



Planning Commission

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

This meeting is held in a wheelchair accessible location.

[Click here to view the entire Agenda Packet](#)

Wednesday, January 15, 2020
7:00 PM

South Berkeley Senior Center
2939 Ellis Street

See “*MEETING PROCEDURES*” below.

All written materials identified on this agenda are available on the Planning Commission webpage: <http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=13072>

PRELIMINARY MATTERS

1. **Roll Call:** Wiblin, Brad, appointed by Councilmember Kesarwani, District 1
Martinot, Steve, appointed by Councilmember Davila, District 2
Schildt, Christine, Chair, appointed by Councilmember Bartlett, District 3
Lacey, Mary Kay, appointed by Councilmember Harrison, District 4
Beach, Benjamin, appointed by Councilmember Hahn, District 5
Kapla, Robb, Vice Chair appointed by Councilmember Wengraf, District 6
Shane Krpata, appointed by Councilmember Robinson, District 7
Vincent, Jeff, appointed by Councilmember Droste, District 8
Wrenn, Rob, appointed by Mayor Arreguin
2. **Order of Agenda:** The Commission may rearrange the agenda or place items on the Consent Calendar.
3. **Public Comment:** Comments on subjects not included on the agenda. Speakers may comment on agenda items when the Commission hears those items. (See “*Public Testimony Guidelines*” below):
4. **Planning Staff Report:** In addition to the items below, additional matters may be reported at the meeting. **Next Commission meeting: February 5, 2019.**
5. **Chairperson’s Report:** Report by Planning Commission Chair.
6. **Committee Reports:** Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.
7. **Approval of Minutes:** [Approval of Draft Minutes from the meeting on December 4, 2019.](#)
8. **Future Agenda Items and Other Planning-Related Events:** None.

AGENDA ITEMS: All agenda items are for discussion and possible action. Public Hearing items require hearing prior to Commission action.

9. **Action:** **Public Hearing: Proposed Zoning Ordinance Amendments Related to SB 234 Family Daycare Homes**
Recommendation: Hold a public hearing on Zoning Ordinance amendments that modify Allowable Uses and Use Classifications for Family Daycare Homes pursuant to recently enacted State laws
Written Materials: [Attached](#)
Presentation: N/A
10. **Action:** **Public Hearing: Tentative Tract Map Application #8533-1500 San Pablo Avenue**
Recommendation: Hold a public hearing to consider Tentative Map #8533 pursuant to BMC Section 21.16.047
Written Materials: [Attached](#)
Presentation: N/A
11. **Action:** **BART Community Advisory Group (CAG)**
Recommendation: Select a representative to serve on the BART CAG
Written Materials: [Attached](#)
Presentation: N/A
12. **Action:** **2020 Nominations for February Election**
Recommendation: Nominate Commissioners for Chair and Vice Chair
Written Materials: [Attached](#)
Presentation: N/A
13. **Discussion:** **Parking Maximums**
Recommendation: Review report and provide feedback on instituting parking maximums.
Written Materials: [Attached](#)
Presentation: [Attached](#)
Web Information: N/A
Continued From: N/A

ADDITIONAL AGENDA ITEMS: In compliance with Brown Act regulations, no action may be taken on these items. However, discussion may occur at this meeting upon Commissioner request.

Information Items:

- [December 10, 2019 - City Council Item 30 – ADU Urgency Ordinance Staff Report](#)

Communications: None.

Late Communications: (Received after the packet deadline): None.

Late Communications: (Received and distributed at the meeting): None.

ADJOURNMENT

Meeting Procedures

Public Testimony Guidelines:

Speakers are customarily allotted up to three minutes each. The Commission Chair may limit the number of speakers and the length of time allowed to each speaker to ensure adequate time for all items on the Agenda. **To speak during Public Comment or during a Public Hearing, please line up behind the microphone.** Customarily, speakers are asked to address agenda items when the items are before the Commission rather than during the general public comment period. Speakers are encouraged to submit comments in writing. See “Procedures for Correspondence to the Commissioners” below.

Consent Calendar Guidelines:

The Consent Calendar allows the Commission to take action with no discussion on projects to which no one objects. The Commission may place items on the Consent Calendar if no one present wishes to testify on an item. Anyone present who wishes to speak on an item should submit a speaker card prior to the start of the meeting, or raise his or her hand and advise the Chairperson, and the item will be pulled from the Consent Calendar for public comment and discussion prior to action.

Procedures for Correspondence to the Commissioners:

To distribute correspondence to Commissioners prior to the meeting date, submit comments by 12:00 p.m. (noon), eight (8) days before the meeting day (Tuesday) (email preferred):

- If correspondence is more than twenty (20) pages, requires printing of color pages, or includes pages larger than 8.5x11 inches, please provide 15 copies.
- Any correspondence received after this deadline will be given to Commissioners on the meeting date just prior to the meeting.
- Staff will not deliver to Commissioners any additional written (or emailed) materials received after 12:00 p.m. (noon) on the day of the meeting.
- Members of the public may submit written comments themselves early in the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Planning Commission Secretary just before, or at the beginning, of the meeting.
- Written comments should be directed to the Planning Commission Secretary, at the Land Use Planning Division (Attn: Planning Commission Secretary).

Communications are Public Records: Communications to Berkeley boards, commissions, or committees are public records 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.

Written material may be viewed in advance of the meeting at the Department of Planning & Development, Permit Service Center, **1947 Center Street, 3rd Floor**, during regular business hours, or at the Reference Desk, of the Main Branch Library, 2090 Kittredge St., or the West Berkeley Branch Library, 1125 University Ave., during regular library hours.

Note: If you object to a project or to any City action or procedure relating to the project application, any lawsuit which you may later file may be limited to those issues raised by you or someone else in the public hearing on the project, or in written communication delivered at or prior to the public hearing. The time limit within which to commence any lawsuit or legal challenge related to these applications is governed by Section 1094.6, of the Code of Civil Procedure, unless a shorter limitations period is specified by any other provision. Under Section 1094.6, any lawsuit

or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred.

Meeting Access: This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist, at 981-6418 (V) or 981-6347 (TDD), at least three (3) business days before the meeting date.

Please refrain from wearing scented products to public meetings.

I hereby certify that the agenda for this regular/special meeting of the Berkeley City Commission on Commissions was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on **January 8, 2020**.

Alene Pearson
Planning Commission Secretary



Planning Commission

1 **DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**
2 **December 4, 2019**

3 The meeting was called to order at 7:03 p.m

4 **Location:** South Berkeley Senior Center, Berkeley, CA

5 **1. ROLL CALL:**

6 **Commissioners Present:** Benjamin Beach, Robb Kapla, Shane Krpata, Mary Kay Lacey,
7 Matthew Lewis (Alternate), Steve Martinot, Christine Schildt, Brad Wiblin, and Rob Wrenn.

8 **Commissioners Absent:** Jeff Vincent (Leave of Absence).

9 **Staff Present:** Secretary Alene Pearson, Katrina Lapira, Fatema Crane, and Justin Horner.

10 **2. ORDER OF AGENDA:** No changes.

11 **3. PUBLIC COMMENT PERIOD:** None.

12 **4. PLANNING STAFF REPORT:**

- 13
- 14 • December 10 – City Council will consider an Urgency Ordinance for ADUs
- 15 • JSISHL- One vacant position

16 **Information Items:**

- 17 • October 15- Referral: Modifications to Zoning Ordinance to Support Small Businesses
- 18 • November 12- SB 2 Planning Grant Authorization
- 19 • November 19- Priority Development Area Nomination- North Berkeley Bart Station

20 **Communications:**

- 21 • November 13 – Planning Staff, BeST Plan
- 22 • November 18 – City Clerk, Berkeley Lobbyist Registration Ordinance

23

24 **Late Communications** (Received after the Packet deadline):

- 25 • December 1- Clarke, South Berkeley Now TDM Program
- 26 • December 3 – Schildt, Proposed TDM Program Questions

27 **Late Communications** (Received and distributed at the meeting):

- 28 • December 4- Planning Staff, Item 9 Presentation
- 29 • December 4, Planning and Consulting Staff- Item 10 Presentation

- 30 • December 4- Sheffield Preschool, Letter of support for 2740 and 2744 Telegraph
31 Avenue application
- 32 • December 4- 2740 and 2744 Telegraph Avenue Applicant, The Marshall project flier

33 **5. CHAIR REPORT:**

- 34 • January 15, 2020- PC Chair and Vice Chair- Nominations
- 35 • February 5, 2020- PC Chair and Vice Chair- Elections

36 **6. COMMITTEE REPORT:**

- 37
- 38 • Adeline Corridor Specific Plan Subcommittee- At the December 12 meeting, the
39 subcommittee will review and discuss the Draft Plan and the Draft EIR Responses to
40 Public Comments. . The subcommittee will meet in January and February to summarize
41 recommendations.
- 42
- 43 • Zoning Ordinance Revision Project (ZORP): At the November 19 meeting, the
44 subcommittee reviewed the reformatted manufacturing and commercial district chapters.
45 Specific use regulations will be reviewed at the next meeting.
- 46
- 47 • Southside EIR Subcommittee: First subcommittee meeting is on December 17.

48 **7. APPROVAL OF MINUTES:**

49 Motion/Second/Carried (Wrenn/Wiblin) to approve the Planning Commission Meeting Minutes
50 from November 6, 2019 with the discussed corrections. Ayes: Beach, Kapla, Krpata Lacey,
51 Lewis, Martinot, Schildt, , Wrenn, and Wiblin. Noes: None. Abstain: None. Absent: None. (9-
52 0-0-0)

53

54 **FUTURE AGENDA ITEMS AND OTHER PLANNING-RELATED EVENTS:** At the next meeting,
55 December 4, 2019 the following items may be presented.

56

- 57 • Public Hearing on Zoning Ordinance amendments related to SB 234 (Home Daycares)
- 58 • Public Hearing on Tentative Tract Map application – 1500 San Pablo Avenue
- 59 • Public Hearing on General Plan Re-Designation and Re-zone application - 2740 and
60 2744 Telegraph Avenue
- 61 • Discussion on Zoning Ordinance amendments related to AB 881 (ADUs and JADUs)
- 62 • Nomination of Planning Commission Chair and Vice Chair
- 63 • NOTE: February 19- Planning Commission meeting canceled (Adeline subcommittee will
64 meet on this date)

65 **AGENDA ITEMS**

66 **9. Discussion: Proposed Transportation Demand Management Program and**
67 **Reduction of Parking Requirements**

68 Staff reviewed key findings of the residential parking utilization study, presented options for
69 reducing minimum parking requirements, and presented a proposal for a transportation demand
70 management program. In their discussion of staff's recommendation, the Planning Commission
71 expressed interest in eliminating minimum parking requirements for all types of residential
72 developments. Concerning the setting of parking maximums, the Commission requested staff to
73 present options, with analytical justification, at a future meeting. The Commission also provided
74 feedback on the proposed TDM measures, stating a preference for the provision of transit/ bus
75 passes for residents and monitors that display real time transit departures. The Planning
76 Commission will hold a Public Hearing on February 5, 2020 to hear testimony and consider
77 proposed Zoning Ordinance amendments.

78 **Public Comments: 5**

79 **10. Discussion: 2740 and 2744 Telegraph Avenue Proposal for General Plan Re-**
80 **designation and Zoning Map Amendment**

81 Berkeley current planning and project consulting staff provided a preview of the proposal to re-
82 designate and re-zone the three parcels addressed 2740 and 2744 Telegraph Avenue- the
83 existing Rose Garden Inn. The project requests a General Plan re-designation of the three
84 parcels from Medium Density Residential to Avenue Commercial and a re-zone from R-2 to C-1.

85 **Public Comments: 1**

86 Motion/Second/Carried (Wrenn/Wiblin) to hold a public hearing on January 15, 2020 to hear
87 testimony and consider the 2740 and 2744 Telegraph Avenue proposal for General Plan re-
88 designation and Zoning Map amendment.
89 Ayes: Beach, Kapla, Krpata, Lacey, Lewis, Martinot, Schildt, Wiblin, and Wrenn. Noes:
90 None. Abstain: None. Absent: None. (9-0-0-0)

91 **The meeting was adjourned at 9:43pm**

92 **Commissioners in attendance: 8**

93 **Members in the public in attendance: 9**

94 **Public Speakers: 6 speakers**

95 **Length of the meeting: 2 hours and 40 minutes**



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: January 15, 2020
TO: Members of the Planning Commission
FROM: Paola Boylan, Assistant Planner
SUBJECT: Public Hearing on Proposed Zoning Ordinance Amendments for Family Daycare Homes

RECOMMENDATION

Staff recommends Planning Commission conduct a Public Hearing and upon conclusion, make a recommendation to City Council to adopt amendments to the Zoning Ordinance that address changes in allowable Uses and Use Classification, pursuant to recently enacted State legislation impacting Family Daycare Homes.

BACKGROUND

Family Daycare Homes, as defined by the State, are facilities that regularly provide care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day. Family Daycare Homes, licensed by the State of California, are classified as follows:

1. Small Family Daycare Home involves the use of a dwelling, as described above, for eight (8) or fewer children, including children under 10 years of age who reside at the home.
2. Large Family Daycare Home involves the use of a dwelling, as described above, for nine (9) to fourteen (14) children, including children under 10 years of age who reside at the home.

On September 5, 2019 the Governor signed into law Senate Bill 234 (Skinner) - Family Daycare Homes (SB 234)¹. According to Senator Skinner, licensed Family Daycare Homes play an important role in the childcare market – providing flexible hours, affordable care, and low staff-to-child ratios in a home environment. This bill reduces barriers and costs to those operating or wanting to operate licensed Family Daycare Homes. More specifically, SB 234 prohibits jurisdictions from levying any type of business license fee or tax on Small and Large Family Daycare Homes. The law also

¹ https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB234

Public Hearing on Proposed Zoning Ordinance Amendments for Family Day Cares
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requires ministerial approval of Family Daycare Homes in all districts where residential uses are allowed.

ANALYSIS

The Finance Department is adjusting the City's fee schedule to reduce the cost of a permit for Family Daycare Homes to zero dollars.

The Zoning Ordinance must be amended as follows 1) modify Uses Permitted Tables to allow Small and Large Family Daycare Homes to locate and operate where residential uses are permitted throughout the City; 2) reduce discretion for Large Family Daycare Homes from Administrative Use Permit (AUPs) to Zoning Certificate (ZCs), and 3) update definitions and spellings of Family Daycare Home to align with Government Code Section 1596.78.

This report includes 26 revisions in the following sections:

Residential Uses Permitted (Use Tables)

- 23D.16.030 [R-1 Single Family Residential District Provisions: Uses Permitted]
- 23.20.030 [R-1A Limited Two-Family Residential District Provisions: Uses Permitted]
- 23D.24.030 [ES-R Environmental Safety-Residential District Provisions: Uses Permitted]
- 23D.28.030 [R-2 Restricted Two-Family Residential District Provisions: Uses Permitted]
- 23D.32.030 [R-2A Restricted Multiple-Family Residential District Provisions: Uses Permitted]
- 23D.36.030 [R-3 Multiple Family Residential District Provisions: Uses Permitted]
- 23D.40.030 [R-4 Multiple-Family Residential District Provision: Uses Permitted]
- 23D.44.030 [R-5 High Density Residential District Provisions: Uses Permitted]
- 23D.48.030 [R-S Residential Southside District Provisions: Uses Permitted]
- 23D.52.030 [R-SMU Residential Southside Mixed Use District Provisions: Uses Permitted]

Commercial Uses Permitted (Use Tables)

- 23E.36.030 [C-1 General Commercial District Provisions: Uses Permitted]
- 23E.40.030 [C-N Neighborhood Commercial District Provisions: Uses Permitted]
- 23E.44.030 [C-E Elmwood Commercial District Provisions: Uses Permitted]
- 23E.48.030 [C-NS North Shattuck Commercial District Provisions: Uses Permitted]
- 23E.52.030 [C-SA South Area Commercial District Provisions: Uses Permitted]
- 23E.56.030 [C-T Telegraph Avenue Commercial District Provisions: Uses Permitted]
- 23E.60.030 [C-SO Solano Avenue Commercial District Provisions: Uses Permitted]
- 23E.64.030 [C-W West Berkeley Commercial District Provisions: Uses Permitted]
- 23E.68.030 [C-DMU Downtown Mixed Use District Provisions: Uses Permitted]

Public Hearing on Proposed Zoning Ordinance Amendments for Family Day Care
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- 23E.80.030 [MU-LI Mixed Use-Light Industrial District Provisions]
- 23E.84.030 [MU-R Mixed Use Residential District Provisions: Uses Permitted]

Definitions

- 23F.04.010 [Definitions]

Spelling Updates

- 23E.80.040 [Special Provisions: Protected Uses]
- 23E.80.090 [Findings]
- 23E.84.040 [Special Provisions: Protected Uses]
- 23E.84.090 [Findings]
- 23F.04.010 [Definitions]

All of the proposed changes must be considered by the Planning Commission prior to City Council review. The proposed amendments are summarized below. Full text of the Zoning Ordinance amendments are provided (redlined) in Attachments 2 through 5.

DISCUSSION

Zoning Ordinance amendments are presented in four categories listed below:

1. Reduce Level of Discretion
2. Expand Districts where Permitted Use is Allowed
3. Update Family Daycare Home Definition
4. Update Spelling for Consistency with State Law

1. Reduce Level of Discretion (Uses Permitted Table)

Change the permit required to establish a Large Family Daycare Home from an Administrative Use Permit (AUP) to a Zoning Certificate (ZC) as required by SB234.

Recommendation: Modify Uses Permitted Tables in zones R-1, R-1A, R-2, R-2A, R-3, R-4, R-5, R-S, and R-SMU, C-W, MU-LI, and MU-R to reduce discretion for Large Family Daycare Homes from AUP to ZC and update spelling as noted in Discussion Item 4. Example redline text below is from BMC 23D.16.030 (R-1 Single Family Residential District) and BMC 23E.80.030 (MU-LI Mixed Use-Light Industrial District). See complete redline text in Attachments 2 and 3.

Table 23D.16.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Child Care; Family Day Care <u>Daycare Home (Small or Large)</u>	<u>ZC</u>	

Public Hearing on Proposed Zoning Ordinance Amendments for Family Day Cares
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Small Family Day Care Homes: of 8 or fewer children	ZC	
Large Family Day Care Homes: of 9 to 14 children	AUP	

Table 23E.80.030				
Use and Required Permits				
Uses	Permits Required to Establish, Expand, or Change use by Floor Area (sq. ft.)			Special Requirements (if any)
	Under 20,000	20,000 – 30,000	More than 30,000	
Residential and Related Uses				
Child Care; Family Day care Daycare Home (Small or Large)	ZC			
Small Family Day care Homes of 8 or fewer children	ZC			
Large Family Day care Homes of 9 to 14 children	AUP			Subject to the findings in Section <u>23E.80.090</u>.

2. **Expand Districts where Permitted Use is Allowed (Uses Permitted Table)**

Amend the Uses Permitted Tables to expand districts where Small and Large Family Daycare Homes can locate and operate. Currently Family Daycares are not permitted in the ES-R and in C-prefixed districts except for C-W. SB 234 allows Family Daycares wherever residential uses are permitted in the City.

Recommendation: Modify Uses Permitted Tables in zones ES-R, C-1, C-N, C-E, C-NS, C-SA, C-T, C-SO, and C-DMU to include Small and Large Family Daycare Homes, allowable with a ZC. Example redline text below is from BMC 23E.60.030 (C-SO Solano Avenue Commercial District) and can be found in Attachments 2 and 3.

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
<u>Child Care; Family Daycare Home (Small or Large)</u>	<u>ZC</u>	

3. Update Family Daycare Home Definition (Sub-Title 23F)

Amend the definition of Family Daycare Home to reflect Government Code Section 1596.78. The updated definition specifies that providers must reside in the dwelling unit where the Family Daycare Home operates and sets guidelines for counting children who live in the dwelling unit.

Recommendation: Update the definition of Family Daycare Home to reflect Government Code Section 1596.78. Suggested wording follows and can be found in Attachment 3.

Family Day-Care Daycare Home: ~~An establishment providing day care for fourteen (14) or fewer children in a dwelling unit as licensed by the State of California Department of Social Services. A facility that regularly provides care, protection, and supervision for 14 or fewer children, in the provider’s own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a Large Family Daycare Home or a Small Family Daycare Home as licensed by the State of California.~~

Small Family Day-Care Daycare Home: The use of a dwelling, as described above, for eight (8) or fewer children, ~~including children who reside at the home, including children under 10 years of age who reside at the home, as set forth by the State of California.~~

Large Family Day-Care Daycare Home: The use of a dwelling, as described above, for nine (9) to fourteen (14) children, ~~including children who reside at the home including children under 10 years of age who reside at the home, as set forth by the State of California.~~

4. Update Spelling to be Consistent with State Law

Update 52 instances of “day care” to “daycare” to be consistent with State Law. These changes can be found throughout the Zoning Ordinance. Suggested changes can be found in Attachments 2 through 5.

CONCLUSION AND NEXT STEPS

1. Conduct a public hearing.
2. Recommend for adoption by the City Council zoning language amendments to the aforementioned sections.
3. City Council consideration and adoption.

Public Hearing on Proposed Zoning Ordinance Amendments for Family Day Cares
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Attachments:

1. Public Hearing Notice
2. Sub-Title 23D [Provisions Applicable in All Residential Districts]
3. Sub-Title 23E [Provisions Applicable in All Non-Residential Districts]
4. Sub-Title 23F [Definitions]
5. Additional Spelling Changes throughout Zoning Ordinance



PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

JANUARY 15, 2020

Zoning Ordinance Amendments that Comply with State Laws Regarding Family Daycare Homes in Residential and Commercial Districts

Berkeley Municipal Code (BMC) Chapters 23D.16, 23D.20, 23D.24, 23D.28, 23D.32, 23D.36, 23D.40, 23D.44, 23D.48, 23D.52, 23E.36, 23E.40, 23E.44, 23E.48, 23E.52, 23E.56, 23E.60, 23E.64, 23E.68, 23E.80, 23E.84, and 23F.04.

The Planning Commission, of the City of Berkeley, will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23A.20.30, on **Wednesday, January 15, 2020**, at the **South Berkeley Senior Center**, 2939 Ellis Street, Berkeley (wheelchair accessible). The meeting starts at **7:00 p.m.**

PROJECT DESCRIPTION: The proposed amendments to Berkeley's Zoning Ordinance: 1) modify Uses Permitted Tables to allow Small and Large Family Daycare Homes to locate and operate where residential uses are permitted throughout the City; 2) reduce discretion for Large Family Daycare Homes from Administrative Use Permit (AUPs) to Zoning Certificate (ZCs), and 3) update definitions and spellings of Family Daycare Home to align with Government Code Section 1596.78. Amendments respond to Senate Bill 234, which was approved by Governor Newsom on September 05, 2019.

Full text of Zoning Ordinance Amendments can be found on the Planning Commission's homepage (https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planning_Commission_Homepage.aspx). Changes to be considered are summarized below:

- Where not currently allowed, add Small and Large Family Daycare Home to Uses Permitted Tables in zoning districts where residential uses are permitted per new State regulations. (*BMC Sections 23D.24.030, 23E.36.030, 23E.40.030, 23E.44.030, 23E.48.030, 23E.52.030, 23E.56.030, 23E.60.030, 23E.68.030*);
- Where currently allowed, update Large Family Daycare Home from Administrative Use Permit (AUP) to Zoning Certificate (ZC) per new State regulations. (*BMC Sections 23D.16.030, 23D.20.030, 23D.28.030, 23D.32.030, 23D.36.030, Table 23D.40.030, 23D.44.030, 23D.48.030, 23D.52.030*);
- Update Family Daycare Home definition to reflect Government Code Section 1596.78 (*BMC Section 23F.04.010*); and
- Modify spelling from "day care" to "daycare" throughout the Zoning Ordinance to reflect Government Code Section 1596.78. (*BMC 23E.80.040, 23E.80.090., 23E.84.040, 23E.84.090.H, 23F.04.010*).

Attachment 2: Sub-Title 23D

[PROVISIONS APPLICABLE IN ALL RESIDENTIAL DISTRICTS]

Chapter 23D.16: R-1 Single Family Residential District Provisions

23D.16.030 Uses Permitted

The following table sets forth the Permits required for each listed item. Each Use or structure shall be subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing (UP(PH)) or is Prohibited.

Table 23D.16.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Day Care Daycare Home (Small or Large)	ZC	
Small Family Day Care Homes: of eight or fewer children	ZC	-
Large Family Day Care Homes: of nine to 14 children	AUP	-
Fences		
If six ft. or less in height	ZC	
Exceed six ft. in height	AUP	In required setbacks
Home Occupations		

Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Chapter 23D.20: R-1A Limited Two-Family Residential District Provisions

9 3D.20.030 Uses Permitted

10 The following table sets forth the permits required for each listed item. Each Use or structure shall be subject to either a
 11 Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing (UP(PH)) or
 12 is Prohibited.
 13

Table 23D.20.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Day Care <u>Daycare Home (Small or Large)</u>	<u>ZC</u>	
Small Family Day Care Daycare Homes: of eight or fewer children	<u>ZC</u>	
Large Family Day Care Homes: of nine to 14 children	<u>AUP</u>	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required yards
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Chapter 23D.24: ES-R Environmental Safety-Residential District Provisions

14 **23D.24.030 Uses Permitted**

15 A. The following table sets forth the Permits required for each listed item. Each Use or structure shall be subject to
 16 either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing
 17 (UP(PH)), or is Prohibited.

18

Table 23D.24.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures		
Under 100 sq. ft.	ZC	Must satisfy the requirements of Chapter 23D.08
100 or more sq. ft.	UP(PH)	If has either habitable space and/or exceeds the requirements of Chapter 23D.08
Located on a vacant lot without a Main Building	UP(PH)	
Accessory Dwelling Units	Prohibited	
Child Care: Small Family Day Care <u>Daycare Homes of eight or fewer children (Small or Large)</u>	ZC	<u>Permitted as a residential use pursuant to State Health and Safety Code Sec. 1597.40 et seq.</u>
Fences		
Four ft. or less in height	ZC	
Exceeding four ft. in height	AUP	Subject to Fire Department review and comment
Home Occupations		
Low Impact	AUP	If the requirements of Section 23C.16.020 are met
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030, except that no non-resident employees or customer visits are allowed in ES-R District
Hot Tubs, Jacuzzis, Spas or Swimming Pools	UP(PH)	See Section 23D.08.060.C
Rental of Rooms	UP(PH)	Not to exceed four persons. Occupancy of a single dwelling unit by a single household as defined in Sub-title 23F is permitted
Stables for Horses	AUP	

Chapter 23D.28: R-2 Restricted Two-Family Residential District Provisions

19 **23D.28.030 Uses Permitted**

20 The following table sets forth the Permits required for each listed item. Each use or structure shall be subject
 21 to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public
 22 hearing (UP(PH)), or is Prohibited.

23

<i>Table 23D.28.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Day-Care Daycare Home (Small or Large)	<u>ZC</u>	
Small Family Daycare Home : of eight or fewer children	<u>ZC</u>	
Large Family Daycare Home: of nine to 14 children	<u>AUP</u>	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Chapter 23D.32: R-2A Restricted Multiple-Family Residential District Provisions

24 **23D.32.030 Uses Permitted**

25 The following table sets forth the Permits required for each listed item. Each use or structure shall be subject to either a
 26 Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing (UP(PH)), or
 27 is Prohibited.

28

<i>Table 23D.32.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Day Care <u>Daycare Home (Small or Large)</u>	<u>ZC</u>	
Small Family Day Care Homes: of eight or fewer children	<u>ZC</u>	
Large Family Day Care Homes: of nine to 14 children	<u>AUP</u>	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Chapter 23D.36: R-3 Multiple Family Residential District Provisions

29 **23D.36.030 Uses Permitted**

30 The following table sets forth the Permits required for each listed item. Each use or structure shall be subject to
 31 either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing
 32 (UP(PH)) or is Prohibited.

33

<i>Table 23D.36.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care: Family Daycare Home Day Care (Small or Large)	ZC	
Small Family Day Care Homes: of eight or fewer children	ZC	
Large Family Day Care Homes: of nine to 14 children	AUP	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Chapter 23D.40: R-4 Multi-Family Residential District Provisions

34 **23D.40.030 Uses Permitted**

35 The following table sets forth the Permits required for each listed item. Each use or structure shall be subject to
 36 either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing
 37 (UP(PH)) or is Prohibited.
 38

<i>Table 23D.40.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060.
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making of applicable findings set forth in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Day-Care <u>Daycare Home (Small or Large)</u>	<u>ZC</u>	
Small Family Day Care Homes: of eight or fewer children	<u>ZC</u>	
Large Family Day Care Homes: of nine to 14 children	<u>AUP</u>	
Fences		
Six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	
Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no displays or merchandise visible from the street

Chapter 23D.44: R-5 High Density Residential District Provisions

39 **23D.44.030 Uses Permitted**

40 The following table sets forth the Permits required for each listed item. Each use or structure shall be subject to
 41 either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing
 42 (UP(PH)) or is Prohibited.

43

<i>Table 23D.44.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings set forth in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care, Family Day Care Daycare Home (Small or Large)		
Small Family Day Care Homes: of eight or fewer children	ZC	
Large Family Day Care Homes: of nine to 14 children	AUP	
Fences		
Six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching- related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	
Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no displays or merchandise visible from the street

Chapter 23D.48: R-S Residential Southside District Provisions

44 **23D.48.030 Uses Permitted**

45 The following table sets forth the Permits required for each listed item. Each use or structure shall be subject to
 46 either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing
 47 (UP(PH)) or is Prohibited.

48

Table 23D.48.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings set forth in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care, Family Day Care <u>Daycare Home (Small or Large)</u>	<u>ZC</u>	
Small Family Day Care Homes: of eight or fewer children	<u>ZC</u>	
Large Family Day Care Homes: of nine to 14 children	<u>AUP</u>	
Fences		
Six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	Prohibited	
Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no displays or merchandise visible from the street

Chapter 23D.52: R-SMU Residential Southside Mixed Use District Provisions

49 **23D.52.030 Uses Permitted**

50 The following table sets forth the Permits required for each listed item. Each use or structure shall be subject to
 51 either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing
 52 (UP(PH)) or is Prohibited.

53

<i>Table 23D.52.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings set forth in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care, Family Day Care Daycare Home (Small or Large)	ZC	
Small Family Day Care Homes: of eight or fewer children	ZC	
Large Family Day Care Homes: of nine to 14 children	AUP	
Fences Six ft. or less in height Exceeding six ft. in height	ZC AUP	In required setbacks
Home Occupations Low Impact Moderate Impact, teaching-related Moderate Impact	ZC AUP UP(PH)	If the requirements of Section 23C.16.020 are met Subject to the requirements of Section 23C.16.030.A Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	Prohibited	
Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no displays or merchandise visible from the street

54

Planning Commission will make a recommendation to City Council. City Council will consider recommendation at a public hearing (date to be determined, notice to be published).

LOCATION: Affected districts include: R-1, R-1A, ES-R, R-2, R-2A, R-3, R-4, R-5, R-S, R-SMU, C-1, C-N, C-E, C-NS, C-SA, C-T, C-SO, C-DMU, C-W, MU-LI, and MU-R. The zoning map is available online: http://www.ci.berkeley.ca.us/uploadedFiles/IT/Level_3_-_General/Zoning%20Map%2036x36%2020050120.pdf

ENVIRONMENTAL REVIEW STATUS: The project is categorically exempt from the California Environmental Quality Act by Guidelines Section 15301 as a Class 1 project that pertains to the operation and permitting of existing facilities.

PUBLIC COMMENT

Comments may be made verbally at the public hearing and in writing before the hearing. Those wishing to speak at the hearing must submit a speaker card. Written comments concerning this project should be directed to:

Planning Commission
Alene Pearson, Secretary
Land Use Planning Division
1947 Center Street
Berkeley, CA 94704

Phone: (510) 981-7489
E-mail: apearson@cityofberkeley.info

To assure distribution to Commission members prior to the meeting, **correspondence must be received by 12:00 noon, eight (8) days before the meeting date.** Fifteen (15) copies must be submitted of any correspondence that requires color printing or pages larger than 8.5x11 inches.

COMMUNICATION ACCESS

To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice), or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability.

FURTHER INFORMATION

Questions should be directed to **Alene Pearson**, at (510) 981-7489, or apearson@cityofberkeley.info. Past and future agendas are also available on the Internet at: https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planning_Commission_Homepage.aspx

1 **Attachment 3:** Sub-Title 23E
 2 [PROVISIONS APPLICABLE IN ALL NON-RESIDENTIAL DISTRICTS]

3 **Chapter 23E.36: C-1 General Commercial District Provisions**

4 **23E.36.030 Uses Permitted**

5 A. The following table sets forth the permits required for each listed item. Each use or structure shall be subject to
 6 either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing
 7 (UP(PH)) or is prohibited.

8

<i>Table 23E.36.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.36.070.E. Residential-only projects are prohibited within the University Avenue Node Overlay areas, and permitted within University Avenue Overlay Mixed Use areas
Group Living Accommodations subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.36.070.E
Hospitals	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer people	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Chapter 23E.40: C-N Neighborhood Commercial District Provisions

9 23E.40.030 Uses Permitted

10 A. The following table sets forth the permits required for each listed item. Each use or structure shall be subject to
 11 either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing
 12 (UP(PH)) or is prohibited.

13

Table 23E.40.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agricultures	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.40.070.E
Group Living Accommodations subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.40.070.E
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.40.080.B
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.40.080.B
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Chapter 23E.44: C-E Elmwood Commercial District Provisions

14 **23E.44.030 Uses Permitted**

15 A. The following table sets forth the permits required for each listed item. Each use or structure shall be subject to
 16 either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing
 17 (UP(PH)) or is prohibited.

18

<i>Table 23E.44.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.44.070.F
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.44.070.F
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements under Section 23E.44.080
Nursing Homes	UP(PH)	Subject to parking requirements under Section 23E.44.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Chapter 23E.48: C-NS North Shattuck Commercial District Provisions

19 **23E.48.030 Uses Permitted**

20 A. The following table sets forth the permits required for each listed item. Each use or structure shall be subject to
 21 either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing
 22 (UP(PH)) or is prohibited.
 23

<i>Table 23E.48.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	Prohibited	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.48.070.F
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.48.070.F
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.48.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.48.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Chapter 23E.52: C-SA South Area Commercial District Provisions

25 **23E.52.030 Uses Permitted**

26 A. The following table sets forth the permits required for each listed item. Each use or structure shall be subject to
 27 either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing
 28 (UP(PH)) or is prohibited.

29

<i>Table 23E.52.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.52.070.E
Group Living Accommodations subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.52.070.E
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.52.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.52.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use from an existing dwelling unit
Six or fewer people	ZC	
Seven or more people	AUP	
New construction	UP(PH)	

Chapter 23E.56: C-T Telegraph Avenue Commercial District Provisions

30 **23E.56.030 Uses Permitted**

31 A. The following table sets forth the permits required for each listed item. Each use or structure shall be subject to
 32 either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing
 33 (UP(PH)), or is Prohibited. See also Section [23E.56.070.C](#) for restrictions on usage of upper floors.

34

<i>Table 23E.56.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.56.070.E
Group Living Accommodations subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.56.070.E
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	
Nursing Homes	UP(PH)	
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use from an existing dwelling unit
Six or fewer people	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

35

Chapter 23E.60: C-SO Solano Avenue Commercial District Provisions

36 **23E.60.030 Uses Permitted**

37 A. The following table sets forth the permits required for each listed item. Each use or structure shall be subject to
 38 either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing
 39 (UP(PH)) or is prohibited.

40

Table 23E.60.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	Prohibited	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.60.070.F
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.60.070.F
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.60.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.60.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing Six or fewer persons Seven or more persons New Construction	ZC AUP UP(PH)	Change of use from an existing dwelling unit

Chapter 23E.64: C-W West Berkeley Commercial District Provisions

41 **23E.64.030 Uses Permitted**

42 A. The following table sets forth the Permit required for each listed item. Each use or structure shall be subject to a
 43 Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing (UP(PH)) or
 44 is prohibited.

45

Table 23E.64.030

Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Residential and Related Uses		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Additions, Major Residential	AUP	See definition in Sub-title 23F. Subject to required finding under Section 23E.64.090.G
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Day-Care Daycare Home (Small or Large)	<u>ZC</u>	
Small Family Day Care Home of 8 or fewer children	ZC	
Large Family Day Care Home of 9 to 14 children	AUP	
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	
Community Care Facilities/Homes	ZC	
Community Centers	UP(PH)	
Dwelling Units	UP(PH)	Subject to Development Standards under Section 23E.64.070
Group Living Accommodations	UP(PH)	Subject to Development Standards under Section 23E.64.070
Home Occupations Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section <u>23C.16.030.A</u>
Moderate Impact	UP(PH)	Subject to the requirements of Section <u>23C.16.030.B</u>
Hospitals	UP(PH)	Subject to parking requirements; see Section <u>23E.64.080.F</u>

Chapter 23E.64: C-W West Berkeley Commercial District Provisions

Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.070.C
Hotels, Residential, including Single Room Occupancy (SRO)	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.64.080.F
Nursing Homes	UP(PH)	
Parks and Playgrounds	AUP	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	AUP	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	
All other Residential Accessory Structures and Uses not listed	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060

Chapter 23E.68: C-DMU Downtown Mixed Use District Provisions

47 **23E.68.030 Uses Permitted**

48 A. The following table identifies permitted, permissible, and prohibited uses and sets forth the Permit required for each
 49 allowed use. Each use and structure shall be subject to either a Zoning Certificate (ZC), an Administrative Use Permit
 50 (AUP), a Use Permit approved after a Public Hearing (UP/PH), or is prohibited. Uses within the Downtown Arts District
 51 Overlay area (ADO) are also subject to Section [23E.68.040](#).

52

<i>Table 23E.68.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	As per R-5 District	See Table 23D.44.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	AUP	
Child Care: Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, including multifamily developments	UP(PH)	Subject to the standards under Section 23E.68.060.F
Group Living Accommodations subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.68.060.F
Hospitals	UP(PH)	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	Subject to Section 23E.68.060.F
Libraries	UP(PH)	
Nursing Homes	UP(PH)	
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use of an existing dwelling unit
Six or fewer people	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	Subject to Section 23E.68.070

Chapter 23E.80: MU-LI Mixed Use-Light Industrial District Provisions

53 23E.80.030 Uses Permitted

54 A. The following table sets forth the Permit required for each listed item. Each use or structure shall be subject to
 55 either a Zoning Certificate (ZC), an Administrative Use Permit (AUP) or a Use Permit approved after public hearing
 56 (UP(PH)), or is Prohibited.

Table 23E.80.030				
Use and Required Permits				
Uses	Permits Required to Establish, Expand, or Change use by Floor Area (sq. ft.)			Special Requirements (if any)
	Under 20,000	20,000 – 30,000	More than 30,000	
Residential and Related Uses				
Child Care Centers	UP(PH)			Subject to the findings in Section 23E.80.090.I
Child Care; Family Day Care Daycare Home (Small or Large)	ZC			
Small Family Day Care Homes of 8 or fewer children	ZC			
Large Family Day Care Homes of 9 to 14 children	AUP			Subject to the findings in Section 20E.80.090.I
Clubs, Lodges, Union Halls and similar uses for persons working in the district	UP(PH)			
Dwelling Units	Prohibited			
Group Living Accommodations	Prohibited			
Major Residential Additions	Prohibited			
Public Safety and Emergency Services	UP(PH)			
Religious Assembly Uses	Prohibited			
Schools	Prohibited			
Public or Private (other than vocational)	Prohibited			
Vocational	ZC	AUP	UP(PH)	Must provide training for occupations and/or industries found in the West Berkeley Plan area
Shelters for Homeless Persons	Prohibited			Existing shelter shall not be considered a non-conforming use and may add floor area with a UP(PH)
Utility Substations, Buildings and Tanks	UP(PH)			
All Other uses permitted in residential districts	Prohibited			
Accessory Buildings and Structures with Urban Agriculture	ZC			Subject to 23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060

Chapter 23E.84: MU-R Mixed Use-Residential District Provisions

57 **23E.84.030 Uses Permitted**

58 A. The following table sets forth the Permit required for each listed item. Each use or structure shall be subject to a
 59 Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing (UP(PH)), or
 60 is Prohibited.

61

Table 23E.84.030		
Use and Required Permits		
Uses	Permit Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Residential and Related Uses		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Additions, Major Residential	AUP	See Definition in Sub-title 23F. Subject to finding required under 23E.84.090.L; see limitations on location in Section 23E.84.060.G
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	Subject to the findings in Section 23E.84.090.H
Child Care; Family Day Care Daycare Home (Small or Large)	<u>ZC</u>	
Small Family Day Care Homes of 8 or fewer children Large Family Day Care Homes of 9 to 14 children	ZC AUP	Subject to the findings in Section 23E.84.090.H
Clubs, Lodges	UP(PH)	
Community Care Facilities/Homes (Changes of Use)	ZC	Subject to parking requirements; see Section 23E.84.080.B
Community Centers	UP(PH)	
Dwelling Units		See limitation on location in Section 23E.84.060.G. Subject to development standards of Section 23E.84.070 and parking requirements in Section 23E.84.080.B
1 – 4 Units	AUP	
5+ Units	UP(PH)	
Group Living Accommodations, subject to R-3 District Standards	UP(PH)	See limitations on location in Section 23E.84.060.G
Home Occupations		
Low Impact	ZC	Subject to requirements under Section 23C.16.020

Chapter 23E.84: MU-R Mixed Use-Residential District Provisions

Moderate Impact, teaching-related	AUP	Subject to requirements under Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to requirements under Section 23C.16.030.B
Hospitals	Prohibited	
Hotels, Residential	Prohibited	
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Libraries	UP(PH)	Subject to additional parking requirements; see Section 23E.84.080.B
Nursing Homes	UP(PH)	Subject to additional parking requirements; see Section 23E.84.080.B
Parks, Playgrounds, and outdoor recreation facilities	UP(PH)	If the park, playground, or outdoor recreation facility is likely to be used by children, subject to the finding under 23E.84.090.H
Public Safety and Emergency Services	UP(PH)	
Public Utilities Substations, Buildings, Tanks	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private and Other Educational Institutions	UP(PH)	Subject to the findings in Section 23E.84.090.H
Senior Congregate Housing Six or fewer persons Seven or more persons New Construction	ZC AUP UP(PH)	Changes of use from an existing dwelling unit
Accessory Buildings and Structures with Urban Agriculture	ZC	Subject to 23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060

1 **Attachment 4:** Sub-Title 23F

2 DEFINITIONS

3 23F.04.010 Definitions

4 For the purposes of this chapter certain terms used herein are defined as follows:

5 **Family ~~Day Care~~ Daycare Home:** ~~An establishment providing day care for fourteen (14) or fewer children in a~~
6 ~~dwelling unit as licensed by the State of California Department of Social Services. A facility that regularly~~
7 ~~provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of~~
8 ~~less than 24 hours per day, while the parents or guardians are away, and is either a large family daycare home~~
9 ~~or a small family daycare home as licensed by the State of California.~~

10 **Small Family ~~Day Care~~ Daycare Home:** The use of a dwelling, as described above, for eight (8) or fewer
11 children, ~~including children who reside at the home, including children under 10 years of age who reside at the~~
12 ~~home, as set forth by the State of California.~~

13 **Large Family ~~Day Care~~ Daycare Home:** The use of a dwelling, as described above, for nine (9) to fourteen
14 (14) children, ~~including children who reside at the home, including children under 10 years of age who reside at~~
15 ~~the home, as set forth by the State of California.~~

1 **Attachment 5:** Additional Spelling Changes throughout Zoning Ordinance

2 **23E.80.040 Special Provisions: Protected Uses**

3 A. The following uses which were lawfully in place as of July 6, 1989 are Protected Uses where the affected
4 space is used exclusively for a Protected Use or the Protected Use is combined with residential use in the form
5 of a Live/Work Unit. Protected Uses are divided into two categories, as follows:

Category 1	Art/Craft Studio
Category 2	Art Galleries, ancillary to Art/Craft Studios and when located in the same building Child Care Facility Family Day Care Daycare Home Fine arts performance, instruction and rehearsal studios (dance, music, theater) Theaters, Stage Performance, but excluding Motion Picture Theaters

6 **23E.80.090 Findings**

7 I. In order to approve a Permit for the establishment or expansion of a child care center, or recreational or
8 educational facility to be used by children, the Zoning Officer or Board must make all of the following findings:

- 9 1. Development of the school, child care center, ~~L~~large ~~F~~family ~~day care~~Daycare or recreational facility
10 to be used by children is not, in the particular circumstances of the project, incompatible with adjacent
11 and nearby uses, including industrial uses;
- 12 2. An appropriate risk analysis or risk assessment, as defined by the City, has been made and has
13 shown that there is not significant risk to children in the use from other activities near the site;
- 14 3. The applicants have made adequate provisions to ensure that all parents of students or children in
15 the school, child care center, ~~L~~large ~~F~~family ~~day care~~Daycare or recreational facility to be used by
16 children will be notified in writing (on a form approved by the City) that the school is in the West Berkeley
17 Plan MU-LI District, and that light manufacturing is a permitted activity in the District and that Primary
18 Production Manufacturing or Construction Products Manufacturing may be permitted uses in adjacent
19 districts, including a requirement that each parent will indicate that they have read and understood this
20 information by means of a written statement returned to the school or child care center and available for
21 review. (Ord. 7194-NS § 8, 2011; Ord. 7167-NS §§ 20 – 22, 2011; Ord. 6478-NS § 4 (part), 1999)

22 **23E.84.040 Special Provisions: Protected Uses**

23 A. The following uses which were lawfully in place as of July 6, 1989 are Protected Uses where the affected
 24 space is used exclusively for a Protected Use or the Protected Use is combined with residential use in the form
 25 of a Live/Work Unit. Protected Uses are divided into two categories, as follows:

Category 1	Art/Craft Studio
Category 2	Art Galleries, ancillary to Art/Craft Studios and when located in the same building Child Care Facility Family Day-Care Daycare Home Fine arts performance, instruction and rehearsal studios (dance, music, theater) Theaters, Stage Performance, but excluding Motion Picture Theaters

26 B. Except as set forth in this section, a change in use from a protected use to any other use, protected or not,
 27 may only be authorized pursuant to Section [23E.84.090.C](#).

28 **23E.84.090 Findings**

29 H. In order to approve a Use Permit for the establishment or expansion of a school, [L](#)large [F](#)family ~~day~~
 30 ~~care~~Daycare, child care center, or recreational or educational facility to be used by children, the Zoning Officer
 31 or Board must make all of the following findings:

32 1. Development of the school, child care center, [L](#)large [F](#)family ~~day-care~~Daycare or recreational facility
 33 to be used by children is not, in the particular circumstances of the project, incompatible with adjacent
 34 and nearby uses;

35 2. An appropriate risk analysis or risk assessment, as defined by the City, has been made and has
 36 shown that there is not significant risk to children in the use from other activities near the site;

37 3. The applicants have made adequate provisions to ensure that all parents of students or children in
 38 the school, child care center, [L](#)large [F](#)family ~~day-care~~Daycare or recreational facility to be used by
 39 children will be notified in writing (on a form approved by the City) that the school is in the West Berkeley
 40 Plan MU-R District, and that light manufacturing is a permitted activity in the District and that Primary
 41 Production Manufacturing or Construction Products Manufacturing may be permitted uses in adjacent
 42 districts, including a requirement that each parent will indicate that they have read and understood this
 43 information by means of a written statement returned to the school or child care center and available for
 44 review.

45 **23F.04.010 Definitions**

46 **Child Care Center or Facility:** An establishment providing ~~day care~~daycare for children, other than a
47 ~~F~~family ~~day care~~Daycare ~~H~~ome, which is licensed by the State of California Department of Social
48 Services.

49 **Community Care Facility:** Any facility, place or building where non-medical care and supervision of
50 children, adolescents, adults or elderly persons is conducted under license from the California State
51 Department of Social Services (SDSS), but not including medical care institutions, skilled nursing
52 facilities, nursing homes, foster homes, ~~F~~family ~~day care~~Daycare ~~H~~omes, child care facilities or
53 transitional housing.



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: January 15, 2020
TO: Members of the Planning Commission
FROM: Katrina Lapira, Assistant Planner
SUBJECT: Public Hearing: Tentative Tract Map #8533 for 1500 San Pablo Avenue

RECOMMENDATION:

Hold a Public Hearing and recommend that the City Council approve Tentative Map #8533 pursuant to Berkeley Municipal Code (BMC) Section 21.16.047 (Planning Commission Action), subject to the attached Findings and Conditions (*see Attachment 1*) and consistent with Berkeley's Subdivision Ordinance (BMC Chapter 21) and the Subdivision Map Act (California Government Code Section 66410).

BACKGROUND

The project at 1500 San Pablo Avenue involves a Tentative Map to allow condominium ownership in a 175-unit project with 170 residential units and 5 commercial units (*see Attachments 2 and 3*). The project is currently under construction pursuant to a Use Permit approved by the Zoning Adjustments Board in 2016 (*see https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1500_San_Pablo.aspx*). None of the units have been rented, so this is not considered a condominium conversion. The units may be rented or sold upon approval of this map and completion of the construction, at the discretion of the developer.

I. Application Basics

A. Chronology of Subdivision Application:

November 19, 2019	Map Application submitted
December 2, 2020	Map Application considered complete
January 15, 2020	Planning Commission Public Hearing
January 21, 2020	Subdivision Map Act deadline (50 days from complete)

B. CEQA Determination:

Construction of the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) and pursuant to Sections 15301 (“Existing Facilities”) and 15332 of the CEQA Guidelines (“In-Fill Development Projects”). Approval of the Tentative Map does not modify the physical environment in any way from the approved Use Permit and Building Permit that has already been issued for the project. The Tentative Map involves an infill project that has already been subject to appropriate CEQA review. 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, and (f) the project will not affect any historical resource.

C. Parties Involved:

Applicant: Jay Drake – Reuben, Junius & Rose LLP
1 Bush St., Suite 600, San Francisco, CA 94104

Property Owner: 1500 San Pablo, LLC – c/o Margaret Spriggs
235 Montgomery St., 16th Floor, San Francisco, CA 94104

II. Project Description

On May 12, 2016, the Zoning Adjustments Board (ZAB) found the project at 1500 San Pablo Avenue consistent with the 2002 General Plan, the 1993 West Berkeley Plan, and the goals and policies of the underlying zoning districts. ZAB granted Use Permit #ZP2015-0043 to construct one, 5-story mixed-use building with 159 rental residential units and 5 commercial units on the West Berkeley Commercial District (C-W) portion of the lot and 11 townhome style units on the Limited Two-Family Residential District (R-1A) portion of the lot. This State Density Bonus project provides 16 on-site units affordable to Very Low Income (VLI) households and received 47 bonus units (included in the description above).

The Use Permit that ZAB approved was for rental housing. This Tentative Map application would permit the creation of ownership units; therefore, the City’s Health, Housing and Community Services Department (HHCS) will reassess fees for this project as they relate to the Affordable Housing Mitigation Fee (BMC 22.20.065), the Inclusionary Housing Ordinance (BMC 23C.12.070) and State Density Bonus (California Government Code Section 65915).

III. Analysis

A. Subdivision Map Act Consistency:

The Public Works Department has reviewed the form and content of the Tentative Tract Map and has verified that it meets the requirements of the Subdivision Map Act, including the subdivision number, the legal address of the legal owner or subdivider, sufficient legal description to define the boundary of the proposed

subdivision, the location, pavement and right of way width, grade and name of existing streets or highways, and the widths, location, and identity of all existing easements. The Public Works Department has determined that the Tentative Tract Map is suitable for review by the Planning Commission.

B. Tentative Maps Ordinance (BMC Chapter 21.16) Consistency:

The Planning Commission may approve, conditionally approve, or deny the Tentative Tract Map in accordance with BMC Section 21.16.047. According to this section of the BMC, the Planning Commission shall deny approval of the Tentative Tract Map if it makes any of the following findings. Staff provides analysis relating to whether the findings as follows.

- A: The proposed map is not consistent with the applicable general and specific plans.*
- B: The design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.*
- C. The site is not physically suitable for the proposed density of development.*

Staff Analysis: The subject property and proposed improvements were evaluated and found to be consistent with the General Plan and Zoning Ordinance as part of the Use Permit review. The density was found to be physically appropriate for the site and consistent with applicable zoning regulations in conjunction with the Use Permits issued by the ZAB on May 12, 2016. Therefore, staff does not believe that Findings A, B or C can be made and the project should be approved.

- D. The design of the subdivision or the type of the improvements is likely to cause environmental damage or substantially and avoidably injure fish, or wildlife, or their habitat.*
- E. The design of the subdivision or the type improvements is likely to cause serious public health problems.*

Staff Analysis: The potential for substantial environmental damage, or harm to fish and wildlife, or their habitat, or the likelihood of public health problems was evaluated when the Use Permits for the project were approved by the ZAB. This included review for exceptions to the CEQA Exemption for infill development. No potential environmental or public health impacts were found. Staff does not believe that Findings D or E can be made and the project should be approved.

- F. The project conflicts with existing public access easements, in accordance with Section 6674(g), of the Subdivision Map Act, which states: "That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that*

these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.”

Staff Analysis: The City’s Public Works Department has verified that the proposed subdivision will not conflict with any easements of record or with any easements established by judgment of a court, so the project should be approved.

G. The design of the subdivision does not provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

Staff Analysis: Subdivision of the project into condominiums will not alter passive or natural heating or cooling opportunities that may be included in the project or neighboring development because it is limited to the subdivision of an existing structure. Staff does not believe that Finding G can be made and the project should be approved.

C. Inclusionary Housing Requirements and Affordable Housing Mitigation Fee

This project, as approved by ZAB on May 12, 2016 (Use Permit #ZP2015-0043), provides 16 on-site rental units affordable to VLI households. This provision meets the requirements of State Density Bonus for rental projects. When units are sold as condominiums, Density Bonus will need to be recalculated for ownership units. Similarly, when units are sold as condominiums, the project will be subject to provisions of the Inclusionary Housing Ordinance (BMC 23C.12) for ownership units. This project is also subject to the provisions of BMC Section 22.20.065 (Affordable Housing Mitigation Fee) and partially meets these requirements with the 16 rental units affordable to VLI households. The HHCS Department will monitor and enforce the applicable provisions of the ordinances and regulations.

IV. Public Notice/Comment

BMC Section 21.16.045 requires public notice (see *Attachment 4*). Notice was provided as follows:

- Published in the Berkeley Voice on **January 3, 2020**;
- Posted at the subject property on **January 3, 2020**; and
- Mailed to the applicant and owner of the subject property and to owners and occupants of properties abutting upon or confronting 1500 San Pablo Avenue on **January 3, 2020**.

At the time of the writing of this report, no public comments have been received.

DISCUSSION AND NEXT STEPS

After reviewing this report, the Planning Commission will hold a Public Hearing, receive public comment, and vote to make a recommendation to City Council on Tentative Map #8533.

ATTACHMENTS

1. Draft Planning Commission Findings and Conditions
2. Tentative Tract Map #8533
3. Condominium Plans for Tentative Map #8533
4. Notice of Public Hearing

ATTACHMENT 1

FINDINGS AND CONDITIONS

JANUARY 15, 2020

CEQA FINDINGS

1. Construction of the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15332 of the CEQA Guidelines (“In-Fill Development Projects”) and the approval of the Tentative Map is also categorically exempt pursuant to Section 15331 of the CEQA Guidelines which involves the operations and permitting of existing facilities involving no expansion of use beyond prior approvals. 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 will not affect any historical resource.

TENTATIVE MAP FINDINGS

2. Pursuant to Berkeley Municipal Code Section 21.16.047, the Planning Commission cannot make any of the seven findings for denial of the Tentative Map for the following reasons:
 - A. The proposed Tentative Map is consistent with the General Plan and the West Berkeley Plan. The proposed map conforms to the standards of the General Plan for Avenue Commercial and Low Medium Density Residential designated properties, as set forth in the Land Use Element.
 1. The proposed Tentative Map supports a project that is consistent with Policy LU-3 Infill Development in that it supports infill development that adds 170 housing units, four live/work units and five commercial units in a location that is planned for mixed-use development.
 2. The proposed Tentative Map supports a project is consistent with Policy LU-25 Affordable Housing Development and Policy H-1 regarding Extremely Low, Very Low, Low and Moderate Income Housing in that the project adds 11% (or 16 units) affordable to “Very Low Income” households in a transit-oriented location.
 3. The proposed Tentative Map supports a project that is consistent with Policy LU-33 because it will further goals of revitalizing West Berkeley.
 - B. The design and improvement of the proposed subdivision is consistent with the City of Berkeley’s General Plan in that its street and parcel design are in conformance with applicable goals, policies and development standards and will provide adequate infrastructure and public utilities, as determined by Public Works Department in review of this application.

- C. The project site and proposed improvements were evaluated and found to be consistent with the General Plan and Zoning Ordinance, and the density was found to be physically suitable for the site and consistent with applicable zoning regulations, in conjunction with the Use Permits issued by the Zoning Adjustments Board on May 12, 2016.
- D. The project will not have negative environmental effects or substantially and avoidably injure fish or wildlife in their habitat since it is limited to the subdivision of condominium units in an approved building that was evaluated as part of the Use Permit to determine whether any of the exceptions to the CEQA Exemption for infill development relating to environmental damage or harm to fish and wildlife or their habitat, and none were found.
- E. The design of the subdivision or the proposed improvements will not likely cause serious health problems because it is a suitable residential infill location.
- F. The project will not conflict with any public access easements, as determined pursuant to a review by the Berkeley Public Works Department.
- G. The project will not alter passive or natural heating or cooling opportunities because it was designed to minimize impacts on solar access and minimize detrimental shadows to existing buildings adjacent to the subject property as determined as part of the Use Permit approval process.

STANDARD CONDITIONS

1. The Final Map shall be submitted for certification and shall be recorded in compliance with the *Berkeley Municipal Code*, Title 21, and with the *Subdivision Map Act* of the State of California.
2. Prior to approval of the Final Tract Map, an Affordable Housing Agreement shall be entered into with the City's Housing Department that specifies the number, location, and pricing of units that will be affordable in accordance State Density Bonus Law and the Inclusionary Housing Ordinance (BMC 23C.12.070) and shows compliance with Berkeley's Affordable Housing Mitigation Fee (BMC 22.20.065), as applicable.
3. The *Standard Conditions of Approval for All Subdivisions, New Condominiums and Commercial Condominium Conversions within the City of Berkeley*, dated January 1994, applies and shall be satisfied prior to approval of the Final Map (see Exhibit A to this Attachment).
4. A copy of the Conditions, Covenants, and Restrictions shall be filed with the Planning and Development Department prior to approval of the Final Map.

STANDARD CONDITIONS OF APPROVAL FOR ALL LAND SUBDIVISIONS, NEW
CONDOMINIUMS AND COMMERCIAL CONDOMINIUM CONVERSIONS WITHIN
THE CITY OF BERKELEY

SECTION I: GENERAL

A. Sidewalk, Driveway, Curb and Gutter Repair:

Missing, damaged, deteriorated or non-standard sidewalk, driveway, curbing and/or gutter, adjacent to the subdivision, shall be replaced to the standards and approval of the Department of Public Works. In the event that such replacement causes any survey markers, either set under surveys performed in conjunction with this subdivision or by some other survey, to be moved or obliterated, such marks shall be replaced, after the installation of the new concrete, and such replacement shall be attested to in writing by the project engineer/surveyor.

B. Street Repair:

Missing, badly pot-holed, alligatored, or similarly substandard streets, adjacent to or contiguous with the subdivision shall be constructed or reconstructed to City standards and shall be subject to the approval of the Department of Public Works.

C. Drainage:

No drainage of surface or intercepted ground waters into the sanitary sewer system will be allowed. Existing non-conforming systems (including roof, yard, or interior drains) shall be disconnected, sealed, and the flow redirected into the existing storm water drainage system in accordance with the standards of the Department of Public Works (Ordinance No.: 5030 N.S.).

D. All drainage shall be designed to comply with the City's clean water ordinance (Ordinance No.: 6216 N.S.).

E. Drain Structures:

Existing drainage facilities (including catch basins, drain culvert inlets, storm drains, culverts, and sanitary sewers) altered by any work done in connection with this subdivision shall be restored in accordance with design and construction standards in use by the Department of Public Works at the time of such new construction.

F. Encroachments:

All encroachments into the public right-of-way shall be removed, unless an encroachment permit is obtained through the Department of Public Works (Ordinance No.: 5514 N.S.).

G. Underground Structures:

Underground fuel tanks or other private subsurface structures, within the public right-of-way, which are not in use, shall be removed. If the fuel tank currently is in use, the subdivider shall request the City of Berkeley Fire Department to test it. Such testing shall be at the expense of the subdivider. If the test results are found to be satisfactory, the subdivider shall apply for an underground fuel tank permit (if one does not exist). If the test results are unsatisfactory, the tank shall be promptly removed by the subdivider.

H. Utilities and Service Lines:

1. The subdivider shall be responsible for relocating all underground and/or overhead utilities or service lines which may serve adjacent properties and which cross over, under or through the ground or airspace of the proposed subdivision. In lieu of relocating such utilities or aerial service lines, the subdivider may provide appropriate easements. If existing utilities or service lines cross beneath a house or other structure (proposed or existing), such utilities or services must be relocated in accordance with the standards and approval of the Department of Public Works.
2. Applicant shall install all utilities requiring trenching in streets scheduled for repaving (list of such streets is attached) prior to the actual street paving. Applicant is directed to contact the various utilities several months in advance prior to trenching so that they can obtain all required permits. Failure to perform such trenching prior to paving may result in denial of an excavation permit by the Director of Public Works and will result in imposition of additional trenching and pavement restoration requirements.

I. Weeds, Debris, etc.:

Noxious weeds, shrubs, debris, etc., must be removed from the public right-of-way along the frontage of the subdivision.

J. Geological Report:

Subdivisions within the Seismic Special Study Zone must provide a geological report approving the new lots for their intended use.

K. City Monuments:

When there is no existing City monumentation in the immediate area of the subdivision, where required by state law or as directed by the Department of Public Works, the subdivider shall have such monuments constructed and established in conformance with the standards and approval of the Department of Public Works. Such work shall be done by the subdivider's appropriately licensed Engineer or Surveyor, and such monuments shall be verified by the Engineering Division of the City of Berkeley, at the sole expense of the subdivider.

L. Street Trees:

When, required by the Planning Commission or the City Council, all trees required to be planted within the public right-of-way along with their method of planting, shall be subject to the approval of the Department of Public Works, Parks/Marina Superintendent.

M. Additional Conditions:

In addition to the above standards, additional conditions of approval may be imposed by the Board of Adjustments, the Planning Commission, or the City Council to reflect circumstances associated with specific properties.

N. Final Map:

The final map shall be certified and recorded in compliance with the City of Berkeley Municipal Code Title 21, and with the Subdivision Map Act of the State of California.

General Note:

When any work is required to the "standards and approval of the Department of Public Works," such work must be inspected and/or verified by the Department of Public Works and a written release of such requirements obtained by the subdivider.

Section II: New Condominiums

In addition to the requirements of Section I above, if the subdivision is a new condominium, the following standards shall apply:

A. Smoke Detectors and RECO Requirements:

When new building are to be constructed, such buildings shall meet the City of Berkeley Residential Energy Conservation Ordinance (RECO) requirements, and each unit within the building shall be equipped with the smoke detectors.

B. New Sanitary Lateral:

When a new sanitary sewer lateral line is to be installed, any existing lateral lines shall be located and sealed at the sanitary sewer main in accordance with the standards and requirements of the Department of Public Works. New lateral(s) shall have a cleanout installed immediately at the back of the curb.

C. Existing Sewer Lateral:

If re-use of an existing sanitary lateral is desired, the lateral must satisfy an approved pressure test, as determined by the City Engineer.

D. Conditions, Covenants, and Restriction:

A copy of the Conditions, Covenants, and Restrictions (C.C. & R's) shall be filed with the Department of Public Works prior to approval of the Final Map.

E. Tentative and Final Parcel Maps:

A map of the interior division of the building showing both the horizontal and vertical boundaries of all units shall be provided so that deeds can be written without ambiguity as to location. The interior division map may be in the form of attachments to the C.C. & R's and recorded therewith. If they are in attachment form, a copy thereof is required to be filed with the Department of Public Works.

F. Final Map:

The final map shall show all common areas of usage of the building and grounds and shall conform to the provisions of the City of Berkeley Municipal Code, Title 21.

G. City Access to Common Areas:

The City reserves the right to enter common areas of the condominium to abate public nuisances and to charge the cost of such abatement to the condominium association.

Section III: COMMERCIAL OR INDUSTRIAL CONDOMINIUM CONVERSIONS

In addition to Section I, above, if the subdivision is a Condominium Conversion, the following standards shall apply:

A. Tenant Provisions

Commercial or industrial condominium conversions shall comply with the following tenant provisions:

1. A notice of intent to convert shall be delivered to each at least sixty (60) days prior to filing a tentative map. Evidence of receipt by each tenant shall be submitted with the tentative or parcel map. The form of the notice shall be developed and approved by the Planning Director. It shall inform the tenants of all rights provided under this chapter and the Subdivision Map Act.

2. Any present tenant or tenants of any unit shall be given a non-transferable right of first refusal to purchase the unit occupied at a price no greater than the price offered to the general public. The right of first refusal shall extend for at least ninety (90) days from the date of issuance of the subdivision public report or sixty (60) days from the commencement of sales, which date is later.
3. Each non-purchasing tenant not in default under the obligations of the rental agreement or lease under which he occupies his unit shall have not less than one hundred and twenty (120) days from the approval date of the final subdivision or parcel map to find substitute facilities and relocate. The subdivider shall notify each tenant immediately prior to the time of the final map or parcel map approval of the anticipated date required to vacate the unit and when the 120-day period will begin. Evidence of receipt by each tenant shall be submitted prior to approval of the final map.
4. After submittal of the tentative or parcel map, any prospective tenants shall be notified in writing of the intent to convert prior to leasing or renting any unit.

B. Code Conformance, Smoke Detectors, and RECO Requirements:

The buildings involved shall be brought into conformance with the Plumbing, Electrical, Housing, and Uniform Building Codes, including sound conformance standards, and with the Residential Energy Conservation Ordinance (RECO) requirements. Each unit shall also be equipped with a smoke detector. These requirements shall be satisfied prior to approval of the final map or a subdivision improvement agreement, which is satisfactory to the Department of Public Works, which guarantees that such conformance has been executed by the subdivider.

C. Conditions, Covenants, and Restrictions:

A copy of the Conditions, Covenants, and Restrictions (C.C. & R's) shall be filled with the Department of Public Works prior to approval of the final map.

D. Tentative and Final Parcel Maps:

A map of the interior division of the building(s) showing both the horizontal and vertical boundaries of all the units shall be provided so that deeds can be written without ambiguity as to location. The interior division map may be in the form of attachments to the C.C. & R's and recorded therewith. If the interior division maps are in attachment form, a copy thereof is required to be filled with the Department of Public Works.

E. Notice of Decision:

The subdivider shall furnish each prospective buyer with a copy of the Planning Commission's Notice of Decision approving the Tentative Map.

F. Final Map:

The Final Map shall show all common areas and usage of the building grounds and shall conform to the provisions of the Berkeley Municipal Code, Title 21.

G. Existing Lease:

Existing leases will be honored until expiration, with the subdivider or purchaser being responsible for owner association dues or for assessments imposed as a result of the conversion.

H. City Access to Common Areas:

The City reserves the right to enter common areas of the condominium to abate public nuisances and to charge the cost of abatement to the condominium association.

STORMWATER CONDITIONS OF APPROVAL

Discharges from the City of Berkeley's stormwater system are regulated under a National Pollutant Discharge Elimination System (NPDES) permit. The permit requires that the City emphasize source controls for all construction work within its jurisdiction. To comply with this requirement, the City requires all construction projects to employ appropriate best management practices (BMP's) during construction and throughout the life of the development, and incorporate permanent stormwater quality controls, as appropriate to minimize impacts on water quality. The water quality includes both pollutant and flow concerns. To comply with the NPDES permit, the City adopted its stormwater ordinance, as promulgated in Berkeley Municipal Code (BMC) Chapter 17.20. Following are items which must be implemented for your project, in order to meet the requirements of the NPDES permit and BMC Chapter 17.20.

The project plans shall identify and show site-specific BMP's appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.

The project plan shall include erosion control measures to prevent soil, dirt, and debris from entering the storm drain system, in accordance with BMC Chapter 17.20, examples of which are outlined in the *ABAG Erosion and Sediment Control Handbook*, *California Storm Water Best Management Practice Handbooks*, *Regional Water Quality Control Board's Erosion and Sediment Control Field Manual*. The applicant is responsible for ensuring that all contractors and subcontractors are aware of, and implement, all stormwater quality and pollution control measures. Failure to employ appropriate measures to prevent stormwater pollution and protect stormwater quality shall result in the issuance of correction notices, citations, or a project stop order.

Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval, and conditions of the City of Berkeley and EBMUD.

Landscaping shall be designed with efficient irrigation to reduce runoff and promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.

Design, location, and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.

All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.

All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless such facilities are accepted by the City by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.

ALAMEDA COUNTYWIDE CLEAN WATER PROGRAM

Project Worksheet for Permanent Stormwater Quality Controls

Project Name:	
Location:	
Description:	
Total Project Area:	Area Soil Disturbed:
Completed by: (include name, title, company)	Date:

Select one of the following that best describes your development project.

Low and Medium Density, Single-family Residential Complete Section A

High Density, Multi-family Residential Complete Section B and C

Residential Infill and Redevelopment Project Complete Section B and C

Commercial/Industrial Development and Redevelopment Complete Sections B, C, and G

Institutional Development and Redevelopment or Roadwork Complete Sections B, C, and G

Development projects must include site planning and design techniques to prevent and minimize impacts to water quality. If sufficient site planning measures are not implemented or not feasible, development projects must include permanent (post construction) stormwater quality controls.

A. Required or Alternative Controls for Low and Medium Density, Single-Family Residential – Check that you have incorporated the following site planning and design techniques into your project.

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Minimized directly connected impervious area. If yes, describe how: (check all that apply)
		<input type="checkbox"/> roof drains to pervious areas
		<input type="checkbox"/> vegetated filter strips, grassed swales and biofilters, or other infiltrative landscaping
		<input type="checkbox"/> porous pavement
		<input type="checkbox"/> modular pavement or other permeable materials
		<input type="checkbox"/> other: _____
<input type="checkbox"/>	<input type="checkbox"/>	Minimized disturbed area
<input type="checkbox"/>	<input type="checkbox"/>	Used clustering
<input type="checkbox"/>	<input type="checkbox"/>	Preserved quality open space
<input type="checkbox"/>	<input type="checkbox"/>	Maintained, restored if possible, riparian areas and wetlands

• If you responded "no" to any of the above, complete Section D. Otherwise, you are done.

B. Required or Alternative Controls for Other Types of Projects – Check that you have incorporated the following site planning and design technique into your project.

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Minimized directly connected impervious area. If "yes", describe how: (check all that apply)
		<input type="checkbox"/> roof drains to pervious areas
		<input type="checkbox"/> vegetated filter strips, grassed swales and biofilters, or other infiltrative landscaping
		<input type="checkbox"/> porous pavement
		<input type="checkbox"/> modular pavement or other permeable materials
		<input type="checkbox"/> other: _____

• If you responded "no", complete Sections C and D. If you responded "yes", complete Section C.

Project Worksheet for Permanent Stormwater Quality Controls

Project Name: _____

C. Controls Where Feasible – Check what site planning and design techniques you have incorporated into your project.

- | Yes | Not Feasible | |
|--------------------------|--------------------------|---------------------------------------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Minimized disturbed area |
| <input type="checkbox"/> | <input type="checkbox"/> | Used clustering |
| <input type="checkbox"/> | <input type="checkbox"/> | Preserved quality open space |
| <input type="checkbox"/> | <input type="checkbox"/> | Maintained, restored if possible, riparian areas and wetlands |
| <input type="checkbox"/> | <input type="checkbox"/> | Other: |

• If you responded "not feasible" to any of the above, complete Section D.

D. Constructed on-Site Treatment Controls

- | Yes | Not Feasible | | Attach | <input type="checkbox"/> | Maintenance plan |
|--------------------------|--------------------------|------------------------------------|--------------------------|--------------------------|------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Grass swales and biofilters | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Infiltrative landscaping | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Porous pavement and modular pavers | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Other: | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |

• If you responded "not feasible" to any of the above, complete Section E.

E. Constructed Downstream Treatment Controls

If none of the on-site drainage and treatment controls is feasible or sufficient, select the downstream treatment control your project will implement.

- | Yes | Not Feasible | | Attach | <input type="checkbox"/> | Maintenance plan |
|--------------------------|--------------------------|-------------------------|--------------------------|--------------------------|------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Extended dry detention | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Constructed wetlands | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Vegetated filter strips | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Bioretention systems | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Wet ponds | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Sand Filters | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Other: | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |

• If you responded "not feasible" to all of the above, complete Section F.

F. Manufactured Treatment Controls

- | | | | | |
|--------------------------|----------------------------|--------|--------------------------|------------------------------------------------------|
| <input type="checkbox"/> | Storm drain inlet filters. | Attach | <input type="checkbox"/> | Explanation why this is the only feasible option and |
| | | | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | Oil/sediment separators. | Attach | <input type="checkbox"/> | Explanation why this is the only feasible option and |
| | | | <input type="checkbox"/> | Maintenance plan |

Other: _____

Explain how this control is appropriate for the pollutant load expected in stormwater runoff from this project:

- | | | |
|--------|--------------------------|------------------------------------------------------|
| Attach | <input type="checkbox"/> | Explanation why this is the only feasible option and |
| | <input type="checkbox"/> | Maintenance plan |

Project Worksheet for Permanent Stormwater Quality Controls

Project Name: _____

To the extent possible, pollution prevention controls for commercial/industrial development and redevelopment projects must also be considered during site planning and design. Outdoor activity areas must be designed so that no non-stormwater (e.g., washwaters, automotive and equipment fluids, garbage fluids, etc.) discharges to the storm drain. These outdoor activity areas must also be protected from run-on and run-off to minimize pollutant exposure to rain.

G. Pollution Prevention Controls for Commercial/Industrial Development and Redevelopment

Check that you have incorporated appropriate control measures to eliminate non-stormwater discharges from the following outdoor activity areas. Attach description.

NOTE: If pollution prevention controls are not included with the project application, agency staff can require additional controls as Conditions for Approval.

Yes	No	NA	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Manufacturing and Process Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Material Storage and Transfer Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Waste Storage and Disposal Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Vehicle and Heavy Equipment Storage and Maintenance Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wash Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rooftop Equipment

Check that you have incorporated appropriate control measures to minimize pollutant exposure from the following outdoor activity areas. Attach description.

Yes	No	NA	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Manufacturing and Process Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Material Storage and Transfer Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Waste Storage and Disposal Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Vehicle and Heavy Equipment Storage and Maintenance Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wash Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rooftop Equipment

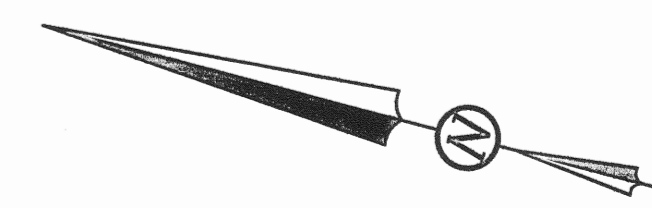
VESTING TENTATIVE TRACT MAP

S14°33'55"E 444.47' (444.45') R2

440.13'
SAN PABLO AVENUE (100' WIDE)

CITY MONUMENT B0686
 BRASS DISC WITH PUNCH

4.34' R2
 CITY MONUMENT B0625
 BRASS DISC WITH PUNCH

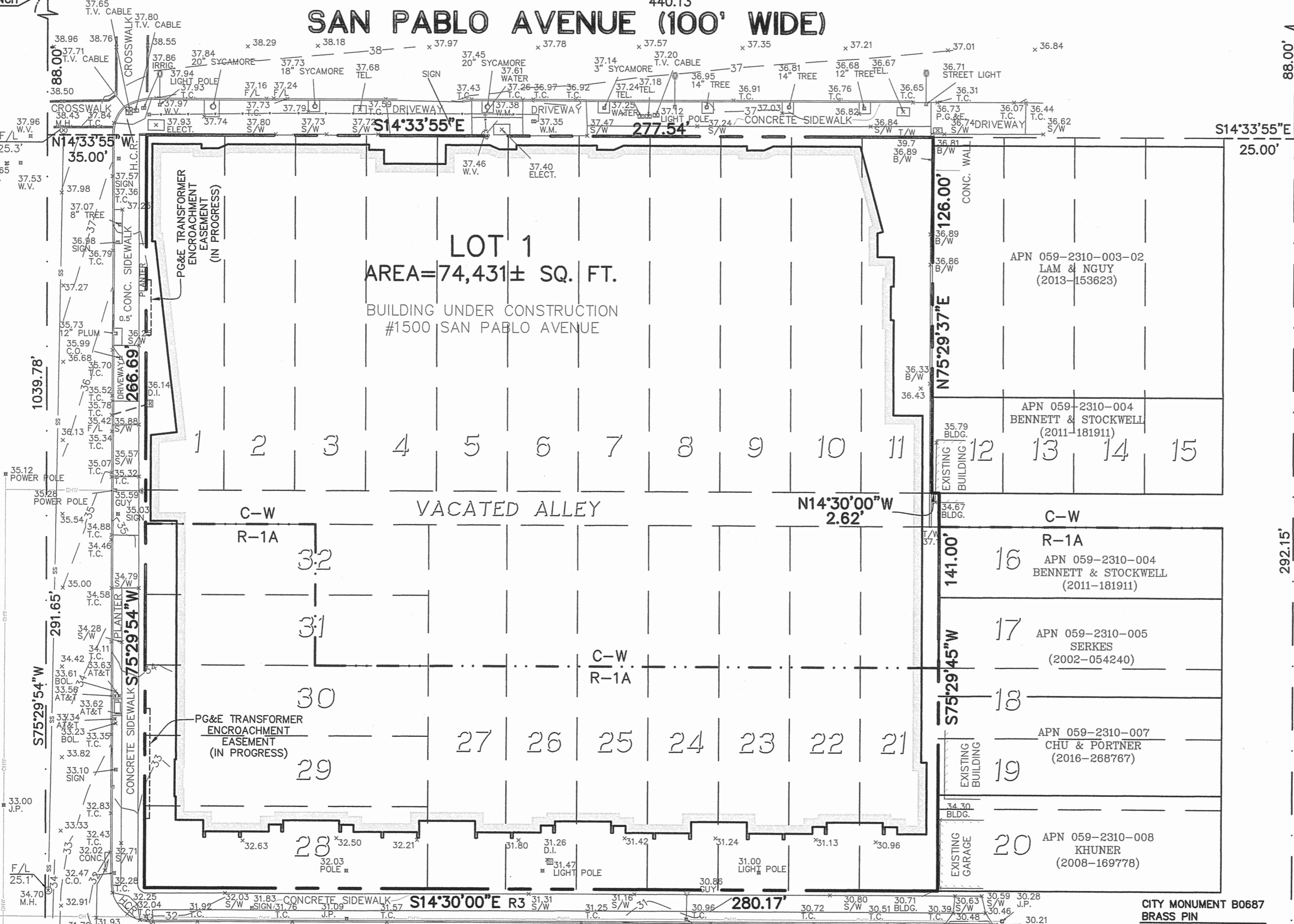


LEGEND

- A/C ASPHALT/CONCRETE
- BLDG. BUILDING
- B/W BASE OF WALL
- BOL. BOLLARD
- C.O. CLEAN OUT
- CONC. CONCRETE
- D.I. DRAIN INLET
- D/W DRIVEWAY
- ELECT. ELECTRIC
- F.F. FINISH FLOOR
- F.H. FIRE HYDRANT
- F/L FLOW LINE
- H.C.R. HANDICAP RAMP
- IRR. IRRIGATION
- J.P. JOINT POLE
- M.H. MANHOLE
- OHW OVERHEAD WIRE
- SS SANITARY SEWER
- S/W SIDEWALK
- T.C. TOP OF CURB
- TEL. TELECOMMUNICATIONS
- T/W TOP OF WALL
- W. WATER
- W.M. WATER METER
- W.V. WATER VALVE
- BUILDING LINE
- ⊙ FOUND CITY MONUMENT IN STANDARD CASING AS NOTED
- PARCEL MAP BOUNDARY
- EXISTING PARCELS / RIGHT OF WAY LINES
- ORIGINAL LOT LINES
- MONUMENT LINES
- MONUMENT TIE LINES
- ZONING BOUNDARY PER CITY PLANNING DEPT.

JONES STREET (60' WIDE)

CEDAR STREET (60' WIDE)
 (FORMERLY HOLYOKE STREET)



NOTES:
 PER EXCEPTIONS TO COVERAGE LISTED IN THE FIRST AMERICAN TITLE INSURANCE COMPANY PRELIMINARY TITLE REPORT, DATED AUGUST 20, 2019:
 - A NON-EXCLUSIVE EASEMENT EXISTS OVER THE PROPERTY IN GROSS AND RIGHT-OF-WAY FOR A BROADBAND COMMUNICATIONS SYSTEM AND INCIDENTAL PURPOSES PER INSTRUMENT NO. 2019-158185, ALAMEDA COUNTY OFFICIAL RECORDS.
 - UTILITIES EASEMENTS WITHIN THE VACATED ALLEY, IF ANY EXIST.

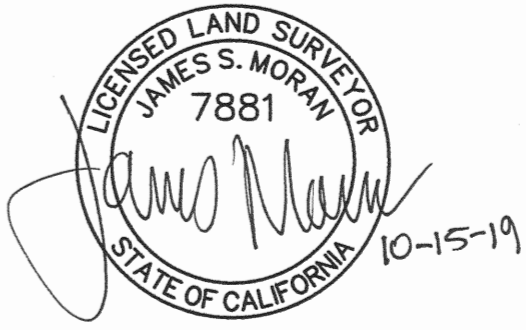
A ONE LOT SUBDIVISION FOR CONDOMINIUM PURPOSES

LOTS 1-11 & 21-32 AND A PORTION OF VACATED ALLEY, BLOCK 60, MAP OF TRACT "B" OF THE BERKELEY LAND AND TOWN IMPROVEMENT ASSOCIATION (19 M 79) CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA
 OCTOBER 2019 SCALE: 1" = 30

MORAN ENGINEERING, INC.

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

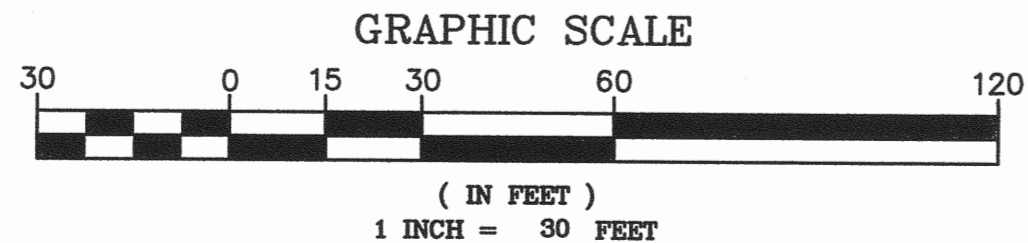
T.M. 8533



USE:
 PREVIOUS: COMMERCIAL BUILDING
 PROPOSED: 5 COMMERCIAL UNITS,
 170 RESIDENTIAL UNITS

OWNER/SUBDIVIDER:
 1500 SAN PABLO, LLC
 c/o SHORENSTEIN RESIDENTIAL LLC
 235 MONTGOMERY STREET, 16TH FLOOR
 SAN FRANCISCO, CA 94104

- REFERENCES:**
- R1 TRACT "B" BERKELEY L.T.I. ASSOC. (19 M 79)
 - R2 CITY MONUMENT CARD A58
 - R3 ASSESSOR'S MAP BOOK 59 PAGE 2331



BASIS OF BEARINGS:
 THE EASTERN RIGHT-OF-WAY OF TENTH STREET WAS TAKEN AS NORTH 14°30'00" WEST AS SHOWN ON ASSESSOR'S MAP 059-2331 (R3).

BENCHMARK:
 ELEVATIONS ARE BASED ON CITY OF BERKELEY DATUM. THE BRASS PIN IN MONUMENT WELL (B0623) AT THE INTERSECTION OF CEDAR AND 10TH STREETS WAS TAKEN AS ELEVATION=29.35 FEET PER CITY OF BERKELEY ENGINEERING RECORDS.

EXHIBIT "A"

NOTES AND DEFINITIONS:

1. THIS PROJECT IS LOCATED IN LOT 1 OF TRACT MAP 8533, IN THE CITY OF BERKELEY, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK ____ , PAGES ____-____ OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER. THIS PROJECT IS COMPOSED OF ASSOCIATION PROPERTY (AP), COMMON AREA, 5 COMMERCIAL UNITS AND 170 RESIDENTIAL UNITS.
2. THE CONDOMINIUM DELINEATED HEREIN IS SUBJECT TO THE PROVISIONS OF THE DAVIS-STIRLING COMMON INTEREST DEVELOPMENT ACT, PART 5, DIVISION FOUR OF THE CIVIL CODE.
3. THIS PLAN AND THE DIMENSIONS SHOWN HEREIN ARE INTENDED TO CONFORM TO CIVIL CODE SECTIONS 4285(a) AND 4285(b), WHICH REQUIRES A THREE DIMENSIONAL DESCRIPTION OF THE PROJECT IN SUFFICIENT DETAIL TO IDENTIFY THE COMMON AREAS AND EACH SEPARATE INTEREST. THE DIMENSIONS SHOWN HEREIN ARE NOT INTENDED TO BE SUFFICIENTLY ACCURATE TO USE FOR THE COMPUTATION OF FLOOR AREA OR AIR SPACE VOLUME IN ANY OR ALL OF THE UNITS.
4. THE DIAGRAMMATIC PLANS INTENTIONALLY OMIT DETAILED INFORMATION OF INTERNAL PARTITIONING WITHIN INDIVIDUAL UNITS. LIKewise, SUCH DETAILS AS PROTRUSIONS OF VENTS, BEAMS, COLUMNS, WINDOW CASINGS, AND OTHER SUCH FEATURES ARE NOT INTENDED TO BE REFLECTED ON THIS PLAN.
5. THE ASSOCIATION PROPERTY IS ALL OF THE LAND AND REAL PROPERTY INCLUDED WITHIN THE BOUNDARY LINES OF SAID LOT 1, EXCEPT THOSE PORTIONS SHOWN AND DEFINED HEREIN AS COMMON AREA AND CONDOMINIUM UNITS.
6. FOR ALL OTHER DEFINITIONS REFER TO THE "DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF 1500 SAN PABLO."
7. IF THERE ARE ANY MATTERS OF CONFLICT OR INCONSISTENCIES BETWEEN THIS CONDOMINIUM PLAN AND THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, THEN THE PROVISIONS OF THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS SHALL PREVAIL.
8. ALL DIMENSIONS ARE IN FEET AND DECIMALS OF A FOOT.
9. BENCHMARK: ELEVATIONS ARE BASED ON CITY OF BERKELEY DATUM. THE BRASS PIN IN MONUMENT WELL (B0623) AT THE INTERSECTION OF CEDAR AND 10TH STREETS WAS TAKEN AS ELEVATION=29.35 FEET PER CITY OF BERKELEY ENGINEERING RECORDS.

ENGINEER'S STATEMENT

I HEREBY STATE THAT I AM A LICENSED LAND SURVEYOR OF THE STATE OF CALIFORNIA AND THAT THIS PLAN CONSISTING OF 15 SHEETS WAS PREPARED UNDER MY SUPERVISION AND IS BASED UPON THE ARCHITECTURAL PLANS PREPARED BY PYATOK ARCHITECTS, AND IS A DESCRIPTION OF A CONDOMINIUM PROJECT WHICH REFERS TO THE BUILDING PERIMETERS ON THE GROUND AND A THREE DIMENSIONAL DESCRIPTION OF THE PROJECT IN SUFFICIENT DETAIL TO IDENTIFY THE COMMON AREAS AND EACH SEPARATE INTEREST PURSUANT TO THE REQUIREMENTS OF CALIFORNIA CIVIL CODE SECTION 4285 (a)&(b).

JAMES S. MORAN, LS 7881

DATE

CONDOMINIUM PLAN FOR 1500 SAN PABLO

LOT 1
TRACT MAP 8533 (____ M ____)
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA

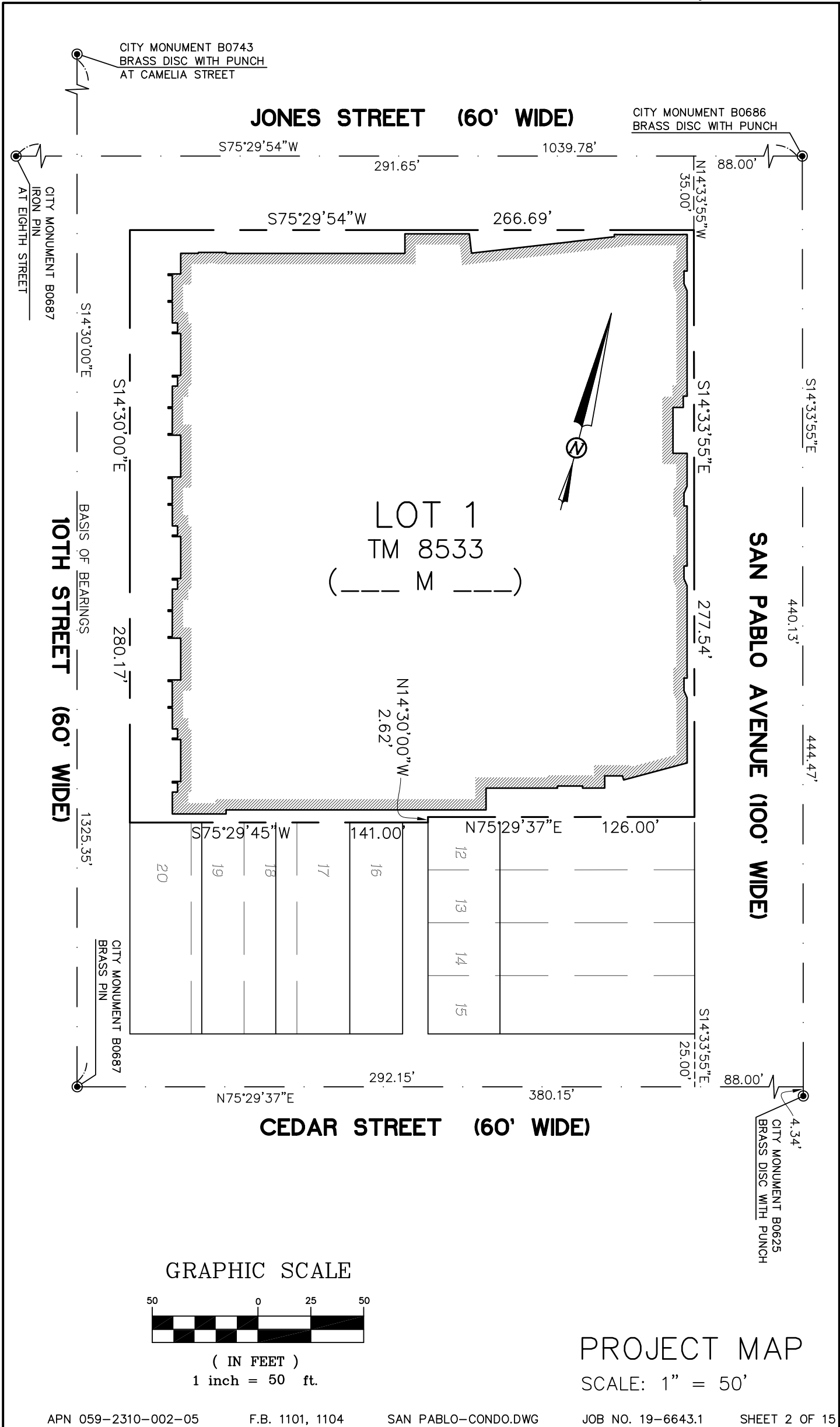
OCTOBER 2019

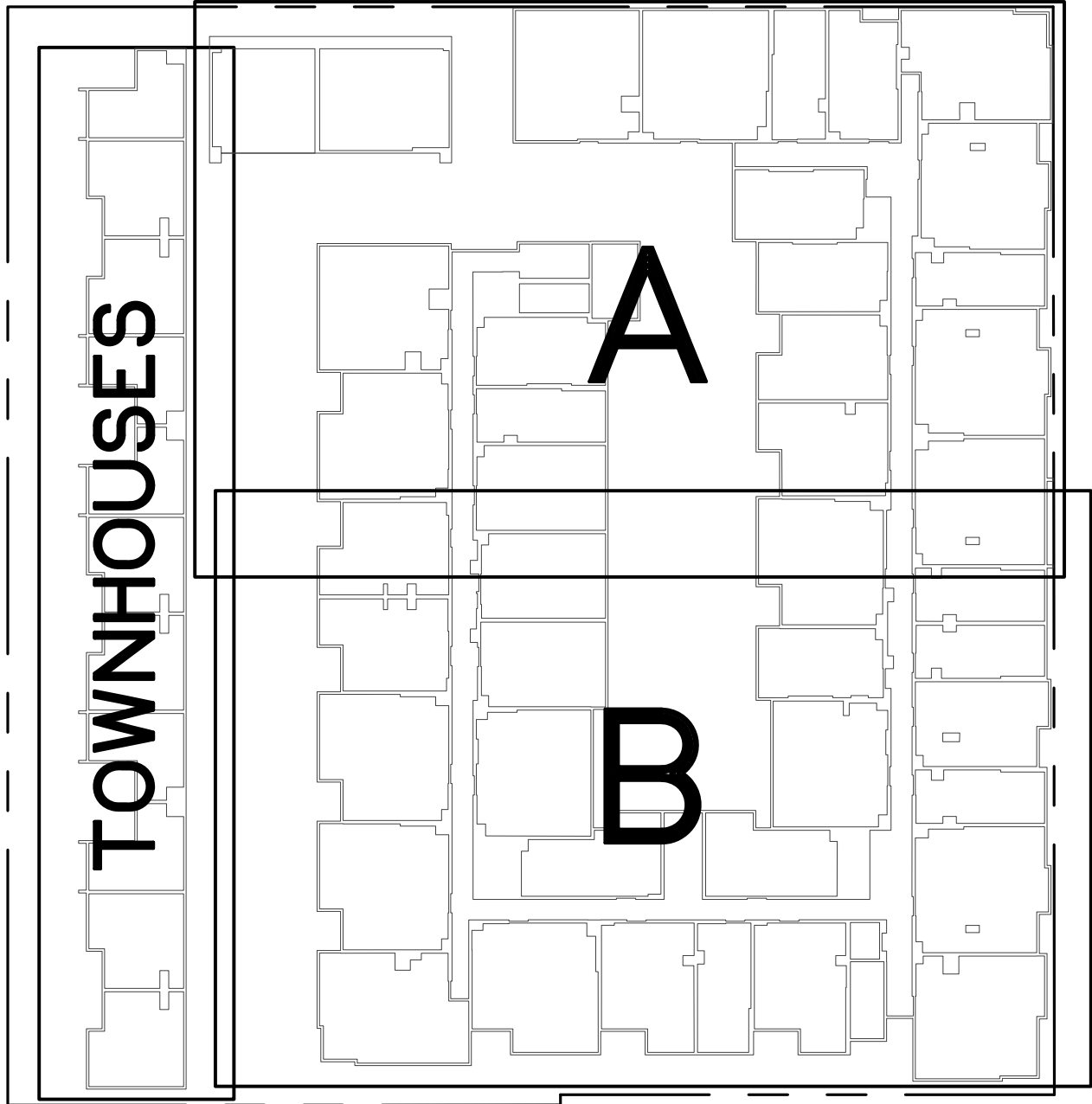
OWNER

1500 SAN PABLO, LLC
c/o SHORENSTEIN RESIDENTIAL LLC
235 MONTGOMERY STREET, 16TH FLOOR
SAN FRANCISCO, CA 94104

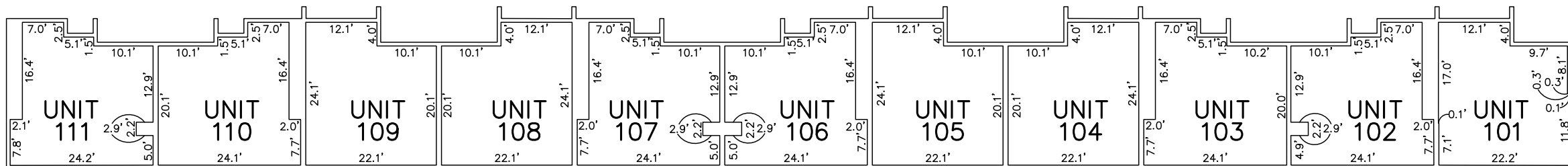
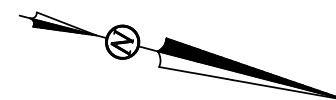
ENGINEER

MORAN ENGINEERING, INC.
1930 SHATTUCK AVENUE, SUITE A
BERKELEY, CA 94704
(510) 848-1930

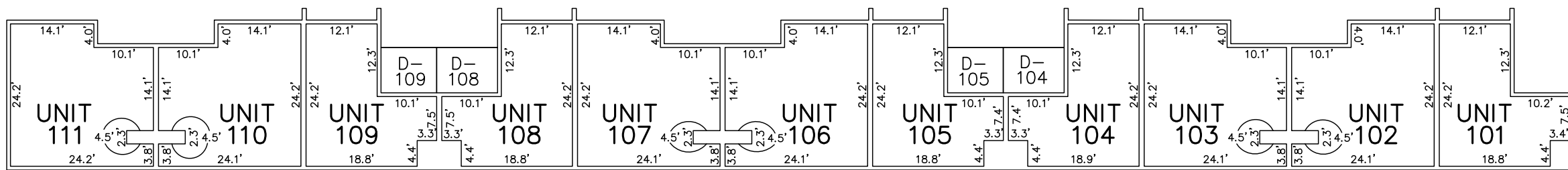




LEVELS
SHEET INDEX
SCALE: 1" = 40'



FIRST LEVEL



SECOND LEVEL

LEGEND

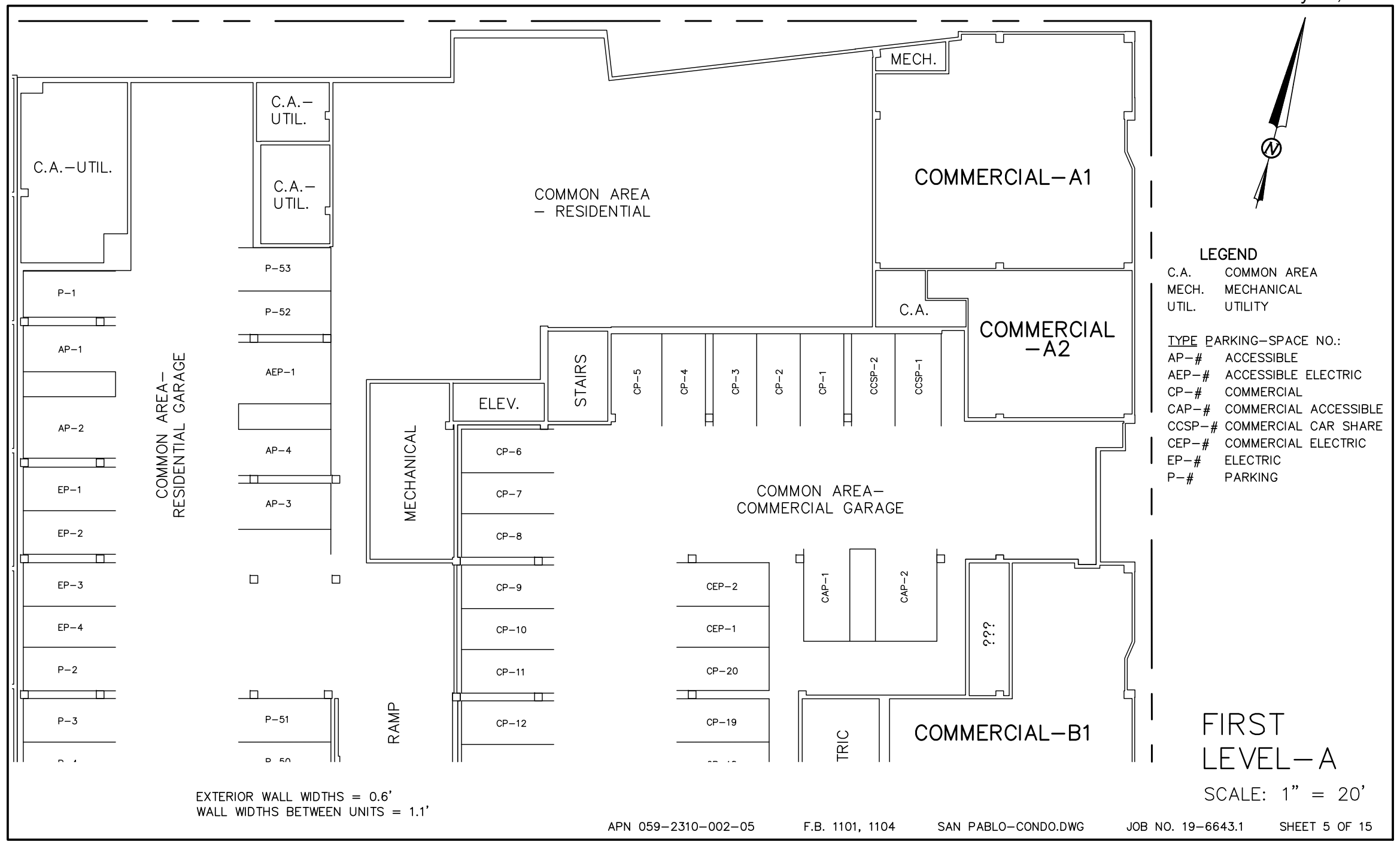
- L.E. LOWER ELEVATION
- U.E. UPPER ELEVATION
- U.O.N. UNLESS OTHERWISE NOTED
- ELEVATION CHANGE
- — BUILDING LINE ABOVE

U.E.=57.2
 L.E.=AS NOTED

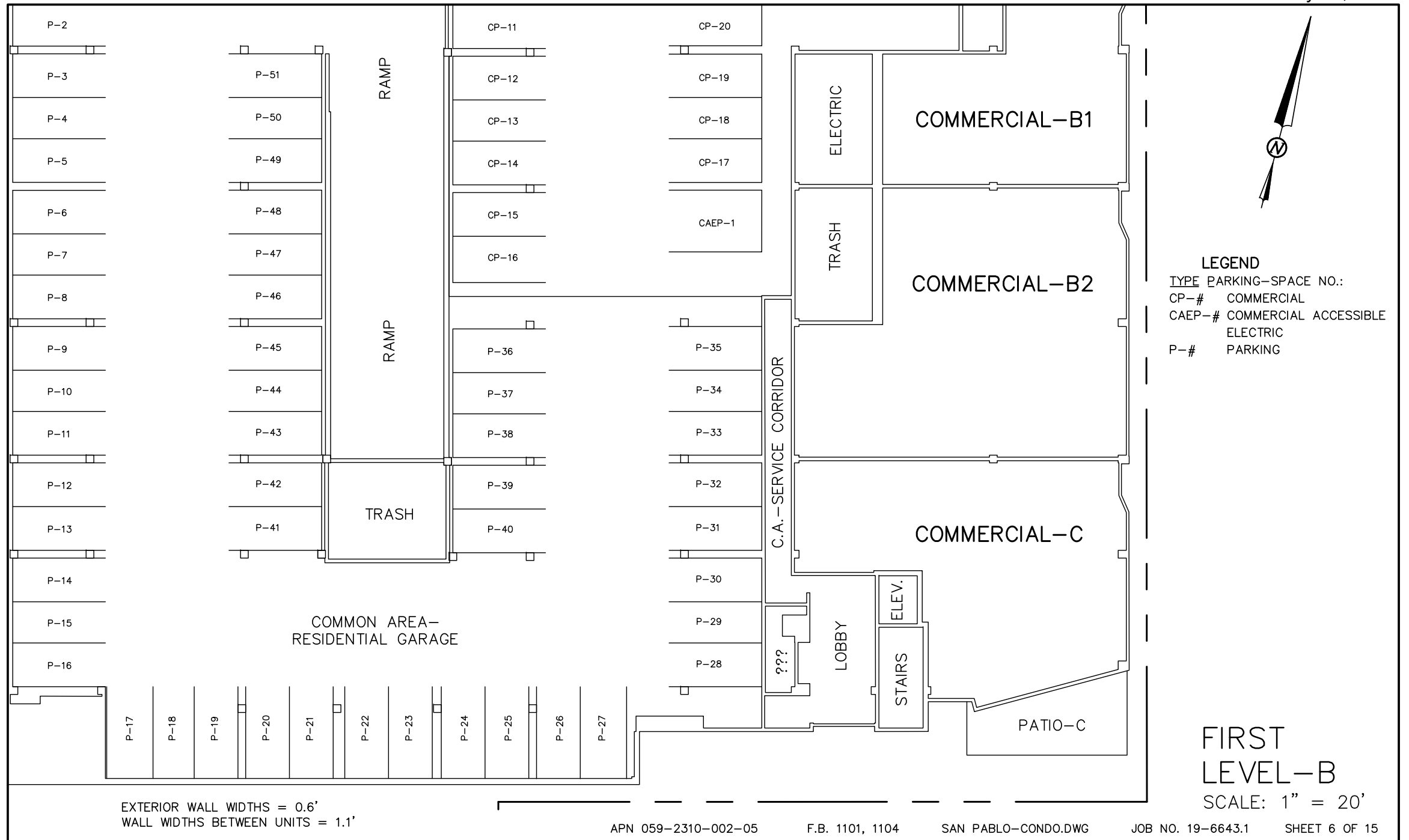
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 WALL WIDTHS BETWEEN UNITS = 1.1'

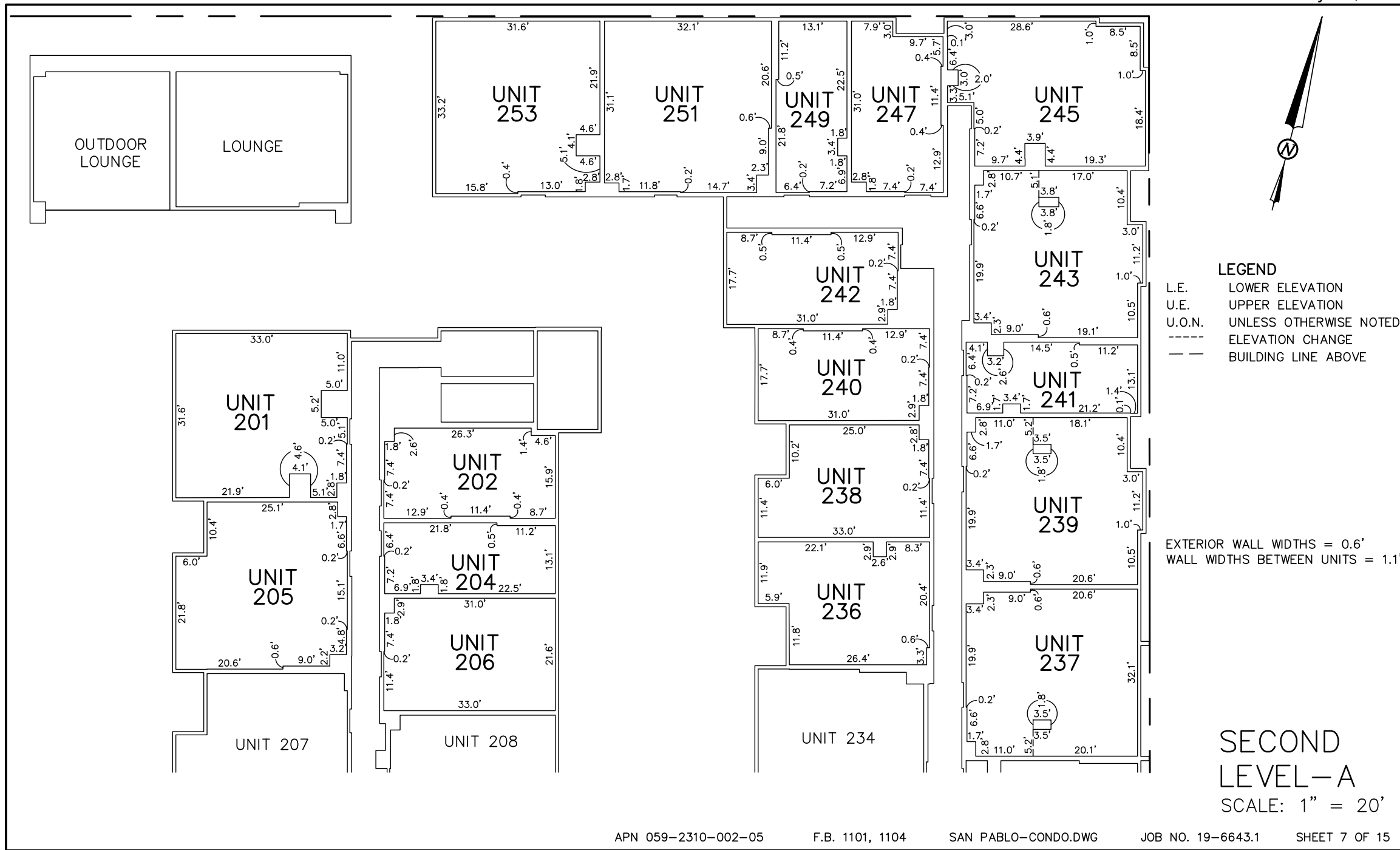
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 D-# DECK-UNIT

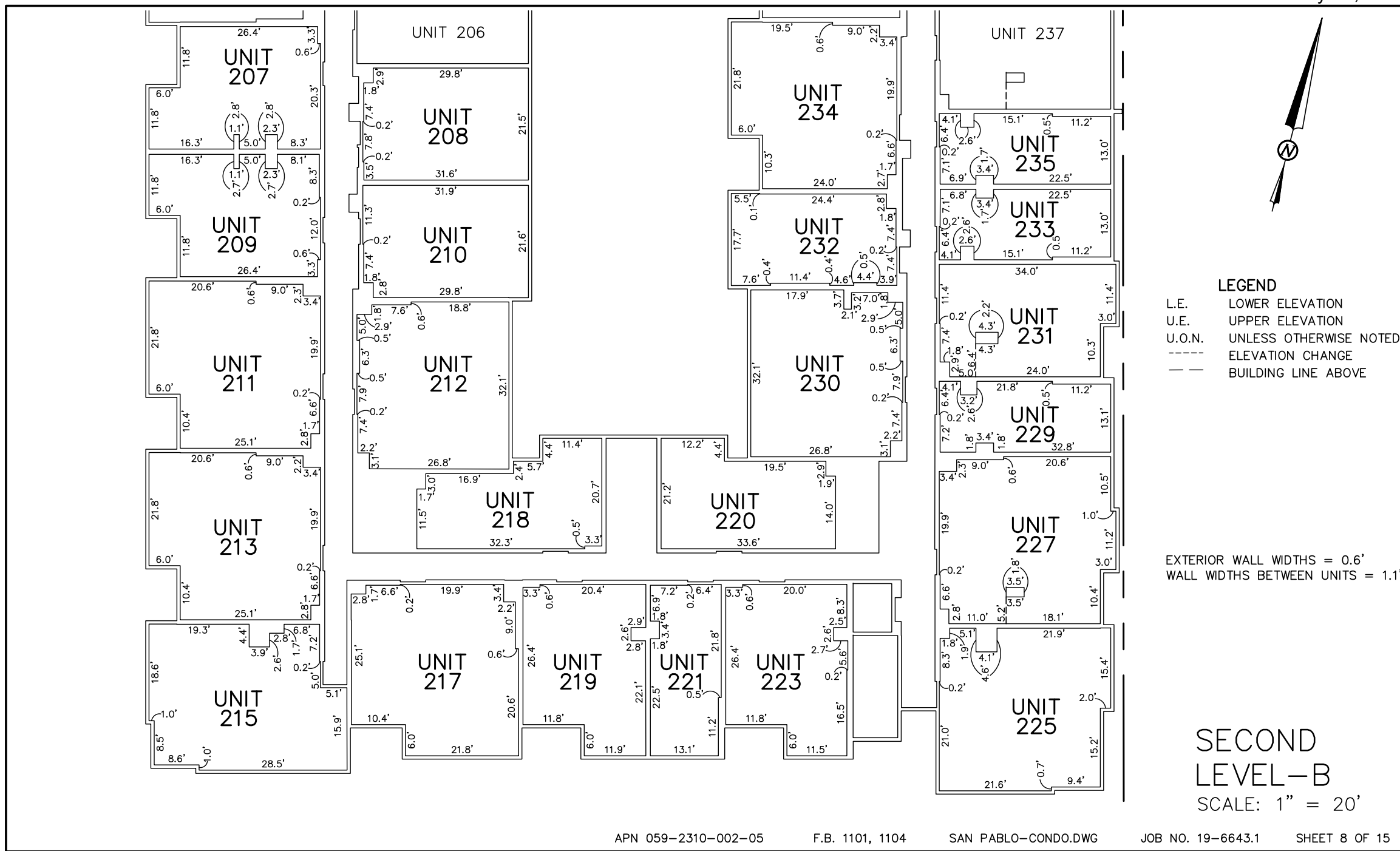
TOWNHOUSES
 SCALE: 1" = 20'



EXTERIOR WALL WIDTHS = 0.6'
 WALL WIDTHS BETWEEN UNITS = 1.1'









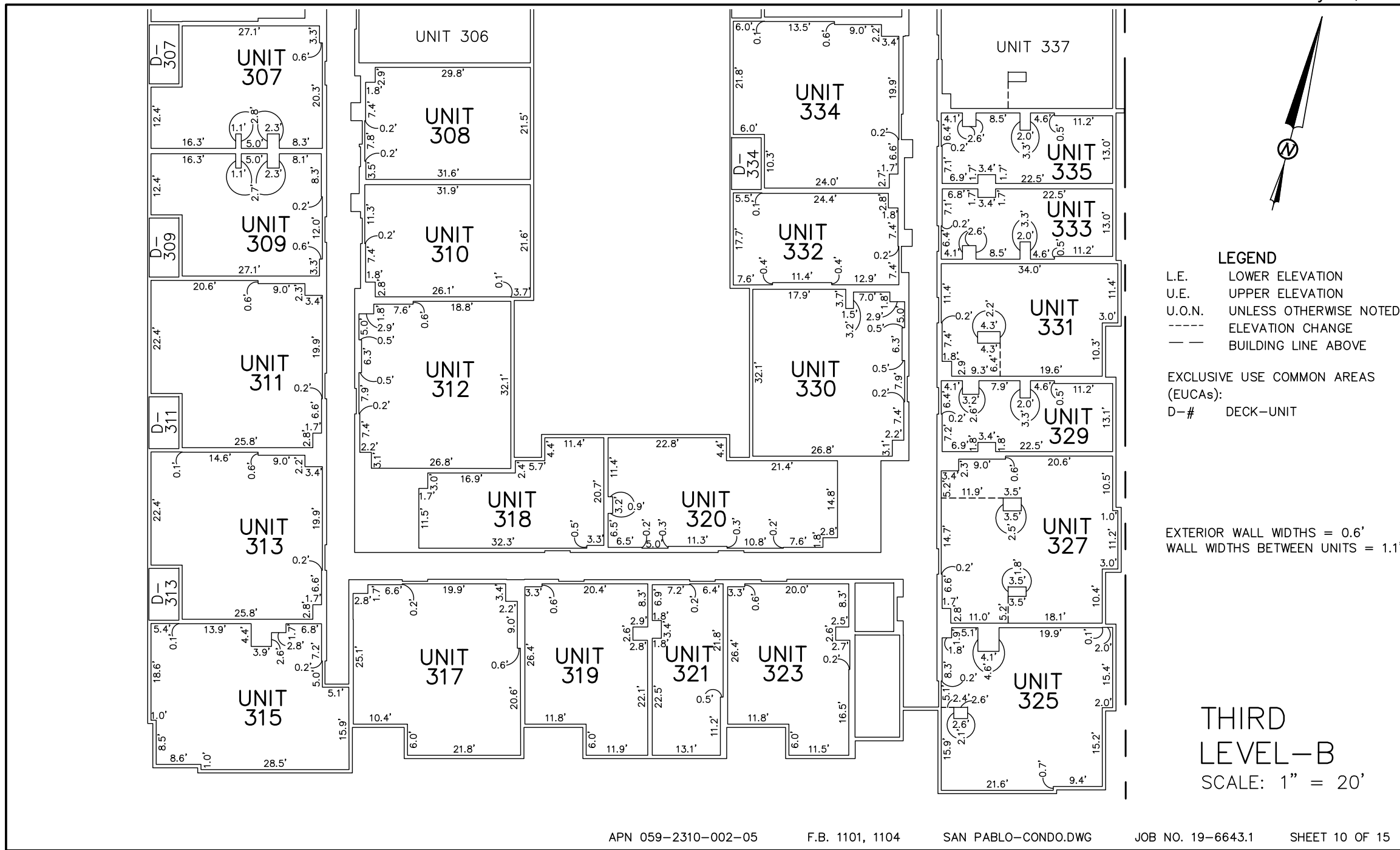
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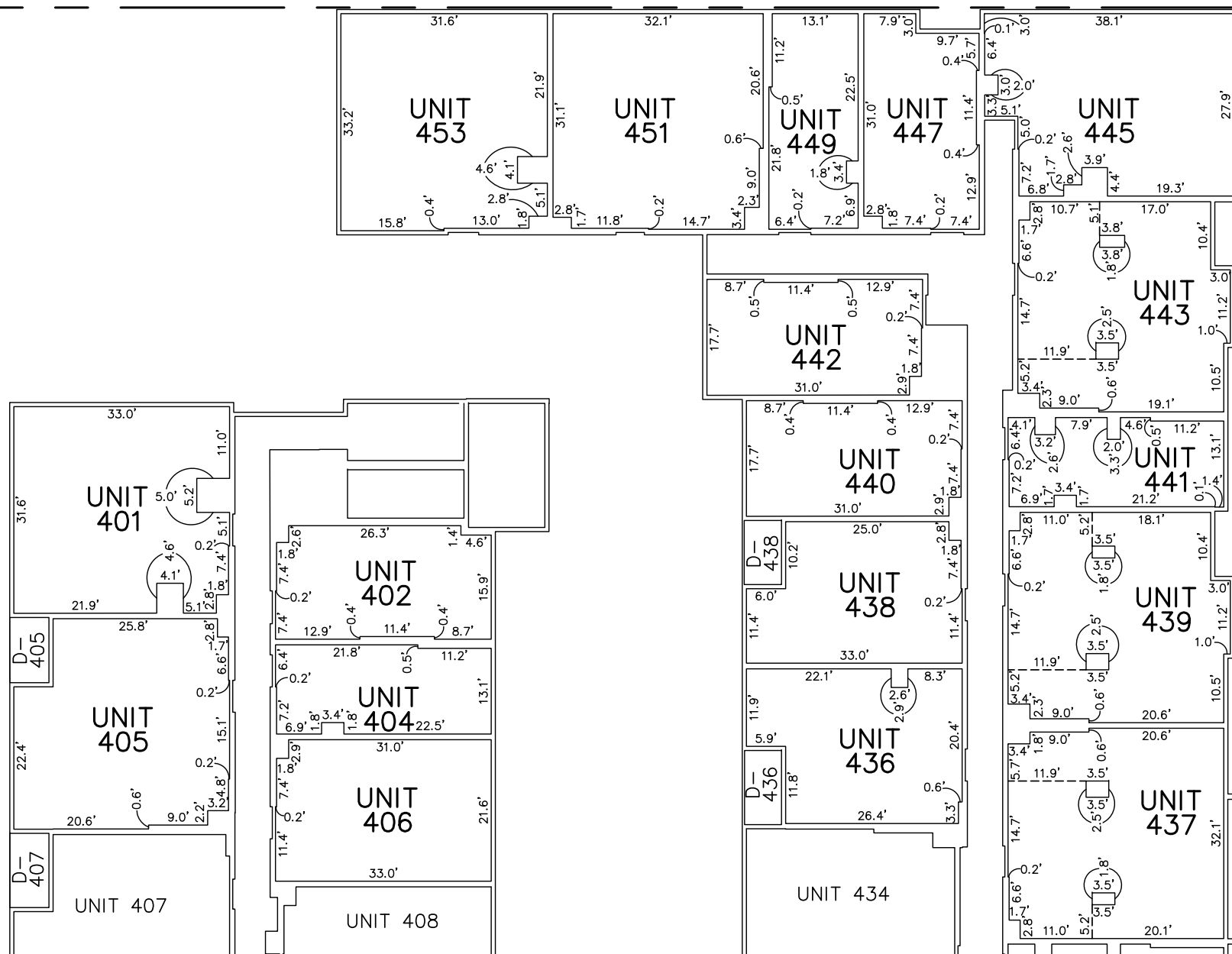
L.E. LOWER ELEVATION
 U.E. UPPER ELEVATION
 U.O.N. UNLESS OTHERWISE NOTED
 - - - - ELEVATION CHANGE
 ———— BUILDING LINE ABOVE

EXCLUSIVE USE COMMON AREAS (EUCAs):
 D-# DECK-UNIT

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 WALL WIDTHS BETWEEN UNITS = 1.1'

THIRD
 LEVEL—A
 SCALE: 1" = 20'





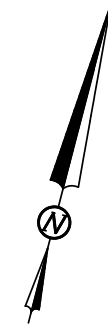
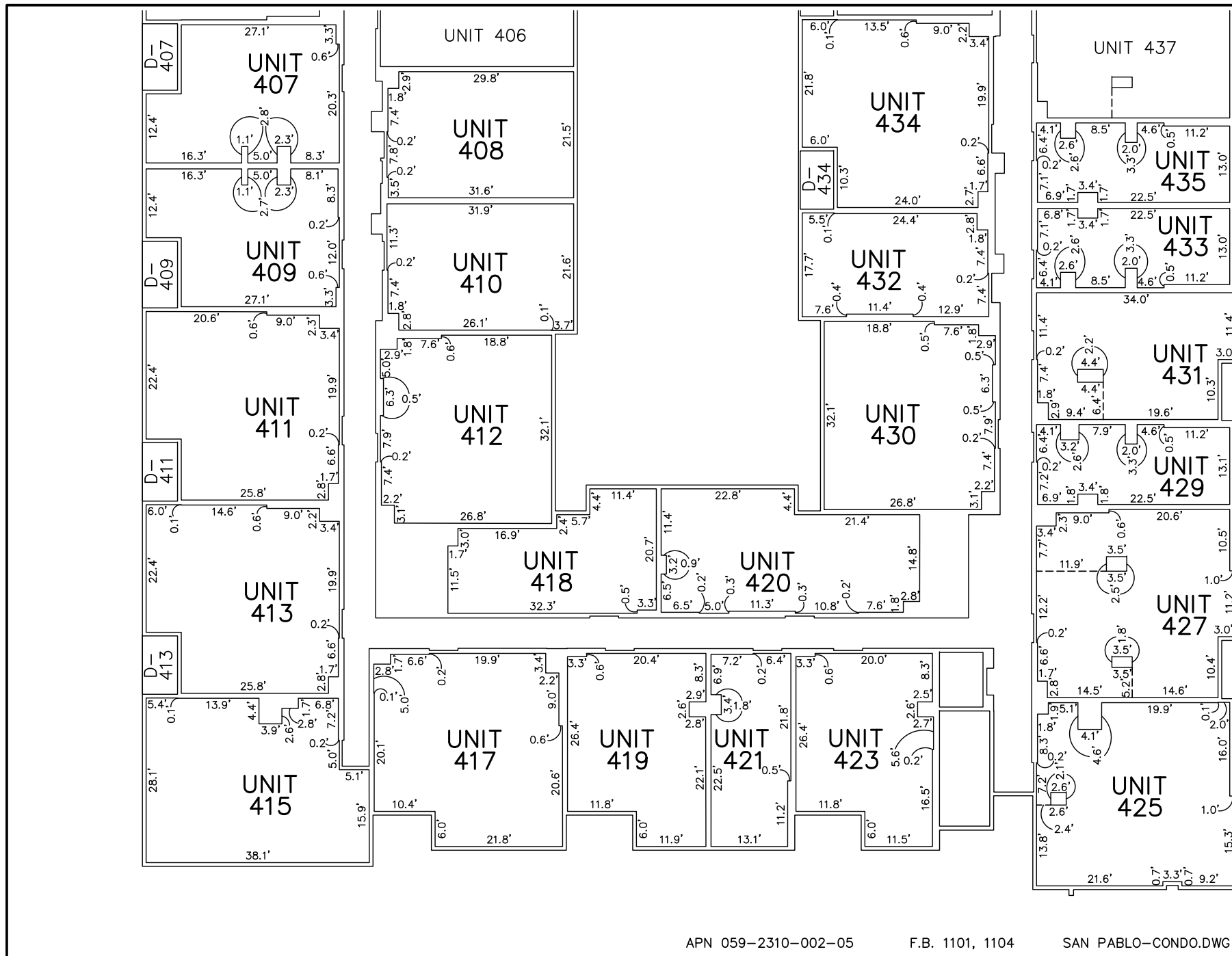
LEGEND

L.E. LOWER ELEVATION
 U.E. UPPER ELEVATION
 U.O.N. UNLESS OTHERWISE NOTED
 - - - - ELEVATION CHANGE
 - - - - BUILDING LINE ABOVE

EXCLUSIVE USE COMMON AREAS (EUCAs):
 D-# DECK-UNIT

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 WALL WIDTHS BETWEEN UNITS = 1.1'

**FOURTH
 LEVEL - A**
 SCALE: 1" = 20'



LEGEND

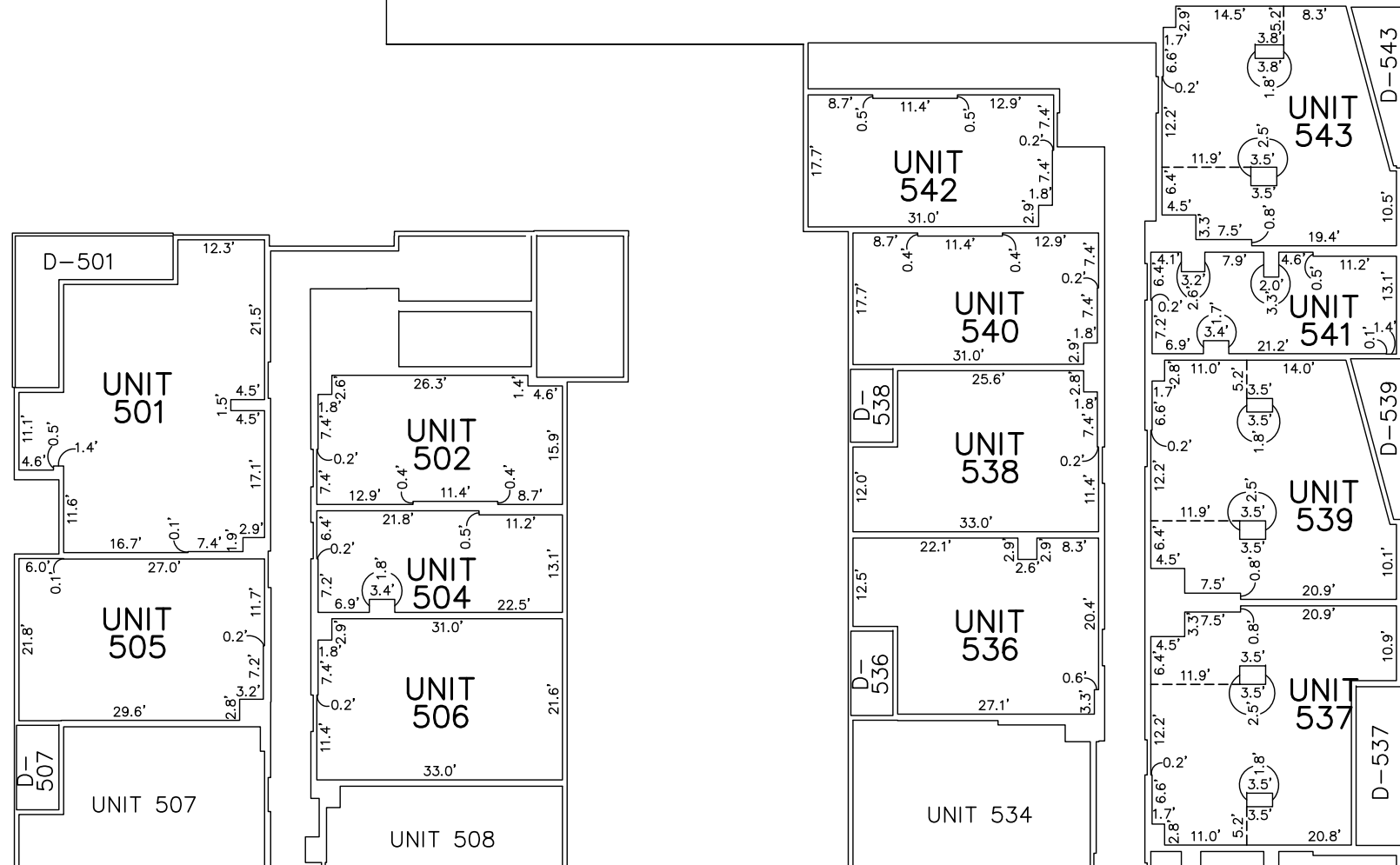
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- U.E. UPPER ELEVATION
- U.O.N. UNLESS OTHERWISE NOTED
- ELEVATION CHANGE
- BUILDING LINE ABOVE

EXCLUSIVE USE COMMON AREAS (EUCAs):

D-# DECK-UNIT

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 WALL WIDTHS BETWEEN UNITS = 1.1'

**FOURTH
 LEVEL-B**
 SCALE: 1" = 20'



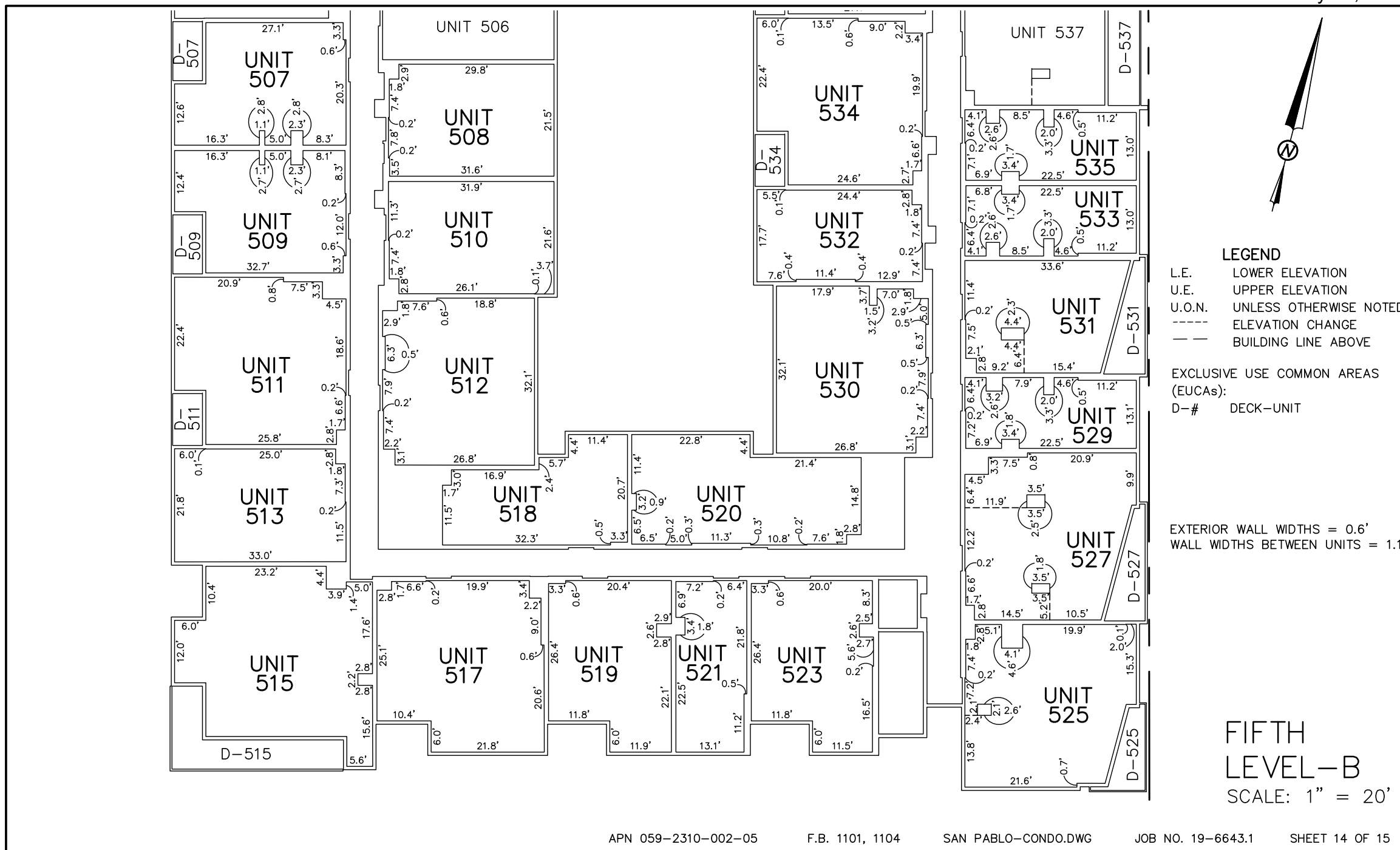
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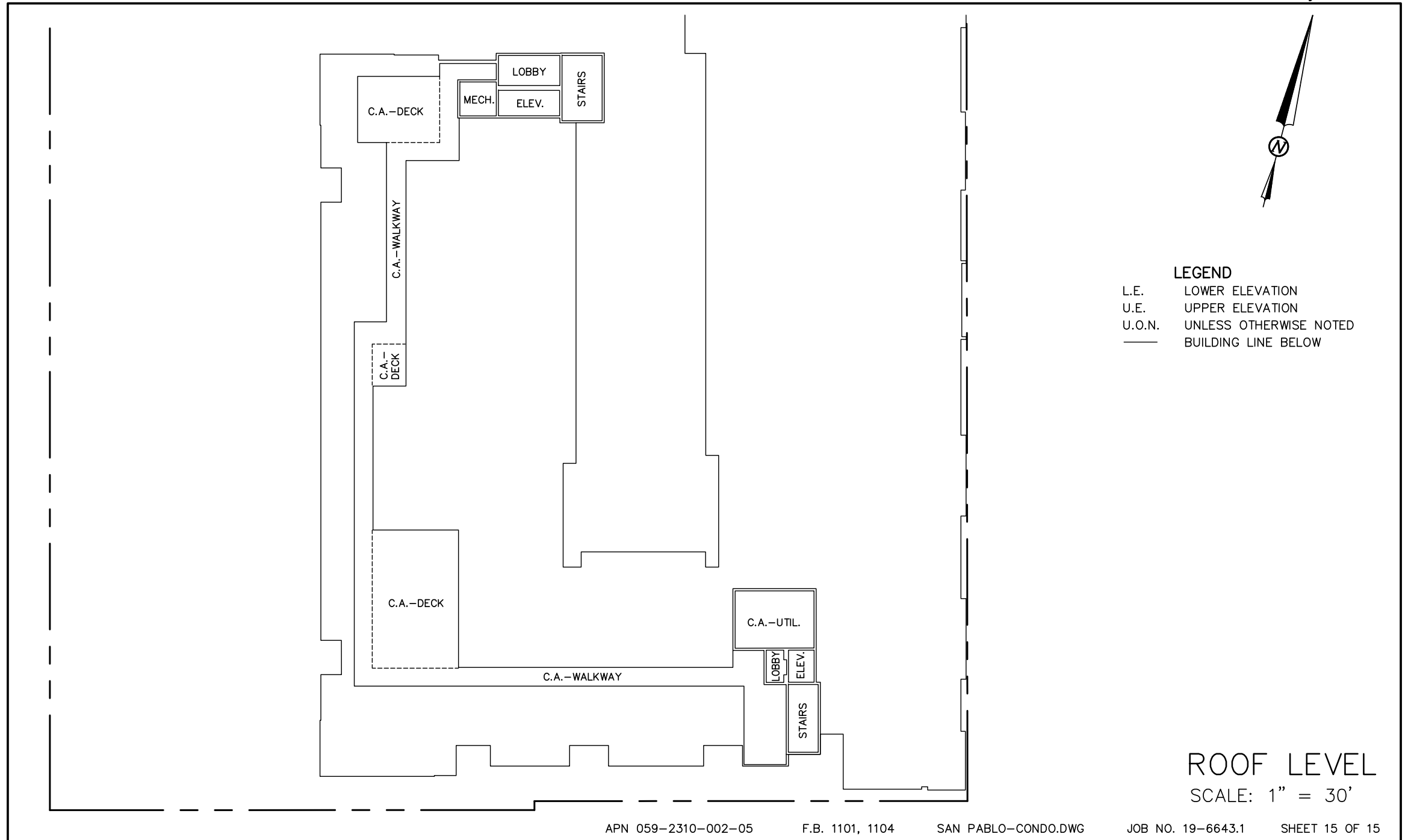
L.E. LOWER ELEVATION
 U.E. UPPER ELEVATION
 U.O.N. UNLESS OTHERWISE NOTED
 - - - - ELEVATION CHANGE
 - - - - BUILDING LINE ABOVE

EXCLUSIVE USE COMMON AREAS (EUCAs):
 D-# DECK-UNIT

EXTERIOR WALL WIDTHS = 0.6'
 WALL WIDTHS BETWEEN UNITS = 1.1'

FIFTH
 LEVEL - A
 SCALE: 1" = 20'







PLANNING COMMISSION

Notice of Public Hearing

January 15, 2020

Tentative Tract Map #8533 – 1500 San Pablo Avenue

The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23A.20.030, on **Wednesday, January 15, 2020** at the **South Berkeley Senior Center**, 2939 Ellis Street (wheelchair accessible). The meeting starts at 7:00 p.m.

PROJECT DESCRIPTION: Tentative Tract Map #8533 would create 175 condominium units - 170 residential and five commercial units. This is a State Density Bonus project. The development project was approved by the Zoning Adjustments Board on May 12, 2016.

PROJECT APPLICANT:

Jay Drake- Reuben, Junius & Rose LLP
1 Bush Street, Suite 600, San Francisco, CA 94104



LOCATION:

1500 San Pablo Avenue, Berkeley CA, 94104

ENVIRONMENTAL REVIEW STATUS: Construction of the project is categorically exempt pursuant to Section 15332 of the CEQA Guidelines (“In-fill Development Projects”), and approval of the Tentative Map is also categorically exempt pursuant to Section 15331 of the CEQA Guidelines, which involves the operations and permitting of existing facilities involving no expansion of use beyond prior approvals.

PUBLIC COMMENT

Comments may be made verbally at the public hearing and in writing before the hearing. Those wishing to speak at the hearing must submit a speaker card. Written comments concerning this project should be directed to:

Planning Commission
Alene Pearson, Secretary
Land Use Planning Division
1947 Center Street
Berkeley, CA 94704

Phone: (510) 981-7489
E-mail: apearson@cityofberkeley.info

To assure distribution to Commission members prior to the meeting, **correspondence must be received by 12:00 noon, eight (8) days before the meeting date.** Fifteen (15) copies must be submitted of any correspondence that requires color printing or pages larger than 8.5x11 inches.

COMMUNICATION ACCESS

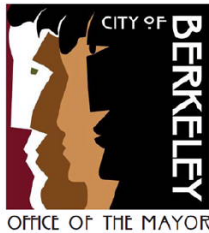
To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice), or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability.

FURTHER INFORMATION

Questions should be directed to **Alene Pearson**, at (510) 981-7489, or apearson@cityofberkeley.info.

Past and future agendas are also available on the Internet at:

https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planning_Commission_Homepage.aspx



ACTION CALENDAR
December 10, 2019

TO: Honorable Members of the City Council

FROM: Mayor Arreguín, Councilmember Bartlett, and Councilmember Kesarwani

SUBJECT: Approval of a Memorandum of Understanding between the City of Berkeley and BART on Implementation of State Law AB 2923 at the Ashby and North Berkeley BART Stations and Establishment of a Community Advisory Group

RECOMMENDATION

- (1) Approve a Memorandum of Understanding (MOU) between the City of Berkeley and the Bay Area Rapid Transit District (BART) to establish a process for cooperatively pursuing the implementation of Assembly Bill 2923 (AB 2923, Stats. 2018, Chp. 1000) at the Ashby and North Berkeley BART Stations. This action is pursuant to unanimous City Council direction on May 9, 2019, to direct the City Manager to “engage with BART to develop an MOU that outlines the project planning process including feasibility analysis, project goals, and roles and responsibilities; and direct that the MOU return to Council for adoption.”
- (2) Establish a Community Advisory Group (CAG) for the purposes of providing input:
 - To the City Planning Commission as it considers zoning standards that will be consistent with the City’s obligations under AB 2923 for the Ashby and North Berkeley BART station areas; and
 - To the City and BART as the parties establish a joint vision and priorities document that will be incorporated in eventual Requests for Proposal/Requests for Qualifications for potential developers of the BART Properties.

SUMMARY STATEMENT

On May 9, 2019, the City Council unanimously voted to engage with BART on an MOU to collaborate on development at the North Berkeley BART Station and refer to the Planning Commission to study development of zoning for the site.¹ At the same time, the Adeline Corridor Plan public process has identified interest in the development of homes at the Ashby BART Station.² The City and BART both acknowledge that the region faces a shortage of affordable homes and a climate crisis that requires a significant reduction in vehicle miles traveled, and both entities have adopted policies that prioritize creating affordable homes and reducing greenhouse gas emissions. Publicly-owned land at the Ashby and North Berkeley Stations provides a rare

¹ [May 9, 2019, Special Meeting Annotated Agenda](#) [PDF]

² [Adeline Corridor Plan website](#) [cityofberkeley.info]

opportunity to meet the objectives of both the City and BART. Furthermore, state law AB 2923 requires the City of Berkeley to zone the Ashby and North Berkeley Stations in accordance with BART transit-oriented development (TOD) standards no later than July 1, 2022.³ A significant benefit of the proposed collaboration with BART is the opportunity to identify and make infrastructure improvements in order to enhance station access for all Ashby and North Berkeley BART riders using all modes, including pedestrians, bicyclists, community members with access and functional needs, shared mobility users, and patrons using public and private transportation.

Therefore, the attached MOU establishes a process to:

1. Identify a shared vision and priorities for development for BART and the City, and set forth steps needed to pursue this vision and priorities;
2. Clarify the processes that BART and/or the City will pursue to address the activities and timelines; and
3. Provide greater clarity for all parties, including BART, the City, and members of the public, on the currently-planned steps, timelines, and the Parties' roles and responsibilities needed in seeking to commence construction of TOD on BART-owned property at both the Ashby and North Berkeley BART Stations.

The MOU specifies roles and responsibilities of the City and BART and does not specify in great detail financial arrangements, environmental review, and other relevant considerations to be addressed at a future time.

Given the importance placed on community input in the Adeline Corridor Specific Plan, Policy 3.7 (3-22),⁴ and the North Berkeley BART Development Goals and Objectives,⁵ a Community Advisory Group (CAG) shall be formed for the purposes of advising the Planning Commission on zoning for the Ashby and North Berkeley Stations. While there may be distinct concepts and requirements for each station site, the CAG will advise the Planning Commission on zoning that conforms with AB 2923 with the assistance of an AB 2923 Guidance Document to be prepared by BART. The CAG will also provide input to the City and BART as the parties establish a joint vision and priorities document that will be incorporated into eventual Requests for Proposal/Requests for Qualifications for potential developers of the BART Properties.

BACKGROUND

Ashby BART Station

As described in the Draft Adeline Corridor Plan (2-22), "The Ashby BART subarea is comprised of two large parcels adjacent to the Ashby BART Station, as well as the public street right-of-way and station area between them. The two parcels are owned by BART, but the City retains an

³ [Text of Assembly Bill 2923](#) [ca.gov]

⁴ [Adeline Corridor Specific Plan, Public Review Draft, May 2019](#) [PDF]

⁵ [A Community Visioning Process for the Ashby and North Berkeley BART Stations](#) [jessearreguin.com]

option to the ‘air rights’ over the parcel on the west side of Adeline. The parcel on the east side of Adeline is a 1.9-acre surface parking lot. The parcel on the west side is a 4.4-acre surface parking lot, the northern portion of which is used by the Berkeley Flea Market on weekends. Beyond the parking lots, this subarea consists of wide, busy streets, with high volumes of station-bound pedestrian, bicycle, and bus traffic. The streets are not as conducive to safe and comfortable pedestrian activity as they might be. There are grade changes and design features that limit the visibility and accessibility of station entrances.”

The collaborative community process identified a number of “big ideas” (2-16) that help achieve the five strategic goals of the Plan: Land Use and Community Character, Housing Affordability, Economic Opportunity, Transportation, and Public Space. One of the “big ideas” especially considers development at Ashby BART:

Redevelop the Ashby BART Station Area as a vibrant neighborhood center with high-density mixed-use development, structured parking (including some replacement parking for BART riders), ground floor commercial and civic uses, and new public space. The BART development should incorporate green construction and become a model for sustainable transit-oriented development. It should unify both sides of Adeline Street, and provide public space for community gatherings, special events, and civic celebrations.⁶

The CAG’s discussions should connect to the “big ideas” from the Adeline Corridor Plan, which include neighborhood priorities and amenities such as the Berkeley Flea Market, South Berkeley Farmers’ Market, Ed Roberts campus, and others in the context of requirements stipulated by AB 2923 TOD zoning standards.

North Berkeley BART Station

The North Berkeley BART Station sits on approximately 8.1 acres of land in residential Northwest Berkeley, bounded by Sacramento Street on the east, Virginia Street on the north, Acton Street on the west, and Delaware Street on the south (with the exception of additional side parking lots abutting the Ohlone Greenway).

The North Berkeley BART site is currently zoned U-Unclassified, meaning there is no zoning designation, and therefore zoning and development standards will have to be developed by the Planning Commission in consultation with the CAG.

After a series of public meetings, including a community visioning session in October 2018, the City Council gave direction on January 15, 2019, to the City’s Planning Department to develop conceptual land use scenarios for the North Berkeley BART site. On May 9, 2019, the City Council reviewed these scenarios, and unanimously voted to make a referral to the Planning Commission to study development of zoning for the site.

⁶ See Chapters 3, 4 and 7 of the Draft Adeline Corridor Plan for more on Ashby BART.

The CAG's discussions should connect to the North Berkeley BART Development Goals and Objectives, including the discussion of station access, affordability, livability, and environmental sustainability in the context of requirements stipulated by AB 2923 TOD zoning standards.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES AND LAWS

A number of City and regional plans and policies emphasize the value of creating affordable homes and transit-oriented development, enhancing infrastructure, reducing vehicle miles traveled, and improving safety for pedestrians and bicyclists, as briefly described below.

Berkeley General Plan⁷

Policies to increase residential and commercial density near transit are articulated in the Berkeley General Plan which include:

- Policy H-12 Transit-Oriented New Construction: Encourage construction of new medium and high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plan, design review guidelines and the Climate Action Plan. Actions include:
 - Consider adjusting zoning to allow for greater residential density and specified commercial uses along certain transit corridors and in proximity to the Downtown Berkeley, Ashby and North Berkeley BART Stations.
- Policy LU-23 Transit-Oriented Development: Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit-service.
- Policy LU-25 Affordable Housing Development: Encourage the development of affordable housing in the Downtown Plan area, the Southside Plan area, and other transit-oriented locations.
- Policy LU-32 Ashby BART Station: Encourage affordable housing or mixed use development including housing on the air rights above the Ashby BART Station lot west of Adeline Street. Actions include:
 - Consider a joint City/BART development plan to encourage and ensure appropriate development design, density and parking to accommodate the BART station and transit-oriented development. Development at Ashby BART should include multi-family, transit-oriented housing and ground-floor commercial space and if feasible, at least 50% of housing units should be affordable to low and very-low income households.
 - Consider revising the zoning for the site to reduce the on-site parking requirements for new housing above the BART station.

South Berkeley Area Plan⁸

The Plan recommends practical approaches to implementing goals and policies that ensure access to affordable rental housing and homeownership opportunities, preserve the diversity of

⁷ [Berkeley General Plan, Housing & Berkeley General Plan, Land Use](#) [PDF]

⁸ [South Berkeley Area Plan](#) [PDF]

South Berkeley's population, maintain and expand South Berkeley's housing stock and improve transit and paratransit opportunities for South Berkeley residents.

South Shattuck Strategic Plan⁹

The Plan serves as a guide for future development in South Shattuck that offers action steps to improve traffic and encourage the use of alternative modes of mobility such as public transit, shuttles, bicycling and walking. Such action steps include incorporation of elements to encourage non-auto travel in the Public Improvements Plan and working with residents and merchants to define transit needs for South Shattuck.

Plan Bay Area 2050¹⁰

Plan Bay Area 2050 is a comprehensive Bay Area planning effort to look at the intersection of transportation, housing and the environment. The Plan expands on Plan Bay Area 2040's long-range plan which outlines Priority Developments Areas as a mechanism to maximize growth in transit-rich communities and reduce vehicle miles traveled and greenhouse gas emissions.

Berkeley Bicycle Plan¹¹

The Plan speaks to policies and action steps to foster a bicycle-friendly city. Such steps include integrating bicycle network and facility needs into City projects, supporting a successful bike share system that promotes an alternative mode of travel to BART stations and designing a Bikeway Network that is accessible to people of all ages and abilities.

Vision 2050¹²

The citizen-led effort will develop a framework for Berkeley's 30-year Sustainable Infrastructure Plan to address the City's growing population and ever-changing climate. Community information sessions informed additional research conducted by the Vision 2050 Task Force in identifying the need for infrastructure projects that improve equity and community and environmental resilience, emerging technologies in transportation and cost effective financing options for building and maintaining Berkeley's infrastructure.

Berkeley Climate Action Plan¹³

The Berkeley Climate Action Plan outlines measures to ensure that the community continues to meet its greenhouse gas reduction target by increasing density along transit corridors through new development of affordable housing, retail services and employment centers. The Plan also promotes a resilience framework that highlights the steps the City has taken to advance neighborhood equity, adapt to the changing climate and establish community partnerships to further its climate commitments.

⁹ [South Shattuck Strategic Plan](#) [PDF]

¹⁰ [Plan Bay Area 2050](#) [planbayarea.org]

¹¹ [Berkeley Bicycle Plan](#) [cityofberkeley.info]

¹² [Vision 2050](#) [jessearreguin.com]

¹³ [Berkeley Climate Action Plan](#) [cityofberkeley.info]

In addition, see Chapter 3 of the Draft Adeline Corridor Plan — “EXISTING PLANS, PROGRAMS AND REGULATIONS” (3-3).

OUTREACH OVERVIEW AND RESULTS

Extensive information about community process and outreach can be found at:

jessearreguin.com/bart

cityofberkeley.info/council3/adeline

rashikesarwani.com/issues/north-berkeley-bart

In addition, see Chapter 1 of the Draft Adeline Corridor Plan — “Table 1-2 Planning Process & Community Engagement” (1-10).

RATIONALE FOR RECOMMENDATION

The Public Review Draft of the Adeline Corridor Specific Plan, Chapter 3.7 - Ashby BART, states:

Because of the importance of the BART site both to the success of the proposed housing strategy and to the overall character of the neighborhood, any development process should include a deliberate and extensive community decision making process ... which includes a Station Area Advisory Group or similar body comprised primarily of representatives of local stakeholder organizations. (3-24)

On May 9, 2019, the City Council unanimously adopted the North Berkeley BART Development Goals and Objectives, which states:

A Community Advisory Committee shall be created for the purposes of providing input to the City’s Planning Commission as it considers City and BART TOD zoning standards.

As directed by the full City Council, the MOU establishes a process for the City and BART to identify a shared vision and priorities, clarify activities and timelines, and identify roles and responsibilities. While the City has a process for zoning and entitlements, and BART has a process for development of its properties, this MOU identifies in broad terms how these processes will work together.

Approving the attached MOU is a critical next step in the overall station development process.

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

This item will establish a Community Advisory Group (CAG) comprised of an odd-number of members no greater than 15. Members of the CAG may be appointed from the following commissions: Commission on Disability; Housing Advisory Commission; Planning Commission; and the Transportation Commission. The commissions shall select a representative to serve on the CAG.

Representatives from the following stakeholder groups and communities will also be considered:

Page 7 of 33

- Berkeley Flea Market
- Bicycle and Pedestrian advocacy
- Neighborhood groups in the Adeline Corridor area
- Neighborhood groups in the North Berkeley area
- Faith-based communities
- At-large members

The CAG members will be appointed with an eye toward ensuring a diversity of views, perspectives, and experiences including: (1) representing all geographic areas of the city on which station area development would have an impact such as immediate as well as commuter neighborhoods, (2) reflecting a wide-range of relevant expertise in areas such as city planning, architecture, transit, and environmental sustainability, and (3) incorporating diverse life experiences. The representative from the Planning Commission shall serve as Chair of the CAG unless they defer and shall be responsible for creating and providing reports to the Planning Commission on the CAG's discussions.

Members of the CAG shall be appointed no later than January 31, 2020, by a subcommittee of the City Council comprised of the Mayor and the City Councilmembers who represent the districts that include the Ashby and North Berkeley Stations. The subcommittee comprised of the Mayor and Councilmembers will undertake extensive public outreach to appoint CAG members that represent the diversity of backgrounds and perspectives of the community.

The charge of the CAG is to: (1) provide input to the Planning Commission on matters directly related to zoning of the Ashby and North Berkeley BART Stations in conformance with AB 2923 zoning standards; (2) bridge communication between the Planning Commission's zoning process and other neighborhood groups and the community at large; and (3) provide input on a joint vision and priorities document to be developed by the City and BART.

The CAG's work plan and schedule shall be dependent upon the Planning Commission's schedule and will align with the Planning Commission's timeline and workflow regarding development of zoning at the Ashby and North Berkeley Stations. It is anticipated that the CAG's work will ultimately depend on the Planning Commission's workflow and will include the following scope: two meetings on design, two meetings on economic feasibility, and two meetings to review preliminary zoning concepts.

Once the Planning Commission recommends zoning to the City Council, the CAG shall have completed its charge as it relates to zoning. It is anticipated that the CAG will be re-established to provide input to the City and BART as the two parties establish a joint vision and priorities document to be included in eventual Requests for Proposal/Requests for Qualifications for potential developers of the BART properties.

ENVIRONMENTAL SUSTAINABILITY

The current use of the Ashby and North Berkeley BART Station parking lots solely for vehicle parking is not the optimal environmental use of scarce, publicly-owned land. By creating homes on these sites, the City Council would further its goals to address the Climate Emergency and reduce greenhouse gas emissions from vehicle miles traveled. A reimagined use of these sites and reconfigured public spaces can allow for enhanced public and neighborhood amenities to flourish while improving bicycle and pedestrian facilities and providing safe routes to encourage alternate means of access to the BART stations.

FINANCIAL IMPLICATIONS

The MOU between the City of Berkeley and BART specifies that at least 35% of the housing units proposed to be constructed at the BART Properties would be deed-restricted to low, very low and/or extremely low-income affordable housing, as defined by the federal Department of Housing and Urban Development. The City recognizes that meeting this level of affordability will require significant local, state, and federal subsidy.

Complying with AB 2923 to zone the Ashby and North Berkeley Stations will require significant staff and consultant resources by the City's Planning Department. The City is making efforts to seek outside sources of funding:

- On November 12, 2019, the City Council authorized the City Manager to submit an application for Senate Bill 2 Planning Grants Program (PGP) in the amount of \$310,000.¹⁴ SB 2 provides funding and technical assistance to all local governments in California to help them prepare, adopt, and implement plans and process improvements that streamline housing approvals and accelerate housing production. Funding is non-competitive and based on population estimates published by the State's Department of Finance. The City of Berkeley is classified as a "medium city" and is therefore eligible to apply for \$310,000. Grants issued through the 2019 PGP can be used for updating local planning documents, updating zoning ordinances, conducting environmental analyses or for local improvements to expedite local planning and permitting. More specifically, planning activities funded through this program are to focus on preparation, adoption and implementation of plans and zoning regulations that streamline housing approvals and accelerate housing production. The City will use these funds for developing TOD zoning regulations on BART properties in Berkeley. Further, the Mayor's Office has been supportive of additional grant applications by BART.^{15,16}
- On November 19, 2019, the City Council considered adoption of a resolution in support of nominating the North Berkeley Station as a Priority Development Area (PDA).¹⁷ It should be noted that this area refers to the parking lot itself, and street surfaces area that abut

¹⁴ [Council Authorization to the City Manager to Submit Senate Bill 2 Planning Grants Program Application](#) [PDF]

¹⁵ [Mayor's Letter of Support for BART Sustainable Communities Grant](#) [PDF]

¹⁶ [Mayor's Letter of Support for BART FTA TOD Grant](#) [PDF]

¹⁷ [Priority Development Area Nomination – North Berkeley BART Station](#) [PDF]

the station. If the Metropolitan Transportation Commission (MTC) opts to designate the station as such, the City of Berkeley will become eligible to apply for and receive grant funding from MTC for activities related to the community engagement and advisory processes; to help develop the zoning and design guidelines; and to support infrastructure improvements related to the development of the North Berkeley Station.

- On November 12, 2019, the City Council referred \$250,000 to the mid-year budget allocation process to initiate environmental review required as part of developing and adopting zoning for the Ashby and North Berkeley BART Stations that conforms with AB 2923.¹⁸

OUTCOMES AND EVALUATION

This item represents the next steps in an iterative process responding to the City Council's direction on May 9, 2019, as well as the Adeline Corridor Plan process. As such, the intended outcome is a successful Planning Commission zoning process in which extensive community input is received from people of diverse backgrounds and perspectives.

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ATTACHMENTS

1. Memorandum of Understanding ("MOU") by and between the San Francisco Bay Area Rapid Transit District ("BART") and the City of Berkeley ("City") to cooperatively pursue transit oriented development ("TOD") and the implementation of Assembly Bill 2923 ("AB 2923") at the Ashby and North Berkeley BART Stations
2. Exhibit 1 - Policy 3.7 of the Draft Adeline Corridor Specific Plan
3. Exhibit 2 - North Berkeley BART Development Goals and Objectives
4. Exhibit 3 - BART TOD Policy
5. Exhibit 4 - BART Affordable Housing Policy
6. Exhibit 5 - BART Station Access Policy

¹⁸ [Budget Referral: BART Station Environmental Planning](#) [PDF]

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is entered into on this ___ day of _____, 2020, by and between the San Francisco Bay Area Rapid Transit District (“BART”) and the City of Berkeley (“City”) to cooperatively pursue transit oriented development (“TOD”) and the implementation of Assembly Bill 2923 (“AB 2923”) at the Ashby and North Berkeley BART Stations.

RECITALS

- A. BART and the City both acknowledge that the region faces a shortage of affordable homes and a climate crisis that requires a significant reduction in vehicle miles traveled; and
- B. BART and the City have adopted District- and City-wide policies that prioritize creating affordable homes and reducing greenhouse gas emissions; and
- C. Publicly-owned land at the Ashby and North Berkeley BART stations provides a rare opportunity to create more homes, including below-market-rate affordable homes, in a manner that reduces residents’ reliance on driving; and
- D. State law AB 2923 (AB 2923, Stats. 2018, Chp. 1000) requires BART to adopt TOD zoning standards for BART-owned property surrounding its stations and requires that the City’s local zoning conform with TOD zoning standards by July 1, 2022; and
- E. BART and the City are committed to enabling multiple opportunities for community input and engagement that inform site master planning and zoning; and
- F. The purpose of this agreement is to:
 - 1. Identify a shared vision and priorities for development for BART and the City, and set forth steps needed to pursue this vision and priorities;
 - 2. Clarify the processes that BART and/or the City will pursue to address the activities and timelines outlined below in Section III; and
 - 3. Provide greater clarity for all parties, including BART, the City, and members of the public, on the currently-planned steps, timelines, and the Parties’ roles and responsibilities needed in seeking to commence construction of TOD on BART-owned property at both the Ashby and North Berkeley BART Stations.

MUTUAL UNDERSTANDING OF THE PARTIES

I. Framework for Development at Ashby and North Berkeley BART Stations

- A. Goals and objectives for TOD have been established for Ashby and North Berkeley BART stations by the City through two separate processes. Similarly, BART has adopted policies and performance targets guiding its TOD program as a whole. These documents will inform the Parties' respective goals and objectives with regard to TOD at the Ashby Station and North Berkeley Station.
- B. The Draft Adeline Corridor Specific Plan (published in May 2019) sets forth a vision, policies and objectives for the Ashby BART Station area. Specifically, Policy 3.7 of the Plan, shown in Exhibit 1, includes seven objectives relating to affordable housing, public space, development parameters, public art, pedestrian and bicycle connections, transportation and demand management and community engagement.
- C. On May 9, 2019, the Berkeley City Council unanimously approved the City's goals and objectives for North Berkeley BART development, which are shown in Exhibit 2. The City's goals focus on community input, station access, affordability, livability and environmental sustainability.
- D. In 2016, the BART Board adopted three policies which set overall goals for BART's transit-oriented development (TOD) program:
 1. A TOD Policy (Exhibit 3), setting the goals of creating complete communities, advancing sustainable communities, increasing ridership, capturing the value of transit, enhancing transportation choice, and increasing affordability with a district-wide affordability target of 35%.
 2. An Affordable Housing Policy, which requires a 20% affordable housing minimum for its projects, and favors projects with the greatest depth and quantity of affordable housing (Exhibit 4).
 3. A Station Access Policy (Exhibit 5) to guide access practices and investments through 2025. The policy is designed to support the broader livability goals of the Bay Area, reinforce sustainable communities, increase the share of BART passengers walking and biking to the stations, and enable riders to get to and from stations safely, comfortably, affordably, and cost-effectively.
- E. Together these documents, as well as further engagement of community stakeholders and additional collaboration and activities as set forth in this MOU, lay the groundwork for future development at the Ashby and North Berkeley BART Stations.

II. Scope of Agreement

- A. This MOU applies to development of the following properties, henceforth known as the “BART Properties”:
1. Ashby BART Western Parking Lot: Bounded by Ashby Ave, Adeline St, and Martin Luther King Jr Way. Site is owned by BART, with an option to the City to retain the air rights above 10 feet;
 2. Ashby BART Eastern Parking Lot: Located on the east side of the station, behind the Ed Roberts campus, which is owned by BART; and
 3. North Berkeley BART Main Parking Lot: Bounded by Sacramento, Delaware, Acton and Virginia Streets. Site is owned by BART.
- B. In order to ensure that development of the BART Properties is, to the extent possible, consistent with the vision and priorities established by the City and BART, during the TOD planning process outlined in this MOU there will be an opportunity to consider infrastructure enhancements to other areas that are owned by BART or the City. These may include the following (henceforth known as “Surrounding Areas”):
1. North Berkeley BART: auxiliary parking lots owned by BART, and areas owned by the City that abut the Ohlone Greenway;
 2. Other public infrastructure (e.g., streets, crosswalks, bicycle paths, on-street parking, stormwater and sewer infrastructure) within a one-mile radius of the BART Properties; and
 3. Proposed changes to access and circulation at each Station would be identified through the Station Access Study described in Section III.F of this MOU, as well as through the development master plan or entitlement process. Any such changes would therefore be subject to public review and comment, and to approval by the Parties.

III. Activities and Timelines

Activities and Timelines – Summary Table

Activity	Lead Party	Milestone	Date
1. Community Advisory Process and other community engagement activities	City	Establish a Community Advisory Group to inform site zoning and to facilitate community input on site master planning and zoning	Initiate December 2019
2. Zoning for Ashby and North Berkeley BART Stations	City	<ul style="list-style-type: none"> a. Zoning alternatives proposed b. Draft CEQA document released c. Planning Commission and community review d. Planning Commission approval e. Council zoning approval 	Complete by June 2021
3. BART AB 2923 Guidance Document	BART	<ul style="list-style-type: none"> a. Draft Guidance b. Final Guidance 	<ul style="list-style-type: none"> a. February 2020 b. July 2020
4. City Affordable Housing Funding	City	Decision on set-aside of City funding for affordable housing to Ashby and North Berkeley Stations	December 2020 (pending further definition of zoning and site capacity)
5. Developer Solicitation	BART	Decision on timeline to initiate solicitation of a developer (as part of BART's 10-Year TOD Work Plan)	July 1, 2020
6. Station Access Studies	BART	Station Access Studies Completed	Timeline dependent upon Developer solicitation for each station

A. Community Advisory Process and other Community Engagement Activities

1. Pursuant to the Draft Adeline Corridor Specific Plan (Policy 3.7) and the North Berkeley BART Development Goals and Objectives adopted by the City Council on May 9, 2019, an advisory group consisting of members of the community will be created for the purposes of providing input:
 - a. To the City Planning Commission as it considers zoning standards that will be consistent with the City's obligations under AB 2923 for the Ashby and North Berkeley BART station areas; and
 - b. To the City and BART as the Parties establish a joint vision and priorities document ("Joint Vision and Priorities") that will be incorporated in eventual Requests for Proposal/Requests for Qualifications for potential developers of the BART Properties.
2. The City will be responsible for the selection and all logistics and funding for the Community Advisory Process.
3. Contingent on availability of funding, the City will also organize public participation design charrettes that inform predictable form-based design standards that BART will incorporate into guidelines for future development of the BART properties.
4. BART will support the City's efforts by participating in meetings, presenting information, as necessary, and considering input arising from the Community Advisory Process as part of its larger community engagement for AB 2923, TOD and station access studies in the City.

B. Zoning Ashby and North Berkeley BART Stations. As required by AB 2923, the City will pursue rezoning of developable, BART-owned property within ½-mile of the Ashby and North Berkeley Stations. The City will be responsible for all logistics and funding required for these rezoning efforts. As the agency responsible for local zoning regulations, the City will work in good faith with BART to coordinate the City's rezoning efforts with BART's development of AB 2923 guidance.

C. BART AB 2923 Guidance. BART and the City understand that AB 2923 requires further clarification related to height, floor-area-ratio, density, bicycle parking minimums, automobile parking minimums and maximums. To address these points of clarification, BART will publish a guidance document offering all affected local jurisdictions information on AB 2923. As the

agency responsible for determining whether local zoning conforms to state law, BART will be responsible for all logistics and funding required for the AB 2923 guidance document. The guidance document will provide guidance on TOD zoning standards for all local jurisdictions as those jurisdictions seek to comply with their obligations under AB 2923.

D. City Affordable Housing Funding Decision

1. The voters of Berkeley recently established three important new sources of funding to support the creation and preservation of affordable housing, keep vulnerable people housed, and rehouse the homeless:
 - a. Measure O provides for issuance of \$135 million in bonds to fund capital expenditures for a variety of types of affordable housing;
 - b. Measure P established a real estate transfer tax on the most expensive one-third of real estate sales with a stated intent to rehouse the homeless and fund the services they need to remain housed; and
 - c. Measure U1 increased the gross receipts tax on most residential rental properties with a stated intent to fund affordable housing and protect Berkeley residents from homelessness.
2. The above measures establish advisory panels which advise the City Council as it makes determinations regarding the allocation of these and other affordable housing monies (such as City Housing Trust Fund resources) and related resources such as public land and inclusionary units.
3. The City will set-aside appropriate funding, including development fees and other above-mentioned sources, to support deed-restricted affordable housing at a range of income levels to meet BART and the City's affordable housing goals at the Ashby and North Berkeley BART Stations (as referenced in Section I).

E. Developer Solicitation

1. Consistent with its standard practice, BART will issue a Request for Qualifications ("RFQ"), Request for Proposals ("RFP") or both to initiate the process of identifying and recommending potential developers of the BART Properties to the BART Board of Directors. The committee(s) established to evaluate RFQ/RFP submissions will include City Representatives and BART staff as well as an independent financial consultant, who

will evaluate the capabilities of each proposer to deliver the project. The criteria used to select a developer with whom to negotiate will be based on the BART Station Development Joint Vision and Priorities that will take into account community input as outlined in Section III.A.

2. For the Ashby BART Western Parking Lot, which is owned by BART with an option to the City to retain the air rights above 10 feet, and assuming that the City exercises said option, the City and BART will enter into a separate agreement detailing how they will share decision-making authority in the developer solicitation process.
3. The evaluation committee's role is to make a recommendation to the BART Board of Directors regarding a developer with whom BART will negotiate for the development of TOD. The BART Board of Directors has the sole discretion and authority to determine whether, and with whom, BART will enter into an exclusive negotiating agreement ("ENA") relating to potential TOD development on the BART Properties. It is anticipated that, among other things, the ENA will require the developer to advance the proposed project through the City's entitlement process, lead or participate in a community engagement process, fund a Station Access Study for BART (see below), pay BART an option fee in exchange for exclusive negotiating rights, and reimburse BART for its expenses, including engineering review, outside legal fees, and outside consultant expenses.

F. Station Access Study

1. Per the draft policies in the Adeline Corridor Plan, Council-adopted goals and objectives for development of the North Berkeley BART property, BART's TOD Policy, and the requirements of AB 2923, a Station Access Study must be prepared prior to development of the BART Properties that identifies sustainable access options for both the Ashby and North Berkeley BART Stations in light of potential changes to the BART Properties and surrounding areas resulting from TOD. AB 2923 added Section 29010.6(h) to the California Public Utility Code, which requires BART—with respect to any station where BART commuter parking is reduced as a result of a TOD project on land where TOD zoning standards apply—to develop and fund an access plan that maintains station access for at least the number of customers affected by the reduced number of commuter parking spaces, with specific consideration for customers who live further than one-half mile from the station.
2. The Station Access Studies will evaluate a range of access options that support BART's goals to increase the share of BART patrons who access the stations via modes other than the private automobile, and that maximize the potential number of homes

(including homes restricted to low, very low, and extremely low-income households) on site. In exploring alternatives to parking, the Studies will evaluate whether and how to offer viable, multimodal access to BART for the station catchment areas, and how to ensure that TOD and associated improvements result in an overall increase in the number of people who use the BART Stations. The Studies will identify infrastructure needs on and near BART's property to improve access for riders using all modes, including pedestrians, bicyclists, community members with access and functional needs, shared mobility users, and patrons using public and private transportation.

3. BART will be responsible for all logistics required for the Station Access Studies. BART will fund these Studies in advance, but may require reimbursement for the Studies from a developer or developers pursuant to an ENA with said developer(s). Findings from the Ashby and North Berkeley BART station access studies will be presented to the community.

IV. Zoning and Solicitation Process; Retention of Decision-making Authority by City and BART

- A. To demonstrate its commitment to advancing development at BART property, and in consideration for its inclusion as a high priority in BART's 10-year work plan for development, the City will: 1) complete rezoning of the properties by June 2021, and 2) make a decision by the end of December 2020 to set-aside funding sufficient to assure BART, in its sole discretion, that at least 35% of the housing units proposed to be constructed at the BART Properties would be deed-restricted to low, very low and/or extremely low affordable housing. The City recognizes that meeting this level of affordability will require significant local, state, and federal subsidy. The Planning Commission has a target date of December 2020 to review zoning alternatives as a show of progress towards completion of zoning by June 2021.
- B. To support the City's zoning process, BART agrees to provide guidance that will be applicable to North Berkeley Station and all other stations in the BART system to which AB 2923 applies. BART will work with the City of Berkeley to explore possible approaches to conformance with AB 2923 zoning standards in the context of the built form characteristics of a surrounding lower density neighborhood. The City will consult with BART regarding zoning alternatives for the North Berkeley Station that conform with AB 2923 zoning standards.
- C. It is understood that both BART and the City desire for more work to be completed in support of zoning, such as site master planning or objective design guidelines. At the time of this MOU, the City and BART are actively working to identify additional resources to accelerate this work.

- D. The City and BART will meet in December 2020 to review the City's efforts undertaken pursuant to Section III.B and III.D, in order to:
1. Determine whether the City has approved a set-aside of sufficient funding to meet the 35% affordable housing minimum for each station as described in Section IV.A;
 2. Negotiate possible additional City participation in the solicitation processes; and
 3. Agree upon the timing of the developer solicitations for the BART Properties in December 2020.
- E. If the zoning for the Ashby and North Berkeley Stations and the set-aside of City affordable housing funds occurs after the dates indicated for those actions in the timeline in Section IV.A above, BART may re-evaluate the inclusion of these stations in its 10-year work plan. Likewise, if BART does not proceed with developer solicitations for the BART Properties as determined in Section III.D, the City may reallocate affordable housing funding to other projects.
- F. Notwithstanding any other provision in this MOU, nothing herein shall be construed to limit or restrict the discretionary decision-making authority of the City or of BART. The Parties acknowledge that any reference to a project or proposed project in this MOU or in any document that may be created in connection with this MOU does not constitute a Project or Project approval by either Party as those terms are defined in CEQA and discussed in *Save Tara v. City of West Hollywood*, 45 Cal. 4th 116 (2008).

3.7 ASHBY BART

Future development within the Ashby BART subarea shall provide public space, community-oriented facilities, and affordable housing, consistent with the objectives, parameters, and process outlined in the Adeline Corridor Specific Plan.



The Ashby BART Station is one of the most prominent landmarks and amenities along the Adeline Corridor, with the potential to support and advance all five key topic areas addressed in this Plan – land use, housing, economic opportunity, transportation, and public space.

As stated in Chapter 2, the Ashby BART subarea is envisioned to be redeveloped as a vibrant neighborhood center with high-density mixed-use development that unifies and knits back together the east and west sides of Adeline Street. The Ashby BART development will be a model for sustainable transit-oriented development, incorporating high levels of affordable housing and complementary commercial and civic uses; public space for community gatherings, special events, and civic celebrations; and green construction.

The Plan lays the groundwork for future engagement with the community and BART by outlining key objectives that apply to future development and describing a process for evaluating development proposals for these sites. Future development in the Ashby BART subarea shall be consistent with the seven objectives below, which shall be incorporated into any future master plan and development agreements with potential developers.

OBJECTIVE 1. AFFORDABLE HOUSING. For any future development in the BART subarea, at least 50% of the total housing units produced should be comprised of deed-restricted affordable housing, which could also include supportive services or other spaces associated with the affordable housing. This



The Ashby BART Station

goal for at least 50% affordable housing at a range of income levels (e.g. Extremely Low, Very Low, Low and Moderate) would be calculated across the entire Ashby BART subarea and could be accomplished through multiple phases of development. Any future development agreement should commit to deliver at least this level of affordable housing, and provide a plan to do so. Amounts of affordable housing exceeding 50% of the total square footage and number of units are encouraged.

OBJECTIVE 2. PUBLIC SPACE. Any future development shall include one or more publicly accessible spaces incorporated onto the development parcels within the Ashby BART subarea. The public space could potentially be provided as plazas, green space, pedestrian paseos, rooftop patios, flexible event space, or other pedestrian-accessible spaces that are open to the public. Incorporating elements of “green infrastructure” in these elements is highly encouraged (See Chapter 7).

Future redevelopment of the Ashby BART west parking lot shall incorporate a large civic plaza that could be designed and programmed to accommodate the Berkeley Flea Market and potentially a relocated Farmers Market, as well as support the Juneteenth Festival and other music and entertainment events. This space could include dedicated flexible space on the site and/or in a nearby location such as on Adeline Street. The space shall be designed with the general and specific needs of the Flea Market and Farmers Market, as well as allow flexibility for other programming such as the Juneteenth Festival, music and entertainment, civic events, or other public uses – at different times of the week or in complementary locations. This could include dedicated flexible space on the site or in a nearby location such as on Adeline Street.

OBJECTIVE 3. ADDITIONAL DEVELOPMENT PARAMETERS. The following general development parameters will be further refined as implementation steps of this Specific Plan:

Building Height. To achieve the affordable housing goal, climate action goals and maximize community benefits from development of public land, high density mixed-use development is envisioned that are generally up to four to seven stories. The City will continue to coordinate with BART as it refines development parameters as part of implementation of Assembly Bill 2923. In general, development fronting on Adeline Street and Ashby Avenue should “step down” or transition to lower heights where development fronts on Martin Luther King Jr. Way, Woolsey, Tremont and Essex Streets.

Ground-Floor Uses. As noted in Policy 3.1, the following types of uses shall be required for ground floor uses for the Ashby BART subarea:

- Adeline Street frontage: Ground floor retail or active commercial use required.

WHAT IS ASSEMBLY BILL (AB) 2923?

Assembly Bill 2923 was signed into law by Governor Jerry Brown on September 30, 2018. AB2923 grants BART the authority to establish transit-oriented development (TOD) zoning standards that apply to its property across the Bay Area, including the North Berkeley and Ashby BART Station sites. The intent of the law is to enable BART to work together with cities to maximize the public benefit of scarce transit-adjacent land (see Appendix B for more information). Although BART has the ultimate authority to establish zoning standards for its property, BART has indicated that it intends to work in close collaboration with local elected officials and community stakeholders. Furthermore, since the City controls the “air rights” for the west Ashby BART parking lot, it would have a direct role in approving any future master plan and development agreement for that site, and would work with BART to implement the Objectives described in the Adeline Corridor Specific Plan for any redevelopment of the Ashby BART subarea.

- Ashby Avenue frontage: Ground floor commercial use required.
- Martin Luther King Jr. Way: Residential or commercial use allowed on ground floor.
- Tremont, Woolsey and Fairview Streets: Residential or commercial use allowed on ground floor.

Additional Land Uses. Additional land uses that would be encouraged in the Ashby BART area include the following:

- Potential space for a new African American Holistic Resource Center (see Chapter 5 for more information)
- Ground floor retail, restaurants and family-oriented entertainment;
- Affordable space for neighborhood non-profits
- Small, affordable workspaces
- Universally-accessible community event and recreation space, or performance venues.

OBJECTIVE 4. PUBLIC ART. Future redevelopment should maximize opportunities to incorporate permanent and/or temporary public art installations that celebrate neighborhood history, cultural heritage and identity (see Chapters 2, 5 and 7 for more information).

OBJECTIVE 5. PEDESTRIAN AND BICYCLE CONNECTIONS. Future development should include pedestrian and bicycle connections that serve users of all abilities and ages. Development of the west parking lot should incorporate the following key bicycle connections at minimum, consistent with the City of Berkeley Bike Plan and as described in the Transportation Chapter of this Plan:

- Connection of the Woolsey/Prince bicycle boulevard facility across the Ashby site
- Provision of an off-street/protected bicycle facility along Adeline Street between Ashby and the intersection with MLK Jr. Way.

WHAT ARE "AIR RIGHTS?"

Ownership of land can be divided into rights on the surface, subsurface (i.e. mining or mineral rights) and air rights. The City of Berkeley acquired air rights over both parking lots at Ashby BART Station back in 1966 after the voters approved undergrounding the BART lines. In 1999, the City executed a contract with the Ed Roberts Campus to assign the City's option to the air rights over the eastern Ashby BART parking lot (the current Ed Roberts Campus site and the remainder parking lot behind it), to facilitate development of the Ed Roberts Campus. An agreement between the City and the Ed Roberts Campus in 2008 confirmed that the City assigned the air rights over the eastern BART parking lot to the Ed Roberts Campus, but the City still retained the option over the western BART parking lot. The air rights generally refer to the space starting 10 feet above the average finished grade location.

OBJECTIVE 6. PARKING AND TRANSPORTATION DEMAND MANAGEMENT. Any future development must include aggressive and innovative Transportation Demand Management strategies to reduce demand for parking and single-use automobile trips (See Chapter 6). Consistent with BART Transit-Oriented Design Guidelines and the City's Climate Action Plan, any future mixed-use development shall provide parking at ratio not to exceed 0.5 spaces/residential unit and 1.6 spaces per 1000 sqft of commercial space. Because of the urban environment of the station, replacement parking for BART patrons can be provided at a ratio of 0.5 spaces/per existing space or less while access improvements are incorporated to offset the loss of parking and ride spaces and offer viable non-auto alternatives to BART patrons.

OBJECTIVE 7. PROCESS AND ENGAGEMENT. Because of the importance of the BART site both to the success of the proposed housing strategy and to the overall character of the neighborhood, any development process should include a

deliberate and extensive community decision making process. The City will work with BART to complete a planning process which includes a Station Area Advisory Group or similar body comprised primarily of representatives of local stakeholder organizations. This stakeholder group should participate in decisions regarding the site requirements to be included in any Request for Proposals (RFP). In addition, any RFP that is issued for development at the BART site will outline specific requirements that a selected developer continue to invest in proactive community engagement throughout the development process and to identify appropriate additional community benefits as part of the project design process. A development team's proven track record of managing this kind of community engagement/community benefits process will be one criteria for selection. The local community should continue to be closely involved in development of these key public sites. Chapter 4 (Housing Affordability) includes additional information and considerations for future phasing, funding, programming, and affordable housing strategies for the Ashby BART area.

North Berkeley BART Development Goals and Objectives
(Approved unanimously by the Berkeley City Council on May 9, 2019)

State law (AB 2923, Chiu) passed in 2018 requires the San Francisco Bay Area Rapid Transit District (BART) to develop transit-oriented development (TOD) zoning standards for each BART station, establishing minimum local zoning requirements for height, density, parking, and floor area ratio by July 1, 2020.

Prior to the enactment of AB 2923, the Berkeley City Council initiated a community process to explore the potential for transit-oriented development at the North Berkeley BART station. Creating homes at the North Berkeley BART parking lots will help the City of Berkeley address the shortage of affordable homes; reduce vehicle miles traveled and meet our climate change goals; and improve the livability of the surrounding neighborhood through the creation of green open space, pedestrian and bicycle infrastructure improvements; and possible small-scale community, non-profit, and/or retail uses.

AB 2923 requires local jurisdictions like Berkeley to adopt a local zoning ordinance that conforms to BART TOD zoning standards.

While the Berkeley City Council voted at its May 29, 2018 meeting to oppose AB 2923, the City Council recognizes that we now have an obligation to comply with the law. The Council is seeking to comply as soon as possible with AB 2923 for the purposes of developing the North Berkeley BART station in order to ensure that the community has a meaningful opportunity to engage with BART on how the site is developed.

At the same time, the Berkeley City Council acknowledges the unique neighborhood characteristics of each BART station and expresses its intent to incorporate a station-specific design that is sensitive to the existing single-family (R-1) and two-family (R-2) residential zoning directly adjacent to the North Berkeley BART station.

The City of Berkeley seeks to enter into a Memorandum of Understanding with BART that enumerates, among other terms, the following goals and objectives for development:

Community Input

A Community Advisory Committee shall be created for the purposes of providing input to the City's Planning Commission as it considers City and BART TOD zoning standards.

The planning process will engage the community in order to ensure that the site reflects the community's values for equity, sustainability, and sense of place. In particular, community input should be considered for:

- The number/percentage of affordable housing units and populations to be served, including the possibility of a 100% affordable project

- The size, height, scale, spacing, and setbacks of buildings, and their responsiveness to the neighborhood
- The inclusion of green and open spaces
- The possibility of limited, small-scale community, non-profit, and retail space to serve the immediate neighborhood
- Exploration of whether it's appropriate to include small-scale community, non-profit, and/or retail space to serve the immediate neighborhood, whether any parking should be provided for such uses, and consideration of the tradeoff of foregone housing units
- Access options, including traditional modes such as public transit, taxis and private vehicles, active modes such as biking, walking and scooters, emerging modes such as car share, ride share, driverless cars, etc., and access for the disabled and mobility impaired
- Green and sustainable features

Station Access

BART, the City of Berkeley, and a future developer(s) will address station access. Specifically, Section 29010.6(h) of AB 2923 requires BART—in cases in which commuter parking is reduced as a result of a TOD project—to develop and fund an access plan that maintains station access for at least the number of customers affected by the reduced number of commuter parking spaces, with specific consideration for customers who live further than one-half mile from the station. A station access plan for implementation will seek to explore feasible and effective alternatives to individuals driving to and parking at the station, such as reserved parking spaces for carpools and car-share vehicles, ride-share, enhanced bus/shuttle service, additional electric-assist bikes and scooters, among other alternatives. We will also consider limiting or eliminating parking for residential and/or potential community, non-profit, or retail uses in order to maximize parking availability for commuters. We note that the station access plan should take into account the rapid evolution of mobility trends and technologies and consider the adaptability of the plan to future mobility patterns. Further, we intend to conduct a traffic study to help determine the number of parking spaces that are needed at the site, including reserved spaces for people with disabilities.

In light of Berkeley's long tradition of leadership on issues related to the disabled and mobility impaired, access at the North Berkeley BART station should be first in its class, including consideration for access to and from the station itself, within the station, and to and from the BART platform.

All traditional modes should be considered: public transit, taxis, carpools and cars; all active modes including walking, biking and scooters; all emerging modes including car share, ride share, van pools and driverless vehicles; and all modes of accessibility for the disabled.

Affordability

Maximize the number of affordable below-market-rate units that are available to low-income households of diverse types and sizes, including affordable live/work units for artists. We seek to exceed BART's 35% system-wide affordability goal by aiming for a high number of affordable

units—to potentially be funded by local, state, and regional funding sources. In order to ensure housing for a range of income levels, we will consider inclusionary below-market-rate units and engagement of an affordable housing developer to develop a fully affordable building.

We will seek to support the creation of local jobs through a project labor agreement for construction of the development.

We will engage in a community dialogue that is positive, productive, and thoughtful in regards to community benefits and financial feasibility.

Livability

Enhance the livability of the neighborhood surrounding the North Berkeley BART station. The site should create a visual and physical connection with the neighborhood through its architectural design, height, and scale. In particular, we seek a development that considers the character and context of the neighborhood and steps down in height around the perimeter of the station (with consideration for the varying width of streets around the station) in order to blend in visually and physically with the residential neighborhood. Such a design honors a common theme of many of the designs submitted as part of the October 2018 visioning event. We also seek reasonable spacing between buildings, setbacks, and plantings at the perimeter of the station.

The inclusion of green open space should serve as an amenity that enhances the neighborhood's sense of place.

The streetscape design should strive to minimize neighborhood traffic and congestion impacts and support safe access to the station for bicyclists and pedestrians. Transportation demand management and other best practices should be used to reduce traffic and parking impacts in the surrounding neighborhood.

Environmental Sustainability

Reflect the City's commitment to reducing our carbon footprint in every possible way. All buildings should strive to: incorporate all-electric designs, achieve Zero Net Energy, and reduce parking for residents and retail to the maximum extent possible.

To ensure universal access, regardless of age or ability, Universal Design should be considered for all elements of housing and of all other private and public spaces.

Transit-Oriented Development Policy

Adopted June 9, 2016

Amended August 22, 2019

VISION

The San Francisco Bay Area Rapid Transit District (BART) is a steward of a large scale public investment. This includes real estate assets essential to BART's transit operations, and real estate assets that can be used to catalyze transit-oriented development in furtherance of BART's purpose and goals. BART leverages these opportunities by working in partnership with the communities it serves in order to implement the regional land use vision and achieve local and regional economic development goals. Strengthening the connections between people, places, and services enhances BART's value as a regional resource.

GOALS

- A. **Complete Communities.** Partner to ensure BART contributes to neighborhood/district vitality, creating places offering a mix of uses and incomes.
- B. **Sustainable Communities Strategy.** Lead in the delivery of the region's land use and transportation vision to achieve quality of life, economic, and greenhouse gas reduction goals.
- C. **Ridership.** Increase BART ridership, particularly in locations and times when the system has capacity to grow.
- D. **Value Creation and Value Capture.** Enhance the stability of BART's financial base by capturing the value of transit, and reinvesting in the program to maximize TOD goals.
- E. **Transportation Choice.** Leverage land use and urban design to encourage non-auto transportation choices both on and off BART property, through enhanced walkability and bikeability, and seamless transit connectivity.
- F. **Affordability.** Serve households of all income levels by linking housing affordability with access to opportunity.

STRATEGIES

A. Manage Resources Strategically to Support Transit-Oriented Development

1. Develop a 4-Year Work Plan to assess how staff and financial activities toward TOD will be most fruitful. Identify BART staffing priorities and assignments to promote TOD on and around District property, including contributions to efforts such as planning and development, community engagement, funding and financing strategies.
2. Favor long-term ground leases of no more than 66 years, rather than sale of property, as the standard disposition strategy for joint development projects, except in cases where alternative approaches are required to achieve specific development objectives or where other strategies would generate greater financial return to the District.
3. Solicit proposals for transit-oriented development in localities that have an adopted plan allowing for transit-supportive land uses as defined in the TOD Guidelines. Utilize a competitive selection process but ensure the solicitation process considers property assembly with adjacent land owners for optimal TOD.

Transit-Oriented Development Policy

Adopted June 9, 2016

Amended August 22, 2019

4. Develop a procedure that will allow BART to respond to unsolicited proposals for property development on BART-owned land. Although BART does not encourage unsolicited proposals, they can be a valuable means for BART to partner with local communities and/or the development community to produce innovative or unique developments that deliver benefits in excess of what is typically provided by the market.
5. Revisit the Transit-Oriented Development Policy every 10 years.

B. Support Transit-Oriented Districts

1. Proactively support local jurisdictions in creating station area plans and land use policies that: a) encourage transit-supportive, mixed-use development on and around station properties, b) enhance the value of BART land, and c) enhance the performance of the BART system as a whole.
2. Form partnerships with public agencies, developers and landowners, community development organizations, finance entities, and consider strategic land acquisition to help build TOD both on and off BART property.
3. For BART system expansion, ensure that transit-oriented development and value capture opportunities are explicitly accounted for in major investments such as the location of new station sites, design and construction of station facilities, and acquisition of new properties.

C. Increase Sustainable Transportation Choices using Best Practices in Land Use and Urban Design

1. Utilize BART's TOD Guidelines to ensure future development and investments seamlessly connect BART stations with surrounding communities.
2. Ensure that combined TOD/parking/access improvements on and around each BART station encourage net new BART ridership, utilizing corridor-level, shared, and off-site approaches to parking replacement as appropriate. Following the aspirational Station Access Policy place types, use the following guidelines to replace current BART parking as follows when developing BART property with TOD: strive for no or limited parking replacement at "Urban with Parking" Stations; and use the access model to maximize revenue to BART from development and ridership when determining a parking replacement strategy at all station types.
3. Utilize strategies including mixed-use development, transportation demand management, and pedestrian-friendly urban design to encourage reverse-commute, off-peak, and non-work trips on BART and other modes of non-auto transportation, thereby reducing greenhouse gas emissions.

D. Enhance Benefits of TOD through Investment in the Program

1. Evaluate the financial performance of proposed projects based on sound financial parameters and the ability to generate transit ridership, fare revenue, lease payments, parking revenues, grant resources, other financial participation, and/or cost savings. Consider the opportunity cost to the District of delaying or accelerating development opportunities.
2. Use a variety of financing and governance mechanisms, including joint powers authorities, assessment districts, improvement districts, and lease credits to achieve station area TOD objectives.
3. As appropriate, and in consideration of District-wide financial needs, reinvest revenues from the sale and lease of BART land into the TOD Program, informed by the priorities identified in the 4-Year Work Plan.

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Transit-Oriented Development Policy
Adopted June 9, 2016
Amended August 22, 2019

E. Invest Equitably

1. Increase scale of development at and near BART stations through catalytic investments in TOD, to help address the regional shortfall in meeting housing and other sustainable growth needs.
2. Implement BART's adopted Affordable Housing Policy and aim for a District-wide target of 30 percent of all units to be affordable, with a priority to very low (<50% AMI), low (51-80% AMI) and/or transit-dependent populations.
3. Ensure the 4-Year Work Plan addresses how BART will achieve its affordable housing goals.

AFFORDABLE HOUSING POLICY

It shall be the policy of the District that at each station where the District intends to pursue development that the cumulative development consist of a number of affordable housing units amounting to no less than 20 percent of the total proposed housing units on the property. This goal is for the total aggregate number of residential units on BART property at the station, regardless of the planned phasing of the project.

Each Request for Qualifications (RFQ) or Request for Proposals (RFP) issued by the District relating to proposed residential development projects at BART stations shall include the current percentage of affordable housing constructed at that station along with the cumulative 20 percent goal of affordable housing units per station.

The percentage of affordable units and/or depth of unit affordability based on Area Median Income (AMI) categories in any residential developments at its stations shall be a part of the District's assessment of RFQ/RFP responsiveness. There shall be a priority on residential units made available to very low (< 50% AMI) and low (51-80% AMI) income households. The General Manager or his/her designee will develop an approach to evaluating respondents' affordability housing proposals, that will consider a proposal's quantity and depth of affordability, as well as the proposal's validity and feasibility with respect to this policy.

If a party responding to the RFQ or RFP determines that such a goal is not feasible, that party shall provide an impact analysis, which will be assessed by the District to determine if the goal cannot be attained.

Upon selection of a Developer, the District commits to working with the Developer throughout the development's negotiation process to achieve the pre-established affordable housing goal.

As the negotiations of the proposed development proceed, the General Manager or his/her designee will provide periodic updates to the Board regarding the financial details of each component of the development, culminating in a term sheet for Board approval.

BART also affirms its commitment to develop sustainable partnerships to achieve thriving Priority Development Areas (PDA) at or near BART stations with housing opportunities for residents of all income levels – particularly those populations most reliant on public transit – in order to reduce Greenhouse Gas Emissions (GHG), encourage use of public transit and active transportation, and decrease reliance on automobiles.

On a project-by-project basis, the General Manager or his/her designee may request from the Board an exception to this Policy if staff determines it is infeasible for a specific project.

This policy shall be prospective, and shall not be applicable to past or present development projects for which exclusive negotiating agreements, option agreements for ground leases, or ground leases have already been executed between BART and developers.

Adopted: January 28, 2016



BART STATION ACCESS POLICY

Adopted June 9, 2016

VISION

For more than 40 years, the San Francisco Bay Area Rapid Transit District (BART) has been a steward of major public investment to connect people and places. The BART Station Access Policy is designed to support the broader livability goals of the Bay Area, reinforce sustainable communities, and enable riders to get to and from stations safely, comfortably, affordably, and cost-effectively.

GOALS

A. Safer, Healthier, Greener. Advance the region's safety, public health, and greenhouse gas (GHG) and pollution-reduction goals.

1. Ensure safe access for all users of the BART system, including users with disabilities.
2. Promote and invest in active transportation access modes to improve public health.
3. Prioritize the most sustainable access modes, with a focus on the lowest greenhouse gas and pollutant emissions per trip.
4. Reduce the access mode share of the automobile by enhancing multi-modal access to and from BART stations in partnership with communities and access providers.
5. Develop station-level designs that are consistent with the Station Design Access Hierarchy (Figure 1).

B. More Riders. Invest in station access to connect more riders cost-effectively, especially where and when BART has available capacity.

1. As ridership grows, invest in and manage access resources so as not to exacerbate peak period – peak direction crowding, including by ensuring users can find parking spaces at all times of day.
2. Develop access solutions that promote reverse-peak and off-peak ridership to optimize use of the BART system.

C. More Productive and Efficient. Manage access investments, programs, and current assets to achieve goals at the least cost.

1. Consider life-cycle costs, including capital and operating budget implications, using best asset management practices.
2. Factor land value in decision-making, prioritizing access that generates the most riders with the least space.
3. Consider the Station Access Investment Framework (Figure 2) in identifying contextual access investments at each station, and seek to move stations from their existing to their aspirational types.

D. Better Experience. Be a better neighbor, and strive for an excellent customer experience, including on the first and last mile of the trip to and from BART stations.

1. Expand station access choices for all riders.

BART STATION ACCESS POLICY

2. Promote Transit-Oriented Development (TOD) on and off of BART property as a powerful access tool, putting more riders within walking distance of stations, connecting communities.
3. Collaborate with local jurisdictions to improve station access and create more sustainable communities, including by promoting access improvements off BART property.
4. Ensure high quality design for access improvements, with careful consideration of the local context and the quality of the environment accessing BART.

E. Equitable Services. Invest in access choices for all riders, particularly those with the fewest choices.

1. Ensure that disadvantaged communities share in the benefits of BART accessibility.
2. Strive to be a partner to reduce the cost of living (i.e., transportation and housing) in the Bay Area for low-income communities by increasing access and housing options (i.e. TOD), providing greater access to opportunity.
3. Use Universal Design principles to improve safety and ensure access is available for everyone at all times.

F. Innovation and Partnerships. Be an innovation leader, and establish durable partnerships with municipalities, access providers, and technology companies.

1. Involve BART riders in station access decision-making.
2. Develop partnerships with municipalities, transit operators, developers, technology providers, corporate shuttle providers, Transportation Network Companies, bike share operators, advocacy groups and other entities to best meet access goals.
3. Continue to research and pilot emerging technologies and new forms of access services to keep up with the rapidly-changing transportation ecosystem.
4. Remain technology- and operator-agnostic; make long-term investments in the access technologies and services that best meet the needs of BART riders.
5. Prioritize projects that leverage other fund sources and local matches both to further build partnerships and to capture more value from BART investments.

STRATEGIES

Plan, Innovate and Partner

1. Plan for systemwide access mode shift to reduce drive alone rates.
2. Partner with interested stakeholders to improve access to the BART system.
3. Plan all BART facilities to be accessible to all users, including users with disabilities.

Invest and Implement

1. Invest in the pedestrian and bicycle assets with a focus on BART property, and partner to advance projects off BART property, including partnering on local initiatives, such as Vision Zero, Safe Routes to School, and Safe Routes to Transit.

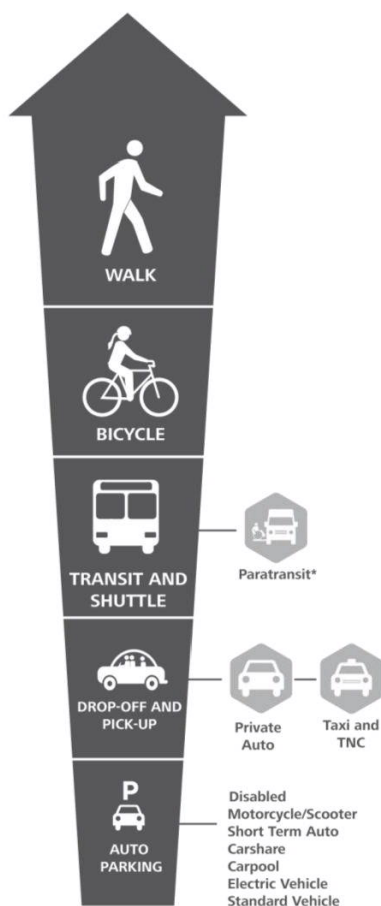
BART STATION ACCESS POLICY

2. Invest in transit connections, including investments that improve passenger experience in transit transfers (shelters, real-time information); seek to reduce barriers to transit connections; and partner with local transit service providers on last mile improvements.
3. Prioritize station access investments that support ridership growth where and when the system has capacity.
4. Improve management of existing parking resources, and invest in or partner on strategic parking resources; including shared parking, on-street parking, programs to maximize existing parking assets, and locating new parking resources only where other approaches are not sufficient, consistent with the station typology investment matrix.

Manage and Assess

1. Manage resources we have.
2. Regularly collect and analyze station access data, and consider emerging data sources.
3. Develop a 4-year work plan to identify projects BART staff will advance in the near-term.
4. Revisit the Station Access Policy every ten years.































FIGURE 1: STATION ACCESS DESIGN HIERARCHY



*All Stations must be paratransit accessible
Note: All stations must always remain readily accessible to and usable by persons with disabilities

BART STATION ACCESS POLICY

FIGURE 2: STATION ACCESS INVESTMENT FRAMEWORK

STATION TYPE	PRIMARY INVESTMENTS	SECONDARY INVESTMENTS	ACCOMMODATED	NOT ENCOURAGED
URBAN	  Walk Bicycle	 Transit and Shuttle	  Taxi and TNC Drop-Off and Pick-Up	 Auto Parking*
URBAN WITH PARKING	  Walk Bicycle	 Transit and Shuttle	  Taxi and TNC Drop-Off and Pick-Up	 Auto Parking*
BALANCED INTERMODAL	  Walk Bicycle	  Transit and Shuttle Drop-Off and Pick-Up	  Taxi and TNC Auto Parking*	
INTERMODAL/AUTO RELIANT	 Walk	   Bicycle Drop-Off and Pick-Up Transit and Shuttle	  Taxi and TNC Auto Parking*	
AUTO DEPENDENT	 Walk	    Bicycle Drop-Off and Pick-Up Auto Parking* Transit and Shuttle	 Taxi and TNC	

Primary Investment:
 BART will prioritize investments of funds and staff time on and off of BART property, consistent with access goals; priority projects best achieve policy goals, focus on safety and sustainability.

Secondary Investment:
 BART will invest funds and staff time on and off of BART property, consistent with policy goals; secondary investments balance policy goals.

Accommodated:
 BART will maintain and manage existing assets, and partner with other access providers as needed.

Not Encouraged:
 BART will not invest in construction of parking expansion.

Note: TNC is for Transportation Network Company (shared use mobility)

*Parking Management is a secondary investment at all stations with parking.

*Parking replacement for transit-oriented development to be determined by BART's Transit-Oriented Development Policy.



COMMISSIONERS' MANUAL

2019 EDITION

BACKGROUND INFORMATION
RULES AND PROCEDURES

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AMENDED AND OFFICIALLY ADOPTED BY RESOLUTION NO. 69,063-N.S. (2019)

**3) Incompatible Public Offices**

The common law doctrine of incompatible public offices prohibits a public official from occupying two public offices that are incompatible in terms of their duties and/or the likelihood of divided loyalties. However, in Berkeley, serving on two or more City boards or commissions, including quasi-judicial bodies, is permitted (BMC Chapter 3.80). A commissioner who already occupies an elected or appointed office other than a City board or commission and wants to apply for appointment to a City commission should seek the City Attorney's advice as to whether the two offices may be deemed incompatible.

**4) Incompatible Activities for Compensation**

Government Code Section 1126 prohibits a public official from engaging in activities for compensation that are incompatible with his or her public office. A commissioner engaged in compensated activities that may be incompatible with his or her duties as a commissioner should consult the City Attorney.

**5) State-Mandated Ethics Training**

State law (AB 1234) requires certain local agency officials to receive training in ethics. In Berkeley, the officials identified for requirement are Mayor and City Council, City Auditor, Rent Stabilization Board Commissioners, Board of Library Trustees, and Police Review Commissioners.

These officials will receive a notice from the City Clerk advising them of the required training. The training may be completed on the FPPC website. The training must be completed within one year of the date of appointment and every two years thereafter. A certification of completion must be filed with the City Clerk. For more information, please contact the City Clerk Department.

**F. COMMISSION ORGANIZATION**

**1) Election of Officers and Terms of Office**

Unless otherwise provided by ordinance,<sup>2</sup> the chair and vice-chair are elected by the majority of the commission for a one-year term and hold office until their successors are elected or until their terms as members of the commission expire. No commissioner shall serve as chair for more than two consecutive years. There is no term limit for vice-chair.

Unless otherwise provided for in the enabling legislation, the annual election of commission officers should occur during the month of February. The election of officers must be listed as an item on the agenda.

Two meetings prior to the meeting at which officers will be elected, commissions are encouraged to list as an agenda item a discussion of the election, to inform all commissioners of the opportunity to seek nomination and election for the offices of chair and vice chair, to discuss and agree to the nomination process and timing for nominations (if no policy has been enacted by the commission), and to add clarity for commissioners and the

<sup>2</sup> Election of officers to the Police Review Commission, Board of Library Trustees, and Landmarks Preservation Commission are regulated by BMC Sections 3.32.050, 3.04.040, and 3.24.030, respectively.

public. In order to facilitate an orderly and fair nomination process, commissions may open nominations at the January meeting (or the meeting prior to the February meeting) and then hold the vote on officers at the February meeting. A Commission may enact a policy on officer elections in conformance with the requirements stated below, specifying the timing for nominations, the order in which nominations will be voted upon, and any other details that support a fair, orderly and transparent process for election of officers.

If there are multiple nominees for chair or vice-chair, the commission may wish to use a process by which all nominations can be made prior to voting. Full discussion of nominations is recommended, including the ability of nominees to speak on behalf of their own candidacy.

**Additional regulations for officer elections:**

- Nominations for chair and vice-chair require a motion (with second).
- A commissioner may nominate himself or herself.
- Any member of the commission, regardless of length of tenure on the commission may be elected chair or vice-chair.
- There is no automatic succession from vice-chair to chair.
- Motions to nominate must be voted on in the public forum, and no secret ballots are allowed.
- A roll call vote is recommended for votes on commission officers, and is required if any commissioner requests a roll call vote.
- The results of the vote must be publicly announced and the vote recorded in the minutes (Resolution No. 60,531-N.S.).
- A commissioner may not be elected chair if he or she will not be able to finish the term due to the two-year limitation.

Terms of office for officers are determined by the date the election regularly occurs, not by the date it may have actually occurred. If there is a slight variation in the date of the election, the sitting chair may serve on an interim basis provided that they do not exceed the two-year limit.

**Scenario:**

The chair is elected in February 2016. The chair resigns in April 2016. A new chair is elected in May 2016. The newly elected chair will serve from May 2016 to February 2017, when the next regular election is held.

**2) Mandatory Annual Training for Chairs and Vice-Chairs**

Chairs and vice-chairs are required to complete mandatory annual training. Resolution No. 63,876-N.S. was adopted by the City Council to implement video training for commission officers to satisfy the requirements of Resolution No. 60,531-N.S.

The chair and vice-chair must view, in its entirety, a training video on commission procedures and legal requirements. Upon completion, the chair and vice-chair must file with the City Clerk an Affirmation of Completion.







**Planning and Development Department**  
Land Use Planning Division

## **STAFF REPORT**

DATE: January 15, 2020  
TO: Members of the Planning Commission  
FROM: Justin Horner, Associate Planner  
SUBJECT: Parking Maximums

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### **RECOMMENDATION**

Review report and provide feedback on staff's recommendation to not include parking maximums as part of the public hearing on parking minimums and Transportation Demand Management (TDM) to be held at your meeting of February 5, 2020.

### **BACKGROUND**

In response to the City Council's Green Affordable Housing Package and the City-wide Green Development Requirements referrals, the Planning Commission discussed potential parking reform at their meetings of July 17, 2019, October 2, 2019 and December 4, 2019.

At their meeting of December 4, 2019, the Planning Commission directed staff to conduct a public hearing at the February 5, 2020 Planning Commission meeting to consider amendments to the Zoning Ordinance to eliminate minimum parking requirements for all residential development in all zones, and to require, with some exceptions, certain TDM measures for all residential projects, or residential portions of mixed-use projects, that include 10 or more units.

The Planning Commission also directed staff to return to the Planning Commission with additional information about implementing parking maximums for residential development in Berkeley. It is requested that the Planning Commission receive this report about parking maximums, and provide comments and feedback on staff's recommendation to not include parking maximums as part of the Zoning Ordinance amendments to be presented at a public hearing at the February 5, 2020 Planning Commission meeting.

### **Review of Existing Parking Maximums**

Staff research revealed that land use regulations instituting parking maximums for residential development are very rare. Staff surveyed 13 jurisdictions that have recently reformed their parking regulations to reduce or eliminate parking minimums, ten of which were the only

jurisdictions staff found that have also instituted parking maximums. As an additional reference point, staff added Transform’s GreenTRIP Certification program. The regulations are summarized in Table 1, below.

**Table 1. Residential Parking Minimums and Maximums: Summary**

| <b>City</b>                       | <b>Minimum</b>                                | <b>Maximum</b>                         | <b>Notes</b>                                                                                                                                                                                |
|-----------------------------------|-----------------------------------------------|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#">Burlington, MA</a>    | 1.5/unit                                      | 1.5/unit                               | Maximum applies to buildings with 3 or more units only                                                                                                                                      |
| <a href="#">Charlotte, NC</a>     | 1/unit                                        | 1.6/unit                               |                                                                                                                                                                                             |
| <a href="#">Flagstaff, AZ</a>     | 1.25 – 2.5/unit, depending on bedrooms        | No more than 105% of minimum           | Maximum applies to buildings with 25 or more units only.                                                                                                                                    |
| <a href="#">Knoxville, TN</a>     | 1 – 2/unit, depending on bedrooms             | 1.25 – 2.5/unit, depending on bedrooms | Maximum only applies to buildings with 3 or more units.<br><br>Guest parking is also required                                                                                               |
| <a href="#">Minneapolis, MN</a>   | --                                            | 1.5 – 2/unit                           | No minimums and maximums only apply to downtown zoning districts. (elsewhere, 1/unit + no maximum)                                                                                          |
| <a href="#">Pasadena, CA</a>      | 1.5/unit                                      | 2/unit                                 | Maximum only applies to Sierra Madre Villa Station TOD Area                                                                                                                                 |
| <a href="#">Pasadena, CA</a>      | 1.5/unit                                      | 1.75/unit                              | Maximum only applies to TOD Areas and Central District                                                                                                                                      |
| <a href="#">Pittsburgh, PA</a>    | 1/unit                                        | 2/unit                                 | Maximum only applies to 1,000 acre Uptown Ecolnnovation District                                                                                                                            |
| <a href="#">Portland, OR</a>      | 0 – 0.33/unit, depending on project size      | --                                     | Minimums only for sites 1500 ft or less from a transit station or 500 ft or less from a transit street with 20 min headways.<br><br>Parking maximums do apply to most non-residential uses. |
| <a href="#">San Diego, CA</a>     | 0 – 2/unit, depending on bedrooms             | --                                     | No parking minimums only for buildings of 3 or more units in Parking Transit Priority Areas<br><br>Parking maximums do apply to most non-residential uses                                   |
| <a href="#">San Francisco, CA</a> | --                                            | 0.5 - 1.5/unit                         | Maximum depends on zoning district. Maximum is 1.5/unit in most cases                                                                                                                       |
| <a href="#">Seattle, WA</a>       | --                                            | --                                     | No minimums only for residential uses in urban center, certain overlay districts, or in commercial zones.<br><br>No required parking for any affordable unit at 80% AMI or below            |
| <a href="#">Vancouver, Canada</a> | 75% of base zone standard (1/unit, generally) | 125% of base zone standard             | Minimums and maximums apply in Transit Overlay District only (urban centers and transit nodes)                                                                                              |

|                                         |    |                        |                                                                                                  |
|-----------------------------------------|----|------------------------|--------------------------------------------------------------------------------------------------|
| <a href="#">London, United Kingdom</a>  | -- | 0.25 – 1.5 spaces/unit | Maximum based on which Public Transit Accessibility Level (PTAL) areas subject parcel is located |
| <a href="#">GreenTRIP Certification</a> | -- | 1/unit                 |                                                                                                  |

Of the ten jurisdictions that have instituted parking maximums, seven apply them only to specific zoning districts or areas with transit access. This trend across cities is consistent with the Planning Commission’s request at their December 4, 2019 meeting to consider parking maximums that may vary depending upon project location.

Staff accompanied this review of existing regulations with a review of the few treatments of parking maximums in the scholarly literature and correspondence with staff at the San Francisco Planning Department and the Pittsburgh Department of City Planning. Through this investigation, staff concluded that there is not a widely accepted quantitative methodology for setting parking maximums for residential development. In most cases, parking maximums are set somewhere between a range of 1.5 to 2 spaces per unit, seemingly most often through political deliberation and a review of recent development trends in each jurisdiction. Again, as shown in Table 1, parking maximums mostly apply only within particular zoning districts characterized by density, distance from an urban center and/or transit accessibility.

**Discussion: Setting a Parking Maximum**

The two primary questions the Planning Commission is asked to address if it chooses to institute parking maximums for residential development are 1) where should parking maximums apply; and 2) what should the upper limit of the maximum be?

*Where to Apply Parking Maximums*

In its report for the December 4, 2019 meeting, staff did not recommend parking maximums for certain areas of the city; rather, parking maximums were to apply to projects of a certain size (ten or more units). Given Berkeley’s current zoning, parking maximums would apply only to certain areas of the city (Zoning Districts R-3 and above).

However, given the Planning Commission’s direction at its December 4, 2019 meeting to eliminate parking minimums for all residential projects citywide, the Commission may also be interested in apply parking maximums on a wider geographic scale. In addition to the option of applying parking maximums to certain *types* of projects, there are two recommendations Planning Commission could also consider:

- Citywide Parking Maximums: The Planning Commission could recommend a uniform parking maximum and apply it to all residential projects throughout the city;
- Parking Maximums in Transit-Rich Areas: Consistent with the approach of most jurisdictions that institute parking maximums, the Planning Commission could choose to impose parking maximums in areas close to transit. At their meeting of May 1, 2019, the Planning Commission received a report from staff that included maps that indicate Berkeley’s most transit-proximate areas (*Attachment 1*).

### *Setting the Parking Maximum*

In its report for the December 4, 2019 meeting, staff recommended two potential approaches to setting parking maximums:

- A parking maximum could be set 0.5 spaces per unit, consistent with the October 2019 *Residential Parking Utilization Study's* finding about the average number of registered vehicles per unit (*Attachment 2*); or
- A parking maximum could be set at the Zoning Ordinance's current minimum parking requirements, which ends up at around 1 space per unit. This is slightly more than the 0.82 spaces provided per unit among the twenty multi-family projects observed in the *Residential Parking Utilization Study*.

An additional option could be to set the maximum at or near the typical level of parking provision for recently-entitled projects. At their meeting of May 1, 2019, the Planning Commission received a report from staff that included a summary of residential projects entitled in 2018 and the amount of parking required and provided by each of them (*Attachment 3*). Of the 21 total projects, 86% provided the required number, or fewer, parking spaces (29% provided fewer than required). While most projects did provide the required amount of parking (around 1 space/unit), across all projects, the average number of parking spaces was 0.4 per unit (410 total parking spaces for 1122 units). The Planning Commission could also consider this 0.4 spaces per unit standard.

Referring again to Table 1, adopting any of these three recommendations would set parking maximums that are noticeably lower than most other cities that have instituted them, and higher than only San Francisco among American cities.

### **Planning Staff Recommendation: Do Not Institute Parking Maximums at this Time**

Notwithstanding the above, Planning Department staff does not currently recommend setting parking maximums for residential development. Very few jurisdictions have instituted maximum parking requirements, and the few that have, limit them to specific zoning districts or sub-areas within their respective cities. Parking maximums that have been set by other jurisdictions are at per unit levels well above what is already being constructed in Berkeley, even before the City has moved forward to reduce or remove minimum parking requirements. Given the review of recently approved projects noted above, and the findings of the recent *Residential Parking Utilization Study*, it is not apparent to staff that Berkeley faces a problem with development projects providing too much parking; a problem parking maximums are instituted to solve. And while parking maximums can serve as tools to promote mode shift away from private vehicle travel, the lack of tested methodologies for setting parking maximums for residential projects is problematic. Staff would be speculating as to the likely mode share consequences of residents of buildings subject to parking maximums, without a solid understanding of the effect such maximums could have on project feasibility.

For these reasons, staff recommends that the Planning Commission not recommend instituting parking maximums at this time. Staff instead recommends examining projects that seek

entitlements after reforms to minimum parking requirements are instituted to see if parking maximums would be appropriate in the future.

### **NEXT STEPS**

Planning Commission is asked to provide final policy direction on the following questions and request a public hearing on February 5, 2020 to consider specific Zoning Ordinance amendments for parking reform.

***Question for Planning Commission:*** *Should a maximum parking standard be implemented for residential development?*

***Question for Planning Commission:*** *If so, should they be implemented based on project size, project location or a combination? What should be the maximum number of allowable off-street parking spaces?*

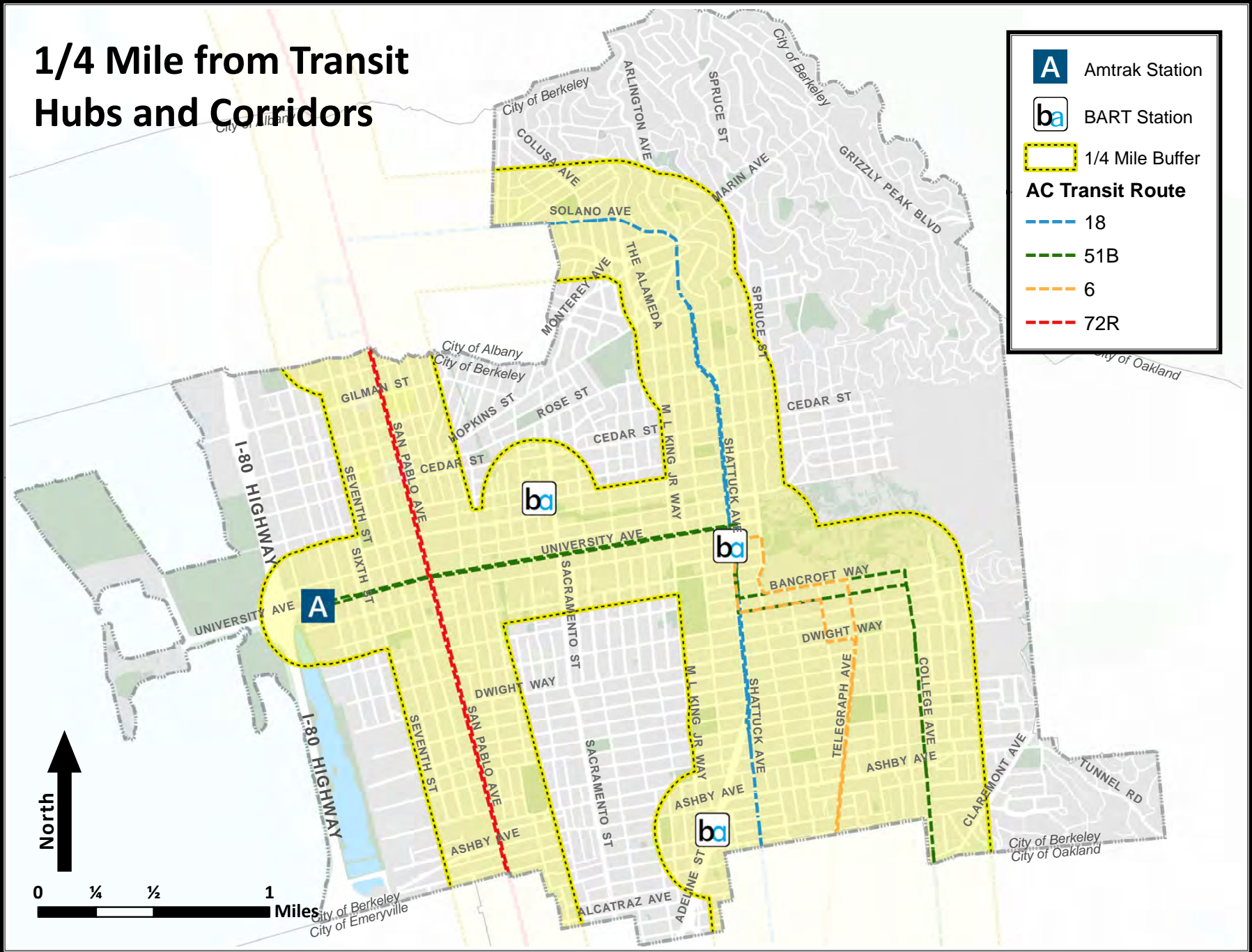
### **ATTACHMENTS:**

1. Maps of transit stations and corridors with  $\frac{1}{4}$  mile and  $\frac{1}{2}$  mile buffers.
2. Residential parking utilization study
3. List of 2018 entitled projects with amount of parking provided and required.



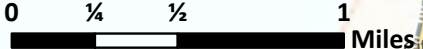
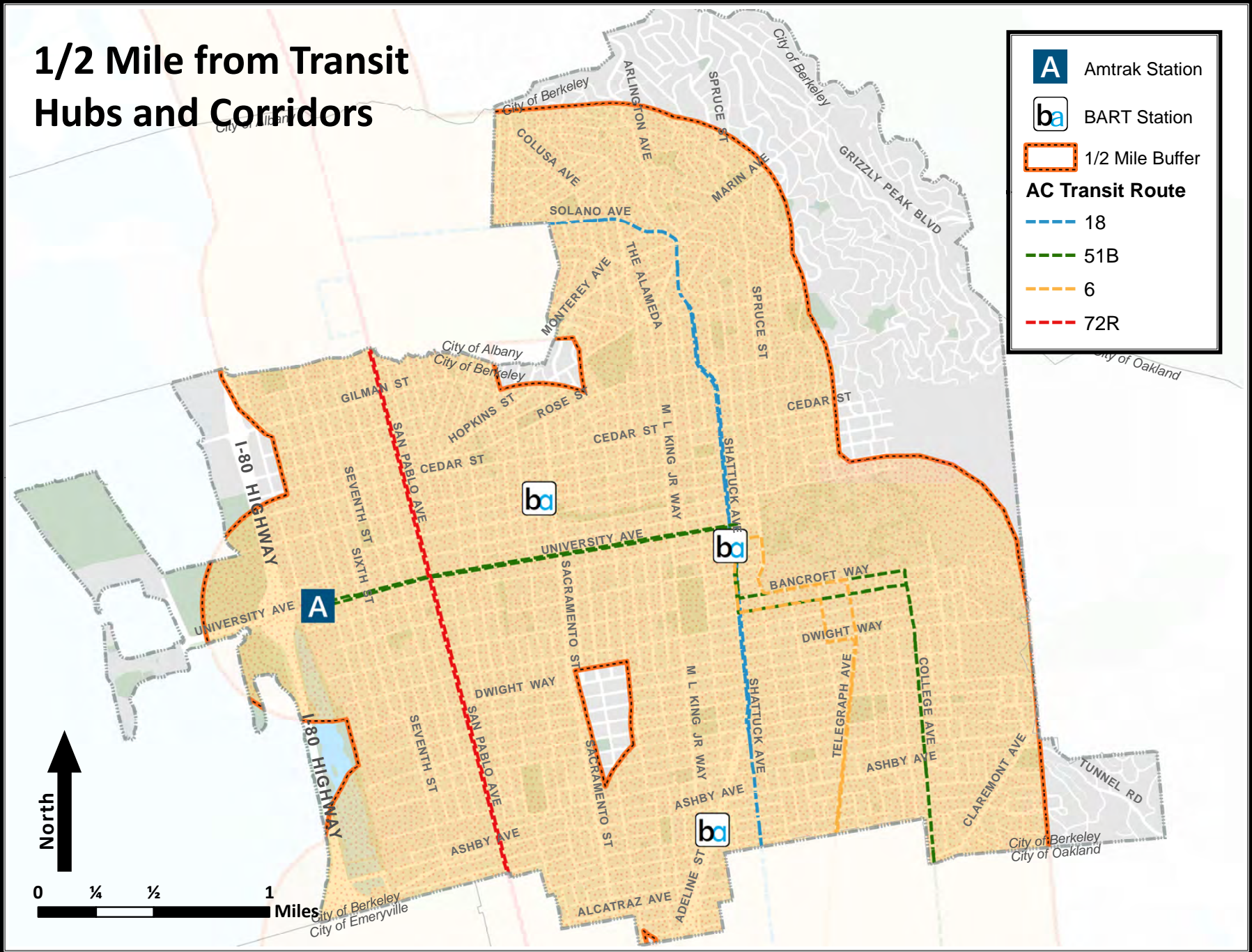
# 1/4 Mile from Transit Hubs and Corridors

- A** Amtrak Station
- ba** BART Station
- 1/4 Mile Buffer**
- AC Transit Route**
  - 18
  - 51B
  - 6
  - 72R



# 1/2 Mile from Transit Hubs and Corridors

- A** Amtrak Station
- ba** BART Station
- 1/2 Mile Buffer**
- AC Transit Route**
  - 18
  - 51B
  - 6
  - 72R







## MEMORANDUM

To: Justin Horner, City of Berkeley  
From: Nelson\Nygaard Team  
Date: November 25, 2019  
Subject: Berkeley Residential Parking Capacity Study

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### INTRODUCTION AND STUDY PURPOSE

By analyzing actual usage (i.e. occupancy) of residential parking, the purpose of this study is to “right size” off-street parking requirements to meet the City of Berkeley’s goals of developing more housing at all affordability levels and encouraging more sustainable transportation modes. In addition to studying off-street parking behavior, compared to what is provided, assessing the efficiency of on-street parking facilities is intended to help meet the City of Berkeley’s goals of encouraging more sustainable transportation modes.

The overall purpose of this assessment is to analyze the parking required, provided and utilized at these buildings in order to determine how existing off-street parking regulations match actual usage.

### METHODOLOGY

#### Property Selection Process

The City identified residential properties located within a variety of neighborhoods.

City Staff made initial contact with property’s/property managers to request they take a short survey about the property and secondly confirm whether they would allow access to the property for on-site parking survey. A total of 28 survey responses were received, and of that 20 properties were selected for further data collection multi-unit residential buildings (with 10 units or more) in consultation with the city. Selection criteria included:

- Geographical distribution within multifamily zoned areas
- Mix of affordable/inclusionary and 100% market rate facilities; and
- A range of property sizes (by number of units)

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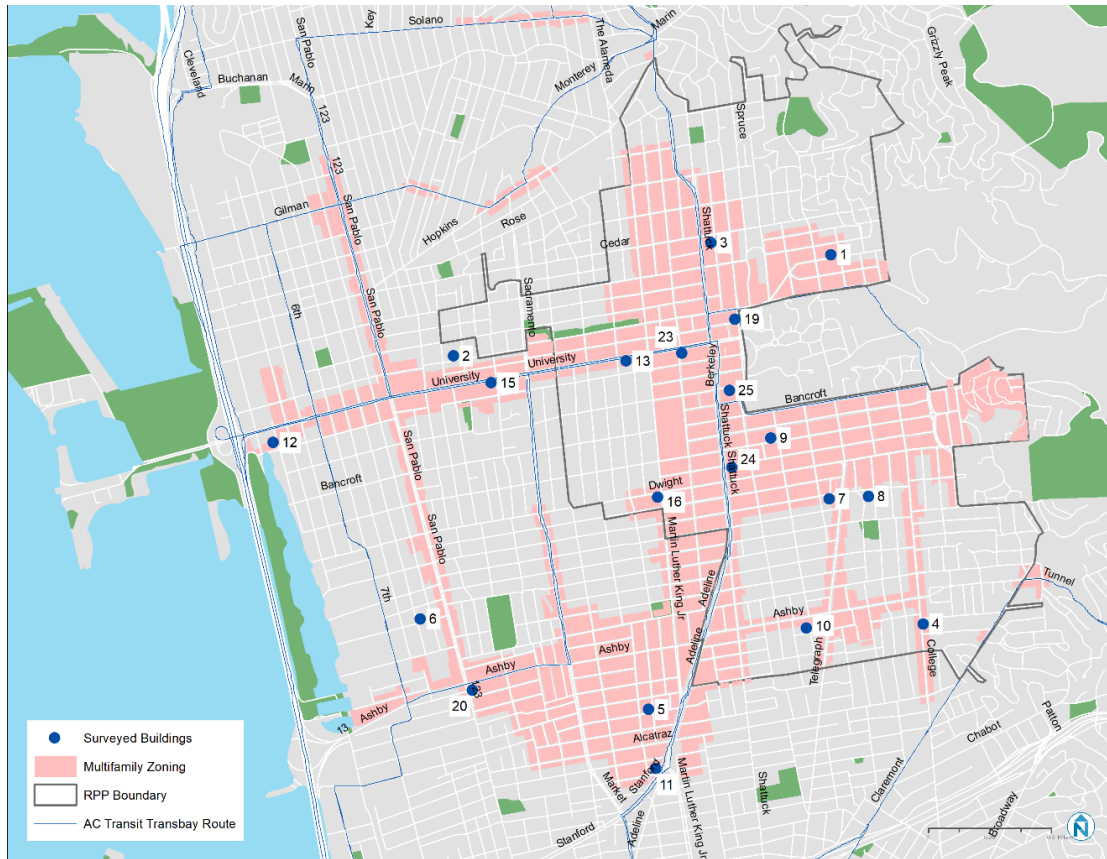
The surveyed properties are listed in Table 1 and displayed on the Figure 1 on the following page.

**Table 1 - Surveyed Properties**

| ID | Address                        | Total Units | % Affordable Housing |
|----|--------------------------------|-------------|----------------------|
| 1  | 2575 Le Conte Avenue           | 11          | 0%                   |
| 2  | 1277 Hearst Avenue             | 8           | 0%                   |
| 3  | 1612 Walnut Street             | 9           | 0%                   |
| 4  | 3001 College Avenue            | 10          | 0%                   |
| 5  | 3140 Ellis Street              | 10          | 0%                   |
| 6  | 2777 Ninth Street              | 21          | 0%                   |
| 7  | 2414 Parker Street             | 16          | 0%                   |
| 8  | 2610 Hillegass Avenue          | 23          | 0%                   |
| 9  | 2239 Channing Way              | 14          | 0%                   |
| 10 | 2321 Webster Street            | 18          | 0%                   |
| 11 | 3380 Adeline Street            | 14          | 0%                   |
| 12 | 651 Addison Street             | 94          | 4%                   |
| 13 | 1812 University Avenue         | 44          | 9%                   |
| 15 | 1370 University Avenue         | 71          | 97%                  |
| 16 | 2500 Martin Luther King Jr Way | 10          | 20%                  |
| 19 | 1910 Oxford Street             | 56          | 20%                  |
| 20 | 3015 San Pablo Avenue          | 98          | 15%                  |
| 23 | 2004 University Avenue         | 35          | 20%                  |
| 24 | 2110 Haste Street              | 100         | 20%                  |
| 25 | 2116 Allston Way               | 91          | 20%                  |

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**Figure 1 - Study Area Map**



Note: The number label in each surveyed property in the map corresponds to the ID number in Table 1

### **Residential Property Manager Survey**

A short on-line survey was developed and distributed for the residential property managers to get basic information about their buildings, including total units, total parking spaces, unit vacancies, the number of affordable units, unbundled parking and transportation demand management programs available to residents. A copy of the survey instrument is included in the appendix.

### **Parking Data Collection**

A parking survey was conducted at each property including off-street inventory of parking spaces and total vehicles observed. The survey was conducted when UC Berkeley was in session on a typical weekday evening, between midnight and 5:00am in order to more reliably reflect a time when most residents would be at home.

On-street parking capacity (inventory and occupancy) in the areas around selected buildings was surveyed on the two blockfaces nearest the immediate pedestrian entrance

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to each property.<sup>1</sup> This data was collected to help understand neighborhood parking, potential spillover and local context.

### **Vehicle Registration**

The City provided anonymized DMV (Department of Motor Vehicle) and RPP (Residential Parking Permits) data associated with each of the residential properties. The purpose of the analysis was to determine how many vehicles are associated with each property and how many vehicles take advantage of the available Residential Preferential Permit Program rather than parking on the property.

### **Socioeconomic Assessment**

In addition to the property related data collected, a socioeconomic assessment of multifamily housing was performed. It focused on aspects related to vehicle ownership and commute choices in areas zoned for multifamily housing. The team used 2017 ACS 5-year data at census block group (CBG) level and compared ownership and rental tenure, and income.

## **KEY FINDINGS**

### **Property Survey**

- Surveyed properties averaged 41.5 units per building. The median apartment building surveyed had 23 housing units.
- The residential usage rate was relatively high, ranging from 94% to 100%.
- 9 of the 20 buildings studied contained some affordable housing units, with most around 15-20% affordable.
- All 20 properties were within a reasonable walking distance (half mile or less) and 17 within very walkable distance (quarter of mile or less) of high-frequency transit service (BART or Transbay Bus).
- The average built parking ratio was 0.82 per unit.
- Properties with the fewest vehicle registrations per unit appear to be closer to downtown Berkeley.

### **Parking Survey**

- The average parking occupancy across all properties, both on and off-street, is 55%

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<sup>1</sup> In some cases where there were multiple entrances, the immediate blockfaces on each entrance were collected.

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- There are slightly less than 0.5 vehicles registered per unit on average, yet there is an average 0.82 parking spaces per unit off-street.
- The average and median off-street occupancy for all properties is 0.45 and 0.53 per unit respectively.
- The average and median on-street occupancy for all properties was 60% and 61% respectively.

**Socioeconomic Analysis**

- In multifamily areas less than 25% of people drive to work alone as opposed to more than 40% in single-family areas.
- In multifamily areas slightly more than 30% of people walk to work as opposed to approximately 7% in single-family areas.
- In general, the share of zero car households in multifamily areas is higher than in single family areas.
- Of the total households in multifamily areas, 40% of renter households do not own a car and about 10% of owner households do not own a car.
- There is more available on-street and off-street parking (particularly near Downtown Berkeley) in those areas that have more renters, have fewer cars and have more residents that commute either on-foot or on transit.

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**PROPERTY ANALYSIS**

Property managers responded to an online survey, providing relevant details for this analysis. The number of housing units in these properties ranges from 8 to 100, with an average of 41.5 units per building. The median apartment building surveyed had 23 housing units. Table 1, above, provides the number of units in each surveyed building. While there are a few vacant units in these properties, the occupancy rate is relatively high, ranging from 94% to 100%. Additionally, 9 of the 20 buildings studied contained some affordable housing units. The share of affordable housing ranged from 4% of the total units to 97%, with most around 15-20% of all units being affordable.

Ninety percent of surveyed properties had unbundled parking, meaning that the cost of parking charged separately from the apartment lease. Only two out of the twenty surveyed buildings did not charge separately for parking. Properties with unbundled parking all reported charging more than \$50 per month for a parking space.

All 20 properties were within a reasonable walking distance of high-frequency BART and AC Transit Transbay service.

Sixteen (16) of the properties included secure bike parking within their premises. The number of bicycles these facilities can store ranges from 4 (for a 10-unit apartment building) to 60 (for a 98-unit apartment building). In terms of per-unit bicycle storage, buildings that included secure parking ranged from 0.3 spaces unit to 3 spaces per unit.

All the surveyed properties include parking. The parking supply ranged from 10 parking spaces to 129 parking spaces. The following table summarizes parking supply in per-unit basis. The average built parking spaces was 0.82 per unit.

**Table 2 - Built Parking Spaces per Unit**

|                       | Median | Mean | Min  | Max  | 20 <sup>th</sup> percentile | 80 <sup>th</sup> percentile |
|-----------------------|--------|------|------|------|-----------------------------|-----------------------------|
| <b>Parking Spaces</b> | 0.82   | 0.84 | 0.20 | 1.70 | 0.54                        | 1.15                        |

Similarly,

summarizes DMV vehicle registrations per unit for the surveyed properties. Registrations range from 0 to 69 vehicles per property, with an average of 0.49 vehicle registrations per unit. The data indicate a wide distribution. Figure 2 illustrates the distribution of vehicle registrations per unit across the 20 study properties. Red dots indicate a property with no vehicle registrations, while a large blue dot indicates a ratio of over one (1) vehicle per unit.

**Table 3 - DMV Registrations per Unit**

|  | Median | Mean | Min | Max | 20 <sup>th</sup> percentile | 80 <sup>th</sup> percentile |
|--|--------|------|-----|-----|-----------------------------|-----------------------------|
|--|--------|------|-----|-----|-----------------------------|-----------------------------|

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|                              |      |      |   |      |      |      |
|------------------------------|------|------|---|------|------|------|
| <b>Vehicle Registrations</b> | 0.38 | 0.49 | 0 | 1.80 | 0.25 | 0.71 |
|------------------------------|------|------|---|------|------|------|

A handful of properties have 15 or more registrations while many have very few. Those properties with the least vehicle registrations per unit as illustrated in Figure 2 appear to be closer to downtown Berkeley.

**Figure 2 – Vehicle Registrations per Unit**

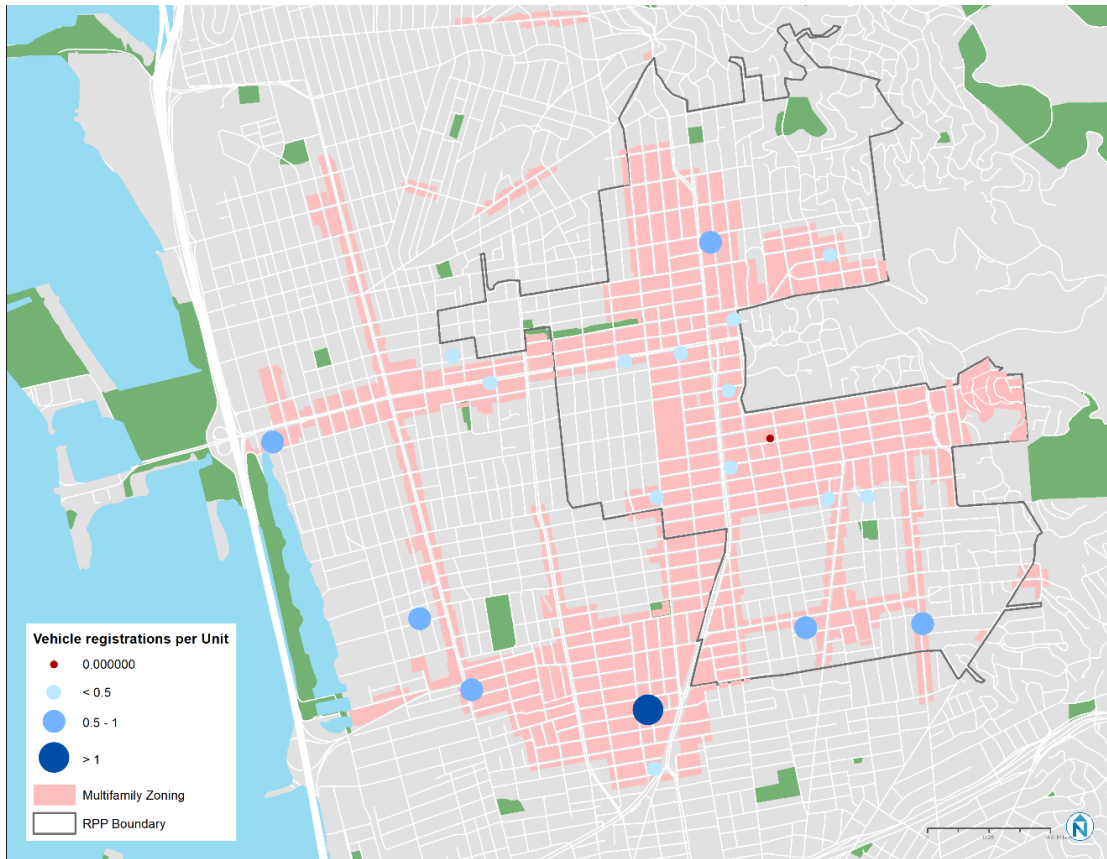
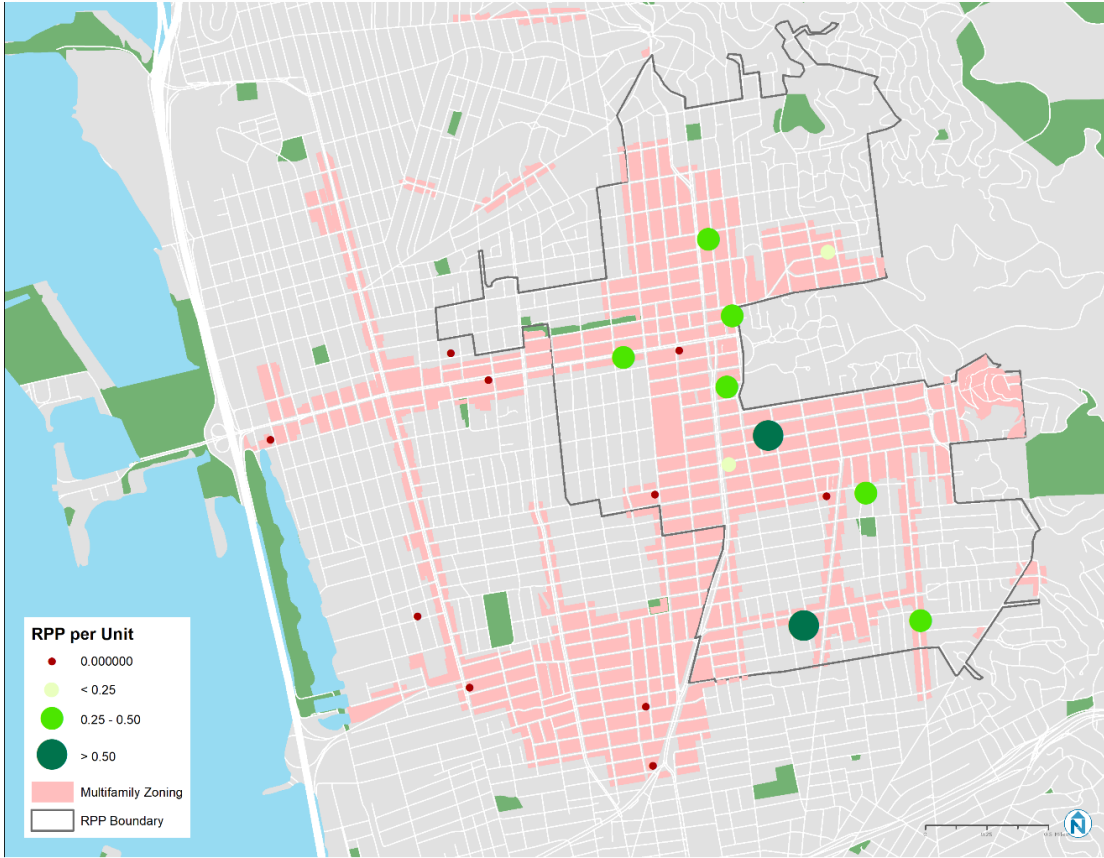


Figure 3 illustrates the distribution of residential preferential permit registrations per unit across the 20 study properties. Red dots indicate a property with no permits, while a large dark green dot indicates a ratio of more than 0.5 permit per unit. As to be expected, only properties within the RPP boundary are associated with residential permit registrations.

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Figure 3 - RPP per Unit





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**PARKING ANALYSIS**

The following analysis combines the different data sources and studies trends and patterns on parking supply and parking usage within the surveyed properties and their adjacent streets.

**Occupancy**

The average parking occupancy across all properties is summarized in Table 4 at 55%. Diving deeper into per unit occupancy and occupancy rates illustrates greater differences in properties with affordable and market rate units.

**Table 4 – Parking Occupancy Across all Properties**

|              | Total # Spaces | Occupancy  | Occupancy (%) |
|--------------|----------------|------------|---------------|
| On-Street    | 448            | 297        | 61%           |
| Off-Street   | 592            | 279        | 54%           |
| <b>Total</b> | <b>1040</b>    | <b>576</b> | <b>55%</b>    |

**Off-Street**

Table 5 shows parking occupancy and supply by unit. Properties with affordable units also lower occupancy across all categories as compared to purely market rate. This is corroborated with research indicating that lower income/ affordable housing residents are more transit dependent and less likely to own a vehicle.<sup>2</sup>

**Table 5 – Off-Street Parking Occupancy and Supply per Unit**

|                          | Off-Street Supply | Off-Street Usage |
|--------------------------|-------------------|------------------|
| Average                  | 0.84              | 0.45             |
| Market rate              | 0.89              | 0.55             |
| Affordable/ Inclusionary | 0.78              | 0.33             |

Table 6 summarizes the range of occupancies across the properties. The mean and median off-street occupancy for all properties is 0.45 and 0.54 per unit respectively.

<sup>2</sup> <https://www.jtlu.org/index.php/jtlu/article/view/1129/986>

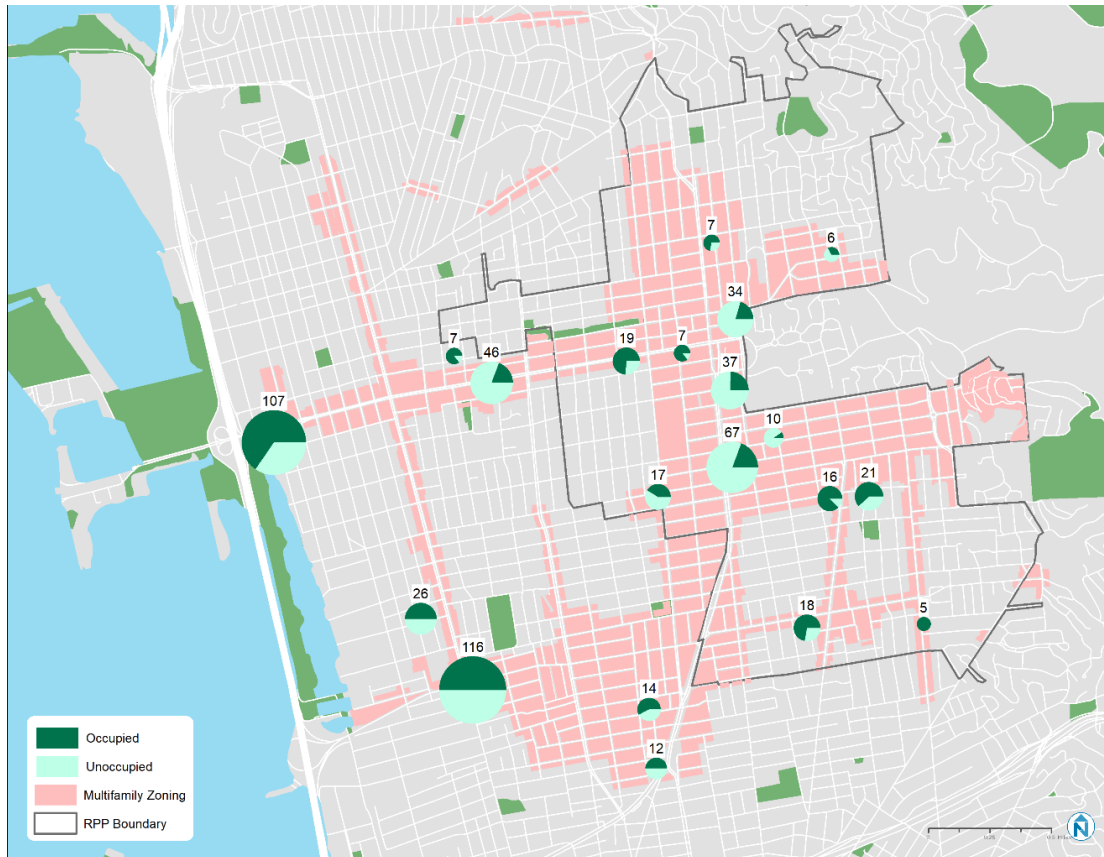
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**Table 6 – Off-Street Parking Occupancy and Supply per Unit**

|           | Median | Mean | Min  | Max  | 20 <sup>th</sup> percentile | 80 <sup>th</sup> percentile |
|-----------|--------|------|------|------|-----------------------------|-----------------------------|
| Supply    | 0.82   | 0.84 | 0.20 | 1.17 | 0.54                        | 1.15                        |
| Occupancy | 0.53   | 0.45 | 0.07 | 0.88 | 0.13                        | 0.73                        |

Figure 4 shows the distribution of off-street occupancy counts collected at the 20 study properties. The size of the pie chart indicates the total inventory of off-street parking available at the site and the dark green vs. light green is an indication of how much parking was occupied. There appears to be a larger proportion of unoccupied off-street parking when the buildings are located closer to UC Berkeley campus and the downtown area, which could be explained by student populations and proximity to BART.

**Figure 4 - Off-Street Parking**



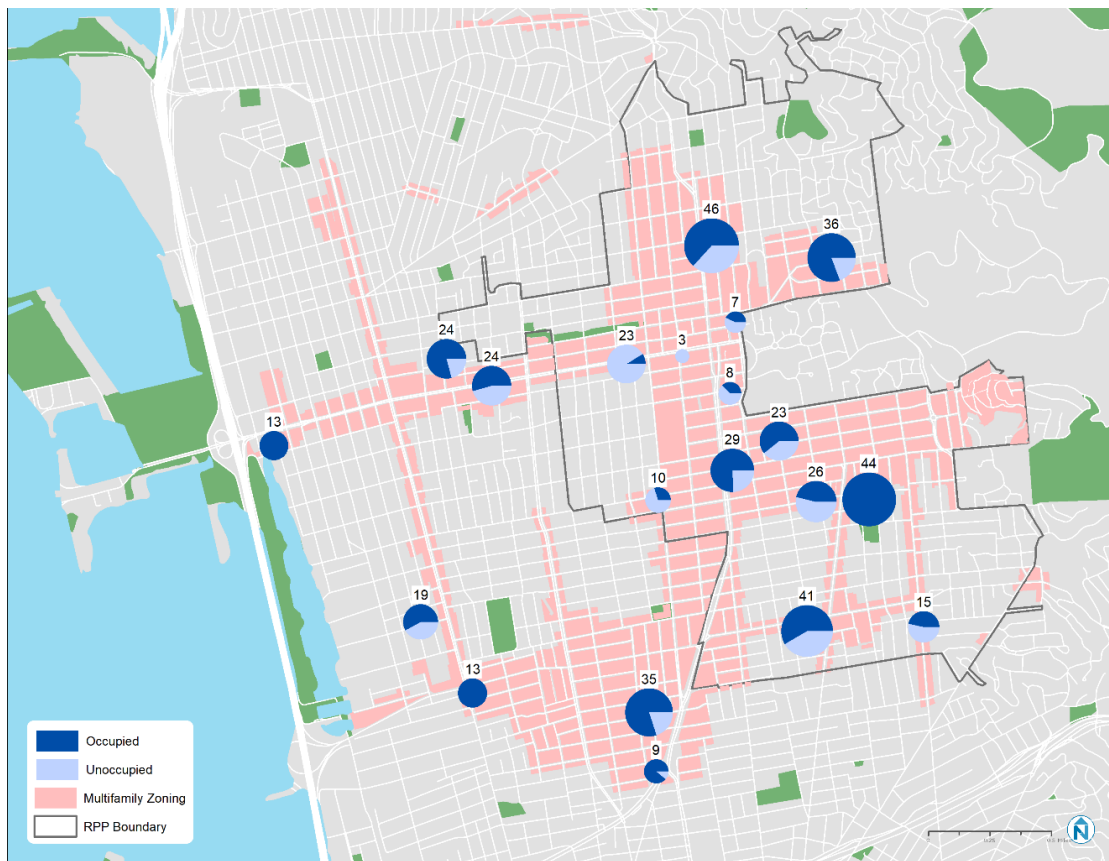
Note: Size of the pie chart and number on top indicate the total parking spaces

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**On-Street**

Figure 5 shows the distribution of on-street occupancy counts collected at the 20 study properties. On-street parking capacity in the areas around selected buildings was surveyed on the two blockfaces nearest the immediate pedestrian entrance to each property.<sup>3</sup> The size of the pie chart indicates the total inventory of on-street parking counted at the site and the dark blue vs. light blue is an indication of how much parking was occupied. Table 6 summarizes the range of occupancies across the properties. The average on-street occupancy for all properties was 61%. There did not appear to be any noticeable on-street occupancy pattern based on neighborhood.

**Figure 5 - On-Street Parking**



Note: Size of the pie chart and number on top indicate the total parking spaces

<sup>3</sup> In some cases where there were multiple entrances, inventory and occupancy at the immediate blockfaces on each entrance were collected.

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**Table 7 – On-Street Parking Occupancy and Supply (# vehicles/ # spaces %)**

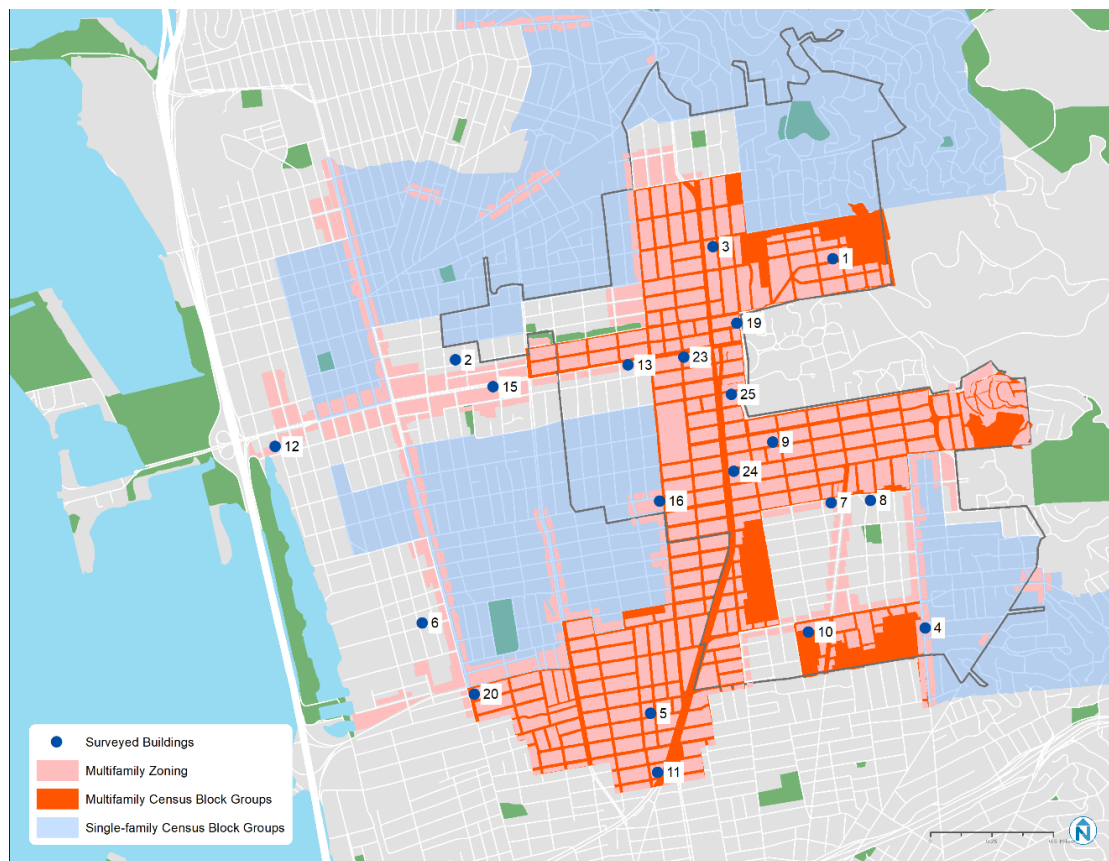
|                      | Median | Mean | Min | Max  | 20 <sup>th</sup> percentile | 80 <sup>th</sup> percentile |
|----------------------|--------|------|-----|------|-----------------------------|-----------------------------|
| <b>Supply (#)</b>    | 23     | 22   | 3   | 46   | 9.8                         | 35.2                        |
| <b>Occupancy (#)</b> | 13     | 14.9 | 0   | 44   | 3                           | 24.8                        |
| <b>Occupancy (%)</b> | 60%    | 61%  | 0%  | 100% | 42%                         | 82%                         |

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## SOCIOECONOMIC ASSESSMENT

The project team evaluated characteristics of multifamily and single-family housing in Berkeley. This city-level assessment focused on aspects related to car-ownership that could provide context to the results of the parking capacity survey analysis. The team used 2017 American Community Survey (ACS) 5-year data at a census block group (CBG) level. A qualitative assessment was made to define CBGs as “multifamily housing” or “single-family housing,” based on the City of Berkeley zoning areas. CBGs were defined as either multifamily or single-family if one of the two types of land use covered most of the CBG. CBGs with an ambiguous mix of single-family and multifamily were excluded from the analysis. Figure 6 shows that most of the surveyed buildings (16) are located within multifamily zoning and in CBGs that the project team defined as multifamily. As a result, the socioeconomic assessment of the multifamily CBG (and its differences with single family areas) complement the conclusions from the survey and observation analysis.

Figure 6 – Multifamily Zoning and Census Block Groups



Note: Census block groups along the University corridor were neither defined as single nor multifamily since it was not clear the dominant zoning type in that CBG.

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Figure 7 indicates that more than 40% of workers living in single-family CBGs drive alone to work as opposed to slightly more than 20% in multifamily CBGs. ACS data also shows that the share of workers walking to work in multifamily CBGs is higher (30%) than those living in single-family areas (7%).

**Figure 7 - Means of transportation to work, multifamily vs single-family CBG**

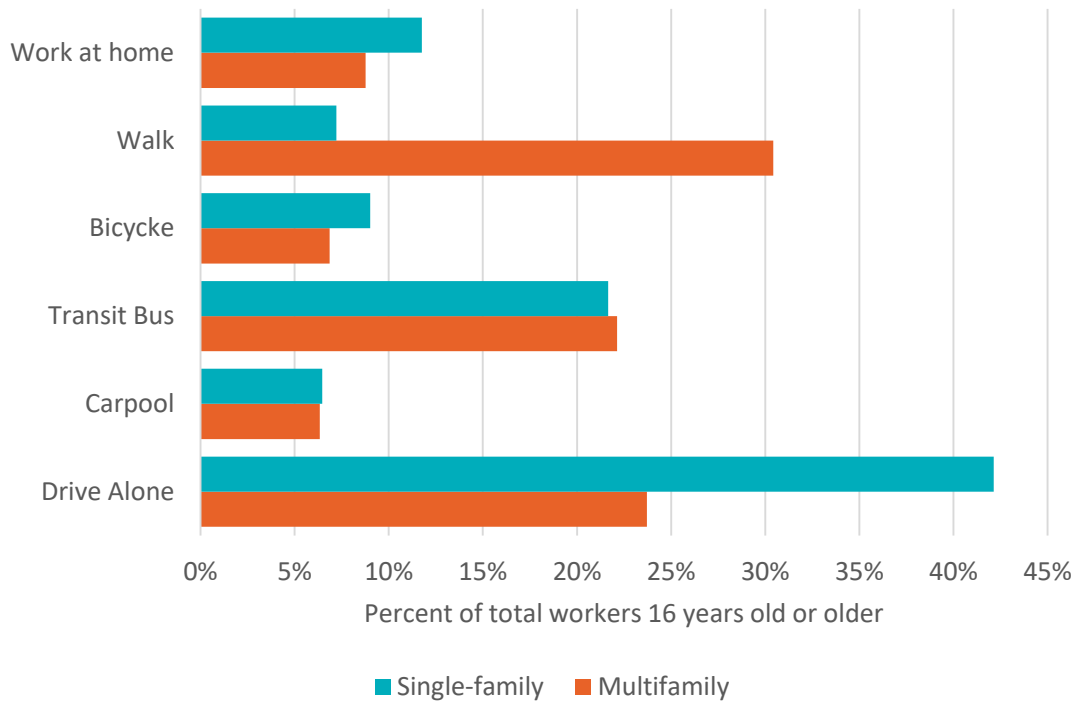
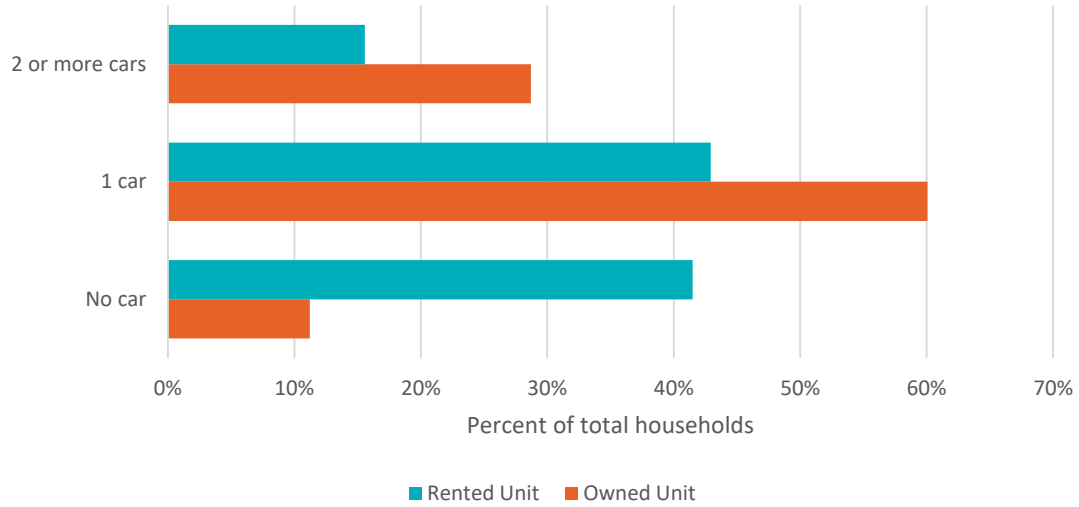


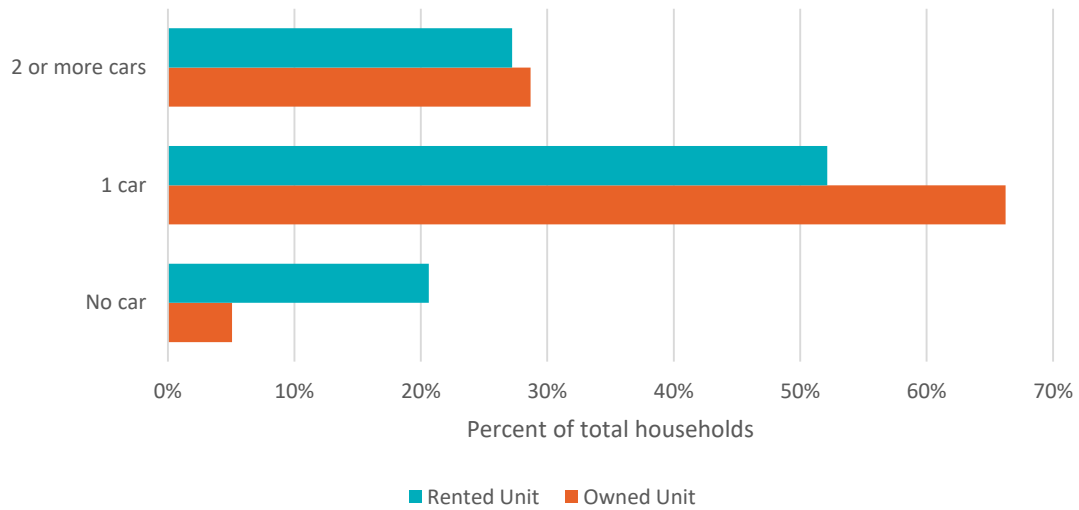
Figure 8 and Figure 9 show car-ownership by tenure in multifamily and single-family areas respectively. Approximately 40% of renters in multifamily areas do not have a car, double that of renters in single-family areas. Interestingly, homeowners show a similar car ownership pattern regardless of housing type. In multifamily housing areas, 89% of owners have at least one car, which is very close to the 95% of owners in single-family areas.

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**Figure 8 – Vehicle ownership by tenure, multifamily CBG**



**Figure 9 – Vehicle ownership by tenure, single-family CBG**



## **APPENDICES**

- A. Property Survey Instrument
- B. Property Survey Parking Data





## Berkeley Parking Utilization Survey

Thank you very much for helping the Berkeley Planning Department by completing this survey. We expect this survey to only take about 5-10 minutes. After you submit the survey, we will contact you to arrange a visit to your building for a one-time parking count. If you have any questions about the survey or need any assistance, please contact Justin Horner, Associate Planner, at 510-981-7476 or [jhorner@cityofberkeley.info](mailto:jhorner@cityofberkeley.info)

\* 1. Residential Building Address

\* 2. Site Contact Name

\* 3. Site Contact Email

\* 4. Is there a Property Management Company?



## Berkeley Parking Utilization Survey

### 5. Name of the Management Company



## Berkeley Parking Utilization Survey

\* 6. Total Number of Residential Units

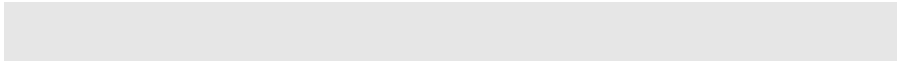
\* 7. Total Number of Occupied Residential Units

\* 8. Does this building have affordable residential units?



## Berkeley Parking Utilization Survey

### \* 9. Total Number of Affordable Residential Units





## Berkeley Parking Utilization Survey

\* 10. Do you know how many residential units are occupied with residents that have vehicles?



## Berkeley Parking Utilization Survey

\* 11. Total number of residential units occupied by residents with vehicles





## Berkeley Parking Utilization Survey

\* 12. Total number of parking spaces designated for residential use

\* 13. Are there any parking spaces designated for residential use that are used by non-residents



## Berkeley Parking Utilization Survey

\* 14. Total number of spaces designated for residents that are used by non-residents







## Berkeley Parking Utilization Survey

\* 15. Do residents pay for on-site vehicle parking under separate agreement?

- Yes. Parking is rented/deeded separately
- No. Parking is free or included in rent or condo fee



## Berkeley Parking Utilization Survey

\* 16. Is the monthly cost of parking less or more than \$50/month?

- Less Than \$50
- More Than \$50
- N/A



## Berkeley Parking Utilization Survey

\* 17. Does your building offer any of the following benefits? (select all that apply)

- Secure Bike Parking
- Discounted Transit Passes for Residents
- On-site Car-share vehicles
- None of the Above
- Other (please specify)



## Berkeley Parking Utilization Survey

\* 18. What is the capacity of of your on-site bike parking (i.e. how may bikes can park)?



## Berkeley Parking Utilization Survey

\* 19. Do you think there are residents with cars who are parking off-site?

\* 20. Is there anything special or particular about residential parking in your building that you believe would be helpful for us to understand your building's situation better?








Appendix B - Berkeley Parking Survey Utilization Data

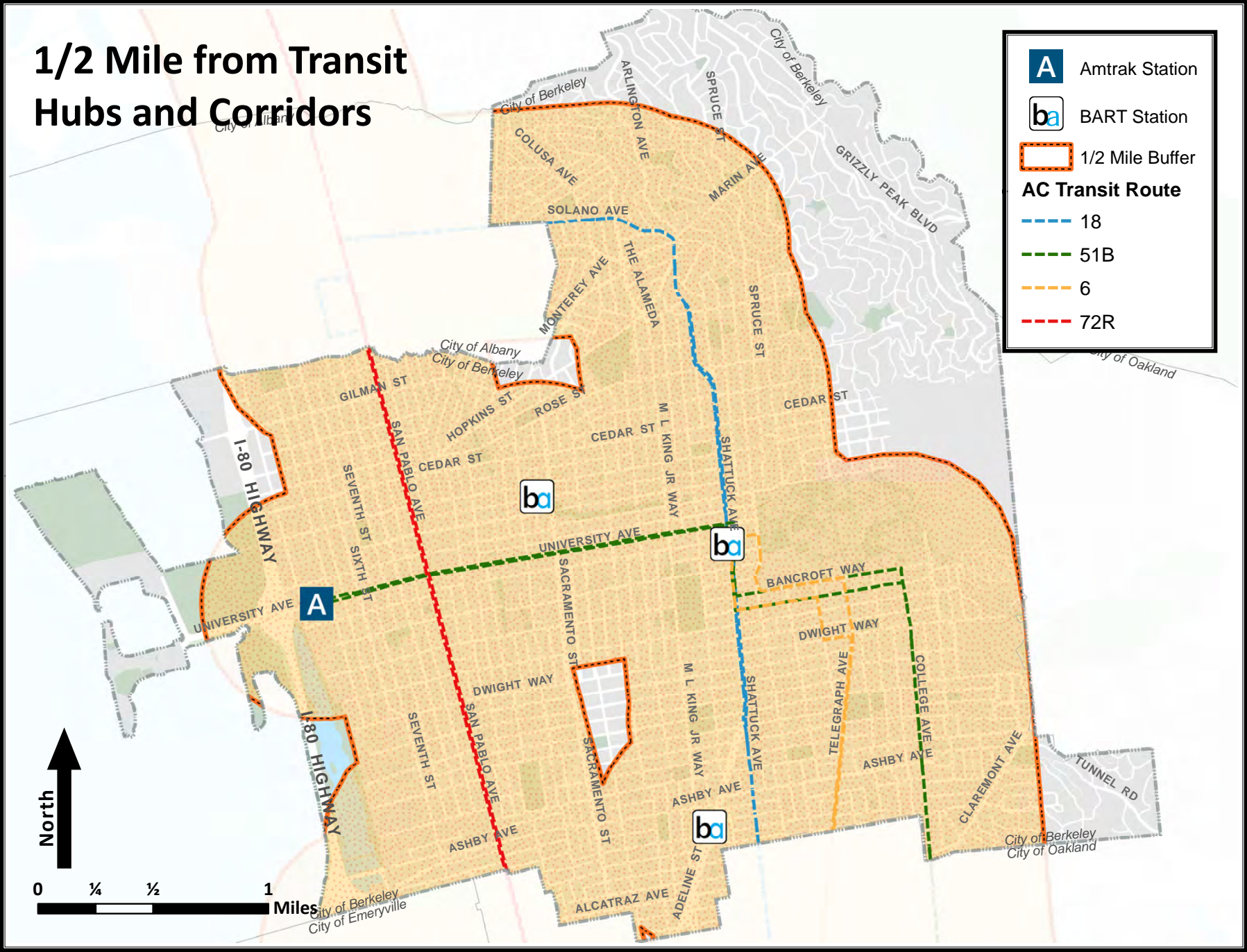
| ID | Residential Building Address              | Name of the Management Company | Total Number of Residential Units | Total Number of Occupied Residential Units | Does this building have affordable residential units? | Total Number of Affordable Residential Units | Do you know how many residential units are occupied with residents that have vehicles? | Total number of residential units occupied by residents with vehicles | Total number of parking spaces designated for residential use | Are there any parking spaces designated for residential use that are used by non-residents | Total number of spaces designated for residents that are used by non-residents | Do residents pay for on-site vehicle parking under separate agreement? | Is the monthly cost of parking less or more than \$50/month? | Does your building offer any of the following benefits? (select all that apply) |
|----|-------------------------------------------|--------------------------------|-----------------------------------|--------------------------------------------|-------------------------------------------------------|----------------------------------------------|----------------------------------------------------------------------------------------|-----------------------------------------------------------------------|---------------------------------------------------------------|--------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|------------------------------------------------------------------------|--------------------------------------------------------------|---------------------------------------------------------------------------------|
|    |                                           |                                |                                   |                                            |                                                       |                                              |                                                                                        |                                                                       |                                                               |                                                                                            |                                                                                |                                                                        |                                                              |                                                                                 |
| 1  | 2575 Le Conte Ave.                        | Premium Properties             | 11                                | 11                                         | No                                                    |                                              | Yes                                                                                    | 4                                                                     | 8                                                             | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               |                                                                                 |
| 2  | 1277 Hearst St.                           | Premium Properties             | 8                                 | 8                                          | No                                                    |                                              | Yes                                                                                    | 5                                                                     | 15                                                            | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               |                                                                                 |
| 3  | 1612 Walnut St.                           | Premium Properties             | 9                                 | 9                                          | No                                                    |                                              | Yes                                                                                    | 5                                                                     | 9                                                             | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| 4  | 3001 College Ave.                         | Premium Properties             | 10                                | 10                                         | No                                                    |                                              | Yes                                                                                    | 6                                                                     | 10                                                            | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| 5  | 3140 Ellis St.                            | Premium Properties             | 10                                | 10                                         | No                                                    |                                              | Yes                                                                                    | 5                                                                     | 7                                                             | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               |                                                                                 |
| 6  | 2777 9th St.                              | Premium Properties             | 21                                | 21                                         | No                                                    |                                              | Yes                                                                                    | 20                                                                    | 21                                                            | No                                                                                         |                                                                                | No. Parking is free or included in rent or cond                        | More Than \$50                                               | Secure Bike Parking                                                             |
| 7  | 2414 Parker St.                           | Premium Properties             | 16                                | 16                                         | No                                                    |                                              | Yes                                                                                    | 9                                                                     | 16                                                            | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| 8  | 2610 Hillegass Ave.                       | Premium Properties             | 23                                | 23                                         | No                                                    |                                              | Yes                                                                                    | 10                                                                    | 22                                                            | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| 9  | 2239 Channing Way                         | Premium Properties             | 14                                | 14                                         | No                                                    |                                              | Yes                                                                                    | 0                                                                     | 6                                                             | Yes                                                                                        |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               |                                                                                 |
| 10 | 2321 Webster St.                          | Premium Properties             | 18                                | 18                                         | No                                                    |                                              | Yes                                                                                    | 13                                                                    | 18                                                            | Yes                                                                                        |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| 11 | 3380 Adeline St.                          | Premium Properties             | 14                                | 14                                         | No                                                    |                                              | Yes                                                                                    | 6                                                                     | 12                                                            | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| 12 | 651 Addison St, Berkeley, CA 94710        | Avalonbay Communities          | 94                                | 89                                         | Yes                                                   |                                              | 4 Yes                                                                                  | 85                                                                    | 101                                                           | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| 13 | 1812 University Avenue Berkeley, CA 94703 | SG Real Estate                 | 44                                | 44                                         | Yes                                                   |                                              | 4 No                                                                                   |                                                                       | 17                                                            | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| 15 | 1370 university Ave                       | Equity Residential             | 71                                | 67                                         | Yes                                                   |                                              | 69 No                                                                                  |                                                                       | 61                                                            | Yes                                                                                        |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| 16 | 2500 Martin Luther King Jr., Way          |                                | 10                                | 10                                         | Yes                                                   |                                              | 2 Yes                                                                                  | 9                                                                     | 10                                                            | No                                                                                         |                                                                                | No. Parking is free or included in rent or cond                        |                                                              | Secure Bike Parking                                                             |
| 19 | 1910 Oxford Street Berkeley CA 94704      | The Dinerstein Companies       | 56                                | 56                                         | Yes                                                   |                                              | 11 No                                                                                  |                                                                       | 36                                                            | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| 20 | 3015 San Pablo Ave                        | Gerding Edlen                  | 98                                | 92                                         | Yes                                                   |                                              | 15 No                                                                                  |                                                                       | 100                                                           | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| 23 | 2004 University Ave. Berkeley CA, 94704   | The Dinerstein Companies       | 35                                | 35                                         | Yes                                                   |                                              | 7 No                                                                                   |                                                                       | 6                                                             | No                                                                                         | unknown                                                                        | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| 24 | 2110 Haste St. Berkeley CA, 94704         | The Dinerstein Companies       | 100                               | 100                                        | Yes                                                   |                                              | 20 No                                                                                  |                                                                       | 64                                                            | Yes                                                                                        | unknown                                                                        | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| 25 | 2116 Allston Way                          | The Dinerstein Companies       | 91                                | 91                                         | Yes                                                   |                                              | 18 No                                                                                  |                                                                       | 40                                                            | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| x  | 2002 Addison St, Berkeley CA, 94704       | The Dinerstein Companies       | 27                                | 27                                         | Yes                                                   |                                              | 4 No                                                                                   |                                                                       | 18                                                            | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| x  | 2020 Bancroft Way - 2025 Durant Avenue    | Everest Properties             | 105                               | 104                                        | No                                                    |                                              | Yes                                                                                    | 51                                                                    | 106                                                           | Yes                                                                                        | 40                                                                             | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| x  | 1627 University Ave Berkeley CA 94703     | The Dinerstein Companies       | 34                                | 32                                         | Yes                                                   |                                              | 6 No                                                                                   |                                                                       | 21                                                            | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| x  | 1901 Dwight Way Berkeley, CA 94704        | SG Real Estate                 | 21                                | 21                                         | Yes                                                   |                                              | 3 Yes                                                                                  | 12                                                                    | 14                                                            | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |
| x  | 2121 Dwight Way                           | Greystar                       | 99                                | 96                                         | Yes                                                   |                                              | 9 No                                                                                   |                                                                       | 41                                                            | No                                                                                         |                                                                                | Yes. Parking is rented/d                                               | More Than \$50                                               | Secure Bike Parking                                                             |

Appendix B - Berkeley Parking Survey Utilization Data

| ID | Residential Building Address              | Discounted Transit                      | On-site Car-sharing | None of the Above | Capacity of your on-site bike parking? | Are there residents with cars who are parking off-site? | Open-Ended Response                                                                                                                                                | Is there anything special or particular about residential parking in your building that you believe would be helpful for us to understand your building's situation better? | OFF Street TOTAL Supply | OFF Street TOTAL Occupancy | ON Street TOTAL | ON Street TOTAL Occupancy |
|----|-------------------------------------------|-----------------------------------------|---------------------|-------------------|----------------------------------------|---------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|----------------------------|-----------------|---------------------------|
| 1  | 2575 Le Conte Ave.                        |                                         | None of the Above   | None of the Above |                                        | Yes                                                     | No                                                                                                                                                                 | Is there anything special or particular about residential parking in your building that you believe would be helpful for us to understand your building's situation better? | 6                       | 2                          | 36              | 29                        |
| 2  | 1277 Hearst St.                           |                                         | None of the Above   | None of the Above |                                        | Yes                                                     | No                                                                                                                                                                 |                                                                                                                                                                             | 7                       | 6                          | 24              | 19                        |
| 3  | 1612 Walnut St.                           |                                         |                     |                   | 4-5                                    | Yes                                                     | No                                                                                                                                                                 |                                                                                                                                                                             | 7                       | 5                          | 46              | 29                        |
| 4  | 3001 College Ave.                         |                                         |                     |                   | 2-3                                    | Yes                                                     | No                                                                                                                                                                 |                                                                                                                                                                             | 5                       | 5                          | 15              | 7                         |
| 5  | 3140 Ellis St.                            |                                         |                     | None of the Above |                                        | Yes                                                     | No                                                                                                                                                                 |                                                                                                                                                                             | 14                      | 8                          | 35              | 28                        |
| 6  | 2777 9th St.                              |                                         |                     |                   | Not sure                               | Yes                                                     | No                                                                                                                                                                 |                                                                                                                                                                             | 26                      | 13                         | 19              | 11                        |
| 7  | 2414 Parker St.                           |                                         |                     |                   | Not sure                               | Yes                                                     | No                                                                                                                                                                 |                                                                                                                                                                             | 16                      | 14                         | 26              | 12                        |
| 8  | 2610 Hillegass Ave.                       |                                         |                     |                   | Not sure                               | Yes                                                     | No                                                                                                                                                                 |                                                                                                                                                                             | 21                      | 13                         | 44              | 44                        |
| 9  | 2239 Channing Way                         |                                         |                     | None of the Above |                                        | Yes                                                     | No                                                                                                                                                                 |                                                                                                                                                                             | 10                      | 1                          | 23              | 14                        |
| 10 | 2321 Webster St.                          |                                         |                     |                   | Not sure                               | Yes                                                     | No                                                                                                                                                                 |                                                                                                                                                                             | 18                      | 13                         | 41              | 24                        |
| 11 | 3380 Adeline St.                          |                                         |                     |                   | Not sure                               | Yes                                                     | No                                                                                                                                                                 |                                                                                                                                                                             | 12                      | 6                          | 9               | 8                         |
| 12 | 651 Addison St, Berkeley, CA 94710        |                                         |                     |                   | 27                                     | Yes                                                     | All parking spaces are in the garage & 42 are standard parking spaces with 8 spaces with EV charging stations & 59 stack parking spaces                            |                                                                                                                                                                             | 107                     | 70                         | 13              | 13                        |
| 13 | 1812 University Avenue Berkeley, CA 94703 |                                         |                     |                   | 50                                     | Yes                                                     | Thank you                                                                                                                                                          |                                                                                                                                                                             | 19                      | 14                         | 23              | 2                         |
| 14 | 1370 university Ave                       |                                         |                     |                   | 40                                     | Yes                                                     | Parking is \$150 per month in our building. Residents are all in affordable units so most residents park on the street surround building                           |                                                                                                                                                                             | 46                      | 9                          | 24              | 13                        |
| 15 | 2500 Martin Luther King Jr., Way          |                                         |                     |                   | 30                                     | We have                                                 | Besides the 10 parking spots for the residential units all numbered there are 5 other parking spots for the 2 commercial units, a Chiropractor and Art Studio that |                                                                                                                                                                             | 17                      | 7                          | 10              | 3                         |
| 16 | 1910 Oxford Street Berkeley CA 94704      |                                         |                     |                   | 20                                     | Yes                                                     | Parking is located in the garage which is gate controlled access. We have a Klaus system that allows multiple cars to park in the same space                       |                                                                                                                                                                             | 34                      | 7                          | 7               | 3                         |
| 17 | 3015 San Pablo Ave                        |                                         |                     |                   | 60                                     | Yes                                                     | matrix system - Matthews Mechanical                                                                                                                                |                                                                                                                                                                             | 116                     | 58                         | 13              | 13                        |
| 18 | 2004 University Ave. Berkeley CA, 94704   |                                         |                     |                   | unknown                                | Yes                                                     | We utilize a Klaus machine to optimize garage space                                                                                                                |                                                                                                                                                                             | 7                       | 6                          | 3               | 0                         |
| 19 | 2110 Haste St. Berkeley CA, 94704         |                                         |                     |                   | unknown                                | Yes                                                     | utilize Klaus machine to optimize space in garage our building have a Klaus machine to optimize garage space                                                       |                                                                                                                                                                             | 67                      | 13                         | 29              | 22                        |
| 20 | 2116 Allston Way                          |                                         |                     |                   | unknown                                | Yes                                                     |                                                                                                                                                                    |                                                                                                                                                                             | 37                      | 9                          | 8               | 3                         |
| 21 | 2002 Addison St, Berkeley CA, 94704       |                                         |                     |                   | unknown                                | Yes                                                     | We utilize a Klaus machine to optimize garage space                                                                                                                |                                                                                                                                                                             | NA                      | NA                         | NA              | NA                        |
| 22 | 2020 Bancroft Way - 2025 Durant Avenue    |                                         |                     |                   | 40                                     | No                                                      | Mix of outdoor and indoor spaces.                                                                                                                                  |                                                                                                                                                                             | NA                      | NA                         | NA              | NA                        |
| 23 | 1627 University Ave Berkeley CA 94703     |                                         |                     |                   | 20                                     | Yes                                                     | Gated garage                                                                                                                                                       |                                                                                                                                                                             | NA                      | NA                         | NA              | NA                        |
| 24 | 1901 Dwight Way Berkeley, CA 94704        |                                         |                     | None of the       |                                        | Yes                                                     | Thank you                                                                                                                                                          |                                                                                                                                                                             | NA                      | NA                         | NA              | NA                        |
| 25 | 2121 Dwight Way                           | Discounted Transit Passes for Residents |                     |                   | 50 +                                   | Yes                                                     | spots                                                                                                                                                              |                                                                                                                                                                             | NA                      | NA                         | NA              | NA                        |

# 1/2 Mile from Transit Hubs and Corridors

-  Amtrak Station
-  BART Station
-  1/2 Mile Buffer
- AC Transit Route**
-  18
-  51B
-  6
-  72R



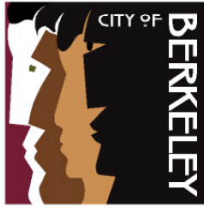




**Residential Projects Entitled in 2018 and Amount of Parking Required / Provided**

|                             | Address              | Zone       | Entitlement Date | Units  | BMR Units | MR Units | Unit Total | Car Parking Required | Car Parking Provided |
|-----------------------------|----------------------|------------|------------------|--------|-----------|----------|------------|----------------------|----------------------|
| Provided Less Than Required | 1331 Ashby Ave.      | R-3        | 9/27/2018        | 5+     | 0         | 6        | 6          | 6                    | 3                    |
|                             | 2009 Addison St      | C-DMU Core | 2/22/2018        | 5+     | 0         | 45       | 45         | 22                   | 0                    |
|                             | 2714 Alcatraz Ave    | R-2        | 11/8/2018        | 5+     | 0         | 5        | 5          | 5                    | 0                    |
|                             | 2100 San Pablo Ave   | C-W        | 1/4/2018         | 5+     | 0         | 96       | 96         | 33                   | 30                   |
|                             | 3000 Shattuck Ave    | C-SA       | 6/28/2018        | 5+     | 4         | 23       | 27         | 40                   | 6                    |
|                             | 1711 M L King Jr Way | R-2A       | 5/10/2018        | 5+     | 0         | 7        | 7          | 8                    | 0                    |
| Provided Required (+/- 1)   | 1506 Bonita Ave.     | R-2A       | 4/26/2018        | 2 to 4 | 0         | 2        | 2          | 8                    | 8                    |
|                             | 3028 Regent Street   | R-2A       | 4/26/2018        | 2 to 4 | 0         | 2        | 2          | 2                    | 2                    |
|                             | 2072 Addison St      | C-DMU Core | 1/30/2018        | 5+     | 0         | 66       | 66         | 24                   | 24                   |
|                             | 2510 Channing Way    | C-T        | 8/23/2018        | 5+     | 0         | 40       | 40         | 0                    | 0                    |
|                             | 2542 Durant Ave      | C-T        | 5/24/2018        | 5+     | 0         | 32       | 32         | 0                    | 0                    |
|                             | 1155-73 Hearst Ave   | R-2A       | 8/23/2018        | 5+     | 0         | 13       | 13         | 13                   | 13                   |
|                             | 1200 San Pablo Ave   | C-W        | 10/11/2018       | 5+     | 5         | 52       | 57         | 43                   | 44                   |
|                             | 1740 San Pablo Ave   | C-W        | 3/8/2018         | 5+     | 5         | 43       | 48         | 52                   | 53                   |
|                             | 2190 Shattuck Ave    | C-DMU Core | 10/25/2018       | 5+     | 0         | 274      | 274        | 106                  | 108                  |
|                             | 2701 Shattuck Ave    | C-SA       | 11/8/2018        | 5+     | 5         | 52       | 57         | 29                   | 30                   |
|                             | 2556 Telegraph Ave   | C-T        | 2/14/2018        | 5+     | 0         | 22       | 22         | 0                    | 0                    |
| 2012 Berkeley Way           | C-DMU Buff           | 12/21/2018 | 5+               | 141    | 1         | 142      | 0          | 0                    |                      |
| Provided More Than Required | 2580 Bancroft Way    | C-T        | 10/25/2018       | 5+     | 11        | 111      | 122        | 0                    | 37                   |
|                             | 2236 Channing Way    | R-3        | 3/8/2018         | 5+     | 0         | 22       | 22         | 22                   | 31                   |
|                             | 1601 Oxford Street   | R-3        | 11/8/2018        | 5+     | 35        | 2        | 37         | 9                    | 21                   |





Office of the City Manager

ACTION CALENDAR  
December 10, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Timothy Burroughs, Director, Department of Planning and Development  
Subject: Urgency Ordinance Amending Accessory Dwelling Unit (ADU) Ordinance to Comply with New State Law and Establish Interim Limits on Development; Amending BMC Chapter 23C.24

RECOMMENDATION

Adopt an urgency ordinance amending Berkeley Municipal Code Chapter 23C.24 (Accessory Dwelling Units) to comply with new State law and establish interim limits on ADU development pending further analysis, deliberation and adoption of local regulations, in order to help ensure public safety.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

[Assembly Bill 881<sup>1</sup>](#), (see Attachment 2) signed by Governor Newsom on October 9, 2019, requires local jurisdictions to relax or eliminate restrictions on the development of accessory dwelling units (ADUs). The intent behind the new law is to increase statewide production of ADUs by requiring every jurisdiction to ministerially approve projects, apply only a specific set of development standards identified in the State law, and implement shortened permitting timelines. New regulations go into effect on January 1, 2020. A local ordinance will be null and void if it is not in compliance with new State law. The new State law effectively means that as long as an ADU application meets the development standards included in AB 881, the application must be approved over the counter with a Zoning Certificate.

Like cities throughout California, Berkeley's existing ADU Ordinance (<https://www.codepublishing.com/CA/Berkeley/>), found in Berkeley Municipal Code (BMC) Chapter 23C.24, does not conform to new State law. The Planning Commission began the standard process for adopting permanent Zoning Ordinance amendments to bring the BMC into compliance with State requirements, receiving a briefing from staff on the new regulations at its November 6, 2019 meeting (see Attachment 3). However,

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<sup>1</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB881](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB881);  
Note that only Section 1.5 of the Bill is in effect as of January 1, 2020.

the new law is complex and will require additional meetings and public input, including a public hearing, prior to recommending amendments to the City Council, a process expected to take up to six months.

Since the City does not have time to complete this process prior to January 1, 2020, absent an urgency ordinance, State law would govern Berkeley's land use regulation as it relates to ADUs. Among other implications, this would mean that Berkeley's current prohibition on ADUs in certain areas of the city, due to health and safety concerns, would no longer be in effect.

This is of particular concern in Berkeley Fire Zones 2 and 3 (*see Attachment 4*), especially in consideration of recent PG&E Public Safety Power Shutoff events and heightened awareness of fires in California. Updates to the [2019 Local Hazard Mitigation Plan<sup>2</sup>](#) and adopted City Council referrals regarding development in the wildland-urban interface and ADU parking requirements in the hills directly reflect concern for evacuation planning and public safety in the event of a natural disaster.

Existing and new State ADU regulations<sup>3</sup> acknowledge the importance of these concerns, allowing cities to designate areas where ADUs are restricted based on potential impacts to traffic flow and public safety. In Berkeley's existing ordinance, ADUs are not allowed in the ES-R (Environmental Safety – Residential) District (Berkeley Fire Zone 3) due to fire hazards and limited emergency access/egress. Similarly, ADUs located in the Hillside Overlay, which includes almost all of Berkeley Fire Zone 2 (*see Attachment 5*), currently require an Administrative Use Permit (AUP) and approval by the Fire Department on lots that front on a street with less than 26 feet of pavement width. The Planning Commission and staff in the Planning and Fire Departments have begun and will continue to discuss Zoning Ordinance amendments that both address local conditions and are in compliance with new State law. However, these amendments will not be adopted by January 1, 2020.

**After January 1, 2020, Berkeley will not have the authority to apply discretionary standards such as AUP requirements on ADU locations. Therefore, the proposed urgency ordinance would temporarily impose non-discretionary restrictions in order to maximize public safety.**

State law allows a jurisdiction to adopt urgency ordinances to protect the public health, safety and welfare of its residents. The proposed urgency ordinance would continue to meet the health and safety goals of Berkeley's existing protections by prohibiting ADUs in Berkeley Fire Zone 3, and on roads in Berkeley Fire Zone 2 that are less than 26 feet in width. This urgency ordinance would foster public safety for the following reasons:

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<sup>2</sup> [https://www.cityofberkeley.info/uploadedFiles/Fire/Level\\_3\\_-\\_General/City%20of%20Berkeley%202019%20Final%20Draft%20LHMP%20-%20COMPLETE%2009-19-19%20Reduced.pdf](https://www.cityofberkeley.info/uploadedFiles/Fire/Level_3_-_General/City%20of%20Berkeley%202019%20Final%20Draft%20LHMP%20-%20COMPLETE%2009-19-19%20Reduced.pdf)

<sup>3</sup> See California Government Code Section 65852.2(a)(1)(A)

Urgency Ordinance: Accessory Dwelling Units

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- Berkeley's current ordinance already prohibits ADUs in Berkeley's Fire Zone 3. This area is exceptionally vulnerable to fire and earthquake hazards and is characterized by substandard vehicular access, steep slopes, inadequate water pressure, proximity to the Hayward Fault, and proximity to vegetated wildlands. It is also within the State's Very High Fire Hazard Severity Zone (see *Attachment 6*).
- Many of the City's narrow streets fall within the boundaries of Berkeley's Fire Zone 2 (see *Attachment 4*). The existing AUP requirement for ADUs in Berkeley's Fire Zone 2 was implemented in consultation with the Fire Department to address accessibility challenges on narrow and curving roads. Fire response requires deployment of hoses and other equipment that restrict vehicle and pedestrian movement along roads. Roads narrower than 26 feet are likely to be obstructed by the operations required by fire and emergency medical responses.

In addition, Fire Department operations are impacted by increased density in Fire Zones 2 and 3 because:

- Increased density translates to an increased number of people that may need assistance in the event of an emergency and increased numbers of people trying to evacuate narrow and windy roads. Berkeley does not want to replicate conditions experienced in the Oakland firestorm of 1991.
- Accessibility issues could be exacerbated by increased density if new residents own cars and park on the street. This is a likely outcome, as off-street parking is not required for ADUs, and replacement off-street parking for primary dwelling units will not be required as of January 1, 2020.

The existing AUP requirement for ADUs in Fire Zone 2 has allowed the Fire Department to require mitigations that protect public safety. Since these protections are discretionary and are not part of new State law, Berkeley will need to amend its Zoning Ordinance to add these requirements to a ministerial review process. As the Planning Commission begins working on such permanent Zoning Ordinance amendments, staff will consult with the California Department of Housing and Community Development (HCD) and the City Attorney to propose a set of objective standards that meet the Fire Department's needs and provide clarity to applicants who live in Fire Zone 2.

In the interim, City Council is asked to adopt this urgency ordinance to maximize public safety in Fire Zones 2 and 3. The new regulations would take effect immediately upon adoption, pursuant to California Government Code Section 65858. As drafted, it would apply prospectively to projects submitted after January 1, 2020. California Government Code [Section 65858](#) provides that urgency ordinances expire forty-five (45) days following their adoption unless the Council adopts an extension for up to a total of one year during that initial period. Staff would return to the Council meeting of January 21,

Urgency Ordinance: Accessory Dwelling Units

ACTION CALENDAR  
December 10, 2019

2020 for this purpose. An urgency ordinance and an extension thereof requires eight affirmative votes of a nine member legislative body to be adopted.

#### BACKGROUND

California's State Legislature has passed significant packages of housing-related laws in the last three legislative sessions in order to address the State's housing crisis. This year's housing package included over 20 housing-focused bills that affect a variety of regulations throughout the Berkeley Municipal Code (BMC) including those pertaining to ADUs and Junior ADUs.

#### ENVIRONMENTAL SUSTAINABILITY

ADUs have the potential to decrease vehicles miles traveled and greenhouse gas emissions and increase availability of housing near campus, transit and jobs.

#### RATIONALE FOR RECOMMENDATION

Adoption of the proposed urgency ordinance on January 1, 2020 is needed to ensure public safety in the City of Berkeley.

#### ALTERNATIVE ACTIONS CONSIDERED

Council could take no action and allow the development standards for ADUs imposed by AB 881 go into effect on January 1, 2020.

#### CONTACT PERSON

Alene Pearson, Principal Planner, Department of Planning and Development, 510-981-7489

#### Attachments:

- 1: Draft Ordinance
- 2: Section 1.5 of Assembly Bill (AB) 881
- 3: Planning Commission Staff Report on New ADU Legislation (November 2019)
- 4: Berkeley Fire Zone Map
- 5: Hillside Overlay and Fire Zone 3 Map
- 6: Berkeley Hillside Conditions Map

ORDINANCE NO. -N.S.

URGENCY ORDINANCE AMENDING ACCESSORY DWELLING UNIT (ADU) ORDINANCE TO COMPLY WITH NEW STATE LAW AND ESTABLISH INTERIM LIMITS ON DEVELOPMENT; BERKELEY MUNICIPAL CODE CHAPTER 23C.24

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

Section 1. Findings

- a. A severe housing crisis exists in the state with the demand for housing outpacing supply.
- b. Accessory dwelling units (ADUs) provide flexible opportunities for infill housing.
- c. On October 9, 2019, Governor Newsom signed into law Assembly Bill (AB) 881 which is intended to increase the state's supply of affordable housing by facilitating the construction of ADUs and Junior ADUs.
- d. AB 881 amends California Government Code Section 65852.2 and, among other limitations on local authority, requires cities, counties, and utility districts to significantly relax regulation of ADUs by requiring a 60-day ministerial approval of ADUs on all lots that allow residential uses. These amendments to California Government Code Section 65852.2 become effective January 1, 2020.
- e. California Government Code Section 65852.2(a)(4), as amended, provides that any existing local ADU ordinance failing to meet the requirements of the new state law shall be null and void unless and until the local agency adopts a new ordinance complying with California Government Code Section 65852.2. In the absence of a valid local ordinance, the new state law instead provides a set of default standards governing local agencies' regulation and approval of ADUs.
- f. Berkeley's current ADU Ordinance, adopted by City Council on May 29, 2018, protects fire hazard areas by 1) prohibiting ADUs in the Environmental Safety-Residential District and 2) requiring discretionary review and approval by the Fire Department of ADUs in the Hillside Overlay. These measures were adopted in order to mitigate impacts to public safety.
- g. Amendments to Government Code section 65852.2, effective January 1, 2020, provide no protections for fire hazard areas and provide no mechanism for discretionary review. However, as amended, Government Code section 65852.2 will allow jurisdictions to prohibit ADUs from areas where their allowance would create an impact to public safety.
- h. Because Government Code section 65852.2 takes effect on January 1, 2020, ADUs would be permitted in high fire risk zones without discretionary review unless the City adopts an ADU ordinance that limiting the construction of ADUs in such zones that complies with the requirements of Government Code section 65852.2 before its effective date. The potential for construction of ADUs in high fire risk zones without discretionary review creates a current and immediate threat to the public health, safety, and welfare, and the approval of Zoning Certificates or building permits in such high fire risk zones would result in such an immediate threat to public health, safety, and welfare.



Section 2. That Berkeley Municipal Code Chapter 23C.24 is amended to read as follows:

### Chapter 23C.24 Accessory Dwelling Units

#### Sections:

[23C.24.010](#) Applicability of Regulations

[23C.24.020](#) Purposes

[23C.24.030](#) Permit Procedures

~~[23C.24.040](#) Special Provisions~~

~~[23C.24.050](#) Development Standards~~

~~[23C.24.060](#) Modification of Development Standards with an Administrative Use Permit~~

~~[23C.24.070](#) Findings~~

#### 23C.24.010 Applicability of Regulations

The provisions of this Chapter apply to all lots that are ~~occupied by one legally established Single Family Dwelling zoned for residential use~~ except 1) in the following zoning districts: Environmental Safety-Residential (ES-R), Manufacturing (M), Mixed Manufacturing (MM), Mixed Use-Light Industrial (MU-LI), and Unclassified (U) ; ~~and 2) on a lot with frontage on a roadway with less than 26 feet in pavement width in the Hillside Overlay.~~

#### 23C.24.020 Purposes

The purposes of this Chapter are to:

A. Implement California Government Code Section [65852.2](#) and [65852.22](#), ~~as it may be amended from time to time.~~

B. Increase overall supply and range of housing options in Berkeley ~~while maintaining residential character of neighborhoods.~~

~~C. Minimize impacts of new Accessory Dwelling Units on neighboring properties.~~

C. Expedite small-scale infill development ~~on lots with Single Family Dwellings, particularly where development potential is otherwise limited.~~

D. Support Housing Element goals of facilitating construction of Accessory Dwelling Units and increasing the number of housing units that are more affordable to Berkeley residents.

E. Encourage development of Accessory Dwelling Units in zoning districts with compatible land uses and infrastructure.

#### **23C.24.030 Permit Procedures**

~~Zoning Certificates will be issued for Accessory Dwelling Units and Junior Accessory Dwelling Units per California Government Code Section 65852.2 and 65852.22. The Zoning Officer shall issue a Zoning Certificate to establish an Accessory Dwelling Unit in compliance with this Chapter if all requirements of Section 23C.24.050 and other applicable requirements of this Title are met. The Zoning Officer may approve an Administrative Use Permit to establish an Accessory Dwelling Unit that is not in compliance with Section 23C.24.050.A or Sections 23C.24.050.C through F, subject to the findings in Section 23C.24.070. (Ord. 7599-NS § 2 (part), 2018)~~

#### ~~23C.24.040 Special Provisions~~

~~A. An Accessory Dwelling Unit may be created as follows:~~

~~1. Conversion of Existing Space: Within the existing dimensions of the exterior walls and/or roof of a Primary Dwelling Unit or an existing legally established Accessory Structure or Accessory Building (e.g., the building envelope does not change), in which case Sections 23C.24.050.C through F do not apply.~~

~~2. Expansion of Existing Space: By extending the existing dimensions of the exterior walls and/or roof of a Primary Dwelling Unit or an existing legally established Accessory Structure or Accessory Building (e.g., the building envelope changes). Section 23C.24.040.A.1 applies to conversion of nonconforming existing space.~~

~~3. New Building: By constructing a new detached building or by constructing a new Primary Dwelling Unit with an Accessory Dwelling Unit.~~

~~B. Only one Accessory Dwelling Unit is allowed on a lot.~~

~~C.—An Accessory Dwelling Unit may not be subdivided, whether by land or air rights, condominium or other mechanism, and may not be sold, transferred, or otherwise conveyed separately or independently from the Primary Dwelling Unit or other portions of the property.~~

~~D.—The owner of a property that has an Accessory Dwelling Unit must reside in either the Primary Dwelling Unit or the Accessory Dwelling Unit. Prior to issuance of a Building Permit, all owners of record of the subject property shall sign and file a Declaration of Restrictions with the County Recorder, in a form satisfactory to the Zoning Officer, that makes any transfer of the property specifically subject to the restrictions contained in this Chapter and requires that either the Primary Dwelling Unit or the Accessory Dwelling Unit be occupied by the owner of the subject property. Non-occupancy by an owner for periods of up to three years is allowed before the property will be found to be in noncompliance with this requirement.~~

~~E.—Accessory Dwelling Units are not subject to Design Review.~~

~~F.—Verification of neighbor preapplication contact is required for Accessory Dwelling Units subject to an Administrative Use Permit. Signatures must be collected from all adjacent and abutting lots that have residential occupants, regardless of zoning district.~~

~~G.—Accessory Dwelling Unit projections allowed into yards are subject to Main Building development standards set forth in Table 23D.04.030.~~

~~H.—An Accessory Dwelling Unit is not required to be equipped with fire sprinklers if sprinklers are not required for the Primary Dwelling Unit, consistent with California Government Code Section 65852.2.~~

~~I.—An Accessory Dwelling Unit is not considered a new residential use for the purposes of calculating utility connection fees or capacity charges, consistent with California Government Code Section 65852.2. (Ord. 7599-NS § 2 (part), 2018)~~

#### ~~23C.24.050 Development Standards~~

~~A.—Fire Access Requirement: An Accessory Dwelling Unit is not allowed on a lot with frontage on a roadway with less than 26 feet in pavement width, unless an Administrative Use Permit is approved, subject to the findings specified in Section 23C.24.070 A.~~

~~B.— Unit Size: The Gross Floor Area of an Accessory Dwelling Unit may be no greater than 850 square feet.~~

~~C.— Height: An Accessory Dwelling Unit that is created by New Building or by Expansion to an Accessory Structure or Accessory Building or by Expansion of a Primary Dwelling Unit cannot exceed the following height limits:~~

~~1.— 14 feet Maximum Height.~~

~~2.— 18 feet Maximum Height with an Administrative Use Permit.~~

~~3.— 14 feet Average Height in the Hillside Overlay District with an Administrative Use Permit.~~

~~4.— 18 feet Average Height in the Hillside Overlay with an additional Administrative Use Permit.~~

~~D.— Setbacks:~~

~~1.— An Accessory Dwelling Unit must be located outside the required front yard setback.~~

~~2.— An Accessory Dwelling Unit must be set back at least 4 feet from the rear and side property lines unless an Administrative Use Permit is approved.~~

~~3.— An Accessory Dwelling Unit constructed above a garage shall have a required rear and side setback of no less than five feet, subject to the provisions in Chapters 23C.04 and 23C.08.~~

~~E.— Usable Open Space: The subject lot shall meet the usable open space requirements of the applicable zoning district unless an Administrative Use Permit is approved.~~

~~F.— Lot Coverage: The subject lot shall meet the lot coverage requirements of the applicable zoning district unless an Administrative Use Permit is approved.~~

~~G.— Parking Requirements:~~

~~1.— Parking is not required for an Accessory Dwelling Unit.~~

~~2.— If creation of an Accessory Dwelling Unit requires the removal of a required off-street parking space for the Primary Dwelling Unit, a replacement off-street parking space must be provided.~~

~~3.— Replacement parking is not subject to the applicable standards of Section 23D.12.050 nor Section 23D.12.080, and may be located within the required front and side setbacks when located within an existing driveway that does not comply with these standards. (Ord. 7599-NS § 2 (part), 2018)~~

~~23C.24.060 Modification of Development Standards with an Administrative Use Permit  
An Accessory Dwelling Unit that does not conform to the development standards in Section 23C.24.050.C through F may be permitted with an Administrative Use Permit subject to the applicable findings in Section 23C.24.070. (Ord. 7599-NS § 2 (part), 2018)~~

~~23C.24.070 Findings~~

~~A.— In order to approve an Administrative Use Permit under Section 23C.24.050.A to allow an Accessory Dwelling Unit on a lot with frontage on a roadway with less than 26 feet of pavement width, the Zoning Officer must be provided with evidence that the Fire Chief has determined that the project will meet minimum fire safety requirements.~~

~~B.— In order to approve an Administrative Use Permit under Section 23C.24.050.C through F, the Zoning Officer must find on the basis of substantial evidence that the Accessory Dwelling Unit would not be detrimental to the residential character of the neighborhood, would not unreasonably obstruct sunlight, air, or views, and would not introduce unreasonable privacy impacts to the immediate neighbors. (Ord. 7599-NS § 2 (part), 2018)~~

Section 3. Votes Required, Immediate Effectiveness

Based on the findings and evidence in Section 1 of this Urgency Ordinance, the Council determines that this Ordinance is necessary for the immediate preservation of the public health, peace and safety in accordance with Article XIV Section 93 of the Charter of the City of Berkeley and must therefore go into effect immediately. This ordinance shall go into effect immediately upon a four-fifths vote of the City Council, in satisfaction of the Charter of the City of Berkeley and Government Code Section 65858.



**AB-881 Accessory dwelling units.** (2019-2020)

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Date Published: 10/10/2019 09:00 PM

**Assembly Bill No. 881**

**CHAPTER 659**

An act to amend, repeal, and add Section 65852.2 of the Government Code, relating to housing.

[ Approved by Governor October 09, 2019. Filed with Secretary of State  
October 09, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 881, Bloom. Accessory dwelling units.

(1) The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions. Existing law requires the ordinance to designate areas where accessory dwelling units may be permitted and authorizes the designated areas to be based on criteria that includes, but is not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

This bill would instead require a local agency to designate these areas based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. The bill would also prohibit a local agency from issuing a certificate of occupancy for an accessory dwelling unit before issuing a certificate of occupancy for the primary residence.

(2) Existing law requires an ordinance providing for the creation of accessory dwelling units, as described above, to impose standards on accessory dwelling units, including, among other things, lot coverage. Existing law also requires such an ordinance to require that the accessory dwelling units be either attached to, or located within, the living area of the proposed or existing primary dwelling, or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

This bill would delete the provision authorizing the imposition of standards on lot coverage and would prohibit an ordinance from imposing requirements on minimum lot size. The bill would revise the requirements for an accessory dwelling unit by providing that the accessory dwelling unit may be attached to, or located within, an attached garage, storage area, or an accessory structure, as defined.

(3) Existing law prohibits a local agency from requiring a setback for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit. Existing law requires that an accessory dwelling unit that is constructed above a garage have a setback of no more than 5 feet.

This bill would instead prohibit a setback requirement for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit. The bill would also instead require a setback of no more than 4 feet for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

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(4) Existing law provides that replacement offstreet parking spaces, required by a local agency when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, may be located in any configuration on the same lot as the accessory dwelling unit, except as provided.

This bill would instead prohibit a local agency from requiring the replacement of offstreet parking spaces when a garage, carport, or covered parking structure is demolished or converted, as described above.

(5) Existing law requires a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit within 120 days of receiving the application.

This bill would instead require a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. The bill would authorize the permitting agency to delay acting on the permit application if the permit application is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, as specified.

(6) Existing law prohibits a local agency from utilizing standards to evaluate a proposed accessory dwelling unit on a lot that is zoned for residential use that includes a proposed or existing single-family dwelling other than the criteria described above, except, among one other exception, a local agency may require an applicant for a permit to be an owner-occupant of either the primary or accessory dwelling unit as a condition of issuing a permit.

This bill, until January 1, 2025, would prohibit a local agency from imposing an owner-occupant requirement, as described above.

(7) Existing law authorizes a local agency to establish minimum and maximum unit size limitations on accessory dwelling units, provided that the ordinance permits an efficiency unit to be constructed in compliance with local development standards.

This bill would prohibit a local agency from establishing a minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit, as defined. The bill would also prohibit a local agency from establishing a maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than 850 square feet, and 1,000 square feet if the accessory dwelling unit contains more than one bedroom. The bill would also instead prohibit a local agency from establishing any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size for either attached or detached dwelling units that prohibits at least an 800 square foot accessory dwelling unit that is at least 16 feet in height and with a 4-foot side and rear yard setbacks.

(8) Existing law prohibits a local agency from imposing parking standards for an accessory dwelling unit if, among other conditions, the accessory dwelling unit is located within  $\frac{1}{2}$  mile of public transit.

This bill would make that prohibition applicable if the accessory dwelling unit is located within  $\frac{1}{2}$  mile walking distance of public transit, and would define public transit for those purposes.

(9) Existing law requires a local agency to ministerially approve an application for a building permit to create within a zone for single-family use one accessory dwelling unit per single family lot of the unit that is contained within the existing space of a single-family residence or accessory structure when specified conditions are met, including that the side and rear setbacks are sufficient for fire safety.

This bill would instead require ministerial approval of an application for a building permit within a residential or mixed-use zone to create the following: (1) one accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if certain requirements are met; (2) a detached, new construction accessory dwelling unit that meets certain requirements and would authorize a local agency to impose specified conditions relating to floor area and height on that unit; (3) multiple accessory dwelling units within the portions of an existing multifamily dwelling structure provided those units meet certain requirements; or (4) not more than 2 accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to certain height and rear yard and side setback requirements.

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(10) Existing law prohibits a local agency, special district, or water corporation from considering an accessory dwelling unit to be a new residential use for purposes of calculating fees or capacity charges.

This bill would establish an exception from the above-described prohibition in the case of an accessory dwelling unit that was constructed with a new single-family home.

(11) Existing law requires a local agency to submit a copy of the adopted ordinance to the Department of Housing and Community Development and authorizes the department to review and comment on the ordinance.

This bill would instead authorize the department to submit written findings to the local agency as to whether the ordinance complies with the statute authorizing the creation of an accessory dwelling unit, and, if the department finds that the local agency's ordinance does not comply with those provisions, would require the department to notify the local agency within a reasonable time. The bill would require the local agency to consider the department's findings and either amend its ordinance to comply with those provisions or adopt it without changes and include specified findings. If the local agency does not amend its ordinance or does not adopt those findings, the bill would require the department to notify the local agency and authorize it to notify the Attorney General that the local agency is in violation of state law, as provided. The bill would authorize the department to adopt guidelines to implement uniform standards or criteria to supplement or clarify the provisions authorizing accessory dwelling units.

(12) Existing law defines the term "accessory dwelling unit" for these purposes to mean an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons.

This bill would revise the definition to additionally require an accessory dwelling unit be located on a lot with a proposed or existing primary residence in order for the provisions described above to apply.

(13) This bill would incorporate additional changes to Section 65852.2 of the Government Code proposed by SB 13 to be operative only if this bill and SB 13 are enacted and this bill is enacted last.

(14) By increasing the duties of local agencies with respect to land use regulations, this bill would impose a state-mandated local program.

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

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

(16) This bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SEC. 1.5. Section 65852.2 of the Government Code is amended to read:**

**65852.2.** (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.



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- (D) Require the accessory dwelling units to comply with all of the following:
- (i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
  - (ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.
  - (iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.
  - (iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.
  - (v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
  - (vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
  - (vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.
  - (viii) Local building code requirements that apply to detached dwellings, as appropriate.
  - (ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
  - (x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.  
(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.  
(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).
  - (xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.
  - (xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
- (2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
- (3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

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(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

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(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

- (1) The accessory dwelling unit is located within one-half mile walking distance of public transit.
- (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

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(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

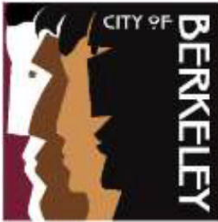
(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

11/15/2019

Bill Text - AB 881 Accessory dwelling units.

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- (1) The accessory dwelling unit was built before January 1, 2020.
- (2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
- (o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.



Planning and Development Department  
Land Use Planning Division

## STAFF REPORT

DATE: November 6, 2019  
TO: Members of the Planning Commission  
FROM: Alene Pearson, Principal Planner  
Katrina Lapira, Assistant Planner  
SUBJECT: 2019 State Housing Legislation

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### BACKGROUND

California's State Legislature has passed significant packages of housing-related laws in the last three legislative sessions in order to address the State's housing crisis. This year's housing package included over 20 housing-focused bills that affect a variety of regulations including Accessory Dwelling Units (ADUs), density bonus, and streamlined permitting.

Jurisdictions across the State are working to understand new regulations, many of which take effect on January 1, 2020. Berkeley staff are consulting with the City Attorney and other municipalities to understand requirements. A number of land use law firms have provided summaries<sup>1</sup> of the new legislation (*see Attachments 1 through 3*) and guidance documents from California Department Housing and Community Development (HCD) are forthcoming. This report provides an initial analysis, identifies areas where the Planning Commission will be making recommendations, and discusses overlap with Council Referrals.

Laws affect land use policies, implementation procedures and specific zoning standards. Planning Commission will ultimately recommend Zoning Ordinance (ZO) amendments to City Council for consideration. This report summarizes four important bills (*see Attachments 4 through 7*) affecting housing policies and practices:

- AB-881 -- Accessory Dwelling Units
- AB-1763 -- Density Bonuses
- AB-1485 -- Streamlining
- SB-330 -- Housing Crisis Act of 2019

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<sup>1</sup> Summaries are provided for informational purposes only. The City of Berkeley has not consulted with authors or firms about content or analysis.

### **AB-881 -- Accessory Dwelling Units**

As of January 1, 2020, a new set of ADU regulations take effect statewide. Local ordinances are superseded by these regulations, except where noted. The list below outlines main points of the new law – providing references to some Government Code sections (GC) and highlighting opportunities to refine local ordinances.

1. **Allowable Lots:** ADUs are allowed in all districts that allow residential uses. ADUs would be allowed on lots that include a proposed or existing dwelling unit.

*Local ordinances can restrict ADUs from areas 1) without adequate water and sewer service and 2) in areas where ADUs create impacts to traffic flow and public safety. GC 65852.2 (a)(1)(A)*

2. **Approval Process:** Jurisdictions must ministerially approve or disapprove building permit applications for ADUs within 60-days of receiving a complete application. If an ADU building permit is associated with an application for a new primary dwelling unit, ministerial approval of the ADU can be delayed until there is an action on the permit for the primary dwelling unit.

3. **Development Standards:** ADUs will have to adhere to and can impose only the following development standards (unless modified by local ordinance as set forth in italics below):

- o Maximum height of 16 feet
- o Rear and side setbacks of 4 feet
- o Maximum size:
  - A detached ADU shall not exceed 1200 square feet
  - An attached ADU shall not exceed 50% of the floor area of an existing or proposed primary dwelling unit. GCS 65852.2 (a)(1)(D)(iv)

*Local ordinances can reduce maximum ADU size to no less than 850 square feet for a studio and 1-bedroom ADU and no less than 1000 square feet for ADUs with more than one bedroom.*

*Local ordinances can impose development standards on ADUs that prevent adverse impacts to any real property listed in the California Register of Historic Resources. GC 65852.2 (a)(1)(B)(i)*

*Local ordinances can impose development standards for lot coverage and open space as long as those standards allow for at least an 800 square foot ADU that is 16 feet in height. GC 65852.2 (c)(2)(C).*

4. **Parking:** Replacement parking for the primary dwelling unit is not required if the ADU physically replaces the location of an existing garage, carport or covered parking structure.



**5. Sprinklers:** Fire sprinklers are required for the ADU if they are required for the primary dwelling unit.

**6. Fees**

- a. No **impact fees** may be levied on ADUs that are less than 750 square feet. For ADUs larger than 750 square feet, impact fees must be **proportional** to the square footage of the primary dwelling unit. GC 65852.2 (f)(3)
- b. ADUs shall not be considered new residential uses for the purposes of calculating **connection fees or capacity charges** for utilities, unless the ADU is created with a newly constructed primary dwelling unit. GC 65852.2 (f)(2).
- c. ADUs carved out of existing dwelling units shall not require new or separate **utility hook-ups**. All other ADUs may require new hook-ups and will be charged **utility fees** proportionate to its size and/or burden. GC 65852.2 (f)(4),(5).

*Local Ordinance: Cities can charge fees to cover costs associated with meeting the new 60-day timeline. Fees can include costs incurred adopting new ADU ordinances. GC 65852.2 (a)(3)*

**7. Owner Occupancy, Rental and Sale of ADUs:** Properties with ADUs cannot require owner-occupancy of the ADU or the primary dwelling unit. ADUs can be rented separate from the primary dwelling unit, but the rental term shall be for 30-days or more. GC 65852.2 (e)(4). ADUs may not be sold separately from primary dwelling unit. GC 65852.2 (a)(1)(D)(i)

**8. Number of ADUs**

- a. **Single Family (Primary) Dwelling Unit:** One ADU is allowed on all lots with one primary dwelling unit. The ADU can be attached to the primary dwelling unit or can be a detached structure. In addition, the lot can have a Junior ADU (J-ADU) attached to either the ADU or the primary dwelling unit.
- b. **Multifamily Dwelling Units**  
Attached: Multiple ADUs can be created within existing areas of multifamily dwellings that are not used as livable space (i.e. storage rooms, basements, garages, attics). At a minimum, one ADU is allowed. At a maximum, the number of ADUs cannot exceed 25% of the number of multifamily dwelling units. GC 65852.2 (e)(1)(C)(i),(ii)  
Detached: There can be no more than two detached ADUs on lots with multifamily dwellings, subject to the abovementioned development standards. GC 65852.2 (e)(1)(D)

**9. Non-conforming Structures:** If an ADU is constructed in the same location and to the same dimensions as an existing non-conforming structure, it does not have to comply with the rear and side setbacks. GC 65852.2 (a)(1)(D)(vii). Additionally, the jurisdiction cannot require the correction of nonconforming zoning conditions in order to ministerially approve an ADU. GC 65852.2 (e)(2).

Berkeley Context:

- *Planning Commission Action:* As of January 1, 2020, Berkeley's ADU Ordinance will be considered null and void. Until Berkeley's ADU Ordinance is updated to reflect new law, State regulations will be in effect. Staff is working on amendments for Planning Commission consideration. As part of this effort, a J-ADU Ordinance will be adopted.
- *Referrals:* Listed below are requests from City Council referrals that pertain to ADUs (see Attachment 8). Some requests have been resolved with the passage of AB-881, others are included in AB-881 – but need additional consideration and refinement from the City -- and some topics are not included in AB-881. Over the next few months, Planning Commission will be considering these items while developing Berkeley's new ADU Ordinance.

AB-881 Dictates Action with New Regulations:

- Reconsider the owner-occupancy requirements (May 15, 2018)
- Rectify ADU regulations for demolition and conversion of legally non-confirming structures (May 15, 2018)
- Consider allowing multiple ADUs on a lot (May 15, 2018)
- Consider allowing ADUs for multifamily dwellings (May 15, 2018)
- Clarify regulations for ADUs created through residential additions (Sept 13, 2018)

AB-881 Provides Guidance and Requires City Action:

- Adopt a J-ADU ordinance (May 2, 2017)
- Consider public safety issues in the Very High Fire Zone (Feb 27, 2018)
- Reconsider off-street parking regulations on narrow roads (Sept 13, 2018)

These are not included in AB-881:

- Consider incentives for affordability restrictions (May 15, 2018)
- Consider incentives for universal design (September 13, 2018)
- Require signed receipt of information on rent control, tenant protections and short term rental rules when ADU permits are issued (Sept 13, 2018)

**AB-1763 -- Density Bonuses**

AB-1763 modifies GC 65915 to include 100% affordable housing projects<sup>2</sup>. Under the new law, projects that provide 20% of their units to moderate income households<sup>3</sup> and 80% of their units to lower income households<sup>4</sup> will be eligible for State Density Bonus. Under this program, 100% affordable projects do not have to provide off-street parking. Projects that are more than half a mile from major transit stops<sup>5</sup> receive an 80% density bonus. Projects that are within half a mile of major transit stop have no maximum density,

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<sup>2</sup> 100% affordable housing projects include all (base and bonus) units, except manager's unit(s)

<sup>3</sup> Moderate income households: 120-80% of the Area Median Income (AMI)

<sup>4</sup> Lower income households: Less than 80% of the AMI

<sup>5</sup> Major transit is defined as fixed rail service or a bus stop for a rapid line or a line with 15 minute headways at commute hours, per Public Resources Code 21155.

receive four incentives or concessions, and are provided an additional three stories or 33 feet in height.

Berkeley Context:

- *Planning Commission Action:* No action is required. In March 2019, City Council adopted a new Density Bonus Ordinance (Chapter 23C.14) that points to GC 65915. This was done intentionally to ensure that as State law evolved, Berkeley's ZO would not need to be amended.
- *Referrals:* The Planning Commission and its Subcommittee on Affordable Housing developed a multi-phase approach to address six Density Bonus referrals. The approach included 1) adopting a new Density Bonus Ordinance; 2) developing a local density incentive program that would result in affordable housing production in excess State Density Bonus requirements; and 3) recommending density standards. AB-1763 directly responds to the second phase of the outlined approach.

**AB-1485 – Streamlining**

AB-1485 modifies SB-35, which was signed by Governor Brown in the fall of 2017. SB-35 requires streamlined permit processing for qualified housing developments in cities that have not met their Regional Housing Needs Allocation (RHNA) targets and/or have not submitted their Housing Element Annual Progress Reports. AB-1485 provides additional options for developers (i.e. percentage of units at different affordability levels) requesting streamlining. AB-1485 clarifies project approval timelines taking into consideration length of potential litigation and/or construction. Furthermore, AB-1485 requires jurisdictions to ministerially process subsequent permits needed for a project that has received its SB-35 approval. Finally, AB-1485 explains how to calculate the percentage of a project that is residential (e.g. exclude underground space such as parking garages and basements).

Berkeley Context:

- *Planning Commission Action:* No action is required.
- *Referrals:* On December 5, 2017 City Council adopted a referral to allow ministerial approval of housing projects that receive Housing Trust Fund monies and/or housing projects that have more than 50% below market rate units with 20% of the BMR units designated for those earning up to 50% AMI (extremely low and very low income households). Affordability levels in this referral are deeper than those required by SB-35. Additionally, the referral asks for design review and a community meeting as part of ministerial review.

**SB-330 -- Housing Crisis Act of 2019**

SB-330 places a moratorium on regulations that limit housing development. It dictates a new project intake process – requiring a preliminary application -- and freezes applicable

regulations and fees at the time the preliminary application is submitted. It shortens timelines to approve projects and limits the number of allowable project hearings<sup>6</sup> to five. SB-330 primarily affects permit processing procedures, but it also restricts jurisdictions from adopting new zoning regulations or policies that limit housing or density. This includes objective standards and invalidates any regulations adopted after January 1, 2018 that reduce allowable density or restrict development.

Berkeley Context:

- *Planning Commission Action:* As new ZO amendments are considered, Planning Commission and staff will have to evaluate if proposals are reducing density or restricting development.
- *Referrals:* N/A

NEXT STEPS

Staff will continue to work with the City Attorney and HCD to evaluate the interpretations presented in this staff report. Planning Commission is asked to provide feedback on this summary, with particular attention to the analysis of AB-881.

Attachments:


1. [New California Housing Laws by Best, Best and Kreiger](#)
2. [California's 2020 Housing Laws: What You Need to Know by Holland and Knight](#)
3. [California Housing Law Update by Meyers and Nave](#)
4. AB-881 -- Accessory Dwelling Units
5. AB-1763 -- Density Bonuses
6. AB-1485 – Streamlining (SB-35)
7. SB-330 – Housing Crisis Act of 2019
8. ADU Referrals

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<sup>6</sup> A project hearing is broadly defined as a city-held meeting, workshop, work session, commission meeting, public hearing, subcommittee meeting, appeal or departmental meeting.

# City of Berkeley Fire Zone Map

## Legend


 CA Very High Hazard Severity Zone

 Berkeley Fire Zone 2

 Berkeley Fire Zone 3

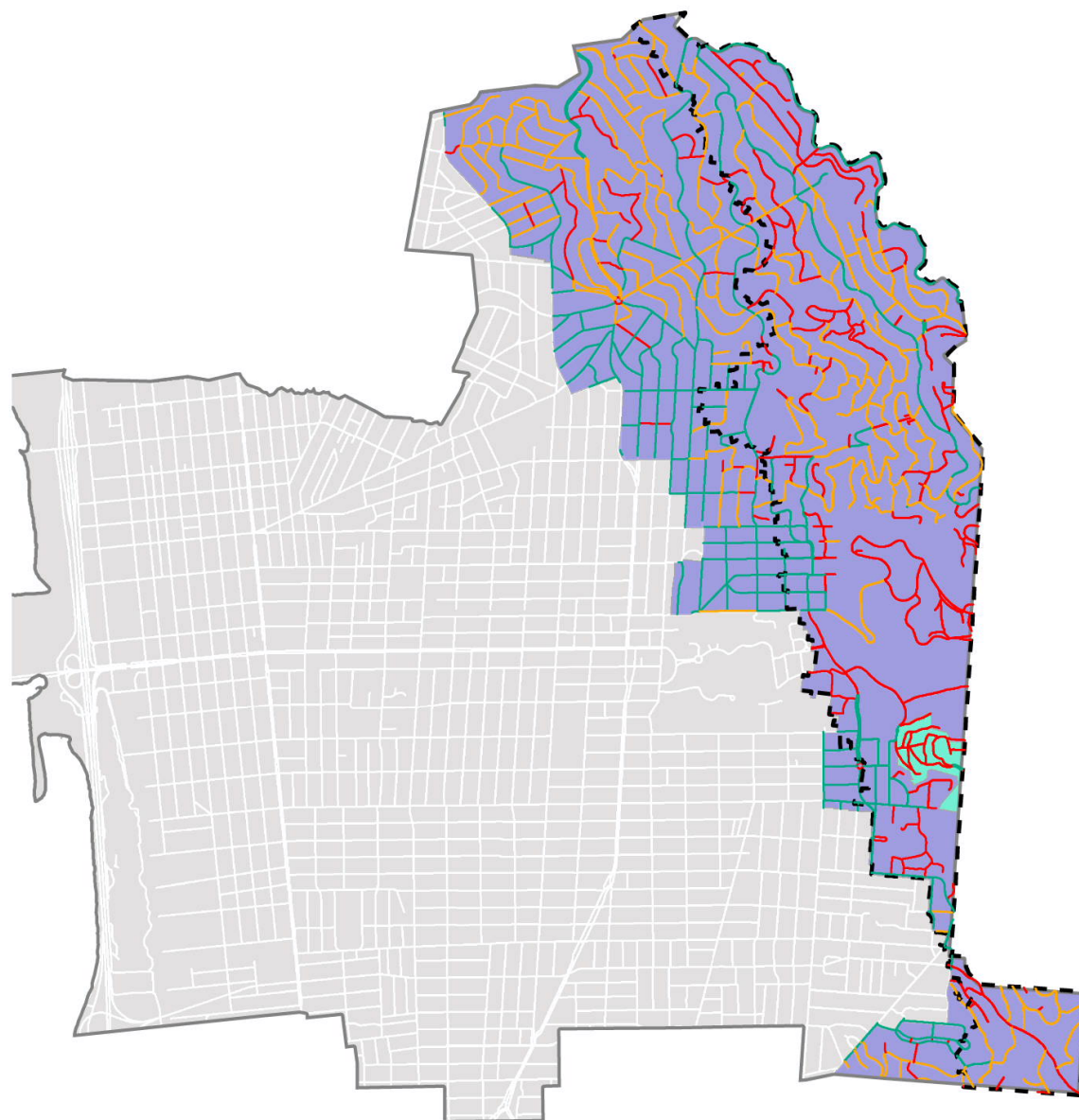
 Berkeley Boundary

### Pavement Width

 Less than or equal to 20 feet

 21 to 26 feet

 Greater than 27 feet

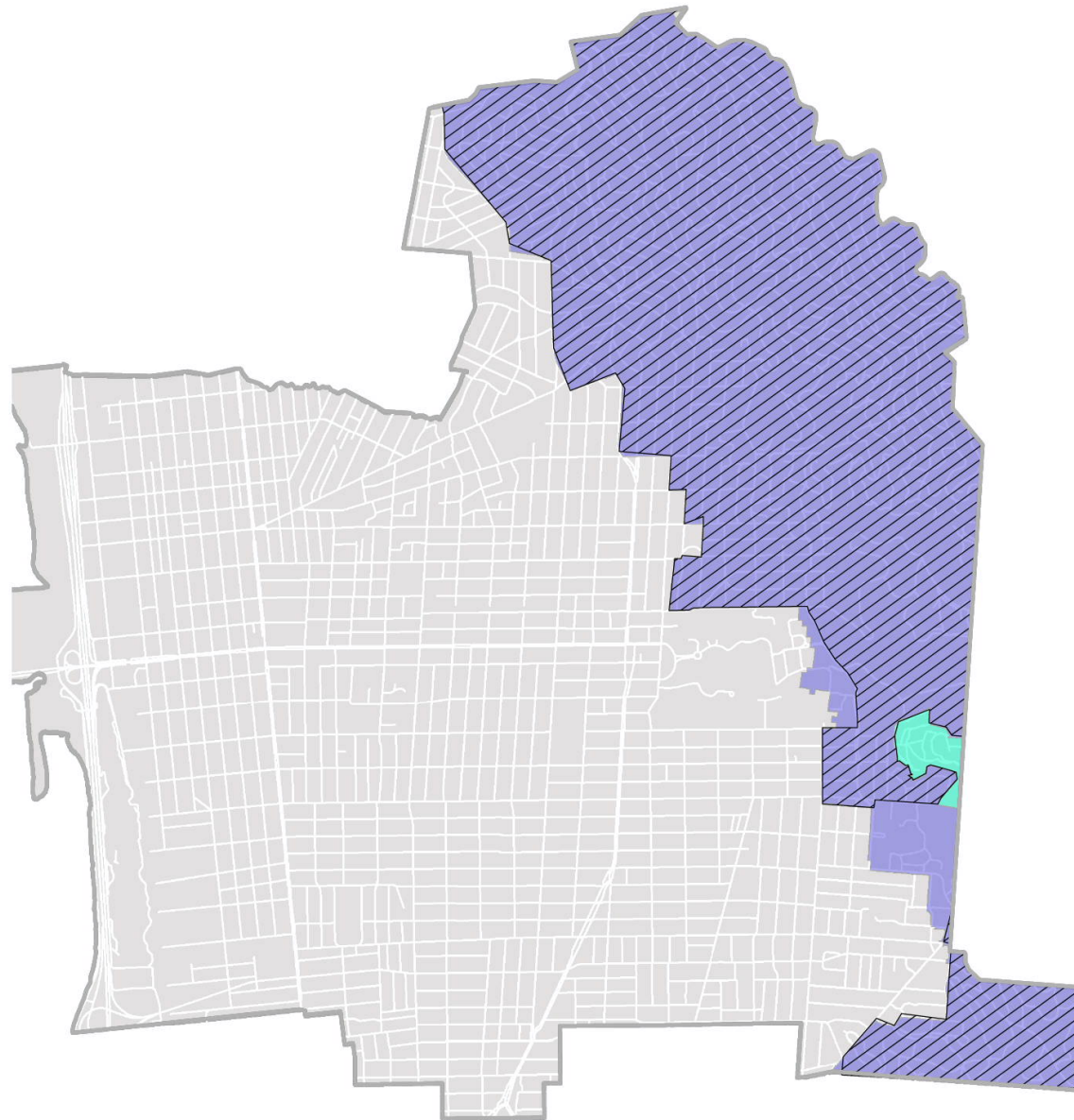


Updated:  
November 14, 2019



 **CITY OF BERKELEY**  
Land Use Planning Division  
Dep't of Planning & Development  
2120 Milvia Street, 2nd Floor  
Berkeley, CA 94704

# Hillside Overlay and Fire Zones 2 and 3



## Legend

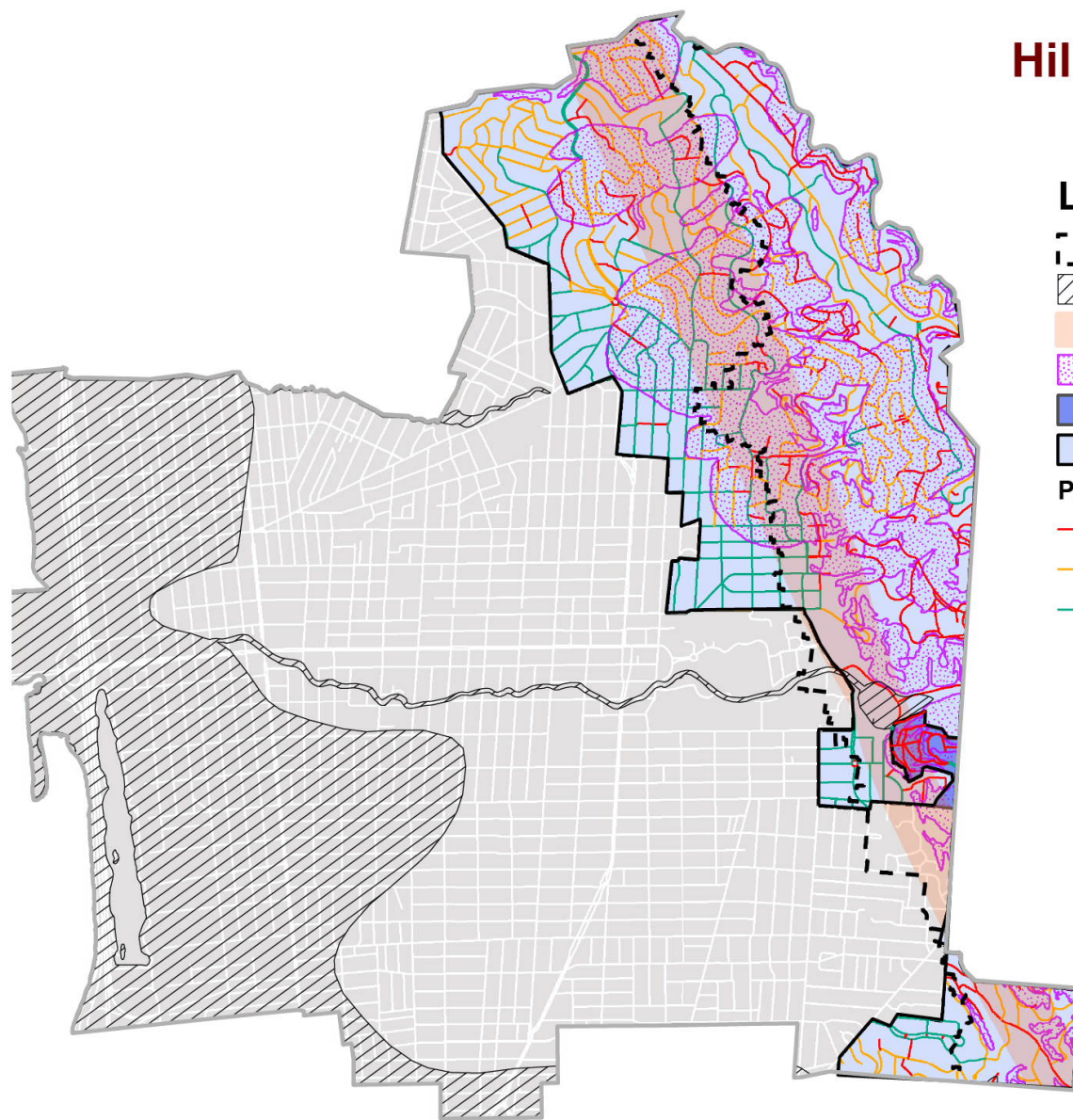
-  Hillside Overlay
-  Berkeley Fire Zone 2
-  Berkeley Fire Zone 3

Updated:  
November 14, 2019



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# City of Berkeley Hillside Conditions Map



## Legend

- Very High Hazard Severity Zone
- CGS Seismic Hazard Zone: Liquefaction
- CGS Seismic Hazard Zone: Earthquake Fault
- CGS Seismic Hazard Zone: Landslide
- ES-R Zoning District
- Hillside Overlay

## Pavement Width

- Less than or equal to 20 feet
- 21 to 26 feet
- Greater than 27 feet

Updated:  
November 14, 2019



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