PROJECT NUMBER: 18-009
PROJECT LOCATION: 1346 ORDWAY STREET
DATE: 02/25/2020

OWNER:
Jennie Duranti & Keli
Burjorje

PROJECT TITLE:
ENLARGED PARKING PLAN

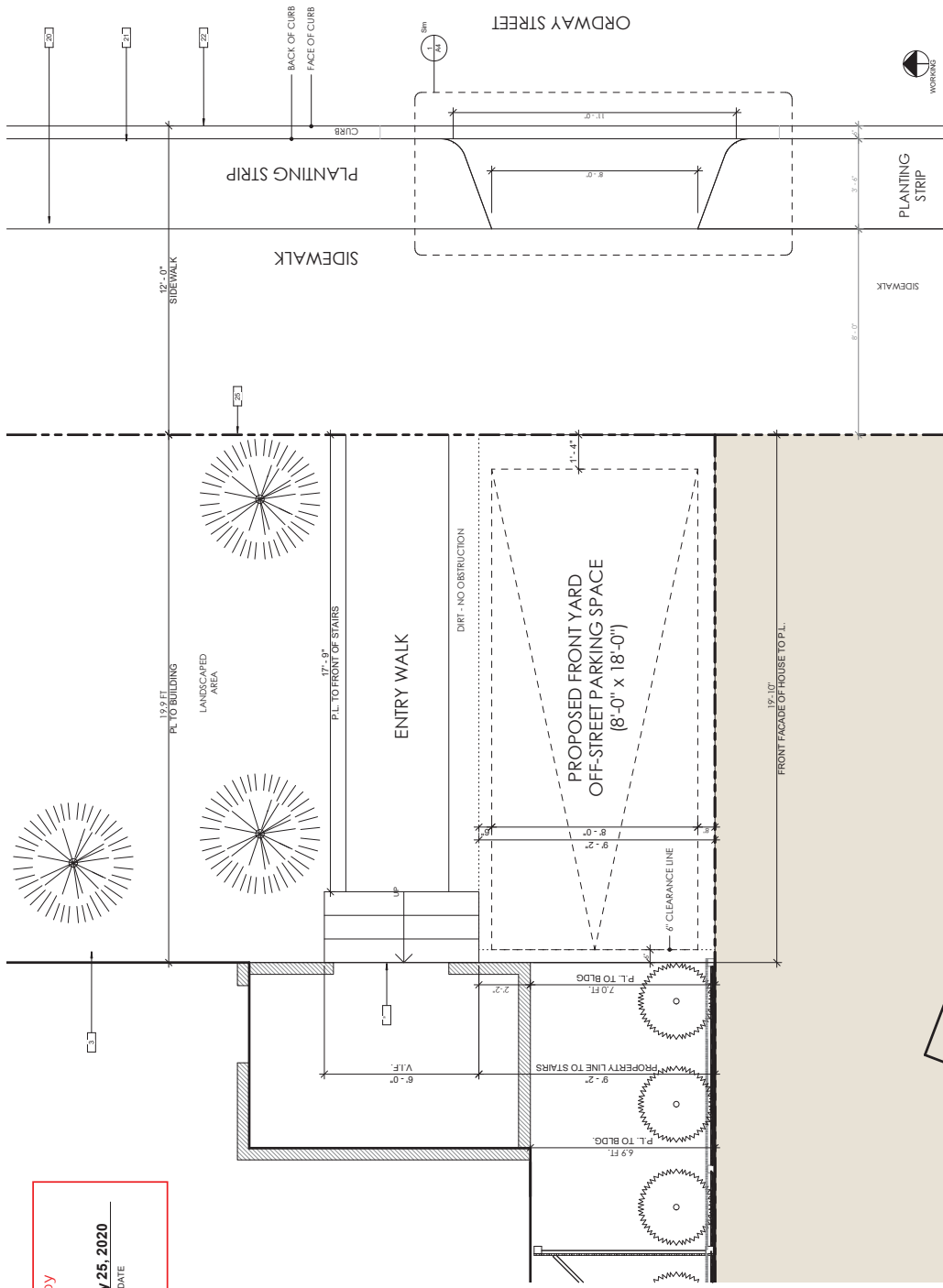
DATE:
02/25/2020

TRADE CRAFT

1346 ORDWAY

1346 ORDWAY STREET

BERKELEY, CA 94702



SHEET NOTES

KEY NUMBER	KEYNOTE TEXT
3	FRONT SEWBACK LINE
16	FIREPLACE
20	7'2" WIDE SIDEWALK
21	3'9" WIDE PLANTING STRIP
22	CURB STREET
25	BACK OF CURB
33	FRONT ENTRY STEPS

PLANS APPROVED by
[Signature]
February 25, 2020
DATE
SIGNATURE
*AUP Findings and Conditions Attached

Lawrence Hickman

1333 Hopkins Street
Berkeley, CA 94702
Phone: (510) 467-4250
E-Mail: lpacificquest@aol.com

APPEAL LETTER

March 16, 2020

Igor Tregub, Chairperson
City of Berkeley
Land Use Planning Division
Attn: Zoning Adjustments Board Members
1947 Center Street
Berkeley, CA 94704

**RE: APPEAL- AUP #ZP2018-0174 FOR 1346 ORDWAY STREET; AND
REQUEST ZONING ADJUSTMENTS BOARD PUBLIC HEARING**

Dear Chair Tregub and Board Members:

I, Lawrence Hickman ("Appellant"), do hereby Appeal the City of Berkeley Zoning Officer's Findings and Approvals of the above referenced Administrative Use Permit (AUP); and, I request a Public Hearing before the Zoning Adjustments Board on this matter. This Appeal is filed on the grounds the Zoning Officer's Findings and Approvals are unsupported by evidence in the record and inconsistent with the administration of fair and equitable justice, as required by the City of Berkeley Municipal Code (BMC). Moreover, the Zoning Officer appears to ignore the need to recognize the importance of sustaining and maintaining harmony among longtime home owners. The proposed Conditions are inadequate to protect Appellant unreasonable diminution of property value.

INTRODUCTION

This matter arises out of a real property dispute between neighbors. For over twenty-nine years Appellant has owned the large parcel of real property located at the corners of Hopkins and Ordway Streets, also known as, 1333 Hopkins Street, Berkeley, California. For over twenty-five of those years, Appellant experienced quiet enjoyment of ownership with his previous neighbor, Ms. Taylor, owner of the smaller parcel next door at 1346 Ordway Street without incident. Shortly after Ms. Taylor's death, her property was sold to Jennie Durant and Keki Burjorjee ("Applicants") and they began engaging in illegal outdoor construction projects; projects that were unpermitted and non-conforming, all violations of the Berkeley Municipal Code (BMC). The illegal projects infringed upon Appellant's property rights. Moreover, the Applicants continued to initiate and maintain unpermitted conditions even after being notified and warned about some of their illegal construction.

So now, in the form of an application for an Administrative Use Permit, Applicants are seeking forgiveness, permissions, approvals and the legal right to keep and maintain all of the unpermitted, non-conforming and illegal construction projects. The forgiveness, permissions, approvals and legal rights being sought by these outlaws appear to be on the verge of being granted, despite Appellant's Notice of Opposition (NOO), City of Berkeley's Code Enforcement Notice of Violation (NOV), Administrative Citation Warning (ACW) and Order for non-compliance, and their continued infringement on the quiet enjoyment and health and safety of the community at large.

Based upon the foregoing, facts set forth herein, other documents and statements on file, and statements during oral arguments before the Board, Appellant ask this Board to uphold the BMC and affirm this Appeal.

STATEMENT OF FACTS

Since 1990 Appellant has peacefully owned the property located at 1333 and 1346 Hopkins Street. In 2005, the Appellant consulted the City of Berkeley, and with the consent of the prior owner of the 1346 Ordway Street property, legally constructed a 6' fence along the property line of 1333 Hopkins Street.

In 2015, Applicants purchased the subject property at 1346 Ordway Street, Berkeley, California.

In, or around, 2017, Applicants approached Appellant attempting to discuss their (Applicants') intent to add a 4' lattice of top of Appellant's fence. Appellant informed Applicants that he (Appellant) had no interest in adding anything to the top of the fence.

About 2018, Applicants planted a row of tall tree along the entire South border of Appellant's property line, except the area where the garage sits on the property line – approximately 3" from Appellant's property line.

Next, Applicant (Keki Burjorjee) came onto Appellant's property, using profanity and in a threatening tone and manner, attempting to discuss adding the 4' lattice to the fence, or adding lattice to the tall 4 x 4s that had been placed in the ground. Appellant told Applicant that he had no interest in discussing his property improvements; and, advised him to direct his concerns to the City of Berkeley's Planning and Land Use Division.

The next day, Appellant noticed and approached a workman (carpenter) in the Applicants' yard, setting tall post up against his fence. Appellant approached the workman and inquired "do you have a permit to build a fence over 6' tall?" Workman came over into Appellant driveway and began to argue for consent to continue building. Appellant told the workman only the City of Berkeley can grant you a permit to build the fence over 6' tall.

Appellant told Applicants' workman, "Let's call the City's Code Enforcement Unit right now." Appellant, in fact, called Code Enforcement shortly thereafter.

On May 10, 2018, the City of Berkeley's Code Enforcement Inspector, Tim Kittor, conducted a brief site visit at the 1346 Ordway Street property. As a result of Inspector Kittor's finding, he issued a Notice of Violation (NOV) Case #397755 – both noticing and warning Applicants of unpermitted and non-conforming conditions on their property. As a matter of fact, Inspector Kittor instructed Applicants to reduce the size of the trees to 6' tall. (See Exhibit A – NOV)

On September 7, 2018, Applicants submitted an application for an Administrative Use Permit (AUP) ZP2018-0174 to: 1) install a two foot (2') lattice on top of Appellant's six feet (6') fence; and, 2) plant fifteen (15), approximately 14' trees alongside – the full length – of the subject fence and property line; the application was for conditions they had already created and constructed.

On September 19, 2018, the City of Berkeley's Planning Dept. Technician, Nilu Karimzadegan, via letter, acknowledged receipt of the aforementioned AUP application, and advised Applicants she would be processing the application in due course.

On September 20, 2018, Appellant filed a letter serving Notice of Opposition (NOO) to Applicants' proposed plans, as set forth in the AUP application under consideration by the Planning Department. It should be noted that Appellant's Letter of Opposition was not included in Applicants' application package. Equally important, Appellant's NOO letter informed the Planning Department of the fact the AUP application omitted the fact that the trees Applicants requested to plant were already planted without permit, along with other non-conforming conditions, e.g., the trees were planted 3" from the subject fence - within 2' of the property line. In short, it was Appellant's complaint to Code Enforcement that spurred Applicants' impetus to apply for the AUP – otherwise, the subject non-conforming unpermitted conditions would have likely continued unabated. This conclusion is reasonable in view of the fact that the architectural drawing submitted with the original application failed to show certain non-conforming and unpermitted conditions; conditions that would have gone unnoticed but for Appellant's bringing omitted matters to the attention of the City Planner. (See Exhibit B – NOO) ,

On October 5, 2018, the City's Planning Department issued a letter requesting and setting forth requirements necessary to proceed with the AUP application. The letter speaks to permit requests that were not mentioned in the initial AUP application. For example, the letter addresses 1) proposed parking space on site plan, trellis, tree trunks crowns, and sheds. It appears another AUP application, or an updated version, was submitted after the September 7, 2018 AUP application. These aforementioned matters appear to have been intentionally omitted in the original application.

However, on December 3, 2018, Applicants completed and submitted the City's required Tabulation Form (showing the property's existing status and what conditions were non-conforming/unpermitted and requiring permits), was submitted back to the Planning Department, evidencing that the required Southside yard setback is 7'-2" and a parking space requires a permit.

On February 8, 2019, the City responded to Applicants' revised AUP application materials. Therein the City requested additional information to complete Applicants' application requests.

Specifically, the letter noted that "because the application is a result of NOV and it also includes an unpermitted accessory building and an unpermitted trellis. Moreover, the letter appears to request information and details on non-conforming and unpermitted conditions omitted in the initial AUP application. (See Exhibit C – Re-submittal/Revised Application)

July 2, 2019, the City informed Applicants "after reviewing the submitted materials, staff has determined that the existing off-street parking space is not accessible and there is no other feasible location for parking on the parcel ... all paved areas for off-street parking spaces, driveway and any other vehicle-related paving must be removed as a condition of approval of this permit." Hence, revised plans were required showing the changes regarding parking were to be submitted to continue processing the AUP application. Applicants were invoiced an additional \$1600.00 additional AUP permits (AUP080). (See Exhibit D – No off-street parking determination)

On July 16, 2019, 2:02 p.m. Applicant (Jennie Durant) emailed Peter Chun, at the City's Transportation – Public Works Department regarding off-street parking. Applicant was seeking an answer as to whether she could apply for an AUP for her front yard parking space, with only a 6'-9" wide driveway – from house to property line. It was previously determined that Applicant has no legal parking space on the 1346 Ordway Street property. At 3:02 p.m., Nilu, the Applicants' City Planner emailed Peter, with a CC to Jennie stating "to clarify, after the review of this application with the zoning officer, it is determined that this [1346 Ordway Street] property has no legal [off-street] parking." Further Nilu stated "Jennie ... there is a Zoning determination as well and a Traffic Engineer review of the application. The off-street parking space in the front setback will not accommodate the 2' landscaping strip which requires a variance."

On July 17, 2019, at 10:22 a.m., Traffic Engineer, Peter Chun emailed Nilu, with a CC to Jennie, stating "my recommendation would be to restore the original parking space or remove the driveway and restore on street parking as Planning has recommended ... I generally support the setback requirements (or parking space restriction) and therefore favor the removal of driveways and restoration of the curb, sidewalk, and on street parking if you choose not to re-establish the rear parking. (See Exhibit E – Recommendation to remove driveway)

On July 17, 2019, at 12:09 p.m., Nilu emailed Applicant (Jennie), with CC to Peter Chun stating "I also discussed options regarding this project with the Zoning Officer this morning. It seems like you have three options: 1) Restore site to its original state – remove all unpermitted accessory building, shed, trellis, hedge and fence; 2) Staff will recommend approval of AUP application, with Conditions of Approval (COA) – remove curb cut and parking; or, 3) You can apply for (a) an AUP for a front yard off-street parking space; and (b) a Variance – there is not enough space to provide the 2' landscaping strip.

On August 27, 2019, at 11:11 a.m., Nilu emailed Applicants, with CC to Code Enforcement Office, Wanda Drouillard. Therein, Nilu set forth: 1) Required Fees for AUP and penalties; 2) Required revisions on Site Plan; 3) Variance statement requirements – **“staff can recommend a Variance only if there are no other option available on the site ... in your case, there is the option of relocating the stairs to create room for the 2' landscaping strip.”**; and, 4) Code Enforcement will follow up regarding deadlines.

September 10, 2019, the City's Code Enforcement Unit issued an Administrative Citation Warning (ACW), wherein Applicants were reminded the NOV, issued May 10, 2018 – requiring correction of violation on the subject property; the Citation Warning for outstanding violations the Berkeley Municipal Code (BMC), issued August 30, 2018. Pursuant to NOV and ACW, Applicant was required to reduce the height of the hedges that exceed 6', without a permit. Code Enforcement further reminded Applicant that their plans submitted on September 2018 for a Variance on the hedges were additionally unpermitted construction (accessory building and trellis – identified by the Planning Department and, as of Sept 9, 2019, the violations remain; and, Applicants have failed to comply with Planning Department's deadlines for submitting corrections regarding plan check requested via letter and email. (See Exhibit F – AWC)

Since the project is associated with a Code Enforcement case, specified deadlines are enforced and take precedent over any timelines related to the permit process. In sum, Applicant were Ordered to comply with certain deadlines, and were put on Notice that, **“in light of the history of non-compliance on the property,”** further failures to timely comply would, as of September 25, 2019, result in Citation penalties.

On September 17, 2019, Applicants submitted a Variance Statement, because City had determined the 1346 Ordway Street property does not have a legal parking space. Applicants acknowledge they have an option to achieve off-street parking – in the setback area of their front yard - other than being granted the requested Variance. Nevertheless, Applicants persist in asking the City to take the extraordinary step of granting a special exception Variance, although to do so would violate the City's rules - present policy, practice and procedure - **“staff can only recommend a Variance if there is no other option available on the site.”** Applicants' argument the City should make a special exception for them and waive or reduce the 2' landscaping requirement to accommodate their desire to save money - eliminate their cost/expense associated with adjusting their front steps and rebuilding the curb cut accordingly. Also, they claim Applicant (Jennie Durant) has a “temporary handicapped” placard, giving rise to the question of whether her temporary condition requires an exceptional Variance granting off-street parking on a property deemed to have no legal parking space.

In sum, Applicants responded to the City's requirement for Variance follows: 1) the need for exceptional or extraordinary circumstance is met because Jennie Durant has a “temporary handicapped” placard; 2) necessary for preservation and enjoyment of substantial property rights: here Applicant assert a parking space is necessary for the enjoyment and full use of home; 3) does the use materially impact health, safety, public welfare, injurious to property or improvement – generally benefit the City: answer is non-responsive –

Applicants merely states, “we are simply requesting that our current parking space be allowed to remain where it is.” Granting the variance would reduce environmental waste associated with remodeling stairs and curb cuts.

On November 5, 2019, the Planning Departments Tabulation Form appears re-submitted, including sizes, dimension, existing and permitted required details, including: 1) Units, Parking spaces, and bedrooms; 2) yards, heights and setbacks; Areas – building, lot, usable space, etc.; 3) Arbor specifics – setbacks and area; 4) Accessory habitable space specifics; Area calculations; and, 5) Plat survey map.

On November 19, 2019, the City Planning Department communicated its need for clarity for the Zoning Office. Noted there is the fact that the application say 15 [trees] hedges, but the site plan only show twelve. Also, on November 19, 2020, Applicants submitted an update/revised Variance Request. Therein, Applicant set forth a quasi-promise, if the Variance is granted – “we would install/build a green, ecologically friendly and attractive parking spot.”

On November 20, 2020, Applicant sent email to Nilu, with updated Tabulation Form and Updated Variance Request.

On November 25, 2020, Nilu emailed Applicant (Jennie Durant) and advised that she needed certain corrections on the Tabulation Form A.S.A.P.

On November 26, 2019, Jennie forwarded Nilu’s email of November 25 to her architect, Nick Leone, regarding the Tabulation Form revisions/correction requested.

On November 27, 2019, at 10:59 a.m., Nick Leone emailed Nilu, requesting a telephone conversation to review her comments regarding the 1346 Ordway Street project. At 3:14 p.m., on November 27, 2019, Nick Leone emailed Nilu, sending her, in an attachment, the aforementioned revisions requested pursuant to their telephone conversation.

On December 3, 2019, Nilu emailed Nick, with CC to Applicant (Jennie Durant), advising that “Enlarged site plan submitted on 11-20-19 does not show accurate dimensions ... this needs to be corrected.” Nilu further advised that the “enlarged plan for parking is very confusing and busy. Please look at what I drew and draw something simple and clear ... the Variance Statement should reflect the correct dimension for the remaining landscape area as well (8”) ...”

On December 4, 2020, Applicant (Jennie Durant) sent another (3rd) Variance Statement. Again, restating their willingness to remove the existing concrete and install permeable paver parking strips, a dymondia lawn to act as a 1” landscaping barrier.

On December 19, 2019, the City provided a list of addresses of community members to which Notices of the 1346 Ordway Street project could be mailed – 126 names and addresses.

On February 13, 2020, Applicant submitted a request for fee adjustment or refund, claiming that a change of permit type qualifies Applicants for an adjustment and/or refund.

On February 25, 2020, the City Approved AUP #ZP-2018-0174 and sent post card Notice of Decision (NOD) to 1346 Ordway Street neighborhood residents – 36 names and addresses.

The NOD reads as follows:

ZONING OFFICER DECISION: The Zoning Officer of the City of Berkeley has **APROVED** the following permits pursuant to Berkeley Municipal Code (BMC) § 23B.28.050, and based on the attached findings and conditions (attachment 1) and plans (attachment 2):

- **Administrative Use Permit, under Berkeley Municipal Code (BMC) Section 23B.52.010 for Reasonable Accommodation for Fair Access to Housing;**
- **Administrative Use Permit, under BMC Section 23D.08.005.A1 to construct a habitable accessory building;**
- **Administrative Use Permit, under BMC Section 23D.08.020.A to construct a habitable accessory building that is over 10 ft. in average height within 4 ft. of the property line;**
- **Administrative Use Permit, under BMC Section 23D.08.020.B to construct a habitable accessory building that is over 12 ft. in average height within 4 to 10 ft. of the property line; and**
- **Administrative Use Permits, under BMC Section 23D.08.060.A2 for construction of accessory structures.**

BMC § 23B.52.010, in pertinent part, provides for reasonable accommodation by modifying the application of its zoning and subdivision regulations for persons with disabilities seeking fair access to housing, pursuant to the American with Disabilities Act and California Fair Housing and Employment Act. In determining whether a requested modification of zoning or subdivision regulations is reasonable, the City will consider, among other relevant factors, the extent to which the requested modification might be in conflict with the legitimate purposes of its existing zoning or subdivision regulations. The finding for Issuance, Denial and/or Conditions follows:

- A. The Zoning Officer may issue an AUP, either as submitted or as modified, only upon finding that establishment, maintenance or operation of the use, or the construction of a building, structure or addition thereto, under the circumstances of the particular case existing at the time at which the application is granted, will 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.
- B. Prior to issuing any AUP, the Zoning Officer must also make any other findings required by either the general or District regulations applicable to that particular AUP.
- C. The Zoning Officer shall deny an application for an AUP if he/she determines that he/she is unable to make any of the required findings, in which case he/she shall state the reasons for that determination.

D. The Zoning Officer may attach such conditions to an AUP as he/she deems reasonable or necessary to achieve the purposes of this Ordinance, and which otherwise promote the municipal health, safety and welfare. (Ord. 6478-NS § 4 (part), 1999)

ISSUES ON APPEAL

I

APPROVAL OF AUP FOR REASONABLE ACCOMODATION FOR FAIR ACCESS TO HOUSING, UNDER, BMC § 23B.52.010

Finding 1: One off-street parking space, within setback, is allowed to comply with BMC § 23B.52.010 for Reasonable Accommodation for Fair Access to Housing.

Finding 2: The City also recognizes the importance of sustaining and enhancing neighborhoods.

Conditions: Pursuant to the above referenced AUP, Zoning Officer has attached the following conditions: The parking pad must be removed, and the curb cut in filled if: 1) the property is sold; 2) the tenant move moves out; or, 3) the disability no longer prevents accessible access.

Appellant Appeal the Findings and Approval on the grounds that legalizing off-street parking in the front yard setback creates a hazardous and unsafe condition and is detrimental and injurious to the economic value of neighboring property. Furthermore, the record is absent of sufficient proof to establish Applicants qualifies as disabled, pursuant to the provisions of the Americans with Disability and the California Fair Employment and Housing Acts.

Applicants' states "one of the owners, Jennie Durant, has a temporary handicapped placard for a spine condition and needs a parking [space] spot close to the front door." The claim of possessing a "temporary disability placard" is **NOT** dispositive proof of a need qualifying under the aforementioned Acts, such that a need for reasonable accommodation is necessary to access housing. Therefore, the need for off-street parking is not established.

In reviewing Applicants' application, the Zoning and Transportation departments determined that Applicants has no legal [off-street] parking space on the 1346 Ordway Street property. Furthermore, it was determined that the off-street parking space in the front setback will not accommodate the 2' landscaping strip required, which would require a Variance. Instead of applying for a Variance to circumvent the 2' landscaping requirement, here, it appears Applicants chose to apply for an AUP.

Except for Applicants claim of temporary disability placard, there is nothing more in the record to substantiate that claim, e.g., there is no copy of Applicants' application for the placard, nor is there any authorizing documentation signed by a qualifying medical professional, nor is there a copy of the placard.

Health and Safety

Allowing a front yard parking space inside the required setbacks, especially since there is a newly installed 6' fence on the South property line, creates a public health hazard. The view of pedestrians and on-coming vehicles is obscured. Proper setbacks allow time for persons to see what is going on around them. Parking along the street appears to be a safer option for all involved. Applicants' health and well being is NOT jeopardized and/or compromised should they have to walk from the curb to the front porch; the difference in distance in walking from the car to the porch and walking from the curb to the porch is approximately minimal - 8' to 10'. Accessing the house from the curb appears not be too difficult, as Applicant is frequently seen walking throughout the neighborhood, cleaning her car, pushing a stroller and carrying groceries.

Detrimental/Injurious to Property and Improvements

Legalizing a parking space, with front yard setbacks, rewards Applicants for long-standing history of non-compliance. It creates a potentially economic injury to Appellant, situating because his property become situated next property with non-conforming uses.

Making other Findings

Here, the Zoning Officer appears to fail to make the finding that altering the BMC was not the only option for granting Applicants' reasonable and fair access to the property. Applicants, if truly eligible under the American with Disabilities and California Fair Housing and Employment Acts, could easily apply for the privilege to have a handicap parking space directly in front of the house.

No Tenants (only owners) and Health Condition Unconfirmed

The Zoning Officer's requirement that the concrete parking pad be removed effectively represents the spirit of the Ordinance. Additionally, the Applicants are not tenants and it is NOT clear that Applicants' temporary health condition prevents accessible access.

For the foregoing reasons, this Appeal must be affirmed, the AUP must be rescinded, and the parking pad removed.

II

APPROVAL OF AUP TO CONSTRUCT A HABITABLE ACCESSORY BUILDING OVER 10' AV HT. W/I "4" FT OF PROPERTY LINE, UNDER BMC § 23D.08.020 and APPROVAL OF AUP TO CONSTRUCT A HABITABLE ACCESSORY BUILDING UNDER, BMC § 23D.08.005.A1

Finding 1: The project would legalize construction building in the rear and side yards, which is consistent with the single-family use of the subject property function as an extension of the main dwelling is a accessory to the residential use, and is not used as a separate dwelling. The accessory building is located outside required front and north side setbacks. Despite the fact that the accessory building projects a few inches into rear and south side setbacks, it is not anticipated to create significant changes to the existing sunlight conditions in the immediate vicinity of the project due to its location and limited scales, under BMC §§ 23D.08.005.A and 23D.08.005.A1 to Construct a Habitable Accessory Building.

Conditions: To legalize the construction of the accessory building and trellis, a building permit application must be submitted within 30 days after the AUP approval.

Appellant Appeal the Findings and Approval on the grounds that the City failed to act responsibly when approving this AUP, because authorizing construction of a building that projects into the setbacks, diminishing the use, quiet enjoyment and economical value of neighboring property?

BMC § 23D.08.005 Addresses Permitted Uses in Accessory Buildings and Structures; BMC § 23D.08.005.A1 provides that no Accessory Building may be constructed unless authorized by an AUP. A Zoning Certificate shall be required for alteration of an existing Accessory Building.

Appellant argues that permitting an Accessory Structure to be constructed as planned ignores the fact that shadows will be created over the most usable area of the neighboring yard. Furthermore, the quiet enjoyment of the neighboring property will be interfered with and the neighbors (Appellant and Applicants) will complain about activity and noise when either of them do building and yard maintenance, office work, and/or entertain. Additionally, Appellant does anticipate significant change in sunlight and lighting generally; and, since there is no evidence any site visit was conducted on the subject, Appellant disagrees with Zoning Officer's assumptions.

Moreover, the prospective economic value of the neighboring property is likely to be diminished; because, having a non-conforming condition on the property next door will create limits upon what a new owner could get approved should the Appellant choose to sell the Hopkins Street property.

For the foregoing reasons, the approval of this AUP must be rescinded and this Appeal affirmed.

III

APPROVAL OF AUP TO CONSTRUCT A HABITABLE ACCESSORY BUILDING THAT IS OVER 12 FT. IN AVERAGE HEIGHT, WITHIN 4 TO 10 FT. OF THE PROPERTY LINE, UNDER BMC 23D.08.020.B

Finding: AUP would legalize 9 ft. tall, 21 x 5 ft. trellis, located 3 inches from the South property line and 30 ft. from the rear property line.

Conditions: To legalize the construction of the accessory building and trellis, a building permit application must be submitted within 30 days after the AUP approval.

Appellant Appeal the Finding and Approval on the grounds that the Zoning Officer ignored the needs of the neighboring property owner, by permitting an illegally constructed trellis to remain in place right up against the neighbor's garage. Appellant's garage has legally existed on the property line since 1948. Approving this illegally constructed - 9' tall, 21' x 5' - trellis to exist, only 3 inches from side of a neighbor's garage, is obscured and negligence.

Furthermore, this approval interferes with neighbor's quiet enjoyment and denies access to the garage for painting, maintenance and other improvements. In fact, Applicants are presently growing vines over the top of the trellis, which are already growing onto roof of the garage and fence.

Moreover, the property value is diminished by virtue of having illegally constructed conditions so close to the neighboring structure; and, as it relates to the Condition, please note that the trellis is already constructed.

Accordingly, this appeal should be affirmed, this AUP rescinded and the trellis ordered removed.

IV

APPROVAL OF AUP FOR CONSTRUCTION OF ACCESSORY STRUCTURES, UNDER BMC § 23D.08.060.A2

Finding: AUP legalizes a 14 ft. tall hedge within the South and North side yards.

Appellant Appeals the Finding and Approval on the grounds Zoning Officer misstate the non-conforming condition of Applicants' application. What the Zoning Officer is calling "a 14' tall hedge" is actually sixteen or more 14' tall, illegally planted trees – **NOT A HEDGE**. These trees were illegally planted within 3" of the property line, up against the existing fence. This condition is tantamount to creating a much taller fence than the 6' allowed. The trees were illegally planted along the entire length of the property line from front to back, except the space where the illegally constructed trellis was built. Furthermore, the trees are presently growing over the fence and into the fence. It's only a matter of time before the trees began to push against the fence, creating cost and an argument over maintenance – the disturbing the quiet enjoyment of the community.

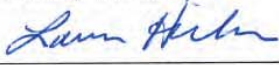
Accordingly, this appeal should be affirmed, this AUP rescinded and the trellis ordered removed.

V

CONCLUSION

WHEREFORE, Appellant LAWRENCE HICKMAN herein prays for a RULING affirming this Appeal.

Respectfully submitted

By: 
Lawrence Hickman

EXHIBITS

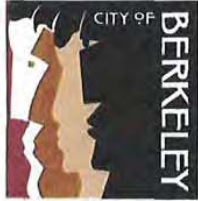
EXHIBITS

EXHIBITS

EXHIBIT A

EXHIBIT A

EXHIBIT A



Office of the City Manager
Code Enforcement Unit
2180 Milvia Street
Berkeley, California 94704
Tel 510.981.2489 Fax 510.981.2499

NOTICE OF VIOLATION

- First Notice
- Final Citation Warning

Date: 5/10/18 Time: 4:12pm Re-inspection Date: 5/24/18

Name of Person Contacted: KEKI BORJORJEE / JENNIE DURANT

The property at: 1346 ORDUAY ST. BERKELEY, CA
was inspected because of concerns expressed to this office. The following code violation(s) were identified during this site visit:

- | | | |
|--|-------------------------|-------------------------|
| <input type="checkbox"/> Illegal Dumping | Berkeley Municipal Code | Chapter 12.40.080 |
| <input type="checkbox"/> Accumulation of Trash & Debris | Berkeley Municipal Code | Chapter 12.32.020 |
| <input type="checkbox"/> Graffiti Nuisance | Berkeley Municipal Code | Chapter 13.98.030 |
| <input type="checkbox"/> Blight Nuisance | Berkeley Municipal Code | Chapter 12.92.030 |
| <input checked="" type="checkbox"/> Zoning | Berkeley Municipal Code | Title 22 & Sub-Title 23 |
| <input type="checkbox"/> Building & Safety | Berkeley Municipal Code | Chapter 19.28 |
| <input type="checkbox"/> Obstruction of Streets or Sidewalks | Berkeley Municipal Code | Chapter 14.48.020 |
| <input type="checkbox"/> Signage | Berkeley Municipal Code | Chapter 20.16.010 |
| <input checked="" type="checkbox"/> Other (Code/Section/Title): <u>BMC 23D.08.060 FENCES</u> | | |

(The entire Berkeley Municipal Code may be viewed or printed from the City's web site at www.cityofberkeley.info/Home, specifically www.codepublishing.com/CA/Berkeley).

Attached brochure(s) will give you more code information: _____

Please perform the following corrections **before** the re-inspection date to avoid citations, fees, and/or fines starting at \$100-500 per violation/per day:

- NO FENCE ON PROPERTY LINE MAY EXCEED 6 FEET IN HEIGHT.

PLEASE SEE ATTACHED DEFINITIONS.

* HEDGE MUST BE TRIMMED TO 6' - THANK YOU

It is our intent to work with property owners to encourage voluntary compliance. Your cooperation in correcting the violation(s) is greatly appreciated. If you have any questions, please contact the Enforcement Officer at 510.981. 2481.

Issued by: Tom Kruger Enforcement Officer Case #: 397755

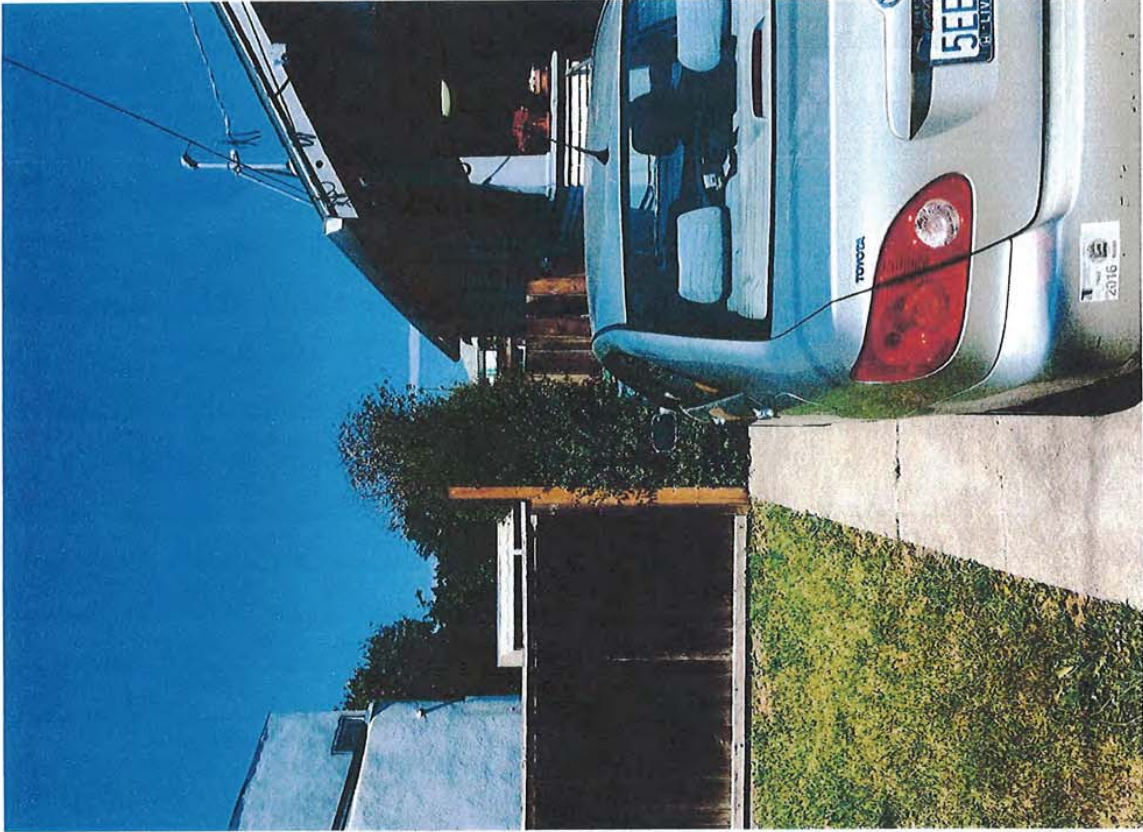


EXHIBIT B

EXHIBIT B

EXHIBIT B

Lawrence Hickman

1333 Hopkins Street
Berkeley, CA 94702
Phone: (510) 467-4250
E-Mail: lpacificquest@aol.com

RECEIVED

SEP 19 2018

LAND USE PLANNING

September 19, 2018

Ms. Nilu Karimzadegan, Planner
City of Berkeley – Zoning/Planning
1947 Center Street, 3rd Floor
Berkeley, CA 94704

SUBJECT
1346 ORDWAY STREET APPLICATION

NOTICE OF OPPOSITION ZONING VARIANCE

Dear Ms. Karimzadegan:

As the adjacent property owner, this writing serves notice that I am opposed to any consideration of the subject application.

Here, the issue is whether **BMC Ch. 23D.08.060 § A(2)** is violated where a resident/neighbor created a fence-wall by planting fifteen (15) trees – in a row - each approximately fourteen (14) feet in height creating a wall, with trees planted less than two feet away from an existing legal community-fence and property line, then builds a 9 foot in height arbor 2" away from the side of my garage without a building permit.

BMC Ch. 23D.08.060 § A(2) provides any fence, hedge, gate, pergola, trellis, arbor or retaining wall when located on a lot in, or on the zoning boundary line of, any residential District is subject to the following "***no fence or other unenclosed accessory structure located on a property line or within the required yard area for a main building set forth in each residential District's provisions may not exceed six feet in height at any point ... unless so authorized by an AUP***"

Here, it appears that the 1346 Ordway Street Resident Applicant (hereafter "Resident Applicant") has violated and continues in violation of the above referenced municipal code, because Resident Applicant has already planted fifteen (15) trees - in a row - each approximately fourteen (14) feet in height, supported by unpermitted construction method(s), using four-by-fours (4x4s) exceeding six feet in height. In addition, the trees were planted within two feet of the property line, also a violation. This violation(s) is further evidenced by the fact that, after my complaint to Code Enforcement, Resident Applicant received a citation, from the Code Enforcement Unit of the Mayor's Office. If I had not complained to Code Enforcement, resulting in the citation, Resident Applicant would not have applied for an AUP.

It should be noted that the subject application fails to mention that Resident Applicant has also already created the same and similar fence/wall condition on the opposite side of the property at the 1346 Ordway Street address. The application also fails to mention that Resident Applicant has constructed a 9 foot in height arbor 2" away from my garage without a building permit.

The present state of Resident Applicant current fence/wall configuration substantially interferes with my peaceful and quiet enjoyment of my property by eliminating my entitled air space, around the most useful part of my yard; making my yard small. Allowing the existing nonconforming conditions would diminish the value of my property. In addition, Resident Applicant's fence/wall height, proposed trellis, including the nine (9) foot high arbor – **two (2) inches from my garage** - prevents me from maintaining my property adequately.

I've owned my property at 1333 Hopkins Street for twenty-eight years, without incident. However, Resident Applicant recently approached me in my yard initiating an argument about the complaint I lodged with Code Enforcement. I believe Resident Applicant was attempting to intimidate me prior to filing this deceptive AUP application.

Furthermore, the subject application was only made after the aforementioned conditions were exposed, reported and cited. Moreover, the **Resident Applicant is seeking approval for conditions that already exists**, as if they are correctly planning to create a new condition.

On its face, this application should be denied because it's deceptive and lacks full disclosure. Even the Site Plan submitted is incomplete and lacks full disclosure. Additionally, the trellis description is ambiguous.

I oppose the subject application for the reasons stated herein. Accordingly, Resident Applicant's request for variance should be denied.

Also, The unauthorized 14 feet in height trees/fence, arbor that's 2" away from my garage, and the four-by-fours (4x4) posts taller than 6 feet need to be removed.

Respectfully Submitted,



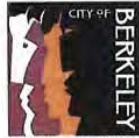
Lawrence Hickman

EXHIBIT C

EXHIBIT C

EXHIBIT C

UL/4/8/19
10/5/18
~~5/8/2019~~
10/5/18
5/8/19 (5)



Planning and Development Department
Land Use Planning Division

5/8/2019 Response Letter III

February 8, 2019

Sent via email:
jenniedurant@gmail.com

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702

Re: Administrative Use Permit #ZP2018-0174 for 1346 Ordway Street

Dear Jennie,

This letter is in response to the resubmittal of revised application materials, submitted on January 09, 2019. To complete this application, please respond to the following:

1) A New invoice will be provided

List of additional fees

1) **Additional AUPs & Fees:** At the time of project submittal, fees were assessed as \$970 for one Tier 3 AUP to construct an accessory structure over 6' within required setbacks. However, because the application is a result of a Notice of Violation and it also includes an unpermitted accessory building and an unpermitted trellis, additional AUPs will apply to the project resulting in a fee increase. We will issue an additional invoice upon the receipt of additional information (requested below).

- 1) \$1970 for fence + hedge NOV
- 2) Establish an accessory building
- 3) Accessory building in rear + side setback (x2)
- 4) Trellis

2) Dimensions on site plan do not match dimensions on survey

2) **Survey:**

- A. Provide dimensions from the main dwelling and the front porch to the front and side property lines.
- B. Provide the width of driveway on the front property line.
- C. Include the accessory building's dimensions on the survey and exhibit the distance from its eave to the rear and side property lines.

5) Front yard parking (to be confirmed by the Traffic Eng. + zoning officer)

Survey	Site Plan
Driveway 7'-9"	Driveway 10'-2"
DU to Front PL 19'-9"	DU to Front PL 20'-6"
DU to side PL 6'-8"-7"	DU to side PL 7'-2"-8'-2"

3) **Site Plan:**

- A. **Accessory building:** Please revise the accessory building's name to read as "Accessory Habitable Space" and not a "Shed" on Site Plan. Additionally, include the average and maximum height on the elevation.
- B. **Trellis:** include trellis's coverage in the overall lot coverage on Tabulation Form.
- C. Exhibit the front porch and its dimensions.
- D. Include the shed (and its dimensions) that is shown on survey and is attached to the rear of the dwelling.

3) Any hot tubs yet?

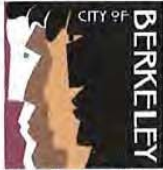
EXHIBIT D

EXHIBIT D

EXHIBIT D

9

9



Planning and Development Department
Land Use Planning Division

July 2, 2019

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702

Sent via email:
jenniedurant@gmail.com

Re: Administrative Use Permit #ZP2018-0174 for 1346 Ordway Street

Dear Jennie,

Thank you for the electronic resubmittal of the revised Site Plan on June 5, 2019. After reviewing the submitted materials, staff has determined that the existing off-street parking space is not accessible and there is no other feasible location for parking on the parcel. Note that all paved areas for off-street parking spaces, driveway and any other vehicle-related paving must be removed as a condition of approval on this permit. (Additionally on Site Plan, remove the label "Existing Parking Space" within the front yard setback and include a note for the removal of parking related paved areas and curb cut.). To complete your application, submit revised plans that reflect these changes and submit the additional required payment (see attached invoice).

In your resubmittal, include a cover letter stating how you have addressed the incomplete items. **Any changes or corrections must be clouded, and accompanied by a number** to allow for easier identification. If new plans are submitted, please deliver two **(2) sets** of plans (at least one set to scale) and submit **both a paper and an electronic copy** of the resubmittals to the zoning counter during normal business hours (Monday thru Thursday 8:30 am – 4:00 pm). If you take no action to address the above items **within 30 days**, the application may be deemed withdrawn and returned to you. Please contact me if you have any questions at (510) 981-7419.

Sincerely,
Nilu Karimzadegan, Planning Technician
CC: Greg Powell, Principal Planner

A handwritten signature in black ink, appearing to read "Nilu Karimzadegan".

EXHIBIT E

EXHIBIT E

EXHIBIT E

2. The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner;
3. The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole;
4. Any other variance findings required by the Section of the Ordinance applicable to that particular Variance.

B. The Board shall deny an application for a Variance if it determines that it is unable to make any of the required findings, in which case it shall state the reasons for that determination. (Ord. 6478-NS § 4 (part), 1999)

Please consider your options and let me know which path you would like to take.

Thank you,

Nilu

From: Chun, Peter
Sent: Wednesday, July 17, 2019 10:22 AM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Cc: 'Jennie Durant' <jenniedurant@gmail.com>
Subject: RE: Parking spot AUP

Hi Jennie,

My recommendation would be to restore the original parking space or remove the driveway and restore on street parking as Planning has recommended. I was not aware of the 7 ft. threshold and the Planning Dept. document you provided. I have reviewed and approved many projects with 7 ft. driveways, even 6' – 6" as applicants have indicated their driveway is existing and they squeeze through. I generally support the setback requirement (or parking space restriction) and therefore favor the removal of driveways and restoration of the curb, sidewalk, and on street parking if you choose not to re-establish the rear parking.

Sorry I am sure this is not what you were hoping to hear from our office.

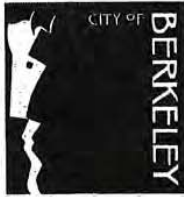
Sincerely,

Peter Chun, T.E.
Associate Traffic Engineer

EXHIBIT F

EXHIBIT F

EXHIBIT F



Office of the City Manager
Neighborhood Services-Enforcement Division

September 10, 2019

Jennie Durant/Keki Burjoree
1346 Ordway Street
Berkeley CA 94702-1124

Subject: **Administrative Citation Warning**

Dear Property Owner:

This letter is confirming that on May 10, 2018 the Code Enforcement Unit issued Notices of Violation requiring that you correct all violations at 1346 Ordway Street. On August 30, 2018 a Citation Warning for the outstanding violations of the Berkeley Municipal Code (BMC). Pursuant to the Notice of Violations and Administrative Citation Warning, you were required to reduce the height of your hedges that are exceed 6 feet allowed without a permit.

On September 7, 2018, plans were submitted to the Planning Department for a variance on the hedges where additional unpermitted construction (accessory building & trellis) was identified by the planning department.

As of September 9, 2019, the violations remain and you have failed to comply with the Planning Department requirements and deadlines in submitting corrections to the plan check request by letters and email.

Since this project is associated with a Code Enforcement case specified deadlines are enforced and take precedence over any timelines specific to the permit process.

YOU ARE HEREBY ORDERED TO:

- Within fifteen (15) days of this Administrative Citation Warning respond to the Planning Department emails regarding the Plan check revisions;
- You must respond to any other plan checks comments issued by all reviewing agencies within fifteen (15) days of issuance of comments;
- Within thirty (30) days of the issuance of the required zoning permit, obtain all required building, electrical, plumbing and mechanical permits from the Building and Safety Division; and
- Upon issuance of building permits, complete all work within one hundred eighty (180) days.

Keki Borjorjee/Jennie Durant
1346 Ordway Street
Berkeley, CA 94702

Administrative Citation Warning
September 10, 2019
Page 2 of 2

Please note: Given the history on non-compliance on the property as described above, the City is putting you on notice that any future failure to comply completely will all City laws and regulations will result in daily administrative citations without further notice to you, which will increase as time passes until all violations are corrected. Part compliance or correction of any violation will be regarded as non-compliance.

Commencing September 25, 2019, if you have failed to comply in full with the May 10, 2018 Notice of Violation and the Plan Check corrections request by planning you may be issued administrative citations on a daily basis for each of the above violations without further notice to you. **Citation penalties will begin at a rate of one hundred dollars (\$100.00) per violation, per day and may increase with subsequent citations to two hundred dollars (\$200.00) per violation, per day and five hundred dollars (\$500.00) per violation, per day.**

If you have any questions regarding this Citation Warning Letter, you may contact me at (510) 981-2482 or e-mail me at wdrouillard@cityofberkeley.info.

Sincerely,



Wanda Drouillard
Code Enforcement Officer

cc: Planning Department
David Lopez, Deputy Building Official
Erin Steffen, Assistant to the City Manager

3/31/2020

Invoice_Custom - Report Viewer

1 of 1 Find | Next



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

INVOICE

Date: 03/31/20

Invoice #: 437266

Record #: PLN2020-0009

Bill to:

Address: 1346 ORDWAY ST

1346 Ordway Street
Lawrence Hickman
1333 HOPKINS ST
BERKELEY CA 94702-1113

Date Assessed	Invoiced Fee Item	Fee	Paid	Balance
3/31/2020	APPEAL of AUP - Non Applicant APPL010	\$200.00	\$0.00	\$200.00
Totals:		\$200.00	\$0.00	\$200.00



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

ZONING ADJUSTMENTS BOARD NOTICE OF PUBLIC HEARING

SUBJECT: 1346 Ordway Street
Appeal of AJP #ZP2019-0174

WHEN: Thursday, June 11, 2020.
Meeting starts at 7:00 pm.

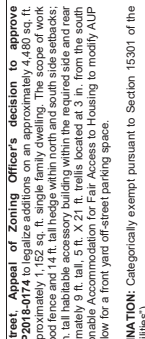
WHERE: *This meeting will be conducted exclusively through videoconference and teleconference; there will not be a physical meeting location available. Please see: https://www.cityofberkeley.info/UploadedFiles/Planning_and_Development/Level_3_-_ZAB2020-06-11%20Draft_ZAB_Agenda.pdf for details.*

«NAME1»

«NAME2»

«ADDRESS1» «ADDRESS2»

Attachment 7 - Administrative Record Page 425 of 503

	<p>SUBJECT: 1346 Ordway Street, Appeal of Zoning Officer's decision to approve a change in use from a single family dwelling to a single family dwelling with an existing one-story approximately 1,152 sq. ft. single family dwelling. The scope of work includes: 1) legalize a 9 ft. tall wood fence and 14 ft. tall hedges within north and south side setbacks; 2) legalize a 128 sq. ft., 12 ft. x 12 ft. in. tall habitable accessory building within the required side and rear setbacks; 3) legalize an approximately 9 ft. tall, 5 ft. X 21 ft. trellis located at 3 in. from the south side property line; and 4) Reasonable Accommodation for Fair Access to Housing to modify AUP and variance requirements to allow for a front yard off-street parking space.</p> <p>PRELIMINARY CEQA DETRIMENTATION: Categoricaly exempt pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities").</p>
<p>NOTICE CONCERNING YOUR LEGAL RIGHTS: If you challenge the decision of the Board, you may be limited to raising only those issues you or someone else raised at the public hearing.</p> <p>Post and Mail Date: May 28, 2020</p>	<p>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.</p> <p>Send written comments to the Land Use Planning Division (Attn: ZAB Secretary), 1947 Center Street, Second Floor, Berkeley, CA 94704 or via email to: zab@cityofberkeley.info. For further information, see the Agenda at https://www.cityofberkeley.info/uploads/Files/Planning_and_Development/Level_3_-_ZAB2020-06-17%202020_ZAB_Agenda.pdf, or call the Land Use Planning division (510) 981-7410.</p> <p>To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418(V) or 981-6547(TDD) at least three business days before the meeting date.</p> <p>PLEASE NOTE: If your contact information is included in any communication to the Board, it will become public information and be available on the City Website.</p> <p>All applications and staff reports are available at the City Website at: http://www.cityofberkeley.info/zoningadjustmentsboard.</p>
<p>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.</p>	

1346 Ordway Street

123 notices

mailed out 05-28-20

NAME1	NAME2	ADDRESS1	ADDRESS2
Milvia-King Alliance	1731 MILVIA ST	BERKELEY CA 94709	
Ada Street (1300 Block) Neighborhood Watch Group	1365 ADA ST	BERKELEY CA 94702	
Albany-Berkeley Gilman-Curtis Neighborhood Association	1206 CURTIS ST	BERKELEY CA 94706	
Schoolhouse-Lincoln Creeks Watershed Neighborhood Assoc.	1546 MILVIA ST	BERKELEY CA 94709	
University of California, Facilities Services	A&E Building, Room 300 University of California Berkeley	Berkeley, CA 94720-1382	
Urban Creeks Council	861 REGAL RD	BERKELEY CA 94708	
Bananas Inc.	5232 CLAREMONT AVE	OAKLAND CA 94618	
Berkeley Central Library	2090 KITTREDGE STREET	BERKELEY CA 94704	
Adams Broadwell Joseph & Cardoza	601 GATEWAY BLVD, Su 1000	SOUTH SAN FRANCISCO CA 94080	
Public Notice Journal	PO Box 330356	San Francisco, CA 94133	
CHUANG VEM L & MING MARISA C TRS	1309 HOPKINS ST	BERKELEY CA	94702
COMMON AREA OF PM 5939 97 & 98	1314 HOPKINS ST	BERKELEY CA	94702
VAN LESLEY & FRANCES TRS	1315 HOPKINS ST	BERKELEY CA	94702
MAYENO LAURIN Y	1316 HOPKINS ST B	94702 CA	94702
OGLESBY LISA S	1317 HOPKINS ST	BERKELEY CA	94702
MYERSON JOEL & RADEL PEGGY A	1320 HOPKINS ST	BERKELEY CA	94702
NYSTROM ADINA	1320 ORDWAY ST A	BERKELEY CA	94702
PAKRAVAN RUDABEH & PIROUZMAND FARBOD	1321 ORDWAY	BERKELEY CA	94702
MILLER ELAINE A TR	1322 ORDWAY ST	BERKELEY CA	94702
BOWER ANN TR	1323 PERALTA AVE	BERKELEY CA	94702
AMADO HENRY A JR & CHRISTINE L	1324 HOPKINS ST	BERKELEY CA	94702
STANGLE DEENA J	1324 ORDWAY ST	BERKELEY CA	94702
GIBSON BRADFORD W & ZOLOTOW NINA TRS	1324 PERALTA AVE	BERKELEY CA	94702
SIMPSON KATHERINE M TR	1325 ORDWAY ST	BERKELEY CA	94702
WILLIAMS JAMES C & SHIRLEY M	1325 PERALTA AVE	BERKELEY CA	94702
FALCI ERIC & WHITEHEAD AMANDA P	1326 ORDWAY ST D	BERKELEY CA	94702
KAMP VIRGINIA M & LEONARD L TRS	1326 PERALTA AVE	BERKELEY CA	94702
SOLARZ MICHAEL TR	1327 ORDWAY ST	BERKELEY CA	94702
BELL JAMES C	1327 PERALTA AVE	BERKELEY CA	94702
CALLAHAN PATRICIA G TR	1328 ADA ST	BERKELEY CA	94702
KORNFELD JOSEPH L & MORNICK ARLENE H TRS	1329 ORDWAY ST	BERKELEY CA	94702
REYES JAIME & CONSTANCE H TRS	1329 PERALTA AVE	BERKELEY CA	94702
ELISSHA GLORIA	1330 ADA ST	BERKELEY CA	94702
PAULOS BENTHAM & REICH JESSICA	1331 PERALTA AVE	BERKELEY CA	94702
EDWARDS DELORES L TR	1332 ORDWAY ST	BERKELEY CA	94702
PURCHASE MICHAEL P & SELINA T	1332 PERALTA AVE	BERKELEY CA	94702
HICKMAN LAWRENCE	1333 HOPKINS ST	BERKELEY CA	94702
GEIS KENNETH S & HARLEY ROBIN E	1333 PERALTA AVE	BERKELEY CA	94702
SKIDMORE MARION T	1334 ORDWAY ST	BERKELEY CA	94702
FRED CLIFFORD A	1334 PERALTA AVE	BERKELEY CA	94702
COLLIER NEIL A & JUDITH B TRS	1335 PERALTA AVE	BERKELEY CA	94702
ELIAS NIMROD P & ALIZA C TRS	1336 HOPKINS ST	BERKELEY CA	94702

1346 Ordway Street

123 notices

mailed out 05-28-20

JIN HUIYING & RICHARDSON ORION W	1336 ORDWAY ST	BERKELEY CA	94702
SCHWARTZ AMITAI & MARJORIE TRS	1336 PERALTA AVE	BERKELEY CA	94702
POTTER DEBORAH S & VILASECA JUAN F	1337 PERALTA AVE	BERKELEY CA	94702
LARKINS BOBBIE L	1338 HOPKINS ST	BERKELEY CA	94702
FISSEHA YONAS	1338 ORDWAY ST	BERKELEY CA	94702
TRABER ANDREA & VONDELING ALEXANDRA	1340 HOPKINS ST	BERKELEY CA	94702
KANO BETTY N & ICHIKAWA KENSHIN ETAL	1340 PERALTA AVE	BERKELEY CA	94702
DASHIELL MARGOT TR	1341 ADA ST	BERKELEY CA	94702
WILSON THELMA TR	1341 PERALTA AVE	BERKELEY CA	94702
WALLENSTEIN SUSAN D & PINEDA EDUARDO A TRS	1342 HOPKINS ST	BERKELEY CA	94702
WESTBRAE BIBLE CHURCH	1343 HOPKINS ST	BERKELEY CA	94702
RABINOVITZ MIRIAM TR	1343 PERALTA AVE	BERKELEY CA	94702
MCGARAGHAN ANNA & MICHAEL TRS	1344 HOPKINS ST	BERKELEY CA	94702
GERSHON TAMAR TR	1344 ORDWAY ST	BERKELEY CA	94702
BERGER SHOSHANA M & SAXE ANTHONY M TRS	1345 ADA ST	BERKELEY CA	94702
SLOAN ROOSEVELT S SR & MYRNA L TRS	1345 PERALTA AVE	BERKELEY CA	94702
BURJORJEE KEKI M & DURANT JENNIE	1346 ORDWAY ST	BERKELEY CA	94702
LAI FRANCES F & CHEUNG CONSTANCE K	1347 HOPKINS ST	BERKELEY CA	94702
SHIPP MIRIAM	1348 HOPKINS ST	BERKELEY CA	94702
KENNEDY MAXINE S & SEAN P ETAL	1350 HOPKINS ST	BERKELEY CA	94702
HERNANDEZ RYAN & MOLLY TRS	1350 PERALTA AVE	BERKELEY CA	94702
MALKI HENRY & THERESA TRS	1351 HOPKINS ST	BERKELEY CA	94702
HOLMES CHIZU & JOHN W	1354 HOPKINS ST	BERKELEY CA	94702
CONNOR EDWARD J & YODER BARBARA A	1355 ADA ST	BERKELEY CA	94702
WALKERLOU ANDRE & WARNOCK ERIN	1357 PERALTA AVE	BERKELEY CA	94702
FRIEDMAN JEANNE T TR	1360 PERALTA AVE	BERKELEY CA	94702
GAN CHESLYN M & HASHIMOTO RICAHRD	1370 PERALTA AVE	BERKELEY CA	94702
VARNHAGEN ELIZABETH & GREENBERG STEVEN E	1440 ORDWAY ST	BERKELEY CA	94702
ALBIETZ JESSICA M	1442A WALNUT ST, #440	BERKELEY CA	94709
TASTO ANNY TR	1448 ORDWAY ST	BERKELEY CA	94702
1449 ORDWAY LLC	1449 ORDWAY ST	BERKELEY CA	94702
COMMON AREA OF PM 7208 81 THRU 84	1541 KILDARE WAY	PINOLE CA	94564
CITY OF BERKELEY	2180 MILVIA ST	BERKELEY CA	94704
ECOLOGY CENTER	2530 SAN PABLO AVE	BERKELEY CA	94702
CULLER DAVID & MAYENO SARA TRS	2927 GARBER ST	BERKELEY CA	94705
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT	300 LAKESIDE DR, #22	OAKLAND CA	94612
KIM HI K TR	511 HAGAR CT	SANTA CRUZ CA	95064
COLIN MARK & BARBARA TRS	5201 MASONIC AVE	OAKLAND CA	94618
RAFFILL THOMAS E & SHANKARI KALYANARAMAN TRS ETAL	560 S SHORELINE BLVD	MOUNTAIN VIEW CA	94041
LEONG TINA C TR	725 NORVELL ST	EL CERRITO CA	94530
HUBBELL ELIZABETH H & MARCIA R ETAL	838 STONEHAVEN DR	WALNUT CREEK CA	94598
STONE MERLE K TR & MERLE K TR	839 GALVIN DR	EL CERRITO CA	94530
CHEUNG EVELYN P	880 SEA VIEW DR	EL CERRITO CA	94530

1346 Ordway Street

123 notices

mailed out 05-28-20

Occupant(S)	1305 HOPKINS ST	BERKELEY CA	94702
Occupant(S)	1306 HOPKINS ST	BERKELEY CA	94702
Occupant(S)	1306 HOPKINS ST 1	BERKELEY CA	94702
Occupant(S)	1306 HOPKINS ST 2	BERKELEY CA	94702
Occupant(S)	1306 HOPKINS ST 3	BERKELEY CA	94702
Occupant(S)	1306 HOPKINS ST 4	BERKELEY CA	94702
Occupant(S)	1308 HOPKINS ST	BERKELEY CA	94702
Occupant(S)	1311 HOPKINS ST	BERKELEY CA	94702
Occupant(S)	1311 HOPKINS ST A	BERKELEY CA	94702
Occupant(S)	1311 HOPKINS ST B	BERKELEY CA	94702
Occupant(S)	1311 HOPKINS ST C	BERKELEY CA	94702
Occupant(S)	1316 HOPKINS ST	BERKELEY CA	94702
Occupant(S)	1320 ORDWAY ST	BERKELEY CA	94702
Occupant(S)	1321 HOPKINS ST	BERKELEY CA	94702
Occupant(S)	1323 HOPKINS ST	BERKELEY CA	94702
Occupant(S)	1325 HOPKINS ST	BERKELEY CA	94702
Occupant(S)	1326 ORDWAY ST	BERKELEY CA	94702
Occupant(S)	1327 HOPKINS ST	BERKELEY CA	94702
Occupant(S)	1329 HOPKINS ST A	BERKELEY CA	94702
Occupant(S)	1329 HOPKINS ST B	BERKELEY CA	94702
Occupant(S)	1329 HOPKINS ST C	BERKELEY CA	94702
Occupant(S)	1333 HOPKINS ST 1	BERKELEY CA	94702
Occupant(S)	1333 HOPKINS ST 2	BERKELEY CA	94702
Occupant(S)	1333 HOPKINS ST 3	BERKELEY CA	94702
Occupant(S)	1333 HOPKINS ST 4	BERKELEY CA	94702
Occupant(S)	1340 ORDWAY ST	BERKELEY CA	94702
Occupant(S)	1340 PERALTA AVE B	BERKELEY CA	94702
Occupant(S)	1342 ORDWAY ST	BERKELEY CA	94702
Occupant(S)	1342 ORDWAY ST A	BERKELEY CA	94702
Occupant(S)	1346 HOPKINS ST	BERKELEY CA	94702
Occupant(S)	1346 HOPKINS ST A	BERKELEY CA	94702
Occupant(S)	1346 HOPKINS ST B	BERKELEY CA	94702
Occupant(S)	1349 ADA ST	BERKELEY CA	94702
Occupant(S)	1351 HOPKINS ST B	BERKELEY CA	94702
Occupant(S)	1351 HOPKINS ST D	BERKELEY CA	94702
Occupant(S)	1359 ADA ST	BERKELEY CA	94702
Occupant(S)	1400 PERALTA AVE	BERKELEY CA	94702
Occupant(S)	1403 ORDWAY ST	BERKELEY CA	94702



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

1346 Ordway Street

Appeal of Zoning Officer's decision to approve Administrative Use Permit #ZP2018-0174 to legalize additions on an approximately 4,480 sq. ft. lot with an existing one-story approximately 1,152 sq. ft. single family dwelling. The scope of work includes: 1) legalize a 9 ft. tall wood fence and 14 ft. tall hedge within north and south side setbacks; 2) legalize a 128 sq. ft., 12 ft. 2 in. tall habitable accessory building within the required side and rear setbacks; 3) legalize an approximately 9 ft. tall, 5 ft. X 21 ft. trellis located at 3 in. from the south side property line; and 4) Reasonable Accommodation for Fair Access to Housing to modify AUP and Variance requirements to allow for a front yard off-street parking space.

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 **June 11, 2020, conducted via Zoom, see the Agenda for details, which can be found here:** https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2020-06-11%20Draft_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: LMDR – Low Medium Density Residential
- Zoning: R-1A – Limited Two-Family Residential District

B. Zoning Permits Required:

- Administrative Use Permit, under Berkeley Municipal Code (BMC) Section 23D.08.005.A1, to legalize a habitable accessory building;
- Administrative Use Permit, under BMC Section 23D.08.020.A, to legalize a habitable accessory building that is over 10 ft. in average height within 4 ft. of the property line;
- Administrative Use Permit, under BMC Section 23D.08.020.B, to legalize a habitable accessory building that is over 12 ft. in average height within 4 to 10 ft. of the property line;
- Administrative Use Permits, under BMC Section 23D.08.060.A2, to legalize a boundary fence and hedge over 6 ft. in height;

- Administrative Use Permit, under BMC Section 23D.08.060.B, to legalize an unenclosed accessory structure; and
- Administrative Use Permit, under BMC Section 23D.12.080.B, for locating an off-street parking space within the required front yard.
- Variance under BMC 23B.44.030 to eliminate the 2 ft. landscaped strip that separates the paved parking area from the side lot line.
- Accommodation for Fair Access to Housing, under BMC Section 23B.52.010, for Administrative Use Permit and Variance for the front yard parking and waiver of the landscape strip requirement.

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

D. Parties Involved:

- Applicant/Owner : Jennie Durant & Keki Burjorjee, 1346 Ordway Street, Berkeley, CA 94702
- Appellant: Lawrence Hickman, 1333 Hopkins Street, Berkeley, CA 94702

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, Niloufar Karimzadegan, at (510) 981-7419 or NKarimzadegan@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:

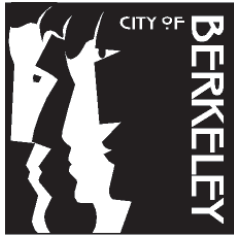
If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

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.



Planning and Development Department
Land Use Planning Division

PROOF OF SERVICE

DATE: June 16, 2020
TO: Whom It May Concern
FROM: Melinda Jacob, OSII
SUBJECT: **USE PERMIT #ZP2018-0174 – 1346 ORDWAY STREET**

I, the undersigned, certify that I am employed in the City of Berkeley, County of Alameda, California; that I am over eighteen years of age; that I am not a party to the within action; and that my business address is 1947 Center Street, Berkeley, California 94704. On this date, I served the following documents:

ZONING ADJUSTMENTS BOARD NOTICE OF DECISION

On the parties stated below by placing true copies thereof in sealed envelope(s) addressed as shown below by the following means of service:

Jennie Durant & Keki Burjorjee 1346 Ordway Street Berkeley, CA 94702	Lawrence Hickman 1333 Hopkins Street Berkeley, CA 94702
--	---

- By First Class Mail - I am readily familiar with the City's practice for collecting and processing of correspondence for mailing. Under the practice, the correspondence is deposited with the U.S. Postal Service on the same day as collected, with First Class postage thereon fully prepaid, in Berkeley, California, for mailing to the addressee following ordinary business practices.
- By Personal Service - I caused each such envelope to be given to the City of Berkeley mail service person to personally deliver to the office of the addressee.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 16, 2020 at Berkeley, California.

Melinda Jacob, OSII



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

DATE OF BOARD DECISION: June 11, 2020
DATE NOTICE MAILED: June 16, 2020
APPEAL PERIOD EXPIRATION: June 30, 2020
EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification)¹: July 1, 2020

1346 Ordway Street

Appeal of Zoning Officer's decision to approve Administrative Use Permit #ZP2018-0174 to legalize additions on an approximately 4,480 sq. ft. lot with an existing one-story approximately 1,152 sq. ft. single family dwelling. The scope of work includes: 1) legalize a 9 ft. tall wood fence and 14 ft. tall hedge within north and south side setbacks; 2) legalize a 128 sq. ft., 12 ft. 2 in. tall habitable accessory building within the required side and rear setbacks; 3) legalize an approximately 9 ft. tall, 5 ft. X 21 ft. trellis located at 3 in. from the south side property line; and 4) locate front yard off-street parking space by modifying AUP and Variance requirements in order to provide reasonable accommodation for fair access to housing.

The Zoning Adjustments Board of the City of Berkeley, after conducting a public hearing, **APPROVED** the following permits:

A. Zoning Permits Approved:

- Reasonable Accommodation for Fair Access to Housing, under Berkeley Municipal Code (BMC) Section 23B.52.010, for a front yard off-street parking space;
- Administrative Use Permit, under BMC Section 23D.08.005.A1, to legalize a habitable accessory building;
- Administrative Use Permit, under BMC Section 23D.08.020.A, to legalize a habitable accessory building that is over 10 ft. in average height within 4 ft. of the property line;
- Administrative Use Permit, under BMC Section 23D.08.020.B, to legalize a habitable accessory building that is over 12 ft. in average height within 4 to 10 ft. of the property line;

¹ Pursuant to BMC Section 23B.32.090, the City Council may certify any ZAB decision for review during the 14-day appeal period after the notice of the ZAB's decision is issued. Certification has the same effect as an appeal. However, BMC Section 1.04.070 suspends or "tolls" the Council's deadline to certify when the Council is on recess. Thus, in cases where the 14-day appeal period is scheduled to *end* during a Council recess, the certification deadline is extended past the end of the recess for the remainder of the appeal period. In cases where the appeal period *begins* during a Council recess, the certification deadline is extended until 14 days after the first Council meeting after the recess. *Extension of the certification deadline has no effect on the appeal deadline.*

- Administrative Use Permits, under BMC Section 23D.08.060.A2, to legalize hedge over 6 ft. in height; and
- Administrative Use Permit, under BMC Section 23D.08.060.B, to legalize an unenclosed accessory structure (trellis).

B. Zoning Permits Waived (Under BMC Section 23B.52.010 for Reasonable Accommodation):

- Variance under BMC 23B.44.030 to eliminate the 2 ft. landscaped strip that separates the paved parking area from the side lot line; and
- Administrative Use Permit, under BMC Section 23D.12.080.B, for locating an off-street parking space within the required front yard.

C. Zoning Permits Denied:

- Administrative Use Permits, under BMC Section 23D.08.060.A2, to legalize boundary fence over 6 ft. in height.

ZONING: R-1A – Limited Two-Family Residential District

APPLICANT/OWNER: Jennie Durant & Keki Burjorjee, 1346 Ordway Street, Berkeley, CA 94702

APPELLANT: Lawrence Hickman, 1333 Hopkins Street, Berkeley, CA 94702

ENVIRONMENTAL REVIEW STATUS: Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).

FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

	Yes	No	Abstain/Recused	Absent
CLARK	x			
KAHN	x			
KIM	X			
O'KEEFE	x			
OLSON				x
PINKSTON				x
SELAWSKY	x			
SHEAHAN	x			
TREGUB	x			
BOARD VOTE:	7	0	0	2


ATTEST:Steve Buckley, Zoning Adjustments Board
Secretary**PUBLICATION OF NOTICE:**

Pursuant to BMC Section 23B.32.050, this notice shall be mailed to the applicant at the mailing address stated in the application and to any person who requests such notification by filing a written request with the Zoning Officer on or before the date of the Board action. This notice shall also be filed with the City Clerk. In addition, the notice shall be forwarded to the Zoning Adjustments Board and to the Main Library. The notice shall also be posted at a bulletin board at the Zoning Counter. The City Clerk shall make the notice available to interested members of the Council and the public.

FURTHER INFORMATION:

Questions about the project should be directed to the project planner, Nilu Karimzadegan, at (510) 981-7419 or nkarimzadegan@cityofberkeley.info. All project application materials, including full-size plans, may be viewed online at <https://aca.cityofberkeley.info/Community/> or in the Permit Service Center at the Zoning Counter at 1947 Center Street, Third Floor, during normal office hours.

TO APPEAL THIS DECISION (see Section 23B.32.050 of the Berkeley Municipal Code):

Please note that the new method for appeal submittals described below have been put in place to comply with the requirements of the Shelter In Place Order and shall be effective for the duration of Shelter In Place requirements.

Mail your complete appeal to the City Clerk Department, 2180 Milvia Street, Berkeley, CA 94704 with payment of fees by check or money order included. Appeals submitted by mail must be postmarked on or before the deadline date for filing the appeal.

- A. The fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
- B. The fee for all appeals by Applicants is \$2,500.

If no appeal is received, the permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time.

NOTICE CONCERNING YOUR LEGAL RIGHTS:

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

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Adjustments Board at, or prior to, the public hearing.
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, your appeal of this decision must include the following information:
 - A. That this belief is a basis of your appeal.
 - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
 - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

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

ATTACHMENT 1

FINDINGS AND CONDITIONS JUNE 11, 2020

1346 Ordway Street

Administrative Use Permit #ZP2018-0174 for additions on an approximately 4,480 sq. ft. lot with an existing one-story approximately 1,152 sq. ft. single family dwelling. The scope of work includes: 1) legalize a 9 ft. tall wood fence and 14 ft. tall hedge within north and south side setbacks; 2) legalize a 128 sq. ft., 12 ft. 2 in. tall habitable accessory building within the required side and rear setbacks; 3) legalize an approximately 9 ft. tall, 5 ft. X 21 ft. trellis located at 3 in. from the south side property line; 4) locate the off-street parking space within the front yard; and 5) eliminate the required 2 ft. landscaped strip that separates the uncovered off-street parking space from the adjacent property line.

PERMITS APPROVED

- Reasonable Accommodation for Fair Access to Housing, under Berkeley Municipal Code (BMC) Section 23B.52.010, for a front yard off-street parking space;
- Administrative Use Permit, under BMC Section 23D.08.005.A1, to legalize a habitable accessory building;
- Administrative Use Permit, under BMC Section 23D.08.020.A, to legalize a habitable accessory building that is over 10 ft. in average height within 4 ft. of the property line;
- Administrative Use Permit, under BMC Section 23D.08.020.B, to legalize a habitable accessory building that is over 12 ft. in average height within 4 to 10 ft. of the property line;
- Administrative Use Permits, under BMC Section 23D.08.060.A2, to legalize hedge over 6 ft. in height; and
- Administrative Use Permit, under BMC Section 23D.08.060.B, to legalize an unenclosed accessory structure (trellis).

PERMITS WAIVED: (Under BMC Section 23B.52.010 for Reasonable Accommodation):

- Variance under BMC 23B.44.030 to eliminate the 2 ft. landscaped strip that separates the paved parking area from the side lot line; and
- Administrative Use Permit, under BMC Section 23D.12.080.B, for locating an off-street parking space within the required front yard.

PERMITS DENIED

- Administrative Use Permit, under BMC Section 23D.08.060.B legalize a boundary fence over 6 ft. in height.

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 CEQA Guidelines Section 153301 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 BMC Section 23B.28.050.A, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

A. The subject property is equal to or below the Single Family Residential District (R-1A) standards (BMC Section 23D.20.070) for density, height, setbacks, maximum lot coverage, usable open space (1 dwelling on a lot where 1 dwelling is allowed; 32% lot coverage where 40% maximum lot coverage is allowed; and the subject property preserves well beyond 400 sq. ft. of required usable open space). One off-street parking space within the front setback is allowed to comply with BMC Section 23B.52.010 for Reasonable Accommodation for Fair Access to Housing. The project would legalize construction of an accessory building in the rear and side yards which is consistent with the single-family use of the subject property, functions as an extension of the main dwelling, is accessory to the residential use, and is not used as a separate dwelling. The accessory building is located outside required front and north side setbacks. Despite the fact that the accessory building projects a few inches into rear and south side setbacks, it is not anticipated to create significant changes to the existing sunlight conditions in the immediate vicinity of the project due to its location and limited scale. The project would also legalize a 14 ft. tall hedge within the north and south side yards in addition to a 9 ft. tall, 21 ft. X 5 ft. trellis, located 3 in. from the south property line and 30 ft. from the rear property line. The proposed, hedge and the trellis are small in scale and are not expected to create significant impact to sunlight, air and view for the surrounding neighborhood.

B. Privacy, sunlight, air & view:

- Accessory building: The 128 sq. ft. accessory building functions as an office, which is a quiet activity, and is subject to condition of approval #14 that requires that a “Notice

of Limitation of Use” be placed on the deed to the property. This deed restriction prohibits the use or conversion of this habitable accessory building to a dwelling unit unless authorized by an applicable permit.

The accessory building preserves privacy for abutting residences because the entry point (located on the east elevation) faces the main dwelling and while windows are located on south and west elevations, they are small in size and the existing vegetation on the side and rear property lines screen the adjacent properties.

The accessory building is found to be consistent with the existing development and building-to-building separation pattern – or air – in this R-1A neighborhood. It is separated from the main building on the neighboring property at 1333 Hopkins Street (to the south) by approximately 50 ft. and from its detached accessory structure (Garage) by approximately 17 ft. This accessory building is separated from the building on neighboring property at 1327 Hopkins (also to the south) by approximately 33 ft.; from the building on the neighboring property at 1341 Peralta Avenue (to the west) by approximately 56 ft.; from the building at neighboring property at 1344 Ordway Street (to the north) by approximately 17 ft.; and from the main dwelling on the subject lot by more than 40 ft.

The accessory building is located at approximately 8 ft. 6 in. from the side property line to the north; about 56 ft. from front property line to the east; 3 ft. 7 in. to 3 ft. 9 in. from side property line to the south; and 4 ft. 1 in. to 4 ft. 3 in. from the rear property line to the west. The accessory building is one story in a district that permits three story main buildings. It is not taller than the main dwelling on the subject lot nor adjacent properties. Due to location and scale, this accessory building does not create significant changes to existing sunlight conditions in the vicinity of the project.

The accessory building’s maximum height is 12 ft. 2 in. which is lower than the main dwelling and all abutting buildings. This low roof height and the generally flat topography of the area will ensure that this building would not obstruct or significantly reduce any prominent views that may exist for surrounding neighbors, such as a view of Golden Gate or Bay Bridge, the Downtown San Francisco skyline, the bay, or Treasure Island as defined in BMC Chapter 23F.04.

- Trellis:
While the 105 sq. ft. 9 ft. tall trellis is located at 3 in. from the south side property line, it matches the neighbor’s abutting garage in height and length. Additionally, this structure is designed with well-spaced members (1 ft. 9 in. between wood members) which allows for passage of air and light and hence is not expected to create light and air impacts to the nearest property at 1333 Hopkins Street.
- Hedge:
Since the hedge is more than 8 ft. from the nearest abutting property to the south and are light penetrable, it is not expected to significantly obstruct sunlight, air, and views for this neighborhood.

2. BMC Section 23B.52.010 for Reasonable Accommodations, provides that it is the policy of the City to comply with the Federal Fair Housing Act, the Americans with Disabilities Act and the California Fair Employment and Housing Act to provide reasonable accommodation by modifying the application of its zoning and subdivision regulations for persons with disabilities seeking fair access to housing. Therefore, the City will allow the establishment of a front yard off-street parking space 1 ft. 4 in. from the front property line where 20 ft. is required, and 8 in. from the side property line where 2 ft. is required because:
 - A. The parking pad will provide fair access to the home of the applicant who has lived there for 4 years and needs an accessible off-street parking space due to a disability as defined by the Fair Employment and Housing Act of 1959, codified as Government Code §§12900 – 12996;
 - B. The Berkeley Zoning Ordinance allows a person to request a reasonable accommodation in the form of modification in the application of a zoning law that acts as a barrier to fair housing access. According to Section 23D.12.080.B, no portion of an off-street parking space may be located in a required front yard unless such location is authorized by an AUP and approved by the Traffic Engineer. Additionally, Section 23D.12.080.E requires that all paved areas for off-street parking spaces and driveways be separated from any adjacent interior side lot line by a landscaped strip at least two feet wide. In this case the modification will apply to: 1) Section 23D.12.080.B in order to allow a new off-street parking space to be created within the required front yard setback; and to 2) Section 23D.12.080.E in order to allow elimination of the required two feet wide landscaped strip. Therefore, allowing a front yard parking space without a two feet landscaped strip is considered a modification in zoning policy for reasonable accommodation for fair housing access; and
 - C. Due to the City's current practice of not permitting a front yard parking space without a two-foot wide landscaped strip, Condition #11 has been added to this permit requiring the restoration of the front yard and restoration of rear or side off-street parking space, if the property is sold, the tenant with medical condition moves out or the disability no longer prevents accessible access.

III. FINDINGS FOR DENIAL

As required by BMC Section 23D.08.060, no fence or other unenclosed accessory structure located on a property line or within the required yard area for a main building may exceed six feet in height at any point, unless so authorized by an AUP. The existing 6 ft. to 8 ft. tall wood fence (proposed to become a 8 ft. to 9 ft. tall. wood fence by adding a 2-3 ft. wood lattice above) separates the subject property from the neighbor's property to the south. Based on the property survey submitted by the applicant, it appears that the existing fence is located on the neighbor's property. Fences are usually a shared responsibility between neighbors. In this case, because the fence is located outside the subject property lot line and on the neighbor's property at 1333 Hopkins Street and the neighbor has objected, a recommendation for approval cannot be made by staff.

STANDARD CONDITIONS

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

1. Conditions Shall be Printed on Plans

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

2. Applicant Responsible for Compliance with Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Indemnification Agreement

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

ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER

Pursuant to BMC Section 23B.28.050.D, the Zoning Officer attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

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

Project Liaison

_____ Name

_____ Phone #

11. The parking pad must be removed, and the curb cut in filled if the property is sold, the tenant moves out or disability no longer prevents accessible access.
12. Hedge shall not exceed 11 ft. in height.
13. To legalize the construction of the accessory building and trellis, a building permit application must be submitted within 30-days after the AUP approval.

Prior to Issuance of Any Building Permit:

14. Accessory Building: All owners of record of the subject property shall sign and record with the Alameda County Clerk-Recorder a "Notice of Limitation on Use of Property" (available from Land Use Planning Division) and provide a recorded copy thereof to the project planner. This Notice of Limitation shall stipulate that no part of this Accessory Building shall be used or converted to use as a dwelling unit unless and until permission is requested of the City of Berkeley and authorized a Use Permit, Administrative Use Permit, or Zoning Certificate, whichever is applicable. This limitation shall include the explicit acknowledgment that a full bathroom and cooking facilities may be installed, as long as the cooking facilities do not constitute a Kitchen per BMC Chapter 23F.04. This limitation may not be revised or removed from this property without the prior written permission of the Zoning Officer of the City of Berkeley.

Standard Construction-related Conditions Applicable to all Projects:

15. 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.

16. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.

17. 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.
18. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
19. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter in thickness and secured to the ground.
20. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
21. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
22. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
23. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
24. 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.
25. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
26. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
27. 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.

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

29. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995, 1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the

resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

Prior to Issuance of Occupancy Permit or Final Inspection:

30. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
31. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated December 3, 2019

At All Times (Operation):

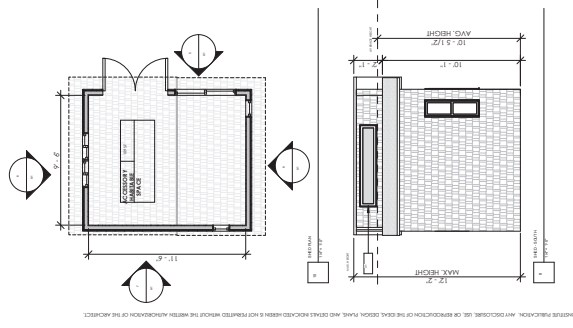
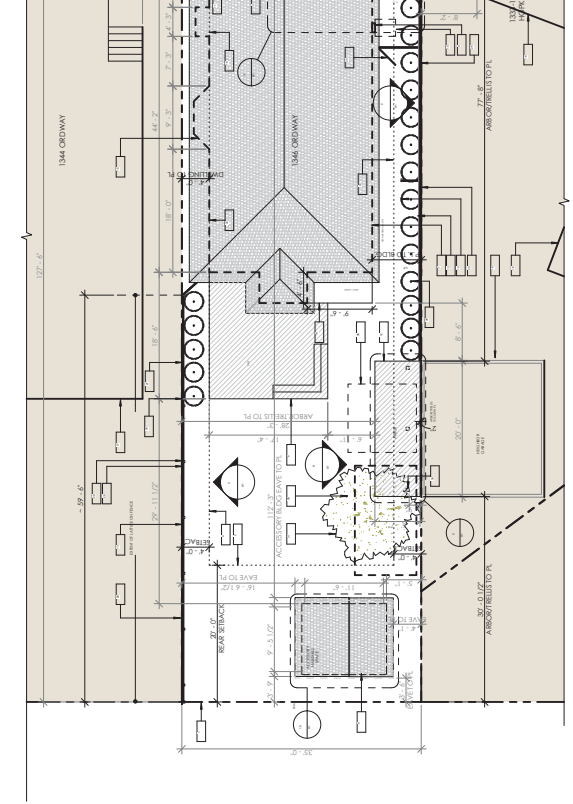
32. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
33. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.



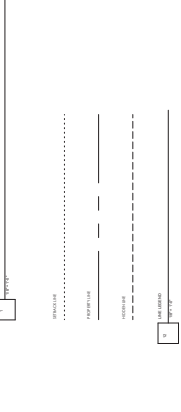
Prepared by: Nilu Karimzadegan, Assistant Planner
For Steven Buckley, Zoning Officer

Sheet Number	Sheet Name	Sheet Date	Project Name	Project Date
A1	REAR SETBACK PLAN	11/20/2019	1346 ORDRWAY	11/20/2019
A2	FRONT SETBACK PLAN	11/20/2019	1346 ORDRWAY	11/20/2019
A3	REAR SETBACK PLAN	11/20/2019	1346 ORDRWAY	11/20/2019
A4	FRONT SETBACK PLAN	11/20/2019	1346 ORDRWAY	11/20/2019

Key	Notes
1	48" TALL BAMBOO FENCE @ REAR PROPERTY LINE
2	REAR SETBACK LINE
3	FRONT SETBACK LINE
4	SIDE SETBACK LINE
5	SHED
6	DECK
7	BLDG FOOTPRINT BELOW
8	ELECTRICAL PANEL
9	UTILITY CLOSET
10	MAINTAIN 30" X 36" FOR CLEAR WORKING SPACE - SEE C.I.D. 103.02(A)(2) REQUIREMENT.
11	6'-0" TALL FENCE AT PROPERTY LINE
12	AMBOR STRUCTURE
13	4" TALL LANDSCAPING/TREES
14	BAY WINDOW
15	PORCH
16	PREPARE
17	1346 ORDRWAY RESIDENCE
18	1346 ORDRWAY RESIDENCE MAIN STRUCTURE
19	1333 1539 HORNINGS STREET GARAGE STRUCTURE
20	72" WIDE SIDEWALK
21	36" WIDE PLANTING STRIP
22	CURB AT STREET
23	GATE
24	CELESTORY WINDOW
25	CELESTORY WINDOW
26	CELESTORY WINDOW
27	36" LATTICE AT OP OF FENCE. INSTALLED TO REPLACE [E] 24" LATTICE AT THE TIME OF REMODEL/ADDITION AT 1344 ORDRWAY. INSTALLED UPON WITH NEIGHBOR OF 1344 ORDRWAY.
28	36" LATTICE AT OP OF FENCE. INSTALLED TO REPLACE [E] 24" LATTICE AT THE TIME OF REMODEL/ADDITION AT 1344 ORDRWAY.
29	36" LATTICE AT OP OF FENCE. INSTALLED TO REPLACE [E] 24" LATTICE AT THE TIME OF REMODEL/ADDITION AT 1344 ORDRWAY.
30	NEIGHBOR'S GARAGE STRUCTURE
31	CELESTORY WINDOW
32	CELESTORY WINDOW
33	CELESTORY WINDOW
34	CELESTORY WINDOW
35	CELESTORY WINDOW
36	CELESTORY WINDOW
37	CELESTORY WINDOW
38	CELESTORY WINDOW
39	CELESTORY WINDOW



PLANS APPROVED BY ZONING ADJUSTMENTS BOARD
 June 11, 2020
 DATE
 SIGNATURE
 * Findings and Conditions Attached



ALL DIMENSIONS ARE UNLESS OTHERWISE SPECIFIED. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

NO.	DATE	DESCRIPTION
1	11/19/18	ALP PERMIT
2	3/16/19	REVISION

Lawrence Hickman

1333 Hopkins Street
Berkeley, CA 94702
Phone: (510) 467-4250
E-Mail: lpacificquest@aol.com

**LETTER OF APPEAL
TO
CITY COUNCIL OF BERKELEY, CALIFORNIA**

June 29, 2020

The City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, California 94704

RE: ZONING ADJUSTMENTS BOARD DECISION: AUP #ZP2018-0174 -1346 ORDWAY STREET

Dear Mayor and Council President Arreguin and Berkeley's Honorable Councilmembers

I, Lawrence Hickman ("Appellant"), do hereby Appeal Berkeley's Zoning Adjustments Board's decision on the above referenced Administrative Use Permit (AUP), in favor of Jennie and Keki Burjorjee ("Applicants").

This Appeal is filed on grounds the Zoning Adjustment Board's quasi-judicial hearing denied Appellant due process, in that there was no meaningful hearing. There was no discussion of the legal authority, the evidence in the record; and, Appellant was denied any opportunity to respond to and/or rebut evidence. In sum, the hearing was unfair and prejudicial. The result of the hearing is unjust, and totally untethered from the spirit of the City of Berkeley's Municipal Code or the fair administration of justice.

I. STATEMENT OF THE CASE

On February 25, 2020, Zoning Officer Nilourfar Karimzadegan noticed Appellant the above referenced Administrative Use Permit No. ZP20180174 is approved; information was provided setting forth appeal rights.

On March 17, 2020, Appeal was filed by Appellant.

On May 20, 2020, Appellant was noticed of the Hearing date for June, 11, 2020.

On June 11, 2020, the Zoning Adjustment Board conducted a hearing on the matter, and therein denied Appellant's Appeal.

II. STATEMENT OF FACTS

On June 11, 2020, the Zoning Adjustment Board denied Appellant's Appeal, which was filed on March 7, 2020. The facts which presented to the Zoning Adjustment Board are attached hereto as Exhibit A, and

incorporated by reference herein as though set forth at length. These facts should be considered in their entirety to prevent duplicity and wasting time.

The new facts giving rise to this Appeal come from the meaningless aforementioned hearing on June 11, 2020, wherein Appellant was confronted with an unfair and biased process, with testimony and comments not germane to the issues before the tribunal.

For example, there was no discussion as to why the zoning officer withheld the fact that tree and hedges are a fence; no attempt was made to confirm the true property line, on information and belief Appellant asserts that his property line extends further to the North than shown – thus **Applicants' construction may actually be on Appellant's property**; there was no discussion from zoning department as to why Applicant were not required to follow Code Enforcement's instruction to take down the construction until the AUP application had been approved; no basis was given as to why Zoning did **NOT** conduct a site visit, since Appellant complained that Applicants' trees, hedges, bushes were growing into the fence and vines from the trellis are growing over the top of the garage. The questions raised, by the Board Members, beg the question whether Appellant's Appeal was fully read and considered. Suffice the Zoning Adjustments Board did not carefully examine the applicable Municipal Codes and prevailing law to reach a correct and equitable result.

For the reasons that follow, Appellant submits that the result reached by the Zoning Adjustments Board constitutes a denial of due process and is inconsistent with Berkeley's Municipal Code, and was **NOT** carefully tailored to achieve a manifestly just resolution in the context of the circumstances before the Zoning Adjustment Board. It should therefore be reversed or remanded.

III. STANDARD OF REVIEW

The sole question now before this Council is whether the Zoning Adjustments Board's quasi-judicial proceeding constituted denial of due process, contrary to established law and the fair administration of justice

Quasi-judicial proceedings must follow basic standards of due process, including: 1) Proper notice of the hearing; 2) Providing everyone with an interest in the proceedings an opportunity to be heard and to hear what others have to say; 3) Full disclosure to everyone of the facts being considered by the decision-making body (i.e., no ex parte contacts); 4) An impartial decision-maker free from bias and conflicts of interest; 5) Decisions based on the facts of the case, not on political pressure or vocal opposition.

1. Proper Notice of Hearing

Proper notice is not at issue in this matter. Appellant admits to receiving adequate and timely notice.

2. Opportunity To Be Heard And Hear What Other Have To Say

A person facing possible deprivation of a recognized interest has a right to defend herself and present her side of the dispute to the body or hearing officer that will be making the decision. (The "fundamental requisite of due process of law is the opportunity to be heard." *People v. Swink, supra*, 150 Cal.App.3d at 1080.) The

ability to bring evidence and to respond to evidence presented against her, are essential features of this comprehensive right.

Appellant was denied any opportunity to respond to the evidence and/or inconsistent statements presented against him. Appellant addressed the tribunal first via telephone over an internet Zoom Meeting platform. He was allowed to speak for five minutes and his phone line was muted when the five minutes expired. Several times Appellant wanted to respond to erroneous testimony or comment the true state of the property; however, his phone line was muted.

In conclusion, Appellant was denied a real opportunity to be heard; he was denied a right to respond.

3. A Fair Tribunal – Full Disclosure of The Facts Being Considered

“When ... an administrative agency conducts adjudicative proceedings, the constitutional guarantee of due process of law requires a fair tribunal.” *Morongo*, 45 Cal.4th at 737 citing *Withrow v. Larkin* (1975) 421 US 35, 46. “A fair tribunal is one in which the judge or other decision maker is free of bias for or against a party.” (*Id.*)

The hearing was an unfair and biased process. It appears the City’s zoning officer was prejudice toward the Appellant and she gave favor to Applicant. The zoning officer failed to inform the Appellant or the Board that she had multiple *Exparte* communication with the Applicant. The decision makers’ ultimate decision was an extension of the zoning officers’ recommendation to approve the AUP. The zoning officer failed to fully inform the Board that the non-conforming conditions being applied for were already illegally constructed and presently existing as non-conforming conditions affecting Appellant’s property rights.

Furthermore, the zoning officer failed to fully inform the Board of the City’s Code Enforcement Unit’s Notice of Violation and Administrative Warning issued to Applicants for failure to comply with their and order to reduce the size of the fence (trees) to six (6) feet; as a matter of fact, until prodded, the zoning officer did not disclose the fact, that the BMC, considers trees, hedges and bushes planted in a row to be a fence,

In conclusion, the adjudicative process conducted by the Zoning Adjustment Board was unfair and biased.

4. A Fair Decision - Free From Bias and Conflicts of Interest

“Procedural fairness requires internal separation between advocates and decision makers to preserve neutrality.” *Morongo*, 45 Cal.4th at 737. For a quasi-judicial decision to be fair, the hearing must be conducted by a fair decision making body. “A fair tribunal is one in which the judge or other decision maker is free of bias for or against a party.” *Withrow v. Larkin*, 421 US at 46.

As set forth in #3 above, and incorporated by reference herein as though set forth at length, there appears to be no internal separation between the zoning officer’s advocacy and recommendation and the Zoning Adjustments Board’s decision in support of that recommendation. However, the problem that is the Board’s decision arises from the zoning officer’s lack of neutrality.

In conclusion, the Board's decision not free from bias because of its zoning officer's apparent conflict of interest.

5. Decision Based On Facts Of The Case Not On Political Pressure Or Vocal Opposition

Findings must be relevant to adopted, applicable criteria in statutes or policies. See, e.g. *J.L. Thomas, Inc. v County of Los Angeles (1991) 232 Cal.App.3d 916* (finding adopted by planning commission to support denial of a use permit). Under CCP §1094.5, courts are generally deferential to agencies' decisions under the substantial evidence test; however, courts will invalidate an agency's decision if the agency fails to make required findings or fails to demonstrate the analytical route between the evidence and the action. *West Chandler Blvd. Neighborhood Ass'n v. City of Los Angeles (2011) 198 Cal.App.4th 1506*.

Here, Appellant filed a Notice of Opposition, complaining that Applicants have constructed non-conforming conditions at his property's edge, or on his property, causing diminution of value and quiet enjoyment. The City's Code Enforcement Unit conducted site visit and confirmed Appellant's complaint ... the non-conforming conditions have been illegally constructed and do exist on Applicants property in violation of the BMC. Applicant was issued Notice of Violation, Administrative Warning Citation, and Order to remove or correct the illegal non-conforming conditions

Yet, the City's zoning officer over the objection of its Code Enforcement Unit, or perhaps, in collaboration with, approves Applicant's AUP ... rewarding Applicants for years of illegal conduct. On the other hand, Appellant, a law abiding citizen, is ignored and left without remedy.

In this instant, the zoning officer, and by extension the Zoning Adjustments Board failed to present any rational explanation or demonstrate a rational basis for this unjust result.

IV. CONCLUSION

For the foregoing reasons, Appellant submits that the result reached by the Zoning Adjustments Board is contrary to laws governing due process and inconsistent with Berkeley's Municipal Code, and was **NOT** carefully tailored to achieve a manifestly just resolution in the context of the circumstances before the Zoning Adjustment Board. It should therefore be reversed or remanded.

Dated: June 29, 2020

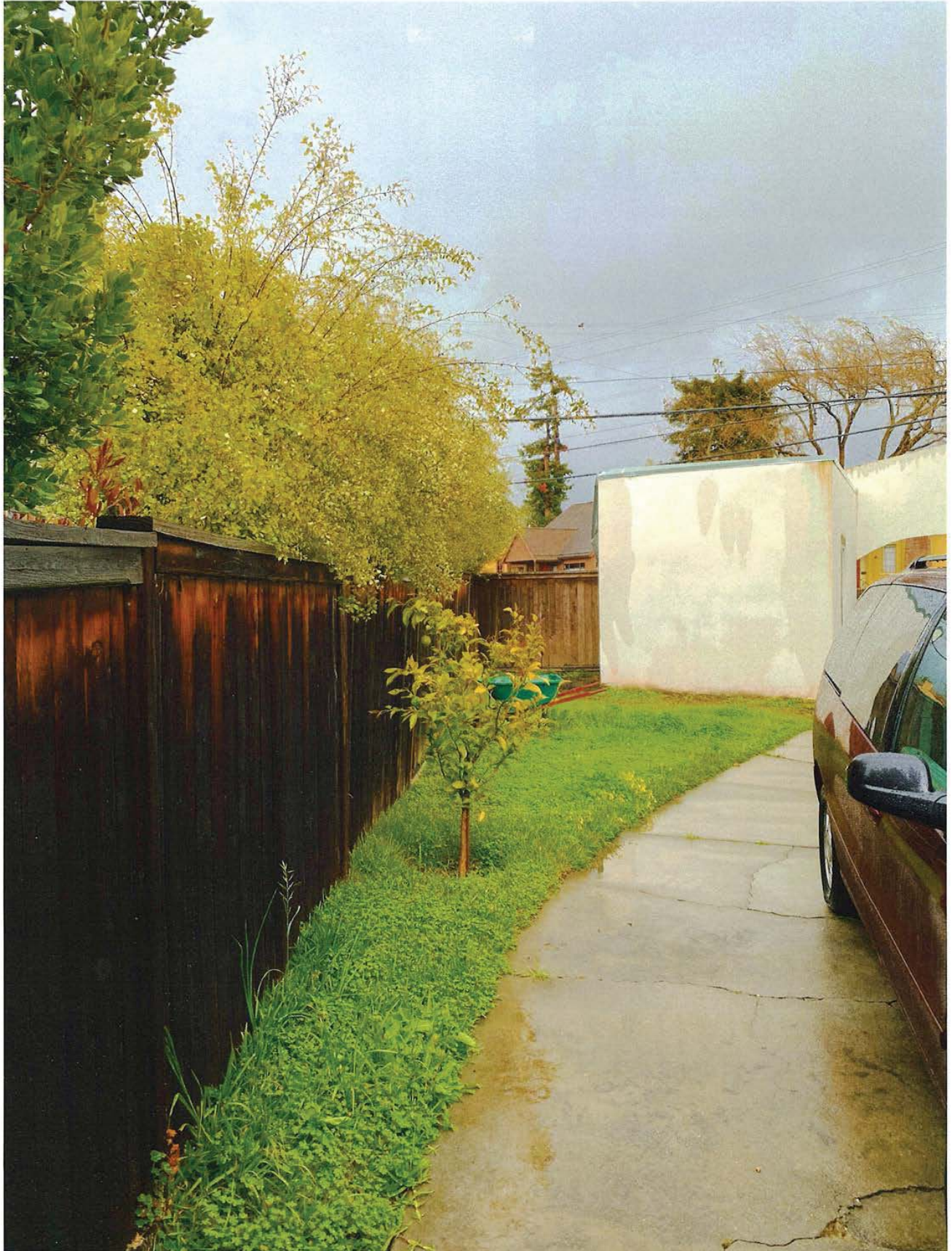
Respectfully submitted,


Lawrence Hickman

EXHIBIT A

EXHIBIT A
STATEMENT OF FACTS

EXHIBIT A





STATEMENT OF FACTS

Since 1990 Appellant has peacefully owned the property located at 1333 and 1346 Hopkins Street. In 2005, the Appellant consulted the City of Berkeley, and with the consent of the prior owner of the 1346 Ordway Street property, legally constructed a 6' fence along the property line of 1333 Hopkins Street.

In 2015, Applicants purchased the subject property at 1346 Ordway Street, Berkeley, California.

In, or around, 2017, Applicants approached Appellant attempting to discuss their (Applicants') intent to add a 4' lattice of top of Appellant's fence. Appellant informed Applicants that he (Appellant) had no interest in adding anything to the top of the fence.

About 2018, Applicants planted a row of tall tree along the entire South border of Appellant's property line, except the area where the garage sits on the property line – approximately 3" from Appellant's property line.

Next, Applicant (Keki Burjorjee) came onto Appellant's property, using profanity and in a threatening tone and manner, attempting to discuss adding the 4' lattice to the fence, or adding lattice to the tall 4 x 4s that had been placed in the ground. Appellant told Applicant that he had no interest in discussing his property improvements; and, advised him to direct his concerns to the City of Berkeley's Planning and Land Use Division.

The next day, Appellant noticed and approached a workman (carpenter) in the Applicants' yard, setting tall post up against his fence. Appellant approached the workman and inquired "do you have a permit to build a fence over 6' tall?" Workman came over into Appellant driveway and began to argue for consent to continue building. Appellant told the workman only the City of Berkeley can grant you a permit to build the fence over 6' tall.

Appellant told Applicants' workman, "Let's call the City's Code Enforcement Unit right now." Appellant, in fact, called Code Enforcement shortly thereafter.

On May 10, 2018, the City of Berkeley's Code Enforcement Inspector, Tim Kittor, conducted a brief site visit at the 1346 Ordway Street property. As a result of Inspector Kittor's finding, he issued a Notice of Violation (NOV) Case #397755 – both noticing and warning Applicants of unpermitted and non-conforming conditions on their property. As a matter of fact, Inspector Kittor instructed Applicants to reduce the size of the trees to 6' tall. (See Exhibit A – NOV)

On September 7, 2018, Applicants submitted an application for an Administrative Use Permit (AUP) ZP2018-0174 to: 1) install a two foot (2') lattice on top of Appellant's six feet (6') fence; and, 2) plant fifteen (15), approximately 14' trees alongside – the full length – of the subject fence and property line; the application was for conditions they had already created and constructed.

On September 19, 2018, the City of Berkeley's Planning Dept. Technician, Nilu Karimzadegan, via letter, acknowledged receipt of the aforementioned AUP application, and advised Applicants she would be processing the application in due course.

On September 20, 2018, Appellant filed a letter serving Notice of Opposition (NOO) to Applicants' proposed plans, as set forth in the AUP application under consideration by the Planning Department. It should be noted that Appellant's Letter of Opposition was not included in Applicants' application package. Equally important, Appellant's NOO letter informed the Planning Department of the fact the AUP application omitted the fact that the trees Applicants requested to plant were already planted without permit, along with other non-conforming conditions, e.g., the trees were planted 3" from the subject fence - within 2' of the property line. In short, it was Appellant's complaint to Code Enforcement that spurred Applicants' impetus to apply for the AUP – otherwise, the subject non-conforming unpermitted conditions would have likely continued unabated. This conclusion is reasonable in view of the fact that the architectural drawing submitted with the original application failed to show certain non-conforming and unpermitted conditions; conditions that would have gone unnoticed but for Appellant's bringing omitted matters to the attention of the City Planner. (See Exhibit B – NOO)

On October 5, 2018, the City's Planning Department issued a letter requesting and setting forth requirements necessary to proceed with the AUP application. The letter speaks to permit requests that were not mentioned in the initial AUP application. For example, the letter addresses 1) proposed parking space on site plan, trellis, tree trunks crowns, and sheds. It appears another AUP application, or an updated version, was submitted after the September 7, 2018 AUP application. These aforementioned matters appear to have been intentionally omitted in the original application.

However, on December 3, 2018, Applicants completed and submitted the City's required Tabulation Form (showing the property's existing status and what conditions were non-conforming/unpermitted and requiring permits), was submitted back to the Planning Department, evidencing that the required Southside yard setback is 7'-2" and a parking space requires a permit.

On February 8, 2019, the City responded to Applicants' revised AUP application materials. Therein the City requested additional information to complete Applicants' application requests.

Specifically, the letter noted that "because the application is a result of NOV and it also includes an unpermitted accessory building and an unpermitted trellis. Moreover, the letter appears to request information and details on non-conforming and unpermitted conditions omitted in the initial AUP application. (See Exhibit C – Re-submittal/Revised Application)

July 2, 2019, the City informed Applicants "after reviewing the submitted materials, staff has determined that the existing off-street parking space is not accessible and there is no other feasible location for parking on the parcel ... all paved areas for off-street parking spaces, driveway and any other vehicle-related paving must be removed as a condition of approval of this permit." Hence, revised plans were required showing the changes regarding parking were to be submitted to continue processing the AUP application. Applicants were invoiced an additional \$1600.00 additional AUP permits (AUP080). (See Exhibit D – No off-street parking determination)

On July 16, 2019, 2:02 p.m. Applicant (Jennie Durant) emailed Peter Chun, at the City's Transportation – Public Works Department regarding off-street parking. Applicant was seeking an answer as to whether she could apply for an AUP for her front yard parking space, with only a 6'-9" wide driveway – from house to property line. It was previously determined that Applicant has no legal parking space on the 1346 Ordway Street property. At 3:02 p.m., Nilu, the Applicants' City Planner emailed Peter, with a CC to Jennie stating "to clarify, after the review of this application with the zoning officer, it is determined that this [1346 Ordway Street] property has no legal [off-street] parking." Further Nilu stated "Jennie ... there is a Zoning determination as well and a Traffic Engineer review of the application. The off-street parking space in the front setback will not accommodate the 2' landscaping strip which requires a variance."

On July 17, 2019, at 10:22 a.m., Traffic Engineer, Peter Chun emailed Nilu, with a CC to Jennie, stating "my recommendation would be to restore the original parking space or remove the driveway and restore on street parking as Planning has recommended ... I generally support the setback requirements (or parking space restriction) and therefore favor the removal of driveways and restoration of the curb, sidewalk, and on street parking if you choose not to re-establish the rear parking. (See Exhibit E – Recommendation to remove driveway)

On July 17, 2019, at 12:09 p.m., Nilu emailed Applicant (Jennie), with CC to Peter Chun stating "I also discussed options regarding this project with the Zoning Officer this morning. It seems like you

have three options: 1) Restore site to its original state – remove all unpermitted accessory building, shed, trellis, hedge and fence; 2) Staff will recommend approval of AUP application, with Conditions of Approval (COA) – remove curb cut and parking; or, 3) You can apply for (a) an AUP for a front yard off-street parking space; and (b) a Variance – there is not enough space to provide the 2' landscaping strip.

On August 27, 2019, at 11:11 a.m., Nilu emailed Applicants, with CC to Code Enforcement Office, Wanda Drouillard. Therein, Nilu set forth: 1) Required Fees for AUP and penalties; 2) Required revisions on Site Plan; 3) Variance statement requirements – **“staff can recommend a Variance only if there are no other option available on the site ... in your case, there is the option of relocating the stairs to create room for the 2' landscaping strip.”** and, 4) Code Enforcement will follow up regarding deadlines.

September 10, 2019, the City's Code Enforcement Unit issued an Administrative Citation Warning (ACW), wherein Applicants were reminded the NOV, issued May 10, 2018 – requiring correction of violation on the subject property; the Citation Warning for outstanding violations the Berkeley Municipal Code (BMC), issued August 30, 2018. Pursuant to NOV and ACW, Applicant was required to reduce the height of the hedges that exceed 6', without a permit. Code Enforcement further reminded Applicant that their plans submitted on September 2018 for a Variance on the hedges were additionally unpermitted construction (accessory building and trellis – identified by the Planning Department and, as of Sept 9, 2019, the violations remain; and, Applicants have failed to comply with Planning Department's deadlines for submitting corrections regarding plan check requested via letter and email. (See Exhibit F – AWC)

Since the project is associated with a Code Enforcement case, specified deadlines are enforced and take precedent over any timelines related to the permit process. In sum, Applicant were Ordered to comply with certain deadlines, and were put on Notice that, **“in light of the history of non-compliance on the property,”** further failures to timely comply would, as of September 25, 2019, result in Citation penalties.

On September 17, 2019, Applicants submitted a Variance Statement, because City had determined the 1346 Ordway Street property does not have a legal parking space. Applicants acknowledge they have an option to achieve off-street parking – in the setback area of their front yard - other than being granted the requested Variance. Nevertheless, Applicants persist in asking the City to take the extraordinary step of granting a special exception Variance, although to do so

would violate the City's rules - present policy, practice and procedure - "**staff can only recommend a Variance if there is no other option available on the site.**" Applicants' argument the City should make a special exception for them and waive or reduce the 2' landscaping requirement to accommodate their desire to save money - eliminate their cost/expense associated with adjusting their front steps and rebuilding the curb cut accordingly. Also, they claim Applicant (Jennie Durant) has a "temporary handicapped" placard, giving rise to the question of whether her temporary condition requires an exceptional Variance granting off-street parking on a property deemed to have no legal parking space.

In sum, Applicants responded to the City's requirement for Variance follows: 1) the need for exceptional or extraordinary circumstance is met because Jennie Durant has a "temporary handicapped" placard; 2) necessary for preservation and enjoyment of substantial property rights: here Applicant assert a parking space is necessary for the enjoyment and full use of home; 3) does the use materially impact health, safety, public welfare, injurious to property or improvement - generally benefit the City: answer is non-responsive -

Applicants merely states, "we are simply requesting that our current parking space be allowed to remain where it is." Granting the variance would reduce environmental waste associated with remodeling stairs and curb cuts.

On November 5, 2019, the Planning Departments Tabulation Form appears re-submitted, including sizes, dimension, existing and permitted required details, including: 1) Units, Parking spaces, and bedrooms; 2) yards, heights and setbacks; Areas - building, lot, usable space, etc.; 3) Arbor specifics - setbacks and area; 4) Accessory habitable space specifics; Area calculations; and, 5) Plat survey map.

On November 19, 2019, the City Planning Department communicated its need for clarity for the Zoning Office. Noted there is the fact that the application say 15 [trees] hedges, but the site plan only show twelve. Also, on November 19, 2020, Applicants submitted an update/revised Variance Request. Therein, Applicant set forth a quasi-promise, if the Variance is granted - "we would install/build a green, ecologically friendly and attractive parking spot."

On November 20, 2020, Applicant sent email to Nilu, with updated Tabulation Form and Updated Variance Request.

On November 25, 2020, Nilu emailed Applicant (Jennie Durant) and advised that she needed certain corrections on the Tabulation Form A.S.A.P.

On November 26, 2019, Jennie forwarded Nilu's email of November 25 to her architect, Nick Leone, regarding the Tabulation Form revisions/correction requested.

On November 27, 2019, at 10:59 a.m., Nick Leone emailed Nilu, requesting a telephone conversation to review her comments regarding the 1346 Ordway Street project. At 3:14 p.m., on November 27, 2019, Nick Leone emailed Nilu, sending her, in an attachment, the aforementioned revisions requested pursuant to their telephone conversation.

On December 3, 2019, Nilu emailed Nick, with CC to Applicant (Jennie Durant), advising that "Enlarged site plan submitted on 11-20-19 does not show accurate dimensions ... this needs to be corrected." Nilu further advised that the "enlarged plan for parking is very confusing and busy. Please look at what I drew and draw something simple and clear ... the Variance Statement should reflect the correct dimension for the remaining landscape area as well (8") ..."

On December 4, 2020, Applicant (Jennie Durant) sent another (3rd) Variance Statement. Again, restating their willingness to remove the existing concrete and install permeable paver parking strips, a demoniac lawn to act as a 1" landscaping barrier.

On December 19, 2019, the City provided a list of addresses of community members to which Notices of the 1346 Ordway Street project could be mailed – 126 names and addresses.

On February 13, 2020, Applicant submitted a request for fee adjustment or refund, claiming that a change of permit type qualifies Applicants for an adjustment and/or refund.

On February 25, 2020, the City Approved AUP #ZP-2018-0174 and sent post card Notice of Decision (NOD) to 1346 Ordway Street neighborhood residents – 36 names and addresses.

The NOD reads as follows:

ZONING OFFICER DECISION: The Zoning Officer of the City of Berkeley has **APPROVED** the following permits pursuant to Berkeley Municipal Code (BMC) § 23B.28.050, and based on the attached findings and conditions (attachment 1) and plans (attachment 2):

- Administrative Use Permit, under Berkeley Municipal Code (BMC) Section 23B.52 010 for Reasonable Accommodation for Fair Access to Housing;
- Administrative Use Permit, under BMC Section 23D.08.005.A1 to construct a habitable accessory building;

- **Administrative Use Permit, under BMC Section 23D.08.020.A to construct a habitable accessory building that is over 10 ft. in average height within 4 ft. of the property line:**
- **Administrative Use Permit. under BMC Section 23D.08.020.B to construct a habitable accessory building that is over 12 ft. in average height within 4 to 10 ft. of the property line; and**
- **Administrative Use Permits, under BMC Section 23D.08.060.A2 for construction of accessory structures.**

BMC § 23B.52.010, in pertinent part, provides for reasonable accommodation by modifying the application of its zoning and subdivision regulations for persons with disabilities seeking fair access to housing, pursuant to the American with Disabilities Act and California Fair Housing and Employment Act. In determining whether a requested modification of zoning or subdivision regulations is reasonable, the City will consider, among other relevant factors, the extent to which the requested modification might be in conflict with the legitimate purposes of its existing zoning or subdivision regulations. The finding for Issuance, Denial and/or Conditions follows:

- A. The Zoning Officer may issue an AUP, either as submitted or as modified, only upon finding that establishment, maintenance or operation of the use, or the construction of a building, structure or addition thereto, under the circumstances of the particular case existing at the time at which the application is granted, will 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.
- B. Prior to issuing any AUP, the Zoning Officer must also make any other findings required by either the general or District regulations applicable to that particular AUP.
- C. The Zoning Officer shall deny an application for an AUP if he/she determines that he/she is unable to make any of the required findings, in which case he/she shall state the reasons for that determination.
- D. The Zoning Officer may attach such conditions to an AUP as he/she deems reasonable or necessary to achieve the purposes of this Ordinance, and which otherwise promote the municipal health, safety and welfare. (Ord. 6478-NS § 4 (part), 1999)

EXHIBIT B

EXHIBIT B
ZONING ADJUSTMENTS BOARD
APPEAL DOCUMENTS

EXHIBIT B

Lawrence Hickman

1333 Hopkins Street
Berkeley, CA 94702
Phone: (510) 467-4250
E-Mail: lpacificquest@aol.com

APPEAL LETTER

March 16, 2020

Igor Tregub, Chairperson
City of Berkeley
Land Use Planning Division
Attn: Zoning Adjustments Board Members
1947 Center Street
Berkeley, CA 94704

**RE: APPEAL- AUP #ZP2018-0174 FOR 1346 ORDWAY STREET; AND
REQUEST ZONING ADJUSTMENTS BOARD PUBLIC HEARING**

Dear Chair Tregub and Board Members:

I, Lawrence Hickman ("Appellant"), do hereby Appeal the City of Berkeley Zoning Officer's Findings and Approvals of the above referenced Administrative Use Permit (AUP); and, I request a Public Hearing before the Zoning Adjustments Board on this matter. This Appeal is filed on the grounds the Zoning Officer's Findings and Approvals are unsupported by evidence in the record and inconsistent with the administration of fair and equitable justice, as required by the City of Berkeley Municipal Code (BMC). Moreover, the Zoning Officer appears to ignore the need to recognize the importance of sustaining and maintaining harmony among longtime home owners. The proposed Conditions are inadequate to protect Appellant unreasonable diminution of property value.

INTRODUCTION

This matter arises out of a real property dispute between neighbors. For over twenty-nine years Appellant has owned the large parcel of real property located at the corners of Hopkins and Ordway Streets, also known as, 1333 Hopkins Street, Berkeley, California. For over twenty-five of those years, Appellant experienced quiet enjoyment of ownership with his previous neighbor, Ms. Taylor, owner of the smaller parcel next door at 1346 Ordway Street without incident. Shortly after Ms. Taylor's death, her property was sold to Jennie Durant and Keki Burjorjee ("Applicants") and they began engaging in illegal outdoor construction projects; projects that were unpermitted and non-conforming, all violations of the Berkeley Municipal Code (BMC). The illegal projects infringed upon Appellant's property rights. Moreover, the Applicants continued to initiate and maintain unpermitted conditions even after being notified and warned about some of their illegal construction.

So now, in the form of an application for an Administrative Use Permit, Applicants are seeking forgiveness, permissions, approvals and the legal right to keep and maintain all of the unpermitted, non-conforming and illegal construction projects. The forgiveness, permissions, approvals and legal rights being sought by these outlaws appear to be on the verge of being granted, despite Appellant's Notice of Opposition (NOO), City of Berkeley's Code Enforcement Notice of Violation (NOV), Administrative Citation Warning (ACW) and Order for non-compliance, and their continued infringement on the quiet enjoyment and health and safety of the community at large.

Based upon the foregoing, facts set forth herein, other documents and statements on file, and statements during oral arguments before the Board, Appellant ask this Board to uphold the BMC and affirm this Appeal.

STATEMENT OF FACTS

Since 1990 Appellant has peacefully owned the property located at 1333 and 1346 Hopkins Street. In 2005, the Appellant consulted the City of Berkeley, and with the consent of the prior owner of the 1346 Ordway Street property, legally constructed a 6' fence along the property line of 1333 Hopkins Street.

In 2015, Applicants purchased the subject property at 1346 Ordway Street, Berkeley, California.

In, or around, 2017, Applicants approached Appellant attempting to discuss their (Applicants') intent to add a 4' lattice of top of Appellant's fence. Appellant informed Applicants that he (Appellant) had no interest in adding anything to the top of the fence.

About 2018, Applicants planted a row of tall tree along the entire South border of Appellant's property line, except the area where the garage sits on the property line – approximately 3" from Appellant's property line.

Next, Applicant (Keki Burjorjee) came onto Appellant's property, using profanity and in a threatening tone and manner, attempting to discuss adding the 4' lattice to the fence, or adding lattice to the tall 4 x 4s that had been placed in the ground. Appellant told Applicant that he had no interest in discussing his property improvements; and, advised him to direct his concerns to the City of Berkeley's Planning and Land Use Division.

The next day, Appellant noticed and approached a workman (carpenter) in the Applicants' yard, setting tall post up against his fence. Appellant approached the workman and inquired "do you have a permit to build a fence over 6' tall?" Workman came over into Appellant driveway and began to argue for consent to continue building. Appellant told the workman only the City of Berkeley can grant you a permit to build the fence over 6' tall.

Appellant told Applicants' workman, "Let's call the City's Code Enforcement Unit right now." Appellant, in fact, called Code Enforcement shortly thereafter.

On May 10, 2018, the City of Berkeley's Code Enforcement Inspector, Tim Kittor, conducted a brief site visit at the 1346 Ordway Street property. As a result of Inspector Kittor's finding, he issued a Notice of Violation (NOV) Case #397755 – both noticing and warning Applicants of unpermitted and non-conforming conditions on their property. As a matter of fact, Inspector Kittor instructed Applicants to reduce the size of the trees to 6' tall. (See Exhibit A – NOV)

On September 7, 2018, Applicants submitted an application for an Administrative Use Permit (AUP) ZP2018-0174 to: 1) install a two foot (2') lattice on top of Appellant's six feet (6') fence; and, 2) plant fifteen (15), approximately 14' trees alongside – the full length – of the subject fence and property line; the application was for conditions they had already created and constructed.

On September 19, 2018, the City of Berkeley's Planning Dept. Technician, Nilu Karimzadegan, via letter, acknowledged receipt of the aforementioned AUP application, and advised Applicants she would be processing the application in due course.

On September 20, 2018, Appellant filed a letter serving Notice of Opposition (NOO) to Applicants' proposed plans, as set forth in the AUP application under consideration by the Planning Department. It should be noted that Appellant's Letter of Opposition was not included in Applicants' application package. Equally important, Appellant's NOO letter informed the Planning Department of the fact the AUP application omitted the fact that the trees Applicants requested to plant were already planted without permit, along with other non-conforming conditions, e.g., the trees were planted 3" from the subject fence - within 2' of the property line. In short, it was Appellant's complaint to Code Enforcement that spurred Applicants' impetus to apply for the AUP – otherwise, the subject non-conforming unpermitted conditions would have likely continued unabated. This conclusion is reasonable in view of the fact that the architectural drawing submitted with the original application failed to show certain non-conforming and unpermitted conditions; conditions that would have gone unnoticed but for Appellant's bringing omitted matters to the attention of the City Planner. (See Exhibit B – NOO) ,

On October 5, 2018, the City's Planning Department issued a letter requesting and setting forth requirements necessary to proceed with the AUP application. The letter speaks to permit requests that were not mentioned in the initial AUP application. For example, the letter addresses 1) proposed parking space on site plan, trellis, tree trunks crowns, and sheds. It appears another AUP application, or an updated version, was submitted after the September 7, 2018 AUP application. These aforementioned matters appear to have been intentionally omitted in the original application.

However, on December 3, 2018, Applicants completed and submitted the City's required Tabulation Form (showing the property's existing status and what conditions were non-conforming/unpermitted and requiring permits), was submitted back to the Planning Department, evidencing that the required Southside yard setback is 7'-2" and a parking space requires a permit.

On February 8, 2019, the City responded to Applicants' revised AUP application materials. Therein the City requested additional information to complete Applicants' application requests.

Specifically, the letter noted that "because the application is a result of NOV and it also includes an unpermitted accessory building and an unpermitted trellis. Moreover, the letter appears to request information and details on non-conforming and unpermitted conditions omitted in the initial AUP application. (See Exhibit C – Re-submittal/Revised Application)

July 2, 2019, the City informed Applicants "after reviewing the submitted materials, staff has determined that the existing off-street parking space is not accessible and there is no other feasible location for parking on the parcel ... all paved areas for off-street parking spaces, driveway and any other vehicle-related paving must be removed as a condition of approval of this permit." Hence, revised plans were required showing the changes regarding parking were to be submitted to continue processing the AUP application. Applicants were invoiced an additional \$1600.00 additional AUP permits (AUP080). (See Exhibit D – No off-street parking determination)

On July 16, 2019, 2:02 p.m. Applicant (Jennie Durant) emailed Peter Chun, at the City's Transportation – Public Works Department regarding off-street parking. Applicant was seeking an answer as to whether she could apply for an AUP for her front yard parking space, with only a 6'-9" wide driveway – from house to property line. It was previously determined that Applicant has no legal parking space on the 1346 Ordway Street property. At 3:02 p.m., Nilu, the Applicants' City Planner emailed Peter, with a CC to Jennie stating "to clarify, after the review of this application with the zoning officer, it is determined that this [1346 Ordway Street] property has no legal [off-street] parking." Further Nilu stated "Jennie ... there is a Zoning determination as well and a Traffic Engineer review of the application. The off-street parking space in the front setback will not accommodate the 2' landscaping strip which requires a variance."

On July 17, 2019, at 10:22 a.m., Traffic Engineer, Peter Chun emailed Nilu, with a CC to Jennie, stating "my recommendation would be to restore the original parking space or remove the driveway and restore on street parking as Planning has recommended ... I generally support the setback requirements (or parking space restriction) and therefore favor the removal of driveways and restoration of the curb, sidewalk, and on street parking if you choose not to re-establish the rear parking. (See Exhibit E – Recommendation to remove driveway)

On July 17, 2019, at 12:09 p.m., Nilu emailed Applicant (Jennie), with CC to Peter Chun stating "I also discussed options regarding this project with the Zoning Officer this morning. It seems like you have three options: 1) Restore site to its original state – remove all unpermitted accessory building, shed, trellis, hedge and fence; 2) Staff will recommend approval of AUP application, with Conditions of Approval (COA) – remove curb cut and parking; or, 3) You can apply for (a) an AUP for a front yard off-street parking space; and (b) a Variance – there is not enough space to provide the 2' landscaping strip.

On August 27, 2019, at 11:11 a.m., Nilu emailed Applicants, with CC to Code Enforcement Office, Wanda Drouillard. Therein, Nilu set forth: 1) Required Fees for AUP and penalties; 2) Required revisions on Site Plan; 3) Variance statement requirements – **“staff can recommend a Variance only if there are no other option available on the site ... in your case, there is the option of relocating the stairs to create room for the 2’ landscaping strip.”**; and, 4) Code Enforcement will follow up regarding deadlines.

September 10, 2019, the City’s Code Enforcement Unit issued an Administrative Citation Warning (ACW), wherein Applicants were reminded the NOV, issued May 10, 2018 – requiring correction of violation on the subject property; the Citation Warning for outstanding violations the Berkeley Municipal Code (BMC), issued August 30, 2018. Pursuant to NOV and ACW, Applicant was required to reduce the height of the hedges that exceed 6’, without a permit. Code Enforcement further reminded Applicant that their plans submitted on September 2018 for a Variance on the hedges were additionally unpermitted construction (accessory building and trellis – identified by the Planning Department and, as of Sept 9, 2019, the violations remain; and, Applicants have failed to comply with Planning Department’s deadlines for submitting corrections regarding plan check requested via letter and email. (See Exhibit F – AWC)

Since the project is associated with a Code Enforcement case, specified deadlines are enforced and take precedent over any timelines related to the permit process. In sum, Applicant were Ordered to comply with certain deadlines, and were put on Notice that, **“in light of the history of non-compliance on the property,”** further failures to timely comply would, as of September 25, 2019, result in Citation penalties.

On September 17, 2019, Applicants submitted a Variance Statement, because City had determined the 1346 Ordway Street property does not have a legal parking space. Applicants acknowledge they have an option to achieve off-street parking – in the setback area of their front yard - other than being granted the requested Variance. Nevertheless, Applicants persist in asking the City to take the extraordinary step of granting a special exception Variance, although to do so would violate the City’s rules - present policy, practice and procedure - **“staff can only recommend a Variance if there is no other option available on the site.”** Applicants’ argument the City should make a special exception for them and waive or reduce the 2’ landscaping requirement to accommodate their desire to save money - eliminate their cost/expense associated with adjusting their front steps and rebuilding the curb cut accordingly. Also, they claim Applicant (Jennie Durant) has a “temporary handicapped” placard, giving rise to the question of whether her temporary condition requires an exceptional Variance granting off-street parking on a property deemed to have no legal parking space.

In sum, Applicants responded to the City’s requirement for Variance follows: 1) the need for exceptional or extraordinary circumstance is met because Jennie Durant has a “temporary handicapped” placard; 2) necessary for preservation and enjoyment of substantial property rights: here Applicant assert a parking space is necessary for the enjoyment and full use of home; 3) does the use materially impact health, safety, public welfare, injurious to property or improvement – generally benefit the City: answer is non-responsive –

Applicants merely states, “we are simply requesting that our current parking space be allowed to remain where it is.” Granting the variance would reduce environmental waste associated with remodeling stairs and curb cuts.

On November 5, 2019, the Planning Departments Tabulation Form appears re-submitted, including sizes, dimension, existing and permitted required details, including: 1) Units, Parking spaces, and bedrooms; 2) yards, heights and setbacks; Areas – building, lot, usable space, etc.; 3) Arbor specifics – setbacks and area; 4) Accessory habitable space specifics; Area calculations; and, 5) Plat survey map.

On November 19, 2019, the City Planning Department communicated its need for clarity for the Zoning Office. Noted there is the fact that the application say 15 [trees] hedges, but the site plan only show twelve. Also, on November 19, 2020, Applicants submitted an update/revised Variance Request. Therein, Applicant set forth a quasi-promise, if the Variance is granted – “we would install/build a green, ecologically friendly and attractive parking spot.”

On November 20, 2020, Applicant sent email to Nilu, with updated Tabulation Form and Updated Variance Request.

On November 25, 2020, Nilu emailed Applicant (Jennie Durant) and advised that she needed certain corrections on the Tabulation Form A.S.A.P.

On November 26, 2019, Jennie forwarded Nilu’s email of November 25 to her architect, Nick Leone, regarding the Tabulation Form revisions/correction requested.

On November 27, 2019, at 10:59 a.m., Nick Leone emailed Nilu, requesting a telephone conversation to review her comments regarding the 1346 Ordway Street project. At 3:14 p.m., on November 27, 2019, Nick Leone emailed Nilu, sending her, in an attachment, the aforementioned revisions requested pursuant to their telephone conversation.

On December 3, 2019, Nilu emailed Nick, with CC to Applicant (Jennie Durant), advising that “Enlarged site plan submitted on 11-20-19 does not show accurate dimensions ... this needs to be corrected.” Nilu further advised that the “enlarged plan for parking is very confusing and busy. Please look at what I drew and draw something simple and clear ... the Variance Statement should reflect the correct dimension for the remaining landscape area as well (8”) ...”

On December 4, 2020, Applicant (Jennie Durant) sent another (3rd) Variance Statement. Again, restating their willingness to remove the existing concrete and install permeable paver parking strips, a dymondia lawn to act as a 1” landscaping barrier.

On December 19, 2019, the City provided a list of addresses of community members to which Notices of the 1346 Ordway Street project could be mailed – 126 names and addresses.

On February 13, 2020, Applicant submitted a request for fee adjustment or refund, claiming that a change of permit type qualifies Applicants for an adjustment and/or refund.

On February 25, 2020, the City Approved AUP #ZP-2018-0174 and sent post card Notice of Decision (NOD) to 1346 Ordway Street neighborhood residents – 36 names and addresses.

The NOD reads as follows:

ZONING OFFICER DECISION: The Zoning Officer of the City of Berkeley has **APROVED** the following permits pursuant to Berkeley Municipal Code (BMC) § 23B.28.050, and based on the attached findings and conditions (attachment 1) and plans (attachment 2):

- **Administrative Use Permit, under Berkeley Municipal Code (BMC) Section 23B.52.010 for Reasonable Accommodation for Fair Access to Housing;**
- **Administrative Use Permit, under BMC Section 23D.08.005.A1 to construct a habitable accessory building;**
- **Administrative Use Permit, under BMC Section 23D.08.020.A to construct a habitable accessory building that is over 10 ft. in average height within 4 ft. of the property line;**
- **Administrative Use Permit, under BMC Section 23D.08.020.B to construct a habitable accessory building that is over 12 ft. in average height within 4 to 10 ft. of the property line; and**
- **Administrative Use Permits, under BMC Section 23D.08.060.A2 for construction of accessory structures.**

BMC § 23B.52.010, in pertinent part, provides for reasonable accommodation by modifying the application of its zoning and subdivision regulations for persons with disabilities seeking fair access to housing, pursuant to the American with Disabilities Act and California Fair Housing and Employment Act. In determining whether a requested modification of zoning or subdivision regulations is reasonable, the City will consider, among other relevant factors, the extent to which the requested modification might be in conflict with the legitimate purposes of its existing zoning or subdivision regulations. The finding for Issuance, Denial and/or Conditions follows:

- A. The Zoning Officer may issue an AUP, either as submitted or as modified, only upon finding that establishment, maintenance or operation of the use, or the construction of a building, structure or addition thereto, under the circumstances of the particular case existing at the time at which the application is granted, will 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.
- B. Prior to issuing any AUP, the Zoning Officer must also make any other findings required by either the general or District regulations applicable to that particular AUP.
- C. The Zoning Officer shall deny an application for an AUP if he/she determines that he/she is unable to make any of the required findings, in which case he/she shall state the reasons for that determination.

D. The Zoning Officer may attach such conditions to an AUP as he/she deems reasonable or necessary to achieve the purposes of this Ordinance, and which otherwise promote the municipal health, safety and welfare. (Ord. 6478-NS § 4 (part), 1999)

ISSUES ON APPEAL

I

APPROVAL OF AUP FOR REASONABLE ACCOMODATION FOR FAIR ACCESS TO HOUSING, UNDER, BMC § 23B.52.010

Finding 1: One off-street parking space, within setback, is allowed to comply with BMC § 23B.52.010 for Reasonable Accommodation for Fair Access to Housing.

Finding 2: The City also recognizes the importance of sustaining and enhancing neighborhoods.

Conditions: Pursuant to the above referenced AUP, Zoning Officer has attached the following conditions: The parking pad must be removed, and the curb cut in filled if: 1) the property is sold; 2) the tenant move moves out; or, 3) the disability no longer prevents accessible access.

Appellant Appeal the Findings and Approval on the grounds that legalizing off-street parking in the front yard setback creates a hazardous and unsafe condition and is detrimental and injurious to the economic value of neighboring property. Furthermore, the record is absent of sufficient proof to establish Applicants qualifies as disabled, pursuant to the provisions of the Americans with Disability and the California Fair Employment and Housing Acts.

Applicants' states "one of the owners, Jennie Durant, has a temporary handicapped placard for a spine condition and needs a parking [space] spot close to the front door." The claim of possessing a "temporary disability placard" is **NOT** dispositive proof of a need qualifying under the aforementioned Acts, such that a need for reasonable accommodation is necessary to access housing. Therefore, the need for off-street parking is not established.

In reviewing Applicants' application, the Zoning and Transportation departments determined that Applicants has no legal [off-street] parking space on the 1346 Ordway Street property. Furthermore, it was determined that the off-street parking space in the front setback will not accommodate the 2' landscaping strip required, which would require a Variance. Instead of applying for a Variance to circumvent the 2' landscaping requirement, here, it appears Applicants chose to apply for an AUP.

Except for Applicants claim of temporary disability placard, there is nothing more in the record to substantiate that claim, e.g., there is no copy of Applicants' application for the placard, nor is there any authorizing documentation signed by a qualifying medical professional, nor is there a copy of the placard.

Health and Safety

Allowing a front yard parking space inside the required setbacks, especially since there is a newly installed 6' fence on the South property line, creates a public health hazard. The view of pedestrians and on-coming vehicles is obscured. Proper setbacks allow time for persons to see what is going on around them. Parking along the street appears to be a safer option for all involved. Applicants' health and well being is NOT jeopardized and/or compromised should they have to walk from the curb to the front porch; the difference in distance in walking from the car to the porch and walking from the curb to the porch is approximately minimal - 8' to 10'. Accessing the house from the curb appears not be too difficult, as Applicant is frequently seen walking throughout the neighborhood, cleaning her car, pushing a stroller and carrying groceries.

Detrimental/Injurious to Property and Improvements

Legalizing a parking space, with front yard setbacks, rewards Applicants for long-standing history of non-compliance. It creates a potentially economic injury to Appellant, situating because his property become situated next property with non-conforming uses.

Making other Findings

Here, the Zoning Officer appears to fail to make the finding that altering the BMC was not the only option for granting Applicants' reasonable and fair access to the property. Applicants, if truly eligible under the American with Disabilities and California Fair Housing and Employment Acts, could easily apply for the privilege to have a handicap parking space directly in front of the house.

No Tenants (only owners) and Health Condition Unconfirmed

The Zoning Officer's requirement that the concrete parking pad be removed effectively represents the spirit of the Ordinance. Additionally, the Applicants are not tenants and it is NOT clear that Applicants' temporary health condition prevents accessible access.

For the foregoing reasons, this Appeal must be affirmed, the AUP must be rescinded, and the parking pad removed.

II

APPROVAL OF AUP TO CONSTRUCT A HABITABLE ACCESSORY BUILDING OVER 10' AV HT. W/I "4" FT OF PROPERTY LINE, UNDER BMC § 23D.08.020 and APPROVAL OF AUP TO CONSTRUCT A HABITABLE ACCESSORY BUILDING UNDER, BMC § 23D.08.005.A1

Finding 1: The project would legalize construction building in the rear and side yards, which is consistent with the single-family use of the subject property function as an extension of the main dwelling is a accessory to the residential use, and is not used as a separate dwelling. The accessory building is located outside required front and north side setbacks. Despite the fact that the accessory building projects a few inches into rear and south side setbacks, it is not anticipated to create significant changes to the existing sunlight conditions in the immediate vicinity of the project due to its location and limited scales, under BMC §§ 23D.08.005.A and 23D.08.005.A1 to Construct a Habitable Accessory Building.

Conditions: To legalize the construction of the accessory building and trellis, a building permit application must be submitted within 30 days after the AUP approval.

Appellant Appeal the Findings and Approval on the grounds that the City failed to act responsibly when approving this AUP, because authorizing construction of a building that projects into the setbacks, diminishing the use, quiet enjoyment and economical value of neighboring property?

BMC § 23D.08.005 Addresses Permitted Uses in Accessory Buildings and Structures; BMC § 23D.08.005.A1 provides that no Accessory Building may be constructed unless authorized by an AUP. A Zoning Certificate shall be required for alteration of an existing Accessory Building.

Appellant argues that permitting an Accessory Structure to be constructed as planned ignores the fact that shadows will be created over the most usable area of the neighboring yard. Furthermore, the quiet enjoyment of the neighboring property will be interfered with and the neighbors (Appellant and Applicants) will complain about activity and noise when either of them do building and yard maintenance, office work, and/or entertain. Additionally, Appellant does anticipate significant change in sunlight and lighting generally; and, since there is no evidence any site visit was conducted on the subject, Appellant disagrees with Zoning Officer's assumptions.

Moreover, the prospective economic value of the neighboring property is likely to be diminished; because, having a non-conforming condition on the property next door will create limits upon what a new owner could get approved should the Appellant choose to sell the Hopkins Street property.

For the foregoing reasons, the approval of this AUP must be rescinded and this Appeal affirmed.

III

APPROVAL OF AUP TO CONSTRUCT A HABITABLE ACCESSORY BUILDING THAT IS OVER 12 FT. IN AVERAGE HEIGHT, WITHIN 4 TO 10 FT. OF THE PROPERTY LINE, UNDER BMC 23D.08.020.B

Finding: AUP would legalize 9 ft. tall, 21 x 5 ft. trellis, located 3 inches from the South property line and 30 ft. from the rear property line.

Conditions: To legalize the construction of the accessory building and trellis, a building permit application must be submitted within 30 days after the AUP approval.

Appellant Appeal the Finding and Approval on the grounds that the Zoning Officer ignored the needs of the neighboring property owner, by permitting an illegally constructed trellis to remain in place right up against the neighbor's garage. Appellant's garage has legally existed on the property line since 1948. Approving this illegally constructed - 9' tall, 21' x 5' - trellis to exist, only 3 inches from side of a neighbor's garage, is obscured and negligence.

Furthermore, this approval interferes with neighbor's quiet enjoyment and denies access to the garage for painting, maintenance and other improvements. In fact, Applicants are presently growing vines over the top of the trellis, which are already growing onto roof of the garage and fence.

Moreover, the property value is diminished by virtue of having illegally constructed conditions so close to the neighboring structure; and, as it relates to the Condition, please note that the trellis is already constructed.

Accordingly, this appeal should be affirmed, this AUP rescinded and the trellis ordered removed.

IV

APPROVAL OF AUP FOR CONSTRUCTION OF ACCESSORY STRUCTURES, UNDER BMC § 23D.08.060.A2

Finding: AUP legalizes a 14 ft. tall hedge within the South and North side yards.

Appellant Appeals the Finding and Approval on the grounds Zoning Officer misstate the non-conforming condition of Applicants' application. What the Zoning Officer is calling "a 14' tall hedge" is actually sixteen or more 14' tall, illegally planted trees – **NOT A HEDGE**. These trees were illegally planted within 3" of the property line, up against the existing fence. This condition is tantamount to creating a much taller fence than the 6' allowed. The trees were illegally planted along the entire length of the property line from front to back, except the space where the illegally constructed trellis was built. Furthermore, the trees are presently growing over the fence and into the fence. It's only a matter of time before the trees began to push against the fence, creating cost and an argument over maintenance – the disturbing the quiet enjoyment of the community.


Accordingly, this appeal should be affirmed, this AUP rescinded and the trellis ordered removed.

V

CONCLUSION

WHEREFORE, Appellant LAWRENCE HICKMAN herein prays for a RULING affirming this Appeal.

Respectfully submitted

By: 
Lawrence Hickman

EXHIBITS

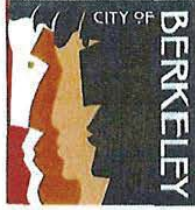
EXHIBITS

EXHIBITS

EXHIBIT A

EXHIBIT A

EXHIBIT A



Office of the City Manager
Code Enforcement Unit
2180 Milvia Street
Berkeley, California 94704
Tel 510.981.2489 Fax 510.981.2499

NOTICE OF VIOLATION

- First Notice
- Final Citation Warning

Date: 5/10/18 Time: 4:12pm Re-inspection Date: 5/24/18

Name of Person Contacted: KEKI BURJORJEE / JENNIE DURANT

The property at: 1346 ORDUAY ST. BERKELEY, CA
was inspected because of concerns expressed to this office. The following code violation(s) were identified during this site visit:

- | | | |
|--|-------------------------|-------------------------|
| <input type="checkbox"/> Illegal Dumping | Berkeley Municipal Code | Chapter 12.40.080 |
| <input type="checkbox"/> Accumulation of Trash & Debris | Berkeley Municipal Code | Chapter 12.32.020 |
| <input type="checkbox"/> Graffiti Nuisance | Berkeley Municipal Code | Chapter 13.98.030 |
| <input type="checkbox"/> Blight Nuisance | Berkeley Municipal Code | Chapter 12.92.030 |
| <input checked="" type="checkbox"/> Zoning | Berkeley Municipal Code | Title 22 & Sub-Title 23 |
| <input type="checkbox"/> Building & Safety | Berkeley Municipal Code | Chapter 19.28 |
| <input type="checkbox"/> Obstruction of Streets or Sidewalks | Berkeley Municipal Code | Chapter 14.48.020 |
| <input type="checkbox"/> Signage | Berkeley Municipal Code | Chapter 20.16.010 |

Other (Code/Section/Title): BMC 23D.08.060 FENCES

(The entire Berkeley Municipal Code may be viewed or printed from the City's web site at www.cityofberkeley.info/Home, specifically www.codepublishing.com/CA/Berkeley).

Attached brochure(s) will give you more code information: _____

Please perform the following corrections **before** the re-inspection date to avoid citations, fees, and/or fines starting at \$100-500 per violation/per day:

- NO FENCE ON PROPERTY LINE MAY EXCEED 6 FEET IN HEIGHT.

PLEASE SEE ATTACHED DEFINITIONS.

* HEDGE MUST BE TRIMMED TO 6' - THANK YOU

It is our intent to work with property owners to encourage voluntary compliance. Your cooperation in correcting the violation(s) is greatly appreciated. If you have any questions, please contact the Enforcement Officer at 510.981. 2481.

Issued by: [Signature] Enforcement Officer Case #: 397755

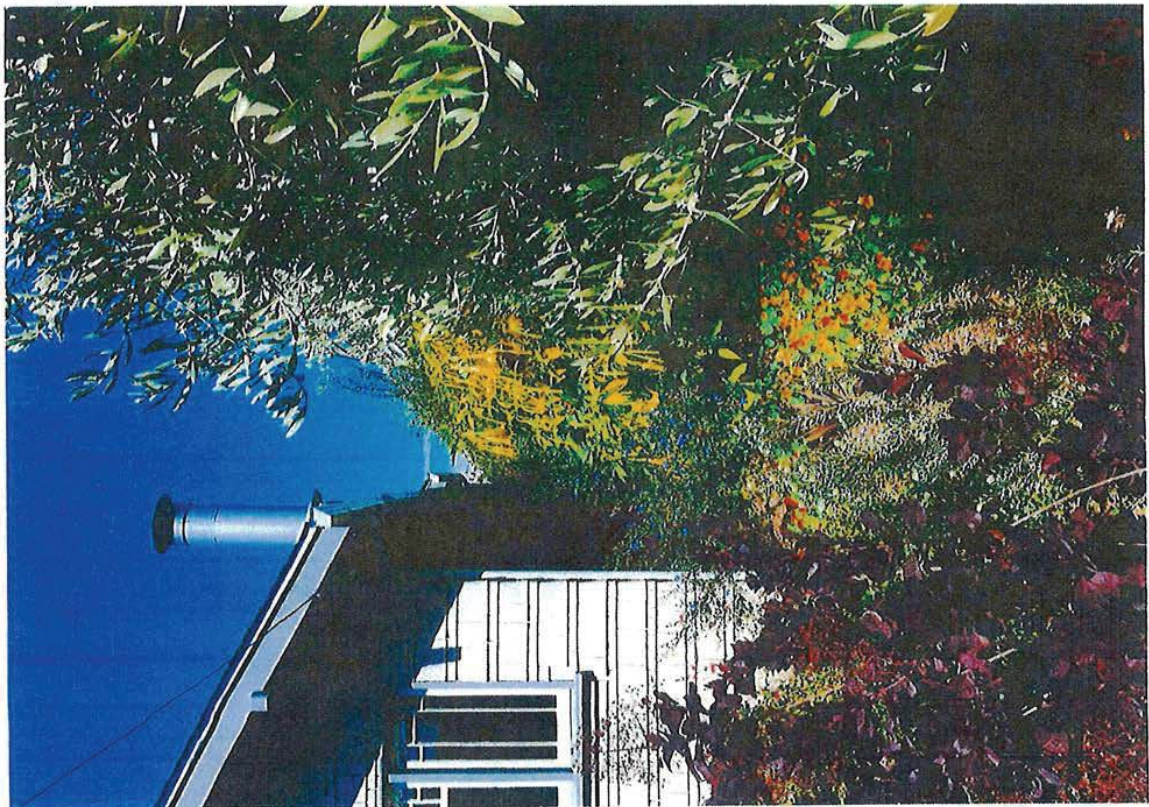


EXHIBIT B

EXHIBIT B

EXHIBIT B

Lawrence Hickman

1333 Hopkins Street
Berkeley, CA 94702
Phone: (510) 467-4250
E-Mail: lpacificquest@aol.com

RECEIVED

SEP 19 2018

LAND USE PLANNING

September 19, 2018

Ms. Nilu Karimzadegan, Planner
City of Berkeley – Zoning/Planning
1947 Center Street, 3rd Floor
Berkeley, CA 94704

SUBJECT
1346 ORDWAY STREET APPLICATION

NOTICE OF OPPOSITION ZONING VARIANCE

Dear Ms. Karimzadegan:

As the adjacent property owner, this writing serves notice that I am opposed to any consideration of the subject application.

Here, the issue is whether ***BMC Ch. 23D.08.060 § A(2)*** is violated where a resident/neighbor created a fence-wall by planting fifteen (15) trees – in a row - each approximately fourteen (14) feet in height creating a wall, with trees planted less than two feet away from an existing legal community-fence and property line, then builds a 9 foot in height arbor 2" away from the side of my garage without a building permit.

BMC Ch. 23D.08.060 § A(2) provides any fence, hedge, gate, pergola, trellis, arbor or retaining wall when located on a lot in, or on the zoning boundary line of, any residential District is subject to the following "***no fence or other unenclosed accessory structure located on a property line or within the required yard area for a main building set forth in each residential District's provisions may not exceed six feet in height at any point ... unless so authorized by an AUP***"

Here, it appears that the 1346 Ordway Street Resident Applicant (hereafter "Resident Applicant") has violated and continues in violation of the above referenced municipal code, because Resident Applicant has already planted fifteen (15) trees - in a row - each approximately fourteen (14) feet in height, supported by unpermitted construction method(s), using four-by-fours (4x4s) exceeding six feet in height. In addition, the trees were planted within two feet of the property line, also a violation. This violation(s) is further evidenced by the fact that, after my complaint to Code Enforcement, Resident Applicant received a citation, from the Code Enforcement Unit of the Mayor's Office. If I had not complained to Code Enforcement, resulting in the citation, Resident Applicant would not have applied for an AUP.

It should be noted that the subject application fails to mention that Resident Applicant has also already created the same and similar fence/wall condition on the opposite side of the property at the 1346 Ordway Street address. The application also fails to mention that Resident Applicant has constructed a 9 foot in height arbor 2" away from my garage without a building permit.

The present state of Resident Applicant current fence/wall configuration substantially interferes with my peaceful and quiet enjoyment of my property by eliminating my entitled air space, around the most useful part of my yard; making my yard small. Allowing the existing nonconforming conditions would diminish the value of my property. In addition, Resident Applicant's fence/wall height, proposed trellis, including the nine (9) foot high arbor – **two (2) inches from my garage** - prevents me from maintaining my property adequately.

I've owned my property at 1333 Hopkins Street for twenty-eight years, without incident. However, Resident Applicant recently approached me in my yard initiating an argument about the complaint I lodged with Code Enforcement. I believe Resident Applicant was attempting to intimidate me prior to filing this deceptive AUP application.

Furthermore, the subject application was only made after the aforementioned conditions were exposed, reported and cited. Moreover, the **Resident Applicant is seeking approval for conditions that already exists**, as if they are correctly planning to create a new condition.

On its face, this application should be denied because it's deceptive and lacks full disclosure. Even the Site Plan submitted is incomplete and lacks full disclosure. Additionally, the trellis description is ambiguous.

I oppose the subject application for the reasons stated herein. Accordingly, Resident Applicant's request for variance should be denied.

Also, The unauthorized 14 feet in height trees/fence, arbor that's 2" away from my garage, and the four-by-fours (4x4) posts taller than 6 feet need to be removed.

Respectfully Submitted,



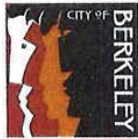
Lawrence Hickman

EXHIBIT C

EXHIBIT C

EXHIBIT C

UL / 773119 18
~~10/5/18~~ ~~5/8/2019~~
 10/5/18
 5/8/19 (5)



Planning and Development Department
Land Use Planning Division

5/8/2019 Response Letter III

February 8, 2019

Sent via email:
jenniedurant@gmail.com

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702

Re: Administrative Use Permit #ZP2018-0174 for 1346 Ordway Street

Dear Jennie,

This letter is in response to the resubmittal of revised application materials, submitted on January 09, 2019. To complete this application, please respond to the following:

- ① A New Invoice will be provided
- 1) **Additional AUPs & Fees:** At the time of project submittal, fees were assessed as \$970 for one Tier 3 AUP to construct an accessory structure over 6' within required setbacks. However, because the application is a result of a Notice of Violation and it also includes an unpermitted accessory building and an unpermitted trellis, additional AUPs will apply to the project resulting in a fee increase. We will issue an additional invoice upon the receipt of additional information (requested below).
- ② Dimensions on site plan do not match dimensions on survey
- 2) **Survey:**
- | | |
|----------------|----------------|
| Survey | Site Plan |
| Driveway | Driveway |
| 7'-9" | 10'-2" |
| DU to Front PL | DU to Front PL |
| 19'-9" | 20'-6" |
| DU to side PL | DU to side PL |
| 6'-8"-7" | 7'-2" - 8'-2" |
- A. Provide dimensions from the main dwelling and the front porch to the front and side property lines.
- B. Provide the width of driveway on the front property line.
- C. Include the accessory building's dimensions on the survey and exhibit the distance from its eave to the rear and side property lines.
- ③ Any hot tubs yet?
- 3) **Site Plan:**
- A. **Accessory building:** Please revise the accessory building's name to read as "Accessory Habitable Space" and not a "Shed" on Site Plan. Additionally, include the average and maximum height on the elevation.
- B. **Trellis:** include trellis's coverage in the overall lot coverage on Tabulation Form.
- C. Exhibit the front porch and its dimensions.
- D. Include the shed (and its dimensions) that is shown on survey and is attached to the rear of the dwelling.
- List of additional Fees**

 - ① \$1970 for fence + hedge NOV
 - ② Establish an accessory building
 - ③ Accessory building in rear + side setbacks (x2)
 - ④ Trellis
 - ⑤ Front yard parking (to be confirmed by me Traffic Eng. + zoning officer)

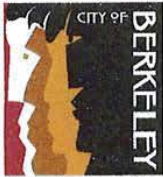
EXHIBIT D

EXHIBIT D

EXHIBIT D

8 9

9



Planning and Development Department
Land Use Planning Division

July 2, 2019

Sent via email:
jenniedurant@gmail.com

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702

Re: Administrative Use Permit #ZP2018-0174 for 1346 Ordway Street

Dear Jennie,

Thank you for the electronic resubmittal of the revised Site Plan on June 5, 2019. After reviewing the submitted materials, staff has determined that the existing off-street parking space is not accessible and there is no other feasible location for parking on the parcel. Note that all paved areas for off-street parking spaces, driveway and any other vehicle-related paving must be removed as a condition of approval on this permit. (Additionally on Site Plan, remove the label "Existing Parking Space" within the front yard setback and include a note for the removal of parking related paved areas and curb cut.) To complete your application, submit revised plans that reflect these changes and submit the additional required payment (see attached invoice).

In your resubmittal, include a cover letter stating how you have addressed the incomplete items. **Any changes or corrections must be clouded, and accompanied by a number** to allow for easier identification. If new plans are submitted, please deliver two **(2) sets** of plans (at least one set to scale) and submit **both a paper and an electronic copy** of the resubmittals to the zoning counter during normal business hours (Monday thru Thursday 8:30 am – 4:00 pm). If you take no action to address the above items **within 30 days**, the application may be deemed withdrawn and returned to you. Please contact me if you have any questions at (510) 981-7419.

Sincerely,
Nilu Karimzadegan, Planning Technician
CC: Greg Powell, Principal Planner

A handwritten signature in black ink, appearing to read "Nilu Karimzadegan".

EXHIBIT E

EXHIBIT E

EXHIBIT E

2. The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner;
3. The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole;
4. Any other variance findings required by the Section of the Ordinance applicable to that particular Variance.

B. The Board shall deny an application for a Variance if it determines that it is unable to make any of the required findings, in which case it shall state the reasons for that determination. (Ord. 6478-NS § 4 (part), 1999)

Please consider your options and let me know which path you would like to take.

Thank you,

Nilu

From: Chun, Peter
Sent: Wednesday, July 17, 2019 10:22 AM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Cc: 'Jennie Durant' <jenniedurant@gmail.com>
Subject: RE: Parking spot AUP

Hi Jennie,

My recommendation would be to restore the original parking space or remove the driveway and restore on street parking as Planning has recommended. I was not aware of the 7 ft. threshold and the Planning Dept. document you provided. I have reviewed and approved many projects with 7 ft. driveways, even 6' – 6" as applicants have indicated their driveway is existing and they squeeze through. I generally support the setback requirement (or parking space restriction) and therefore favor the removal of driveways and restoration of the curb, sidewalk, and on street parking if you choose not to re-establish the rear parking.

Sorry I am sure this is not what you were hoping to hear from our office.

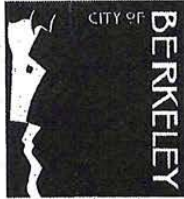
Sincerely,

Peter Chun, T.E.
Associate Traffic Engineer

EXHIBIT F

EXHIBIT F

EXHIBIT F



Office of the City Manager
Neighborhood Services-Enforcement Division

September 10, 2019

Jennie Durant/Keki Burjoree
1346 Ordway Street
Berkeley CA 94702-1124

Subject: **Administrative Citation Warning**

Dear Property Owner:

This letter is confirming that on May 10, 2018 the Code Enforcement Unit issued Notices of Violation requiring that you correct all violations at 1346 Ordway Street. On August 30, 2018 a Citation Warning for the outstanding violations of the Berkeley Municipal Code (BMC). Pursuant to the Notice of Violations and Administrative Citation Warning, you were required to reduce the height of your hedges that exceed 6 feet allowed without a permit.

On September 7, 2018, plans were submitted to the Planning Department for a variance on the hedges where additional unpermitted construction (accessory building & trellis) was identified by the planning department.

As of September 9, 2019, the violations remain and you have failed to comply with the Planning Department requirements and deadlines in submitting corrections to the plan check request by letters and email.

Since this project is associated with a Code Enforcement case specified deadlines are enforced and take precedence over any timelines specific to the permit process.

YOU ARE HEREBY ORDERED TO:

- Within fifteen (15) days of this Administrative Citation Warning respond to the Planning Department emails regarding the Plan check revisions;
- You must respond to any other plan checks comments issued by all reviewing agencies within fifteen (15) days of issuance of comments;
- Within thirty (30) days of the issuance of the required zoning permit, obtain all required building, electrical, plumbing and mechanical permits from the Building and Safety Division; and
- Upon issuance of building permits, complete all work within one hundred eighty (180) days.

Keki Borjorjee/Jennie Durant
1346 Ordway Street
Berkeley, CA 94702

Administrative Citation Warning
September 10, 2019
Page 2 of 2

Please note: Given the history on non-compliance on the property as described above, the City is putting you on notice that any future failure to comply completely with all City laws and regulations will result in daily administrative citations without further notice to you, which will increase as time passes until all violations are corrected. Part compliance or correction of any violation will be regarded as non-compliance.

Commencing September 25, 2019, if you have failed to comply in full with the May 10, 2018 Notice of Violation and the Plan Check corrections request by planning you may be issued administrative citations on a daily basis for each of the above violations without further notice to you. **Citation penalties will begin at a rate of one hundred dollars (\$100.00) per violation, per day and may increase with subsequent citations to two hundred dollars (\$200.00) per violation, per day and five hundred dollars (\$500.00) per violation, per day.**

If you have any questions regarding this Citation Warning Letter, you may contact me at (510) 981-2482 or e-mail me at wdrouillard@cityofberkeley.info.

Sincerely,



Wanda Drouillard
Code Enforcement Officer

cc: Planning Department
David Lopez, Deputy Building Official
Erin Steffen, Assistant to the City Manager

RECEIVED

June 30 ~~JUL 02 2020~~ (TLB)

CITY OF BERKELEY
CITY CLERK DEPARTMENT

June 30, 2020

Dear Members of the Berkeley City Council,

We are writing to appeal the decision of the Zoning Adjustment Board (ZAB) on June 6, 2020 regarding the height of the hedge along the southern property line of our property at 1346 Ordway St. The Zoning Office had previously approved a maximum hedge height of 14 feet, along with several other AUP permits. Our neighbor at the property adjacent to us, Lawrence Hickman at 1333 Hopkins St., appealed the decision and we had a ZAB hearing as a result. During the hearing, ZAB approved all of the permits requested, including the permit for the hedge, but lowered the maximum hedge height from 14 feet to 11 feet.

We request that the City Council raise the maximum hedge height from 11 feet back to the 14 feet originally approved by the Zoning Office. We planted the hedge because of our need for safety and privacy, and to screen off Mr. Hickman's property, which has been under construction for the four and a half years we have lived in our home. We are requesting that the maximum hedge height be raised back to 14 feet because a maximum of 11 feet does not adequately address the three concerns mentioned above. Additionally, at a maximum height of 11 feet, the hedge would require frequent pruning, making it bushier and incurring significant maintenance costs. Finally, a hedge with a maximum height of 14 feet does not materially impact our neighbor's view, nor is it outside the norm of AUPs granted in the past. We provide further details below.

Safety

There is a documented history of arrests at Mr. Hickman's property, one involving domestic violence in 2019, and another more recently in April 2020 that involved six police cars. Mr. Hickman's property has been vacant for extended periods in the past, and we have seen homeless people sleeping on the back porch, which has a direct view of our daughter's bedroom. We believe that a tall hedge will act as a physical barrier between his property and ours.

Privacy

The windows of Mr. Hickman's two-story house have a direct view into the bathroom and bedrooms of our single-story home (including our daughter's bedroom). An 11-foot hedge only screens off our bedrooms and bathroom from only the first floor windows of Mr. Hickman's house, not the second floor windows (see Figure 1.). We seek privacy from the windows on the second floor as well.



*Figure 1: View of Mr. Hickman's property from our bedroom windows.
The height of the hedge in these photos exceeds 11 feet at its tallest point*

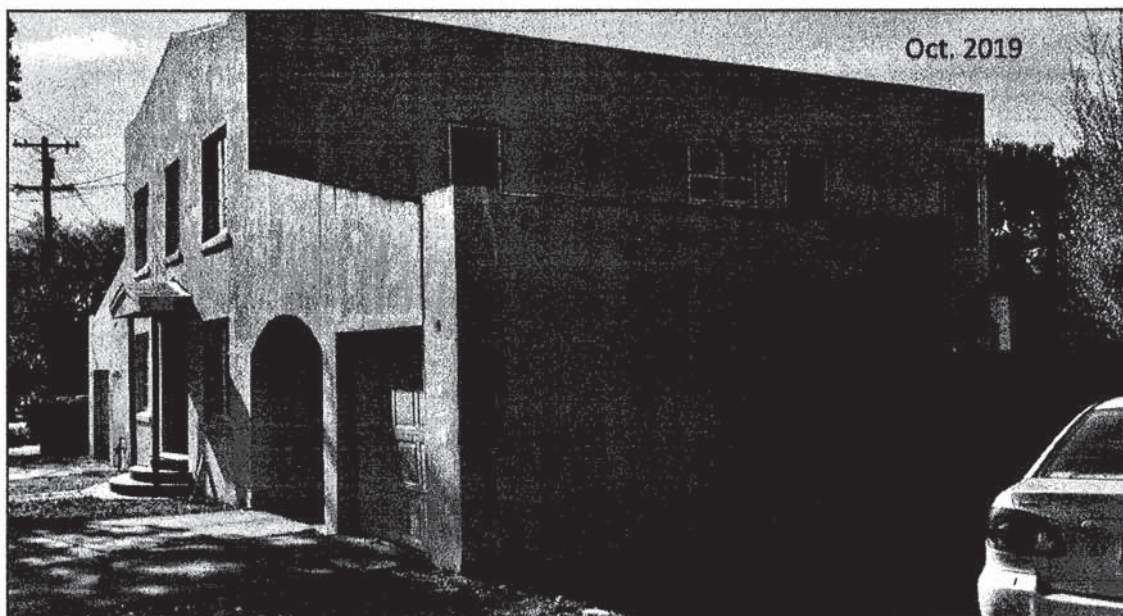


Figure 2: A gutter has been hanging off the side of Mr. Hickman's house since October of 2019

Screening off Mr. Hickman's property from view

Mr. Hickman's property has been under construction since we moved into our home in November 2015--and according to our neighbors and Google Map photos, for over a decade before that. The windows on his property that face our bedroom are unfinished and have had cement around the frames since we moved in. Additionally, a gutter has been hanging off the side of Mr. Hickman's property since October of 2019 (see Figure 2). Given the current and historic state of Mr. Hickman's property, we seek a visual barrier that entirely screens it off from view. At a maximum height of 11 feet (i.e. the current height of the trees in the photos in Figure 1) , the hedge would barely screen off the hanging gutter and first floor windows and leaves the unfinished second floor windows in plain view.

Affordability of hedge maintenance

Our hedge is made of 12 *Pittosporum tenuifolium* trees, a.k.a. 'Silver Sheen', fast growing shrubs that provide loose, airy screening and do not block much light. We prefer to keep the hedge thin and delicate so that light can shine through onto both properties. However, if we must keep the hedge at 11 feet, it would have to be pruned in a way that will cause it to become thick and dense. Our gardener had the following advice for us on this matter:

If keeping the shrubs lower is necessary then they will have to be pruned harder and more frequently, probably every couple of months, and they will become dense, and "hedge" like. This is not the best way for these shrubs to be used, and will result in much denser look as well as much more expensive upkeep. [Rest of the letter is attached]

Additionally, the shrub sends up thin shoots that tower above the rest, exceeding 11 feet while providing little privacy or visual screening. Adding 3 feet to the maximum height limit would allow for the growth of these shoots, keep our pruning costs down, and let us keep the hedge light and airy so it feels less like a wall to us and Mr. Hickman.

Hedge is not a detriment to our neighbor's view

We do not believe a 14-foot hedge would be a detriment to Mr. Hickman's view. The hedge is south of his property and the shadows from the hedge fall onto our house, not his property (see left photo in Figure 3). Additionally, his building is over 8 feet from the hedge, with a driveway in between (see right photo in Figure 3), and the only view of his that we block with the hedge is the one he would have into our daughter's and our bedroom windows.

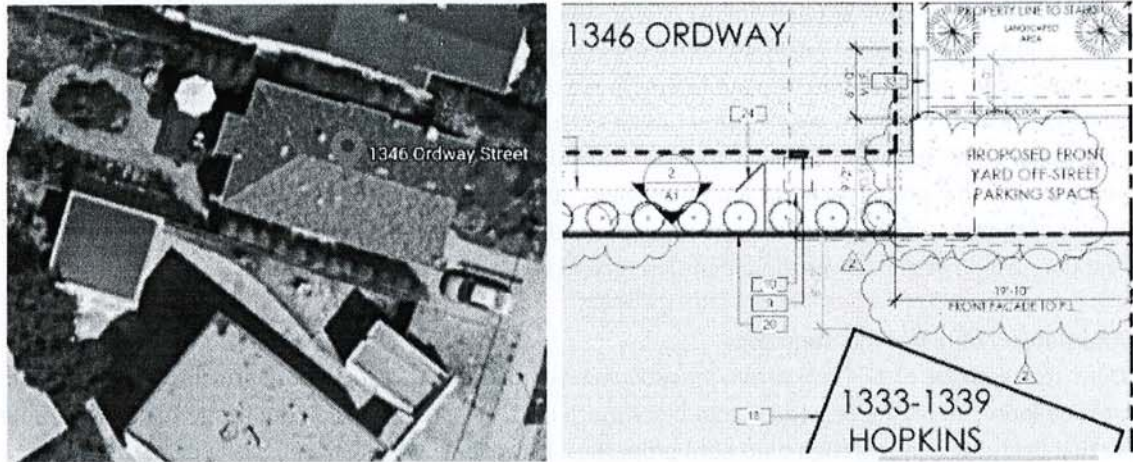


Figure 3: (Left photo) Shadows from the hedge fall onto our property, not Mr. Hickman's.
(Right photo) The site plan shows that Mr. Hickman's property is 8'2" from the hedge.

A maximum hedge height of 14 feet is not out of the ordinary

At around the 1hr 35 min mark of the [ZAB hearing on June 6, 2016](#), Land Use Planning Manager Steven Buckley said the following in response to a question from ZAB member Igor Tregub about the maximum fence/hedge height that can be granted in an AUP:

"The height of that is limited really by our accessory structure regulations which are pretty liberal. You can go up to say 12 or 24 or 35 feet with those depending on the permit. [...] And there isn't really a maximum. Certainly, 12 or 14 feet, that's normal."

So, according to Mr. Buckley, the maximum hedge height we are requesting (14 feet) falls within the normal range of hedge height requests.

In closing, we hope that City Council will raise the maximum hedge height back to the 14 feet we were initially granted to provide us with the safety, privacy, and visual barrier we seek for our family. We have enclosed a letter from our gardener about the *Pittosporum* and our letter to ZAB responding to our neighbor's appeal in case this is helpful.

Sincerely,

Two handwritten signatures in black ink. The first signature is 'JD' and the second is 'KBS Burjorjee'.

Jennie Durant and Keki Burjorjee
1346 Ordway Street
Berkeley, CA 94702

Appendix A: letter from gardener



Jennie Durant <jenniedurant@gmail.com>

Information On Pittosporum tenuifolium 'Silver Sheen'

2 messages

Cecily Hunter <cecilyhunter@gmail.com>
To: Jennie Durant <jenniedurant@gmail.com>

Tue, Jun 23, 2020 at 7:10 PM

Hi Jennie,

Here is some information about the Pittosporum tenuifolium 'Silver Sheen' that we planted, and why I recommended that shrub.

The Pittosporum tenuifolium 'Silver Sheen' is a fast growing shrub that provides loose, airy screening and does not block light very much. The leaves are very small, and the habit is delicate. In addition, it is adaptable to both sun and shade, does not require much water at all once it is established, and is relatively easy to maintain. As a gardener I find it to be one of the most generally pleasing shrubs. It is not very messy (it drops some leaves a few times a year, but does not have berries, or large amounts of leaf drop, or branch drop), it is a very nice habitat for small songbirds, the flowers, which are small, and brief are attractive to beneficial insects. And, it is compatible with many other plants. I prefer to keep it loose and delicate, allowing light to come through, and allowing it to move gently in the breeze. This is done by pruning it gently in a natural fashion a couple times a year to control height to some extent, and some thinning to accentuate the natural habit, as we have been doing until more recently when we began controlling the height. If keeping the shrubs lower is necessary then they will have to be pruned harder and more frequently, probably every couple of months, and they will become dense, and "hedge" like. This is not the best way for these shrubs to be used, and will result in much denser look as well as much more expensive upkeep.

I hope this helps.

Best,

Cecily

Jennie Durant <jenniedurant@gmail.com>
To: Cecily Hunter <cecilyhunter@gmail.com>

Mon, Jun 29, 2020 at 10:16 PM

Thank you so much, Cecily! This is enormously helpful!!

Jennie

[Quoted text hidden]

Appendix B: Letter to Zoning Adjustment Board

May 25, 2020

Dear Members of the Zoning Adjustment Board,

Thank you for taking the time to read our materials for this appeal hearing. We would like to respond to the points made in the "Issues on Appeal" section starting on page 8 of the Appellant's (Lawrence Hickman's) appeal letter to ZAB. To keep this rejoinder letter to the point, we choose not to respond to the many falsehoods about our personal interactions with the Appellant in the "Statement of Facts" section and instead focus on the Appellant's "Issues on Appeal."

Regarding Point 1 of the "Issues on Appeal" section of the Appellant's letter: Approval of AUP for reasonable accommodation for Fair Access to Housing under §23B.52.010:

1. The Appellant is not aware of the full nature of the Applicant's handicap. This is by design, as the Applicant wishes to preserve her privacy on this matter. We have submitted documentation to the City Zoning office, including doctor's forms, photocopies of the placard application, and the final placard, all of which informed the Zoning Office's determination.
2. Regarding the "Health and Safety section": The newly installed 6' fence mentioned by the Appellant was installed *after* the Zoning Office's findings were posted (during the window of appeal). It's hard not to surmise that this fence was installed by the Appellant for the express purpose of making the argument that our "view of pedestrians and oncoming traffic is obscured." That said, oncoming traffic approaches us from the direction opposite to the location of the fence, so we can see it just fine. Secondly, we have not had any problems spotting pedestrians as we slowly pull out of our lot. Additionally, we have noted that several garages on Ordway street extend out to the sidewalk. The view of the street and sidewalk from inside these garages is more obscured than ours, but this does not seem to make them non-conforming.
3. As to the point that the "Applicant's health and well-being is NOT jeopardized and/or compromised should they have to walk from the curb": Again, the Appellant is unaware of the Applicant's physical condition. The Applicant's prognosis is degenerative and currently under evaluation. Carrying heavy items can cause excruciating pain. Having to walk from a parking space (whether from the curb, or from down the street) carrying heavy bags of groceries, our child, or an infant car seat should we expand our family, would be an untenable situation. This is why we have requested an AUP be granted for our front parking space.
4. Numerous residents on our street park in front of their houses. We have included several photos of this in our immediate neighborhood (Figure 1), so approving the AUP would not undermine the aesthetic of our neighborhood.



Figure 1. Cars parked in front parking spaces on the 1300 block of Ordway Street (our block), on our side of the street (right photo) and across the street (left photo). Orange arrows indicate parked cars.

5. Finally, we would like to point out that the Appellant and his tenant consistently park in a manner that blocks the sidewalk in front of the Appellant's property, forcing people with strollers or wheelchairs out into the street. Our neighbors frequently express their frustration with this to us. We have included examples below (Figure 2).



Figure 2. The upper left photo shows the Appellant's van blocking the sidewalk, a frequent occurrence. The other three photos are of a tenant or frequent visitor, who consistently parks in the sidewalk. These three photos were taken on May 18, 19, and 20, 2020.

Regarding Point II: Approval of AUP to construct a habitable accessory building over 10' AV HT. W/I "4" FT of Property Line, under BMC §23D.08.020 and Approval of AUP to construct a habitable accessory building under BMC § 23D.08.005.A1

1. The accessory building casts no shadows on the Appellant's property because it is A) NOT adjacent to the Appellant's property (it is adjacent to Lot 46 on the Survey Plat Map in Fig. 3) and B) It is north-east of the Appellant's property and is therefore physically unable to cast shadows on the Appellant's property.
2. In fact, it is the Appellant's garage ("Garage" on Lot 45 in section of Survey Plat Map, Fig. 3), on our southern property line that casts a shadow onto *our* property from late morning onwards (Figure 3). A full Survey Plat Map with a compass is at the end of the letter and in our application.

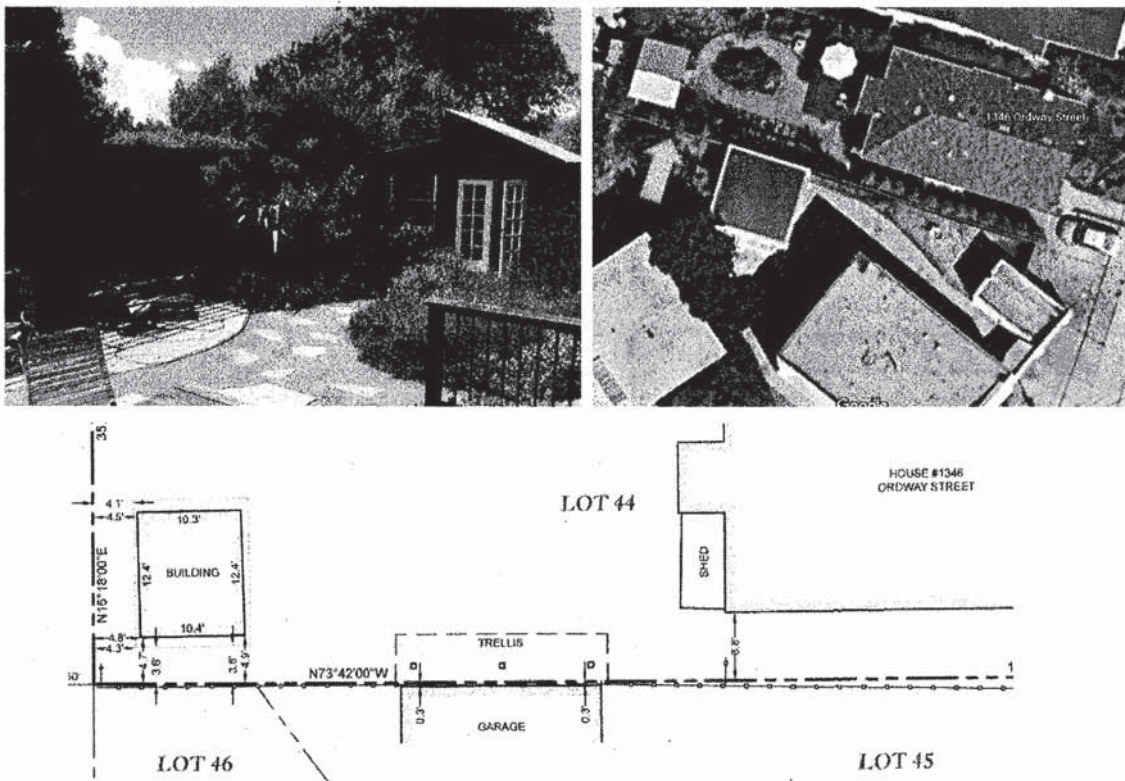


Figure 3. Upper left: Note the shadows cast by the Appellant's garage wall into our property. Upper right: Google map of the Appellant's property (bottom half of photo) and 1346 Ordway Street (yellow arrow notes approximate property line). Note how the shadows are cast towards our property, not the Appellant's as he has stated in his appeal. Bottom photo: Section of Plat Map showing that the Accessory Building is adjacent to Lot 46, and not the Appellant's property, Lot 45. A full Plat Map is available at the end of this letter and in our application.

Regarding Point III: The legalization of the 9' Trellis under BMC §23D.08.020.

1. As you can see from the photo of the Trellis below (Figure 4), we specifically constructed the Trellis in a way that allows the Appellant to access his garage for repairs if needed. Nothing prevents the Appellant from maintaining his garage wall.
2. That said, the Appellant's garage has been in a state of disrepair since we took ownership of the property in November 2015. The trellis was designed to improve the aesthetics of our property given that our neighbor's garage wall was on the property line and loomed over our property. We have included several photos below (Figure 5) of our neighbor's property to bring attention to the general state of disrepair that has frustrated not only us, but many members of our neighborhood for over a decade. We hope ZAB members will take into account this long history of dereliction when considering the Appellant's far-fetched point about wanting to maintain his property.



Figure 4. Left: Wall prior to painting and installation of trellis, April 2016. Right: Installed trellis, January 2018.



Figure 5. The upper left and right photo were taken May 18, 2020 and would be the views from our daughter's window if the hedge was not there. The lower left photo was taken May 30, 2017 (from the sidewalk), and demonstrate the disrepair of the Appellant's property that has existed since we moved in.

Regarding Point IV: Approval of AUP for construction of accessory structures, under BMC § 23D.08.060.A2

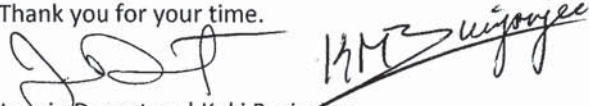
1. According to Berkeley Code, Title 23F.04¹ a hedge is defined as: Any line or row of plants, trees or shrubs planted in a continuous line to form a dense thicket or barrier. Additionally, for permitting purposes, a hedge is subject to the same permit requirements as a fence, and thus subject to the same restrictions as a fence.
2. As ZAB knows, fences are not allowed to be over 6' according to this code, unless authorized by an AUP², which we have applied for through the Zoning Office.
3. Regarding the Appellant's point about the tree branches growing onto his property: Our gardeners have asked the Appellant for permission to prune the trees on his side of the property (or to pick up branches that fall during pruning). The Appellant has consistently refused. This has made it challenging to prune the parts of the trees facing his side of the property, though we have now found a pruner who can do so from our side. We will, of course, keep the trees below the 14' requirement, and have consistently done so since the beginning of this application process.

Finally, we would like to apologize for not obtaining the necessary zoning permits prior to construction of the hedge and trellis. We were first-time homeowners when we took possession of our home one month before our daughter's birth. We simply had no idea we needed permits for the work we did since they are small projects that we have seen on numerous properties in our neighborhood. Given the stress of that time and the demands of our personal and work lives, we were so overwhelmed that we did not do the research we clearly should have done. Once cited for our violation of the City's ordinances we began the approval process. This process was complicated by the removal of a dilapidated garage on the property prior to our taking ownership.

Regarding the accessory building mentioned in Point III of the Appellant's appeal letter, we researched the square footage, height, and setbacks needed to build an accessory building without a zoning permit and acted accordingly. Unfortunately, we were not aware that the required setbacks are with respect to eaves of the accessory building, not the outside walls.

We have spent \$1380 to bring the accessory building into compliance and over \$10,000 (in permit fees and fines, as well as survey and architectural fees) to bring the overall property into compliance. The additions we made improve the value of our home and the value of our neighbors' properties as well. We have good relationships with many of our neighbors, which we hope is reflected by their letters of support. Additionally, our improvements—two attractive xeriscaped, low-water pollinator gardens, an office we can use to work from home during this pandemic; and finally, more trees, which help support the city's commitment to carbon neutrality—are aligned with the values of the city (Figure 6). We hope ZAB will see that our improvements do not pose any real detriment to the Appellant.

Thank you for your time.


Jennie Durant and Keki Burjorjee

¹ https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_BMC/BMC-Part2--032508.pdf

² <https://www.codepublishing.com/CA/Berkeley/html/Berkeley23D/Berkeley23D08/Berkeley23D08060.html>

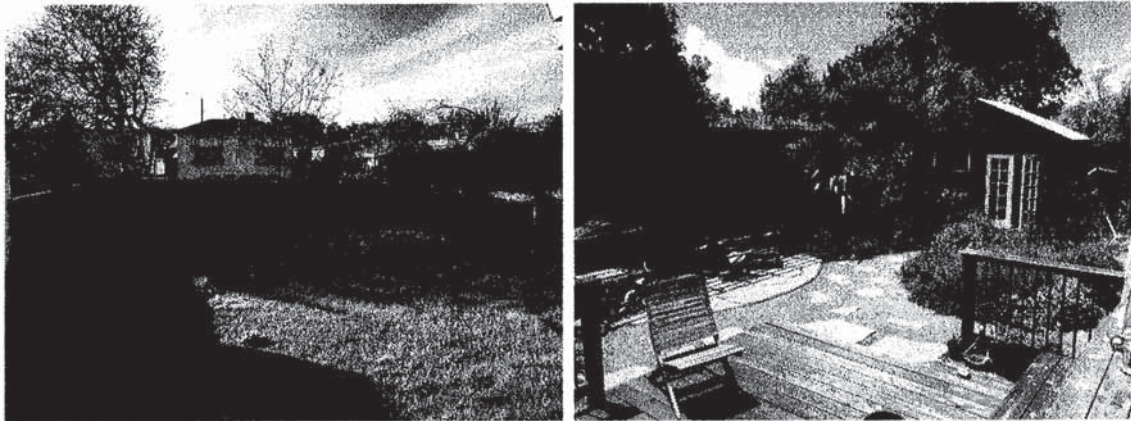


Figure 6. Improvements made in the backyard. Left: Photo of backyard upon purchase in November 2015. Right: Photo of backyard, taken May 15, 2020.

