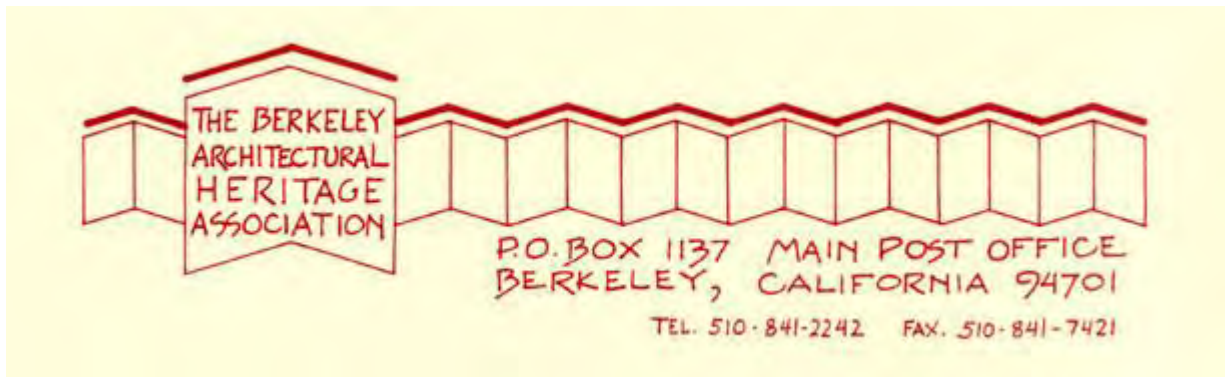


# **Supplemental Communications**



February 23, 2023

Ms. Fatema Crane, Planner  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704

Re: 910 Indian Rock Avenue – Request for Removal from Ministerial Status and Request for LPC Commission Initiation

Dear Ms. Crane, Chairperson Enchill, and Commissioners:

This letter is to request addition to the LPC agenda for the March 2, 2023, hearing. We request that the above property be removed from Ministerial Permit status and that the LPC initiate it for a landmark application and hearing. We understand that Ms. Crane is the planner assigned to the project for both the land use issues and the historic preservation issues, which is why we are combining both issues in this one letter.

#### **A. Brief Background of the Proposed Demolition and Project**

Neighbors of 910 Indian Rock Avenue recently approached BAHA with concerns about a plan to demolish a 1916 Ratcliff single-family house with one apartment. The owners then would replace it with a 4,753 square foot house, 1,878 square feet larger than pre-demolition, and reduce the number of housing units from two down to one by removing the apartment. The plans also involve enlarging a



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Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704  
February 23, 2023  
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City must remove the application from ministerial status and handle this gorgeous Ratcliff house legally and appropriately.

### **B. The Project Does Not Qualify for Ministerial Treatment under SB 9**

Senate Bill 9 is one of numerous streamlining bills intended to increase housing availability and decrease delay in the permitting process. SB 9 became Government Code section 65852.21. The Legislature drafted SB 9 to encourage two kinds of housing – inclusion of more housing units than just one within a single-family house and splitting single family lots into more than one living unit. It intended that with small, incremental additions of living units in single-family houses or on their lots the housing crisis could be partially addressed. It reasoned that if only five percent of the parcels impacted by SB 9 “created two-unit structures, this bill would result in nearly 600,000 new homes. Citing a UC Berkeley Turner Center for Housing study, the bill could potentially result in nearly six million new housing units. (Senate Analysis, pp. 6-7, Attachment C.) The Legislature did not intend to *reduce* housing opportunities by allowing demolition of a typical 2,875 square foot structure that included one apartment and replace it with a 4,753 square foot house as a residence for just one couple or a small family!

Government Code section 65852.21, subdivision (a) states that “A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

- (3) notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

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(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets one of the following conditions:

(A) If a local ordinance so allows

(B) the site has not been occupied by a tenant in the last three years.  
(See Attachment D, Section 65852.21.)

These requirements and restrictions are very consistent with many of the new housing statutes. The legislative themes include not displacing tenants especially in rent-controlled cities, not demolishing housing and reducing units especially where there is some other way such as repairing or replacing a foundation to avoid it, and many of the statutes also emphasize that the Legislature disapproves of increasing environmental impacts through housing laws, such as by increasing travel miles contributing to greenhouse gases. Certainly, the Legislature does not contemplate improvements in housing availability by tearing down and hauling off to landfill perfectly useable housing problems.

Section 65852.21 requires compliance with related Government Code section 65913.4, which also controls when a city can handle a permit application ministerially. Subsection (7) (A) et seq. contains many of the same restrictions as Section 65852.21. (Attachment E.)

The planning file is silent on anything regarding the apartment unit, even its current existence.

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Accordingly, the City must set aside its finding that the project falls within SB 9. Furthermore, given the incredible historic value of the structure, the LPC should initiate landmarking it. We already have lost a Ratcliff garage on Oxford and UC has consistently allowed part of the Anna Head School to deteriorate. Vagrants have been allowed to repeatedly set it on fire. Berkeley cannot afford to lose another Ratcliff and such a lovely one at that.

**C. Request for Addition to the March 2, 2023, LPC Agenda to Request Initiation of landmark status for 910 Indian Rock Avenue**

The Landmarks Preservation Ordinance (LPO) authorizes your commission to grant our request for inclusion in your March 2, 2023, agenda under LPO section 3.24.070, subdivisions (C), (E), and (F):

**3.24.070 Powers and duties generally.**

In connection with the foregoing power and authority, the commission may:

C. Consult with and consider the ideas and recommendations of civic groups, public agencies and citizens interested in historic preservation

E. Disseminate information to the public concerning those structures, sites and areas deemed worthy of preservation, and may encourage and advise property owners and members of the community generally in the protection, enhancement, perpetuation and use of landmarks, property in historic districts and other officially recognized property of historical or architectural interests

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Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704  
February 23, 2023  
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F. Consider methods other than those provided for in this chapter for encouraging and achieving historical or architectural preservation

**3.24.120 Landmarks, historic districts and structures of merit--  
Designation--Initiation procedures.**

Initiation of designation shall be by the commission, . . . or by the verified application of at least fifty residents of the City. Any such application shall be filed with the commission upon forms prescribed by the commission and shall be accompanied by all data required by the commission.

Mr. John Bernstein, a neighbor, has submitted the information and photos supporting our request to have the property initiated. We plan to have the landmark application ready within 30 days after the March 2, 2023, LPC meeting.

If there are any questions or requests, I can be reached by email at 101550@msn.com or by phone (510) 316-5778.

Thank you for your attention to our comments and requests.

Sincerely,

*Leila H. Moncharsh*  
Leila H. Moncharsh  
President, BAHA

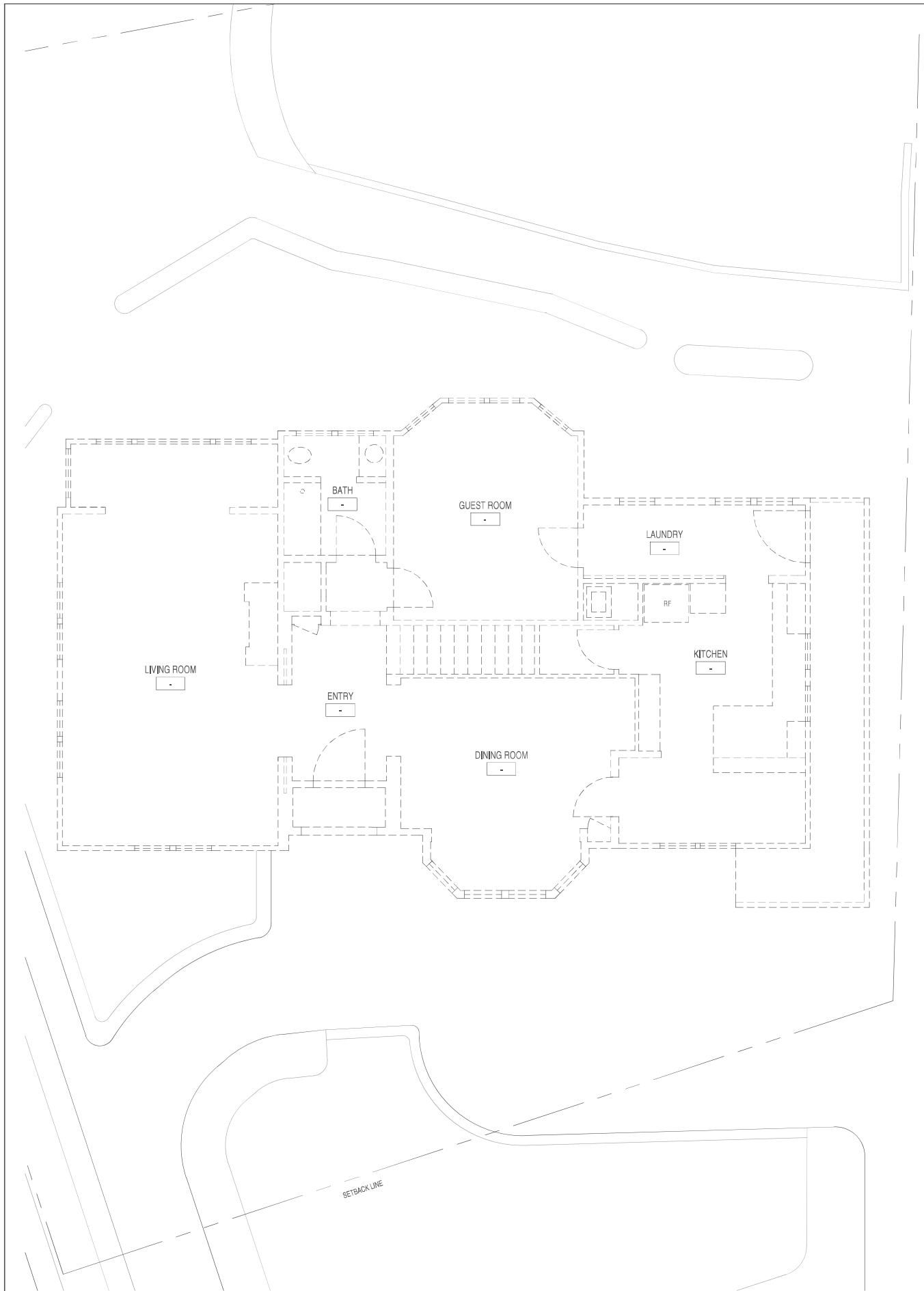
cc: Mayor, City Council, LPC commissioners, City Attorney

LHM:lm

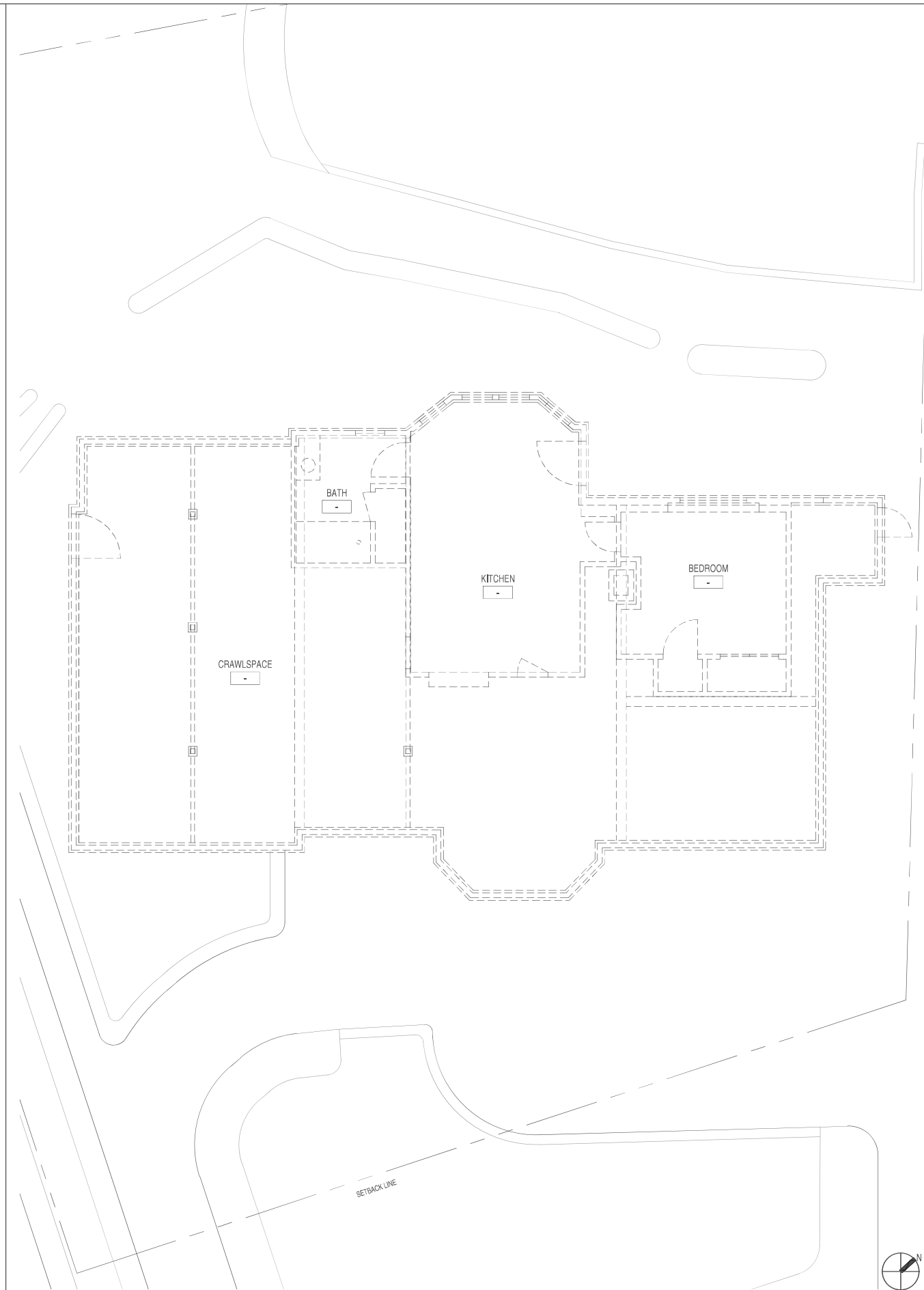
Attachments

**ATTACHMENT A**





1/4"=1'-0"  
EXISTING/DEMO MAIN FLOOR PLAN 2



1/4"=1'-0"  
EXISTING/DEMO LOWER FLOOR PLAN 1

Koch Architects  
Joanne Koch, AIA  
Principal  
k a  
2512 Ninth Street #5  
Berkeley, CA 94710  
510.558.8280  
kocharch@earthlink.com  
info@kocharchitects.com



Drawings Issued:  
USE PERMIT SUBMITTAL  
DEC 12, 2022

**EMERSON RESIDENCE**  
for Greg and Jacqueline Emerson  
910 INDIAN ROCK AVE., BERKELEY, CA 94707

Sheet Desc.  
EXISTING/DEMO FLOOR PLANS -  
LOWER AND MAIN LEVEL

Job No. 2106

Scale: AS NOTED

Date: DEC 09, 2022

Sheet No.

**A2.1**



**ATTACHMENT B**

**910 Indian Rock Ave** Sold  
BERKELEY, CA 94707



**\$230K**

PHOTOS & MAP	PROPERTY INFO	HISTORY	MORTGAGE CENTER	COMMUNITY
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Photos
Map View
Street View

**BEDS: 3**

**BATHS: 3**

## Remarks

Rare, distinguished architectural gem designed by Walter Ratcliff in 1916. Sited on oversized lot that is beautifully landscaped. Features includes two patios, lawns, long driveway for extra parking, garage, and garden shed. 3++ BRS include non-conforming in-law apartment. Beautiful San Francisco Bay views from

**ATTACHMENT C**

**SENATE RULES COMMITTEE**  
Office of Senate Floor Analyses  
(916) 651-1520 Fax: (916) 327-4478

SB 9

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UNFINISHED BUSINESS

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Bill No: SB 9  
Author: Atkins (D), Caballero (D), Rubio (D) and Wiener (D), et al.  
Amended: 8/16/21  
Vote: 21

---

SENATE HOUSING COMMITTEE: 7-2, 4/15/21  
AYES: Wiener, Caballero, Cortese, McGuire, Skinner, Umberg, Wieckowski  
NOES: Bates, Ochoa Bogh

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 4/22/21  
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/20/21  
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski  
NOES: Bates, Jones

SENATE FLOOR: 28-6, 5/26/21  
AYES: Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dahle, Dodd,  
Durazo, Eggman, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Laird, Leyva,  
McGuire, Min, Nielsen, Pan, Portantino, Roth, Rubio, Skinner, Umberg,  
Wieckowski, Wiener  
NOES: Bates, Borgeas, Jones, Melendez, Ochoa Bogh, Wilk  
NO VOTE RECORDED: Allen, Glazer, Kamlager, Limón, Newman, Stern

ASSEMBLY FLOOR: 45-19, 8/26/21 - See last page for vote

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**SUBJECT:** Housing development: approvals

**SOURCE:** Author

---

**DIGEST:** This bill requires ministerial approval of a housing development of no more than two units in a single-family zone (duplex), the subdivision of a parcel zoned for residential use into two parcels (lot split), or both.

*Assembly Amendments* provide that a local agency may deny a housing project otherwise authorized by this bill if the building official makes a written finding based upon the preponderance of the evidence that the housing development project would have a specific, adverse impact upon health and safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; provides that a local agency shall require an applicant for an urban lot split to sign an affidavit stating that they intent to occupy one of the housing units as their principle residence for a minimum of three years, unless the applicant is a community land trust or a qualified nonprofit corporation; and removes the sunset.

**ANALYSIS:**

Existing law:

- 1) Governs, pursuant to the Subdivision Map Act, how local officials regulate the division of real property into smaller parcels for sale, lease, or financing.
- 2) Authorizes local governments to impose a wide variety of conditions on subdivision maps.
- 3) Requires a local jurisdiction to give public notice of a hearing whenever a person applies for a zoning variance, special use permit, conditional use permit, zoning ordinance amendment, or general or specific plan amendment.
- 4) Requires the board of zoning adjustment or zoning administrator to hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining those matters, and applications for variances from the terms of the zoning ordinance.
- 5) Establishes the California Environmental Quality Act (CEQA), which generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those impacts to the extent feasible. CEQA applies when a development project requires discretionary approval from a local government. (See "Comments" below for more information.)
- 6) Requires ministerial approval by a local agency for a building permit to create an accessory dwelling unit (ADU) provided the ADU was contained within an existing single-family home and met other specified requirements. Requires a local agency to ministerially approve an ADU or junior accessory dwelling unit (JADU), or both, as specified, within a proposed or existing structure or

within the same footprint of the existing structure, provided certain requirements are met.

- 7) Requires each city and county to submit an annual progress report (APR) to the Department of Housing and Community Development (HCD) and the Office of Planning and Research that provides specified data related to housing development.

This bill:

- 1) Requires a city or county to ministerially approve either or both of the following, as specified:
  - a) A housing development of no more than two units (duplex) in a single-family zone.
  - b) The subdivision of a parcel zoned for residential use, into two approximately equal parcels (lot split), as specified.
- 2) Requires that a development or parcel to be subdivided must be located within an urbanized area or urban cluster and prohibits it from being located on any of the following:
  - a) Prime farmland or farmland of statewide importance;
  - b) Wetlands;
  - c) Land within the very high fire hazard severity zone, unless the development complies with state mitigation requirements;
  - d) A hazardous waste site;
  - e) An earthquake fault zone;
  - f) Land within the 100-year floodplain or a floodway;
  - g) Land identified for conservation under a natural community conservation plan, or lands under conservation easement;
  - h) Habitat for protected species; or
  - i) A site located within a historic or landmark district, or a site that has a historic property or landmark under state or local law, as specified.
- 3) Prohibits demolition or alteration of an existing unit of rent-restricted housing, housing that has been the subject of an Ellis Act eviction within the past 15 years, or that has been occupied by a tenant in the last three years.
- 4) Prohibits demolition of more than 25% of the exterior walls of an existing structure unless the local ordinance allows greater demolition or if the site has not been occupied by a tenant in the last three years.

- 5) Authorizes a city or county to impose objective zoning, subdivision, and design review standards that do not conflict with this bill, except:
  - a) A city or county shall not impose objective standards that would physically preclude the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area. A city or county may, however, require a setback of up to four feet from the side and rear lot lines.
  - b) A city or county shall not require a setback for an existing structure or a structure constructed in the same location and to the same dimensions as the existing structure.
- 6) Prohibits a city or county from requiring more than one parking space per unit for either a proposed duplex or a proposed lot split. Prohibits a city or county from imposing any parking requirements if the parcel is located within one-half mile walking distance of either a high-quality transit corridor or a major transit stop, or if there is a car share vehicle located within one block of the parcel.
- 7) Authorizes a city or county to require a percolation test completed within the last five years or, if the test has been recertified, within the last 10 years, as part of the application for a permit to create a duplex connected to an onsite wastewater treatment system.
- 8) Authorizes a local agency to deny a housing project otherwise authorized by this bill if the building official makes a written finding based upon the preponderance of the evidence that the housing development project would have a specific, adverse impact upon health and safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact
- 9) Requires a city or county to prohibit rentals of less than 30 days.
- 10) Prohibits a city or county from rejecting an application solely because it proposes adjacent or connected structures, provided the structures meet building code safety standards and are sufficient to allow separate conveyance.
- 11) Provides that a city or county shall not be required to permit an ADU or JADU in addition to units approved under this bill.
- 12) Requires a city or county to include the number of units constructed and the number of applications for lot splits under this bill, in its APR.



- 13) Requires a city or county to ministerially approve a parcel map for a lot split only if the local agency determines that the parcel map for the urban lot split meets the following requirements, in addition to the requirements for eligible parcels that apply to both duplexes and lot splits:
  - a) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal size, provided that one parcel shall not be smaller than 40% of the lot area of the original parcel.
  - b) Both newly created parcels are at least 1,200 square feet, unless the city or county adopts a small minimum lot size by ordinance.
  - c) The parcel does not contain rent-restricted housing, housing where an owner has exercised their rights under the Ellis Act within the past 15 years, or has been occupied by tenants in the past three years.
  - d) The parcel has not been established through prior exercise of an urban lot split.
  - e) Neither the owner of the parcel, or any person acting in concert with the owner, has previously subdivided an adjacent parcel using an urban lot split.
- 14) Requires a city or county to approve a lot split if it conforms to all applicable objective requirements of the Subdivision Map Act not except as otherwise expressly provided in this bill. Prohibits a city or county from imposing regulations that require dedicated rights-of-way or the construction of offsite improvements for the parcels being created, as a condition of approval.
- 15) Authorizes a city or county to impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this bill. A city or county may, however, require easements or that the parcel have access to, provide access to, or adjoin the public right-of-way.
- 16) Provides that a local government shall not be required to permit more than two units on a parcel.
- 17) Prohibits a city or county from requiring, as a condition for ministerial approval of a lot split, the correction of nonconforming zoning conditions.
- 18) Requires a local government to require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principle residence for a minimum of three years from the date of the approval of lot split, unless the applicant is a community land trust, as defined, or a qualified nonprofit corporation, as defined.

- 19) Provides that no additional owner occupancy standards may be imposed other than those contained within 18) above, and that requirement expires after five years.
- 20) Allows a city or county to adopt an ordinance to implement the urban lot split requirements and duplex provisions, and provides that those ordinances are not a project under CEQA.
- 21) Allows a city or county to extend the life of subdivision maps by one year, up to a total of four years.
- 22) Provides that nothing in this bill shall be construed to supersede the California Coastal Act of 1976, except that a local government shall not be required to hold public hearings for a coastal development permit applications under this bill.

### **Background**

Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. Some housing projects can be permitted by city or county planning staff ministerially, or without further approval from elected officials. Projects reviewed ministerially require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meeting standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review; instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under CEQA, while projects permitted ministerially generally are not.

### **Comments**

- 1) *Modest density can result in large-scale housing production.* This bill could lead to up to four homes on lots where currently only one exists. It would do so by allowing existing single-family homes to be converted into duplexes; it would also allow single-family parcels to be subdivided into two lots, while allowing for a new two-unit building to be constructed on the newly formed lot. According to the University of California, Berkeley Turner Center for Housing Innovation, this bill has the potential to allow for the development of nearly 6 million new housing units. Assuming only five percent of the parcels impacted

by this bill created new two-unit structures, this bill would result in nearly 600,000 new homes.

- 2) *Historic preservation versus housing production.* As part of their general police powers, local governments have the authority to designate historic districts, which set specific regulations and conditions to protect property and areas of historical and aesthetic significance. While well-intentioned, academics and others have pointed out that there are negative impacts of historic districts on housing supply and racial equity. For example, in 2017, the Sightline Institute noted that, in relation to Seattle’s historic preservation efforts, “rules for historic preservation can sabotage housing affordability just like any other cost, red tape, permitting delay, or capacity limits imposed on homebuilding.” It made recommendations such as educating historic preservation board members on how the historic review process and resulting preservation mandates can impede homebuilding and harm affordability; raising the bar for justifying landmark designations in order to counteract local anti-development sentiment; and even prohibiting historic preservation restrictions from limiting new construction to less than the height or capacity that zoning allows.

Sites within a historic district are categorically exempt from the provisions of this bill. While the committee understands the desire to protect the integrity of historic districts from an aesthetic perspective, it is unclear that allowing small multi-unit construction in historic districts — which would be subject to objective historic design standards — would undermine the integrity of the historic districts. In addition, exempting historic districts from bills designed to increase multi-unit housing supply could lead to fair housing challenges. This committee is aware of several California cities — including neighborhoods in Eastern San Francisco, Los Angeles, and San Jose — that have not excluded historic districts when performing rezonings.

This bill also contains a very broad definition of what kinds of historic districts are automatically exempt from this bill. The historic district exemption, similar to exemptions included in other pending bills in the Senate, does not require a historic district to be on a federal or state historic registry. Instead, a city can designate a zone as historic without the typical rigorous historic designation process required for a historic district to be placed on a federal or state registry. Certain NIMBY groups are already discussing use of this broad exemption as a tool to exempt communities from state housing laws. If a historic district exemption is needed, a more focused and rigorous exemption — for example,

similar to what the Governance and Finance Committee placed in SB 50 (Wiener, 2019) — should be considered.

- 3) *Senate's 2021 Housing Production Package*. This bill has been included in the Senate's 2021 Housing Production Package and is virtually identical to SB 1120 (Atkins, 2020). For key differences, see the Senate Housing Committee analysis.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee:

- 1) HCD estimates costs of \$89,000 (General Fund) annually for 0.5 Personnel Years of staff time to provide technical assistance and outreach education to local agencies and affordable housing developers.
- 2) Unknown state-mandated local costs to establish streamlined project review processes for proposed duplex housing developments and tentative maps for urban lot splits, and to conduct expedited design reviews of these proposals. These costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates.

**SUPPORT:** (Verified 8/27/21)

AARP  
Abundant Housing LA  
ADU Task Force East Bay  
All Home  
American Planning Association, California Chapter  
Bay Area Council  
Bridge Housing Corporation  
Cal Asian Chamber of Commerce  
California Apartment Association  
California Asian Pacific Chamber of Commerce  
California Association of Realtors  
California Building Industry Association  
California Chamber of Commerce  
California Hispanic Chamber of Commerce  
California YIMBY  
Casita Coalition  
Central Valley Urban Institute

**ATTACHMENT D**

§ 65852.21. Housing development containing two residential..., CA GOVT § 65852.21

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West's Annotated California Codes  
Government Code (Refs & Annos)  
Title 7. Planning and Land Use (Refs & Annos)  
Division 1. Planning and Zoning (Refs & Annos)  
Chapter 4. Zoning Regulations (Refs & Annos)  
Article 2. Adoption of Regulations (Refs & Annos)

West's Ann.Cal.Gov.Code § 65852.21

§ 65852.21. Housing development containing two residential units;  
requirements for ministerial review; additional local agency conditions

Effective: January 1, 2022

[Currentness](#)

(a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel satisfies the requirements specified in [subparagraphs \(B\) to \(K\), inclusive, of paragraph \(6\) of subdivision \(a\) of Section 65913.4](#).

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with [Section 7060](#)) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

§ 65852.21. Housing development containing two residential..., CA GOVT § 65852.21

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(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows.

(B) The site has not been occupied by a tenant in the last three years.

(6) The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in [Section 5020.1 of the Public Resources Code](#), or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(b)(1) Notwithstanding any local law and except as provided in paragraph (2), a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.

(2)(A) The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

(B)(i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:

(1) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in [subdivision \(b\) of Section 21155 of the Public Resources Code](#), or a major transit stop, as defined in [Section 21064.3 of the Public Resources Code](#).

(B) There is a car share vehicle located within one block of the parcel.

(2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

§ 65852.21. Housing development containing two residential..., CA GOVT § 65852.21

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(d) Notwithstanding subdivision (a), a local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in [paragraph \(2\) of subdivision \(d\) of Section 65589.5](#), upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(f) Notwithstanding [Section 65852.2](#) or [65852.22](#), a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in [Section 66411.7](#).

(g) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(h) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by [subparagraph \(I\) of paragraph \(2\) of subdivision \(a\) of Section 65400](#).

(i) For purposes of this section, all of the following apply:

(1) A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.

(2) The terms “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(3) “Local agency” means a city, county, or city and county, whether general law or chartered.

(j) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under [Division 13 \(commencing with Section 21000\) of the Public Resources Code](#).

(k) 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 agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.



§ 65852.21. Housing development containing two residential..., CA GOVT § 65852.21

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**Credits**

(Added by Stats.2021, c. 162 (S.B.9), § 1, eff. Jan. 1, 2022.)

West's Ann. Cal. Gov. Code § 65852.21, CA GOVT § 65852.21

Current with all laws through Ch. 997 of 2022 Reg.Sess.

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End of Document

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**ATTACHMENT E**

§ 65913.4. Submission of application for development subject..., CA GOVT § 65913.4

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KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted Prior Version's Limitation Recognized by [Ruegg & Ellsworth v. City of Berkeley](#), Cal.App. 1 Dist., Apr. 20, 2021



KeyCite Yellow Flag - Negative Treatment Proposed Legislation

West's Annotated California Codes  
Government Code (Refs & Annos)  
Title 7. Planning and Land Use (Refs & Annos)  
Division 1. Planning and Zoning (Refs & Annos)  
Chapter 4.2. Housing Development Approvals (Refs & Annos)

West's Ann.Cal.Gov.Code § 65913.4

§ 65913.4. Submission of application for development subject to streamlined, ministerial approval process; notice of intent; satisfaction of objective planning standards; documentation of conflict with objective planning standards; design review or public oversight; parking standards; duration of approval; modification to approved development

Effective: January 1, 2023

[Currentness](#)

(a) A development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (c) and is not subject to a conditional use permit or any other nonlegislative discretionary approval if the development complies with subdivision (b) and satisfies all of the following objective planning standards:

(1) The development is a multifamily housing development that contains two or more residential units.

(2) The development and the site on which it is located satisfy all of the following:

(A) It is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) At least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(C)(i) A site that meets the requirements of clause (ii) and satisfies any of the following:

(I) The site is zoned for residential use or residential mixed-use development.

(II) The site has a general plan designation that allows residential use or a mix of residential and nonresidential uses.

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(III) The site is zoned for office or retail commercial use and meets the requirements of [Section 65852.24](#).

(ii) At least two-thirds of the square footage of the development is designated for residential use. Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to the Density Bonus Law in [Section 65915](#) shall be included in the square footage calculation. The square footage of the development shall not include underground space, such as basements or underground parking garages.

(3)(A) The development proponent has committed to record, prior to the issuance of the first building permit, a land use restriction or covenant providing that any lower or moderate income housing units required pursuant to subparagraph (B) of paragraph (4) shall remain available at affordable housing costs or rent to persons and families of lower or moderate income for no less than the following periods of time:

(i) Fifty-five years for units that are rented.

(ii) Forty-five years for units that are owned.

(B) The city or county shall require the recording of covenants or restrictions implementing this paragraph for each parcel or unit of real property included in the development.

(4) The development satisfies subparagraphs (A) and (B) below:

(A) Is located in a locality that the department has determined is subject to this subparagraph on the basis that the number of units that have been issued building permits, as shown on the most recent production report received by the department, is less than the locality's share of the regional housing needs, by income category, for that reporting period. A locality shall remain eligible under this subparagraph until the department's determination for the next reporting period.

(B) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on one of the following:

(i) The locality did not submit its latest production report to the department by the time period required by [Section 65400](#), or that production report reflects that there were fewer units of above moderate-income housing issued building permits than were required for the regional housing needs assessment cycle for that reporting period. In addition, if the project contains more than 10 units of housing, the project does either of the following:

(I) The project dedicates a minimum of 10 percent of the total number of units, before calculating any density bonus, to housing affordable to households making at or below 80 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, that local ordinance applies.

(II)(ia) If the project is located within the San Francisco Bay area, the project, in lieu of complying with subclause (I), dedicates 20 percent of the total number of units, before calculating any density bonus, to housing affordable to households making below

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120 percent of the area median income with the average income of the units at or below 100 percent of the area median income. However, a local ordinance adopted by the locality applies if it requires greater than 20 percent of the units be dedicated to housing affordable to households making at or below 120 percent of the area median income, or requires that any of the units be dedicated at a level deeper than 120 percent. In order to comply with this subclause, the rent or sale price charged for units that are dedicated to housing affordable to households between 80 percent and 120 percent of the area median income shall not exceed 30 percent of the gross income of the household.

(ib) For purposes of this subclause, “San Francisco Bay area” means the entire area within the territorial boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco.

(ii) The locality's latest production report reflects that there were fewer units of housing issued building permits affordable to either very low income or low-income households by income category than were required for the regional housing needs assessment cycle for that reporting period, and the project seeking approval dedicates 50 percent of the total number of units, before calculating any density bonus, to housing affordable to households making at or below 80 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 50 percent of the units be dedicated to housing affordable to households making at or below 80 percent of the area median income, that local ordinance applies.

(iii) The locality did not submit its latest production report to the department by the time period required by [Section 65400](#), or if the production report reflects that there were fewer units of housing affordable to both income levels described in clauses (i) and (ii) that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, the project seeking approval may choose between utilizing clause (i) or (ii).

(C)(i) A development proponent that uses a unit of affordable housing to satisfy the requirements of subparagraph (B) may also satisfy any other local or state requirement for affordable housing, including local ordinances or the Density Bonus Law in [Section 65915](#), provided that the development proponent complies with the applicable requirements in the state or local law.

(ii) A development proponent that uses a unit of affordable housing to satisfy any other state or local affordability requirement may also satisfy the requirements of subparagraph (B), provided that the development proponent complies with applicable requirements of subparagraph (B).

(iii) A development proponent may satisfy the affordability requirements of subparagraph (B) with a unit that is restricted to households with incomes lower than the applicable income limits required in subparagraph (B).

(D) The amendments to this subdivision made by the act adding this subparagraph do not constitute a change in, but are declaratory of, existing law.

(5) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in [Section 65915](#), is consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time that the development is submitted to the local government pursuant to this section, or at the time a notice of intent is submitted pursuant to subdivision (b), whichever occurs earlier. For purposes of this paragraph, “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly

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verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards may be embodied in alternative objective land use specifications adopted by a city or county, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances, subject to the following:

(A) A development shall be deemed consistent with the objective zoning standards related to housing density, as applicable, if the density proposed is compliant with the maximum density allowed within that land use designation, notwithstanding any specified maximum unit allocation that may result in fewer units of housing being permitted.

(B) In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning and subdivision standards pursuant to this subdivision if the development is consistent with the standards set forth in the general plan.

(C) It is the intent of the Legislature that the objective zoning standards, objective subdivision standards, and objective design review standards described in this paragraph be adopted or amended in compliance with the requirements of Chapter 905 of the Statutes of 2004.

(D) The amendments to this subdivision made by the act adding this subparagraph do not constitute a change in, but are declaratory of, existing law.

(E) A project that satisfies the requirements of [Section 65852.24](#) shall be deemed consistent with objective zoning standards, objective design standards, and objective subdivision standards if the project is consistent with the provisions of [subdivision \(b\) of Section 65852.24](#) and if none of the square footage in the project is designated for hotel, motel, bed and breakfast inn, or other transient lodging use, except for a residential hotel. For purposes of this subdivision, “residential hotel” shall have the same meaning as defined in [Section 50519 of the Health and Safety Code](#).

(6) The development is not located on a site that is any of the following:

(A) A coastal zone, as defined in [Division 20 \(commencing with Section 30000\) of the Public Resources Code](#).

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to [Section 51178](#), or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to [Section 4202 of the Public Resources Code](#). This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to [subdivision \(b\) of Section 51179](#), or sites that have

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adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(E) A hazardous waste site that is listed pursuant to [Section 65962.5](#) or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to [Section 25356 of the Health and Safety Code](#), unless either of the following apply:

(i) The site is an underground storage tank site that received a uniform closure letter issued pursuant to [subdivision \(g\) of Section 25296.10 of the Health and Safety Code](#) based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses. This section does not alter or change the conditions to remove a site from the list of hazardous waste sites listed pursuant to [Section 65962.5](#).

(ii) The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency making a determination pursuant to [subdivision \(c\) of Section 25296.10 of the Health and Safety Code](#), has otherwise determined that the site is suitable for residential use or residential mixed uses.

(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with [Section 18901](#)) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with [Section 8875](#)) of Division 1 of Title 2.

(G) Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.

(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with [Section 59.1](#)) and Part 60 (commencing with [Section 60.1](#)) of Subchapter B of Chapter 1 of Title 44 of the Code of Federal Regulations.

(H) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with [Section 60.3\(d\)\(3\) of Title 44 of the Code of Federal Regulations](#). If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

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(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with [Section 2800](#)) of [Division 3 of the Fish and Game Code](#)), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 ([16 U.S.C. Sec. 1531 et seq.](#)), or other adopted natural resource protection plan.

(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 ([16 U.S.C. Sec. 1531 et seq.](#)), the California Endangered Species Act (Chapter 1.5 (commencing with [Section 2050](#)) of [Division 3 of the Fish and Game Code](#)), or the Native Plant Protection Act (Chapter 10 (commencing with [Section 1900](#)) of [Division 2 of the Fish and Game Code](#)).

(K) Lands under conservation easement.

(7) The development is not located on a site where any of the following apply:

(A) The development would require the demolition of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) Housing that has been occupied by tenants within the past 10 years.

(B) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under this section.

(C) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register.

(D) The property contains housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.

(8) The development proponent has done both of the following, as applicable:

(A) Certified to the locality that either of the following is true, as applicable:

(i) The entirety of the development is a public work for purposes of Chapter 1 (commencing with [Section 1720](#)) of Part 7 of Division 2 of the Labor Code.



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(ii) If the development is not in its entirety a public work, that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to [Sections 1773 and 1773.9 of the Labor Code](#), except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject to this subparagraph, then for those portions of the development that are not a public work all of the following shall apply:

(I) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to [Section 1776 of the Labor Code](#) and make those records available for inspection and copying as provided therein.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to [Section 1741 of the Labor Code](#), which may be reviewed pursuant to [Section 1742 of the Labor Code](#), within 18 months after the completion of the development, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under [Section 1771.2 of the Labor Code](#). If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to [Section 1742.1 of the Labor Code](#).

(V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, “project labor agreement” has the same meaning as set forth in [paragraph \(1\) of subdivision \(b\) of Section 2500 of the Public Contract Code](#).

(VI) Notwithstanding [subdivision \(c\) of Section 1773.1 of the Labor Code](#), the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to [Section 511 or 514 of the Labor Code](#).

(B)(i) For developments for which any of the following conditions apply, certified that a skilled and trained workforce shall be used to complete the development if the application is approved:

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(I) On and after January 1, 2018, until December 31, 2021, the development consists of 75 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(II) On and after January 1, 2022, until December 31, 2025, the development consists of 50 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(III) On and after January 1, 2018, until December 31, 2019, the development consists of 75 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(IV) On and after January 1, 2020, until December 31, 2021, the development consists of more than 50 units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(V) On and after January 1, 2022, until December 31, 2025, the development consists of more than 25 units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(ii) For purposes of this section, “skilled and trained workforce” has the same meaning as provided in Chapter 2.9 (commencing with [Section 2600](#)) of [Part 1 of Division 2 of the Public Contract Code](#).

(iii) If the development proponent has certified that a skilled and trained workforce will be used to complete the development and the application is approved, the following shall apply:

(I) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the development.

(II) Every contractor and subcontractor shall use a skilled and trained workforce to complete the development.

(III) Except as provided in subclause (IV), the applicant shall provide to the locality, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with [Section 2600](#)) of [Part 1 of Division 2 of the Public Contract Code](#). A monthly report provided to the locality pursuant to this subclause shall be a public record under the California Public Records Act (Division 10 (commencing with [Section 7920.000](#)) of Title 1) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with [Section 2600](#)) of [Part 1 of Division 2 of the Public Contract Code](#) shall be subject to a civil penalty of ten thousand dollars (\$10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars (\$200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of

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civil wage and penalty assessments pursuant to [Section 1741 of the Labor Code](#), and may be reviewed pursuant to the same procedures in [Section 1742 of the Labor Code](#). Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subclause (III) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, “project labor agreement” has the same meaning as set forth in [paragraph \(1\) of subdivision \(b\) of Section 2500 of the Public Contract Code](#).

(C) Notwithstanding subparagraphs (A) and (B), a development that is subject to approval pursuant to this section is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:

(i) The project includes 10 or fewer units.

(ii) The project is not a public work for purposes of Chapter 1 (commencing with [Section 1720](#)) of Part 7 of Division 2 of the Labor Code.

(9) The development did not or does not involve a subdivision of a parcel that is, or, notwithstanding this section, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with [Section 66410](#))) or any other applicable law authorizing the subdivision of land, unless the development is consistent with all objective subdivision standards in the local subdivision ordinance, and either of the following apply:

(A) The development has received or will receive financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to subparagraph (A) of paragraph (8).

(B) The development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used, pursuant to paragraph (8).

(10) The development shall not be upon an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with [Section 798](#)) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with [Section 799.20](#)) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with [Section 18200](#)) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with [Section 18860](#)) of Division 13 of the Health and Safety Code).

(b)(1)(A)(i) Before submitting an application for a development subject to the streamlined, ministerial approval process described in subdivision (c), the development proponent shall submit to the local government a notice of its intent to submit an application. The notice of intent shall be in the form of a preliminary application that includes all of the information described in [Section 65941.1](#), as that section read on January 1, 2020.

(ii) Upon receipt of a notice of intent to submit an application described in clause (i), the local government shall engage in a scoping consultation regarding the proposed development with any California Native American tribe that is traditionally and culturally affiliated with the geographic area, as described in [Section 21080.3.1 of the Public Resources Code](#), of the proposed development. In order to expedite compliance with this subdivision, the local government shall contact the Native American

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Heritage Commission for assistance in identifying any California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed development.

(iii) The timeline for noticing and commencing a scoping consultation in accordance with this subdivision shall be as follows:

(I) The local government shall provide a formal notice of a development proponent's notice of intent to submit an application described in clause (i) to each California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed development within 30 days of receiving that notice of intent. The formal notice provided pursuant to this subclause shall include all of the following:

(ia) A description of the proposed development.

(ib) The location of the proposed development.

(ic) An invitation to engage in a scoping consultation in accordance with this subdivision.

(II) Each California Native American tribe that receives a formal notice pursuant to this clause shall have 30 days from the receipt of that notice to accept the invitation to engage in a scoping consultation.

(III) If the local government receives a response accepting an invitation to engage in a scoping consultation pursuant to this subdivision, the local government shall commence the scoping consultation within 30 days of receiving that response.

(B) The scoping consultation shall recognize that California Native American tribes traditionally and culturally affiliated with a geographic area have knowledge and expertise concerning the resources at issue and shall take into account the cultural significance of the resource to the culturally affiliated California Native American tribe.

(C) The parties to a scoping consultation conducted pursuant to this subdivision shall be the local government and any California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development. More than one California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development may participate in the scoping consultation. However, the local government, upon the request of any California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development, shall engage in a separate scoping consultation with that California Native American tribe. The development proponent and its consultants may participate in a scoping consultation process conducted pursuant to this subdivision if all of the following conditions are met:

(i) The development proponent and its consultants agree to respect the principles set forth in this subdivision.

(ii) The development proponent and its consultants engage in the scoping consultation in good faith.

(iii) The California Native American tribe participating in the scoping consultation approves the participation of the development proponent and its consultants. The California Native American tribe may rescind its approval at any time during the scoping

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consultation, either for the duration of the scoping consultation or with respect to any particular meeting or discussion held as part of the scoping consultation.

(D) The participants to a scoping consultation pursuant to this subdivision shall comply with all of the following confidentiality requirements:

(i) [Section 7927.000](#).

(ii) [Section 7927.005](#).

(iii) [Subdivision \(c\) of Section 21082.3 of the Public Resources Code](#).

(iv) [Subdivision \(d\) of Section 15120 of Title 14 of the California Code of Regulations](#).

(v) Any additional confidentiality standards adopted by the California Native American tribe participating in the scoping consultation.

(E) The California Environmental Quality Act ([Division 13 \(commencing with Section 21000\) of the Public Resources Code](#)) shall not apply to a scoping consultation conducted pursuant to this subdivision.

(2)(A) If, after concluding the scoping consultation, the parties find that no potential tribal cultural resource would be affected by the proposed development, the development proponent may submit an application for the proposed development that is subject to the streamlined, ministerial approval process described in subdivision (c).

(B) If, after concluding the scoping consultation, the parties find that a potential tribal cultural resource could be affected by the proposed development and an enforceable agreement is documented between the California Native American tribe and the local government on methods, measures, and conditions for tribal cultural resource treatment, the development proponent may submit the application for a development subject to the streamlined, ministerial approval process described in subdivision (c). The local government shall ensure that the enforceable agreement is included in the requirements and conditions for the proposed development.

(C) If, after concluding the scoping consultation, the parties find that a potential tribal cultural resource could be affected by the proposed development and an enforceable agreement is not documented between the California Native American tribe and the local government regarding methods, measures, and conditions for tribal cultural resource treatment, the development shall not be eligible for the streamlined, ministerial approval process described in subdivision (c).

(D) For purposes of this paragraph, a scoping consultation shall be deemed to be concluded if either of the following occur:

(i) The parties to the scoping consultation document an enforceable agreement concerning methods, measures, and conditions to avoid or address potential impacts to tribal cultural resources that are or may be present.

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(ii) One or more parties to the scoping consultation, acting in good faith and after reasonable effort, conclude that a mutual agreement on methods, measures, and conditions to avoid or address impacts to tribal cultural resources that are or may be present cannot be reached.

(E) If the development or environmental setting substantially changes after the completion of the scoping consultation, the local government shall notify the California Native American tribe of the changes and engage in a subsequent scoping consultation if requested by the California Native American tribe.

(3) A local government may only accept an application for streamlined, ministerial approval pursuant to this section if one of the following applies:

(A) A California Native American tribe that received a formal notice of the development proponent's notice of intent to submit an application pursuant to subclause (I) of clause (iii) of subparagraph (A) of paragraph (1) did not accept the invitation to engage in a scoping consultation.

(B) The California Native American tribe accepted an invitation to engage in a scoping consultation pursuant to subclause (II) of clause (iii) of subparagraph (A) of paragraph (1) but substantially failed to engage in the scoping consultation after repeated documented attempts by the local government to engage the California Native American tribe.

(C) The parties to a scoping consultation pursuant to this subdivision find that no potential tribal cultural resource will be affected by the proposed development pursuant to subparagraph (A) of paragraph (2).

(D) A scoping consultation between a California Native American tribe and the local government has occurred in accordance with this subdivision and resulted in agreement pursuant to subparagraph (B) of paragraph (2).

(4) A project shall not be eligible for the streamlined, ministerial process described in subdivision (c) if any of the following apply:

(A) There is a tribal cultural resource that is on a national, state, tribal, or local historic register list located on the site of the project.

(B) There is a potential tribal cultural resource that could be affected by the proposed development and the parties to a scoping consultation conducted pursuant to this subdivision do not document an enforceable agreement on methods, measures, and conditions for tribal cultural resource treatment, as described in subparagraph (C) of paragraph (2).

(C) The parties to a scoping consultation conducted pursuant to this subdivision do not agree as to whether a potential tribal cultural resource will be affected by the proposed development.

(5)(A) If, after a scoping consultation conducted pursuant to this subdivision, a project is not eligible for the streamlined, ministerial process described in subdivision (c) for any or all of the following reasons, the local government shall provide written

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documentation of that fact, and an explanation of the reason for which the project is not eligible, to the development proponent and to any California Native American tribe that is a party to that scoping consultation:

(i) There is a tribal cultural resource that is on a national, state, tribal, or local historic register list located on the site of the project, as described in subparagraph (A) of paragraph (4).

(ii) The parties to the scoping consultation have not documented an enforceable agreement on methods, measures, and conditions for tribal cultural resource treatment, as described in subparagraph (C) of paragraph (2) and subparagraph (B) of paragraph (4).

(iii) The parties to the scoping consultation do not agree as to whether a potential tribal cultural resource will be affected by the proposed development, as described in subparagraph (C) of paragraph (4).

(B) The written documentation provided to a development proponent pursuant to this paragraph shall include information on how the development proponent may seek a conditional use permit or other discretionary approval of the development from the local government.

(6) This section is not intended, and shall not be construed, to limit consultation and discussion between a local government and a California Native American tribe pursuant to other applicable law, confidentiality provisions under other applicable law, the protection of religious exercise to the fullest extent permitted under state and federal law, or the ability of a California Native American tribe to submit information to the local government or participate in any process of the local government.

(7) For purposes of this subdivision:

(A) “Consultation” means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between local governments and Native American tribes shall be conducted in a way that is mutually respectful of each party's sovereignty. Consultation shall also recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural importance. A lead agency shall consult the tribal consultation best practices described in the “State of California Tribal Consultation Guidelines: Supplement to the General Plan Guidelines” prepared by the Office of Planning and Research.

(B) “Scoping” means the act of participating in early discussions or investigations between the local government and California Native American tribe, and the development proponent if authorized by the California Native American tribe, regarding the potential effects a proposed development could have on a potential tribal cultural resource, as defined in [Section 21074 of the Public Resources Code](#), or California Native American tribe, as defined in [Section 21073 of the Public Resources Code](#).

(8) This subdivision shall not apply to any project that has been approved under the streamlined, ministerial approval process provided under this section before the effective date of the act adding this subdivision.

(c)(1) If a local government determines that a development submitted pursuant to this section is consistent with the objective planning standards specified in subdivision (a) and pursuant to paragraph (3) of this subdivision, it shall approve the development. If a local government determines that a development submitted pursuant to this section is in conflict with any of the objective planning standards specified in subdivision (a), it shall provide the development proponent written documentation

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of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

(A) Within 60 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the objective planning standards specified in subdivision (a).

(3) For purposes of this section, a development is consistent with the objective planning standards specified in subdivision (a) if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards. The local government shall not determine that a development, including an application for a modification under subdivision (g), is in conflict with the objective planning standards on the basis that application materials are not included, if the application contains substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

(d)(1) Any design review or public oversight of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate. That design review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, and shall be broadly applicable to development within the jurisdiction. That design review or public oversight shall be completed, and if the development is consistent with all objective standards, the local government shall approve the development as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(A) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 180 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(2) If the development is consistent with the requirements of subparagraph (A) or (B) of paragraph (9) of subdivision (a) and is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with [Section 66410](#))) shall be exempt from the requirements of the California Environmental Quality Act ([Division 13 \(commencing with Section 21000\) of the Public Resources Code](#)) and shall be subject to the public oversight timelines set forth in paragraph (1).

(3) If a local government determines that a development submitted pursuant to this section is in conflict with any of the standards imposed pursuant to paragraph (1), it shall provide the development proponent written documentation of which objective



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standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that objective standard or standards consistent with the timelines described in paragraph (1) of subdivision (c).

(e)(1) Notwithstanding any other law, a local government, whether or not it has adopted an ordinance governing automobile parking requirements in multifamily developments, shall not impose automobile parking standards for a streamlined development that was approved pursuant to this section in any of the following instances:

(A) The development is located within one-half mile of public transit.

(B) The development is located within an architecturally and historically significant historic district.

(C) When on-street parking permits are required but not offered to the occupants of the development.

(D) When there is a car share vehicle located within one block of the development.

(2) If the development does not fall within any of the categories described in paragraph (1), the local government shall not impose automobile parking requirements for streamlined developments approved pursuant to this section that exceed one parking space per unit.

(f)(1) If a local government approves a development pursuant to this section, then, notwithstanding any other law, that approval shall not expire if the project satisfies both of the following requirements:

(A) The project includes public investment in housing affordability, beyond tax credits.

(B) At least 50 percent of the units are affordable to households making at or below 80 percent of the area median income.

(2)(A) If a local government approves a development pursuant to this section, and the project does not satisfy the requirements of subparagraphs (A) and (B) of paragraph (1), that approval shall remain valid for three years from the date of the final action establishing that approval, or if litigation is filed challenging that approval, from the date of the final judgment upholding that approval. Approval shall remain valid for a project provided construction activity, including demolition and grading activity, on the development site has begun pursuant to a permit issued by the local jurisdiction and is in progress. For purposes of this subdivision, “in progress” means one of the following:

(i) The construction has begun and has not ceased for more than 180 days.

(ii) If the development requires multiple building permits, an initial phase has been completed, and the project proponent has applied for and is diligently pursuing a building permit for a subsequent phase, provided that once it has been issued, the building permit for the subsequent phase does not lapse.

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(B) Notwithstanding subparagraph (A), a local government may grant a project a one-time, one-year extension if the project proponent can provide documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application.

(3) If the development proponent requests a modification pursuant to subdivision (g), then the time during which the approval shall remain valid shall be extended for the number of days between the submittal of a modification request and the date of its final approval, plus an additional 180 days to allow time to obtain a building permit. If litigation is filed relating to the modification request, the time shall be further extended during the pendency of the litigation. The extension required by this paragraph shall only apply to the first request for a modification submitted by the development proponent.

(4) The amendments made to this subdivision by the act that added this paragraph shall also be retroactively applied to developments approved prior to January 1, 2022.

(g)(1)(A) A development proponent may request a modification to a development that has been approved under the streamlined, ministerial approval process provided in subdivision (c) if that request is submitted to the local government before the issuance of the final building permit required for construction of the development.

(B) Except as provided in paragraph (3), the local government shall approve a modification if it determines that the modification is consistent with the objective planning standards specified in subdivision (a) that were in effect when the original development application was first submitted.

(C) The local government shall evaluate any modifications requested pursuant to this subdivision for consistency with the objective planning standards using the same assumptions and analytical methodology that the local government originally used to assess consistency for the development that was approved for streamlined, ministerial approval pursuant to subdivision (c).

(D) A guideline that was adopted or amended by the department pursuant to subdivision (l) after a development was approved through the streamlined, ministerial approval process described in subdivision (c) shall not be used as a basis to deny proposed modifications.

(2) Upon receipt of the development proponent's application requesting a modification, the local government shall determine if the requested modification is consistent with the objective planning standard and either approve or deny the modification request within 60 days after submission of the modification, or within 90 days if design review is required.

(3) Notwithstanding paragraph (1), the local government may apply objective planning standards adopted after the development application was first submitted to the requested modification in any of the following instances:

(A) The development is revised such that the total number of residential units or total square footage of construction changes by 15 percent or more. The calculation of the square footage of construction changes shall not include underground space.

(B) The development is revised such that the total number of residential units or total square footage of construction changes by 5 percent or more and it is necessary to subject the development to an objective standard beyond those in effect when

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the development application was submitted in order to mitigate or avoid a specific, adverse impact, as that term is defined in subparagraph (A) of paragraph (1) of subdivision (j) of Section 65589.5, upon the public health or safety and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact. The calculation of the square footage of construction changes shall not include underground space.

(C)(i) Objective building standards contained in the California Building Standards Code (Title 24 of the California Code of Regulations), including, but not limited to, building plumbing, electrical, fire, and grading codes, may be applied to all modification applications that are submitted prior to the first building permit application. Those standards may be applied to modification applications submitted after the first building permit application if agreed to by the development proponent.

(ii) The amendments made to clause (i) by the act that added clause (i) shall also be retroactively applied to modification applications submitted prior to January 1, 2022.

(4) The local government's review of a modification request pursuant to this subdivision shall be strictly limited to determining whether the modification, including any modification to previously approved density bonus concessions or waivers, modify the development's consistency with the objective planning standards and shall not reconsider prior determinations that are not affected by the modification.

(h)(1) A local government shall not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to this section.

(2)(A) A local government shall issue a subsequent permit required for a development approved under this section if the application substantially complies with the development as it was approved pursuant to subdivision (c). Upon receipt of an application for a subsequent permit, the local government shall process the permit without unreasonable delay and shall not impose any procedure or requirement that is not imposed on projects that are not approved pursuant to this section. The local government shall consider the application for subsequent permits based upon the objective standards specified in any state or local laws that were in effect when the original development application was submitted, unless the development proponent agrees to a change in objective standards. Issuance of subsequent permits shall implement the approved development, and review of the permit application shall not inhibit, chill, or preclude the development. For purposes of this paragraph, a "subsequent permit" means a permit required subsequent to receiving approval under subdivision (c), and includes, but is not limited to, demolition, grading, encroachment, and building permits and final maps, if necessary.

(B) The amendments made to subparagraph (A) by the act that added this subparagraph shall also be retroactively applied to subsequent permit applications submitted prior to January 1, 2022.

(3)(A) If a public improvement is necessary to implement a development that is subject to the streamlined, ministerial approval pursuant to this section, including, but not limited to, a bicycle lane, sidewalk or walkway, public transit stop, driveway, street paving or overlay, a curb or gutter, a modified intersection, a street sign or street light, landscape or hardscape, an above-ground or underground utility connection, a water line, fire hydrant, storm or sanitary sewer connection, retaining wall, and any related work, and that public improvement is located on land owned by the local government, to the extent that the public improvement requires approval from the local government, the local government shall not exercise its discretion over any approval relating to the public improvement in a manner that would inhibit, chill, or preclude the development.

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(B) If an application for a public improvement described in subparagraph (A) is submitted to a local government, the local government shall do all of the following:

(i) Consider the application based upon any objective standards specified in any state or local laws that were in effect when the original development application was submitted.

(ii) Conduct its review and approval in the same manner as it would evaluate the public improvement if required by a project that is not eligible to receive ministerial or streamlined approval pursuant to this section.

(C) If an application for a public improvement described in subparagraph (A) is submitted to a local government, the local government shall not do either of the following:

(i) Adopt or impose any requirement that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to this section.

(ii) Unreasonably delay in its consideration, review, or approval of the application.

(i)(1) This section shall not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local government, including the provisions of [subdivision \(i\) of Section 65583.2](#).

(2) This section shall not prevent a development from also qualifying as a housing development project entitled to the protections of [Section 65589.5](#). This paragraph does not constitute a change in, but is declaratory of, existing law.

(j) The California Environmental Quality Act ([Division 13 \(commencing with Section 21000\) of the Public Resources Code](#)) does not apply to actions taken by a state agency, local government, or the San Francisco Bay Area Rapid Transit District to:

(1) Lease, convey, or encumber land owned by the local government or the San Francisco Bay Area Rapid Transit District or to facilitate the lease, conveyance, or encumbrance of land owned by the local government, or for the lease of land owned by the San Francisco Bay Area Rapid Transit District in association with an eligible TOD project, as defined pursuant to [Section 29010.1 of the Public Utilities Code](#), nor to any decisions associated with that lease, or to provide financial assistance to a development that receives streamlined approval pursuant to this section that is to be used for housing for persons and families of very low, low, or moderate income, as defined in [Section 50093 of the Health and Safety Code](#).

(2) Approve improvements located on land owned by the local government or the San Francisco Bay Area Rapid Transit District that are necessary to implement a development that receives streamlined approval pursuant to this section that is to be used for housing for persons and families of very low, low, or moderate income, as defined in [Section 50093 of the Health and Safety Code](#).

(k) For purposes of this section, the following terms have the following meanings:

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- (1) “Affordable housing cost” has the same meaning as set forth in [Section 50052.5 of the Health and Safety Code](#).
- (2)(A) Subject to the qualification provided by subparagraph (B), “affordable rent” has the same meaning as set forth in [Section 50053 of the Health and Safety Code](#).
- (B) For a development for which an application pursuant to this section was submitted prior to January 1, 2019, that includes 500 units or more of housing, and that dedicates 50 percent of the total number of units, before calculating any density bonus, to housing affordable to households making at, or below, 80 percent of the area median income, affordable rent for at least 30 percent of these units shall be set at an affordable rent as defined in subparagraph (A) and “affordable rent” for the remainder of these units shall mean a rent that is consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.
- (3) “Department” means the Department of Housing and Community Development.
- (4) “Development proponent” means the developer who submits an application for streamlined approval pursuant to this section.
- (5) “Completed entitlements” means a housing development that has received all the required land use approvals or entitlements necessary for the issuance of a building permit.
- (6) “Locality” or “local government” means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.
- (7) “Moderate income housing units” means housing units with an affordable housing cost or affordable rent for persons and families of moderate income, as that term is defined in [Section 50093 of the Health and Safety Code](#).
- (8) “Production report” means the information reported pursuant to [subparagraph \(H\) of paragraph \(2\) of subdivision \(a\) of Section 65400](#).
- (9) “State agency” includes every state office, officer, department, division, bureau, board, and commission, but does not include the California State University or the University of California.
- (10) “Subsidized” means units that are price or rent restricted such that the units are affordable to households meeting the definitions of very low and lower income, as defined in [Sections 50079.5 and 50105 of the Health and Safety Code](#).
- (11) “Reporting period” means either of the following:
- (A) The first half of the regional housing needs assessment cycle.
- (B) The last half of the regional housing needs assessment cycle.

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(12) “Urban uses” means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(l) The department may review, adopt, amend, and repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth in this section. Any guidelines or terms adopted pursuant to this subdivision shall not be subject to Chapter 3.5 (commencing with [Section 11340](#)) of Part 1 of Division 3 of Title 2 of the Government Code.

(m) The determination of whether an application for a development is subject to the streamlined ministerial approval process provided by subdivision (c) is not a “project” as defined in [Section 21065](#) of the Public Resources Code.

(n) It is the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, increased housing supply.

(o) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

**Credits**

(Added by Stats.2017, c. 366 (S.B.35), § 3, eff. Jan. 1, 2018. Amended by Stats.2018, c. 92 (S.B.1289), § 119, eff. Jan. 1, 2019; Stats.2018, c. 48 (S.B.850), § 1, eff. June 27, 2018; Stats.2018, c. 840 (S.B.765), § 2, eff. Jan. 1, 2019; Stats.2019, c. 159 (A.B.101), § 8, eff. July 31, 2019; Stats.2019, c. 663 (A.B.1485), § 1, eff. Jan. 1, 2020; Stats.2019, c. 844 (S.B.235), § 5.3, eff. Jan. 1, 2020; Stats.2020, c. 370 (S.B.1371), § 178, eff. Jan. 1, 2021; Stats.2020, c. 166 (A.B.168), § 3, eff. Sept. 25, 2020; Stats.2020, c. 194 (A.B.831), § 1.5, eff. Sept. 28, 2020; Stats.2021, c. 615 (A.B.474), § 215, eff. Jan. 1, 2022, operative Jan. 1, 2023; Stats.2021, c. 160 (A.B.1174), § 1, eff. Sept. 16, 2021; Stats.2022, c. 28 (S.B.1380), § 76, eff. Jan. 1, 2023; Stats.2022, c. 258 (A.B.2327), § 25, eff. Jan. 1, 2023, operative Jan. 1, 2024; Stats.2022, c. 658 (A.B.2668), § 1, eff. Jan. 1, 2023; Stats.2022, c. 659 (S.B.6), § 2.5, eff. Jan. 1, 2023.)

**Editors' Notes**

**REPEAL**

<For repeal of this section, see its terms.>

[Notes of Decisions \(12\)](#)

West's Ann. Cal. Gov. Code § 65913.4, CA GOVT § 65913.4  
Current with all laws through Ch. 997 of 2022 Reg.Sess.

**John Bernstein**  
**50 San Mateo Road**  
**Berkeley, California 94707**

February 23, 2023

Berkeley Landmarks Commission  
c/o Fatema Crane, Secretary  
2120 Milvia Street  
Berkeley, CA 94704

**VIA E-MAIL**

**Re: The Robert Marenner House, 910 Indian Rock Avenue**

Dear Chairperson Enchill and Commissioners:

I speak for a group of 57 neighbors of 910 Indian Rock in the Northbrae neighborhood. Their names are included in Appendix B. Supporting a recent letter from Leila Moncharsh, President of the Berkeley Architectural Heritage Association (BAHA), I request an addition to the agenda for March 2, 2023 for a presentation regarding initiation of LPC consideration for the residence at 910 Indian Rock Avenue, designed by the prominent Berkeley architect Walter Ratcliff.

**A. Current Developments at 910 Indian Rock**

The house at 910 Indian Rock, constructed in 1916, is the subject of a demolition proposal currently in process. The planned replacement is a very large single-family house, over twice as large as the original (4750+/- square feet). Planning approval was recently obtained under the expedited SB 9 process, in apparent violation of legislative intent to provide additional affordable housing in the City.

It is clear that the SB 9 process was designed to provide additional units, not remove them.<sup>1</sup> In fact, as documented by BAHA, the project will **remove** an affordable dwelling unit. The Ratcliff house includes a modest rental apartment, which meets the definition of an auxiliary dwelling unit (ADU) under BMC 23.306, thus comprising two units. The proposed replacement, though very large, proposes only one unit.

A letter to the owners signed by over 50 neighbors (Appendix B) has suggested preserving the

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<sup>1</sup> Chapter heading for SB 9, at Govt. Code 65852.21, states plainly: "Housing development with **two residential units** in a single-family residential zone to be considered ministerially." [emphasis added]

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historic house while meeting the owners' requirements by constructing an appropriate addition toward the rear. This and other approaches have met with little response.

A 2022 historic evaluation by Tim Kelley Consultants, located in City planning files, recommended that the house be listed as a **Structure of Merit**. Further research by others indicates that the structure likely meets the criteria for inclusion on the California Historic Inventory. These two issues, taken together, along with the removal of a housing unit, indicate that the City may have been over-hasty in granting expedited planning approval. Further details are given below.

### **B. Request for LPC to initiate a Structure of Merit designation for the Robert Marrenner House**

We further seek from your commission initiation of designation for this significant property under BMC section 3.24.120:

#### **3.24.120 Landmarks, historic districts and structures of merit-- Designation--Initiation procedures.**

Initiation of designation shall be by the commission, or by a resolution of intention of the City Council, or by the Planning Commission, or by the Civic Arts Commission. . .

### **C. Significance of the Robert Marenner House**

Evidence for the significance of the Robert Marenner House follows:

1) The 2022 evaluation submitted to the City by Tim Kelley Consultants recommends that the Marrenner House be designated a **Structure of Merit**.

2) Additional research, not cited in the 2022 evaluation, indicates that the Marrenner House likely fulfils eligibility requirements for the California Register (Inventory) of Historic Sites under Criteria 2 and 3. It also lies in an area of archeological interest under Criterion 4:

- Criterion 2 (Persons)

**The building is significant and eligible for individual listing in the California Register under Criterion 2** for its association with an important architect of the early 20<sup>th</sup> century, Walter Ratcliff; it is an excellent example of Ratcliff's middle period work. An immigrant from England, Ratcliff studied architecture at the University of California, and served as Berkeley City Architect from 1914-1920. Later Ratcliff was Chief Architect at Mills College, completing the Master Plan for the nationally significant Mills campus. Multiple important structures



designed by in Ratcliff's early private practice include the Bade House (1906), the de Reynier residence (1908), and the Channing Apartments (1913). As Berkeley City Architect he designed four large firehouses for the City. At the same time he designed the Claire Tappaan Lodge, a rural retreat, for the Sierra Club. Ratcliff, along with several others, urged the creation of the Berkeley City Arts Commission, which promulgated one of the first attempts in the nation to plan and zone an entire city.

- Criterion 3 (Architecture)

**The building is eligible for individual listing** in the California Register under Criterion 3. It is significant as an early and excellent mid-sized example of the important brown shingle style associated with the naturalistic design principles of the Berkeley Hills, as articulated by Keeler and others. It shows typical sophisticated Ratcliff details, including double gables, large bay windows, asymmetric elements, and judicious siting on its lot. The entranceway includes high-style molded shingles over an impressive archway. The interior is notable for extensive redwood frame-and-panel finishes, as well as an impressive bolection-molded fireplace front.

Comments by one of the evaluators, Tim Kelley Consulting, state that the building "should be recognized as a *Structure of Merit*". (italics original)

- Criterion 4

The site has **high potential archeological value** in its location only 30 feet from the most significant archeological site in the City of Berkeley, Mortar Rock Park. There is a high likelihood of artifact recovery should any excavation be undertaken.<sup>2</sup>

Please see Appendix A for photographs of the house, and Appendix B for a letter signed by 57 neighbors to 910 Indian Rock.

Feel free to contact me at [jcbernstein@att.net](mailto:jcbernstein@att.net) or 415-730-8750 with any questions.

Sincerely,



John Bernstein, M.D.  
50 San Mateo Road  
Berkeley

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<sup>2</sup> The significance of the proximity of Mortar Rock Park is underlined by the outright prohibition of expedited planning review in several legislative actions related to SB 9. *See* Govt. Code 65913.4ff. : "If, after concluding the scoping consultation . . . an enforceable agreement is not documented between the California Native American tribe and the local government. . .the development shall not be eligible for the streamlined, ministerial approval process."

**APPENDIX A**  
**Photographs**  
**Robert Marenner House**

**Entrance Elevation**



**Rear Elevation**



**Entrance Hall**



**Living Room with Fireplace**



**Photograph of Robert Marenner House from 1920s**



HOMES WITH THE SWEEP OF BAY AND HILLS BEFORE THEM.

Source: Anthony Bruce, "Walter H. Ratcliff, Architect: His Berkeley Work, An Illustrated and Annotated List of Almost 300 Projects Presented in Chronological Order, 1901-1949". Berkeley Architectural Heritage Association, 2006

## Appendix B

### Letter to Homeowners from 57 Neighbors of 910 Indian Rock (list of signors follows)

Dear Jacqueline and Greg,

We, your neighbors, are saddened and disappointed by the prospect of losing the current house at 910 Indian Rock Ave.

The home is historically significant to our city as a 1916 design of Walter H. Ratcliff, Jr. and it forms an important part of the fabric of this neighborhood. Its loss would definitely diminish the charm of the street and of Northbrae, which was chosen as one of the “[Great Neighborhoods of America](#)” by the American Planning Association.

It is our hope that you are willing to reconsider your plans and honor the contribution that the current structure at 910 Indian Rock Ave has on our collective experience.

There are efforts in the works to protect historically significant homes in this area. One effort currently underway is spearheaded by a professor of art and architecture at UC Berkeley to create two new Historic Districts within the City of Berkeley. Both areas (one in the flats, one in the hills) were platted by Mason McDuffie in 1907. The one in the hills encompasses our neighborhood. While it is unlikely that this will affect your plans, it does show the importance of the neighborhood, and underlines the loss that the demolition would create for this district and the city overall.

Regarding building green, please take into account that a complete demolition and rebuild is antithetical to current architectural approaches to sustainable design given the AIA’s 2030 Challenge. Studies show that historic preservation conserves resources, reduces waste and carbon emissions, and saves money vs tearing down an existing structure and building with new, often inferior, materials.

We want to be clear that we are very supportive of renovation, home improvements, and additions to your historic house. There is plenty of room for an addition toward the back of the existing dwelling. We are simply asking you to reevaluate this project and take an alternative approach to preserve the existing character of this beloved home as you upgrade and expand to support your family.

A few representatives of this group would be happy to meet with you at your earliest convenience to discuss this further.

Signed,  
Your Berkeley Neighbors

John Bernstein                      50 San Mateo Road, Berkeley

Jean Box                                50 San Mateo Road

Sharon Dahlgren	866 Santa Barbara Road
Robert Dahlgren	866 Santa Barbara Road
Richard Haier AIA	58 San Mateo Road
Catherine Shepard-Haier	58 San Mateo Road
Rocky Offner	900 Indian Rock Ave
Mary Beth Ray	900 Indian Rock Ave
Rebecca Ratcliff	902 Indian Rock Ave
Linda Laskowski	817 San Diego Road
Bill Sommerville	875 Indian Rock Ave
Elizabeth Powell	863 Indian Rock Ave
Steven Frank	863 Indian Rock Ave
Karl Bemesderfer	915 Indian Rock Ave
Sandra Bemesderfer	915 Indian Rock Ave
Juan Pineda	49 San Mateo Road
Glendine Pineda	49 San Mateo Road
Nur Saglam	851 Santa Barbara Road
Diana McKenzie	869 Santa Barbara Road
Elizabeth Bernstein	50 San Mateo Road
Yesim Erim Goktekin	2225 Marin Avenue
Fran Block	869 Santa Barbara Road
Tom Ashkenas	77 San Mateo Road
Risa Kagan	30 San Mateo Road
Richard Stern	30 San Mateo Road
Tony Henning	83 San Mateo Road
Carol Henning	83 San Mateo Road
Hannah Shafsky	831 Indian Rock Ave
Jill Alban	774 Santa Barbara Road

Tina de Benedictis	867 Indian Rock Ave
Bill Brostoff	774 Santa Barbara Road
Janet King	850 Santa Barbara Road
Tom Corlett	850 Santa Barbara Road
Margaret Simpson	874 Indian Rock Ave
Douglas Booth	874 Indian Rock Ave
Ila rosenzweig	754 San Diego Road
Charles Wilson	815 San Diego Road
Anne Smith	37 San Mateo Road
Christine McIntyre	40 San Mateo Road
Dennis McIntyre	40 San Mateo Road
Ned Dairiki	835 Indian Rock Ave
Janis Dairiki	835 Indian Rock Ave
Carol Weinstein	871 Indian Rock Ave
Marty Weinstein	871 Indian Rock Ave
Dayna Macy	839 Indian Rock Ave
Jane Kaer	914 Indian Rock Ave
Sonja Erickson	887 Indian Rock Ave
David Glass	809 San Diego Road
Whitney van Nouhuys	813 San Diego Road
Kava Massih	820 San Diego Road
Anthony Bruce	6 Encina Place
Caroline Orth	822 Indian Rock Ave
Scott Rosenberg	839 Indian Rock Ave
Leslie Ann Fuchs	811 San Diego Road
Deb Poskanzer	7 San Mateo Road
Alan Meier	7 San Mateo Road

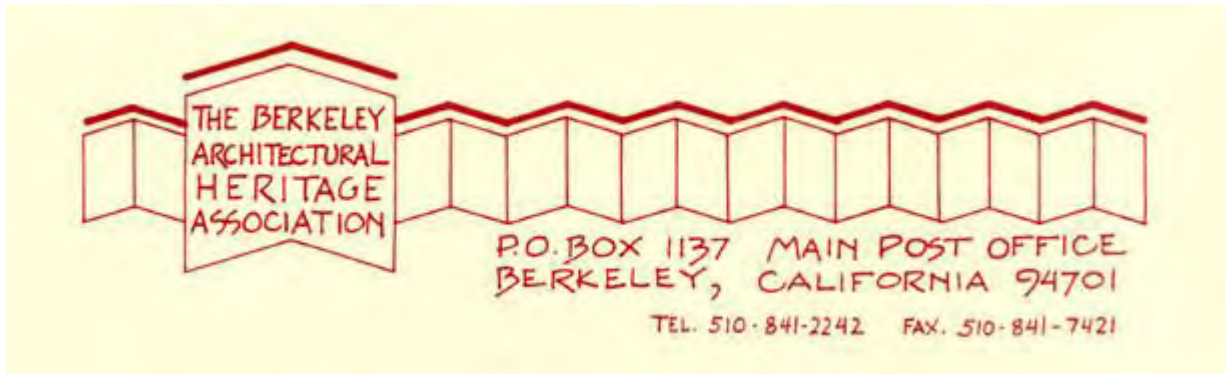
Metin Saglam

851 Santa Barbara Road

Ken Jones

902 Indian Rock Ave





February 27, 2023

Ms. Fatema Crane, Planner  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704

Re: 910 Indian Rock Avenue – Request for Removal from Ministerial Status and  
Request for LPC Commission Initiation

Dear Ms. Crane, Chairperson Enchill, and Commissioners:

This letter supplements our letter from last week requesting that the City remove 910 Indian Rock Avenue from ministerial permit status. We also requested that your commission add the property to the LPC agenda for the March 2, 2023, hearing.

In our last letter, on page 4, we have a typo at the end of the first full paragraph. The last word should be “units” and not “problems.” The sentence then reads: “Certainly, the Legislature does not contemplate improvements in housing availability by tearing down and hauling off to landfill perfectly useable housing units.” After further legal research, the statement is absolutely correct. Not only has the state made it illegal for a city to reduce density by demolishing accessory dwelling units (ADU), but the City’s ordinance also does not permit it. City of Berkeley Ordinance 23.326.10, et seq. requires that the ZAB make certain findings

Fatema Crane, Planner  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704  
February 27, 2023  
Page 2

before permitting demolition of a housing unit, such as the second rental unit in the subject property here:

#### 23.326.010 Chapter Purpose.

This chapter establishes demolition and dwelling unit control standards that promote the affordable housing, aesthetic, and safety goals of the City. (Ord. 7787-NS § 2 (Exh. A), 2021)

#### 23.326.020 General Requirements.

A. Applicability. No dwelling unit or units may be eliminated or demolished except as authorized by this chapter.

B. Findings. In addition to the requirements below, the Zoning Adjustments Board (ZAB) may approve a Use Permit to eliminate or demolish a dwelling unit only upon finding that *eliminating the dwelling unit would not be materially detrimental to the housing needs and public interest of the affected neighborhood and Berkeley.* (Ord. 7787-NS § 2 (Exh. A), 2021) (Emphasis added.)

It is inconceivable that the ZAB could legally or even would make a finding that losing a rental housing unit to accommodate a wealthy owner wishing to get rid of the unit to better suit his vision of replacing a 2,875 square foot house, eligible for landmarking with a 4,753 square foot modern house.

Furthermore, the granting of a ministerial permit under the circumstances here stands SB 9 on its head because the entire purpose of SB 9 was to increase housing density on single family housing lots, as described in our last letter. This project *reduces* density and the granting of a ministerial permit essentially serves as a loophole. All the owners of 910 Indian Rock Avenue and their architect needed to do to workaroud SB 9 was misrepresent that there was no apartment in the structure.

Fatema Crane, Planner  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704  
February 27, 2023  
Page 3

Moreover, the ministerial permit status violates the Housing Accountability Act (HAA). Examples from HAA, now Government Code section 65589.5 are italicized:

(f)(1) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. *However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development. (Emphasis added.)*

See also:

(j)(1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist: (A) *The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. (B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the*

Fatema Crane, Planner  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704  
February 23, 2023  
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*disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.*

By granting ministerial status under SB 9 to demolish the subject property, the City lowered the density from two housing units to one. It must pull back that determination, and process the application for demolition and rebuilding following its own ordinance, above, and the applicable state housing laws.

Attached is the complete MLS Listing for the subject property, clearly including on two pages that it had an “in-law unit.” It also included the words in blue:

“ACCESORY DWELLING UNIT.”

Thank you for considering our comments.

Sincerely,



*Leila H. Moncharsh*

Leila H. Moncharsh  
President, BAHA

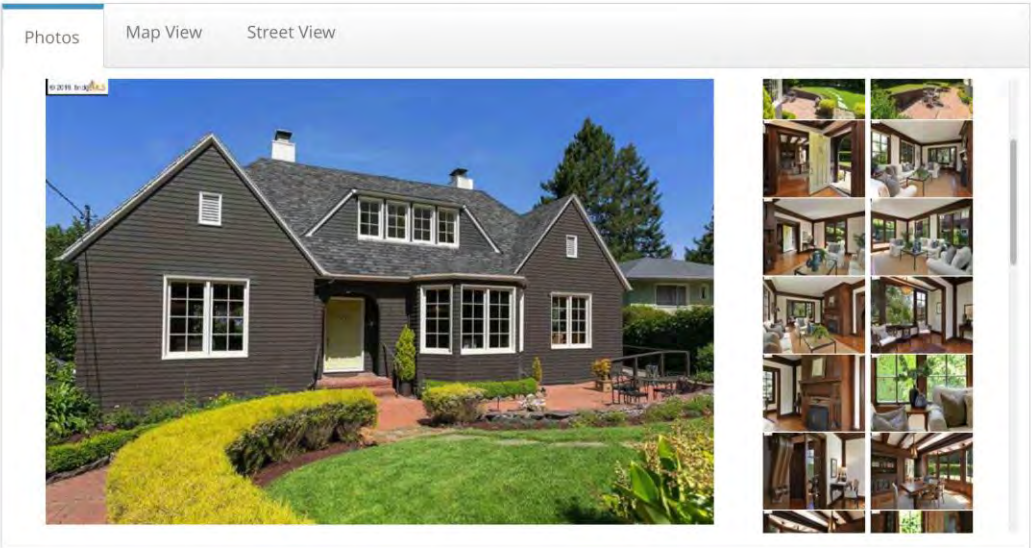
cc: Mayor, City Council, LPC commissioners, City Attorney

LHM:lm

910 Indian Rock Ave Sold  
BERKELEY, CA 94707

↑ \$230K  

[PHOTOS & MAP](#) [PROPERTY INFO](#) [HISTORY](#) [MORTGAGE CENTER](#) [COMMUNITY](#)



 BEDS: 3

 BATHS: 3

**Remarks**

Rare, distinguished architectural gem designed by Walter Ratcliff in 1916. Sited on oversized lot that is beautifully landscaped. Features includes two patios, lawns, long driveway for extra parking, garage, and garden shed. 3++ BRS include non-conforming in-law apartment. Beautiful San Francisco Bay views from upstairs room and deck. Serene setting near Mortar Rock Park, near Solano shops and S.F bus. A rare offering.

**Property Information**

<b>Address</b>	910 Indian Rock Ave	<b>Baths</b>	3
<b>Bedrooms</b>	3	<b>Builder/Architect</b>	Ratcliff
<b>Building Type</b>	Detached	<b>City</b>	BERKELEY
<b>City Transfer Tax</b>	Yes	<b>Class</b>	RESIDENTIAL
<b>Closing Date</b>	7/2/2019	<b>County</b>	Alameda
<b>Cross Street</b>	Shattuck	<b>Directions to Property</b>	Up Indian Rock from Circle
<b>Dist/Nbrhood/Sub</b>	NORTH BERKELEY	<b>Fireplaces</b>	1
<b>Garage (Y/N)</b>	Yes	<b>Garage Spaces</b>	1
<b>HOA</b>	No	<b>List \$/SqFt</b>	\$775
<b>List Price</b>	\$1,795,000	<b>Listing Type</b>	Excl Right

the dwelling unit that they are trying to conceal, I think...

Lot Acres Apx	0.220000
MLS #	40865747
Pool	No
Public Remarks	Rare, distinguished architectural gem designed by Walter Ratcliff in 1916. Sited on oversized lot that is beautifully landscaped. Features includes two patios, lawns, long driveway for extra parking, garage, and garden shed. 3++ BRS include non-conforming in-law apartment. Beautiful San Francisco Bay views from upstairs room and deck. Serene setting near Mortar Rock Park, near Solano shops and S.F bus. A rare offering.
Stories	Other
Zip	94707

Lot Sq Ft Apx	9,720
Pending Date	5/30/2019
Point of Sale Ordinance	Yes
Rooms Total	7
Sale \$/SqFt	\$874
Sale/Last List \$	113
High School District	Berkeley (510) 644-6150
Sold Price	\$2,025,324
Sq Ft Apx	2316
Status	Sold
State	CA
Year Built	1916

## Schools

Elementary School Distric	Berkeley (510) 644-6150
---------------------------	-------------------------

## Features

BATH NON-PRMY INCLUDE	Shower Over Tub, Tile
COOLING	None
EQUIPMENT ADDITIONAL	Dryer, Washer
FIREPLACES	Living Room
FOUNDATION	Crawl Space, Partial Basement
HEATING	Forced Air 1 Zone
LAUNDRY	Dryer, In Basement, In Laundry Room, Washer
LEVEL - UPPER	3 Bedrooms, 1 Bath
PETS	Allowed - Yes
ROOF	Composition Shingles
SOLAR	None

CONSTRUCTION STATUS	Existing
DISABLED FEATURES	Other
EXTERIOR	Stucco
FLOORING	Hardwood Floors, Carpet
GARAGE/PARKING	Detached Garage, Parking Area
KITCHEN FEATURES	Counter - Solid Surface, Eat In Kitchen, Range/Oven Free Standing, Refrigerator
LEVEL - LOWER	1 Bedroom, 1 Bath
LEVEL - STREET	No Steps to Entry
LOT DESCRIPTION	Premium Lot, Secluded
POOL	None
ROOM - ADDITIONAL	Basement Finished, Basement Unfinished
STYLE	Craftsman, English, Traditional

**VIEWS**

Bay, Bay Bridge

**WATER/SEWER**

Sewer System - Public, Water - Public

**YARD DESCRIPTION**

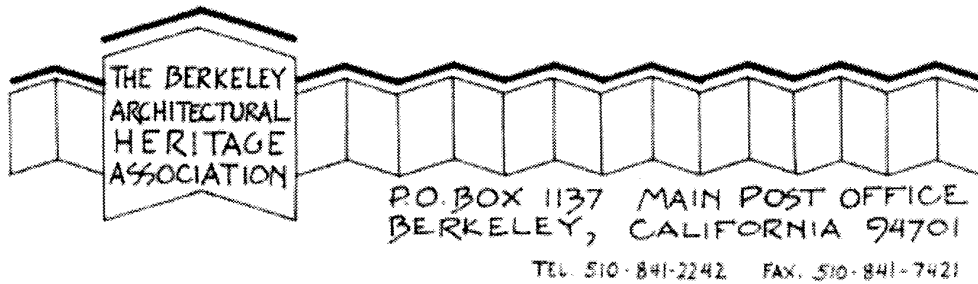
Back Yard, Front Yard, Patio, Terraced Down

**Additional Dwelling Unit**

**Property History**

www

MLS#	Date	Event	Price
40865747	05/15/2019	First entry	\$1.80M
	05/22/2019	Status: Active	\$1.80M
	05/31/2019	Status: Pending, Pending Date	\$1.80M
	07/02/2019	Status: Sold, Closing Date, Sold Price	\$2.03M



February 23, 2023

Ms. Fatema Crane, Planner  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704

Re: 910 Indian Rock Avenue – Request for Removal from Ministerial Status and Request for LPC Commission Initiation

Dear Ms. Crane, Chairperson Enchill, and Commissioners:

This letter is to request addition to the LPC agenda for the March 2, 2023, hearing. We request that the above property be removed from Ministerial Permit status and that the LPC initiate it for a landmark application and hearing. We understand that Ms. Crane is the planner assigned to the project for both the land use issues and the historic preservation issues, which is why we are combining both issues in this one letter.

#### **A. Brief Background of the Proposed Demolition and Project**

Neighbors of 910 Indian Rock Avenue recently approached BAHA with concerns about a plan to demolish a 1916 Ratcliff single-family house with one apartment. The owners then would replace it with a 4,753 square foot house, 1,878 square feet larger than pre-demolition, and reduce the number of housing units from two down to one by removing the apartment. The plans also involve enlarging a



Fatema Crane, Planner  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704  
February 23, 2023  
Page 2

garage by 198 square feet to 479 square feet. The neighbors loved the house and it had been impeccably maintained by the former owners. They did not believe that it should be demolished although the owners had submitted information and a geotech report that the foundation was sliding and either had to be replaced or the building demolished. (There was nothing to indicate that the property had been yellow or red-tagged. It is apparently occupied.) Our archival records showed that the house has not been landmarked or listed on any registry.

A careful review of the submitted architects' drawings (page 7) shows that the structure currently includes two dwelling units. (See Attachment A.) The second unit is an apartment on the ground floor, with kitchen, bedroom, bath, and an exterior entrance. The MLS listing sheet indicates that the structure included one apartment (Attachment B) and four neighbors substantiate that this apartment, although now vacant, was continuously rented until the current owners took possession in recent years. Zillow states that the property was last purchased in July 2019.<sup>1</sup> However, the application for SB 9 review submitted to the City lists only one dwelling unit before new construction and one afterwards — no indication that there ever were any apartments. This discrepancy is unexplained.

The neighbors obtained further city documentation for my review and I noticed that the City found that the project qualified for a ministerial (over the counter, non-discretionary) permit under SB 9. I also reviewed the architect's letter response to questions where she indicated that the property was entitled to ministerial permitting because the property did not fall within any requirement that it had to house low-income persons. She did not indicate the presence of the apartment or whether it was rent or price controlled by the City. Given that there has been one apartment unit over recent years and that it was historically occupied, the demolition and construction project do not comply with SB 9. The

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<sup>1</sup> [910 Indian Rock Ave, Berkeley, CA 94707 | Zillow](#) (See photos of house here and scroll down to see sale date.)

Fatema Crane, Planner  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704  
February 23, 2023  
Page 3

City must remove the application from ministerial status and handle this gorgeous Ratcliff house legally and appropriately.

### **B. The Project Does Not Qualify for Ministerial Treatment under SB 9**

Senate Bill 9 is one of numerous streamlining bills intended to increase housing availability and decrease delay in the permitting process. SB 9 became Government Code section 65852.21. The Legislature drafted SB 9 to encourage two kinds of housing — inclusion of more housing units than just one within a single-family house and splitting single family lots into more than one living unit. It intended that with small, incremental additions of living units in single-family houses or on their lots the housing crisis could be partially addressed. It reasoned that if only five percent of the parcels impacted by SB 9 “created two-unit structures, this bill would result in nearly 600,000 new homes. Citing a UC Berkeley Turner Center for Housing study, the bill could potentially result in nearly six million new housing units. (Senate Analysis, pp. 6-7, Attachment C.) The Legislature did not intend to *reduce* housing opportunities by allowing demolition of a typical 2,875 square foot structure that included one apartment and replace it with a 4,753 square foot house as a residence for just one couple or a small family!

Government Code section 65852.21, subdivision (a) states that “A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(3) notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

Fatema Crane, Planner  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704  
February 23, 2023  
Page 4

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets one of the following conditions:

(A) If a local ordinance so allows

(B) the site has not been occupied by a tenant in the last three years.  
(See Attachment D, Section 65852.21.)

These requirements and restrictions are very consistent with many of the new housing statutes. The legislative themes include not displacing tenants especially in rent-controlled cities, not demolishing housing and reducing units especially where there is some other way such as repairing or replacing a foundation to avoid it, and many of the statutes also emphasize that the Legislature disapproves of increasing environmental impacts through housing laws, such as by increasing travel miles contributing to greenhouse gases. Certainly, the Legislature does not contemplate improvements in housing availability by tearing down and hauling off to landfill perfectly useable housing problems.

Section 65852.21 requires compliance with related Government Code section 65913.4, which also controls when a city can handle a permit application ministerially. Subsection (7) (A) et seq. contains many of the same restrictions as Section 65852.21. (Attachment E.)

The planning file is silent on anything regarding the apartment unit, even its current existence.

Fatema Crane, Planner  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704  
February 23, 2023  
Page 5

Accordingly, the City must set aside its finding that the project falls within SB 9. Furthermore, given the incredible historic value of the structure, the LPC should initiate landmarking it. We already have lost a Ratcliff garage on Oxford and UC has consistently allowed part of the Anna Head School to deteriorate. Vagrants have been allowed to repeatedly set it on fire. Berkeley cannot afford to lose another Ratcliff and such a lovely one at that.

**C. Request for Addition to the March 2, 2023, LPC Agenda to Request  
Initiation of landmark status for 910 Indian Rock Avenue**

The Landmarks Preservation Ordinance (LPO) authorizes your commission to grant our request for inclusion in your March 2, 2023, agenda under LPO section 3.24.070, subdivisions (C), (E), and (F):

**3.24.070 Powers and duties generally.**

In connection with the foregoing power and authority, the commission may:

- C. Consult with and consider the ideas and recommendations of civic groups, public agencies and citizens interested in historic preservation
  
- E. Disseminate information to the public concerning those structures, sites and areas deemed worthy of preservation, and may encourage and advise property owners and members of the community generally in the protection, enhancement, perpetuation and use of landmarks, property in historic districts and other officially recognized property of historical or architectural interests

Fatema Crane, Planner  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704  
February 23, 2023  
Page 6

F. Consider methods other than those provided for in this chapter for encouraging and achieving historical or architectural preservation

**3.24.120 Landmarks, historic districts and structures of merit--  
Designation--Initiation procedures.**

Initiation of designation shall be by the commission, . . . or by the verified application of at least fifty residents of the City. Any such application shall be filed with the commission upon forms prescribed by the commission and shall be accompanied by all data required by the commission.

Mr. John Bernstein, a neighbor, has submitted the information and photos supporting our request to have the property initiated. We plan to have the landmark application ready within 30 days after the March 2, 2023, LPC meeting.

If there are any questions or requests, I can be reached by email at 101550@msn.com or by phone (510) 316-5778.

Thank you for your attention to our comments and requests.

Sincerely,

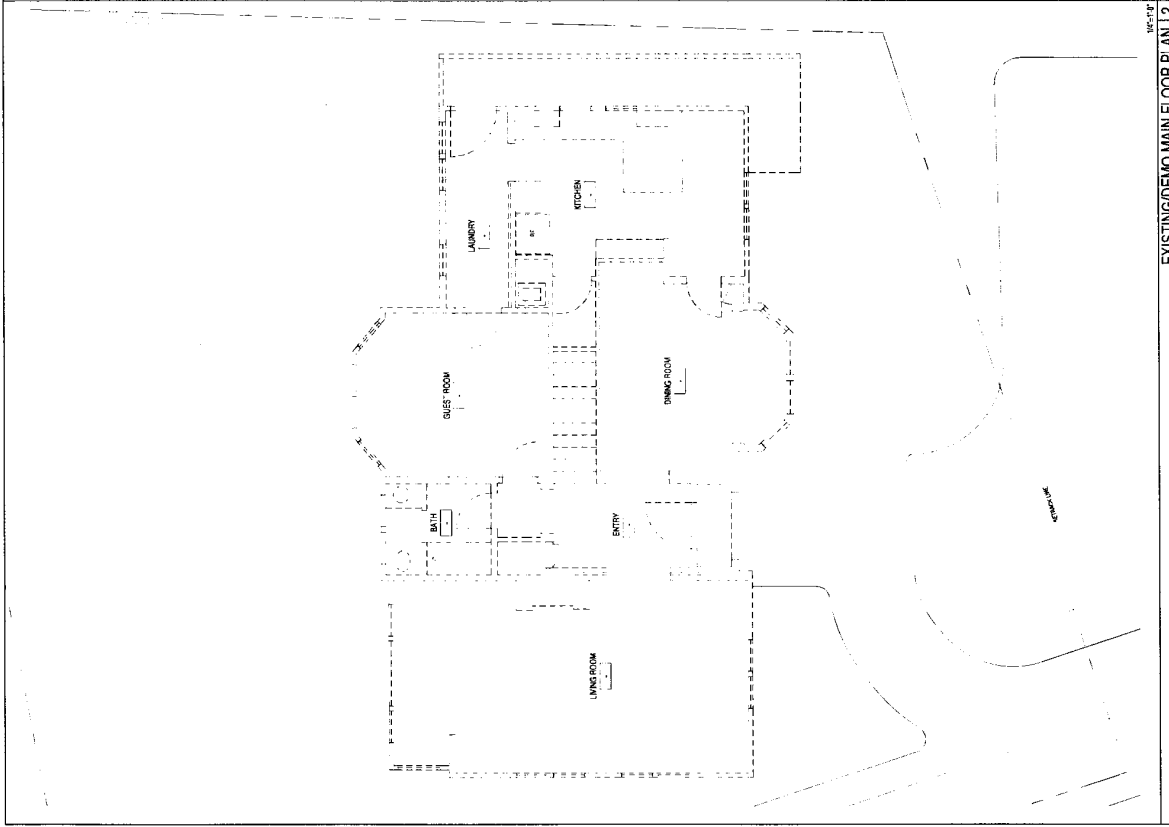
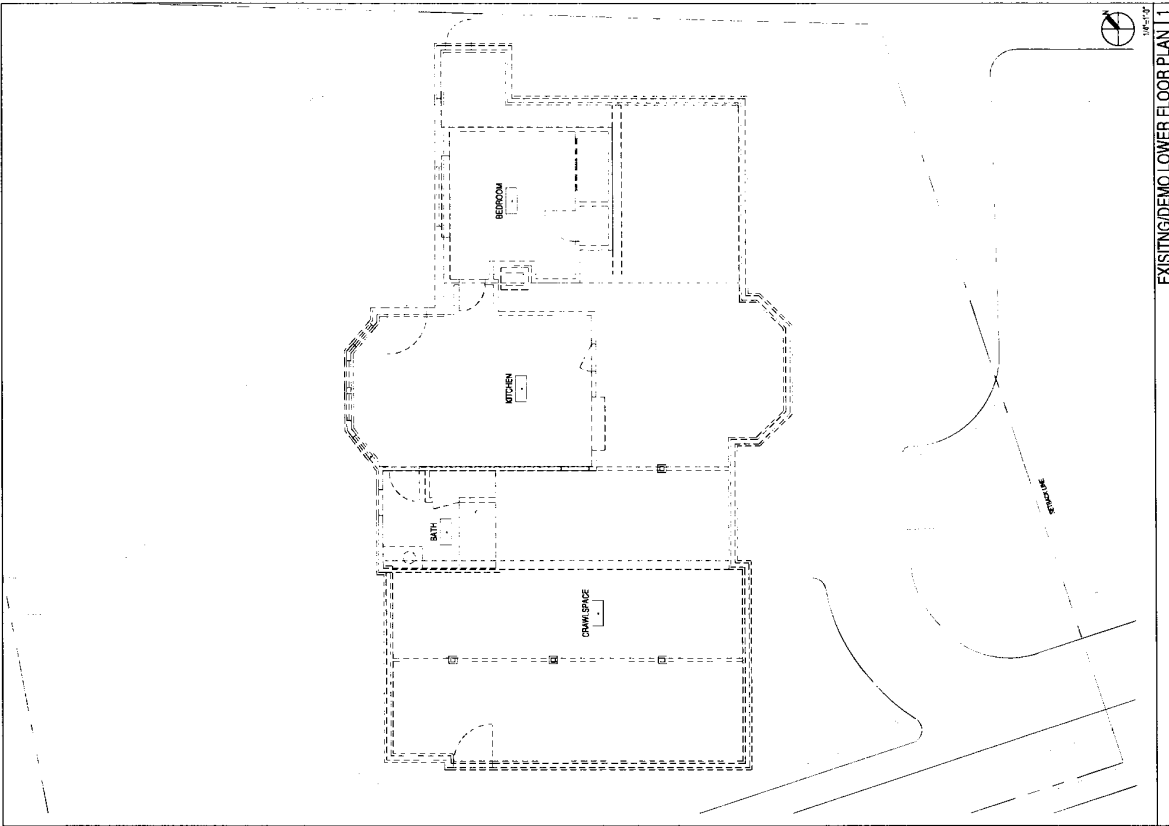
*Leila H. Moncharsh*  
Leila H. Moncharsh  
President, BAHA

cc: Mayor, City Council, LPC commissioners, City Attorney

LHM:lm

Attachments

	ARCHITECT JAMES C. KOCH INC 20721 53128	Drawing Title 100 INDIAN ROCK AVENUE LATE COMMUNICATIONS	910 INDIAN ROCK AVE, BERKELEY, CA 94707 for Greg and Jacqueline Emerson <b>EMERSON RESIDENCE</b>	Sheet Title 100 INDIAN ROCK AVENUE DEMO FLOOR PLAN	Job No. 2128
					Date: AS NOTED
Koch Architects 1000 Lakeside Drive, Suite 100 Berkeley, CA 94710 Tel: 415.863.1100 Fax: 415.863.1101 www.kocharchitects.com				Sheet No.	Date: DEC 28, 2022
				<b>A2.1</b>	



**910 Indian Rock Ave** Sold  
BERKELEY, CA 94707

**\$230K**



- PHOTOS & MAP
- PROPERTY INFO
- HISTORY
- MORTGAGE CENTER
- COMMUNITY

Photos

Map View

Street View



**BEDS: 3**

**BATHS: 3**

## Remarks

Rare, distinguished architectural gem designed by Walter Ratcliff in 1916. Sited on oversized lot that is beautifully landscaped. Features includes two patios, lawns, long driveway for extra parking, garage, and garden shed. 3++ BRS include non-conforming in-law apartment. Beautiful San Francisco Bay views from

**John Bernstein**  
**50 San Mateo Road**  
**Berkeley, California 94707**

February 23, 2023

Berkeley Landmarks Commission  
c/o Fatema Crane, Secretary  
2120 Milvia Street  
Berkeley, CA 94704

**VIA E-MAIL**

**Re: The Robert Marenner House, 910 Indian Rock Avenue**

Dear Chairperson Enchill and Commissioners:

I speak for a group of 57 neighbors of 910 Indian Rock in the Northbrae neighborhood. Their names are included in Appendix B. Supporting a recent letter from Leila Moncharsh, President of the Berkeley Architectural Heritage Association (BAHA), I request an addition to the agenda for March 2, 2023 for a presentation regarding initiation of LPC consideration for the residence at 910 Indian Rock Avenue, designed by the prominent Berkeley architect Walter Ratcliff.

**A. Current Developments at 910 Indian Rock**

The house at 910 Indian Rock, constructed in 1916, is the subject of a demolition proposal currently in process. The planned replacement is a very large single-family house, over twice as large as the original (4750+/- square feet). Planning approval was recently obtained under the expedited SB 9 process, in apparent violation of legislative intent to provide additional affordable housing in the City.

It is clear that the SB 9 process was designed to provide additional units, not remove them.<sup>1</sup> In fact, as documented by BAHA, the project will **remove** an affordable dwelling unit. The Ratcliff house includes a modest rental apartment, which meets the definition of an auxiliary dwelling unit (ADU) under BMC 23.306, thus comprising two units. The proposed replacement, though very large, proposes only one unit.

A letter to the owners signed by over 50 neighbors (Appendix B) has suggested preserving the

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<sup>1</sup> Chapter heading for SB 9, at Govt. Code 65852.21, states plainly: "Housing development with **two residential units** in a single-family residential zone to be considered ministerially." [emphasis added]



Page 2

historic house while meeting the owners' requirements by constructing an appropriate addition toward the rear. This and other approaches have met with little response.

A 2022 historic evaluation by Tim Kelley Consultants, located in City planning files, recommended that the house be listed as a **Structure of Merit**. Further research by others indicates that the structure likely meets the criteria for inclusion on the California Historic Inventory. These two issues, taken together, along with the removal of a housing unit, indicate that the City may have been over-hasty in granting expedited planning approval. Further details are given below.

### **B. Request for LPC to initiate a Structure of Merit designation for the Robert Marrenner House**

We further seek from your commission initiation of designation for this significant property under BMC section 3.24.120:

#### **3.24.120 Landmarks, historic districts and structures of merit-- Designation--Initiation procedures.**

Initiation of designation shall be by the commission, or by a resolution of intention of the City Council, or by the Planning Commission, or by the Civic Arts Commission. . .

### **C. Significance of the Robert Marenner House**

Evidence for the significance of the Robert Marenner House follows:

1) The 2022 evaluation submitted to the City by Tim Kelley Consultants recommends that the Marrenner House be designated a **Structure of Merit**.

2) Additional research, not cited in the 2022 evaluation, indicates that the Marrenner House likely fulfils eligibility requirements for the California Register (Inventory) of Historic Sites under Criteria 2 and 3. It also lies in an area of archeological interest under Criterion 4:

- Criterion 2 (Persons)

**The building is significant and eligible for individual listing in the California Register under Criterion 2** for its association with an important architect of the early 20<sup>th</sup> century, Walter Ratcliff; it is an excellent example of Ratcliff's middle period work. An immigrant from England, Ratcliff studied architecture at the University of California, and served as Berkeley City Architect from 1914-1920. Later Ratcliff was Chief Architect at Mills College, completing the Master Plan for the nationally significant Mills campus. Multiple important structures

designed by in Ratcliff's early private practice include the Bade House (1906), the de Reynier residence (1908), and the Channing Apartments (1913). As Berkeley City Architect he designed four large firehouses for the City. At the same time he designed the Claire Tappaan Lodge, a rural retreat, for the Sierra Club. Ratcliff, along with several others, urged the creation of the Berkeley City Arts Commission, which promulgated one of the first attempts in the nation to plan and zone an entire city.

- Criterion 3 (Architecture)

**The building is eligible for individual listing** in the California Register under Criterion 3. It is significant as an early and excellent mid-sized example of the important brown shingle style associated with the naturalistic design principles of the Berkeley Hills, as articulated by Keeler and others. It shows typical sophisticated Ratcliff details, including double gables, large bay windows, asymmetric elements, and judicious siting on its lot. The entranceway includes high-style molded shingles over an impressive archway. The interior is notable for extensive redwood frame-and-panel finishes, as well as an impressive bolection-molded fireplace front.

Comments by one of the evaluators, Tim Kelley Consulting, state that the building "should be recognized as a *Structure of Merit*". (italics original)

- Criterion 4

The site has **high potential archeological value** in its location only 30 feet from the most significant archeological site in the City of Berkeley, Mortar Rock Park. There is a high likelihood of artifact recovery should any excavation be undertaken.<sup>2</sup>

Please see Appendix A for photographs of the house, and Appendix B for a letter signed by 57 neighbors to 910 Indian Rock.

Feel free to contact me at [jcbernstein@att.net](mailto:jcbernstein@att.net) or 415-730-8750 with any questions.

Sincerely,



John Bernstein, M.D.  
50 San Mateo Road  
Berkeley

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<sup>2</sup> The significance of the proximity of Mortar Rock Park is underlined by the outright prohibition of expedited planning review in several legislative actions related to SB 9. *See* Govt. Code 65913.4ff. : "If, after concluding the scoping consultation . . . an enforceable agreement is not documented between the California Native American tribe and the local government. . .the development shall not be eligible for the streamlined, ministerial approval process."

**APPENDIX A**  
**Photographs**  
**Robert Marenner House**

**Entrance Elevation**



**Rear Elevation**



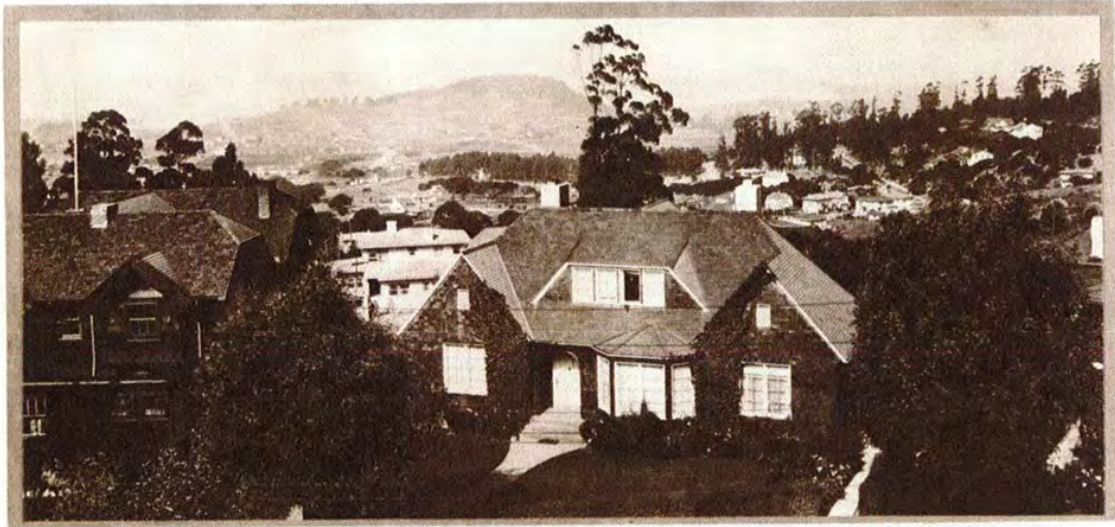
Entrance Hall



Living Room with Fireplace



**Photograph of Robert Marenner House from 1920s**



HOMES WITH THE SWEEP OF BAY AND HILLS BEFORE THEM.

Source: Anthony Bruce, "Walter H. Ratcliff, Architect: His Berkeley Work, An Illustrated and Annotated List of Almost 300 Projects Presented in Chronological Order, 1901-1949". Berkeley Architectural Heritage Association, 2006

## Appendix B

### Letter to Homeowners from 57 Neighbors of 910 Indian Rock (list of signors follows)

Dear Jacqueline and Greg,

We, your neighbors, are saddened and disappointed by the prospect of losing the current house at 910 Indian Rock Ave.

The home is historically significant to our city as a 1916 design of Walter H. Ratcliff, Jr. and it forms an important part of the fabric of this neighborhood. Its loss would definitely diminish the charm of the street and of Northbrae, which was chosen as one of the "Great Neighborhoods of America" by the American Planning Association.

It is our hope that you are willing to reconsider your plans and honor the contribution that the current structure at 910 Indian Rock Ave has on our collective experience.

There are efforts in the works to protect historically significant homes in this area. One effort currently underway is spearheaded by a professor of art and architecture at UC Berkeley to create two new Historic Districts within the City of Berkeley. Both areas (one in the flats, one in the hills) were platted by Mason McDuffie in 1907. The one in the hills encompasses our neighborhood. While it is unlikely that this will affect your plans, it does show the importance of the neighborhood, and underlines the loss that the demolition would create for this district and the city overall.

Regarding building green, please take into account that a complete demolition and rebuild is antithetical to current architectural approaches to sustainable design given the AIA's 2030 Challenge. Studies show that historic preservation conserves resources, reduces waste and carbon emissions, and saves money vs tearing down an existing structure and building with new, often inferior, materials.

We want to be clear that we are very supportive of renovation, home improvements, and additions to your historic house. There is plenty of room for an addition toward the back of the existing dwelling. We are simply asking you to reevaluate this project and take an alternative approach to preserve the existing character of this beloved home as you upgrade and expand to support your family.

A few representatives of this group would be happy to meet with you at your earliest convenience to discuss this further.

Signed,  
Your Berkeley Neighbors

John Bernstein                      50 San Mateo Road, Berkeley

Jean Box                                50 San Mateo Road

Sharon Dahlgren	866 Santa Barbara Road
Robert Dahlgren	866 Santa Barbara Road
Richard Haier AIA	58 San Mateo Road
Catherine Shepard-Haier	58 San Mateo Road
Rocky Offner	900 Indian Rock Ave
Mary Beth Ray	900 Indian Rock Ave
Rebecca Ratcliff	902 Indian Rock Ave
Linda Laskowski	817 San Diego Road
Bill Sommerville	875 Indian Rock Ave
Elizabeth Powell	863 Indian Rock Ave
Steven Frank	863 Indian Rock Ave
Karl Bemesderfer	915 Indian Rock Ave
Sandra Bemesderfer	915 Indian Rock Ave
Juan Pineda	49 San Mateo Road
Glendine Pineda	49 San Mateo Road
Nur Saglam	851 Santa Barbara Road
Diana McKenzie	869 Santa Barbara Road
Elizabeth Bernstein	50 San Mateo Road
Yesim Erim Goktekin	2225 Marin Avenue
Fran Block	869 Santa Barbara Road
Tom Ashkenas	77 San Mateo Road
Risa Kagan	30 San Mateo Road
Richard Stern	30 San Mateo Road
Tony Henning	83 San Mateo Road
Carol Henning	83 San Mateo Road
Hannah Shafsky	831 Indian Rock Ave
Jill Alban	774 Santa Barbara Road

Tina de Benedictis	867 Indian Rock Ave
Bill Brostoff	774 Santa Barbara Road
Janet King	850 Santa Barbara Road
Tom Corlett	850 Santa Barbara Road
Margaret Simpson	874 Indian Rock Ave
Douglas Booth	874 Indian Rock Ave
Ila rosenzweig	754 San Diego Road
Charles Wilson	815 San Diego Road
Anne Smith	37 San Mateo Road
Christine McIntyre	40 San Mateo Road
Dennis McIntyre	40 San Mateo Road
Ned Dairiki	835 Indian Rock Ave
Janis Dairiki	835 Indian Rock Ave
Carol Weinstein	871 Indian Rock Ave
Marty Weinstein	871 Indian Rock Ave
Dayna Macy	839 Indian Rock Ave
Jane Kaer	914 Indian Rock Ave
Sonja Erickson	887 Indian Rock Ave
David Glass	809 San Diego Road
Whitney van Nouhuys	813 San Diego Road
Kava Massih	820 San Diego Road
Anthony Bruce	6 Encina Place
Caroline Orth	822 Indian Rock Ave
Scott Rosenberg	839 Indian Rock Ave
Leslie Ann Fuchs	811 San Diego Road
Deb Poskanzer	7 San Mateo Road
Alan Meier	7 San Mateo Road

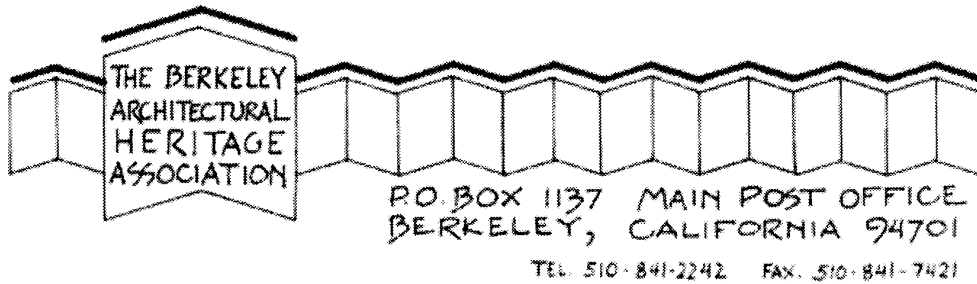


Metin Saglam

851 Santa Barbara Road

Ken Jones

902 Indian Rock Ave



February 27, 2023

Ms. Fatema Crane, Planner  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704

Re: 910 Indian Rock Avenue – Request for Removal from Ministerial Status and Request for LPC Commission Initiation

Dear Ms. Crane, Chairperson Enchill, and Commissioners:

This letter supplements our letter from last week requesting that the City remove 910 Indian Rock Avenue from ministerial permit status. We also requested that your commission add the property to the LPC agenda for the March 2, 2023, hearing.

In our last letter, on page 4, we have a typo at the end of the first full paragraph. The last word should be “units” and not “problems.” The sentence then reads: “Certainly, the Legislature does not contemplate improvements in housing availability by tearing down and hauling off to landfill perfectly useable housing units.” After further legal research, the statement is absolutely correct. Not only has the state made it illegal for a city to reduce density by demolishing accessory dwelling units (ADU), but the City’s ordinance also does not permit it. City of Berkeley Ordinance 23.326.10, et seq. requires that the ZAB make certain findings

Fatema Crane, Planner  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704  
February 27, 2023  
Page 2

before permitting demolition of a housing unit, such as the second rental unit in the subject property here:

23.326.010 Chapter Purpose.

This chapter establishes demolition and dwelling unit control standards that promote the affordable housing, aesthetic, and safety goals of the City. (Ord. 7787-NS § 2 (Exh. A), 2021)

23.326.020 General Requirements.

- A. Applicability. No dwelling unit or units may be eliminated or demolished except as authorized by this chapter.
- B. Findings. In addition to the requirements below, the Zoning Adjustments Board (ZAB) may approve a Use Permit to eliminate or demolish a dwelling unit only upon finding that *eliminating the dwelling unit would not be materially detrimental to the housing needs and public interest of the affected neighborhood and Berkeley.* (Ord. 7787-NS § 2 (Exh. A), 2021) (Emphasis added.)

It is inconceivable that the ZAB could legally or even would make a finding that losing a rental housing unit to accommodate a wealthy owner wishing to get rid of the unit to better suit his vision of replacing a 2,875 square foot house, eligible for landmarking with a 4,753 square foot modern house.

Furthermore, the granting of a ministerial permit under the circumstances here stands SB 9 on its head because the entire purpose of SB 9 was to increase housing density on single family housing lots, as described in our last letter. This project *reduces* density and the granting of a ministerial permit essentially serves as a loophole. All the owners of 910 Indian Rock Avenue and their architect needed to do to workarround SB 9 was misrepresent that there was no apartment in the structure.

Fatema Crane, Planner  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704  
February 27, 2023  
Page 3

Moreover, the ministerial permit status violates the Housing Accountability Act (HAA). Examples from HAA, now Government Code section 65589.5 are italicized:

(f)(1) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. *However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development. (Emphasis added.)*

See also:

(j)(1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist: (A) *The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. (B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the*

Fatema Crane, Planner  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704  
February 23, 2023  
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*disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.*

By granting ministerial status under SB 9 to demolish the subject property, the City lowered the density from two housing units to one. It must pull back that determination, and process the application for demolition and rebuilding following its own ordinance, above, and the applicable state housing laws.

Attached is the complete MLS Listing for the subject property, clearly including on two pages that it had an "in-law unit." It also included the words in blue:

"ACCESORY DWELLING UNIT."

Thank you for considering our comments.

Sincerely,

*Leila H. Moncharsh*

Leila H. Moncharsh  
President, BAHA

cc: Mayor, City Council, LPC commissioners, City Attorney

LHM:lm

910 Indian Rock Ave **Sold**  
BERKELEY, CA 94707

↑ \$230K

PHOTOS VIDEOS PROPERTY INFO HISTORY MORTGAGE CENTER COMMUNITY

Photos Map View Street View



**BEDS: 3** **BATHS: 3**

Remarks

Rare, distinguished architectural gem designed by Walter Ratcliff in 1916. Sited on oversized lot that is beautifully landscaped. Features includes two patios, lawns, long driveway for extra parking, garage, and garden shed. 3 BRs include non-conforming in-law apartment. Beautiful San Francisco Bay views from upstairs room and deck. Serene setting near Moraga Rock Park, near Solano shops and S.F. bus. A rare offering.

Property Information

Address	910 Indian Rock Ave	Baths	3
Bedrooms	3	Builder/Architect	Ratcliff
Building Type	Detached	City	BERKELEY
City Transfer Tax	Yes	Class	RESIDENTIAL
Closing Date	7/2/2019	County	Alameda
Cross Street	Shattuck	Directions to Property	Up Indian Rock from Circle
Dist/Nbrhood/Sub	NORTH BERKELEY	Fireplaces	1
Garage (Y/N)	Yes	Garage Spaces	1
HOA	No	List \$/SqFt	\$775
List Price	\$1,795,000	Listing Type	Exit Right

the owning and they are trying to conceal a link

<b>Lot Acres App</b>	0.220600	<b>Lot Sq Ft App</b>	9,320
<b>MLS #</b>	4386747	<b>Pending Date</b>	3/28/2019
<b>Pool</b>	No	<b>Point of Sale Ordinance</b>	Yes
<b>Public Remarks</b>	Park, distinguished architectural gem designed by Walter Burley Griffin in 1916. Sited on oversized lot, full of beautifully landscaped. Features include: two patios, lawn, long driveway for extra parking, garage, and garden shed. 2+ BRS include non-conforming in-law apartment. Beautiful San Francisco Bay views from upstairs room and deck. Serene setting near Mortar Rock Park, near Solano shops and S.F. bus. A rare offering.	<b>Rooms Total</b>	7
<b>Stories</b>	Other	<b>Sale \$/Sqft</b>	1874
<b>Zip</b>	94707	<b>Sale/Last List \$</b>	110
		<b>High School District</b>	Berkeley (310) 844-6150
		<b>Sold Price</b>	\$2,015,024
		<b>Sq Ft App</b>	2316
		<b>Status</b>	Sold
		<b>State</b>	CA
		<b>Year Built</b>	1916

## Schools

**Elementary School District** Berkeley (310) 844-6150

## Features

<b>BATH NON-PRMY INCLUDE</b>	Shower Over Tub, Tile	<b>CONSTRUCTION STATUS</b>	Existing
<b>COOLING</b>	None	<b>DISABLED FEATURES</b>	Other
<b>EQUIPMENT ADDITIONAL</b>	Dryer, Washer	<b>EXTERIOR</b>	Stucco
<b>FIREPLACES</b>	Living Room	<b>FLOORING</b>	Hardwood Floors, Carpet
<b>FOUNDATION</b>	Crawl Space, Partial Basement	<b>GARAGE/PARKING</b>	Detached Garage, Parking Area
<b>HEATING</b>	Forced Air, 1 Zone	<b>KITCHEN FEATURES</b>	Countertop - Solid Surface, Eat In Kitchen, Range/Oven Free Standing, Refrigerator
<b>LAUNDRY</b>	Dryer, in Basement, in Laundry Room, Washer	<b>LEVEL - LOWER</b>	1 Bedroom, 1 Bath
<b>LEVEL - UPPER</b>	3 Bedrooms, 1 Bath	<b>LEVEL - STREET</b>	No Steps to Entry
<b>PETS</b>	Allowed - Yes	<b>LOT DESCRIPTION</b>	Premium Lot, Secured
<b>ROOF</b>	Composition Shingles	<b>POOL</b>	None
<b>SOLAR</b>	None	<b>ROOM - ADDITIONAL</b>	Basement Finished, Basement Unfinished
		<b>STYLE</b>	Craftsman, English, Traditional

<b>VIEWS</b>	Bay, Bay Bridge	<b>WATER/SEWER</b>	Drainage System - Public, Water - Public
<b>YARD DESCRIPTION</b>	Back Yard, Front Yard, Paved, Irrigated Grass		

Additional Dwelling Unit

Property History

www

MLS#	Date	Event	Price
428602747	05/10/2019	First entry	\$1.20M
	09/02/2019	Status: active	\$1.90M
	05/31/2019	Status: Pending, Pending Date	\$1.80M
	07/02/2019	Status: Sold, Closing Date, Sold Price	\$2.03M



