

Office of the City Manager

**SUPPLEMENTAL
AGENDA MATERIAL****for Supplemental Packet 1****Meeting Date: November 3, 2022****Item Number: 33****Item Description: ZAB Appeal – 2018 Blake Street (Use Permit #ZP2021-0095)****Submitted by: Jordan Klein, Director, Planning and Development Department**

On October 11, 2022, Council conducted a hearing on an appeal of the decision of the Zoning Adjustments Board to approve a development application for the property at 2018 Blake Street. During the hearing, members of City Council identified errors in *Attachment 1, Exhibit A Findings and Conditions*, and also raised a number of outstanding questions. City Council continued the public hearing to November 3, 2022 and requested that the City Manager provide resolution on paragraphs 49 and 50 of the Findings and Conditions, and provide information on the requirement for an on-site manager unit.

This supplemental material includes corrections to *Attachment 1, Exhibit A Findings and Conditions* and a memo that describes the corrections, and addresses the potential requirement for an on-site manager unit.

This memo provides background information regarding compliance with the City of Berkeley's affordable housing mitigation fee requirements for new housing developments, corrections to *Attachment 1, Exhibit A Findings and Conditions*, and the requirement of an on-site manager unit.

Background on Affordable Housing Requirements

BMC Section 22.20.065 establishes an affordable housing mitigation fee program for rental housing that was adopted in response to the Palmer decision, which prohibited local agencies from establishing base rents for new rental units. The default method of compliance is the payment of a mitigation fee for the impact of new development on the affordability of housing in the city. That fee is collected on a per-unit basis; i.e., projects pay the fee according to the current rate multiplied by the number of units at the time of issuance of a building permit (\$43,185 per unit), or at a slightly higher rate if the fee is paid at the time of occupancy (\$46,185 per unit).

An alternative means of compliance is to provide deed-restricted affordable housing units in the project. To fully avoid paying the fee, these units must equal 20% of the total number of units in the project, and must include very-low-income and low-income units. According to the ordinance, in "projects providing more than one below market rate unit (meaning the combination of Low-income Units and Very Low-Income Units), at least 50% of the units shall be affordable to Very Low-income Households. When there is an uneven number of units provided under this ordinance, the majority of the below market rate units shall be Very Low-Income units."

According to the ordinance and guidelines, affordable units must be equally distributed among the unit types and locations of all units in the project.

If the project elects to provide affordable units in lieu of payment of a portion of, or the entire fee, then prior to the issuance of a building permit, the project proponent enters into a regulatory agreement with the City to implement unit affordability requirements in compliance with the affordable housing mitigation fee and density bonus laws. The regulatory agreement is submitted to the Health, Housing and Community Services Department for review and approval, and payment of fees is required prior to building occupancy.

Corrections to Attachment 1, Exhibit A Findings and Conditions

Council noted that there were inconsistencies among some of the conditions of approval, project description and staff report analysis. The project was originally submitted with one very-low-income unit intended to satisfy this requirement. During the review process, the project was revised to include two low-income units. These units were intended to qualify the project for a density bonus under State law, Government Code 65915, which provides a 50% bonus for providing 15% very-low-income units or for providing 24% low-income units.

This revision resulted in a discrepancy between the density bonus and local inclusionary requirements. As a result, the project as proposed would have obtained a density bonus but would have been required to pay a mitigation fee for all of the units (no credit would be provided under the local inclusionary ordinance). The project proponents could have

proceeded with that outcome, or they could have revised the project up to the time of obtaining a certificate of occupancy to enter into a regulatory agreement for inclusionary units and/or a fee. The final arrangement would have been reviewed for compliance with all applicable regulations and approved as part of the normal course of closing out the use permit and building permit.

The draft conditions of approval have been amended to clarify that any combination of units and fees may be used to satisfy the inclusionary ordinance, and that units must be provided to satisfy density bonus law, without specifying precisely how that would be accomplished, because it is the applicant's prerogative to determine the method of compliance.

City Council also noted that the table included in Condition 51, which establishes the applicable area median income for the purpose of determining the allowable rent for each unit, did not include rows for four- and five-bedroom units (which the project includes). The table has been expanded to include the larger sized units. (Note that the numbering of the Conditions in the document has changed due these revisions.)

On-Site Manager

The California Code of Regulations provides, at Title 25, section 42, that a manager, janitor, housekeeper, or other responsible person shall reside upon the premises and shall have charge of every apartment house in which there are 16 or more apartments, and of every hotel in which there are 12 or more guest rooms, in the event that the owner of an apartment house or hotel does not reside upon said premises. Only one caretaker would be required for all structures under one ownership and on one contiguous parcel of land. If the owner does not reside upon the premises of any apartment house in which there are more than four but less than 16 apartments, a notice stating the owner's name and address, or the name and address of the owner's agent in charge of the apartment house, shall be posted in a conspicuous place on the premises. This provision is echoed in the BMC, Title 19, as part of the Housing Code.

The City must establish a nexus based on substantial evidence in order to impose a condition of approval requiring an onsite manager. Existing regulations do not require that a 12-unit building must have an on-site manager. However, the special design characteristics of this project could indicate a need for an on-site manager, due to the high number of bedrooms / residents, regardless of the unit count. Also, Group Living Accommodation (GLA) regulations, which may be analogous if not directly applicable, indicate that an off-site manager and on-site responsible resident will be provided for a project with more than 15 residents.

ATTACHMENT 1, EXHIBIT A
FINDINGS AND CONDITIONS
NOVEMBER 3, 2022

2018 Blake Street

Use Permit #ZP2021-0095 to construct a six-story, multi-family residential building with 12 dwelling units.

PERMITS REQUIRED

- Use Permit under Berkeley Municipal Code (BMC) Section 23.202.020(A) to construct a multifamily residential building
- Use Permit under BMC Section 23.202.110(E)(2) to construct a main building that exceeds 35 feet in average height and three stories, up to 65 feet and six stories
- Administrative Use Permit under BMC Section 23.304.050(A) to construct rooftop projections, such as mechanical appurtenances or architectural elements which exceed the maximum height limit for the district.

CONCESSIONS/ WAIVERS UNDER GOVERNMENT CODE SECTION 65915-65918

- No concessions
- Waiver of BMC Section 23.202.110(E)(1) to reduce minimum side setback (above the 2nd floor) and rear yard setback (above the 3rd floor)
- Waiver of BMC Section 23.202.110(E)(2) to exceed lot coverage

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to §15332 (“In-Fill Development Projects”).
The project meets all of the requirements of this exemption, as follows:
 - A. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
 - B. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
 - C. The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
 - D. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by the City Transportation Division which concurred with the findings of less than significant impacts. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.
 - E. The site can be adequately served by all required utilities and public services.
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows:
 - (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. DENSITY BONUS FINDINGS

1. Pursuant to Government Code Section 65915, the City Council finds that:
 - A. Under the City's methodology for implementing density bonuses, the "base project" consists of 8 units;
 - B. The project will provide qualifying units in the eight-unit "base project", as more fully set forth in Conditions 48 to 52;
 - C. The project is entitled to a density increase of 50 percent over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element, under the requirements of Government Code Section 65915(b) and (f). This equates to a density bonus of four units above the Base Project, for a total of 12 units.
2. In accordance with Government Code Section 65915(e) the City Council hereby grants the following waivers:
 - A. Waiver of BMC Section 23.202.110(E)(1) to reduce minimum side setback (above the 2nd floor) and rear yard setback (above the 3rd floor)
 - B. Waiver of BMC Section 23.202.110(E)(2) to exceed lot coverage

State law requires the City to modify development standards as necessary to accommodate the density bonus units. These waivers are consistent with the City's guidelines for implementation of State density bonus law because they retain fidelity between the base project and density bonus project while accommodating the housing development project.

3. In accordance with Government Code Section 65915(e), in order to allow construction of the proposed project with the density permitted under State law, the City Council finds approval of waivers is required to construct the proposed project at the density permitted under State law; approval of requested waivers would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and approval of the requested waivers would not be contrary to State or Federal law.

III. FINDINGS FOR APPROVAL

1. The Housing Accountability Act, Government Code Section 65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that:
 - A. The development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density; and
 - B. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.

Because the Base Project would comply with applicable, objective general plan and zoning standards, §65589.5(j) applies to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified. The project, with density bonus units, includes construction of 12 dwelling units at an average size of 1,053 square feet.

2. As required by Section 23.406.040(E)(1) of the BMC, the City Council finds that the project, under the circumstances of this particular case existing at the time at which the application is

granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

- A. The base project is consistent with all applicable R-4 District standards that establish the maximum allowable gross residential density and the project qualifies for waivers of the listed district standards granted pursuant to State Density Bonus, Government Code Section 65915;
 - B. The project follows a trend of increasing density in the neighborhood, including the recently-constructed, five-story, mixed-use building at 2029 Blake Street, the approved use permit for a six-story, community care facility for seniors at 2000 Dwight Way, and the approved use permit for a seven-story, multi-family building at 2015 Blake. The proposed project will provide new housing in a location with easy access to public transit and nearby commercial services and stores, and will fulfill the purpose of the R-4 Multi-Family Residential District by providing high-density residential development with sufficient usable open space at a convenient location for desirable services.
 - C. Shadow impact on adjacent dwellings to the west, east, and northeast will result from the new building. However, the shadow impacts on any one adjacent property will occur during limited hours and times of the year. Furthermore, shadow impacts on adjacent dwellings are difficult to avoid given the lot widths, height and building-to-building separations permitted in the R-4 district. Therefore, the shadow impacts are found to be reasonable and non-detrimental.
 - D. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.
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IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

1. Conditions and Shall be Printed on Plans

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

2. Compliance Required (BMC Section 23.102.050)

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)

- A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
- B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)

- A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
- B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
- C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).
- D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)

Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

7. Permit Modifications (BMC Section 23.404.070)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board of Zoning Adjustments. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

8. Permit Revocation (BMC Section 23.404.080)

The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

9. Pay Transparency Acknowledgement (BMC Section 13.104.030)

Prior to the issuance of a building permit for any Project subject to this Chapter:

- A. A Responsible Representative of the Permittee shall certify under penalty of perjury that: (1) the Permittee has reviewed Chapter 13.104 of the Berkeley Municipal Code; and (2) the Permittee will be responsible for demonstrating compliance with this Chapter.
- B. The Permittee shall provide to the City a Contractor Pay Transparency Acknowledgment on a form approved by the City for this purpose. A Responsible Representative of the Permittee shall certify under penalty of perjury that the Contractor and all Qualifying Subcontractors performing work on the Project will comply with Chapter 13.104 of the Berkeley Municipal Code and with Labor Code sections 226(a) and 2810.5 for each employee who works on the Project.

10. Pay Transparency Attestations Following Project Completion (BMC Section 13.104.040)

Within 10 days of the approved final inspection of any Project subject to this Chapter, each Permittee shall provide to the City for each Contractor and Qualifying Subcontractor a Pay Transparency Attestation on a form approved by the City. On each Pay Transparency Attestation, a Responsible Representative of the Contractor or Qualifying Subcontractor shall attest under penalty of perjury that the Contractor or Qualifying Subcontractor complied with Chapter 13.104 of the Berkeley Municipal Code and Labor Code sections 226(a) and 2810.5 for each employee who performed work on the Project. The City will maintain Pay Transparency Attestation forms for period of at least three years after their date of receipt by the City.

11. Posting of Ordinance (BMC Section 13.104.050)

Each day work is performed on the Project, each Permittee shall post, and keep posted in a conspicuous location where it may be easily read by employees during the hours of the workday, a notice that: (A) contains the text of Chapter 13.104 of the Berkeley Municipal Code; (B) explains that workers can report violations of Labor Code sections 226 and 2810.5 to the Labor Commissioner of the State of California; and (C) provides current contact information, including office address, telephone number, and email address of the Labor Commissioner of the State of California.

12. Conditions of Approval (BMC Section 13.104.060)

The requirements of Sections 13.104.030 through 13.104.050 shall be included as conditions of approval of any Use Permit or Zoning Certificate for any Project that is subject to this Chapter. Failure to comply with the requirements of any provision of this Chapter shall be grounds for issuance of an administrative citation under Chapter 1.28 and/or the revocation or modification of any Use Permit issued for the Project under Chapter 23B.60.

13. Indemnification Agreement

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

V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23.404.050(H), the City Council attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

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

Project Liaison _____
Name Phone #

15. Final Design Review. The Project was referred by ZAB to the Design Review Committee (DRC) for design review. The applicant shall obtain approval of a Final Design Review (FDR) application by the DRC. The applicant shall present plans at FDR that incorporate visual enhancements to the east and west facades of the building, as discussed by the ZAB at the May 26th hearing.

16. Address Assignment. The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned in accordance with BMC 16.28.030, and entered into the City's database after the building permit is issued but prior to final inspection.

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

17. Construction and Demolition Diversion. Applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.
18. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
- A. Environmental Site Assessments:
- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at: http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
 - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
 - 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.
- B. Soil and Groundwater Management Plan:
- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
 - 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
 - 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

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

Prior to Issuance of Any Building (Construction) Permit

19. Percent for Public Art: Consistent with BMC Section 23.316, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.
20. HVAC Noise Reduction. Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.
21. Interior Noise Levels. Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.
22. Solar Photovoltaic (Solar PV). A solar PV system, on the solar zone specified in Section 110.10 of the 2019 Energy Code, shall be installed (subject to the exceptions in Section 110.10) as specified by the Berkeley Energy Code (BMC Chapter 19.36). Location of the solar PV system shall be noted on the construction plans.
23. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model

Water Efficient Landscape Ordinance (MWELo). MWELo-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET_o) for Berkeley is 41.8.

- 24. Prohibition of Natural Gas Infrastructure in New Buildings.** The project shall comply with the City of Berkeley Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80).
- 25. Recycling and Organics Collection.** Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).
- 26. Public Works ADA.** Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

During Construction:

- 27. Construction Hours.** Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
- 28. Public Works - Implement BAAQMD-Recommended Measures during Construction.** For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
- A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
 - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- 29. Construction and Demolition Diversion.** Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for

City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.

30. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
31. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
 - Storage of building materials, dumpsters, debris anywhere in the public ROW;
 - Provision of exclusive contractor parking on-street; or
 - Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

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

active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

33. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction). Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:

- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
- B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
- C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
- D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
- E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

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

35. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before

construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

- 36. Halt Work/Unanticipated Discovery of Tribal Cultural Resources.** In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
- 37. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
 - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
 - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
 - E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.

- G. All private or public projects that create and/or replace 10,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological).
- H. All on-site storm drain inlets must be labeled “No Dumping – Drains to Bay” or equivalent using methods approved by the City.
- I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
- J. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
- K. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 38.** Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
- 39.** Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
- 40.** Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
- 41.** Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

42. Public Works. The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.
43. Public Works. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Final Inspection or Issuance of Occupancy Permit:

44. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
45. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **March 23, 2022**, except as modified by conditions of approval.
46. Transportation Demand Management. Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Planning Department staff to confirm that the physical improvements required in Section 23.334.030(C) and 23.322.090 (bike parking) have been installed. The property owner shall also provide documentation that the programmatic measures required in 23.334.030(A) and 23.334.030(B) will be implemented.
- A. Consistent with Section 23.334.030(A), all parking spaces provided for residents be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling units, such that potential renters or buyers shall have the option of renting or buying a dwelling unit at a price lower than would be the case if there were a single price for both the dwelling unit and the parking space(s).
- B. Consistent with Section 23.334.030(B), at least one of the following transit benefits shall be offered, at no cost to the resident, for a period of ten years after the issuance of a Certificate of Occupancy. A notice describing these transportation benefits shall be posted in a location or locations visible to all employees.
1. One monthly pass for unlimited local bus transit service for every bedroom in each dwelling unit, up to a maximum of two benefits per dwelling unit.
 2. Subject to the review and approval of the Zoning Officer in consultation with the Transportation Division Manager, a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited monthly local bus pass.
- C. Consistent with Section 23.334.030(C), publicly-available, real-time transportation information in a common area, such as a lobby or elevator bay, on televisions, computer monitors or other displays readily visible to residents and/or visitors, shall be provided. Transportation information shall include, but is not limited to, transit arrivals and departures for nearby transit routes.

Property owners may be required to pay administrative fees associated with compliance with this Condition.

BELOW MARKET RATE UNITS

- 47. Number of Below Market Rate Units.** The project shall provide below market rate rental dwelling units (“BMR Units”) to comply with the State Density Bonus Law (Government Code Section 65915). The BMR Units shall be designated in the Regulatory Agreement (described below) and may also qualify as inclusionary units for the purpose of satisfying the City’s Affordable Housing Mitigation Fee (AHMF), BMC Section 22.20.065, and fee resolution applicable to this project. The applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, if any, and they shall pay this fee and/or provide in-lieu affordable housing unit(s) pursuant to the BMC and administrative regulations.
- 48.** BMR Units shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City.
- 49. Regulatory Agreement.** Prior to the issuance of a building permit, the applicant shall enter into a Regulatory Agreement that ensures compliance with Government Code Section 65915 and this Use Permit. The Regulatory Agreement may include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The applicant shall submit the Regulatory Agreement to the Housing and Community Services Department (HHCS) via email to affordablehousing@cityofberkeley.info for review. HHCS approval and payment of fees are required prior to occupancy.
- 50.** In addition, the following provisions shall apply:
- A. Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5 (h).
 - B. Rent shall include a reasonable allowance for utilities, as published and updated by the Berkeley Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.
 - C. BMR units will be provided for the life of the project pursuant to BMC Section 22.20.065.
- 51. Determination of Area Median Income (AMI)**
- The “AMI” (Area Median Income) shall be based on the income standards for the Oakland Primary Metropolitan Statistical Area reported by the United States Department of Housing and Urban Development (HUD). In the event HUD discontinues establishing such income standards, AMI shall be based on income standards determined by the California State Department of Housing and Community Development (HCD). If such income standards are no longer in existence, the City will designate another appropriate source or method for determining the median household income.
 - The applicable AMI for the purpose of determining the allowable rent for each unit (but not for the purpose of determining eligibility for occupancy of an inclusionary unit) shall be determined in accordance with the following table:

Unit Size	AMI Standard
Studio unit	AMI for a one-person household
One-bedroom unit	AMI for a two-person household
Two-bedroom unit	AMI for a three-person household
Three-bedroom unit	AMI for a four-person household
Four-bedroom unit	AMI for a five-person household
Five-bedroom unit	AMI for a six-person household
Six-bedroom unit	AMI for a seven-person household
Seven-bedroom unit	AMI for an eight-person household

52. Nothing in these conditions shall be interpreted to prohibit, or to require modification of the Use Permit or Regulatory Agreement to allow, the provision of additional BMR units, or additional affordability, than are required in the foregoing provisions.

At All Times:

53. Transportation Demand Management Compliance. The property owner shall submit to the Planning Department periodic TDM Compliance Reports in accordance with Administrative Regulations, subject to the review and oversight of the Zoning Officer. Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).
54. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
55. Rooftop Projections. No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.
56. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
57. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
58. Residential Permit Parking. No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The Finance Department, Customer Service Center, shall add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of an occupancy permit or final inspection.
59. Tenant Notification. The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service and entertainment uses, and that each occupant shall not seek to impede their lawful operation.
60. All exterior lighting shall be shielded and directed downward and away from property lines to

prevent excessive glare beyond the subject property.



Office of the City Manager

PUBLIC HEARING
November 15, 2022
(Continued from November 3, 2022)

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Jordan Klein, Director, Planning & Development Department
Subject: ZAB Appeal: 2018 Blake Street, Use Permit #ZP2021-0095

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2021-0095 to construct a six-story, multi-family residential building with 12 units (including two Low-Income units), and dismiss the appeal.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On June 3, 2021, Huan Fang submitted an application for Use Permit #ZP2021-0095 to construct a six-story, multi-family residential building with 12 units.

On March 16, 2022, the application was deemed complete.

On May 26, 2022, the ZAB conducted a public hearing for the use permit application. After hearing public comments and holding discussion, the ZAB approved the use permit by a vote of 8-0-0-1 (Yes: Duffy, Kahn, O' Keefe, Olson, Sanderson, Thompson, Vincent, Tregub; No: None; Abstain: None; Absent: Kim).

On June 7, 2022, staff issued the ZAB Notice of Decision.

On June 21, 2022, the City Clerk received an appeal filing from John De Domenico, resident at 2020½ Blake Street.

On September 22, 2022, staff posted the public hearing notice at the site and three nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area. The Council must conduct a public hearing to resolve the appeal.

BACKGROUND

The immediate environs of the project site consist of one-story commercial/industrial buildings on parcels to the north; one- and two-story, single- and multi-family dwellings on parcels to the west, immediately east (R-4 Multi-Family Residential District) and to the south (R-2A, Restricted Multi-Family Residential District); and one- and two-story commercial buildings (C-AC, Adeline Corridor Commercial District) on parcels beyond the R-4 district, further east of the site. The parcel across the street and to the northeast at 2029 Blake Street (C-AC) is occupied by a recently-constructed, five-story, 82-unit, mixed-use building. Use permits for other large projects were approved within the past two years on the same block: a six-story, 113-unit, community care facility for seniors at 2000 Dwight Way, and a seven-story, 155-unit, multi-family building at 2015 Blake.

The proposed project would involve the removal of remnants of a single-family dwelling and accessory structure that were damaged by fire in 2019, and ordered to be demolished after being deemed unsafe and an immediate threat to health and safety by the City Building Official. In its place, the project proposes to construct a residential building of six stories and 64 feet, 6 inches in height and 12 dwelling units.

The project is eligible for a density bonus under Government Code Section 65915, by including two Low-income units (25 percent of the base project), and qualifies for a 50 percent density bonus, or four bonus units, resulting in a 12-unit density bonus project, with waivers of the side and rear yard setbacks minimums and the lot coverage maximum. The project is also compliant with all applicable, objective general plan and zoning standards, and was approved without reductions to project's density, pursuant to the State Housing Accountability Act (HAA), Government Code Section 65589.5(j)¹ (see further discussion of the HAA in Appeal Issue 1, below).

For additional project background, please see Attachment 3, the ZAB staff report for this project.

RATIONALE FOR RECOMMENDATION

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

Issue 1: The appellants assert that the six-story building would be taller than existing buildings on nearby properties on its block (which are generally one- and two- story development), and would be incompatible with the land uses,

¹ The Housing Accountability Act (HAA), Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that the development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

architectural design and scale of neighboring properties on the south side of Blake street. Shadow impacts from the project on dwellings to west, east and northeast are not reasonable, and can be avoided. These impacts from the project would be detrimental and injurious to property and improvements of adjacent properties, the surrounding area, neighborhood and to the general welfare of the city. Neighbors were told at the ZAB hearing that the decision was already made and was irreversible.

Response 1: As a residential building with 12 dwelling units, 200 square feet of usable open space per unit, and six stories/65 feet of height, that shares a city block with the C-AC Adeline Corridor Commercial District, the proposed project is consistent with the purposes of the R-4 Multi-Family Residential District and adjacent land uses. The R-4 District provides for relatively high-density residential development; housing for persons who desire both convenience of location and a reasonable amount of usable open space; and protection of adjacent properties from unreasonable obstruction of light and air. The R-2A Restricted Multiple-Family Residential District, which borders the south side of the project site, encourages similar types of development – medium-density residential areas characterized by small multiple-family and garden-type apartment structures with a maximum of open space. Projects have been approved by the City in the past two years in the R-4 District, on sites across Blake Street (on the north side) that are much larger in scope than the 2018 Blake project – a six-story, 113-unit, community care facility for seniors at 2000 Dwight Way, and a seven-story, 155-unit, multi-family building at 2015 Blake. As discussed in the staff report, the ZAB was able to make findings for non-detriment, noting that the project would be consistent with the trend of increasing density in the neighborhood.

Though the Berkeley Municipal Code (BMC) requires findings of general non-detriment² for approval of discretionary permits, and each zoning district has district purposes to guide development, non-detriment findings are not objective standards and cannot provide a basis for denial or reduction in density for a housing project, due to protections provided by the State Housing Accountability Act (HAA). Pursuant to Government Code Section 65589.5(j) the City cannot deny or reduce the density of a housing development that is compliant with objective standards, unless it can meet the strict finding of specific adverse impact on public health or safety – a level of impact which the State Department of Housing and Community Development considers to be rare.³ Analyses of the compatibility of architectural design, building massing and scale,

² The findings for approval of use permits, sometimes referred to as “general non-detriment findings” are described in BMC Section 23.406.040(E)(1) Findings for Approval:

“To approve a Use Permit, the ZAB shall find that the proposed project or use:

- (a) Will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or visiting in the area or neighborhood of the proposed use; and
- (b) Will not be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.”

³ Housing Accountability Act Technical Assistance Advisory (Government Code Section 65589.5), p. 20; State Department of Housing and Community Development.

and shadow impact on the surrounding neighborhood are only provided in the staff report for public interest and informational purposes. Additionally, the project is a residential development in a residential district, and is not subject to design review. The ZAB determined that the project is compliant with all applicable, objective general plan and zoning standards and that the findings to deny or reduce the project could not be made, and approved the project with direction to the applicant to refine and enhance the building design at Final Design Review before the DRC.

In accordance with Section 65589.5(j)(3) of the HAA, compliance with State Density Bonus waiver and concession provisions is consistent with the ZAB's determination of project compliance with objective standards.⁴ Pursuant to Government Code Section 65915 State Density Bonus, in exchange for providing affordable units on site, a project is entitled to density bonus units, as well as modifications to zoning standards that can expand the building's massing, in the form of waivers and concessions to accommodate the full density bonus project on the site. Waivers of the side and rear setbacks, and lot coverage, were requested for the project. As discussed in the ZAB staff report, the requested waivers were granted because findings of specific adverse impact⁵ to health and safety could not be made. No waivers for height were requested, and no concessions were requested. In the R-4 District where the project site is located, the proposed building of six stories and 65 feet is allowed by right in the base project (the objective standards-compliant project, before the density bonus is added) and no additional height permit or waiver is required.⁶

In summary, the ZAB was able to make the findings for non-detriment to approve the project. Additionally, State laws for housing developments that were established to facilitate the production of new housing, such as the HAA and State Density Bonus, impose limitations to local discretion over project entitlements, and allow projects to have larger building envelopes than would be permissible through the base district zoning standards, in the interest of constructing more housing in the immediate future.

Issue 2: The appellants assert that several neighbors within 300 feet of the project site attest that they did not receive notice of the proposed development or notice

⁴ Section 65589.5(j)(3) in the HAA provides that a request for a density bonus "shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision."

⁵ 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". This definition is also used for applying HAA findings.

⁶ The City has determined that the "protections afforded by the HAA and the definition of a base project for density bonus calculations apply to a housing development project up to and including the maximum development allowed with use permits and/or administrative use permits." (Housing Accountability Act & Density Bonus – Objective Standards Memorandum, August 2, 2021; Land Use Planning Division) Therefore, the use permits to extend the district height limit to 65' and six stories and to allow rooftop elements to exceed height limits are included in the Base Project for the purpose of determining compliance with objective standards.

of the ZAB public hearing. Neighbors were told they would receive a direct link to the hearing and did not. The email address for the ZAB hearing notice was incorrect. Neighbors feel they were denied meaningful opportunity to comment and denied the right to be involved in the planning and development process.

Response 2: City staff followed public noticing protocols that were in place at the time of each noticing period. The permit application was submitted to the Land Use Planning Division on June 3, 2021.⁷ On June 10, 2021, the City mailed a Notice of Received Application to property owners and occupants within 300 feet of the project site and to interested neighborhood organizations, and posted a notice at the project site. The notices contained weblinks to the application materials, a permit status webpage, and the email addresses for the applicant and project planner. A mailing list was generated for the postcard mailings that day.

On May 11, 2022, in accordance with BMC Section 23.404.040 Public Notice, and in preparation for the ZAB hearing scheduled for May 26, 2022, the City mailed public hearing notices to property owners and occupants within 300 feet of the project site and to interested neighborhood organizations, and posted notices within the neighborhood in three locations – on the project site and at two other locations near the project site. The notices contained weblinks to the ZAB agenda, the hearing materials, application materials, and email addresses for the project planner and the ZAB secretary. The online ZAB agenda contained the direct live link to attend the public hearing.

A new mailing list was generated for the ZAB hearing notices, per Land Use Planning Division policy that a new list should be generated if a previous list is six months or older, and notices were sent out that day. Any differences between the two mailing lists are expected because address assignments can change over the course of time due to new addresses or the deletion of existing addresses. Occasionally also, the City's Parcel Notifier software can temporarily malfunction and cause some inaccuracies in the generation of mailing lists. A software malfunction could have been the cause of some neighbors not receiving a notice.

The ZAB public hearing notice listed email addresses for the project planner and for the ZAB Secretary using a new email suffix, [_@berkeleyca.gov](mailto:zab@berkeleyca.gov), because the new City website was launched at the end of April 2022, and with the launch, new email suffixes for all City email addresses were implemented. Preliminary testing of the new suffix indicated that it was working properly for City staff. For instance, the new email address for the project planner was working properly.

On May 26, 2022, the day of the hearing, staff was notified through an email from one of the project site neighbors that the zab@berkeleyca.gov address was returning an email

⁷ The Pre-Application Yellow Poster and Neighborhood Outreach components of the land use application submittal requirements were temporarily suspended at the time of the application submittal due to City emergency health orders. The suspension was lifted on July 1, 2021.

delivery failure notice. It was too late to resend or repost physical hearing notices, but staff immediately corrected the email address in the online ZAB agenda to list the old address – zab@cityofberkeley.info, which was still working.

Staff followed all noticing procedures and immediately corrected errors when alerted to them, and despite some technical trouble that may have occurred with the mailing list generation and ZAB email address, members of the public were able to reach staff and the applicants with comments, and were able to attend the public hearing to express their concerns. Staff received a total of eight comment letters from the public during the course of project review, and several neighbors spoke at the project's hearing.

ENVIRONMENTAL SUSTAINABILITY

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

ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23.410.040(G), the Council may (1) continue the public hearing, (2) reverse, affirm, or modify the ZAB's decision, or (3) remand the matter to the ZAB.

Action Deadline:

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

CONTACT PERSONS

Jordan Klein, Director, Planning & Development Department, (510) 981-7534
Steven Buckley, Land Use Planning Manager, (510) 981-7411
Sharon Gong, Project Planner, (510) 981-7429

Attachments:

1. Draft Resolution
 - Exhibit A: Findings and Conditions
 - Exhibit B: Project Plans, received March 23, 2022
2. Appeal Letter, dated received June 21, 2022
3. May 26, 2022 ZAB Hearing Staff Report
4. Index to Administrative Record
5. Administrative Record
6. Public Hearing Notice

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

AFFIRMING THE ZONING ADJUSTMENTS BOARD APPROVAL OF USE PERMIT #ZP2021-0095 TO CONSTRUCT A SIX-STORY, MULTI-FAMILY RESIDENTIAL BUILDING WITH 12 UNITS (INCLUDING TWO LOW-INCOME UNITS), AND DISMISS THE APPEAL.

WHEREAS, on June 3, 2021, Huan Fang (“applicant”), submitted an application for Use Permit #ZP2021-0095 to construct a six-story, multi-family residential building with 12 units, including two Low-Income units (“project”); and

WHEREAS, on March 16, 2022, staff deemed this application complete and determined that the project is categorically exempt from the California Environmental Quality Act (“CEQA”) under Section 15332 of the CEQA Guidelines (“In-Fill Development Projects”); and

WHEREAS, on May 11, 2022, staff mailed and posted a Notice of Public Hearing for the project at the site and two nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area; and

WHEREAS, on May 26, 2022, the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit. After hearing public comments and holding discussion, the ZAB approved the Use Permit by a vote of 8-0-0-1 (Yes: Duffy, Kahn, O’ Keefe, Olson, Sanderson, Thompson, Vincent, Tregub; No: None; Abstain: None; Absent: Kim); and

WHEREAS, on June 7, 2022, staff issued the notice of the ZAB decision; and

WHEREAS, on June 21, 2022, the City Clerk received an appeal filing of the ZAB decision from John De Domenico, resident at 2020 ½ Blake Street; and

WHEREAS, on or before September 22, 2022, staff mailed and posted a Notice of Public Hearing at the site and two nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area; and

WHEREAS, on October 6, 2022, the Council held a public hearing to consider the ZAB’s decision, and in the opinion of this Council, the facts stated in, or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Council hereby adopts the findings made by the ZAB in Exhibit A to affirm the decision of the ZAB to approve Use Permit #ZP2021-0095, adopts the conditions of approval in Exhibit A, adopts the project plans in Exhibit B, and dismisses the appeal.

Exhibits

A: Findings and Conditions

B: Project Plans, received March 23, 2022

ATTACHMENT 1 , EXHIBIT A
FINDINGS AND CONDITIONS
OCTOBER 6, 2022

2018 Blake Street

Use Permit #ZP2021-0095 to construct a six-story, multi-family residential building with 12 units (including two Low-Income units).

PERMITS REQUIRED

- Use Permit under Berkeley Municipal Code (BMC) Section 23.202.020(A) to construct a multifamily residential building
- Use Permit under BMC Section 23.202.110(E)(2) to construct a main building that exceeds 35 feet in average height and three stories, up to 65 feet and six stories
- Administrative Use Permit under BMC Section 23.304.050(A) to construct rooftop projections, such as mechanical appurtenances or architectural elements which exceed the maximum height limit for the district.

CONCESSIONS/ WAIVERS UNDER GOVERNMENT CODE SECTION 65915-65918

- No concessions
- Waiver of BMC Section 23.202.110(E)(1) to reduce minimum side setback (above the 2nd floor) and rear yard setback (above the 3rd floor)
- Waiver of BMC Section 23.202.110(E)(2) to exceed lot coverage

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to §15332 ("In-Fill Development Projects").
The project meets all of the requirements of this exemption, as follows:
 - A. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
 - B. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
 - C. The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
 - D. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by the City Transportation Division which concurred with the findings of less than significant impacts. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.
 - E. The site can be adequately served by all required utilities and public services.
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows:
 - (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. DENSITY BONUS FINDINGS

1. Pursuant to Government Code Section 65915, the City Council finds that:
 - A. Under the City's methodology for implementing density bonuses, the "base project" consists of 8 units;
 - B. The project will provide two Low-Income qualifying units in the eight-unit "base project", as more fully set forth in Conditions 48 to 52;
 - C. The project is entitled to a density increase of 50 percent over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element, under the requirements of Government Code Section 65915(b) and (f). This equates to a density bonus of four units above the Base Project, for a total of 12 units.
2. In accordance with Government Code Section 65915(e) the City Council hereby grants the following waivers:
 - A. Waiver of BMC Section 23.202.110(E)(1) to reduce minimum side setback (above the 2nd floor) and rear yard setback (above the 3rd floor)
 - B. Waiver of BMC Section 23.202.110(E)(2) to exceed lot coverage

These waivers are required because State law requires the City to modify development standards as necessary to accommodate these density bonus units, and because the City Council hereby finds that the density bonus units can best be accommodated by granting these waivers.

3. In accordance with Government Code Section 65915(e), in order to allow construction of the proposed project with the density permitted under State law, the City Council finds approval of waivers is required 1) construct the proposed project at the density permitted under State law; 2) approval of requested waivers would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) approval of the requested waivers would not be contrary to State or Federal law.

III. FINDINGS FOR APPROVAL

4. The Housing Accountability Act, Government Code Section 65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that:
 - A. The development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density; and
 - B. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.

Because the Base Project would comply with applicable, objective general plan and zoning standards, §65589.5(j) does apply to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified. The project includes construction of 12 dwelling units.

5. As required by Section 23.406.040(E)(1) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
- A. The project is consistent with all applicable R-4 District standards and qualifies for waivers of the listed district standards granted pursuant to State Density Bonus, Government Code, Section 65915;
 - B. The project follows a trend of increasing density in the neighborhood, including the recently-constructed, five-story, mixed-use building at 2029 Blake Street, the approved use permit for a six-story, community care facility for seniors at 2000 Dwight Way, and the approved use permit for a seven-story, multi-family building at 2015 Blake. The proposed project will provide new housing in a location with easy access to public transit and nearby commercial services and stores, and will fulfill the purpose of the R-4 Multi-Family Residential District by providing high-density residential development with sufficient usable open space at a convenient location for desirable services.
 - C. Shadow impact on adjacent dwellings to the west, east, and northeast will result from the new building, especially from the additional height above the district limits, which will cast shadows in the affected directions further than if the project were limited to the base district height standards. However, the shadow impacts on any one adjacent property will occur during limited hours and times of the year. Furthermore, shadow impacts on adjacent dwellings are difficult to avoid given the lot widths, height and building-to-building separations permitted in the R-4 district. Therefore, the shadow impacts are found to be reasonable and non-detrimental.
 - D. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.
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IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

1. Conditions and Shall be Printed on Plans

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

2. Compliance Required (BMC Section 23.102.050)

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)

- A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
- B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)

- A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
- B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
- C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).
- D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)

Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

7. Permit Modifications (BMC Section 23.404.070)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board of Zoning Adjustments. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

8. Permit Revocation (BMC Section 23.404.080)

The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

9. Pay Transparency Acknowledgement (BMC Section 13.104.030)

Prior to the issuance of a building permit for any Project subject to this Chapter:

- A. A Responsible Representative of the Permittee shall certify under penalty of perjury that: (1) the Permittee has reviewed Chapter 13.104 of the Berkeley Municipal Code; and (2) the Permittee will be responsible for demonstrating compliance with this Chapter.
- B. The Permittee shall provide to the City a Contractor Pay Transparency Acknowledgment on a form approved by the City for this purpose. A Responsible Representative of the Permittee shall certify under penalty of perjury that the Contractor and all Qualifying Subcontractors performing work on the Project will comply with Chapter 13.104 of the Berkeley Municipal Code and with Labor Code sections 226(a) and 2810.5 for each employee who works on the Project.

10. Pay Transparency Attestations Following Project Completion (BMC Section 13.104.040)

Within 10 days of the approved final inspection of any Project subject to this Chapter, each Permittee shall provide to the City for each Contractor and Qualifying Subcontractor a Pay Transparency Attestation on a form approved by the City. On each Pay Transparency Attestation, a Responsible Representative of the Contractor or Qualifying Subcontractor shall attest under penalty of perjury that the Contractor or Qualifying Subcontractor complied with Chapter 13.104 of the Berkeley Municipal Code and Labor Code sections 226(a) and 2810.5 for each employee who performed work on the Project. The City will maintain Pay Transparency Attestation forms for period of at least three years after their date of receipt by the City.

11. Posting of Ordinance (BMC Section 13.104.050)

Each day work is performed on the Project, each Permittee shall post, and keep posted in a conspicuous location where it may be easily read by employees during the hours of the workday, a notice that: (A) contains the text of Chapter 13.104 of the Berkeley Municipal Code; (B) explains that workers can report violations of Labor Code sections 226 and 2810.5 to the Labor Commissioner of the State of California; and (C) provides current contact information, including office address, telephone number, and email address of the Labor Commissioner of the State of California.

12. Conditions of Approval (BMC Section 13.104.060)

The requirements of Sections 13.104.030 through 13.104.050 shall be included as conditions of approval of any Use Permit or Zoning Certificate for any Project that is subject to this Chapter. Failure to comply with the requirements of any provision of this Chapter shall be grounds for issuance of an administrative citation under Chapter 1.28 and/or the revocation or modification of any Use Permit issued for the Project under Chapter 23B.60.

13. Indemnification Agreement

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

V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23.404.050(H), the City Council attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

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

Project Liaison _____
Name Phone #

15. Final Design Review. The Project was referred by ZAB to the Design Review Committee (DRC) for design review. The applicant shall obtain approval of a Final Design Review (FDR) application by the DRC. The applicant shall present plans at FDR that incorporate visual enhancements to the east and west facades of the building, as discussed by the ZAB at the May 26th hearing.

16. Address Assignment. The applicant shall file an “Address Assignment Request Application” with the Permit Service Center (1947 Center Street) for any address change or new address

associated with this Use Permit. The new address(es) shall be assigned in accordance with BMC 16.28.030, and entered into the City's database after the building permit is issued but prior to final inspection.

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

17. Construction and Demolition Diversion. Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.
18. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
 - A. Environmental Site Assessments:
 - 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at: http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
 - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
 - 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.
 - B. Soil and Groundwater Management Plan:
 - 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
 - 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
 - 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.
 - C. Building Materials Survey:
 - 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building

materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

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

Prior to Issuance of Any Building (Construction) Permit

19. Percent for Public Art: Consistent with BMC Section 23.316, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.
20. Affordable Housing Mitigation Fee: Consistent with BMC Section 22.20.065, and fee resolution applicable to this project, the applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, and they shall pay this fee.
21. HVAC Noise Reduction. Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.
22. Interior Noise Levels. Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.
23. Solar Photovoltaic (Solar PV). A solar PV system, on the solar zone specified in Section 110.10 of the 2019 Energy Code, shall be installed (subject to the exceptions in Section 110.10) as specified by the Berkeley Energy Code (BMC Chapter 19.36). Location of the solar PV system shall be noted on the construction plans.

24. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELo). MWELo-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET_o) for Berkeley is 41.8.
25. Prohibition of Natural Gas Infrastructure in New Buildings. The project shall comply with the City of Berkeley Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80).
26. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).
27. Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

During Construction:

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

- 30. Construction and Demolition Diversion.** Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
- 31. Low-Carbon Concrete.** The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
- 32. Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
 - Storage of building materials, dumpsters, debris anywhere in the public ROW;
 - Provision of exclusive contractor parking on-street; or
 - Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

- 33. Avoid Disturbance of Nesting Birds.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250

feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

- 34. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction).** Pursuant to CEQA Guidelines section 15064.5(f), “provisions for historical or unique archaeological resources accidentally discovered during construction” should be instituted. Therefore:
- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
 - B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
 - C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
 - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
 - E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
- 35. Human Remains (Ongoing throughout demolition, grading, and/or construction).** In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
- 36. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).** In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed,

evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

- 37. Halt Work/Unanticipated Discovery of Tribal Cultural Resources.** In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
- 38. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
 - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
 - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be shall be conducted prior to the issuance of a Building Permit.
 - E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by

Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.

- G. All private or public projects that create and/or replace 10,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological).
 - H. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
 - I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - J. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - K. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 39. Public Works.** All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
- 40. Public Works.** The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
- 41. Public Works.** The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
- 42. Public Works.** Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall

be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

- 43. Public Works.** The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.
- 44. Public Works.** If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Final Inspection or Issuance of Occupancy Permit:

- 45. Compliance with Conditions.** The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
- 46. Compliance with Approved Plan.** The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **March 23, 2022**, except as modified by conditions of approval.
- 47. Transportation Demand Management.** Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Planning Department staff to confirm that the physical improvements required in Section 23.334.030(C) and 23.322.090 (bike parking) have been installed. The property owner shall also provide documentation that the programmatic measures required in 23.334.030(A) and 23.334.030(B) will be implemented.
- A. Consistent with Section 23.334.030(A), all parking spaces provided for residents be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling units, such that potential renters or buyers shall have the option of renting or buying a dwelling unit at a price lower than would be the case if there were a single price for both the dwelling unit and the parking space(s).
- B. Consistent with Section 23.334.030(B), at least one of the following transit benefits shall be offered, at no cost to the resident, for a period of ten years after the issuance of a Certificate of Occupancy. A notice describing these transportation benefits shall be posted in a location or locations visible to all employees.
1. One monthly pass for unlimited local bus transit service for every bedroom in each dwelling unit, up to a maximum of two benefits per dwelling unit.
 2. Subject to the review and approval of the Zoning Officer in consultation with the Transportation Division Manager, a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited monthly local bus pass.
- C. Consistent with Section 23.334.030(C), publicly-available, real-time transportation information in a common area, such as a lobby or elevator bay, on televisions, computer monitors or other displays readily visible to residents and/or visitors, shall be provided. Transportation information shall include, but is not limited to, transit arrivals and departures for nearby transit routes.

Property owners may be required to pay administrative fees associated with compliance with this Condition.

BELOW MARKET RATE UNITS

48. Number of Below Market Rate Units. The project shall provide **two Low-Income**, below market rate rental dwelling units ("BMR Units"), which are required to comply with the State Density Bonus Law (Government Code Section 65915). The BMR Units shall be designated in the Regulatory Agreement and shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City.
49. Regulatory Agreement. Prior to the issuance of a building permit, the applicant shall enter into a Regulatory Agreement that implements Government Code Section 65915 and this Use Permit. The Regulatory Agreement may include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The maximum qualifying household income for the BMR Units shall be 50 percent of area median income (AMI), and the maximum housing payment shall be 30 percent of 50 percent of AMI, as set forth in the following paragraphs of this condition. If the BMR units are occupied by very low-income tenants receiving a rental subsidy through the Section 8 or Shelter Plus Care programs, the rent received by the project sponsor may exceed the restricted rent to the payment standards allowed under those programs so long as the rent allowed under the payment standards is not greater than the market rents charged for comparable units in the development. The applicant shall submit the Regulatory Agreement to the Housing and Community Services Department (HHCS) via email to affordablehousing@cityofberkeley.info for review and approval.
50. In addition, the following provisions shall apply:
- A. Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5 (h).
 - B. Rent shall include a reasonable allowance for utilities, as published and updated by the Berkeley Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.
 - C. BMR units will be provided for the life of the project under Section 22.20.065.
51. Determination of Area Median Income (AMI)
- The "AMI" (Area Median Income) shall be based on the income standards for the Oakland Primary Metropolitan Statistical Area reported by the United States Department of Housing and Urban Development (HUD). In the event HUD discontinues establishing such income standards, AMI shall be based on income standards determined by the California State Department of Housing and Community Development (HCD). If such income standards are no longer in existence, the City will designate another appropriate source or method for determining the median household income.

- The applicable AMI for the purpose of determining the allowable rent for each unit (but not for the purpose of determining eligibility for occupancy of an inclusionary unit) shall be determined in accordance with the following table:

Unit Size	AMI Standard
Studio unit	AMI for a one-person household
One-bedroom unit	AMI for a two-person household
Two-bedroom unit	AMI for a three-person household
Three-bedroom unit	AMI for a four-person household

52. Nothing in these conditions shall be interpreted to prohibit, or to require modification of the Use Permit or Regulatory Agreement to allow, the provision of additional BMR units, or additional affordability, than are required in the foregoing provisions.

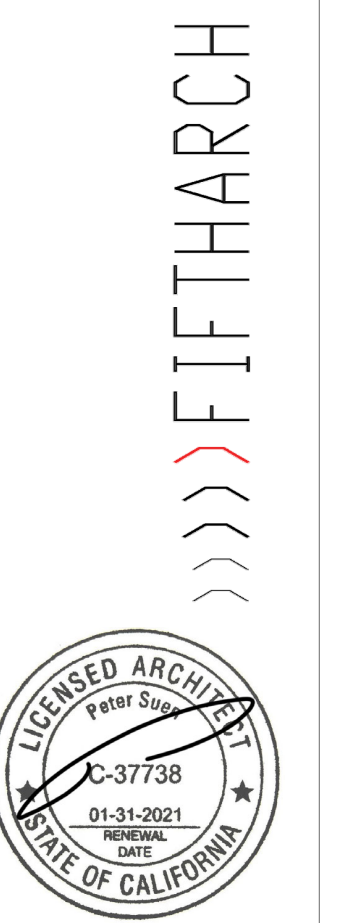
At All Times:

53. Transportation Demand Management Compliance. The property owner shall submit to the Planning Department periodic TDM Compliance Reports in accordance with Administrative Regulations, subject to the review and oversight of the Zoning Officer. Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).
54. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
55. Rooftop Projections. No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.
56. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
57. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
58. Residential Permit Parking. No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The project planner shall notify the Finance Department, Customer Service Center, to add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of an occupancy permit or final inspection.
59. Tenant Notification. The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service and entertainment uses, and that each occupant shall not seek to impede their lawful operation.

- 60.** All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
-



2018 BLAKE STREET
2018 BLAKE STREET, BERKELEY, CA 94704



PROJECT
2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

PROJECT TEAM

OWNERS
2018 BLAKE STREET LLC
2905 S Vermont ave suite 204
Los Angeles CA 90007
424-644-5703
yuhui.li@tripalink.com

ARCHITECT
HUAN FANG
FIFTH ARCH
1177 ALABAMA ST.
SAN FRANCISCO, CA 94110
510-541-2398
fanghuan4616@gmail.com

SURVEYOR
LEA & BRAZE ENG., INC.
2495 INDUSTRIAL PKWY WEST
HAYWARD, CA 94545
510-887-4086

LANDSCAPE ARCHITECT
RW STOVER AND ASSOCIATES, INC.
1620 NORTH MAIN STREET, SUITE 4
WALNUT CREEK, CA 94596

TRAFFIC CONSULTANT
W-TRANS
7901 OAKPORT STREET, SUITE 1500
OAKLAND, CA 94621
510-444-2600

DRAWING LIST INDEX

ARCHITECTURAL
A0.1 TITLE SHEET
A0.2 NOTES & LEGEND
A0.3 DENSITY BONUS STATEMENT
A0.4 SITE PHOTOGRAPHS & VICINITY MAP
A0.5 CALGREEN CHECKLIST
A0.6 CALGREEN CHECKLIST
A0.7 CONSTRUCTION BMPS
A0.8 BAY-FRIENDLY BASICS LANDSCAPE CHECKLIST
A0.9 SITE PHOTOS

A1.1 EXISTING SITE PLAN
A1.2 PROPOSED SITE PLAN
A1.3 LANDSCAPE AREA DIAGRAM
A1.4 SHADOW STUDIES

A2.1 GROUND FLOOR PLAN
A2.2 LEVEL 2-6 FLOOR PLAN & ROOF PLAN

A3.1 PROPOSED BUILDING ELEVATIONS
A3.2 PROPOSED BUILDING ELEVATIONS
A3.3 STREET ELEVATION

A4.1 BUILDING SECTIONS

SURVEY
SU1 TOPOGRAPHIC SURVEY

LANDSCAPE
L1.1 PRELIMINARY LANDSCAPE PLAN
L1.2 PLANT LIST, IMAGES AND WELO
L1.3 PRELIMINARY IRRIGATION PLAN
L1.4 IRRIGATION NOTES AND DETAILS

TRAFFIC STUDY
Draft Focused Traffic Study for the
2018 Blake Street Project_2021-08-31.pdf

PROJECT SCOPE

THE SCOPE OF WORK UNDER THIS PERMIT:
PROPOSED HOUSING DEVELOPMENT PROJECT TO
REPLACE THE EXISTING BURNED DOWN STRUCTURE
WITH A SIX (6) STORIES, IN TOTAL OF TWELVE (12)
UNITS RESIDENTIAL BUILDING, INCLUDING
AFFORDABLE HOUSING UNITS AND STATE DENSITY
BONUS UNITS.

APPLICABLE BUILDING CODES

ALL WORK NOTED SHALL BE IN FULL ACCORD &
COMPLY WITH THE LATEST RULES, REGULATIONS,
ORDINANCES, CODES & STANDARDS LISTED
BELOW & ANY AND ALL LOCAL CODES AND
ORDINANCES CURRENTLY IN EFFECT IN THE
COUNTY OF SAN MATEO.

2019 CALIFORNIA BUILDING CODE (CBC)
2019 CALIFORNIA RESIDENTIAL CODE (CRC)
2019 CALIFORNIA GREEN BUILDING CODE (CGBC)
2019 CALIFORNIA PLUMBING CODES (CPC)
2019 CALIFORNIA MECHANICAL CODE (CMC)
2019 CALIFORNIA ELECTRICAL CODE (CEC)
2019 CALIFORNIA ENERGY CODE
2019 CALIFORNIA ENERGY EFFICIENCY STANDARDS
2019 CALIFORNIA FIRE CODE (CFC)
BERKELEY MUNICIPAL CODE (BMC)

PROJECT DATA

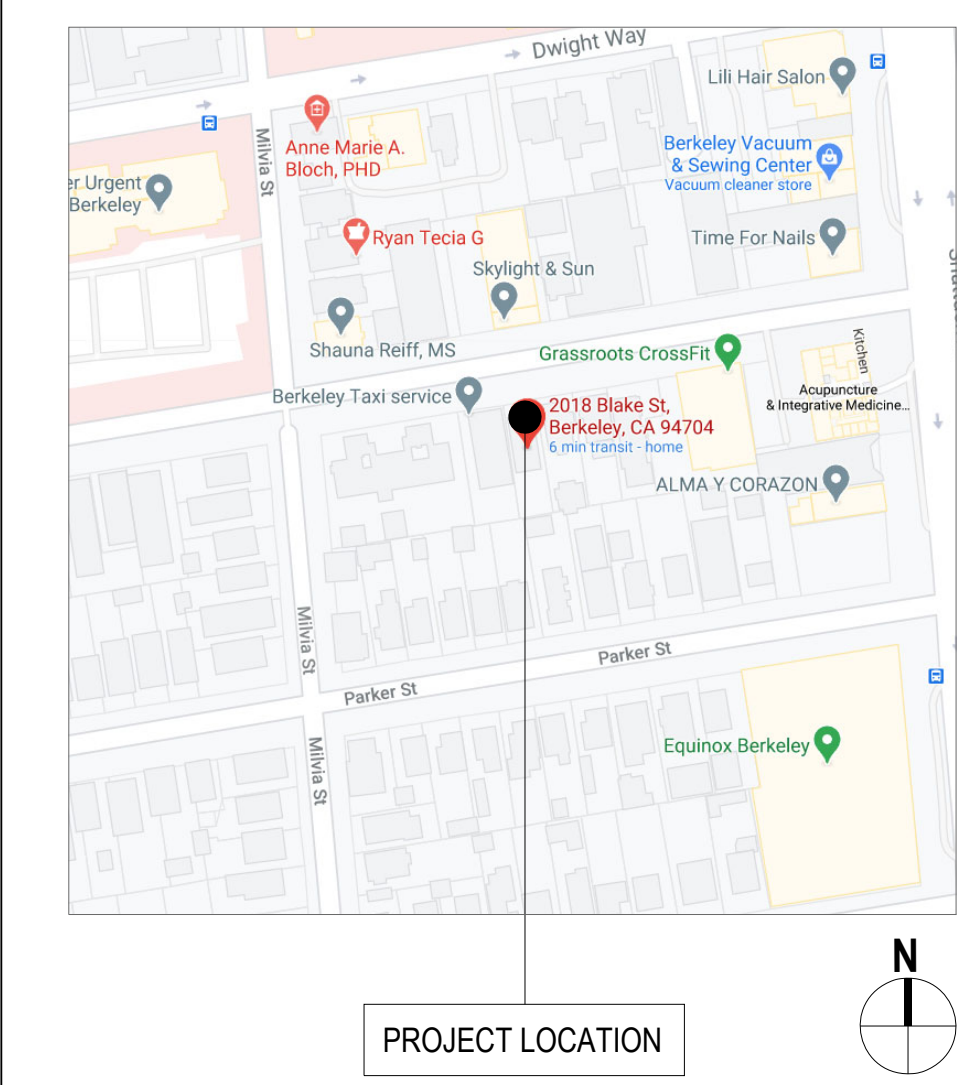
LEGAL
LOCATION: 2018 BLAKE STREET, BERKELEY, CA 94704
APN: 055182102100
ZONING: R-4
GENERAL PLAN AREA: HDR
FIRE ZONE: 1
FLOOD ZONE: NO

OCCUPANCY GROUP
R-2, MULTI-RESIDENTIAL

CONSTRUCTION TYPE
TBD

ACCESSIBILITY:
THIS IS A MULTI-LEVEL, ELEVATOR BUILDING.
IT IS FULL COMPLIANCE WITH CBC SECTION 11-B,
ACCESSIBLE IN ALL COMMON AREA ACCESSED BY THE
ELEVATOR AND ACCESSIBLE ADAPTABLE IN PRIVATE
DWELLING UNITS ON ACCESSIBLE FLOORS

SITE LOCATION MAP



ISSUES & REVISIONS		DESCRIPTION
NO.	DATE	
1	04/28/2021	PLANNING APPROVAL SUBMITTAL
2	07/05/2021	PLANNING APPROVAL 1ST COMMENTS
3	09/25/2021	PLANNING APPROVAL 2ND COMMENTS
4	12/20/2021	PLANNING APPROVAL 3RD COMMENTS

TITLE SHEET

A0.1

DATE: 11/15/2022
DRAWING BY: YZ
CHECKED BY: PS
SCALE: AS NOTED

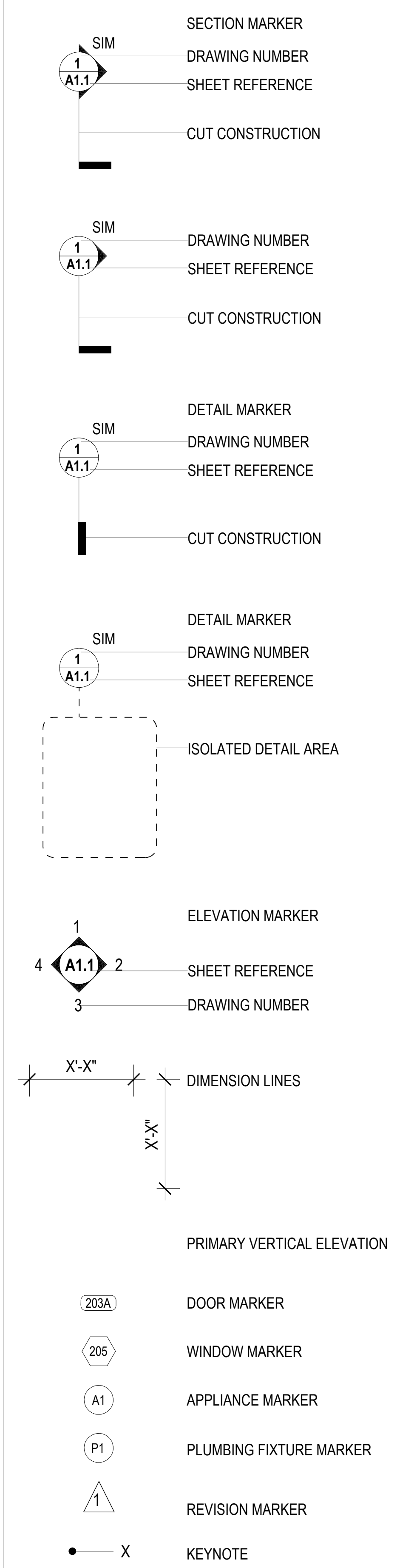
GENERAL NOTES & CONDITIONS

1. NOTIFY ARCHITECT PROMPTLY IF ANY CONDITIONS CONFLICT WITH CONSTRUCTION DOCUMENTS.
 2. FIELD VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS PRIOR TO FABRICATION/ CONSTRUCTION.
 3. NOTIFY ARCHITECT OF ANY DISCREPANCIES BETWEEN DOCUMENTS, INCLUDING DISCREPANCIES BETWEEN ENGINEERING DOCUMENTS AND CONSTRUCTION DOCUMENTS.
 4. PROVISIONS SHALL BE MADE FOR THE UNDERGROUNDING OF ALL UTILITIES SERVING THE PROPERTY, INCLUDING BUT NOT LIMITED TO ELECTRICAL, TELEPHONE, AND CABLE TELEVISION, BY THE INSTALLATION OF APPROPRIATELY SIZED UNDERGROUND CONDUITS EXTENDING FROM THE STREET PROPERTY, AS PER BBC 705A.1.
 5. ALL PERSONS WORKING AT THIS SITE MUST IMPLEMENT APPLICABLE PORTIONS OF THE STATE STORM WATER BEST MANAGEMENT PRACTICES MANUAL FOR CONSTRUCTION TO THE MAXIMUM EXTENT PRACTICABLE TO PREVENT EROSION AND SEDIMENT FROM ENTERING INTO THE STORM DRAIN SYSTEM. FAILURE TO UTILIZE ADEQUATE CONTROLS IS A VIOLATION OF BMC 17.20. A COPY OF THE MANUAL IS AVAILABLE UPON REQUEST AT THE PERMIT SERVICE CENTER AND AVAILABLE ONLINE AT WWW.CABMPHANDBOOKS.COM.
 6. APPROVAL OF THIS PERMIT FOR WORK IN THE PUBLIC RIGHT-OF-WAY OR EASEMENT DOES NOT RELIEVE THE APPLICANT OF THE RESPONSIBILITY OF OBTAINING PERMISSION TO ENTER NEIGHBORING PROPERTY OR PROPERTIES IN THE COURSE OF THIS WORK IF NECESSARY. IT SHALL NOT BE CONSTRUED AS A LICENSE TO ALTER OR ADVERSELY IMPACT ANY FACILITIES LOCATED IN THESE EASEMENTS WHICH ARE PRIVATELY OWNED. FULL RESTITUTION AND RESTORATION SHALL BE THE RESPONSIBILITY OF THE PERMITTEE. PERMITTEE SHALL NOTIFY PROPERTY OWNER OF INTENTIONS 72 HRS PRIOR TO ENTERING THE PROPERTY.
- DIMENSIONING CONVENTIONS**
1. DIMENSIONS AS NOTED IN THE PLANS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS.
 2. DIMENSIONS ARE FROM GRID LINE TO FACE OF CONCRETE OR STUD ON PLANS AND FACE OF FINISH ON ALL OTHER DRAWINGS, UNLESS OTHERWISE NOTED. ANY ERRORS, OMISSIONS, OR AMBIGUITIES IN THE PLANS ARE TO BE REPORTED TO THE ARCHITECT BEFORE PROCEEDING WITH THE WORK. SEE ENLARGED PLANS, FOR ADDITIONAL DIMENSIONS & INFORMATION.
 3. DETAILS SHALL GOVERN OVER PLANS AND ELEVATIONS. LARGE SCALE PLANS GOVERN OVER SMALL SCALE PLANS. LARGE SCALE DETAILS SHALL GOVERN OVER SMALL SCALE DETAILS. IF UNABLE TO LOCATE THE DIMENSIONS FOR ANY ITEM OF WORK, CONSULT THE ARCHITECT PRIOR TO CONSTRUCTION.
 4. ALL DIMENSIONS ON ELEVATIONS ARE INDICATED FROM FINISH FLOOR ELEVATION TO FIXTURE AND/OR FINISH WALL UNLESS OTHERWISE NOTED.
 5. ALL HEIGHTS ARE DIMENSIONED FROM THE TOP OF PLYWOOD OR SLAB, UNLESS NOTED "A.F.F."
 6. DIMENSIONS ARE NOT ADJUSTABLE, UNLESS NOTED (+/-), WITHOUT ARCHITECT'S WRITTEN APPROVAL.
 7. EXCEPT WHERE SPECIFICALLY NOTED TO THE CONTRARY, ALL DIMENSIONS SHOWN ON THE ARCHITECTURAL DRAWINGS CONFORM TO THE FOLLOWING CONVENTIONS:
 - STRUCTURAL OR DIMENSIONAL GRID LINES
 - CENTERLINE OF STEEL
 - CENTERLINE OF DOOR, WINDOW, OR CASED OPENING
 8. WHERE WALLS AND / OR PARTITIONS OF UNEQUAL THICKNESS ABUT, ALIGN EXPOSED FACES, UNLESS OTHERWISE NOTED.

ABBREVIATIONS

ACT Acoustical Ceiling Tile	ID Inside Diameter	SC South
BLDG Building	INCL Include(ed), (ing)	SCH Solid Core, Sealed Concrete
BLKG Blocking	INSUL Insulation	SE Schedule
BOS Bottom of Steel	INT Interior	SECT Southeast
BOT Bottom	INV Invert	SHT Section
BRG Bearing	JAN Janitor	SHTG Sheet
CAB Cabinet	JT Joint	SIM Sheathing
CG Corner Guard	KIT Kitchen/Kitchenette	SPEC(S) Similar
CJ Control/Construction Joint	KO Knockout	SPKLR Specification(s)
CL Centerline	LAV Lavatory	SQ Sprinkler
CEIL Ceiling	LH Left Hand	SS Square
CLR Clear/Clearance	MANF Manufacture(r)	STD Stainless Steel
CMU Concrete Masonry Unit	MATL Material(s)	STL Standard
COL Column	MAX Maximum	STOR Steel
CONC Concrete	MECH Mechanical	STRUCT Storage
CONST Construction	MED Medium	SURF Structural
CONT Continuous	MEMBR Membrane	SUSP Surface
COORD Coordinate/Coordination	MEZZ Mezzanine	SW Suspend(ed)
CPT Carpet	MTL Metal	SYS Southwest
CSWK Casework	MIN Minimum	T> System(s)
CP Centerpoint	MIR Mirror(ed)	TI Tongue and Groove
CT Ceramic Tile	MISC Miscellaneous	TAN Tread, Thermostat
DEMO Demolition	MO Masonry Opening	TBD Tenant Improvement(s)
DF Drinking Fountain	MTD Mounted	TEL Tangent
DIA Diameter	MULL Mullion	TEMP To Be Determined
DIAG Diagonal	N North	THRU Telephone
DIM Dimension	NE Northeast	TOB Temperature/Temporary
DISP Dispenser	NIC Not in Contract	TOC Through
DN Down	NO,# Number	TOF Top of Beam
DR Door	NOM Nominal	TOFW Top of Curb/Coping/Concrete
DTL Detail	NTS Not to Scale	TOP Top of Floor
DWG(S) Drawing/Drawings	NW Northwest	TOS Top of Foundation Wall
E East	OC On Center(s)	TOW Top of Parapet
EXIST Existing	OD Outside Diameter	TP Top of Steel
EIFS Exterior Insulation & Finish System	OF/CI Owner Furnished/ Contractor Installed	TYP Top of Wall
EL Elevation	OF/OI Owner Furnished/ Owner Installed	UNFIN Toilet Partition
ELEC Electric/Electrical	OFRD Overflow Roof Drain	UNO Typical
ELEV Elevator	OFFS Overflow Scupper	V Unfinished
EPDM Elastomeric Membrane	OH Overhead	VB Unless Noted Otherwise
EQ Equal	OPNG Opening	VCT Vinyl
EQUIP Equipment	OPP Opposite	VERT Vinyl Base
EXP Exposed/Expansion	PERM Permanent	VEST Vinyl Composition Tile
EJ Expansion Joint	PERP Perpendicular	VIF Vertical
EXT Exterior	PL Plate	VNR Vestibule
FAST Fasten/Fastener	PLYWD Plywood	VT Verify in Field
FD Floor Drain	PNL Panel	VVC Veneer
FE Fire Extinguisher	PR Pair	W/ Vinyl Tile
FEC Fire Extinguisher Cabinet	PREFAB Prefabricate(d)	W/O Vinyl Wall Covering
FF Finish Floor	PREFIN Prefinish(ed)	W With
FIN Finish	PRKG Parking	WC Without
FIXT Fixture	PROP Property	WD West
FL/FLR Floor	PT Paint(ed)	WDW Water Closet
FOS Face of Stud	QT Quarry Tile	WH Wood
FR Frame(s), (ing)	QTY Quantity	WFF Window
FRP Fiber Reinforced Polyester	R Riser	WH Hung Wall
FTG Footing	RAD/(R) Radius(ed)	Welded Wire Fabric
FUR Furr(ed), (ing)	RB Rubber	
GA Gauge	RCP Reflected Ceiling Plan	
GALV Galvanized	RD Roof Drain	
GBB Gypsum Backing Board	REC Recessed	
GC General Contractor	RECPT Receptical	
GEN General	REF Reference/Refrigerator	
GFRC Glass Fiber Reinforced Concrete	REINF Reinforce(d), (ing)	
GL Glass/Glazing	REQD Required	
GWB Gypsum Wallboard	REV Reverse	
GYP Gypsum	RH Right Hand	
HB Hose Bibb	RM Room	
HC Hollow Core, Hose Cabinet	RO Rough Opening	
HM Hollow Metal	RT Resilient Tile	
HOR Horizontal	RVS Roof Vent	
HT Height		
HTG Heating		
HVAC Heating/Ventilation/AC		
HDW Hardwood		

PROJECT SYMBOLS



PROJECT NOTES & CONDITIONS

NATURAL GAS PROHIBITION, BERKELEY ENERGY & GREEN CODE
THE BUILDING WILL NOT INCLUDE ANY NATURAL GAS INFRASTRUCTURE IN COMPLIANCE WITH BMC CHAPTER 12.80.

THE PROPOSED PROJECT IS DESIGNED TO COMPLY WITH THE BERKELEY ENERGY CODE (BMC CHAPTER 19.36) AND BERKELEY GREEN CODE (BMC CHAPTER 19.37), ADOPTED BY CITY COUNCIL ON DECEMBER 3RD, 2019, INCLUDING SOLAR PV SYSTEM, ELECTRIC VEHICLE CHARGING, AND LOW-CARBON CONCRETE REQUIREMENTS. BUILDING DESIGN MUST INCORPORATE ALL-ELECTRIC SYSTEMS UNLESS AN EXCEPTION OR PUBLIC INTEREST EXEMPTION TO THE NATURAL GAS PROHIBITION IS GRANTED.

SB 407
NON-COMPLIANT PLUMBING FIXTURES TO BE REPLACED BY WATER-CONSERVING PLUMBING FIXTURES PER SB 407.

CONSTRUCTION HOURS
WEEKDAYS: 7:00AM - 7:00PM
SATURDAYS: 9:00AM - 6:00PM
SUNDAYS AND HOLIDAYS: 10:00AM - 6:00PM

CONSTRUCTION HOURS IN THE CITY PUBLIC RIGHT-OF-WAY ARE LIMITED TO WEEKDAYS AND NON-CITY HOLIDAYS BETWEEN 8:00AM AND 5:00PM.

PROJECT

2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

ISSUES & REVISIONS		DESCRIPTION
NO.	DATE	
1	04/28/2021	PLANNING APPROVAL SUBMITTAL
2	07/05/2021	PLANNING APPROVAL 1ST COMMENTS
3	09/25/2021	PLANNING APPROVAL 2ND COMMENTS
4	12/20/2021	PLANNING APPROVAL 3RD COMMENTS

NOTES & LEGEND

DRAWING BY: YZ
CHECKED BY: PS

A0.2



HEIGHT & STORIES

	MAXIMUM	BASE	PROPOSED W/DB
STORIES (NUMBER)	3		
STORIES W/USE PERMIT (NUMBER)	6	5	6
MAX. HEIGHT (FT.)	35		
MAX. HEIGHT W/USE PERMIT (FT.)	65	51	61

FRONT SETBACK (BLAKE ST.)

	REQUIRED MIN. FT	BASE	PROPOSED W/DB
Level 1	15	15	15
Level 2	15	15	15
Level 3	15	15	15
Level 4	15	15	15
Level 5	15	15	15
Level 6	15	15	15

SIDE SETBACK

	REQUIRED MIN. FT	BASE	PROPOSED W/DB
Level 1	4	6	4
Level 2	4	6	4
Level 3	6	6	4
Level 4	8	8	4
Level 5	10	10	4
Level 6	12		4

REAR SETBACK

	REQUIRED MIN. FT	BASE	PROPOSED W/DB
Level 1	15	19	15
Level 2	15	19	15
Level 3	15	19	15
Level 4	17	19	15
Level 5	19	19	15
Level 6	21		15

LOT COVERAGE

	REQUIRED MAX. %	BASE	PROPOSED W/DB
Level 1	45%	35%	49%
Level 2	45%	35%	49%
Level 3	40%	35%	49%
Level 4	35%	35%	49%
Level 5	35%	35%	49%
Level 6	35%		49%

OPEN SPACE

	REQUIRED	BASE	PROPOSED W/DB
Level 1	200 SF/UNIT	1,736	961
Roof Top		0	1,469
Total Open Space		1,736	2,430

BICYCLE PARKING

	REQUIRED	BASE	PROPOSED W/DB
Total Bedrooms		26	51
Long Term Bicycle Parking 1 Space / 3 Bedrooms		9	17
Short Term Bicycle Parking 2, or 1 space / 40 Bedrooms		1	2
Total Bicycle Parking		10	19

GROSS FLOOR AREA BASE CASE

	BICYCLE PARKING	MECH/UTILITY	RESIDENTIAL	UNIT COUNT
Level 1	96.9	79.9	1,657.1	2
Level 2			1,631.3	2
Level 3			1,631.3	2
Level 4			1,485.3	2
Level 5			1,460.0	0
Total Residential Floor Area			7,865.0	
Total Floor Area			8,041.8	
Total Unit Count				8

GROSS FLOOR AREA PROPOSED W/DB

	BICYCLE PARKING	MECH/UTILITY	RESIDENTIAL	UNIT COUNT
Level 1	155.0	438.6	1,819.2	2
Level 2			2,162.9	2
Level 3			2,162.9	2
Level 4			2,162.9	2
Level 5			2,162.9	2
Level 6			2,162.9	2
Total Residential Floor Area			12,633.7	
Total Floor Area			13,227.3	
Total Unit Count				12

BASE DENSITY

LOT SIZE SQ. FT.	5,189.0
BASE UNITS	8

INCLUSIONARY HOUSING REQUIREMENTS

PERCENT REQD. TO BE AFFORDABLE	20% PER 23C. 12.030
NUM OF AFFORDABLE UNITS CALC	1.6
NUM OF INCLUSIONARY UNITS (round up)	2

DENSITY BONUS OUTCOME

BASE UNITS	8
CITY REQD. AFFORDABLE UNITS	2
AFFORDABLE TYPE	LOW
TOTAL BONUS UNITS	4
TOTAL FINAL UNITS	12
TOTAL AFFORDABLE UNITS	10
TOTAL REGULAR UNITS	10
PROPOSED SQ. FT. / UNIT	1,052.8

STEP BY STEP CALCULATION METHOD

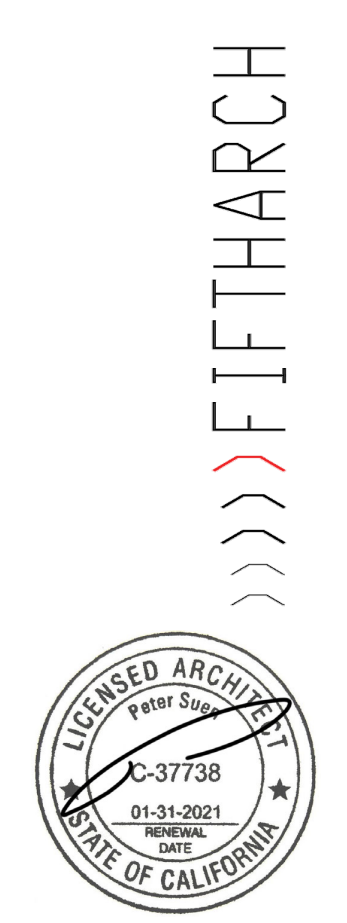
1.A Determine the Base Project Area		1.B Determine the Proposed Project Avg Unit		1.C Base Project Number of Units	
Level 1	1,657.1	Level 1	1,819.2	1.A Base Project Residential Floor Area	7,865.0
Level 2	1,631.3	Level 2	2,162.9	1.B Proposed project Avg Unit Size	1,052.8
Level 3	1,631.3	Level 3	2,162.9	1.C Base Project # of Units (Rounds Up)	8
Level 4	1,485.3	Level 4	2,162.9	2.A Number of Affordable Units	2
Level 5	1,460.0	Level 5	2,162.9	% of Affordable Units	25%
Level 6		Level 6	2,162.9	2.B % Granted of Density Bonus	50%
1.A Base Project Residential Floor Area	7,865.0	Proposed Project Residential Floor Area	12,633.7	2.C # of Density Bonus Units (Rounds Up)	4
		Proposed Project # of Units	12	2.D Density Bonus # of Units Proposed	4
		1.B Proposed Project Avg Unit Size	1,052.8		

DENSITY BONUS TABLE

BASE PROJECT	BASE # UNITS	BASE # UNITS	% BMR UNITS	# BMR UNITS	% BONUS	# DB UNITS	TOTAL UNITS
Residential Area (SF)	Avg Unit Size	Base Residential Area/Avg Units Size	BMR = low income	% BMR x Base # Units	% Bonus	% Bonus x Base #	Base Units + DB Units
7,865.0	1,052.8	8	25%	2	50%	4	12

WAIVERS / MODIFICATIONS

- SIDE SETBACKS
- REAR SETBACKS
- LOT COVERAGE



PROJECT

2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

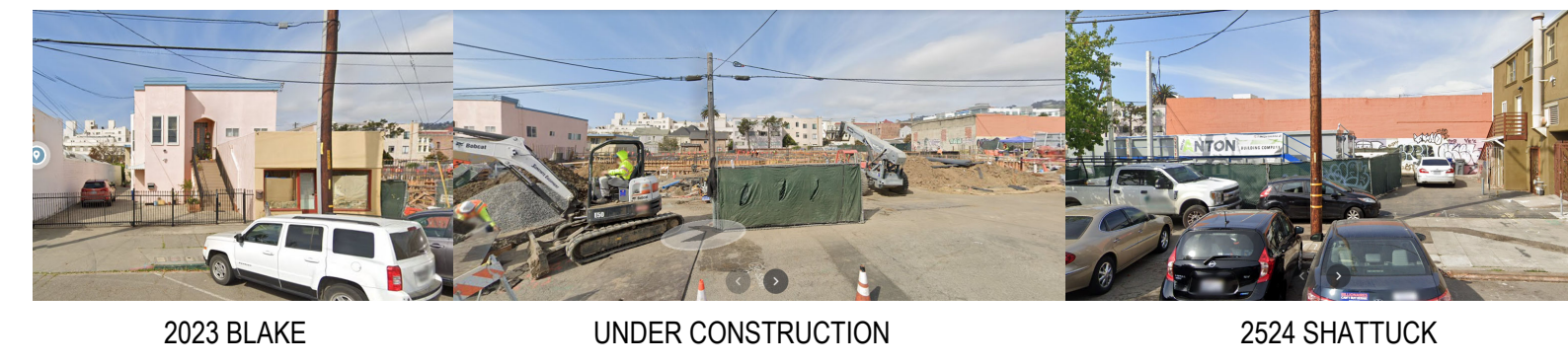
ISSUES & REVISIONS

NO.	DATE	DESCRIPTION
1	04/28/2021	PLANNING APPROVAL SUBMITTAL
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4	12/20/2021	PLANNING APPROVAL 3RD COMMENTS

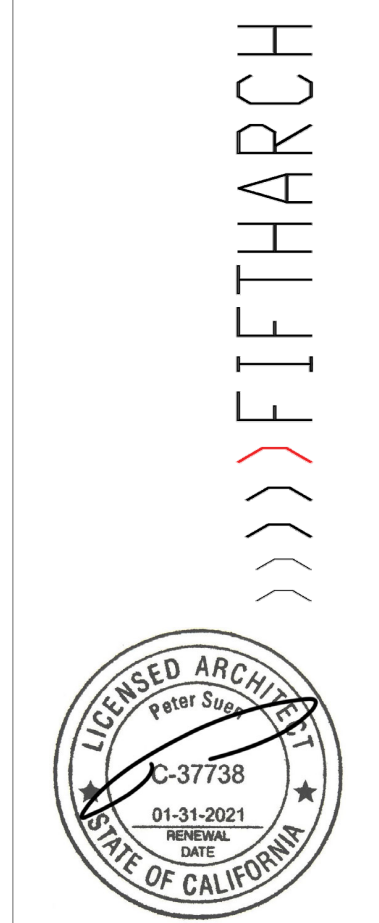
DENSITY BONUS STATEMENT

DRAWING BY: YZ
CHECKED BY: PS
DATE: 11/15/2022
SCALE: AS NOTED

A0.3



EXISTING SITE PLAN 1
SCALE: 1/30" = 1'-0"



PROJECT
2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

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SITE PHOTOGRAPHS & VICINITY MAP

DATE: 1/15/2022
DRAWING BY: YZ
SCALE: AS NOTED
CHECKED BY: PS

A0.4



1



2



3



4



5



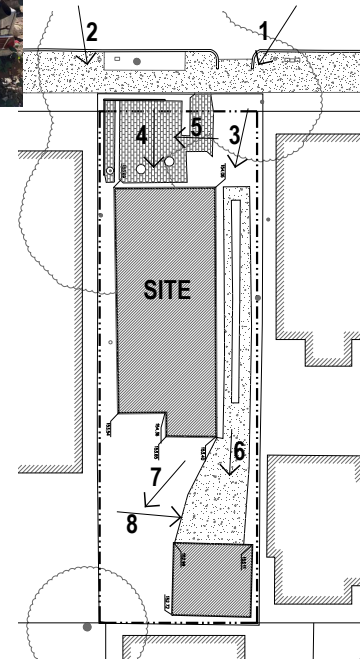
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7



8



FIFTHARCH

LICENSED ARCHITECT
No. 37768
8/18/2001
STATE OF CALIFORNIA

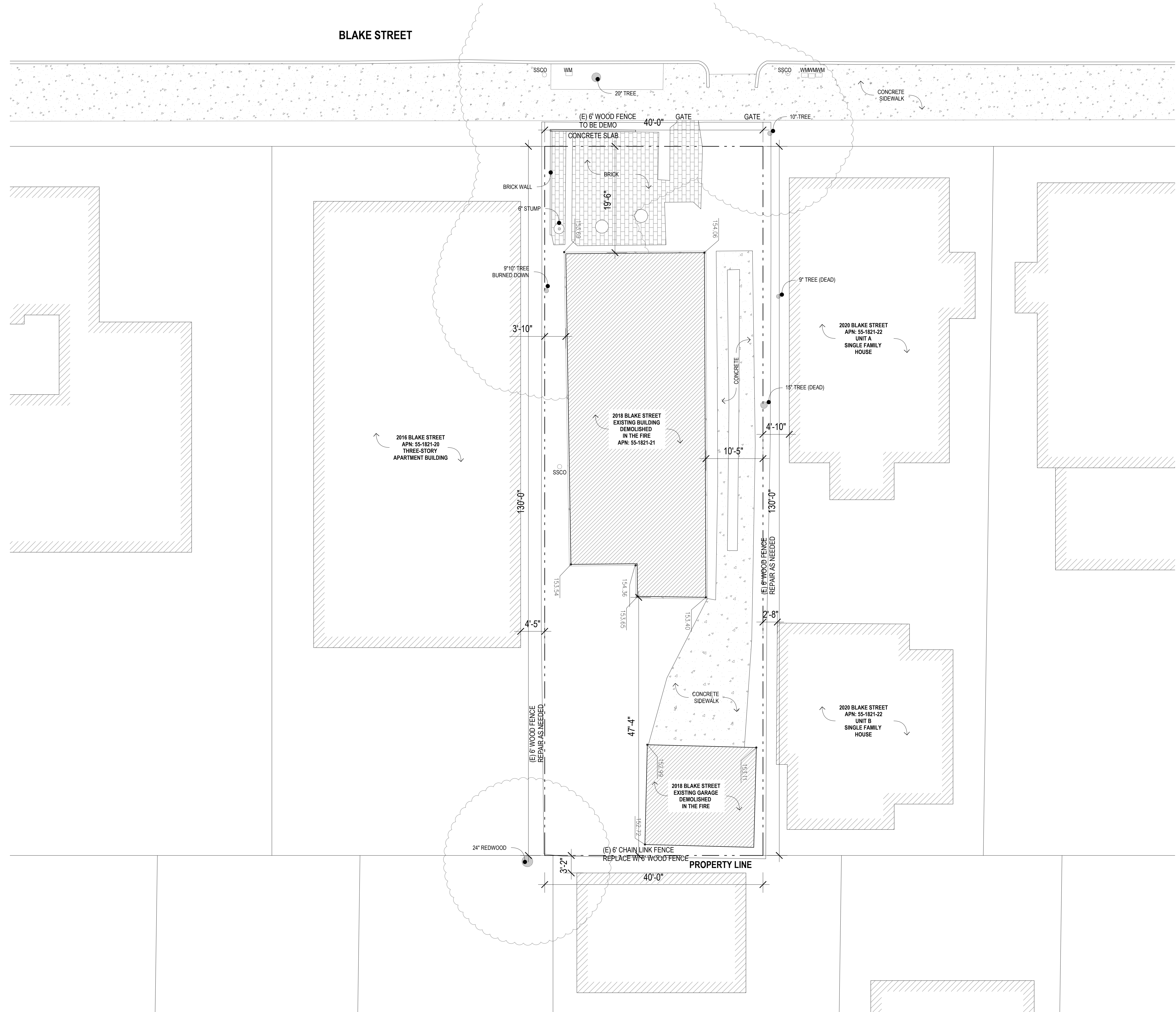
PROJECT
2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

ISSUES & REVISIONS	NO.	DATE	DESCRIPTION
	002	06/28/2021	PLANNING APPROVAL SUBMITTAL
	003	07/05/2021	1ST PLANNING COMMENTS

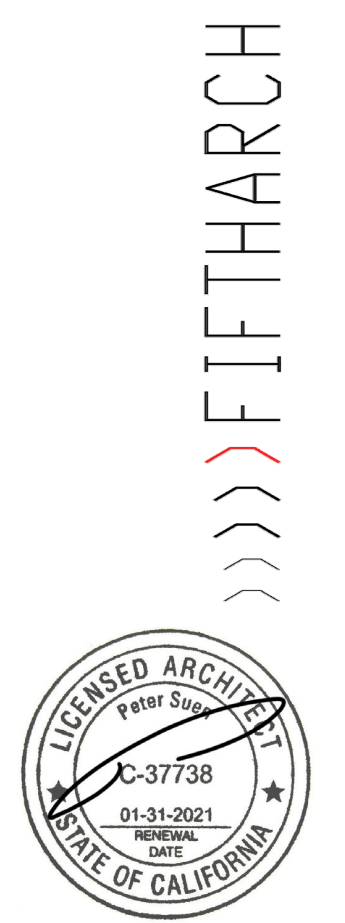
SITE PHOTO

DATE: 8/11/2021
SCALE:
DRAWING BY: HF
CHECKED BY: PS

A0.9



LINE TYPES:
 ——— EXISTING WALL / ELEMENT TO REMAIN
 - - - - EXISTING WALL / ELEMENT TO REMOVE



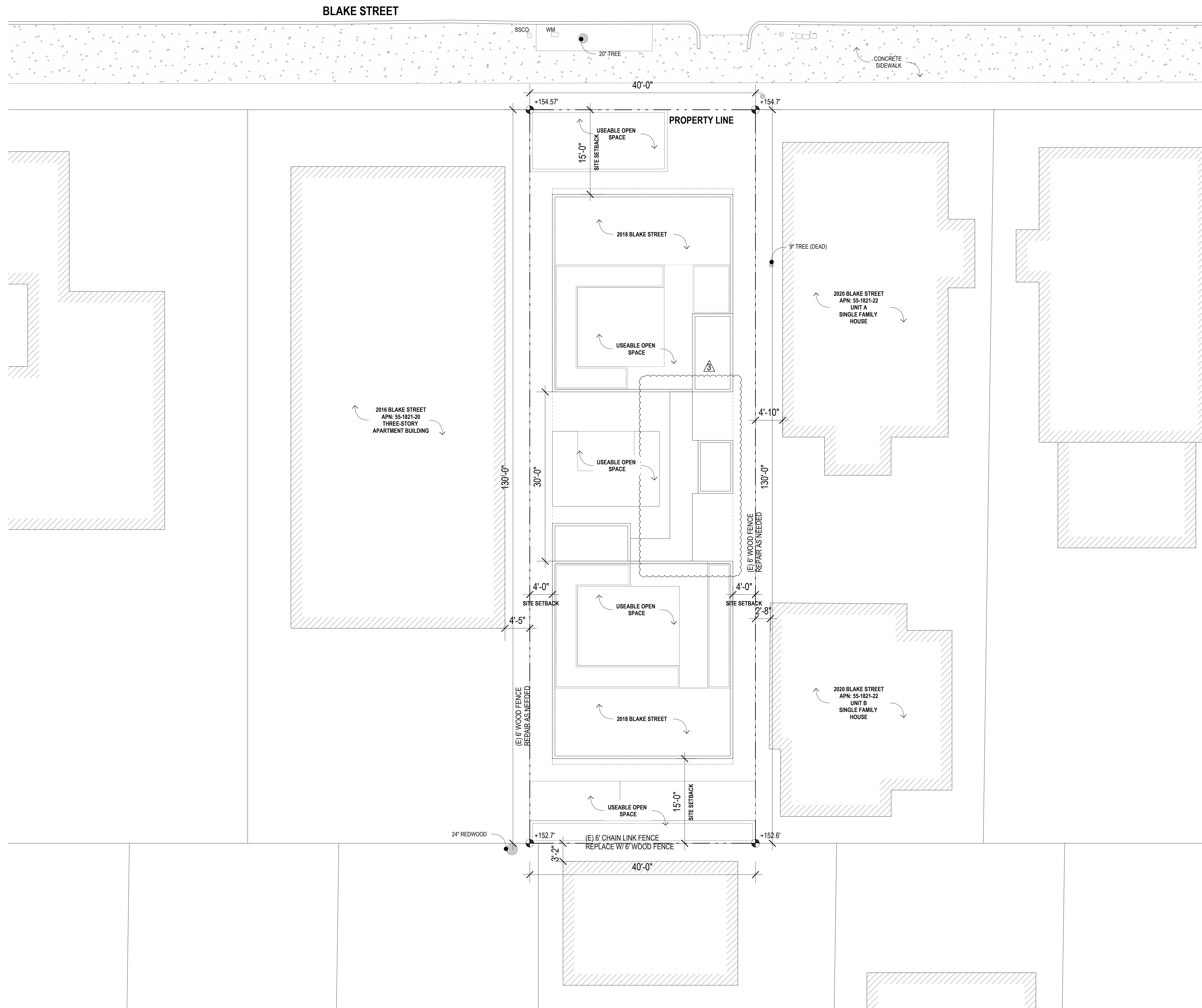
PROJECT
 2018 BLAKE STREET
 2018 BLAKE STREET
 BERKELEY, CA 94704

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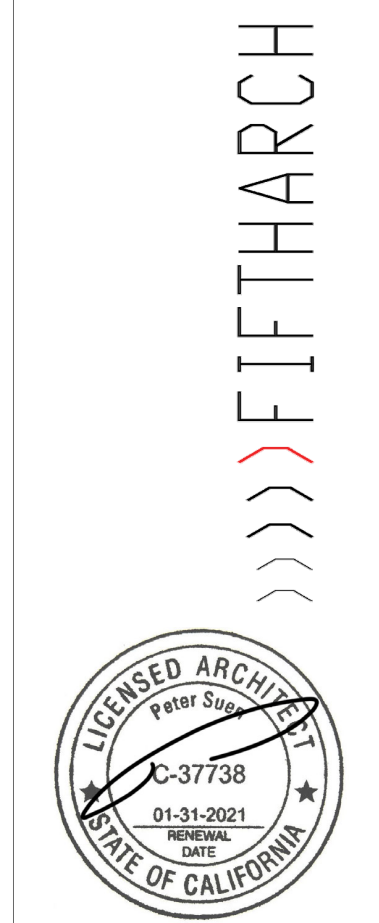
EXISTING SITE PLAN
 DATE: 11/15/2022
 SCALE: 1/8" = 1'-0"
 DRAWING BY: YZ
 CHECKED BY: PS

EXISTING SITE PLAN 1
 SCALE: 1/8" = 1'-0"

A1.1



PROPOSED SITE PLAN
SCALE: 1/8" = 1'-0" 1



PROJECT
2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

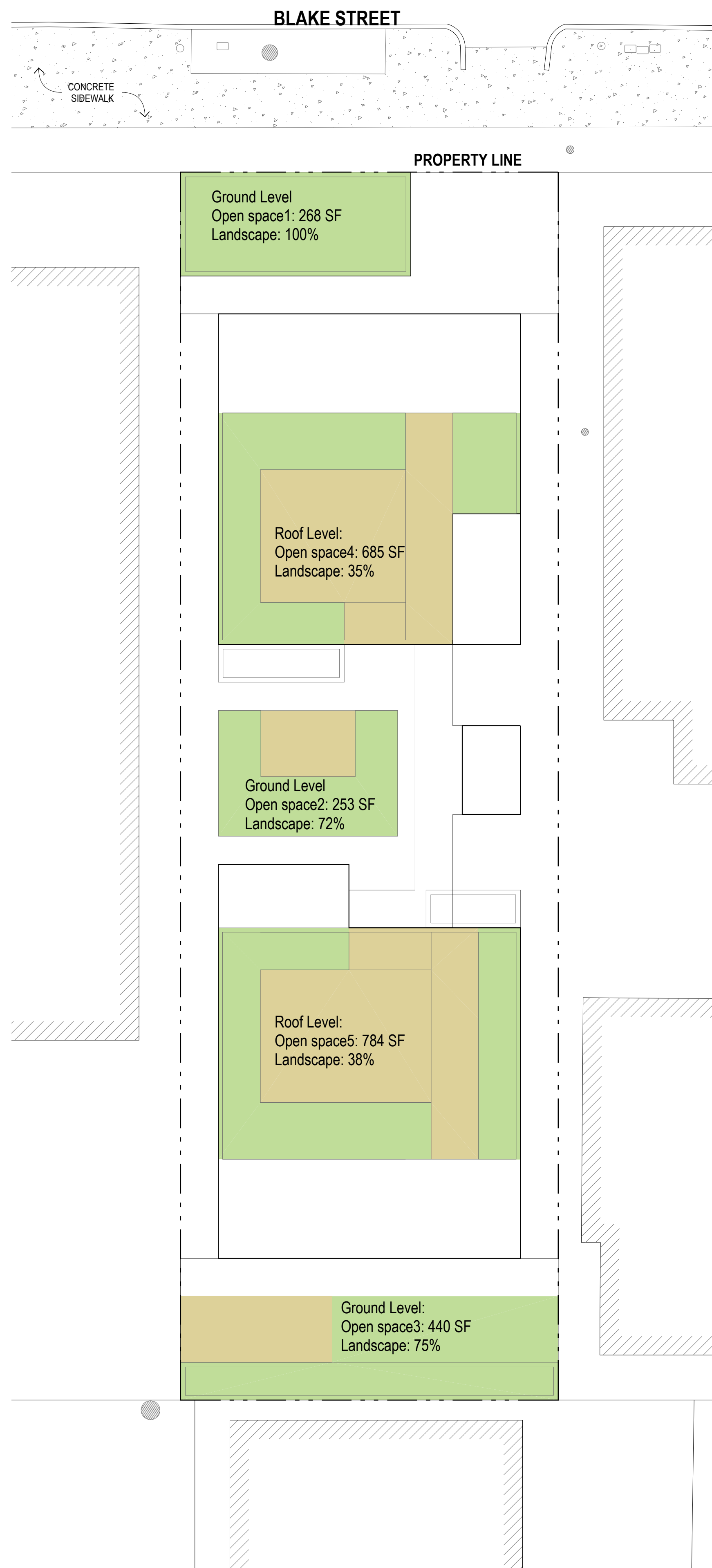
ISSUES & REVISIONS	NO.	DATE	DESCRIPTION
		04/28/2021	PLANNING APPROVAL SUBMITTAL
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	△	12/20/2021	PLANNING APPROVAL 3RD COMMENTS

PROPOSED SITE PLAN

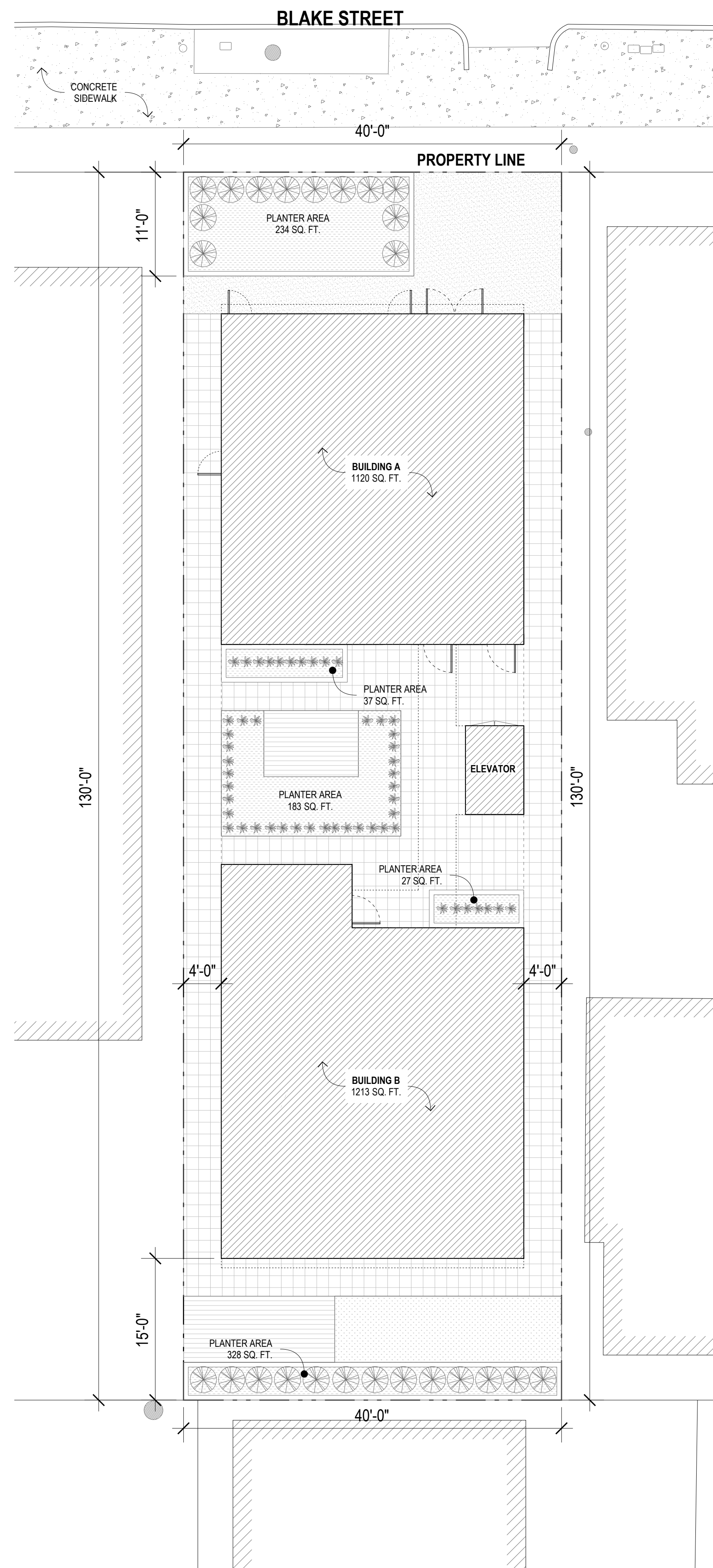
DATE: 1/15/2022
SCALE: 1/8" = 1'-0"

DRAWING BY: YZ
CHECKED BY: PS

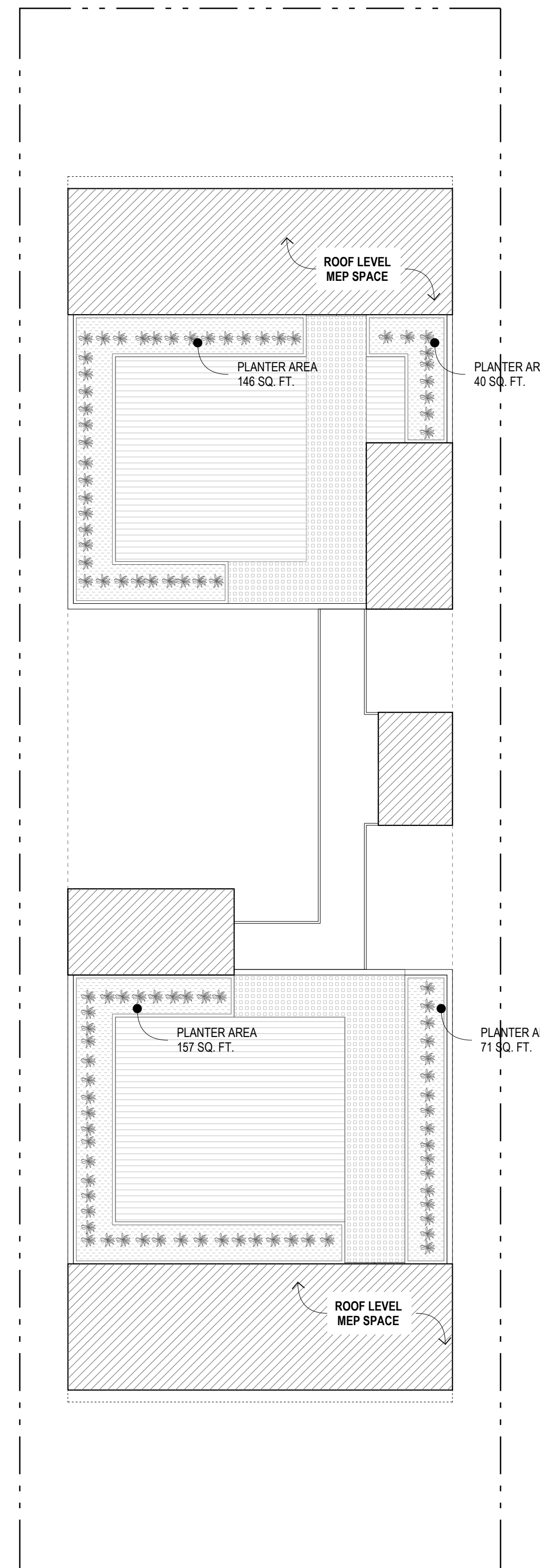
A1.2



OPEN SPACE DIAGRAM 3
SCALE: 1/8" = 1'-0"



GROUND FLOOR LANDSCAPE DIAGRAM 2
SCALE: 1/8" = 1'-0"



ROOF LANDSCAPE DIAGRAM 1
SCALE: 1/8" = 1'-0"

SHEET NOTES:

1. ALL (N) PLANTER AREAS TO HAVE SOIL AMENDED W/ 1" COMPOST LAYER. ALL PLANTINGS ARE TO BE SUFFICIENTLY DEVELOPED AT TIME OF INSTALLATION TO ASSURE SURVIVAL AND GROWTH OF PLANTINGS.
2. ALL TREES TO HAVE SUFFICIENT CENTRAL LEADERS TO ASSURE GROWTH AND SURVIVABILITY.
3. (N) LAWNS & PLANTER BEDS SHALL BE IRRIGATED W/ DRIP IRRIGATION SYSTEMS ON A DESIGN/BUILD BASIS. IRRIGATION SYSTEMS SHALL BE DESIGNED, INSTALLED AND OPERATED AT THE LOWEST PRACTICAL AMOUNT OF WATER NOT TO EXCEED 70% OF REFERENCE EVAPOTRANSPIRATION FOR THE LANDSCAPED AREA.
4. IRRIGATION VALVES & CIRCUITS SHALL BE SEPARATED HYDROZONED BASED ON PLANT WATER REQUIREMENT (INCLUDING VARYING ROOT DEPTH), SUN EXPOSURE, TOP AND BOTTOM OF SLOPE, & IRRIGATION RATE AS APPLICABLE.

IMPERVIOUS COVERAGE CALCS:

BUILDING A: 1120 SQ. FT.
BUILDING B: 1213 SQ. FT.
ELEVATOR: 58 SQ. FT.
TOTAL: 2391 SQ. FT. (< 2500 SQ. FT.)

PLANTER AREA CALCS:

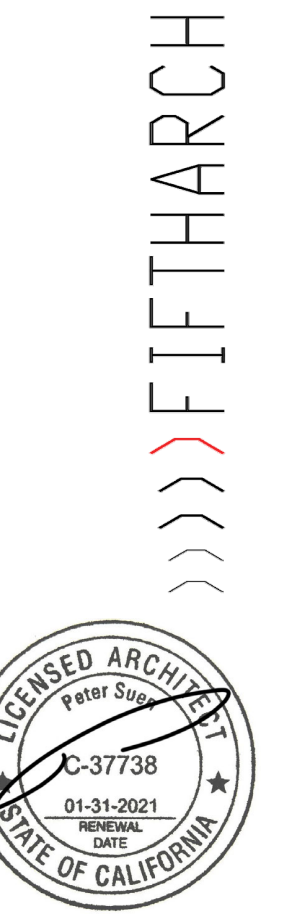
FRONT YARD PLANTER: 234 SQ. FT.
CENTRAL YARD PLANTER 1: 37 SQ. FT.
CENTRAL YARD PLANTER 2: 183 SQ. FT.
CENTRAL YARD PLANTER 3: 27 SQ. FT.
REAR YARD PLANTER: 328 SQ. FT.
ROOF PLANTER 1: 146 SQ. FT.
ROOF PLANTER 2: 40 SQ. FT.
ROOF PLANTER 3: 157 SQ. FT.
ROOF PLANTER 4: 71 SQ. FT.
TOTAL AREA: 1223 SQ. FT.
MIN. 3" MULCH LAYER: 37 CUBIC YARDS

OPEN SPACE LANDSCAPE AREA PERCENTAGE

OPEN SPACE AREA TOTAL: 2430 SQ. FT.
LANDSCAPE AREA TOTAL: 1223 SQ. FT.
PERCENTAGE: 50.3% (> 40%)

LEGEND

- USEABLE OPEN SPACE LANDSCAPE AREA
- USEABLE OPEN SPACE: OUTDOOR ACTIVITY AREA
- COVERED SPACE



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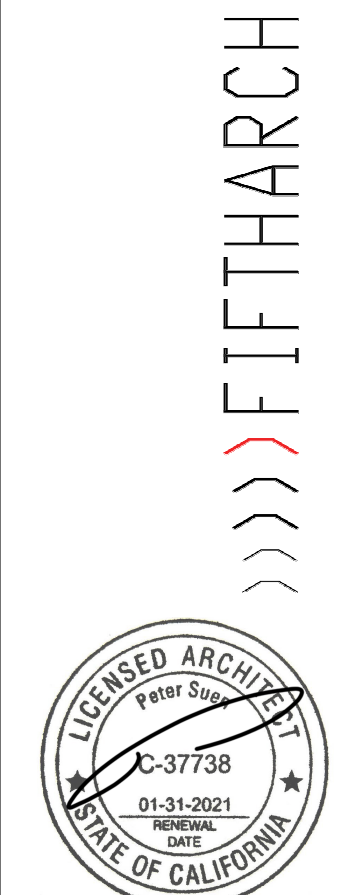
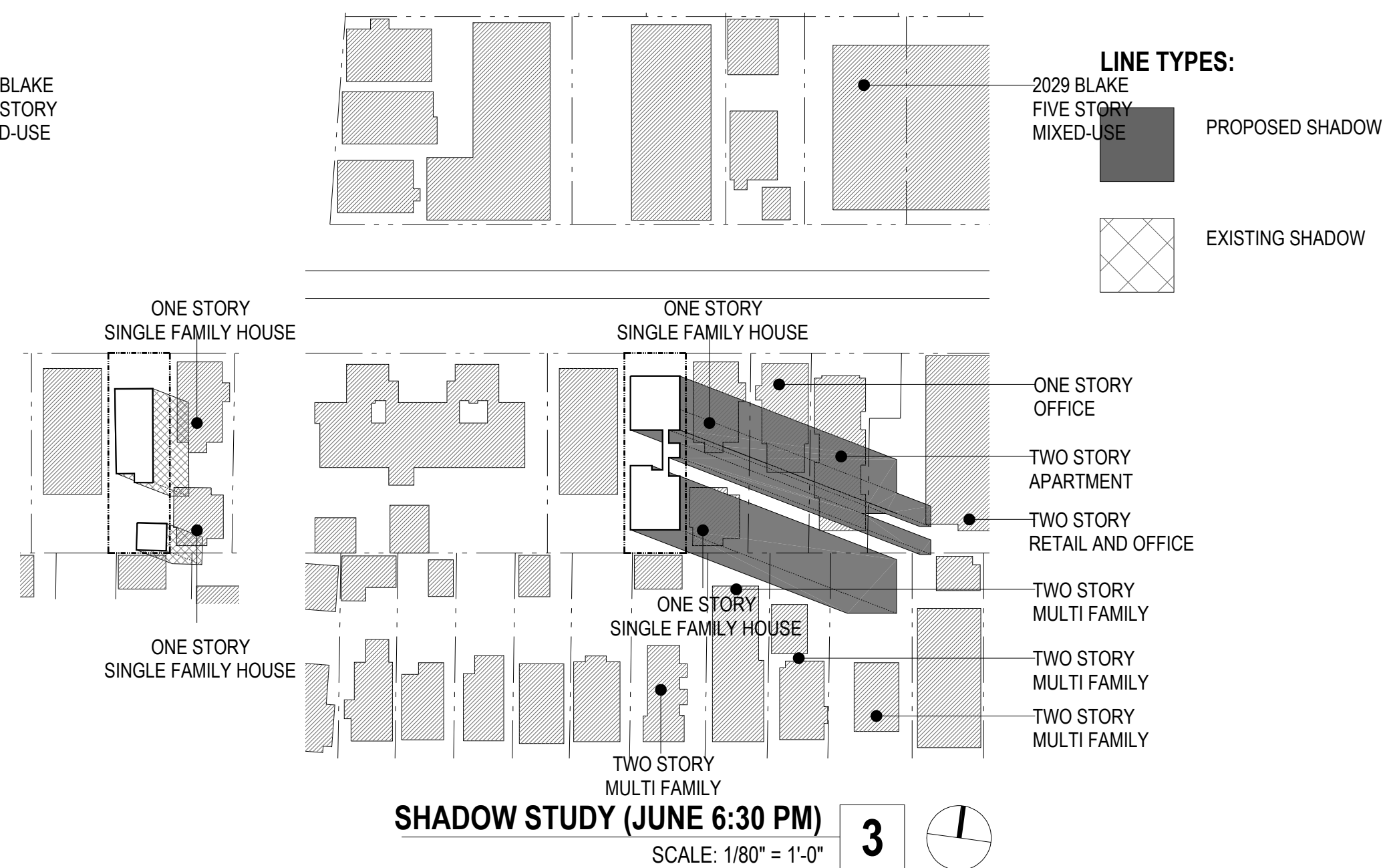
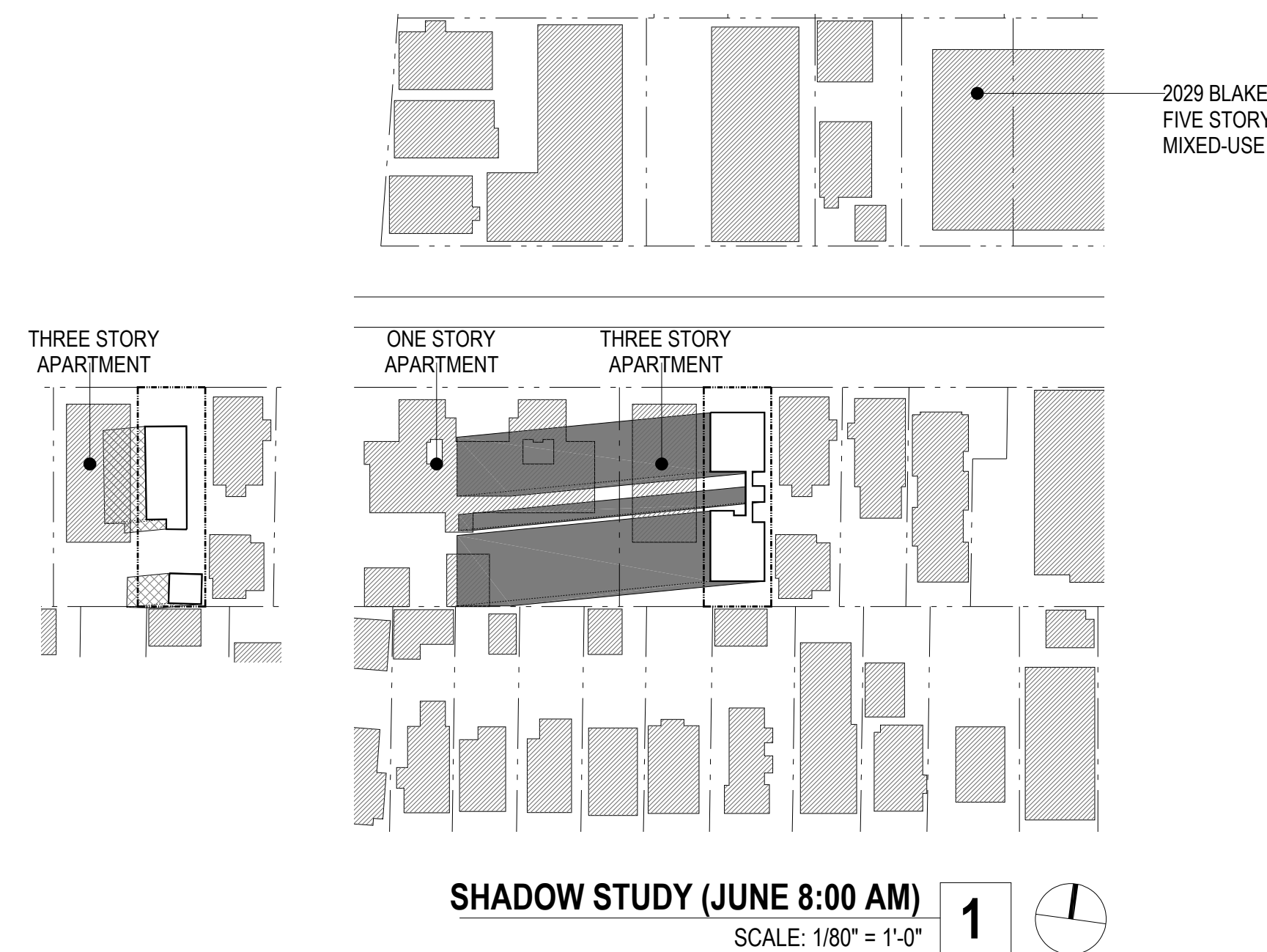
LANDSCAPE AREA DIAGRAM

DRAWING BY: YZ
CHECKED BY: PS

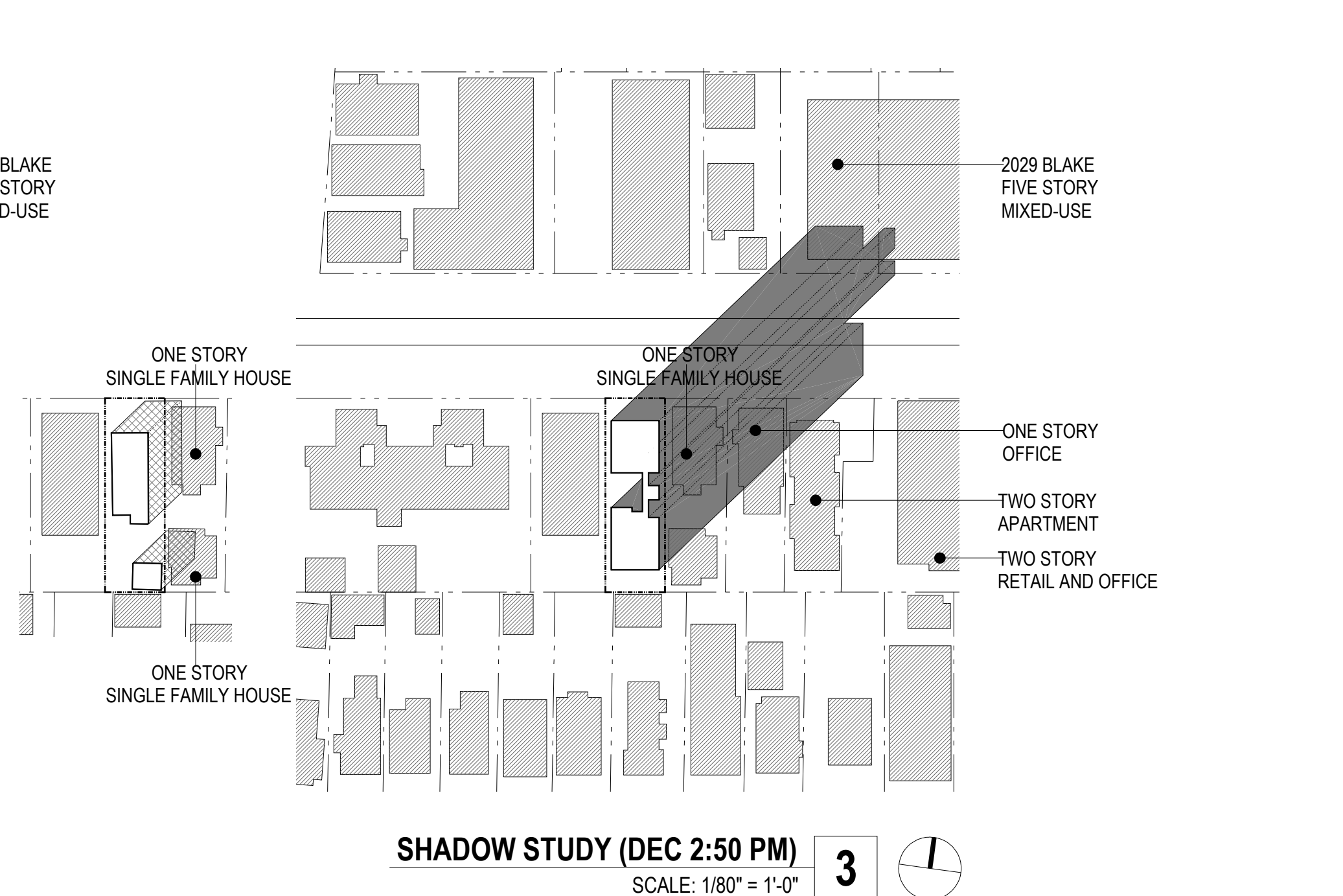
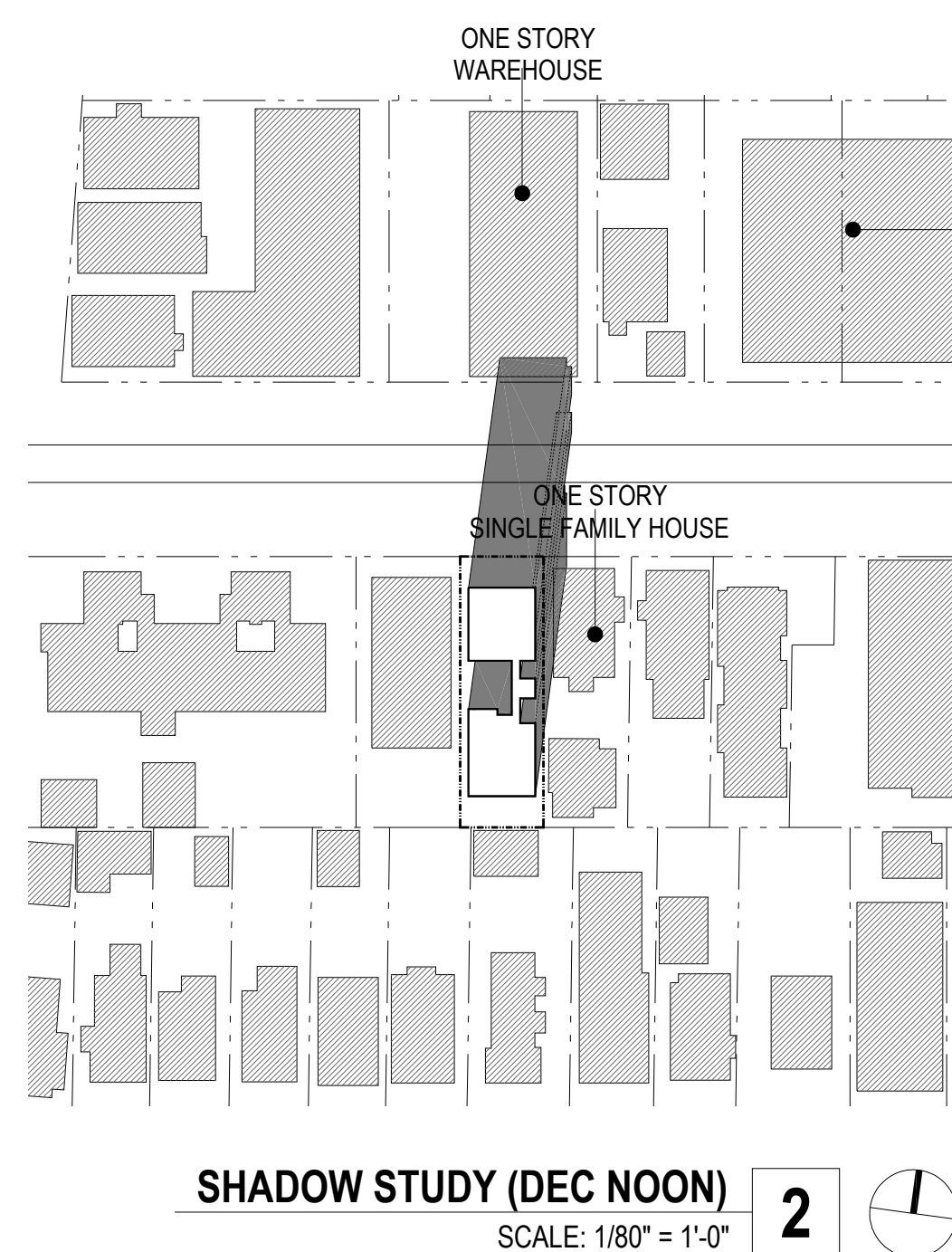
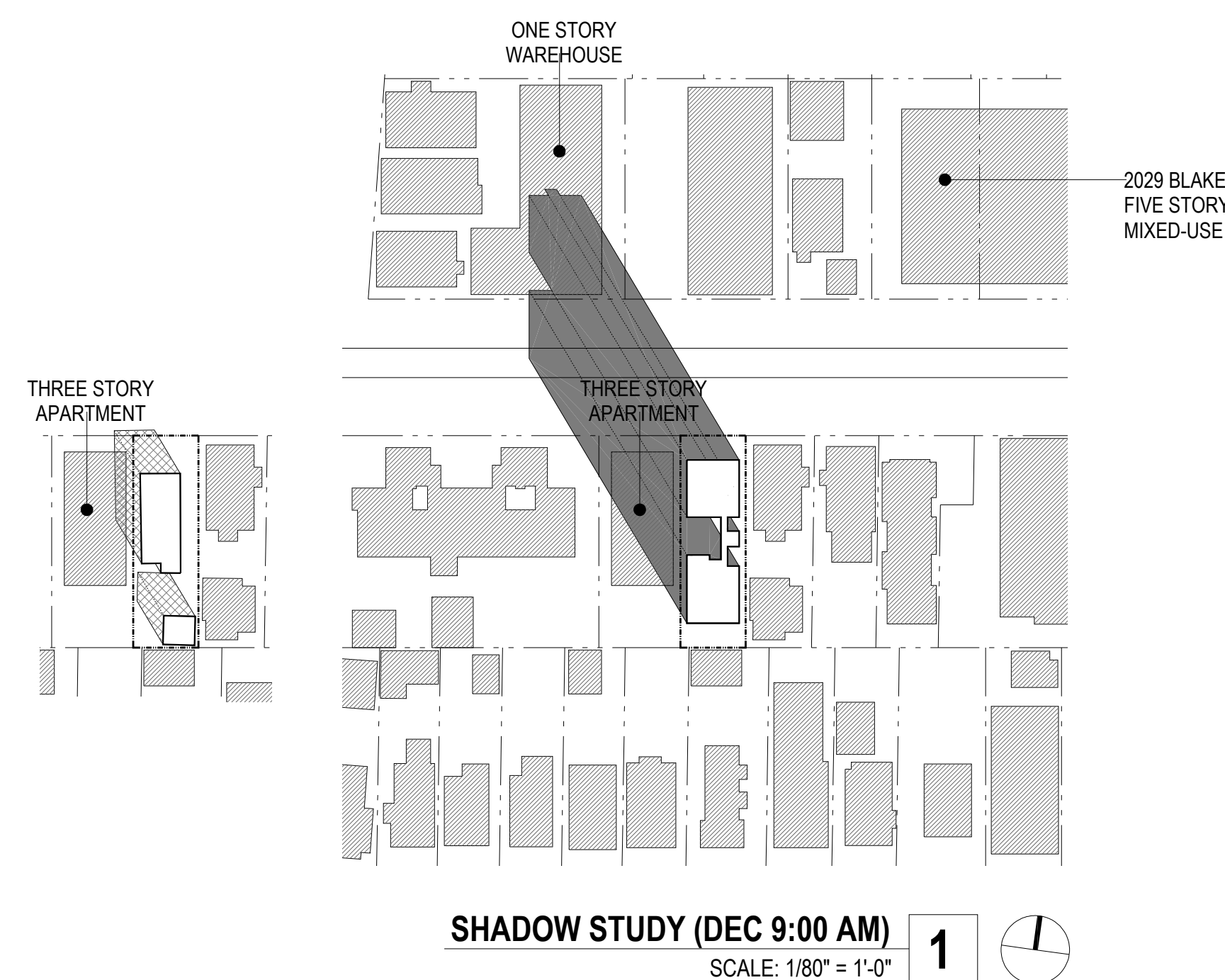
DATE: 1/15/2022
SCALE: 1/8" = 1'-0"

A1.3

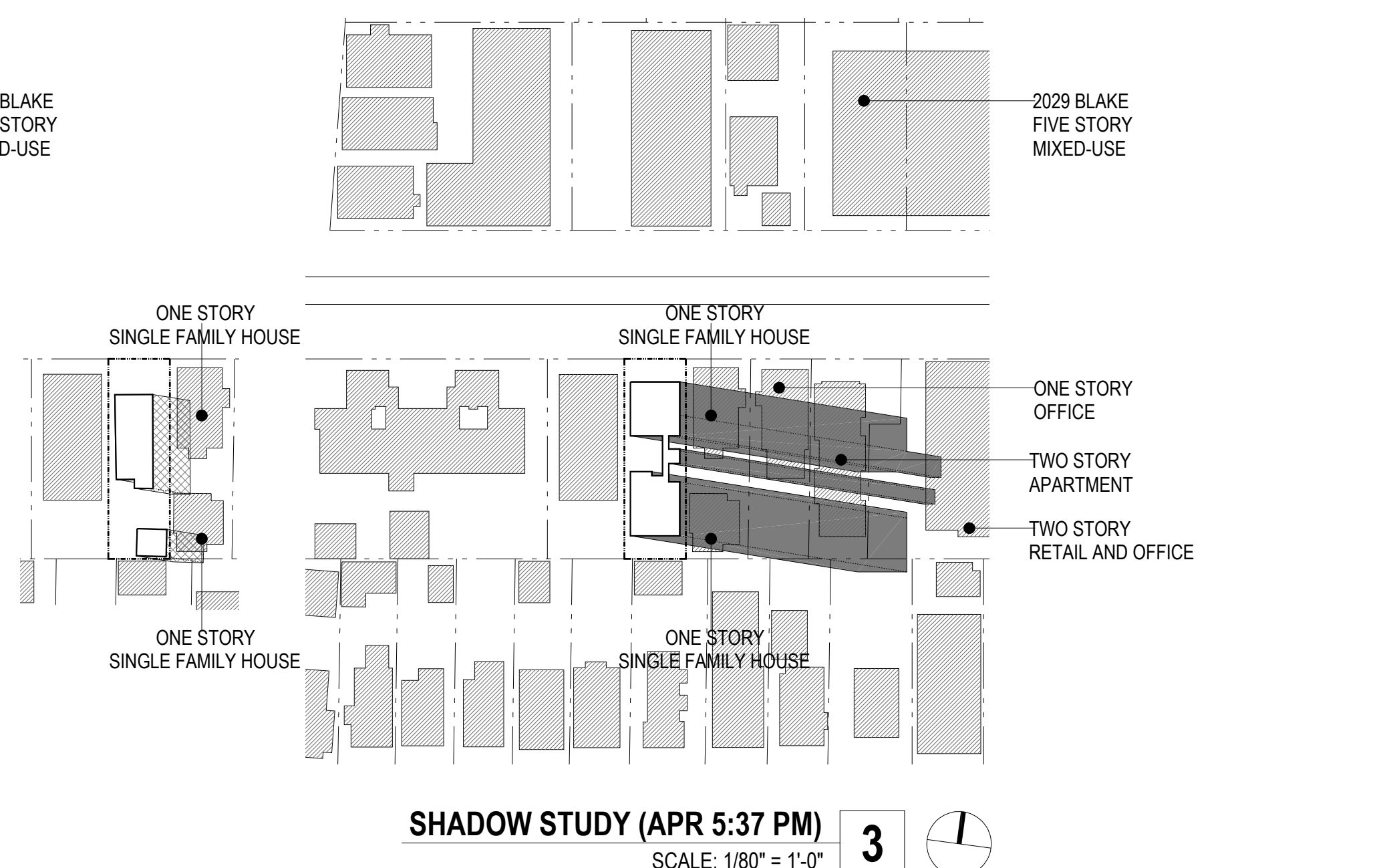
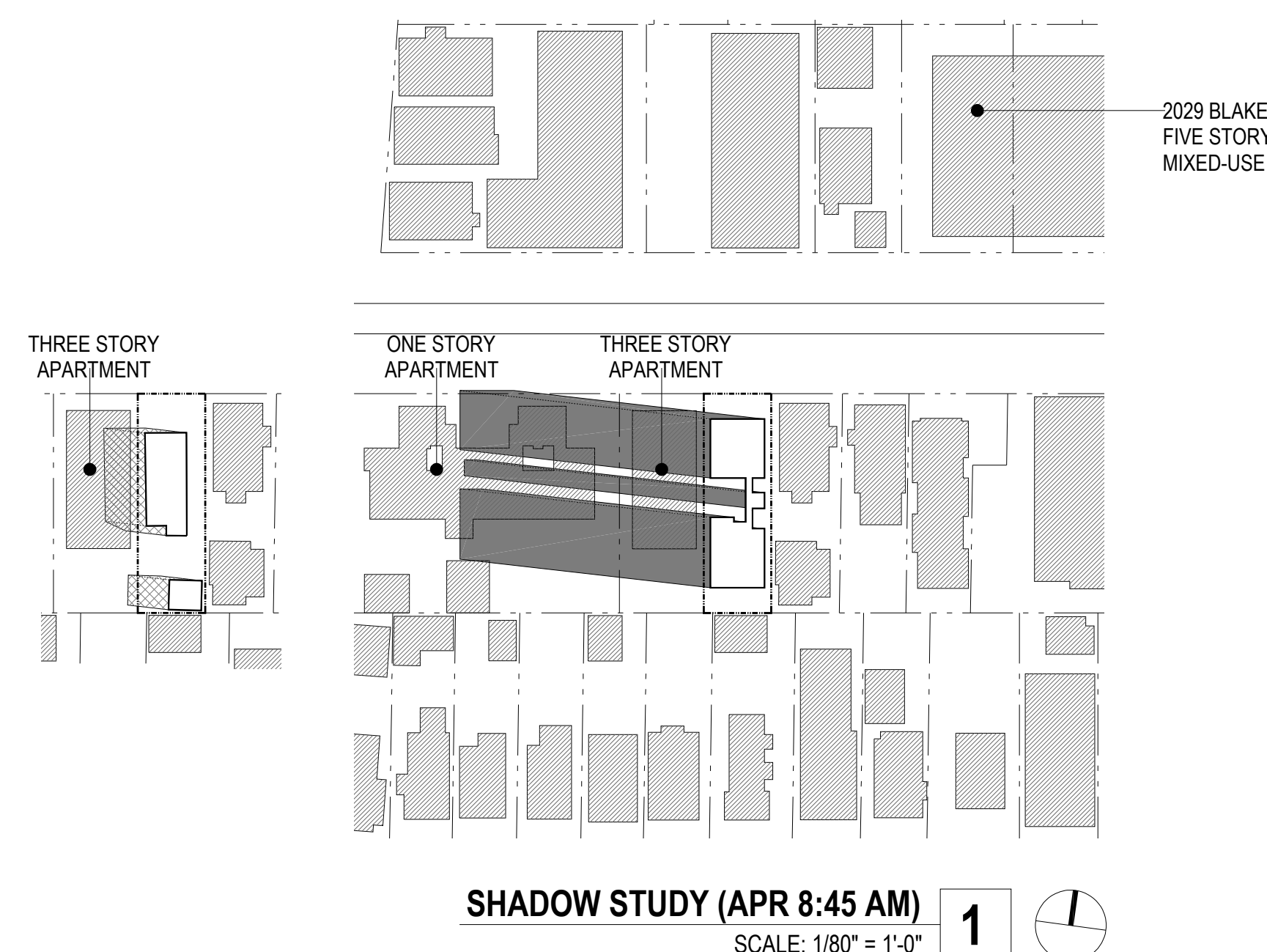
JUNE



DECEMBER



APRIL
(SUBMITTED MONTH)



PROJECT
2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

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SHADOW STUDIES

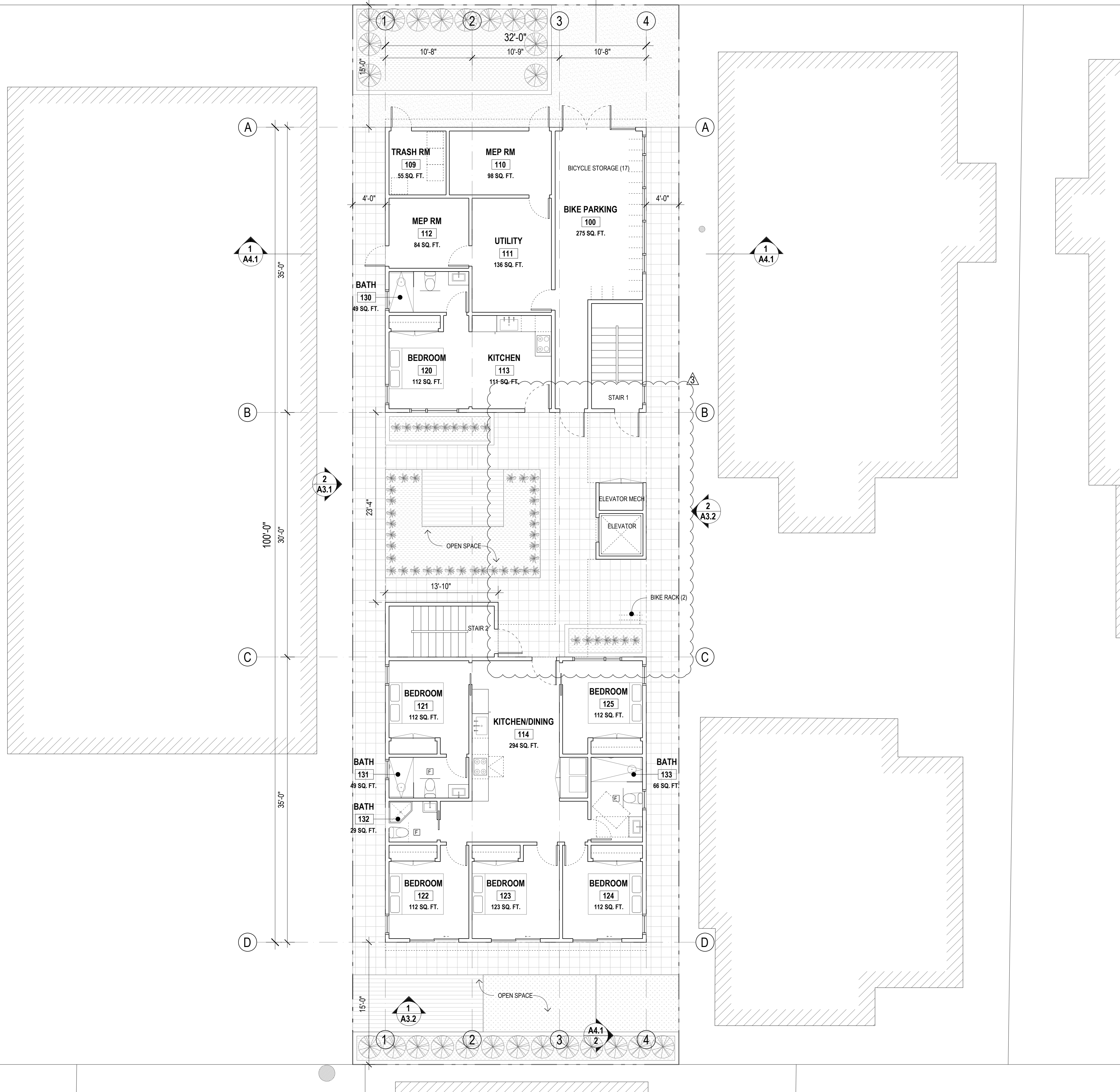
DATE: 3/6/2022
SCALE: 1/80"=1'-0"

DRAWING BY: YZ
CHECKED BY: PS

A1.4

BLAKE STREET

PROPERTY LINE



SHEET NOTES:

1. ALL NEW WINDOWS AND GLASS DOORS SHALL BE DOUBLE PANED, INSULATED W/ MAX U-VALUES AS STATED ON THE CALIFORNIA TITLE-24 REPORT. TEMP. MFG LABELS SHOWING NEW GLAZING U-VALUES SHALL NOT BE REMOVED UNTIL BLDG. INSPECTOR AUTHORIZES TO DO SO.
2. SHOWER COMPARTMENTS AND WALLS ABOVE BATHTUBS WITH INSTALLED SHOWER HEADS SHALL BE FINISHED W/ A NONABSORBENT SURFACE TO A HEIGHT NOT LESS THAN 6 FT. ABV. THE FLOOR PER CRC R307.2.

LEGEND

- EXISTING WALL / ELEMENT TO REMAIN
- - - EXISTING WALL / ELEMENT TO REMOVE
- (N) PROPOSED WALL
- (N) 1-HR PROPOSED WALL
- ☐ FAN (PER 2013 CGC §4.506)

GROUND FLOOR PLAN
SCALE: 1/8" = 1'-0"

1

PROJECT

2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

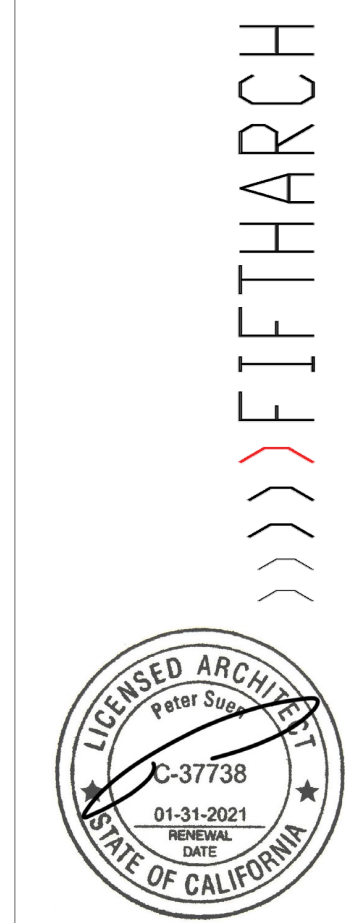
ISSUES & REVISIONS

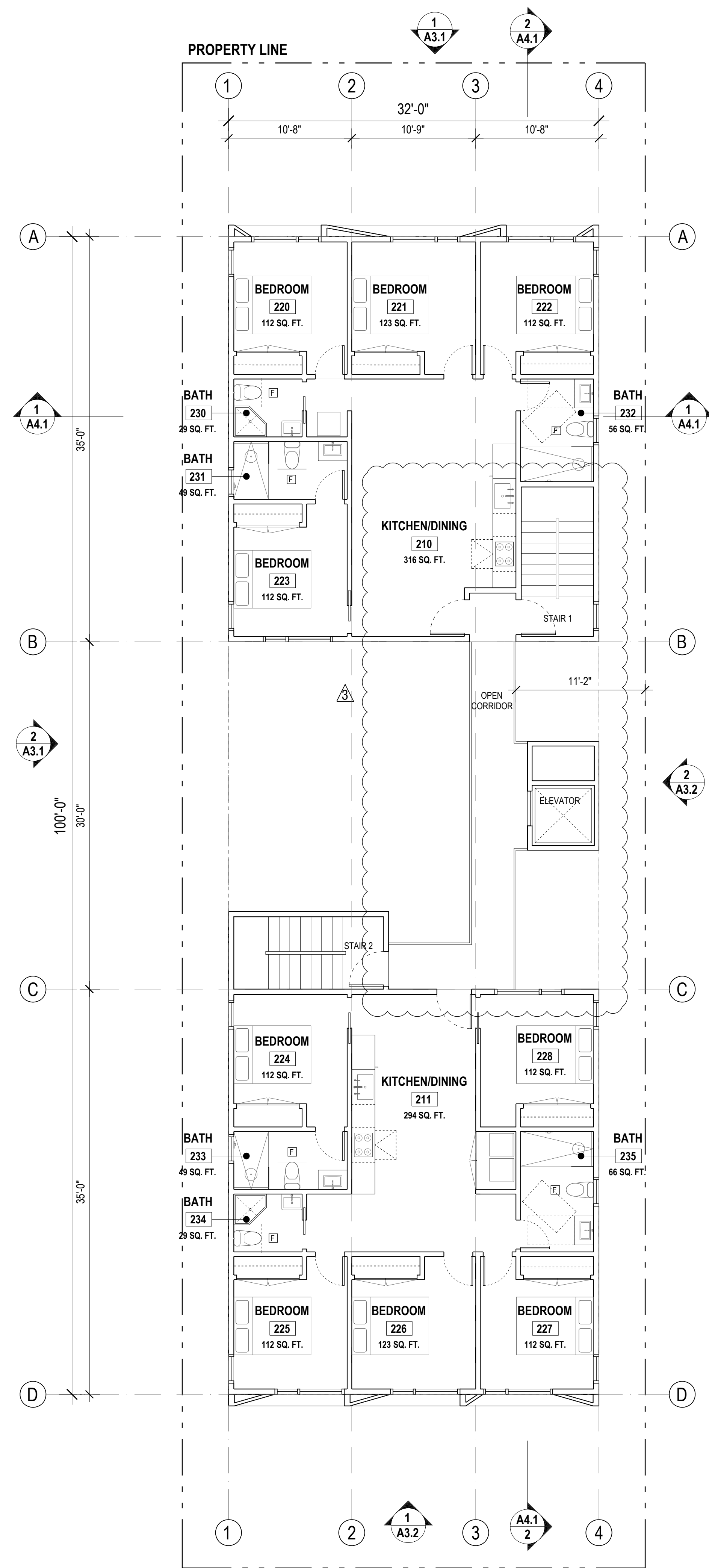
NO.	DATE	DESCRIPTION
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GROUND FLOOR PLAN

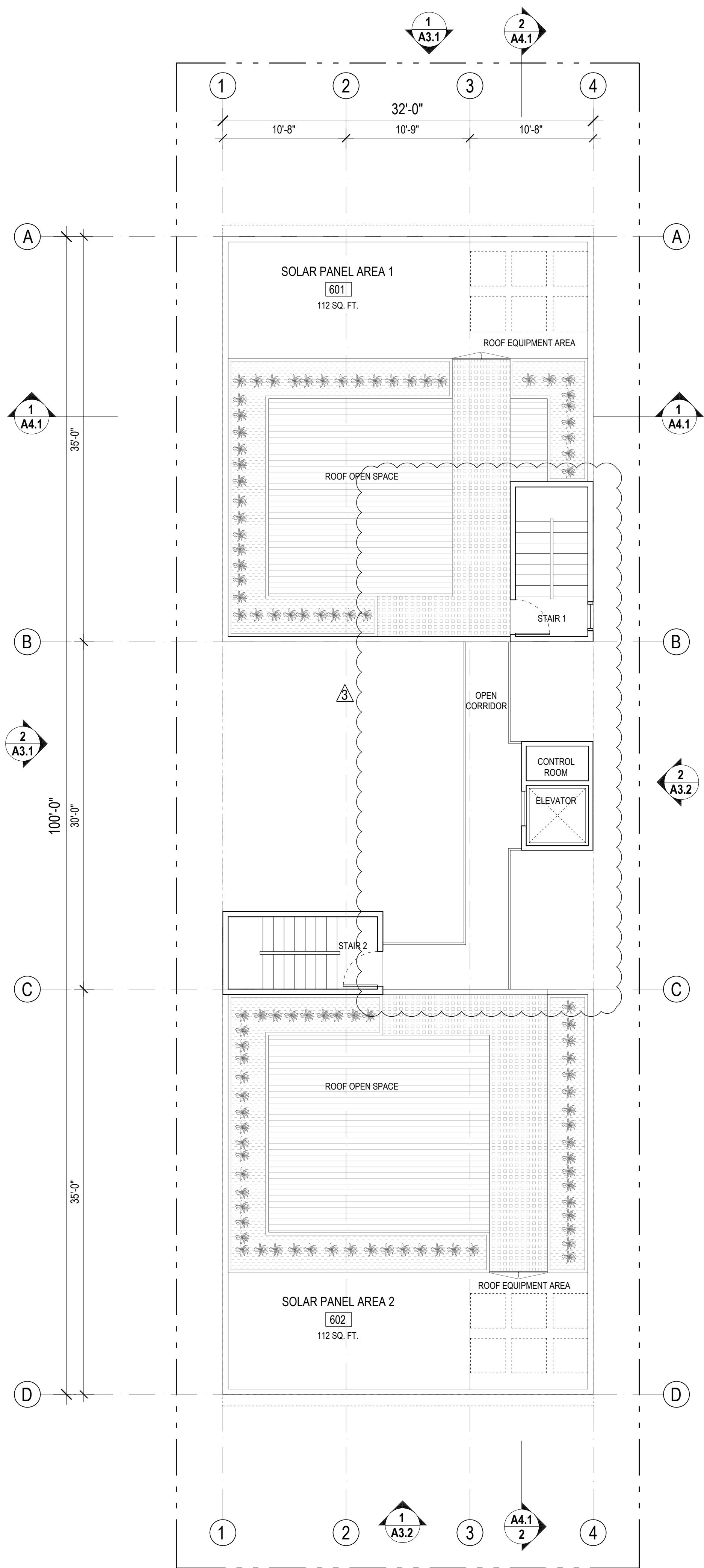
DATE: 1/15/2022
SCALE: 1/4" = 1'-0"
DRAWING BY: YZ
CHECKED BY: PS

A2.1





2ND - 6TH FLOOR PLAN
SCALE: 1/8" = 1'-0" **1**



ROOF PLAN
SCALE: 1/8" = 1'-0" **2**

SHEET NOTES:

1. ALL NEW WINDOWS AND GLASS DOORS SHALL BE DOUBLE PANED, INSULATED W/ MAX U-VALUES AS STATED ON THE CALIFORNIA TITLE-24 REPORT. TEMP. MFGR LABELS SHOWING NEW GLAZING U-VALUES SHALL NOT BE REMOVED UNTIL BLDG. INSPECTOR AUTHORIZES TO DO SO.
2. SHOWER COMPARTMENTS AND WALLS ABOVE BATHTUBS WITH INSTALLED SHOWER HEADS SHALL BE FINISHED W/ A NONABSORBENT SURFACE TO A HEIGHT NOT LESS THAN 6 FT. ABV. THE FLOOR PER CRC R307.2.

LEGEND

- EXISTING WALL / ELEMENT TO REMAIN
- - - EXISTING WALL / ELEMENT TO REMOVE
- (N) PROPOSED WALL
- (N) 1-HR PROPOSED WALL
- F FAN (PER 2013 CGC §4.506)

FIFTHARCH

PROJECT
2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

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LEVEL 2 - 6 FLOOR PLAN & ROOF PLAN

DATE: 1/15/2022
SCALE: 1/4" = 1'-0"

DRAWING BY: YZ
CHECKED BY: PS

A2.2

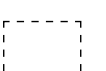
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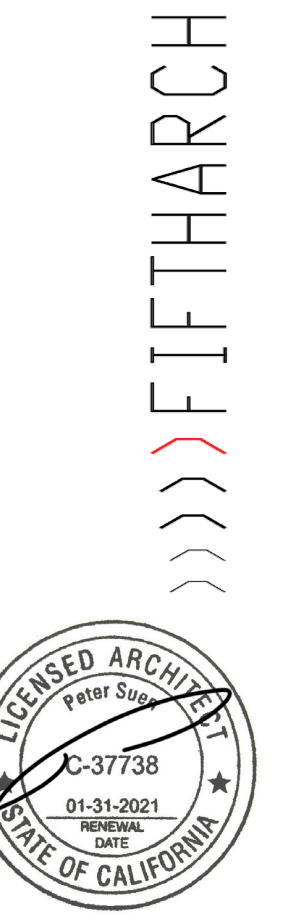
-  STUCCO
-  CEMENT BOARD
-  VERTICAL STEEL BAR GUARDRAIL
-  VERTICAL BOARD FORMED CONCRETE

SHEET NOTES:

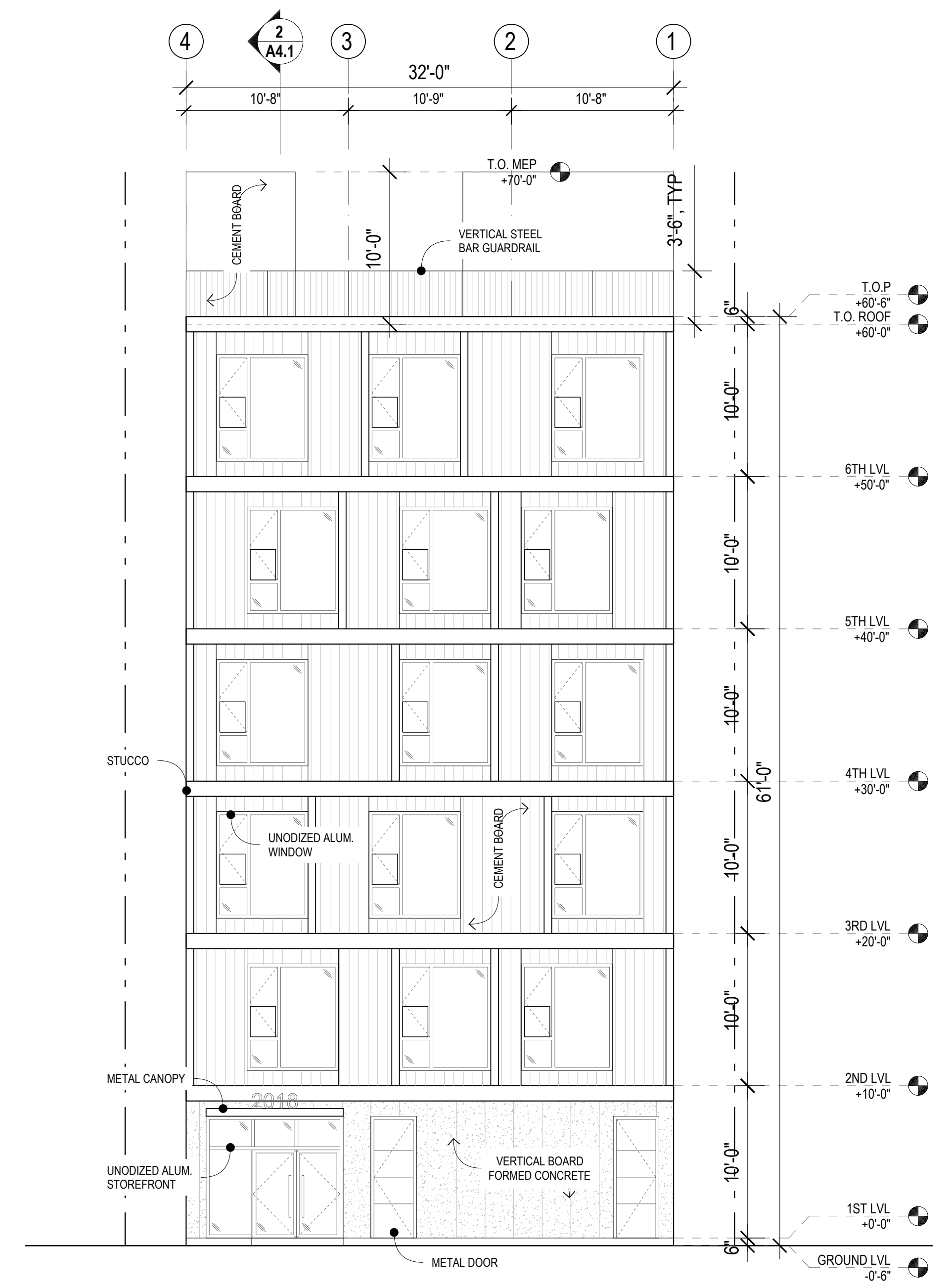
1. ALL NEW WINDOWS AND GLASS DOORS SHALL BE DOUBLE PANED, INSULATED W/ MAX U-VALUES AS STATED ON THE CALIFORNIA TITLE-24 REPORT. TEMP. MFGR LABELS SHOWING NEW GLAZING U-VALUES SHALL NOT BE REMOVED UNTIL BLDG. INSPECTOR AUTHORIZES TO DO SO.

LEGEND

 EGRESS WINDOW, MAX 44" ABV. F.F., 20" MIN. CLEAR WIDTH & 24" MIN. NET CLEAR OPENING HEIGHT



WEST ELEVATION
SCALE: 1/8" = 1'-0" **2**



NORTH ELEVATION
SCALE: 1/8" = 1'-0" **1**

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ISSUES & REVISIONS	
NO.	DATE
1	04/28/2021
2	07/05/2021
3	09/25/2021
4	12/20/2021

PROPOSED BUILDING ELEVATIONS
DATE: 11/15/2022
SCALE: AS NOTED
DRAWING BY: YZ
CHECKED BY: PS
A3.1

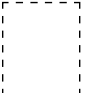
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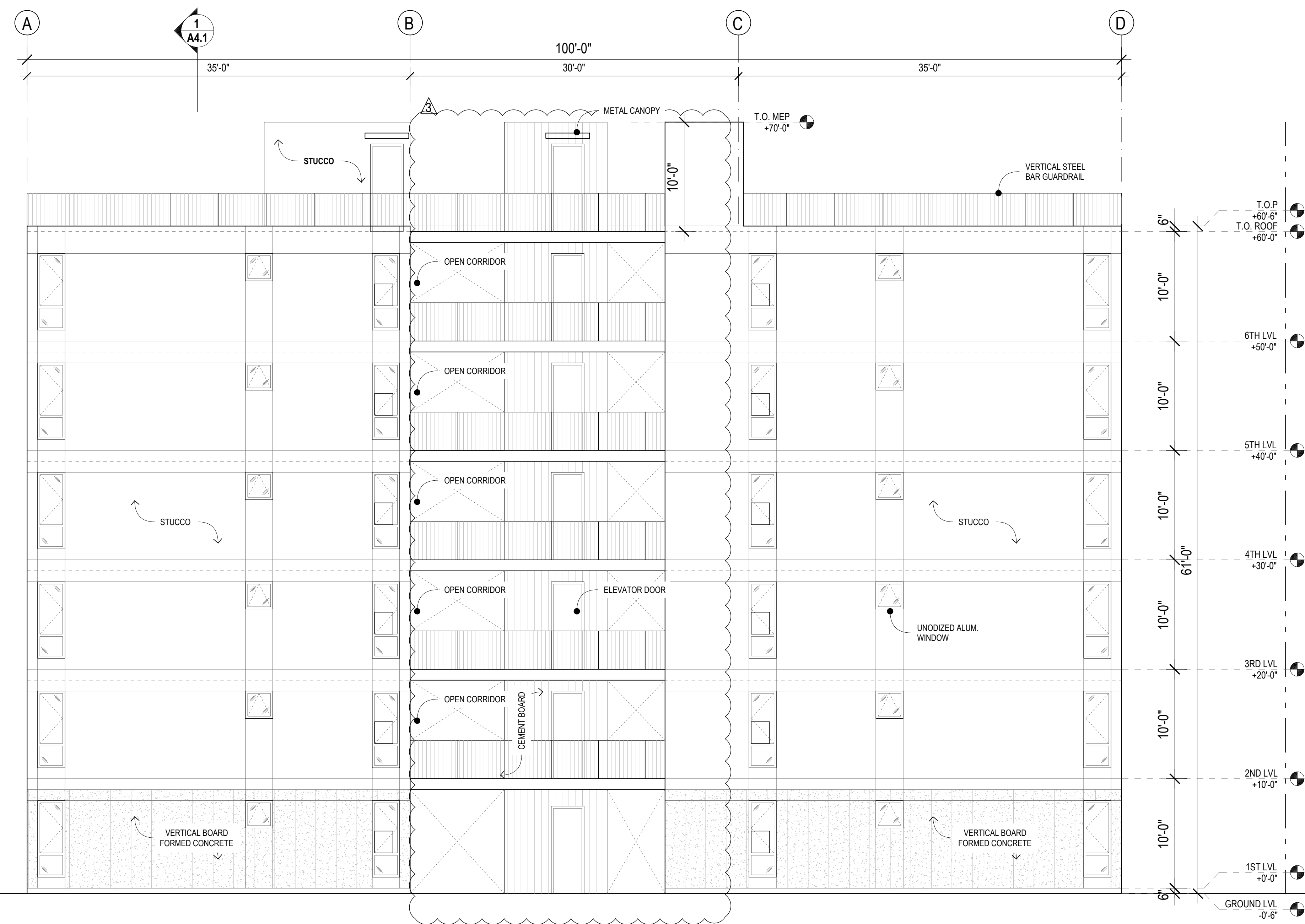
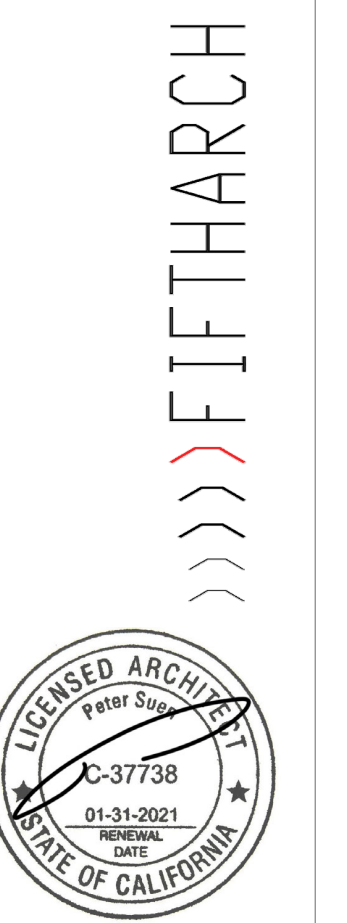
-  STUCCO
-  CEMENT BOARD
-  VERTICAL STEEL BAR GUARDRAIL
-  VERTICAL BOARD FORMED CONCRETE

SHEET NOTES:

1. ALL NEW WINDOWS AND GLASS DOORS SHALL BE DOUBLE PANED, INSULATED W/ MAX U-VALUES AS STATED ON THE CALIFORNIA TITLE-24 REPORT. TEMP. MFGR LABELS SHOWING NEW GLAZING U-VALUES SHALL NOT BE REMOVED UNTIL BLDG. INSPECTOR AUTHORIZES TO DO SO.

LEGEND

 EGRESS WINDOW, MAX 44" ABV. F.F., 20" MIN. CLEAR WIDTH & 24" MIN. NET CLEAR OPENING HEIGHT



EAST ELEVATION 2
SCALE: 1/8" = 1'-0"



SOUTH ELEVATION 1
SCALE: 1/8" = 1'-0"

PROJECT
2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

NO.	DATE	DESCRIPTION
1	04/28/2021	PLANNING APPROVAL SUBMITTAL
2	07/05/2021	PLANNING APPROVAL 1ST COMMENTS
3	09/25/2021	PLANNING APPROVAL 2ND COMMENTS
4	12/20/2021	PLANNING APPROVAL 3RD COMMENTS

ISSUES & REVISIONS

PROPOSED BUILDING ELEVATIONS

DATE: 1/15/2022
SCALE: AS NOTED
DRAWING BY: YZ
CHECKED BY: PS

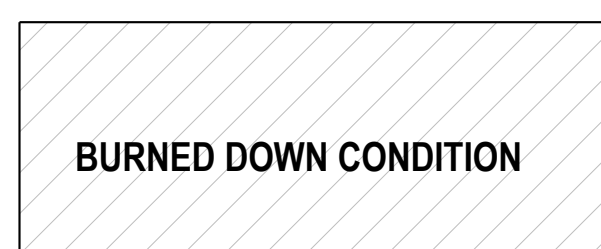
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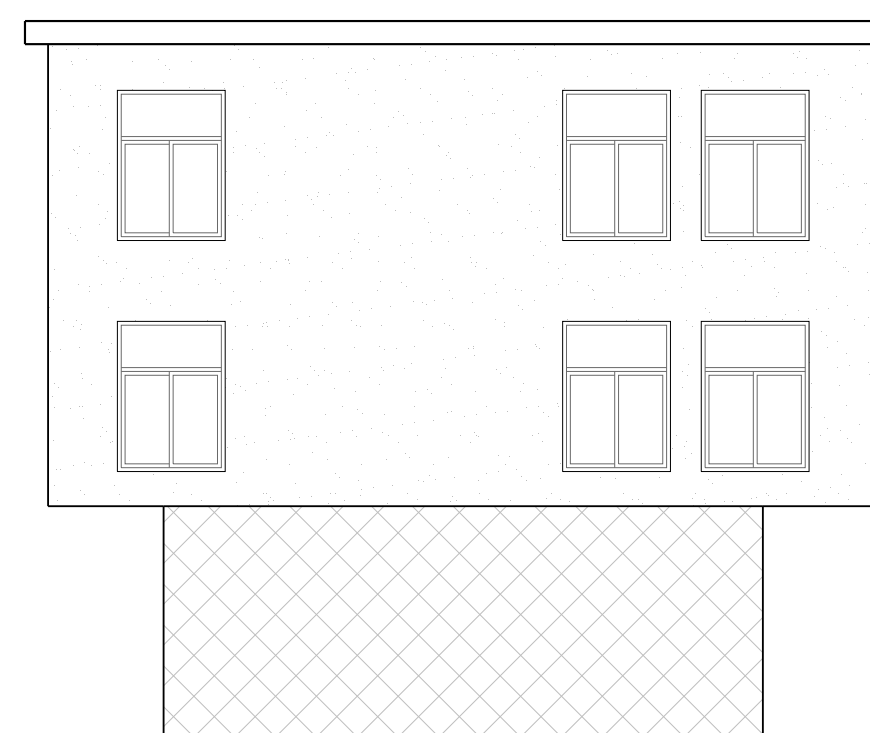
2022 BLAKE STREET



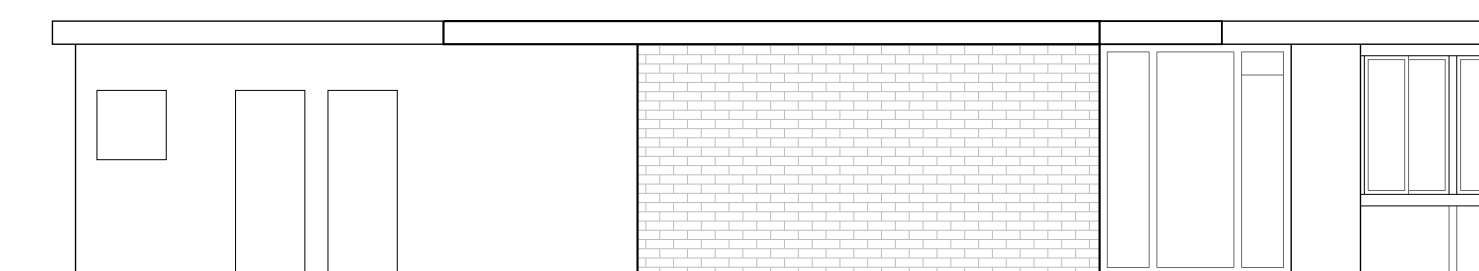
2020 BLAKE STREET



2018 BLAKE STREET



2016 BLAKE STREET



2006 BLAKE STREET

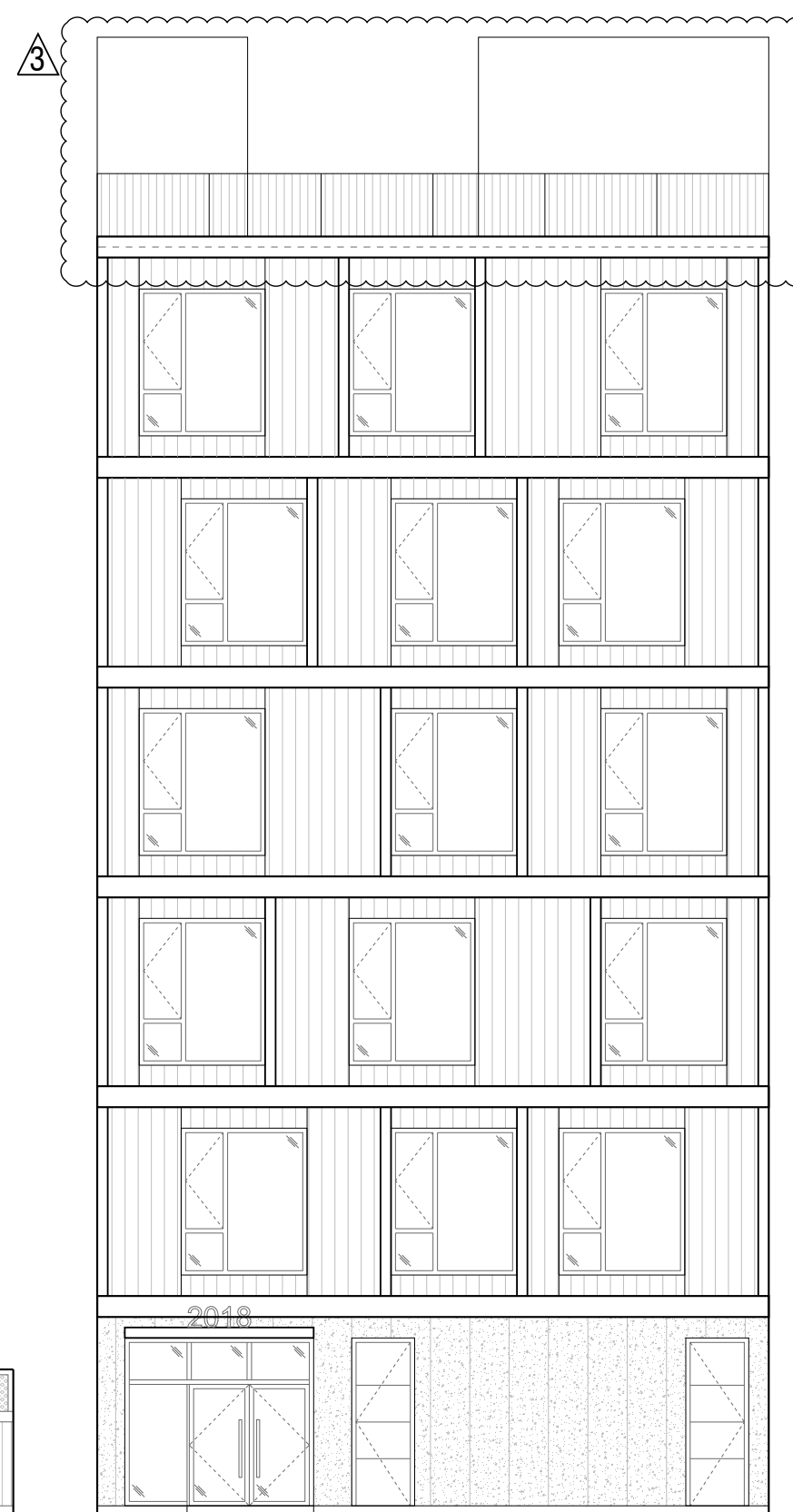
EXISTING STREET ELEVATION 1
SCALE: 1/8" = 1'-0"



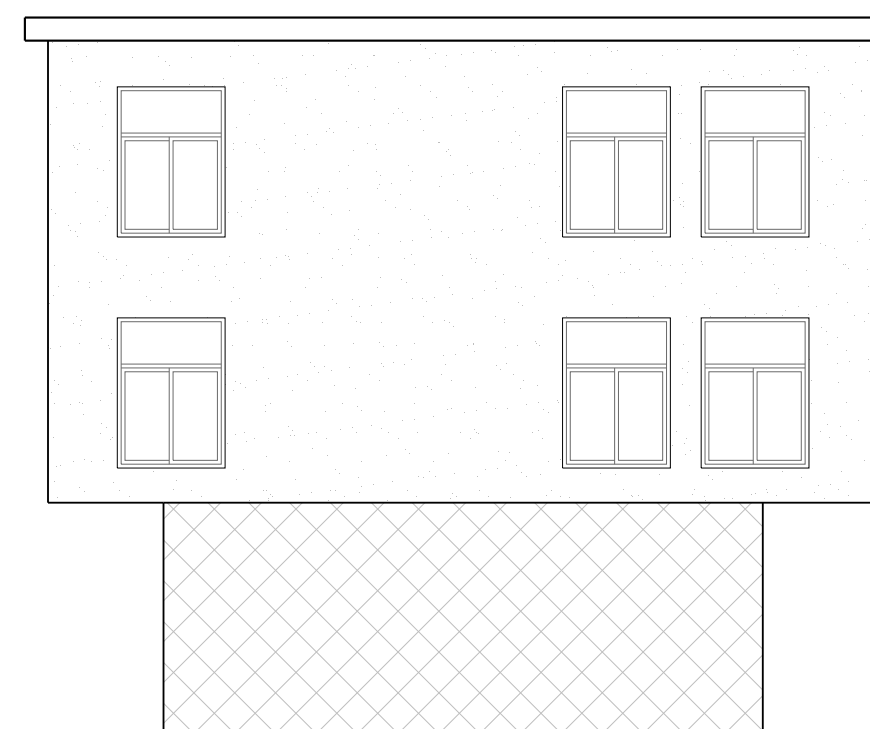
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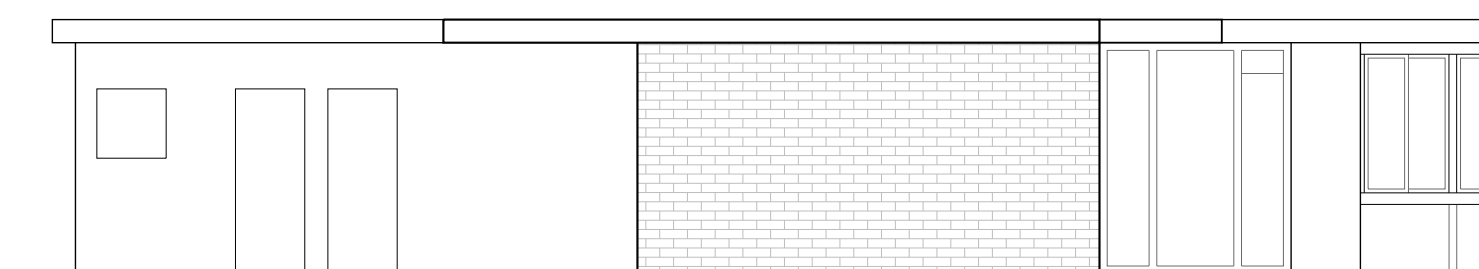
2020 BLAKE STREET



2018 BLAKE STREET

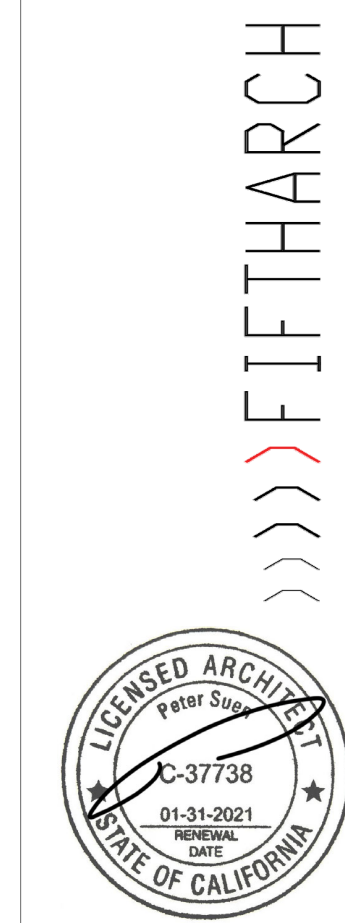


2016 BLAKE STREET



2006 BLAKE STREET

PROPOSED STREET ELEVATION 1
SCALE: 1/8" = 1'-0"

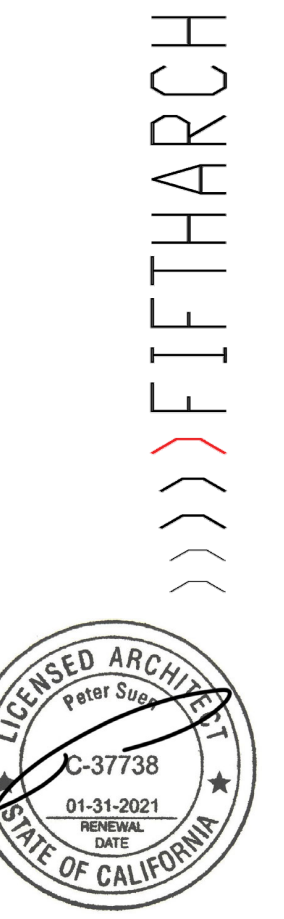


PROJECT
2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

ISSUES & REVISIONS	NO.	DATE	DESCRIPTION
	A	04/28/2021	PLANNING APPROVAL SUBMITTAL
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STREET ELEVATION
DATE: 1/15/2022
SCALE: AS NOTED
DRAWING BY: YZ
CHECKED BY: PS

A3.3



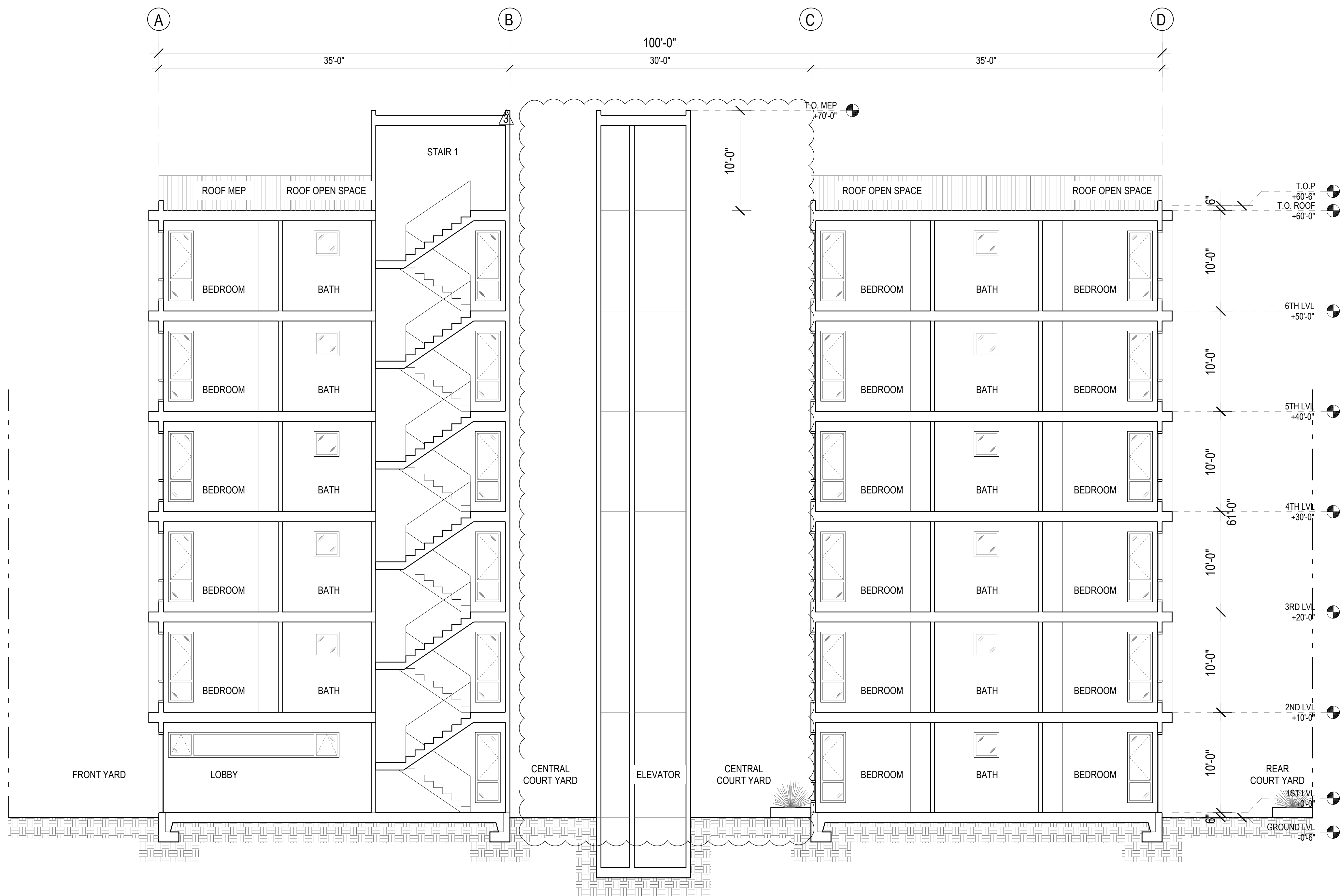
PROJECT
2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

ISSUES & REVISIONS	
NO.	DESCRIPTION
1	PLANNING APPROVAL SUBMITTAL
2	PLANNING APPROVAL 1ST COMMENTS
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4	PLANNING APPROVAL 3RD COMMENTS

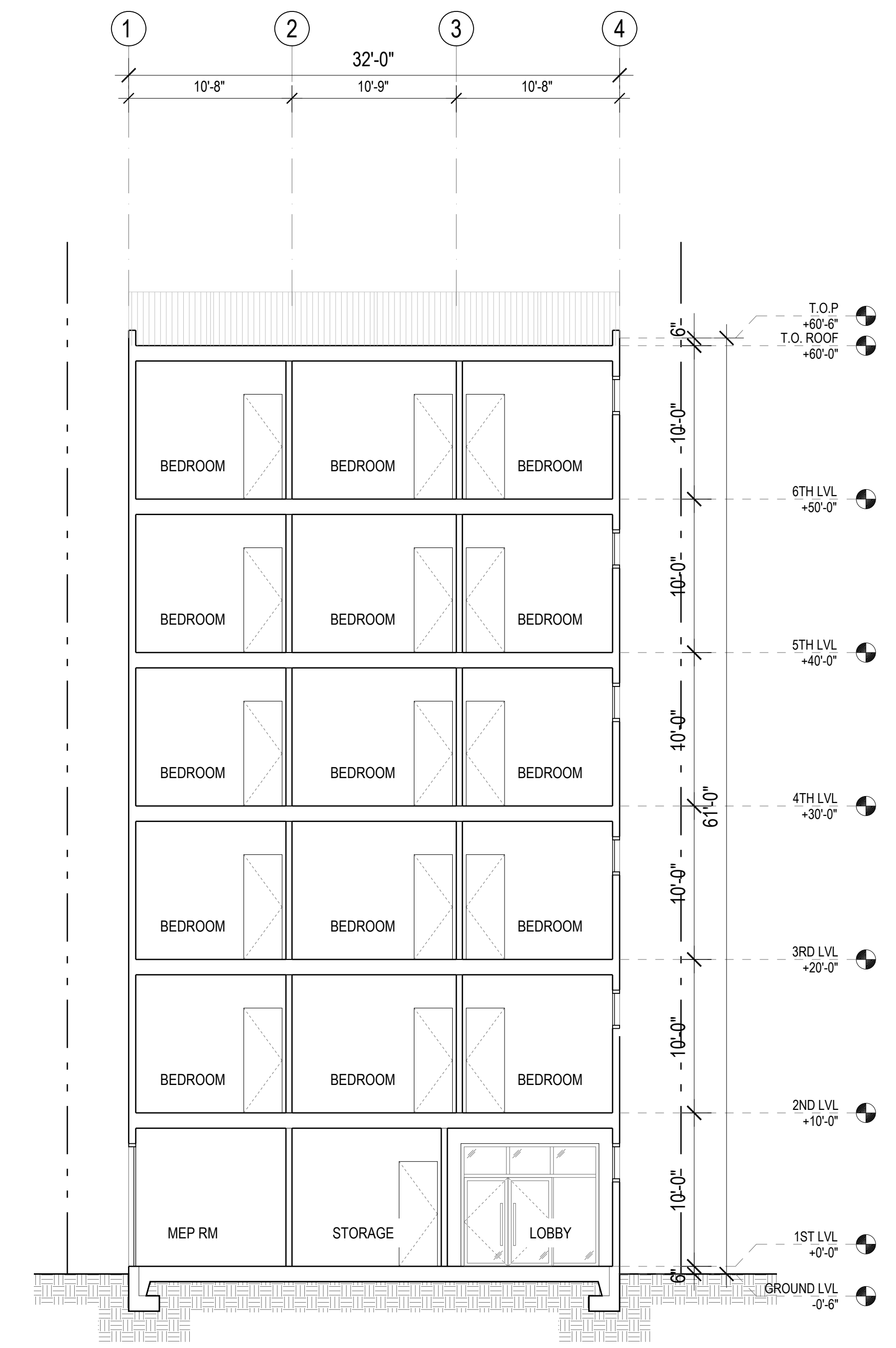
BUILDING SECTIONS

DATE: 11/15/2022
SCALE: AS NOTED
DRAWING BY: YZ
CHECKED BY: PS

A4.1



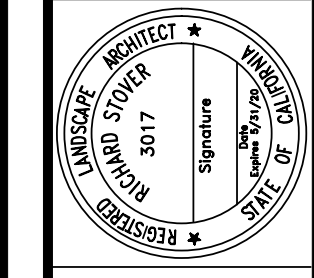
PROPOSED LONG SECTION
SCALE: 1/8" = 1'-0" **2**



PROPOSED SHORT SECTION
SCALE: 1/8" = 1'-0" **1**

REVISIONS	

RW Stover & Associates, Inc.
Landscape Architecture
1620 North Main Street, Suite 4
Walnut Creek, CA 94596
Ph: 925.937.2383

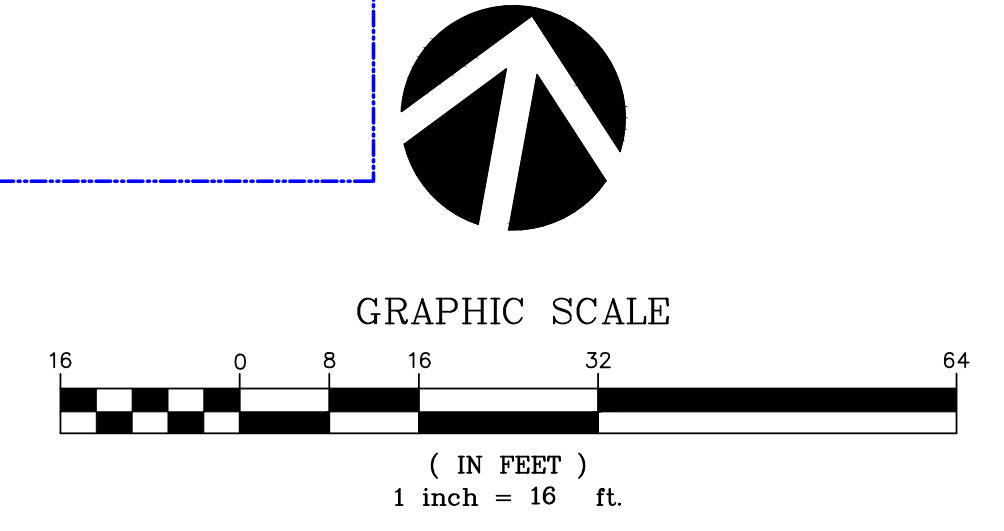
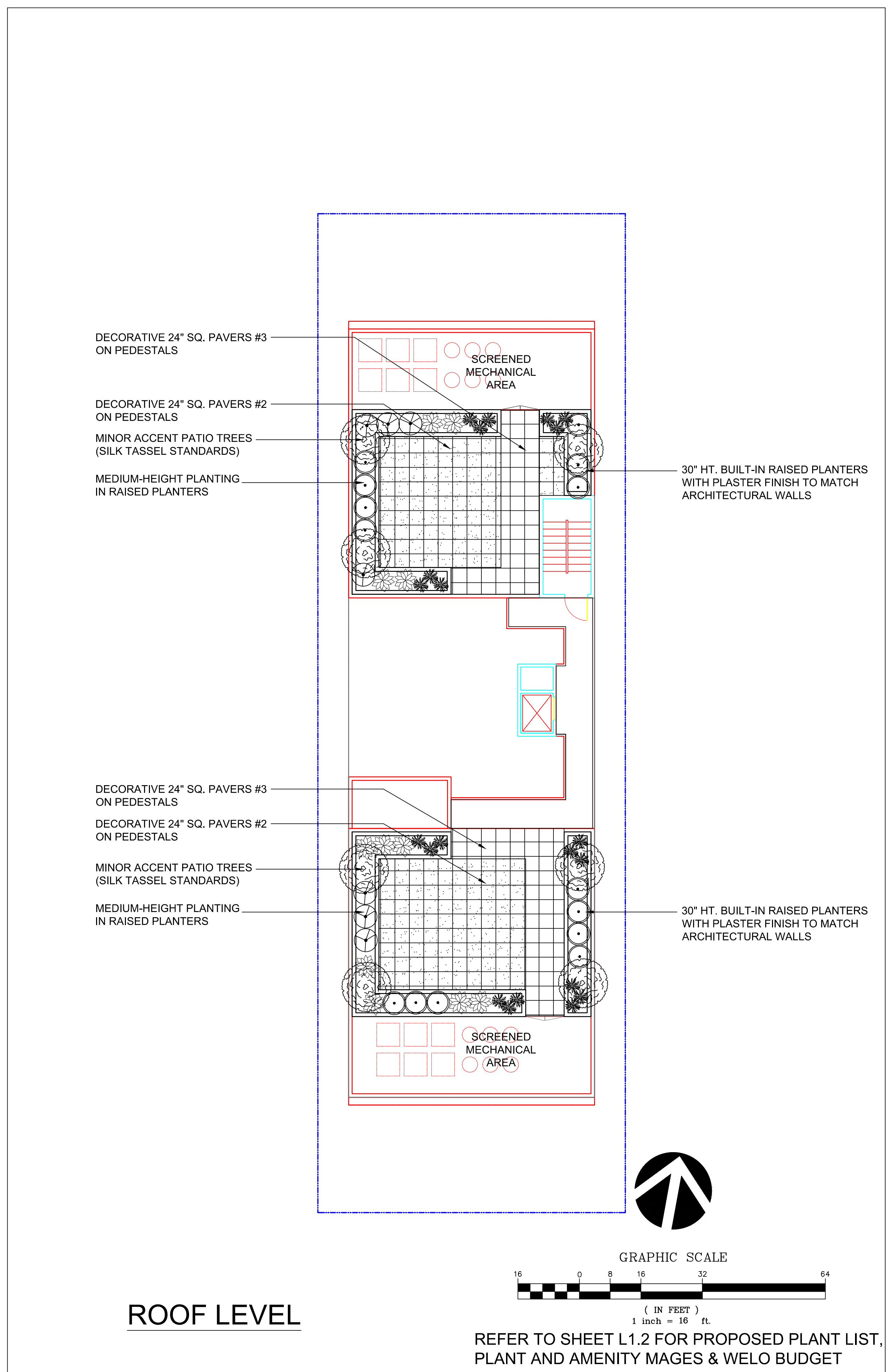
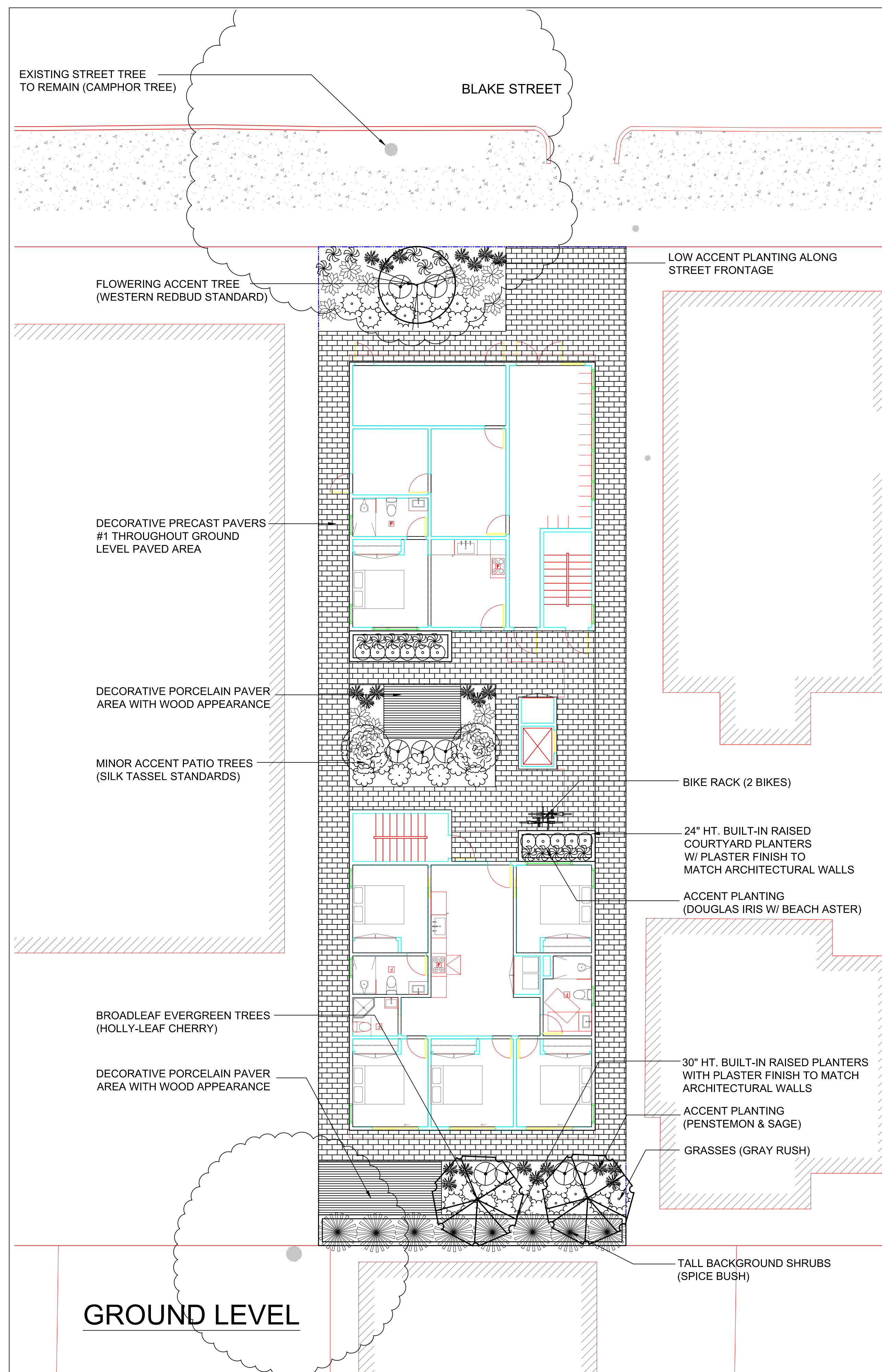


2018 BLAKE STREET
BERKELEY, CALIFORNIA

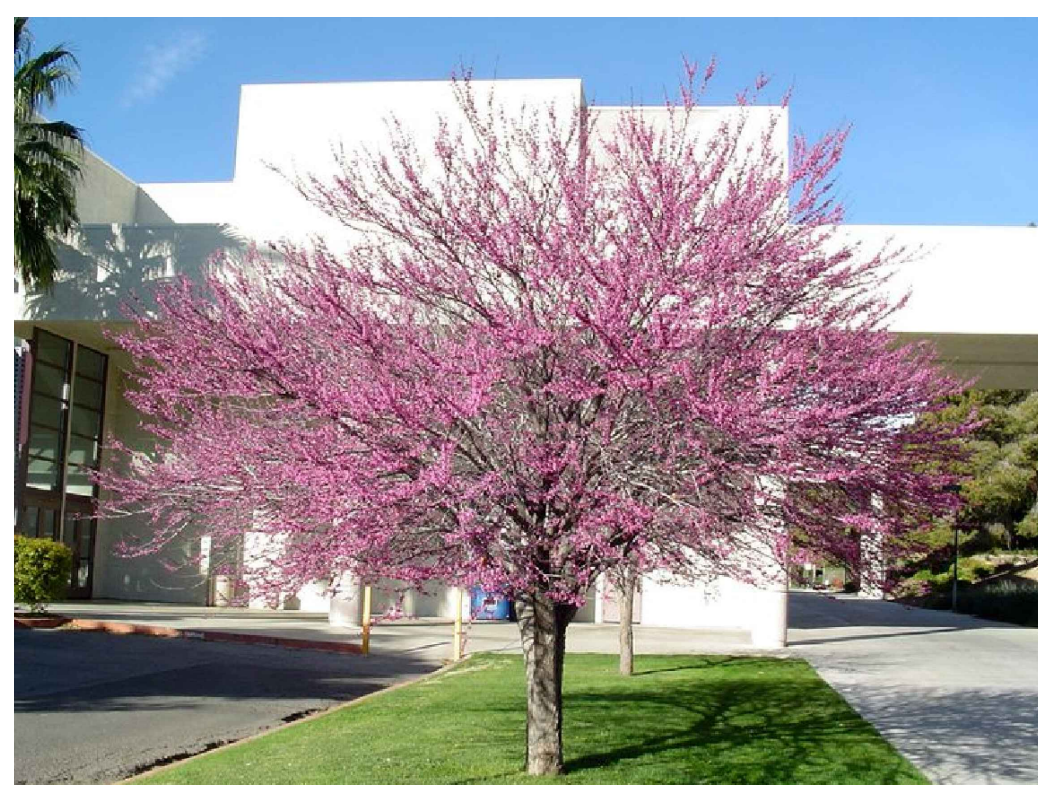
PRELIMINARY
LANDSCAPE PLANS

DESIGNED: RS	DRAWN: RS
CHECKED:	JOB NO.:
DATE: 11-29-21	
SCALE: NOTED	

SHEET
L1.1
OF SHEETS



REFER TO SHEET L1.2 FOR PROPOSED PLANT LIST, PLANT AND AMENITY MAGES & WELO BUDGET



CERCIS OCCIDENTALIS (STANDARD FORM)
WESTERN REDBUD



GARRYA ELLIPTICA (STANDARD FORM)
SILKTASSEL



PRUNUS ILICIFOLIA (STANDARD FORM)
HOLLY-LEAF CHERRY

PROPOSED PLANT MATERIAL LIST (ALL BUILDING LEVELS):

BOTANICAL NAME	COMMON NAME	QUANTITY	SIZE	WUCOLS WATER USE	NATIVE
TREES:					
CERCIS OCCIDENTALIS (LOW-BRANCH)	WESTERN REDBUD	1	24" BOX	LOW	YES
GARRYA ELLIPTICA (STANDARD)	SILKTASSEL	9	24" BOX	LOW	YES
PRUNUS ILICIFOLIA (STANDARD)	HOLLY-LEAF CHERRY	2	24" BOX	LOW	YES
SHRUBS:					
CALYCANTHUS OCCIDENTALIS	SPICE BUSH	8	5 GA	LOW	YES
ERIOGONUM ARBORESCENS	BUCKWHEAT	25	5 GA	LOW	YES
SALVIA CLEVE. 'WINNIFRED GILLMAN'	CALIFORNIA BLUE SAGE	16	5 GA	LOW	YES
TEUCRIUM 'COMPACTA'	DWARF GERMANDER	14	5 GA	LOW	NO
PERENNIALS / GRASSES:					
ERIGERON GLAUCUS	BEACH ASTER	11	1 GA	LOW	YES
IRIS DOUGLASII	PACIFIC COAST IRIS	11	1 GA	LOW	YES
JUNCUS PATENS	CALIFORNIA GRAY RUSH	18	1 GA	LOW	YES
LOMANDRA LONGIFOLIA 'BREEZE'	DWARF MAT RUSH	7	5 GA	LOW	NO
PENSTEMON SPECTABILIS	BEARD TONGUE	43	1 GA	LOW	YES

POLLINATOR PLANTS NOTE: 75% OF PLANT PALETTE IS NATIVE POLLINATOR SPECIES (114 OF 153 SPECIMENS)

WATER EFFICIENT LANDSCAPE WORKSHEET - BY HYDROZONE

REFERENCE EVAPOTRANSPIRATION (ET₀): 41.8

HYDROZONE #	HYDROZONE / (PLANT WATER USE)	PLANT TYPE	PLANT FACTOR (PF)	IRRIGATION METHOD	IRRIGATION EFFICIENCY (IE)	ETAF (PF / IE)	LANDSCAPE AREA (sq. ft.)	ETAF x AREA	ESTIMATED TOTAL WATER USE (ETWU)	% OF TOTAL LANDSCAPE AREA
REGULAR LANDSCAPE AREA:										
1	LOW WATER USE	SHRUBS	0.3	DRIP	0.81	0.37037037	1218	451.1111111	11891.0	92%
2	LOW WATER USE	TREES	0.3	BUBBLER	0.81	0.37037037	108	40	1036.6	8%
							TOTALS:	1326	491	100%
SPECIAL LANDSCAPE AREAS:										
	REC. AREA					1		0	0	
	POOL					1		0	0	
	WATER FEATURE 2					1		0	0	
							TOTALS:	0	0	
									ETWU TOTAL:	12,728
									MAXIMUM ALLOWED WATER ALLOWANCE (MAWA):	15,464
ETAF CALCULATIONS:										
REGULAR LANDSCAPE AREAS:										
							TOTAL ETAF x AREA	491		
							TOTAL LANDSCAPE AREA	1,326		
							AVERAGE ETAF	0.37		
ALL LANDSCAPE AREAS:										
							TOTAL ETAF x AREA	491		
							TOTAL LANDSCAPE AREA	1,326		
							SITEWIDE ETAF	0.37		

NOTE: AVERAGE ETAF FOR REGULAR LANDSCAPE AREAS MUST BE 0.55 OR BELOW FOR RESIDENTIAL AREAS, AND 0.45 OR BELOW FOR NON-RESIDENTIAL AREAS.



BIKE RACKS
COLUMBIA CASCADE LOOP RACK
WITH GALVANIZED FINISH



1 GROUND LEVEL PLAZA PLANK PAVERS
NICOLock PLANK PAVERS (6"x17")
COLORS: GRANITE CITY, RAVEN & PEWTER)



2 PORCELAIN PAVERS ON PEDESTALS (ROOF)
TILE TECH QUARTZITE SERIES
'QUARTZITE PEARL' 24" SQ.



3 PORCELAIN PAVERS ON PEDESTALS (ROOF)
TILE TECH QUARTZITE SERIES
'QUARTZITE LAGUNA' 24" SQ.

REVISIONS

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2018 BLAKE STREET
BERKELEY, CALIFORNIA

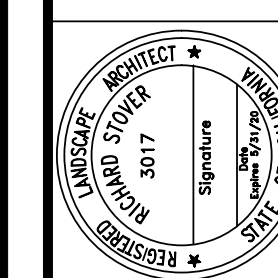
PLANT LIST,
IMAGES AND WELO

DESIGNED: RS	DRAWN: RS
CHECKED:	JOB NO.:
DATE: 11-29-21	
SCALE: NOTED	

SHEET
L1.2
OF SHEETS

NO.	REVISIONS

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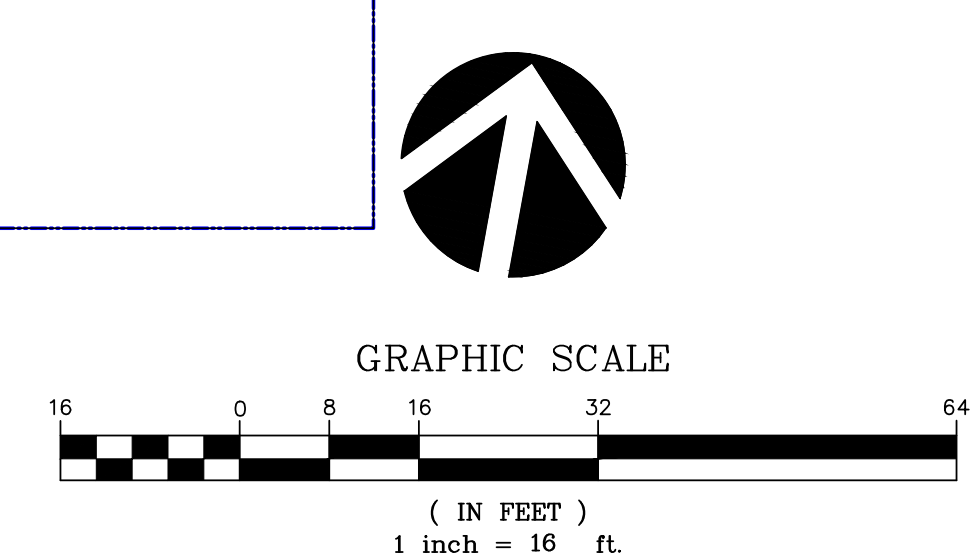
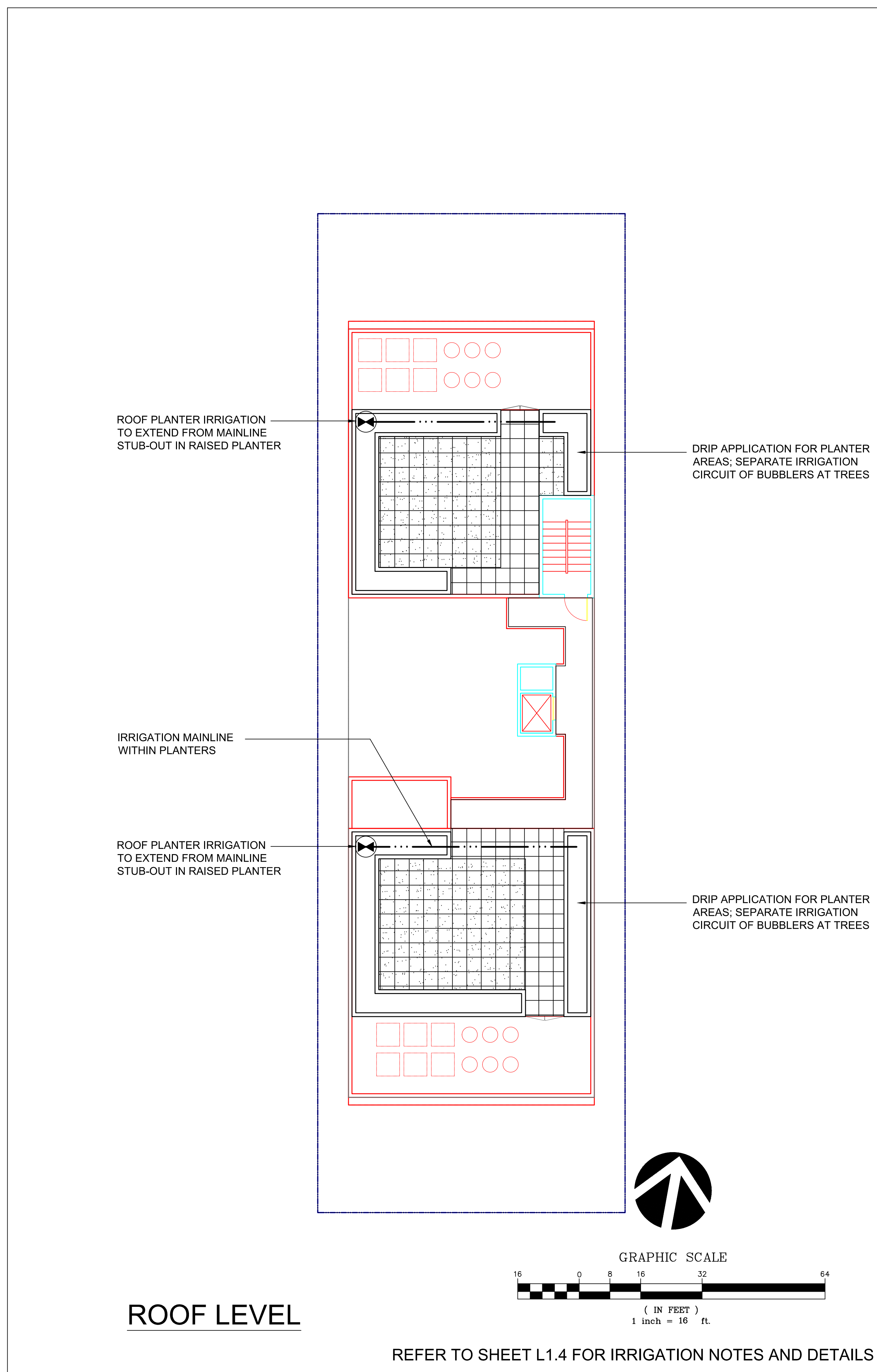
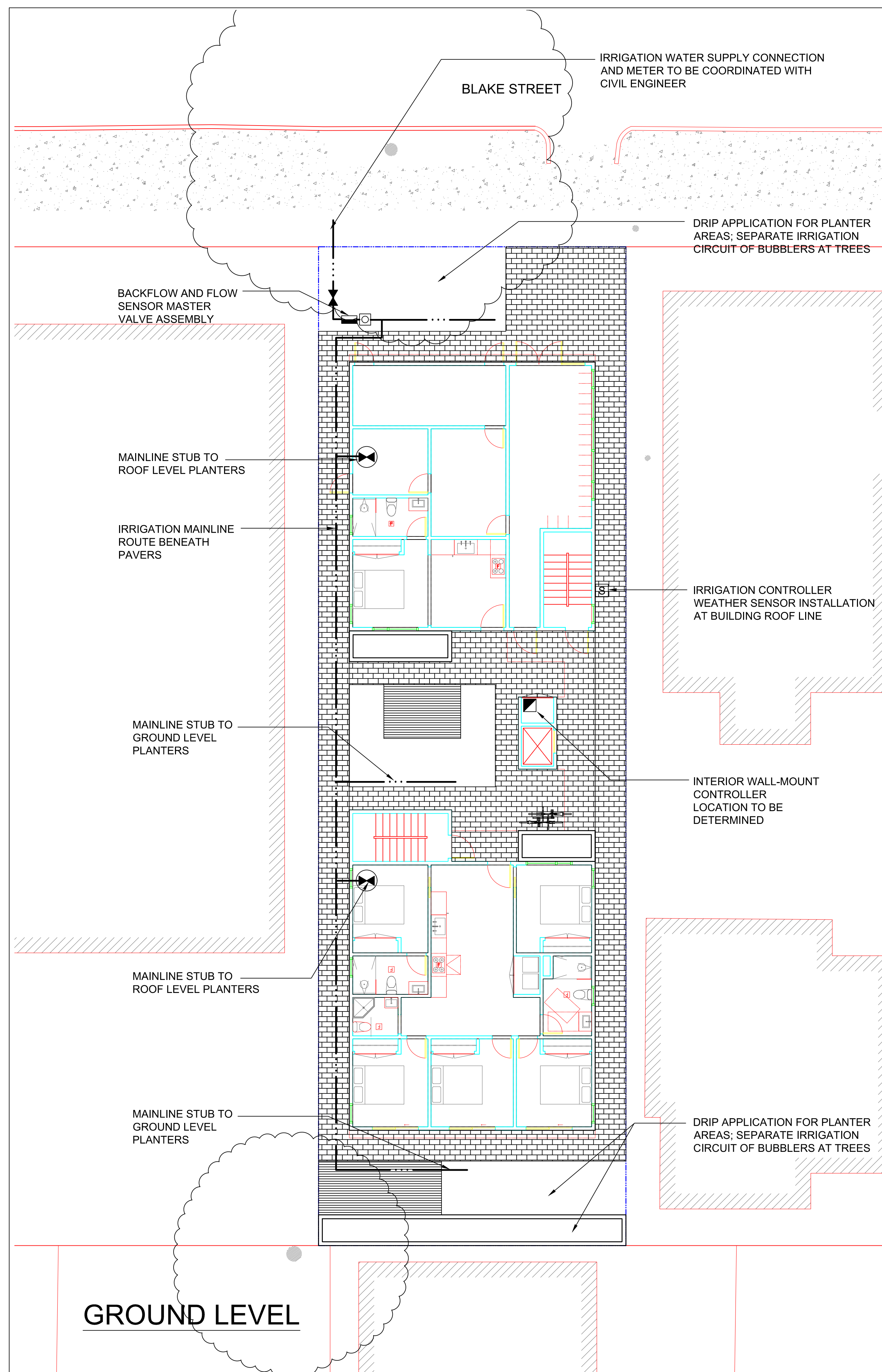


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BERKELEY, CALIFORNIA

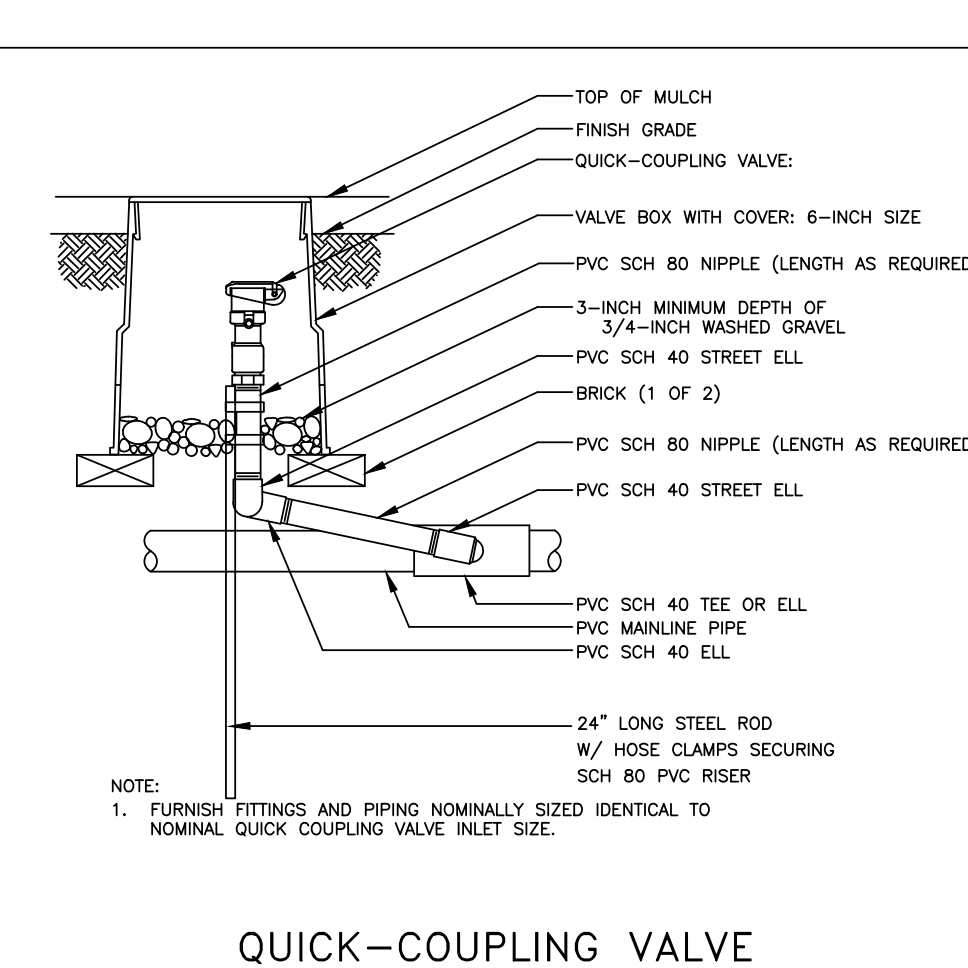
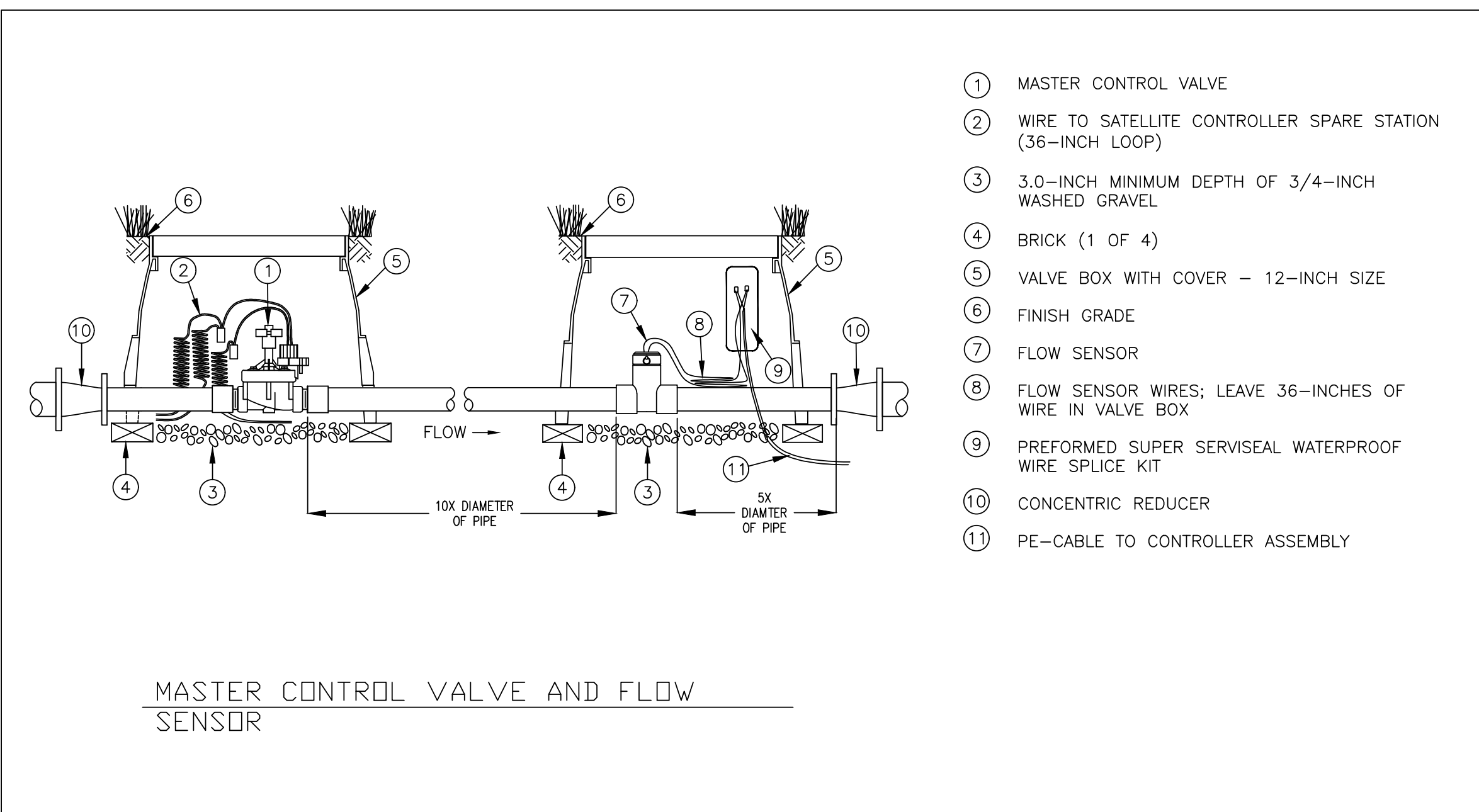
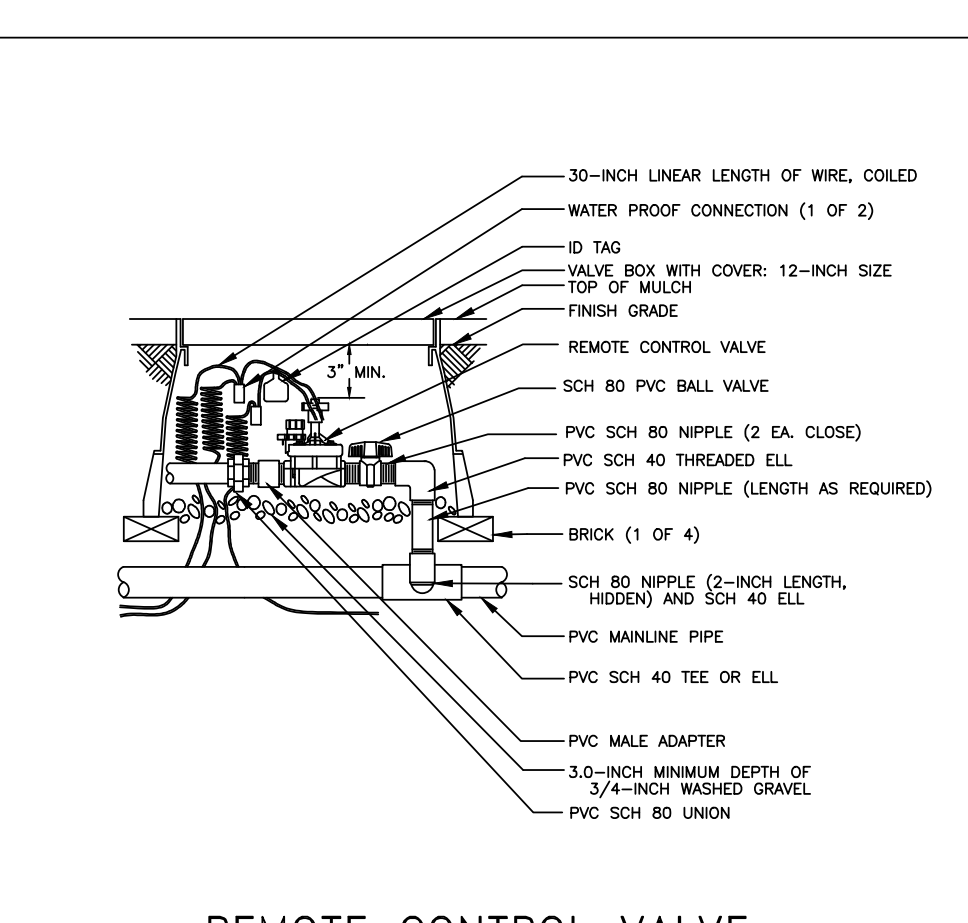
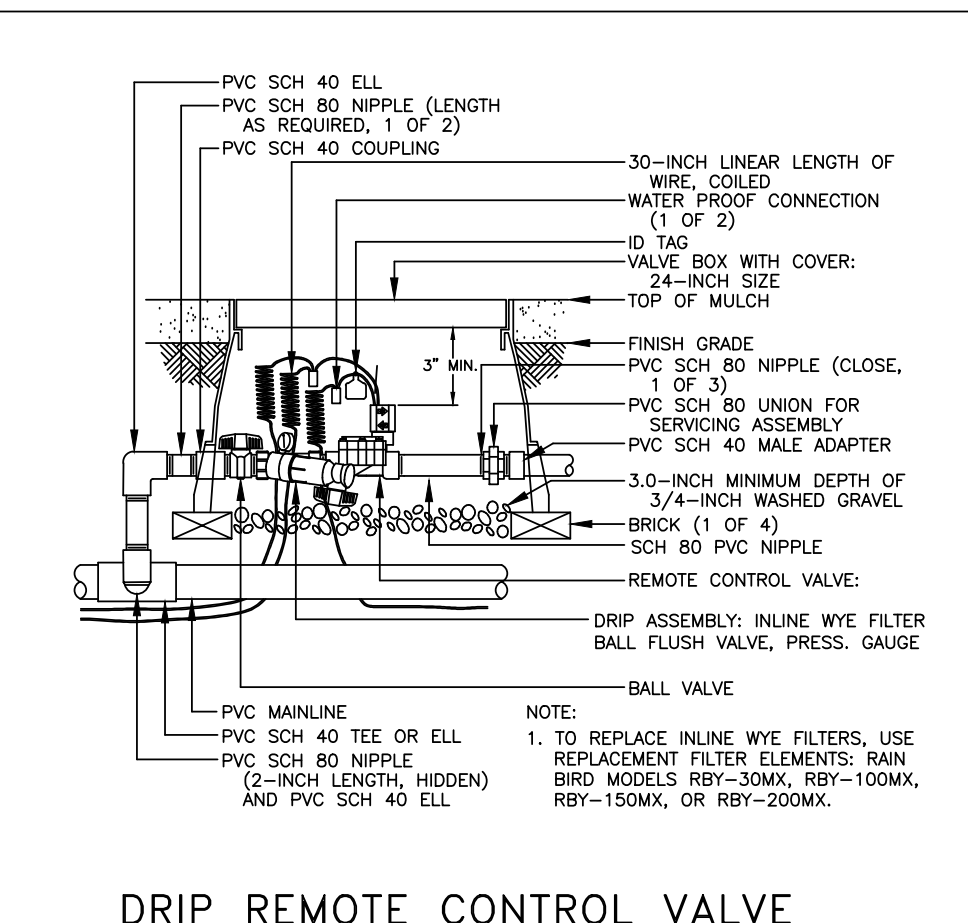
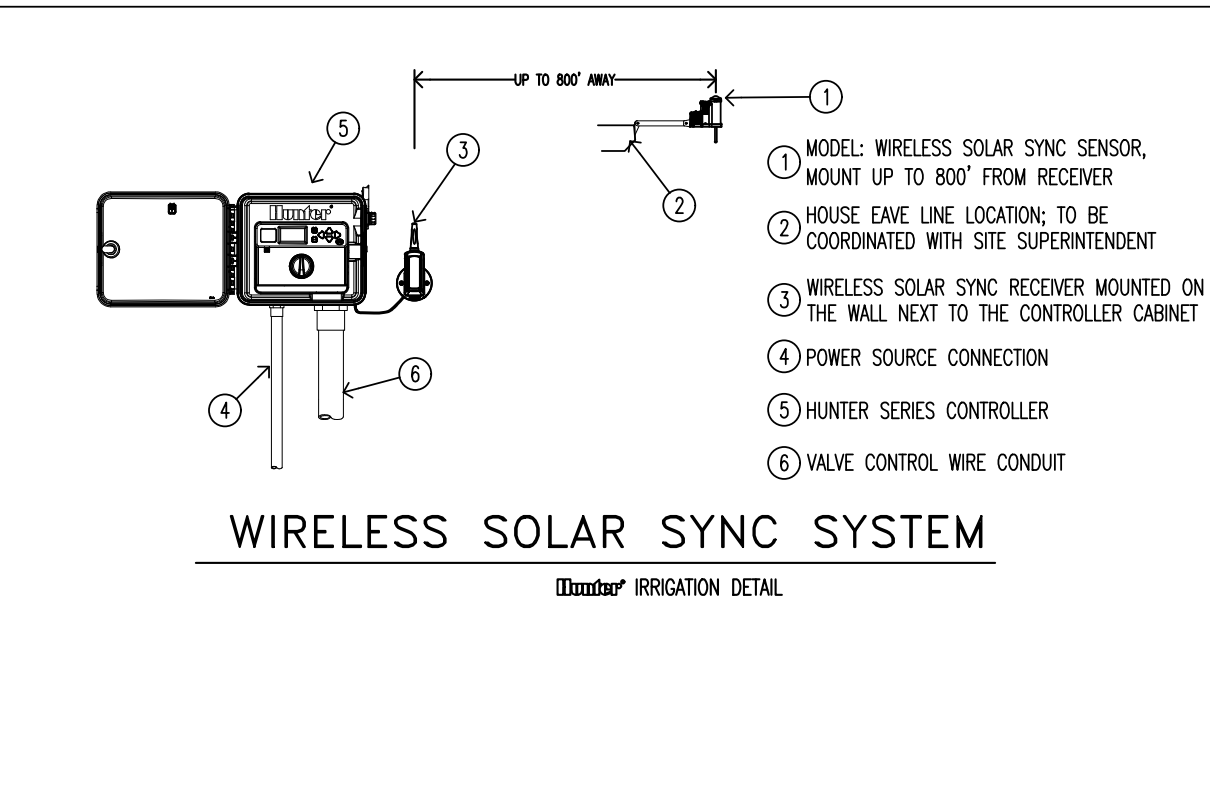
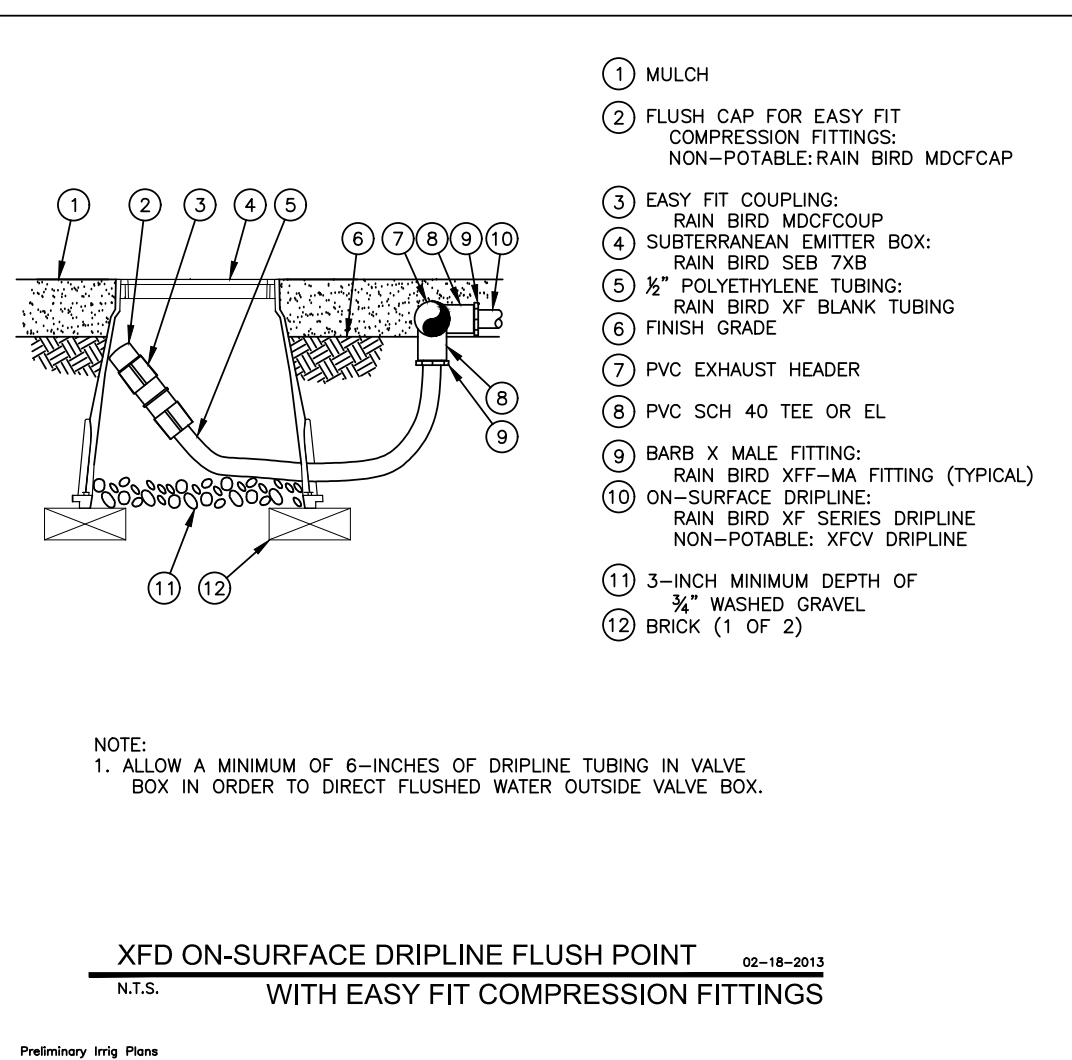
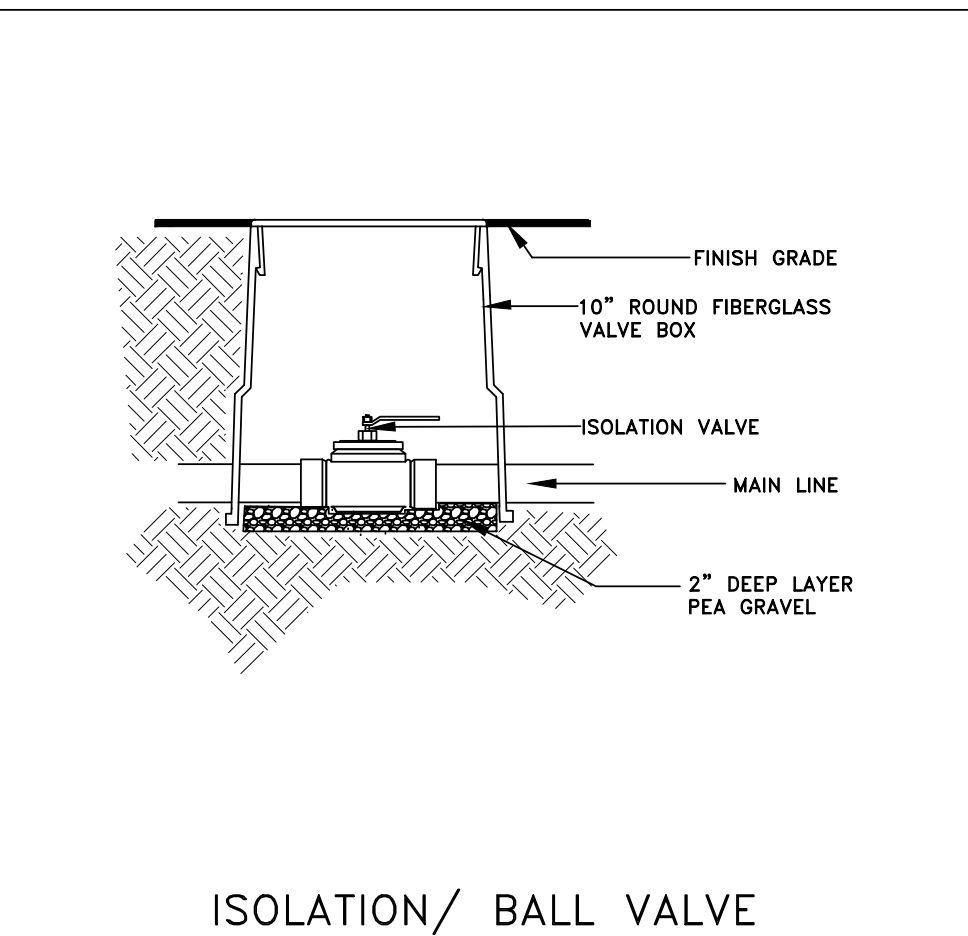
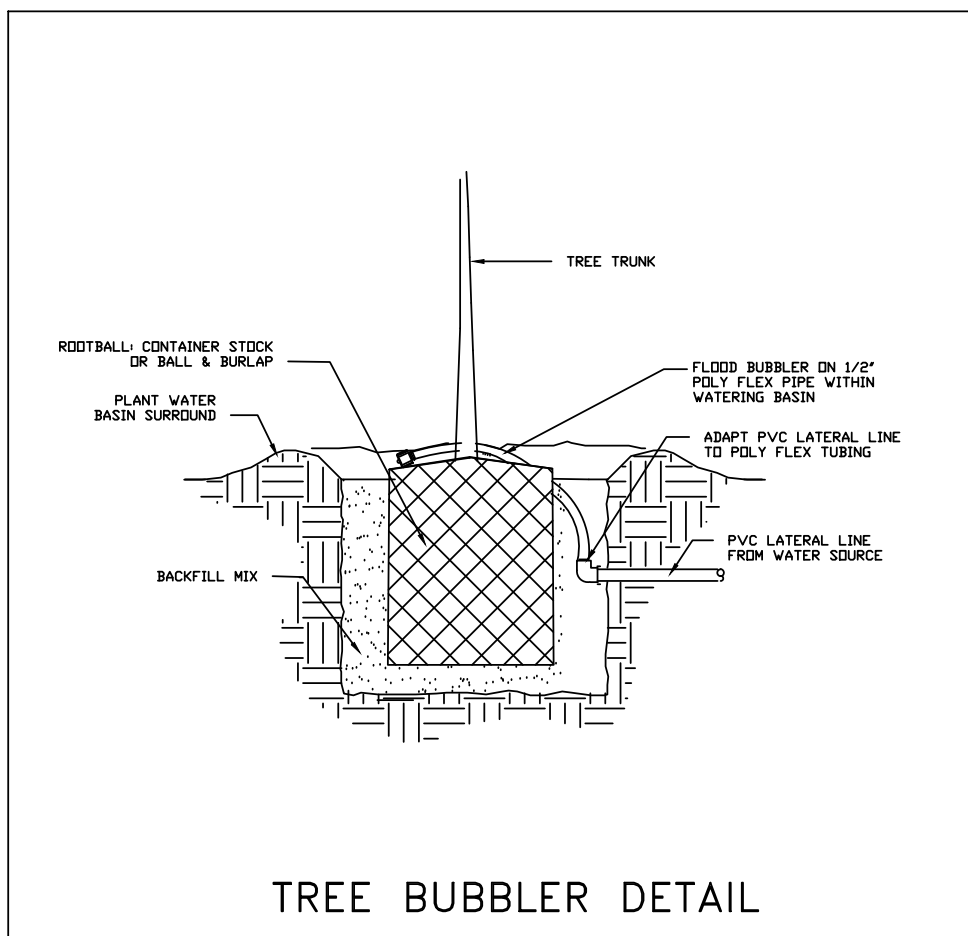
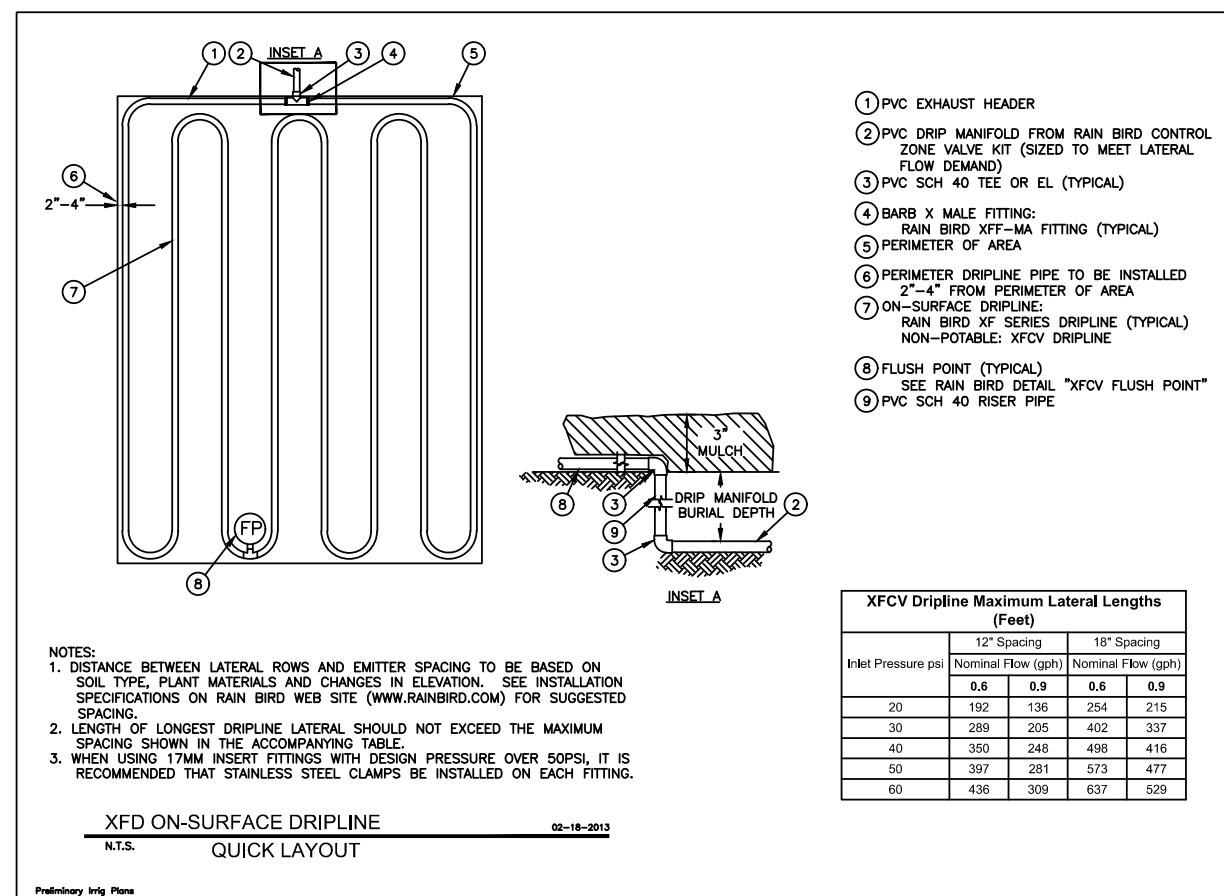
PRELIMINARY
IRRIGATION PLANS

DESIGNED: RS	DRAWN: RS
CHECKED:	JOB NO.:
DATE: 11-29-21	
SCALE: NOTED	

SHEET
L1.3
OF SHEETS



REFER TO SHEET L1.4 FOR IRRIGATION NOTES AND DETAILS



IRRIGATION NOTES:
GENERAL NOTES: DO NOT WILLFULLY INSTALL THE IRRIGATION SYSTEM AS SHOWN ON THE DRAWINGS WHEN IT IS OBVIOUS IN THE FIELD THAT OBSTRUCTIONS, GRADE DIFFERENCES OR DIFFERENCES IN AREA DIMENSIONS EXIST THAT MIGHT NOT HAVE BEEN CONSIDERED IN THE DESIGN OF THE SYSTEM. SUCH OBSTRUCTIONS OR DIFFERENCES SHOULD BE BROUGHT TO THE ATTENTION OF THE LANDSCAPE ARCHITECT. NOTIFY LANDSCAPE ARCHITECT OF ANY ASPECTS OF LAYOUT, WHICH WILL PROVIDE INCOMPLETE OR INSUFFICIENT WATER COVERAGE OF PLANT MATERIAL AND DO NOT PROCEED UNTIL THE INSTRUCTIONS ARE OBTAINED. IN THE EVENT THIS NOTIFICATION IS NOT PERFORMED, THE IRRIGATION CONTRACTOR SHALL ASSUME FULL RESPONSIBILITY FOR ANY REVISIONS NECESSARY. IT IS THE RESPONSIBILITY OF THE IRRIGATION CONTRACTOR TO FAMILIARIZE HIMSELF WITH ALL THE GRADE DIFFERENCES, LOCATION OF WALKS, RETAINING WALLS, ETC. PRIOR TO CONSTRUCTIONS. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO PROTECT IN PLACE (BY ALL MEANS NECESSARY) ALL EXISTING UTILITIES UNLESS OTHERWISE SPECIFIED ON THE PANS, CITY STANDARD DRAWINGS, SPECIFICATIONS, SPECIFIC NOTES & DETAIL DRAWINGS AND THE SOILS REPORT TAKE PRECEDENCE OVER GENERAL DRAWINGS AND PLANS UNLESS OTHERWISE DIRECTED. ANY DEVIATION FROM APPROVED PLANS DURING CONSTRUCTION WILL REQUIRE 48 HOURS PRIOR NOTICE TO THE LANDSCAPE ARCHITECT. AT LEAST ONE SET OF PLANS SHALL BE ON THE SITE AT ALL TIMES FOR INSPECTION. IRRIGATION CONTRACTOR SHALL COMPLY WITH ALL STATE, COUNTY AND CITY LAWS AND ORDINANCES, AND REGULATIONS OF THE DEPARTMENT OF INDUSTRIAL RELATIONS, O.S.H.A. AND INDUSTRIAL ACCIDENT COMMISSION RELATING TO THE SAFETY AND CHARACTER OF WORK, EQUIPMENT AND LABOR PERSONNEL. THE IRRIGATION CONSULTANT ASSUMES NO RESPONSIBILITY BEYOND THE ADEQUACY OF THE DESIGN CONTAINED HEREIN.

DRAWINGS: DUE TO THE SCALE OF DRAWINGS, IT IS NOT POSSIBLE TO INDICATE ALL OFFSETS, FITTINGS, SLEEVES, ETC., WHICH MAY BE REQUIRED. THE CONTRACTOR SHALL ALSO CAREFULLY INVESTIGATE THE STRUCTURAL AND FINISHED CONDITIONS AFFECTING ALL OF HIS WORK, PLAN HIS WORK ACCORDINGLY AND FURNISH SUCH FITTINGS, ETC. AS MAY BE NECESSARY TO MEET SUCH CONDITIONS. DRAWINGS ARE GENERALLY DIAGRAMMATIC AND INDICATIVE OF THE WORK TO BE INSTALLED. THE WORK SHALL BE INSTALLED IN SUCH A MANNER AS TO AVOID CONFLICTS BETWEEN IRRIGATION SYSTEM, PLANTING AND ARCHITECTURAL FEATURES. ALL PIPING, VALVES, ETC. SHOWN WITHIN PAVED AREAS ARE FOR DESIGN CLARIFICATION ONLY AND SHALL BE INSTALLED IN PLANTING AREAS WHERE POSSIBLE.

CONTROLLER: IRRIGATION CONTRACTOR IS TO PROGRAM TIMING OF STATIONS ON CONTROLLER TO IRRIGATE IN THE MOST EFFICIENT, WATER CONSERVING MANNER POSSIBLE. IT IS THE RESPONSIBILITY OF THE LANDSCAPE MAINTENANCE CONTRACTOR AND/OR THE OWNER TO PROGRAM THE IRRIGATION CONTROLLERS TO PROVIDE THE MINIMUM AMOUNT OF WATER NEEDED TO SUSTAIN PROPER PLANT HEALTH. THIS INCLUDES MAKING ADJUSTMENTS TO THE PROGRAM FOR SEASONAL WEATHER CHANGES, PLANT MATERIAL NEEDS, WATER REQUIREMENTS, CHANGES IN ELEVATION, SUN, SHADE AND WIND EXPOSURES. CONTRACTOR SHALL ASSUME RESPONSIBILITY FOR ANY DAMAGE, EROSION, PUDDLING, ETC. DUE TO IMPROPER PROGRAMMING. ELECTRICAL CONTRACTOR TO SUPPLY 120-VOLT A.C. (2.5 AMP) SERVICE & DISCONNECT, JUNCTION BOX AND CONDUIT, AS NECESSARY, TO CONTROLLER LOCATION. IRRIGATION CONTRACTOR TO MAKE FINAL CONNECTION FROM ELECTRICAL STUB-OUT TO CONTROLLER. INSTALL NEW 5-VOLT DURABLE BATTERY(S) IN EACH CONTROLLER (IF REQUIRED) TO RETAIN PROGRAM IN MEMORY DURING TEMPORARY POWER FAILURES. CONTROLLER SHALL HAVE GROUND WIRE AS PER MANUFACTURER'S INSTRUCTIONS.

VALVES: BACKFLOW DEVICE, ISOLATION AND CONTROL VALVE LOCATIONS SHOWN ARE DIAGRAMMATIC. INSTALL IN GROUND COVER / SHRUB AREAS AT THE EDGES OF THE PLANTING AREAS SO AS TO NOT INTERFERE WITH PLANT HOLE EXCAVATION. INSTALL VALVE BOXES 12 INCHES FROM AND PERPENDICULAR TO WALKS, CURBS, ETC. AND EACH BOX SHALL BE 12 INCHES APART. THE SHORT SIDE OF VALVE BOX SHALL BE PARALLEL TO WALK, CURB, ETC. INSTALL (1) VALVE PER RECTANGULAR BOX IN LINE WITH THE LENGTH OF THE BOX. LOCATE QUICK COUPLING VALVES 2 INCHES FROM HARDSCAPE AREA.

WIRING: CONTROL WIRES SHALL BE ULL APPROVED FOR DIRECT BURIAL IN GROUND, COPPER SIZE #14-1. COMMON GROUND WIRE SHALL HAVE WHITE INSULATION JACKET. CONTROL WIRE SHALL HAVE INSULATION JACKET OF COLOR OTHER THAN WHITE. SPLICING SHALL BE DONE WITH 3M #3570 SCOTCHLOK SEAL CAPS. SPLICING OF 24-VOLT WIRES WILL NOT BE PERMITTED EXCEPT IN VALVE BOXES. LEAVE A 24 INCH COIL OF EXCEL WIRE AT EACH SPLICE AND AT 100 FEET ON CENTER ALONG WIRE RUN. TAPE WIRE IN BUNDLES AT 10 FEET ON CENTER. NO TAPING PERMITTED IN SLEEVES. INSTALL A CONTROL WIRE FOR EACH EXTRA STATION LEFT ON THE CONTROLLER AND A SPARE CONTROL WIRE OF A DIFFERENT COLOR ALONG THE ENTIRE MAIN LINE. LOOP 24 INCHES OF EXCESS WIRE INTO EACH SINGLE VALVE BOX AND INTO ONE VALVE BOX IN EACH GROUP OF VALVES.

ON-GRADE DRIP LINE SYSTEM: ALL DRIP LINE TO BE SET ON GRADE IN PARALLEL ROWS AS REQUIRED TO PROVIDE COMPLETE COVERAGE OF GROUND COVER AREAS AS WELL AS SHRUB PLANTING. EMITTERS PROVIDE 0.90 GALLONS PER HOUR FLOW (APPROXIMATELY 1.0 GALLON PER 100 LINEAR FEET OF DRIP LINE). DESIGN LIMITS RECOMMEND NOT EXCEEDING 200 FEET OF TUBING FOR ANY SINGLE LENGTH. STAKE TUBING TO GRADE WITH GALVANIZED TIE-DOWN STAKES AT 3 FT. (MAX.) SPACING. PROVIDE XF DRIPLINE INSERT FITTINGS FOR ALL CONNECTIONS. PROVIDE REMOVABLE THREADED END CAPS AT THE TERMINUS OF EACH DRIP LINE LENGTH FOR EASY FLUSHING OF SYSTEM.

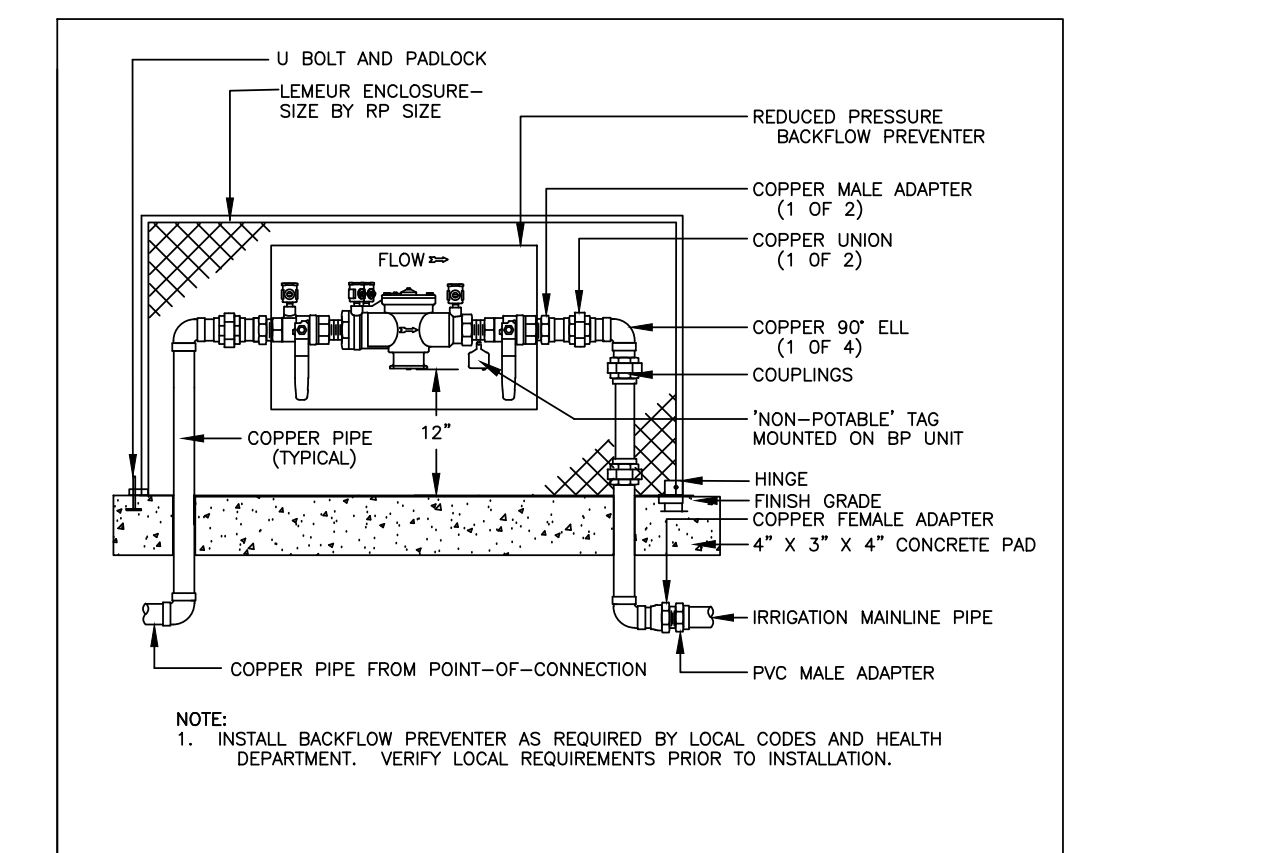
PIPING/TRENCHING: INSTALL MAIN LINE PIPING WITH CONCRETE THRUST BLOCKS AS PER MANUFACTURER'S RECOMMENDATION. MAIN AND LATERAL LINES SHALL BE SURROUNDING WITH A MINIMUM OF 2" OF SAND OR ROCK FREE SOIL. PIPE SEALANT COMPOUND SHALL BE RECTOR SEAL T-2, PERIMATEX 51 OR LASCO #903505. PRESSURE THE MAIN LINE @ 150 PSI FOR 2 HOURS AND THE LATERAL LINES @ 100 PSI FOR 2 HOURS, WHERE IT IS NECESSARY TO EXCAVATE ADJACENT TO EXISTING TREES, THE CONTRACTOR SHALL USE ALL POSSIBLE CARE TO AVOID INJURY TO TREES, AND TREE ROOT SYSTEMS. EXCAVATION IN AREA WHERE TWO (2) INCH AND LARGER ROOTS EXIST SHALL BE DONE BY HAND. CUT ROOTS ONE (1) INCH AND LARGER IN DIAMETER SHALL BE PAINTED WITH TWO COATS OF TREE SEAL, OR EQUAL. TRENCHES ADJACENT TO TREES SHOULD BE CLOSED WITHIN TWENTY-FOUR (24) HOURS; AND WHERE THIS IS NOT POSSIBLE, THE SIDE OF THE TRENCH ADJACENT TO THE TREE SHALL BE KEPT SHADED WITH WET BURLAP OR CANVAS.

SLEEVES: THE IRRIGATION CONTRACTOR SHALL COORDINATE WITH THE GENERAL CONTRACTOR AND OTHER SUBCONTRACTORS FOR THE LOCATION AND THE INSTALLATION OF SLEEVES, CONDUIT OR PIPE THROUGH WALLS, UNDER ROADWAYS, PAVING, STRUCTURES, ETC. PRIOR TO CONSTRUCTION. IN ADDITION TO THE SLEEVES AND CONDUITS SHOWN ON THE DRAWINGS, THE IRRIGATION CONTRACTOR SHALL BE RESPONSIBLE FOR THE COORDINATION AND/OR INSTALLATION OF SLEEVES AND CONDUITS OF SUFFICIENT SIZE UNDER ALL PAVED AREAS.

IRRIGATION SYSTEM: THE IRRIGATION SYSTEM IN CURRENTLY POTABLE. SET UP FOR POSSIBLE RETROFIT TO RECYCLED WATER SOURCE IN FUTURE. DESIGN IS BASED ON A MINIMUM OPERATING PRESSURE (PSI) AND A FLOW DEMAND (GPM) AS NOTED ON PLAN. THE IRRIGATION CONTRACTOR SHALL VERIFY WATER PRESSURE PRIOR TO CONSTRUCTION. REPORT ANY DIFFERENCE BETWEEN THE WATER PRESSURE INDICATED ON THE DRAWINGS AND THE ACTUAL PRESSURE READING AT THE IRRIGATION POINT-OF CONNECTION TO THE LANDSCAPE ARCHITECT. FAILURE TO DO SO WILL RESULT IN THE CONTRACTOR BEING RESPONSIBLE FOR ANY NECESSARY CHANGES DUE TO THIS DIFFERENCE.

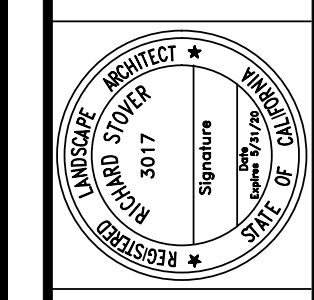
GUARANTEE: ALL CONSTRUCTION, PARTS AND PRODUCTS BY THE LANDSCAPE CONTRACTOR AND/OR HIS SUBCONTRACTORS SHALL BE GUARANTEED FOR ONE (1) FULL YEAR AFTER THE BEGINNING OF THE MAINTENANCE PERIOD. THE CONTRACTOR SHALL REPLACE (AT NO EXPENSE TO THE OWNER) ANY AND ALL IRRIGATION PRODUCTS THAT ARE IN AN UNACCEPTABLE CONDITION FOR THE TIME OF USE. REPLACEMENT OF ANY ITEMS SHALL MATCH ORIGINAL DESCRIPTION OF ITEMS) ON CONSTRUCTION PLANS AND SHALL BE INSTALLED PER SPECIFICATION. THE CONTRACTOR SHALL NOT BE HELD LIABLE FOR LOSS OF IRRIGATION PARTS OR PRODUCTS DUE TO VANDALISM, ACCIDENTAL CAUSES, OR ACTS OF NEGLIGENCE BY OTHERS THAN THE CONTRACTOR, HIS AGENTS OR EMPLOYEES.

DO NOT BID, ORDER MATERIALS OR INSTALL ANY OR ALL OF SYSTEM BEFORE READING THE IRRIGATION NOTES IN THEIR ENTIRETY. THE CONTRACTOR SHALL ASSUME FULL RESPONSIBILITY FOR ALL CHANGES, REVISIONS AND OR ADDITIONS TO SYSTEM DUE TO FAILURE TO DO SO.



REVISIONS

RW Stover & Associates, Inc.
Landscape Architecture
1620 North Main Street, Suite 4
Walnut Creek, CA 94596
PH: 925.931.2383



2018 BLAKE STREET
BERKELEY, CALIFORNIA

IRRIGATION NOTES & DETAILS

DESIGNED: RS	DRAWN: RS
CHECKED:	JOB NO:
DATE: 11-29-21	
SCALE: NOTED	

SHEET
L1.4
OF SHEETS

June 17, 2022

CITY OF BERKELEY - CITY CLERK
2022 JUN 21 PM 2:20

Mr. Mark Numainville, City Clerk
City Clerk Department
2180 Milvia Street, 1st Floor, Berkeley, CA 94704

Mr. Jordan Klein, Director of Planning and Development
City Planning and Development Department
1947 Center Street, 2nd Floor, Berkeley, CA 94704

Dear Sirs,

We strongly oppose the City of Berkeley's approval of 2018 Blake Street #ZP2021-0095, a 6-story multi-family, 12 unit residential building and are setting forth the grounds for appeal.

The home at 2018 Blake was a one-story single-family wood craftsman built in 1889. 2018 Blake included parking and was in keeping with the unique character and scale of its distinctive neighborhood.

The home at 2018 Blake was burnt down on September 8, 2021, under suspicious circumstances, leaving the property to be sold to a Los Angeles LLC developer Yuhui Li
Owner: 2018 Blake Street LLC, 2905 South Vermont Avenue, Ste 204, Los Angeles, CA 90007

Though the 'trend' for Blake Street has been increasing density, it has been on the north side (2029 and 2015 Blake). The development on the north side of Blake is inconsistent and incompatible with the scale, historic character, and surrounding uses in the south side of Blake Street. 2018 Blake is on the south side of Blake Street.

Adjacent parcels to the south of the proposed project are R-2A, Restricted Multi-Family Residential District and adjacent parcels on the south side of Blake and on Milvia Street are one- and two-story homes, although some are zoned R4.

Directly adjacent to 2018 Blake, the proposed 6-story building, is 2020 Blake, a one-story craftsman home almost identical to the original 1889 one-story craftsman that was destroyed.

The 6-story building would be taller than existing buildings on nearby properties on its block, which are generally one- and two-story residential development to the west and south, and one- and two-story residential and commercial development.

Berkeley city staff 'are aware of no specific adverse impacts that could occur with the construction of the Base Project or the density bonus units.' We, the undersigned, strongly disagree with the Berkeley city staff position and find the 2018 Blake project grossly incompatibility with one- and two-story dwellings adjacent to the site. We find the proposed 6-story tower to be detrimental and injurious to property and improvements of the adjacent properties, the surrounding area, neighborhood and to the general welfare of the City.

Shadow impact on adjacent dwellings to the west, east, and northeast will result from the new building, especially from the additional height above the district limits, which will cast shadows in the affected directions further than if the project were limited to the base district height standards.

We strongly disagree with the city's assumption that the proposed 6-story shadow impacts are difficult to avoid and are reasonable and non-detrimental next to our one and two story homes.

The proposed project is not architecturally sensitive, and not compatible with neighboring land uses, architectural design and scale on the south side of Blake Street and surrounding neighbors.

Building a 6-story tower next to our one and two-story homes will be detrimental to our health, safety, peace, morals, comfort and general welfare of the undersigned, the persons residing or working in the area or neighborhood of such proposed use.

With regard to Government Code Section 65915(e), we disagree with the assumption that approval of the 2018 Blake LLC Los Angeles developer's requested waivers to reduce the building's side and rear yard setback minimums and to exceed lot coverage would not have a specific adverse impact upon our public health and safety, physical environment, and real property. We disagree with the assumption of minimal impact on surrounding properties where we live. Besides the obvious - how a 6-story tower would adversely impact the immediate neighbors (cast shadows, block views, reduce quality of life), there are detrimental environmental, traffic, and noise consequences.

When concerned neighbors asked how they could stop the proposed 6-story tower, Senior Planner Sharon Gong responded that "neighbors within 300' of the site will

receive public hearing notices in the mail, and notices are posted in the neighborhood near the site. Anyone can speak at a public hearing, or submit letters to the Board prior to the hearing.”

Months later, some neighbors received blue public hearing notice cards; others attest to not receiving them. The email for the Zoning Adjustment Board (ZAB) on the notice cards was incorrect. Neighbors that were able to get in contact with ZAB were told that they would be directly provided with a zoom link for the hearing. They were not.

The few neighbors, who were able to find correct information in time to attend the meeting, were frustrated because they were not given any recourse to stop the 6-story tower. They were told that the decision was already made and it was irreversible.

The Planning and Development Department's mission is to enhance safety, livability and resilience in the built environment and to work with the community to promote and protect Berkeley's distinctive neighborhoods, vibrant commercial areas, unique character and natural resources for current and future generations.

As a member of the public, we are encouraged by the City's Land Use and Development Department to be involved in the planning and development process.

We were denied this right, as our 'involvement' was thwarted and limited to passive bystanders.

Our concern is both substantive and procedural; several of the neighbors within 300 feet are prepared to attest that they did not, in fact, receive notice of this proposed development and have been denied a meaningful opportunity to comment and participate in the decision-making process, despite being affected by the project. While we are aware that the failure of a given resident to receive notice does not affect the validity of the hearing, the breadth of the failure here – combined with the comments made at the hearing – raise the concern that the City did not, in fact, meaningfully comply with the permitting process.

We are aware of the need for more housing density (15332 'in-fill development projects' CEQA guideline exemptions) and also of our rights as citizens and residents of the city of Berkeley, including our right to receive accurate notices and meaningful participation in the process in the manner contemplated by the BMC.

Sincerely,

A handwritten signature in black ink, appearing to be a cursive name, possibly starting with 'John' or 'Jonathan', followed by a long horizontal stroke.

John DeDomenico, 2020 Blake Street
 Xiao Hong, 2020 Blake Street
 Rosario Manzilla, 2020 Blake Street
 Walter Manzilla, 2020 Blake Street
 Andrea Prichett, 2022 Blake Street
 Lenore Sheridan, 2022 Blake Street
 Rusty Bates, 2022 Blake Street
 Marie Loiose Phelps, 2006 Blake Street
 Marina Khamhaengwong, 2006 Blake Street
 Rosa Guevara, 2002 Blake Street
 Dario Guevara, 2002 Blake Street
 Max Ventura, 2022 Blake Street
 Greg Jan, 2022 Blake Street

Paul Larudee, 2022 Blake Street
 Guy Brenner, 2545 Milvia Street *Guy Brenner*

Susanna Tadlock, 2007 Parker Street
 Steve Edmunds, 2005A Parker Street

Chip Brimhall, 2539 Milvia Street
 Brent Mishler, 2003 Parker Street
 Pete Schorer, 2538 Milvia Street - *Peter Schorer*

Adirah Rodriguez, 2528 Milvia Street
 Ali Huetter, 2528 Milvia Street *Ali Huetter*

Avery Huetter, 2528 Milvia Street - *Avery*
 Jed Waldman, 2528 Milvia Street *Jed Waldman*

Eli Waldman, 2528 Milvia Street *Eli Waldman*
 Joe Spitzley, 1925 Parker Street

Kaaren Spitzley, 1925 Parker Street
 Ian Kelly, 1918 Parker Street

Karen Kelly, 1918 Parker Street
 Yael Kelly, 1918 Parker Street

Cornelia St John, 2005A Parker Street
 Maria St John 2005B, Parker Street

Lydia Adkins, 2005B Parker Street
 Yasuo Tanaka, 2550 Shattuck Street

Rowen Naidoo, 2022 Blake Street
 Jonathan Naidoo, 2022 Blake Street

Jahinder Malhatra, 2016 Blake Street
 Rob Singer, 2019 Blake Street

Chuck Smith, 2000 Blake Street
 Cindy Smith, 2000 Blake Street

Benny Kwong, 2568 Milvia St. *Benny Kwong*
 Cayce Clifford - 2035 Parker St Art A *Cayce Clifford*

Mary McDonald, 2011 Blake Street
Suchig Ls, 2023 Blake Street
Bruno Ruhland, 2025 Blake Street
Dan Chin, 2558 Shattuck Street
Bruce Valde, 2022 Blake Street
Shellie Wharton, 2022 Blake Street
Eugene Ruyle, 2022 Blake Street

h R HUFF,
2140 DWIGHT WAY
94704

MARK A. NAKAHARA
2020 PARKER ST 94704 Mark A. Nakahara

Raven Naidoo - 2020 Blake Street
Jonathan Naidoo - 2026 Blake Street

As a member of the public, we are encouraged by the City's Land Use and Development Department to be involved in the planning and development process.

Our concern is both substantive and procedural; several of the neighbors within 300 feet are prepared to attest that they did not, in fact, receive notice of this proposed development and have been denied a meaningful opportunity to comment and participate in the decision-making process, despite being affected by the project. While we are aware that the failure of a given resident to receive notice does not affect the validity of the hearing, the breadth of the failure here – combined with the comments made at the hearing – raise the concern that the City did not, in fact, meaningfully comply with the permitting process. If the ZAB intends to rely on a notice which gave demonstrably incorrect login information for the meeting, we want for that policy to be clearly articulated.

We are aware of the need for more housing density (15332 'in-fill development projects' CEQA guideline exemptions) and also of our rights as citizens and residents of the city of Berkeley, including our right to receive accurate notices in order that we might participate in the process in the manner contemplated by the BMC.

Sincerely,

John DeDomenico, 2020 Blake Street

2036 BLAKE ST., BERKELEY, CA 94704



Grassroots House 2022 Blake St, 94704 Russ Bates

John DeDomenico 2020 1/2 Blake St 94704

2020 1/2 Blake St 94704

Xiao, Hong

Sachin LS 2023 Blake St. 94704.

Satinder Malhotra 2016 Blake St 94704

Robert Singer 2019 Blake St 94704

Mary McDonald 2011 Blake St. 94704

DAW CHIN Auto 2558 SHATTUCK 94704

BRUNO RUTLAND 2025 BLAKE ST 94704

Greg Jan 2022 Blake St. 94704

Ely Amador 2594 Milvia St 94704

resources for current and future generations.

As a member of the public, we are encouraged by the city's land use and development department to be involved in the planning and development process.

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Sincerely,

John Dedomenico, 2020 Blake Street

Cornelia St John
2005 A Parker Street

Steve Edmunds
2005 A Parker St.

Marian St. John
2005 B Parker St.

Cybil Adams
2005 B Parker St.

June 18, 2022

We the owner of 2020 Beta street,
Berkeley, of the 2018 Beta
street project.

Ross W. Young

Walter Young

Cherlinga@lope
@gmail.com



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

FOR BOARD ACTION
MAY 26, 2022

2018 Blake Street

Use Permit #ZP2021-0095 to construct a six-story, multi-family residential building with 12 units (including two Low-Income units).

I. Background

A. Land Use Designations:

- General Plan: High Density Residential (HDR)
- Zoning: Multi-Family Residential (R-4)

B. Zoning Permits Required:

- Use Permit under Berkeley Municipal Code (BMC) Section 23.202.020(A) to construct a multifamily residential building
- Use Permit under BMC Section 23.202.110(E)(2) to construct a main building that exceeds 35 feet in average height and three stories, up to 65 feet and six stories
- Administrative Use Permit under BMC Section 23.304.050(A) to construct rooftop projections, such as mechanical appurtenances or architectural elements which exceed the maximum height limit for the districts

C. Concessions/ Waivers Pursuant to State Density Bonus Law:

- No concessions
- Waiver of BMC Section 23.202.110(E)(1) to reduce minimum side setback (above the 2nd floor) and rear yard setback (above the 3rd floor)
- Waiver of BMC Section 23.202.110(E)(2) to exceed lot coverage

D. CEQA Recommendation: It is staff's recommendation to ZAB that the project is categorically exempt pursuant to Section 15332 ("In-Fill Development Projects") of the CEQA Guidelines. The determination is made by ZAB.

The project meets all of the requirements of this exemption, as follows:

- The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
- The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.

- The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
- The project would not result in any significant effects relating to traffic, noise, air quality or water quality. Standard Conditions of Approval would address potential impacts related to traffic, noise, air quality, and water quality.
- The site can be adequately served by all required utilities and public services.

Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

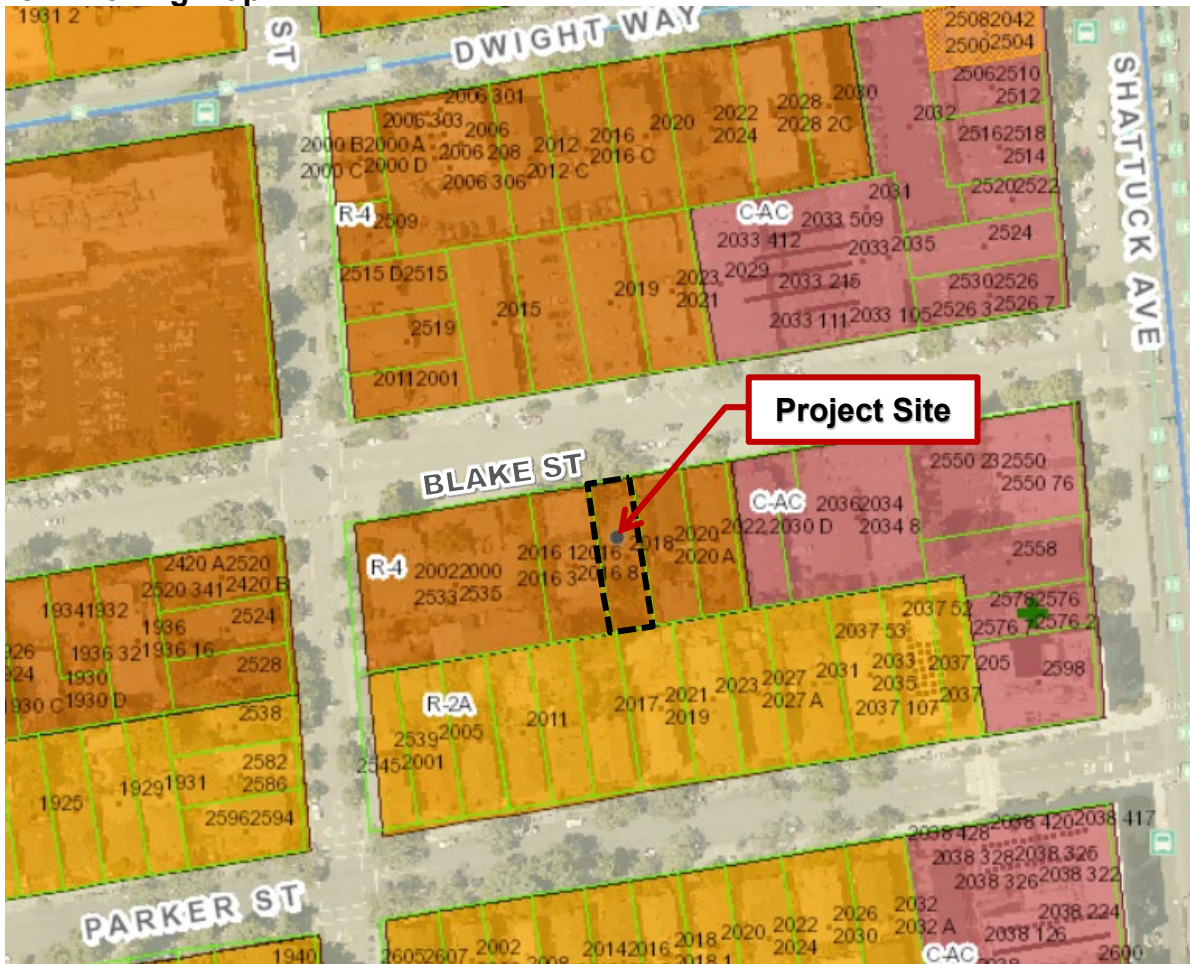
E. Parties Involved:

- Applicant Huan Fang, FIFTH ARCH, 200 Brannan Street, Apt 222, San Francisco CA 94107
- Property Owner 2018 Blake Street LLC, 2905 South Vermont Avenue, Ste 204, Los Angeles, CA 90007


F. Application Materials, Staff Reports and Correspondence are available on the Internet:

<https://aca.cityofberkeley.info/citizenaccess/Default.aspx>
<https://cityofberkeley.info/your-government/boards-commissions/zoning-adjustments-board>

Figure 1: Zoning Map



Legend

-  AC Transit Bus Route
- R-4: Multi-Family Residential District
- C-AC: Adeline Corridor Commercial District
- R-2A: Restricted Multi-Family Residential District

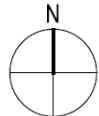


Figure 2: Site Plan

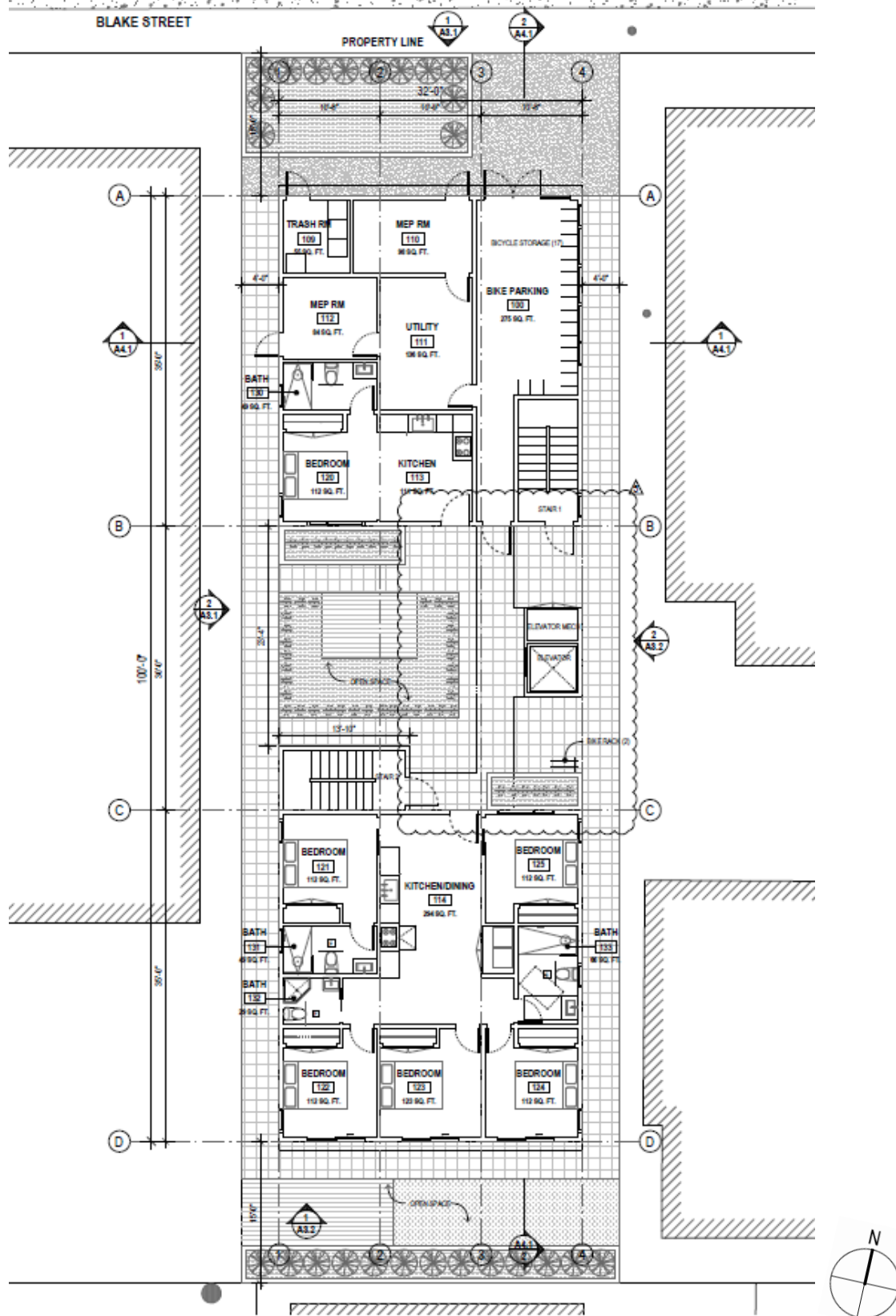


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Vacant (remnants of fire-damaged Single-Family dwelling)	R-4	HDR
Surrounding Adjacent Properties	North	Skylight Manufacturing		
	East	Multi-Family Residential		
	South	Single / Multi-Family Residential	R-2A	MDR
	West	Multi-Family Residential	R-4	HDR

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee & Affordable Housing Fee for qualifying non-residential projects (Per Resolutions 66,618-N.S. & 66,617-N.S.)	No	These fees apply to projects with more than 7,500 square feet of net new non-residential gross floor area. The project contains no non-residential gross floor area. Therefore, the project would not be subject to these fees.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)		
Affordable Housing Mitigations for rental housing projects (Per BMC Section 22.20.065)	Yes	The project would include five or more market rate dwelling units and is therefore subject to the affordable housing provisions of BMC Section 22.20.065.
Coast Live Oaks	No	There are no oak trees on the project site.
Creeks	No	The project site is not within a creek buffer.
Density Bonus	Yes	The project would provide two Low-Income units, or 25% of the Base Project units, and qualifies for a 50% density bonus, or 4 bonus units. See Section III.B for discussion.
Green Building Score	No	The project is not located in the C-DMU, Downtown Mixed-Use District, and is not subject to this requirement.
Historic Resources	No	The project site is vacant (contains remnants of fire-damaged, demolished single-family dwelling), and does not contain any known historic resource.

Characteristic	Applies to Project?	Explanation
Housing Accountability Act (Govt. Code 65589.5(j))	Yes	The project is a “housing development project” and requests no modifications to development standards beyond waivers and concessions requested under density bonus law. Therefore, the HAA findings apply to this project, and the project cannot be denied at the density proposed unless the findings for denial can be made. See Section III.C for discussion.
Public Art on Private Projects (BMC Chapter 23.316)	Yes	The project is subject to the Percentage for Public Art on Private Projects Ordinance. The applicant is electing to pay the fee (0.8% of total building permit valuation) to comply.
Rent Controlled Units	No	No rent-controlled units are proposed to be demolished.
Residential Preferred Parking	No	The site is located in RPP Zone C. However, per BMC Section 14.72.080.C, no permits shall be issued to residents in the project.
Seismic Hazards (SHMA)	No	The project site is not located in a seismic hazard area, as defined by the State Seismic Hazards Mapping Act (SHMA). No further investigation is necessary.
Soil/Groundwater Contamination	No	The project site is not located within the City’s Environmental Management Area. No further investigation is necessary. Standard Conditions of Approval related to hazardous materials would apply.
Transit	Yes	The project site is served by multiple bus lines (local, rapid, and Transbay) that operate along Shattuck Avenue, and is approximately ½-mile from the Downtown Berkeley BART Station.

Table 3: Project Chronology

Date	Action
June 3, 2021	Application submitted
March 16, 2022	Application deemed complete; level of CEQA review determined by staff – Categorically Exempt
May 11, 2022	Public hearing notices mailed/posted
May 26, 2022	ZAB Hearing
July 25, 2022	CEQA Determination Deadline

Table 4: Development Standards

R-4 Standards, BMC Section 23.202.110(E)(1) to (2)		Existing	Proposed	Permitted/Required
Lot Area (sq. ft.)		5,189	5,189	n/a
Gross Floor Area (sq. ft.)		n/a ¹	13,427	n/a
Dwelling Units		n/a	12	n/a
Building Height	Average	n/a	64'-6" (top of railing)	35' max. (65' with Use Permit) ²
	Maximum	n/a	64'-6" (top of railing)	n/a
	Stories	n/a	6	3 max. (6 with Use Permit) ²
Building Setbacks	Front	n/a	15'	15' min.
	Rear (by floor, 1 through 6)	n/a	15'/15'/15'/15'/ 15'/15'	15' /15'/15'/17'/19'/21' min.
	Left Side (by floor, 1 through 6)	n/a	4'/4'/4'/4'/4'/4'	4'/4'/6'/8'/10'/12' min.
	Right Side (by floor, 1 through 6)	n/a	4'/4'/4'/4'/4'/4'	4'/4'/6'/8'/10'/12' min.
Lot Coverage (%)		n/a	49	35
Usable Open Space (sq. ft.)		n/a	2,430	2,400 min. (200 s.f./d.u.)
Parking		n/a	0	0 min./6 max. (0.5 spaces/du max.)
Bicycle Parking	Residential - Long Term	n/a	17	17 (1 space/3 bedrooms)
	Residential - Short Term	n/a	1	1 (1 space/40 bedrooms, or 2)
	Total	n/a	17/1 (long term/short term)	17/1 (long term/short term)
<p>■ = Waiver requested to modify the district standard.</p> <p>¹ The site is considered vacant, and contains remnants of the previously existing single-family dwelling that was damaged by fire and that was demolished in 2020 after the City deemed the building unsafe.</p> <p>² The use permit to allow height up to 65 feet and six stories is included in the Base Project for the calculation of the density bonus, and is not a requested waiver.</p>				

II. Project Setting

- A. Neighborhood/Area Description:** The project site is located on the south side of Blake Street. Adjacent parcels to the north are occupied by one-story commercial/industrial buildings; parcels to the west, immediately east (R-4 Multi-Family Residential District) and to the south (R-2A, Restricted Multi-Family Residential District) are occupied by one- and two-story, single- and multi-family dwellings. Parcels beyond the R-4 district, further east of the site are occupied by one- and two-story commercial buildings (C-AC, Adeline Corridor Commercial District).¹ The parcel across the street and to the northeast at 2029 Blake Street (C-AC) is occupied by a recently-constructed, five-story, 82-unit, mixed-use building. Use permits for other large projects were approved within the past two years on the same block: a six-story, 113-unit, community care facility for seniors at 2000 Dwight Way, and a seven-story, 155-unit, multi-family building at 2015 Blake. (See Figure 1: Zoning Map.)
- B. Site Conditions/Background:** The project site is a rectangular parcel that is generally flat, with a frontage measuring 40 feet and length measuring 140 feet. The site is occupied by the remnants of a single-family dwelling and accessory structure that were damaged by fire in 2019. A Notice of Violation was issued on April 15, 2020, wherein the City Building Official deemed the building unstable, unsafe, and an immediate threat to health and safety. Hazardous portions of the building were demolished in response to the Notice shortly after. The dwelling is considered fully demolished.²

III. Project Description

- A.** The proposed project would involve the construction of a residential building with the following main components:
- Six stories and 64 feet, 6 inches in height (measured to the top of railing)
 - 12 dwelling units – 1 one-bedroom, 5 four-bedroom and 6 five-bedroom
 - 51 bedrooms in total
 - Two Low-Income (LI) units
 - 2,433 square feet of usable open space – ground-floor landscape and patio areas and two roof decks
 - 17-space bike room and two outdoor bike racks

(See Figure 2: Site Plan.)

¹ Parcels west of the site now designated as C-AC, Adeline Corridor Commercial District, were rezoned in 2021 from previously R-4, Multi-Family Residential District.

² A full demolition of a building is defined in the BMC Section 23.502.020.D: “A building or enclosed structure shall be considered demolished for the purposes of this chapter when, within any continuous 12-month period, such building or enclosed structure is destroyed in whole or in part or is relocated from one lot to another. For purposes of this definition, destroyed in part means when 50 percent or more of the enclosing exterior walls and 50 percent or more of the roof are removed”.

B. Base Project and Density Bonus: By committing to provide two LI units, the project is eligible for a density bonus under Government Code Section 65915. Under the City’s density bonus procedures, the Base Project was calculated to have eight units as the maximum allowable density for the site.³ The Base Project has an average unit size of 983 square feet in a five-story building. Two LI units, or 25 percent of the Base Project, qualifies the project for a 50 percent density bonus or four bonus units. The resulting Proposed Project would be a six-story building with 12 units, with an average unit size of 1,053 square feet. (See Table 5: Density Bonus.)

Table 5: Density Bonus – CA Gov’t Code 65915

Base Project Units*	Qualifying Units	Percent Density Bonus	Number of Density Bonus Units*	Proposed Project Units
8	2 LI (25% of BP)	50%	4 (50%x8)	12

*Per Gov’t Code Section 65915(q), all unit calculations are rounded up to the nearest whole number.

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

- 1) The development would have a specific adverse impact⁴ on public health or safety unless disapproved, or approved at a lower density; and
- 2) There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

The Base Project, including the additional floors and rooftop elements allowed by use permits to extend the district height limit⁵ complies with applicable, objective general plan and zoning standards. Further, Section 65589.5(j)(3) provides that a request for a density bonus “shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an

³ Per the City’s Density Bonus Procedures (DBP), the Base Project is the largest project allowed on the site that is fully compliant with district development standards (i.e. height, setbacks, usable open space, parking, etc.), or, the *maximum allowable density* for the site. The City uses the DBP to calculate the maximum allowable density for a site where there is no density standard in the zoning district, and to determine the number of units in the Proposed Project, which is the number of Base Project units plus the number of density bonus units that can be added according to the percentage of BMR units proposed, per Government Code, Section 65915(f).

⁴ 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”.

⁵ The City has determined that the “protections afforded by the HAA and the definition of a base project for density bonus calculations apply to a housing development project up to and including the maximum development allowed with use permits and/or administrative use permits”. Therefore, use permits to extend the district height limit to 65’ and six stories and to allow rooftop elements to exceed height limits are included in the Base Project for the purpose of determining the applicability of Section 65589.5(j).

applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.” Therefore, the City may not deny the Base Project or density bonus request or reduced the density with respect to those units without basing its decision on the written findings under Section 65589.5(j), above. Staff is aware of no specific adverse impacts that could occur with the construction of the Base Project or the density bonus units. Therefore, Section 65589.5(j) *does apply* to the Proposed Project. All findings discussed below are subject to the requirements of Government Code Section 65589.5.

IV. Community Discussion

A. Neighbor/Community Concerns: After receiving the application on June 3, 2021, the City mailed a Notice of Received Application to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations.⁶

On June 23, 2021, staff received two letters from neighbors describing concerns over too much oversized development on the block; the building design exceeding the height limit; and the project’s incompatibility with one- and two-story dwellings adjacent to the site.

On September 20, 2021, staff received a letter from neighbors describing concerns that the project would exacerbate the shortage of street parking in the area, and concerns over air pollution from the construction of too many new buildings and the impact of more demand on water and electricity systems.

On May 11, 2022, the City mailed public hearing notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations, and the City posted notices within the neighborhood in three locations. No further communications regarding the project were received as of the writing of this staff report.

B. Landmarks Preservation Commission: This application is not subject to review by the Landmarks Preservation Commission.

C. Design Review Committee: This application is not subject to review by the Design Review Committee.

V. Issues and Analysis

A. SB 330 – Housing Crisis Act of 2019: The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating restrictions on housing development projects. A “housing development project” means

⁶ The Pre-Application Yellow Poster and Neighborhood Outreach components of the land use application submittal requirements were temporarily suspended at the time of the application submittal due to City emergency health orders. The suspension was lifted on July 1, 2021.

a use that is: all residential; mixed use with at least two-thirds of the square footage as residential; or transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

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

The May 26, 2022 ZAB Hearing represents the first public hearing for the proposed project since the project was deemed complete. The City can hold four additional public hearings on this project, if needed, provided that one hearing must be reserved for a potential appeal to the City Council.

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

The site is vacant, and there is no known cultural resource associated with the site. Therefore, it was determined that the site is not an historic resource. Standard conditions of approval have been included to halt work if any unanticipated discovery of archeological, paleontological, or tribal cultural resources.

3. Government Code Section 65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. The project was deemed complete on March 16, 2022. Staff also determined on this date that the level of CEQA review was to be "Categorically Exempt". If the ZAB determines the application is categorically exempt from CEQA at the May 26, 2022 public hearing, the application must be approved or disapproved by July 25, 2022.
4. Government Code Section 66300(d) prohibits the demolition of residential dwelling units unless the project will create at least as many residential units as will be demolished. The project does not propose the demolition of housing units, as the single-family dwelling that previously existed on the site was demolished after the City Building Official deemed the building unsafe and prior to the submittal of this permit application. Therefore, this section does not apply to the project.

B. Density Bonus Waivers and Concessions: The project is entitled to three concessions (or incentives), under Government Code Section 65915(d) for providing at least 24 percent of total units to lower-income households, and an unlimited number of waivers, under Section 65915(e). No concessions are requested.

Waiver. A waiver is a modification of a development standard that would otherwise physically preclude the construction of the project with the permitted density bonus and concessions. Waivers of the side and rear yard setbacks minimums and the lot coverage maximum are requested because they are necessary to physically accommodate the full density bonus project on the site.

The City may only deny the waivers if it finds that the waivers would have a specific adverse impact⁷ upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low income, very low income, and moderate income households, or if the waiver would be contrary to State or Federal law. Staff has not identified any evidence that would support such a finding.

VI. Other Considerations

The following analyses of conformance with district purposes, use permit findings for non-detriment, and the 2002 General Plan goals and policies are provided for informational purposes only, to provide context; they are not required because the proposed project is HAA-compliant.

A. Use Permits for Additional Height: BMC Section 23.406.040.E.1 states that before the ZAB approves an application for a Use Permit, it must find that the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

The project applicant proposes a 64-foot, 6-inch (maximum height), six-story building. Use Permits to exceed the height limit of 35 feet and three stories, up to 65 feet and six stories (the fourth through sixth floors), and for the rooftop elements to exceed the district height limits are included in the Base Project for the density bonus, and are subject to the findings in Section 65589.5(j) of the HAA. (See section III.C for discussion on the HAA.)

Non-Detriment: The six-story building would be taller than existing buildings on nearby properties on its block which are generally one- and two-story residential development to the west and south, and one- and two-story residential and commercial development

⁷ See Footnote 5.

to the east. If approved, however, the project would follow a trend of increasing density in the neighborhood, including the recently-constructed, five-story, mixed-use building at 2029 Blake Street, the approved six-story, community care facility for seniors at 2000 Dwight Way, and the approved seven-story, multi-family building at 2015 Blake. The proposed project would provide new housing in a location with easy access to public transit and nearby commercial services and stores, and would fulfill the purpose of the R-4 Multi-Family Residential District by providing high-density residential development with sufficient usable open space at a convenient location for desirable services.

Also, the project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.

Shadows: According to the shadow studies submitted for the project (See Attachment 1, Project Plans – Sheet A1.4) the project would cause new shadows to affect surrounding dwellings as follows:

- multi-family dwellings to the west of the site, during the hours after sunrise in the spring months and summer months
- the newly constructed mixed-use building to the northeast, during the hours before sunset in the winter months
- the single-family dwelling to the east of the site during the hours around noon in the winter months
- single- and multi-family dwellings to the east of the site, during the hours before sunset in the summer, winter and spring months

The use permits for additional height beyond the district height limits allow a 64-foot, 6-inch, six-story building. The additional height above the district limits would cast shadows in the affected directions further than if the project were limited to the base district height standards. However, the shadow impacts on any one adjacent property would occur during limited hours and times of the year. Furthermore, shadow impacts on adjacent dwellings are difficult to avoid given the lot widths, height and building-to-building separations permitted in the R-4 district. Staff therefore recommends that the ZAB find that shadow impacts would be non-detrimental.

B. General Plan Consistency: The following is an analysis of conformance with the 2002 General Plan goals and policies, provided for informational purposes only:

1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.

2. Policy LU-7–Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
3. Policy LU-23–Transit-Oriented Development: Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit service such as Downtown Berkeley.
4. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
5. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
6. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.
7. Policy UD-33–Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.
8. Policy H-19–Regional Housing Needs: Encourage housing production adequate to meet the housing production goals established by ABAG’s Regional Housing Needs Determination for Berkeley.
9. Policy EM-5–“Green” Buildings: Promote and encourage compliance with “green” building standards. (Also see Policies EM-8, EM-26, EM-35, EM-36, and UD-6.)

As discussed in section VI.A through VI.C, the project would improve the utilization of the site with infill development that is of appropriate intensity, that is compatible with the existing surrounding development. The project site is served by multiple bus lines, including local, rapid, and Transbay lines, that operate along Shattuck Avenue, and a nearby BART Station.

The project would help Berkeley meet its regional housing needs by adding 11 net new housing units, including two LI units. The project would be subject to standard conditions of approval that promote sustainable building design, including conditions for solar PV systems, water efficient landscaping, and natural gas prohibitions.

VI. Recommendation

Because of the project’s consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board **APPROVE** Use Permit #ZP2021-0095, pursuant to BMC Section 23.406.040 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received March 23, 2022
3. Notice of Public Hearing

Staff Planner: Sharon Gong, sgong@cityofberkeley.info, (510) 981-7429



Administrative Record

This attachment is on file and available for review upon request from the City Clerk Department, or can be accessed from the City Council Website.

City Clerk Department

2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

or from:

The City of Berkeley, City Council's Web site

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

ZAB APPEAL: 2018 BLAKE STREET, USE PERMIT #ZP2021-0095

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, OCTOBER 11, 2022 at 6:00 P.M.** a public hearing will be conducted to consider an appeal of the decision by the Zoning Adjustments Board to APPROVE Zoning Permit #ZP2021-0095 to **construct a six-story, multi-family residential building with 12 units (including two Low-Income units).**

The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **SEPTEMBER 29, 2022**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Sharon Gong, Project Planner, (510) 981-7429 or SGong@cityofberkeley.info. Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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

Mark Numainville, City Clerk

Mailed: **SEPTEMBER 27, 2022**

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available by request from the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.

