



Office of the City Manager

INFORMATION CALENDAR

January 25, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: LPO NOD: 2212 Fifth Street/#LMIN2021-0001

INTRODUCTION

The attached Notice of Decision to disapprove a City Landmark designation is submitted to the Mayor and City Council pursuant to Berkeley Municipal Code (BMC) Section 3.24.160, which states that “a copy of the Notice of Decision shall be filed with the City Clerk and the City Clerk shall present said copy to the City Council at its next regular meeting.”

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has denied a request to grant City Landmark or Structure of Merit status to the property at 2212 Fifth Street. This action is subject to a 15-day appeal period, which began on January 10, 2022.

BACKGROUND**Regulatory Procedures for City Council Certification of LPC decisions.**

BMC/LPO Section 3.24.190 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying Landmark, Structure of Merit or Historic District status. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by January 25, 2022. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must rule on the application within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

**LPC reviews and hearings for 2212 Fifth Street.**

Prior to taking final action to deny this Landmark application, the Commission was asked to consider the merits of the subject property and its potential historical significance on three separate occasions.

On June 3, 2021, Commissioner Finacom submitted materials to LPC that generally described the history and potential significance of the extant building and made a motion to formally initiate the property for Landmark or Structure of Merit (SOM) consideration. The initiation attempt failed when no other Commissioner seconded the motion.

On July 29, 2021, sixty (60) Berkeley residents signed and submitted a Landmark petition for this property along with a Landmark application prepared by Fran Cappelletti of Berkeley Architectural Heritage Association (BAHA). Pursuant to BMC Section 3.24.130, the requisite public hearing to consider the petition occurred on October 6, 2021. Substitute Commissioner Olson moved, and Commissioner Finacom seconded, an action to grant SOM status to the property upon recommendation from staff. The motion failed with a vote of 2-6-0-1 (Yes: Finacom, Olson; No: Adams, Enchill, Leuschner, Montgomery, Schwartz, Twu; Absent: Crandall). Those against the motion made the following statements prior to voting:

- Structure of Merit status would overstate the evident value of the building's design and significance.
- Rather than contributing to the neighborhood fabric and its surroundings, the extant structure is an anomaly within its built context.
- The building's design is far less compelling than the glassblock industrial buildings that are prominently featured in the immediate vicinity of the property.
- The Spear House at 1905 MLK Jr. Way has a primary association with the historical figure Charles Spear and, in part for this reason, was granted Landmark status in 2017; by comparison, the subject building has only a liminal association with Spear.

On November 3, 2021, the hearing continued and the Commission took final action to deny the Landmark application request upon finding the property lacking in the areas necessary to demonstrate historical significance (see Attachment 1, Findings for Denial). Vote to disapprove the designation request: 7-1-1-0 (Yes: Adams, Crandall, Johnson, Leuschner, Schwartz, Thagard, Twu; No: Finacom; Abstain: Enchill; Absent: none).

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers. The denial of this request is not expected to result in negative impacts to the environment.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

CONTACT PERSON

Jordan Klein, Director, Planning & Development Department, 510-981-7534  
Steven Buckley, Land Use Planning Manager, Planning & Development Department,  
510-981-7411  
Fatema Crane, Landmarks Preservation Commission Secretary, Planning &  
Development Department, 510-981-7410

Attachments:

1: Notice of Decision – #LMIN2021-0001 at 2212 Fifth Street



L A N D M A R K S  
P R E S E R V A T I O N  
C O M M I S S I O N

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N O T I C E O F D E C I S I O N

**DATE OF BOARD DECISION: November 3, 2021**  
**DATE NOTICE MAILED: January 10, 2022**  
**APPEAL PERIOD EXPIRATION: January 25, 2022**  
**EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): January 26, 2022<sup>1</sup>**

## 2212 Fifth Street

**Landmark application (#LMSAP2021-0001) for consideration of City Landmark or Structure of Merit designation status for a residential property.**

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **DENIED** the following permit:

- City Landmark or Structure of Merit designation status, pursuant to Berkeley Municipal Code Section 3.24.110.A-B

**APPLICATION AUTHOR:** Fran Cappelletti, Berkeley Architectural Heritage Association, P. O. Box 1137, Berkeley, CA

**ZONING DISTRICT:** Mixed Use-Residential (MU-R) Zoning District

**ENVIRONMENTAL REVIEW STATUS:** Exempt from review pursuant to CEQA Guidelines Section 15061(b)(4).

**The application materials for this project are available online at:**  
<http://www.cityofberkeley.info/zoningapplications>

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### FINDINGS ARE ATTACHED TO THIS NOTICE

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<sup>1</sup> Pursuant to BMC Section 23B.32.090, the City Council may “certify” any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
City Landmark designation status - #LMIN2021-0001  
2212 Fifth Street  
January 25, 2022  
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**COMMISSION VOTE: 7-1-1-0**

**YES:** ADAMS, CRANDALL, JOHNSON, LEUSCHNER, SCHWARTZ, THARGARD,  
TWU

**NO:** FINACOM

**ABSTAIN:** ENCHILL

**ABSENT:** None

**TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):**

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley; or by facsimile to (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.
  - a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the Commission made under the provisions of Chapter 3.24.
2. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
3. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
  - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
  - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
  - c. The fee for all appeals by Applicants is \$2500.

If no appeal is received, the landmark designation will be final on the first business day following expiration of the appeal period.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

If you object to this decision, the following requirements and restrictions apply:

LANDMARKS PRESERVATION COMMISSION

NOTICE OF DECISION

City Landmark designation status - #LMIN2021-0001

2212 Fifth Street

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1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must include the following information:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

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

LANDMARKS PRESERVATION COMMISSION  
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**PUBLIC COMMENT:**

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

**FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or [fcrane@cityofberkeley.info](mailto:fcrane@cityofberkeley.info) or [lpc@cityofberkeley.info](mailto:lpc@cityofberkeley.info)

**ATTACHMENTS:**

1. Findings for Denial
2. Landmark application



**ATTEST:** \_\_\_\_\_  
Fatema Crane, Secretary  
Landmarks Preservation Commission

Cc: City Clerk  
Fran Cappelletti, BAHA, application author  
Steelwave/W-S WBLS East Owner IX LP, 999 Baker Way #200, San Mateo, CA,  
property owner

FINDINGS FOR DENIAL

NOVEMBER 4, 2021

## 2212 Fifth Street – The Montgomery-Spear House

### City of Berkeley Landmark Application #LMIN2021-0001

#### PROJECT DESCRIPTION

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City Landmark or Structure of Merit designation of the property at 2212 Fifth Street [APN 056-1958-004-00] – The Montgomery-Spear House

#### CEQA FINDINGS

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1. An action to deny and/or disapprove a project is exempt from environmental review pursuant to the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.), Guidelines Section 15061.b.4 for Review of Exemptions – rejection or disapproval.

#### LANDMARK PRESERVATION ORDINANCE FINDINGS

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2. Pursuant to Berkeley Municipal Code (BMC) Sections 3.24.110 and 3.24.150, the Landmarks Preservation Commission disapproves the request to grant City Landmark or Structure of Merit (SOM) status to the subject property. The Commission takes this action after due consideration of the application and the general designation criteria, and finding that this property lacks historical significance in a manner and to a degree that warrant designation as a Landmark or SOM.
3. Specific to the criteria for City Landmark designation under BMC Section 3.24110.A, the Commission finds that: the extant structure may be among the oldest in West Berkeley and yet it is not the most significant in Berkeley or the neighborhood where more distinctive and significant structures are located and have been granted designation status; the building lacks character-defining features of residential Italianate Victorian architectural design and is not an exemplar of the style; the property adds no exceptional value to the West Berkeley neighborhood fabric; for these reasons, it does not meet the designation criteria for *architectural merit*.
4. Related to the remaining criteria for SOM designation under BMC Section 3.24.110.B, the Commission finds that the property is not worthy of preservation regardless of its age because it lacks distinction for its design and historical associations. For these reasons, it does not contribute to the significance of existing resources and City Landmarks in the area. The building form is an anomaly in its built context and does not contribute to the continuity or aesthetic coherence of the neighborhood or street frontage.



City of Berkeley Ordinance #4694 N.S.  
LANDMARK APPLICATION

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**Montgomery-Spear House**  
2212 Fifth Street, Berkeley, CA 94710



Land Use Planning  
Received  
July 29, 2021



1. **Street Address:** 2212 Fifth Street  
**County:** Alameda  
**City:** Berkeley  
**Zip Code:** 94710
2. **Assessor's Parcel Number:** 56-1958-4  
**Tract:** Tract B, Berkeley Land and Town Improvement Association  
**Dimensions:** 50 feet x 125 feet  
**Cross Streets:** Bancroft Way, Allston Way
3. **Is property on the State Historic Resource Inventory?** Yes, Status Code 3S  
**Is property on the Berkeley Urban Conservation Survey?** Yes  
**Form #:** 19772
4. **Application for Landmark includes:**
  - a. **Building(s):** Yes **Garden:** No **Other Feature(s):** No
  - b. **Landscape or Open Space:** No
  - c. **Historic Site:** No
  - d. **District:** No
  - e. **Other:** Entire Property
5. **Historic Name of Property:** Spear House
6. **Date of Construction:** 1877  
**Factual:** Yes  
**Source:** Newspaper announcement, Berkeley Advocate, February 2, 1878.
7. **Architect:** Unknown
8. **Builder:** Berkeley Real Estate Union
9. **Style:** Italianate Victorian
10. **Original Owners:** Charles Montgomery  
**Original Use:** Single Family Residence
11. **Present Owners:** W-SW WBLS EAST OWNER IX LP  
**Present Occupant:** None
12. **Present Use:** Vacant  
**Current Zoning:** MUR
13. **Present Condition of Property:**  
**Exterior:** Fair to Poor, **Interior:** Unknown, **Grounds:** Fair to Poor  
**Has the property's exterior been altered?** Yes

## 14. DESCRIPTION

The house is an Italianate Victorian, built in 1877, comprising two stories of wood-frame construction. The exterior was later covered in pink asbestos shingles. The doorways and windows are currently boarded up, and a locked chain-link fence surrounds the property.

The roof eaves are closed, and the gables are trimmed with wide frieze board and gable-end returns.



*Daniella Thompson, 2006*



*Fran Cappelletti, 2021*

There is a front entrance with a bracketed porch overhang on the right side of the front façade. The doorway is covered with boards, but photos from 2016 show a double door with long arched glazed panels over square framed wood panels.



*Fran Cappelletti, 2021*



*Google Maps, 2016*

On the left side of the front façade, a two-story-high, three-faceted bay contains four tall, narrow, double-hung windows at each level. It is ornamented with a corbeled entablature. A single, wood frame, double-hung window is on the right side of the front façade.



*Fran Cappelletti, 2021*



On the north side of the main gable a wood framed two-over-two double-hung window appears to be on the upper floor and a boarded over window on the lower floor cannot be verified. There is one window on the first floor at the rear of the main gable. On the rear gable, two wood frame windows are on the north side and three more at the rear.

*Fran Cappelletti, 2021*



The rear gable upper floor window shows signs of change or replacement with some of the asbestos shingles removed above and below.

On the south side of the main gable, a wood frame double-hung window is on each floor. Wood frame windows are also on the east and south sides of the side gable on each floor. The lower floors are boarded over.





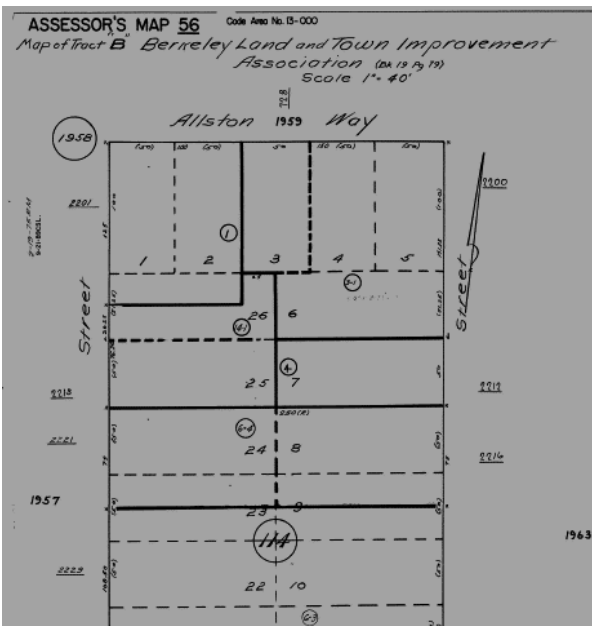
The building is massed with a large main gable facing the street, a cross gable facing south, and a lower two-story gable-roofed wing facing west. At the southwest corner, a one-story, hip-roofed addition is tucked between the west and south wings.

Existing roofing is composition shingle with a chimney projecting from the central roof.

Google Maps, 2021

Permit records indicate that the house was converted to two units around 1940, and a concrete foundation was added in 1953. A garage was added in 1945, but no longer exists.

The Montgomery-Spear House is located on the west side of Fifth Street, between Bancroft and Allston Ways in West Berkeley. The site is part of Tract B of the Berkeley Land and Town Improvement Association.



Northern portion of Block 1958, Alameda County Assessor



Google Maps, 2021

It is the only remaining residential property on the block, with parking lots to the north and west and industrial buildings and warehouses filling the rest. Nearby blocks are occupied by a

mix of retail, industrial and residential properties. Railroad tracks, Interstate 80 and San Francisco Bay are a few blocks to the West and University Avenue is two blocks north.

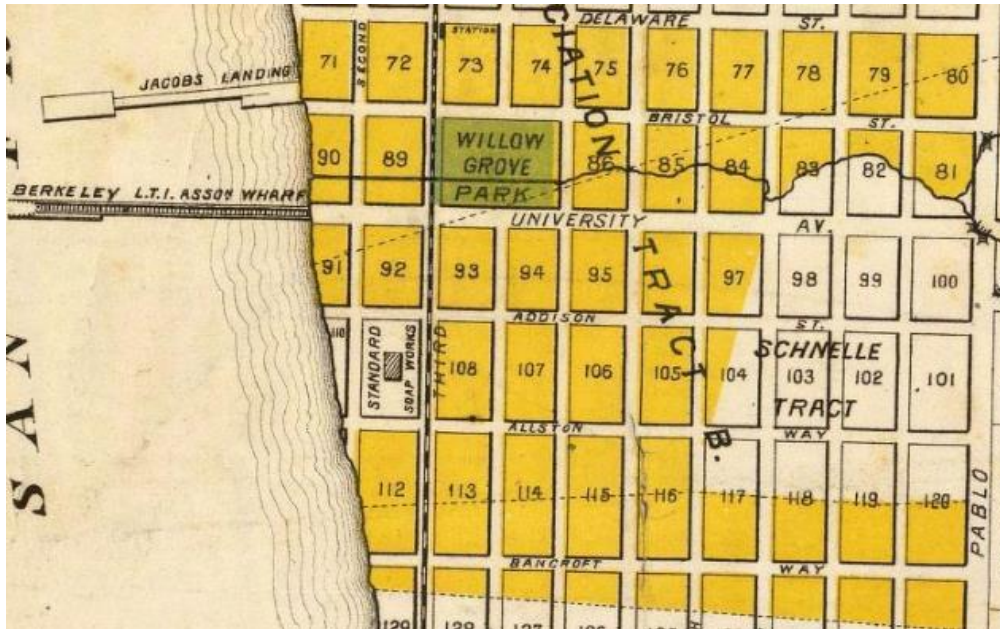
Directly across the Fifth street are residential and commercial properties, including the former West Berkeley Macaroni Factory, designated a City of Berkeley Landmark, Structure of Merit, in January 1991 and restored in 1994.<sup>1</sup>



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<sup>1</sup> Daniella Thompson, Simone Marengo gave Berkeley macaroni, Berkeley Daily Planet, September 7, 2007 at [http://berkeleyheritage.com/berkeley\\_landmarks/marengo.html](http://berkeleyheritage.com/berkeley_landmarks/marengo.html).

The Montgomery-Spear House dates to the early development of West Berkeley as it became part of a larger Berkeley. The 1880 Map of Berkeley, published by Carnall & Eyre, shows the site in a growing Town of Berkeley, near the Standard Soap Factory, railroad and wharves.



Map of Berkeley.  
Published by Carnall & Eyre, dealers in Berkeley Real Estate.  
Compiled by Joseph Smith, Oakland. From the records of Alameda Co., Cal.  
Lith. A. Waldstein, S.F. (1880)

A drawing of the view from that era shows another perspective.



A view of the Standard Soap Works and surrounding area, West Berkeley (illustration by Van Wyck)

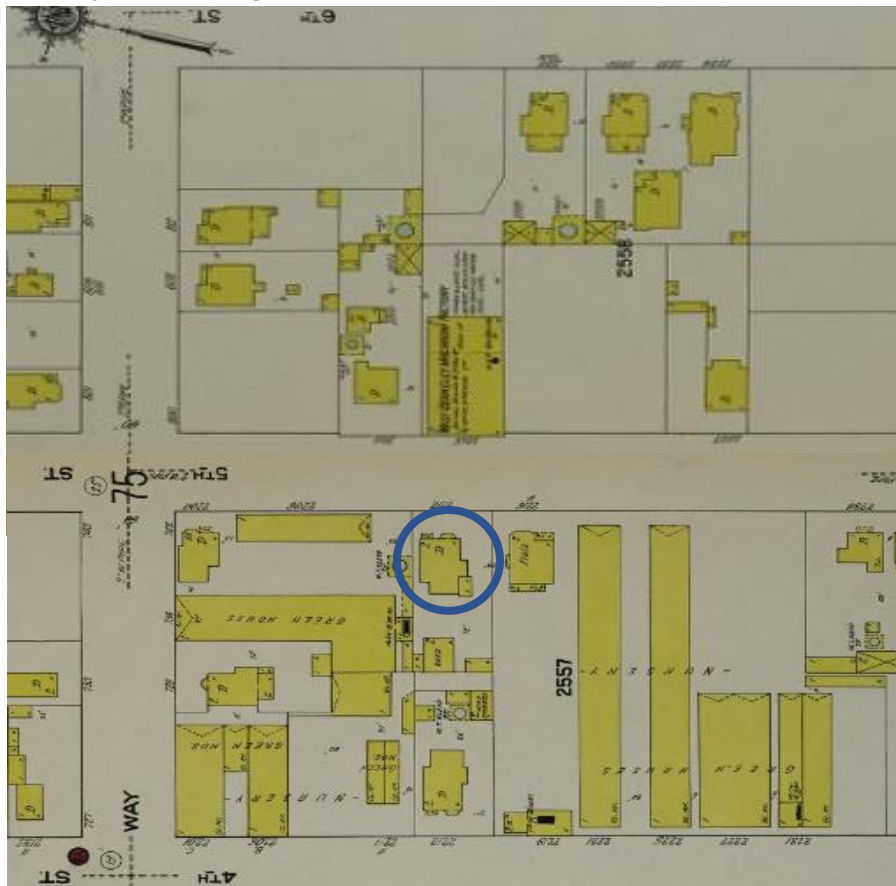


By 1903, the house remains the largest on 5th Street, between the West Berkeley Rose Nursery and empty lots, already a mix of residential and commercial uses.



Sanborn Fire Insurance Map from Oakland, Alameda County, California. Sanborn Map Company, Vol.3, 1903. Map. Retrieved from the Library of Congress, <[www.loc.gov/item/sanborn00727\\_004/](http://www.loc.gov/item/sanborn00727_004/)>.

By 1911, additional development included more housing and the West Berkeley Macaroni Factory, continuing a tradition of mixed use.



Sanborn Fire Insurance Map from Berkeley, Alameda County, California. Sanborn Map Company, ; Vol. 1, 1911. Map. Retrieved from the Library of Congress, <[www.loc.gov/item/sanborn00419\\_002/](http://www.loc.gov/item/sanborn00419_002/)>.

Decades later, as the following photo indicates, the Montgomery-Spear House and neighboring nursery remained. Industry expanded nearby, along with residential development.



2212 Fifth St. (left).  
(Ormsby Donogh  
files, BAHA archives)

Cared for and occupied for many years, it was left vacant, boarded up and fenced for the past several years. As images from the various years show, the general condition has declined while the primary features remain in place.



*Historic Resources Inventory, 1979*



*Daniella Thompson, 2006*



*2008*



*2016*



2018



2019

## Features to Be Preserved

The distinguishing features of the Montgomery-Spear House include the following:

Front, rear and south gables.

Entry with bracketed porch overhang.

Entrance Door.

Two-story angled bay window with corbeled entablature.

Front and side windows, subject to further review and evaluation.

## 15. History

### The Ohlone Period

Before the arrival of Europeans, the Native Americans living in today's Berkeley and the East Bay were part of a larger group that lived for thousands of years from the San Francisco Bay to Monterey. The Spanish referred to them as Costanoan or 'Indians of the coast' and they were later called Ohlone. Made up of distinct groups, they had similar languages and cultures. Physical evidence of their presence in Berkeley remains, most notably the famous and recognized Berkeley Shellmounds a few blocks from 2212 Fifth Street.

European arrival brought disease and displacement, with much of the population pulled into the local Missions by the early 1800s. Despite the many hardships and being labelled extinct, descendants remain throughout the San Francisco Bay Area, active in preserving their name, culture, and history.

### Rancho San Antonio

According to M.W. Wood's *History of Alameda County, California*, the Rancho San Antonio, a nearly 45-thousand-acre Spanish land grant, was made to Luis María Peralta by Spanish governor Pablo Vicente de Sol on August 16, 1820. Peralta had served forty years in the Spanish military. The grant included present-day Albany, Berkeley, Oakland, and northern San Leandro. In 1842, he divided the land among his four sons. One of them, Domingo, would receive all of what is present-day Albany and Berkeley and a small portion of northern Oakland. He built an adobe house in 1841 at the present-day site of 1304 Albina and it is a California point of historic interest.

According to the Peralta Family History<sup>2</sup>, annexation of California by the United States in 1848 and the Gold Rush of 1849 brought significant change. While the Peraltas and their fellow Californios were promised recognition and protection of their property rights, squatters on the land and theft of cattle became a problem as new settlers arrived from around the world. A further burden came with the 1851 U.S. Federal Land, which required the Californios to prove their land titles in court, requiring much time and expense. In 1852-1853, Domingo started selling parcels of his land, mostly to pay off debts. The parcels were defined on a map surveyed by Julius Kellersberger, hired to survey the northern part of Rancho San Antonio. Surveyed in 1853, the map covers

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<sup>2</sup> See <http://www.peraltahacienda.org> .

Albany, Berkeley, Emeryville, and part of Oakland. This view of the parcels shows the site of the building in No. 63.



Map of the Ranchos of Vicente & Domingo Peralta. Containing 16970.68 Acres. Surveyed by Julius Kellersberger, 1853. Courtesy of Barry Lawrence Ruderman Antique Maps, Inc. <http://www.raremaps.com>

## Ocean View

In 1850, early settlement included James Jacobs with his boat landing and Captain William Bowen's Inn. There soon followed John Everding and A.A. Rammelsburg's Pioneer Starch Works and Grist Mill and Heywood's lumber yard. Residents moved in, primarily foreign-born immigrants and second-generation Americans. Growth was not dramatic until the 1873 establishment of the new campus of the University of California.

In 1874, the area was part of the Berkeley Land and Town Improvement Association. This was organized by neighborhood leaders to facilitate the further development of Ocean View, with wharf and ferry services and industrial growth. This development, along with the University, led to new factories and a ten-fold increase in population.

For a comprehensive history of Ocean View, see *Victorian Berkeley: The Community of Ocean View*, Karen Jorgensen-Esmaili and The Berkeley Historical Society, 1981. With the joining of the two distinct communities as Berkeley in 1878, further growth followed, but the differences remained, and today's common label of West Berkeley was already established.

## Owners and Residents

### 1877–1878: Charles Montgomery

On 2 February 1878, the *Berkeley Advocate* announced that “the three fine houses built by the Berkeley Real Estate Union, and situated nearly opposite the [Standard] soap factory have been sold to a Chicagoan, who intends to make his home in Berkeley.” The man who bought the three houses was one Charles Montgomery, a speculator who never became a Berkeley resident.

### 1879–1881: Three Owners

By the following year, Montgomery sold the houses to three different men, speculators like himself, each turning over the properties within a year to other buyers. Tax assessment records show them successively as G.W. Hazelton, J.J. Perkins and F. Clay.

Pre-dating numbered addresses, John J. Perkins is listed as a resident on the west side of Fifth, between Allston and Bancroft, in the 1880 and 1881 Berkeley Directories. His occupation is noted as real estate.

### 1882–1887: Walter Minturn Heywood

Walter Minturn Heywood (1854–1924) was Zimri Brewer Heywood’s son by his fourth wife. A realtor, he assisted his elder half-brother, William Brewer Heywood, in administering their father’s estate. In addition, he acted as chief engineer of the West Berkeley Volunteer Fire Department. In the mid-1880s, he served in the State Assembly, representing Alameda’s 54<sup>th</sup> district.

### Approximately 1887 to 1905: Charles Henry Spear

A comprehensive history of Mr. Spear and the neighborhood is documented by Daniella Thompson in her article, *A Tale of Two Mystery Houses and One Politician*<sup>3</sup>, summarized below.

In 1889, the Berkeley directory first listed Berkeley’s town clerk, Charles H. Spear, as living at 2212 Fifth Street. He may have rented the house in 1887, after marrying Tillie Rose Guenette (1870–1952), daughter of pioneer West Berkeley blacksmith and wagon-maker Peter Guenette. Spear’s widowed mother Elizabeth lived with the couple, and the house was registered in her name when the Spears purchased it in 1890 or ’91. In its dozen years of existence up to that point, the house had eight successive owners, of whom the Spears were the very first to occupy the premises. Their three children were born here between 1887 and 1891.

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<sup>3</sup> [http://berkeleyheritage.com/eastbay\\_then-now/spear.html](http://berkeleyheritage.com/eastbay_then-now/spear.html)

Charles Henry Spear (1862–1928) was born in Sonora, Tuolumne County, to Bostonian parents. His father, Frederick Augustus Spear, ran a pharmacy there until 1864, when he was appointed druggist to the State Insane Asylum in Stockton. Eventually the Spears moved to Oakland, and in 1882 they arrived in West Berkeley, where Frederick opened a drugstore on the corner of University Avenue and Fifth Street. He died in 1885.

By 1892, Charles Spear was a notable enough figure to merit a biography in *The Bay of San Francisco* (Lewis Publishing Co.). He would be the subject of many others in the future, but this version is probably the most accurate:

Charles H. Spear was educated in the schools of Stockton until 1876, when on the removal of the family to Oakland, he went to work in San Francisco as messenger for the Western Union Telegraph Company, and some two years later as collector for the Wheeler & Wilson Sewing Machine Company with whom he remained nearly three years. In 1881 he worked for L. M. McKenney & Co., directory publishers, and in 1882 went to Sacramento, where he spent nearly two years as bookkeeper for the H. T. Holmes Lime Co. He was Assistant Postmaster of West Berkeley in 1884, and Postmaster in 1885, conducting also a drug, book and stationery store. In 1885, in partnership with John Rooney, under the style of Rooney & Spear, he also carried on a general store. In 1887 he bought out his partner, and in 1888 sold out all his trading interests. Meanwhile he had been elected Town Clerk, in 1886, entering on the discharge of his official duties in May of that year; and he has been re-elected to that office every year since.

Spear's seven-year stint as town clerk ended in May 1893. He went into the real estate business and the following year was elected Alameda County recorder. In February 1900, California governor Henry T. Gage appointed him port warden in San Francisco. The appointment reflected Spear's intensive involvement in Republican politics.

In addition to being a member of the Berkeley Republican Club's executive committee and a trustee of the West Berkeley Improvement Club, Spear also co-managed the 1900 congressional campaign of Alameda County assessor Henry P. Dalton, a friend and associate of former Oakland mayor Dr. George C. Pardee. (Dalton was plagued by scandals throughout that year and lost the election. In 1911 he would be convicted of bribery and imprisoned at San Quentin, a few cells away from Abe Ruef, who was serving 14 years in connection with the San Francisco graft cases.)

In 1902, Spear acted as chairman of the state's Republican campaign committee, which helped put Pardee in the governor's mansion. The reward was not long in coming: on 25 March 1903, Spear came into "possession of the honors and emoluments attaching to the office of president, State Board of Harbor Commissioners," as the *San Francisco Call* succinctly put it. Despite its title, the board's power was confined to the port of San Francisco, which was owned and managed by the state.



Charles and family, including his mother Elizabeth, were last listed at 2212 Fifth Street in Berkeley's 1905 Directory and they all moved to their new house at 1905 Grove Street that same year. Built in an elaborate Colonial Revival style, this new location was a showplace and the center of much political activity. This Charles H. Spear House was designated a City of Berkeley Landmark in 2017.

After his move from 2212 Fifth Street, midway through his four-year term, Spear had to confront the supreme challenge of dealing with the devastation wreaked by the 1906 earthquake and fire. He passed with flying colors, according to the report of Commander Charles J. Badger of the U.S. Navy, who was in charge of the flagship *Chicago* and of the Sixth Marine District of San Francisco. "Spear," wrote Badger, "immediately responded and his intimate knowledge of all the details of water-side affairs, his wide acquaintance with the local business community, his energetic endeavors to restore normal business conditions in the shipping district in the shortest possible time and his sound and loyal assistance merit the highest praise."

Only after Spear's term ended did it come to light that his administration was not without internal problems. In February 1907, the U.S. Treasury Department asked for the resignation of the port's deputy surveyor and its customs appraiser on grounds of bad bookkeeping. It was further revealed that "bickering is constant between various departments, the heads of which are barely on speaking terms with each other."

Having returned to the private sector, Spear busied himself with real estate investments. The family was now ensconced in a large and handsome new house at 1905 Grove Street. Built in an elaborate Colonial Revival style, it was a showplace and the center of much political activity.

In 1909, Spear was a mayoral candidate in the Berkeley elections but was soundly trounced by Beverly L. Hodghead of the Good Government League. This rivalry did not prevent Spear from joining mayor Hodghead in opposing a proposed annexation of Berkeley to Oakland. On 26 August 1910, the *Oakland Tribune* reported that "Charles H. Spear is opposed to consolidation because he does not wish to see the pure, ideal government of Berkeley swallowed up in the Babylonian wickedness of Oakland." The initiative went down to defeat at the ballot box on 15 September 1910, with Berkeley casting 4,009 to 1,402 votes to reject consolidation. West Berkeley was the only district that voted for annexation.

In 1923, Spear was a member of the campaign committee to institute a council-manager form of government, which Berkeley adopted that year. Also in 1923, Spear was reappointed president of the State Board of Harbor Commissioners, this time by governor Friend W. Richardson. He retired in 1925 after accepting the position of harbor manager in Los Angeles.

After suffering a heart attack in February 1927, Spear resigned from his Los Angeles job. Returning to Berkeley, he and Tillie lived in a suite at the Whitecotton (Shattuck) Hotel until his death on 7 March 1928. Two days later, he was buried with Masonic rite in Mountain View

cemetery. Among his honorary pall bearers were San Francisco mayor James Rolph, Jr. and former California governors Pardee and Richardson.

The Charles H. Spear House was designated a City of Berkeley Landmark on 6 July 2017. It is listed in the California State Historic Resources Inventory.

### **1906 to 1936: The Kelling and Hildebrand Families**

After the Spears moved on, the Kelling family moved in for the next few decades. They were a large family with siblings and their children residing here at various times, according to local directories. Tax assessments show Henry listed as owner for 1906 through 1910, followed by his sister Catherine who was granted the property after Henry died in 1911. For 1909 and 1910, records show Henry, Richard and Trinie at the address and Catherine had used the name Trinie, Trinidad and Terena over the course of her life.

Their parents were Henry and Mary, or Santos, Kelling. Henry was a native of Germany and Mary was born in Chile. They also had two more sons, John and Louis, and the family lived in San Francisco in the 1800s.

After Henry's death, Catherine and Richard lived at 2212 Fifth Street and Richard continued to live there after Catherine died in 1921. Richard was a bartender.

By 1923, residents included Richard, along with George and Rudolph Hildebrand, sons of George and Anita, who had been married to John Kelling.

Until at least 1928, Richard and the Hildebrands remained at 2212 Fifth Street, with the Hildebrands staying on into the middle 1930s.

In 1933 Mrs. Hildebrand received honorable mention in a Christmas Tree contest sponsored by the Oakland Tribune and their daughter Anita Hildebrand, 22 years old announce her wedding.

George and Anita remain remained listed in directories at 2212 Fifth until at least 1936.

### **1940s to 2006: Van Tuyl, Jimenez and Bernal**

A 1940 voter registration list and 1941 Directory show 2212 Fifth as the residence of Charles and Mary Van Tuyl. He was a laborer and she was reported as housewife.

By 1945, the property was owned by Merced and Sally Jimenez.

The Bernal family acquired the property in 1947, retaining ownership until 2006.<sup>4</sup>

Directory searches show the following:

Araceli S Cabrera, 1988

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<sup>4</sup> Minor, 26.

Sally Cabrera, 1990

Peter and Larry Cabrera, (Nasario, Jesus and Conceptio Bernal), 1993-1994

## 2006 to 2021: Herst Family Trust

The property was sold in 2006 to the Herst Family Trust, including Doug Herst, who inherited the family's Peerless Lighting company. This company had an impressive and long history in the neighborhood. More on Mr. Herst was posted in a BAHA news blog on the Measure R campaign by Daniella Thompson in 2010.

Doug Herst, who also contributed \$1,000, is a lighting industry veteran. His family founded [Peerless Lighting](#) in 1892, and Herst managed the company from 1965 until his retirement in 2006. Upon his retirement, Herst turned his attention to [property development in Berkeley](#). Currently he is chairman and CEO of Herst Ventures, Inc. and working with Darrell de Tienne on a planned work-live development called Peerless Greens. Like a number of other Yes on R contributors, Herst is a generous donor to the Berkeley Repertory Theatre—the Rep's 2009 annual report places him in the Presidents category (\$3,000–\$5,999).

Further details on this ambitious plan to rezone and redevelop blocks, including 2212 Fifth Street were described in the Berkeley Daily Planet on September 26, 2006. It included corporate, retail, condo and artist space, but also required rezoning and variances.<sup>5</sup>

The project did not move forward, but similar efforts in the neighborhood were part of Measure T in 2012 to amend the West Berkeley Plan ("Plan") and the Zoning Ordinance to allow more flexibility in development of large parcels in West Berkeley that are under the same ownership, if they are approved through the Master Use Permit ("MUP") process. It was an active campaign with editorials for an against.<sup>6</sup> The measure was defeated by 512 votes due to the large margin against it in West Berkeley.<sup>7</sup>

## 2021: Current Owner W-SW WBLs EAST OWNER IX LP

This mysterious alphabetic combination is a California Foreign Limited Partnership, with a mailing address in of all places, Chicago<sup>8</sup>. It is an ironic twist as the first owner was the absentee Charles Montgomery from Chicago and this mysterious entity from Chicago may be filling the

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<sup>5</sup> Richard Brenneman, Major West Berkeley Development Project Unveiled, The Berkeley Daily Planet, September 26-28, 2006, 1.

<sup>6</sup> Becky O'Malley, Following the Money Behind Berkeley Ballot Measures, The Berkeley Daily Planet, October 12, 2012.

<sup>7</sup> Rob Wrenn, 2012 Election in Berkeley: West Berkeley Voters Provide Measure T's Margin of Defeat, The Berkeley Daily Planet, November 23, 2012.

<sup>8</sup> <https://www.bizapedia.com/ca/w-sw-wbls-east-owner-ix-lp.html> . However, application document also shows a San Mateo, CA mailing address.

same role. Perhaps not so mysterious is Steelwave, LLC, the firm developing the block as part of or for W-SW WBL5 East Owner IX LP. As they describe themselves,

SteelWave, a privately held full-service creative life science, creative office and industrial real estate management, operating company and investment management firm. We create spaces focused on elevated and exceptional user experiences achieved through unparalleled design and detailed execution that conjure creativity, flexibility and invigorate collaboration. SteelWave and its predecessor companies, Legacy Partners Commercial and Lincoln Property West, have been active in commercial real estate for 49 years. We've built a reputation for successful execution by sourcing sound investments in our 7 key markets: Northern California, Southern California, Denver, Seattle, Portland, Texas and Phoenix. As a vertically integrated leader in the industry, we source, entitle, design, finance, develop, renovate, lease, manage and sell real estate investments on behalf of many well-known institutional clients.

Since its inception, the SteelWave team has acquired, developed or managed 6,000 multifamily units, 61.3M SF of industrial product and 38.45M SF of office product across our Western United States target markets at a combined cost of over \$11.8 billion.<sup>9</sup>

Related to this application, their plan is to replace the Montgomery-Spear House with a parking garage.

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<sup>9</sup> <https://www.steelwavellc.com/about/who-we-are/>

## 16. Significance

From Chapter 3.24 of the Landmarks Preservation Ordinance:

3.24.110 A. Landmarks and historic districts. General criteria which the commission shall use when considering structures, sites and areas for landmark or historic district designation are:

1. Architectural merit:

- a. Property that is the first, last, only or most significant architectural property of its type in the region;
- b. Properties that are prototypes of or outstanding examples of periods, styles, architectural movements or construction, or examples of the more notable works of the best surviving work in a region of an architect, designer or master builder; or
- c. Architectural examples worth preserving for the exceptional values they add as part of the neighborhood fabric.

2. Cultural value: Structures, sites and areas associated with the movement or evolution of religious, cultural, governmental, social and economic developments of the City;

3. Educational value: Structures worth preserving for their usefulness as an educational force;

4. Historic value: Preservation and enhancement of structures, sites and areas that embody and express the history of Berkeley/Alameda County/California/United States.

5. Any property which is listed on the National Register described in Section 470A of Title 16 of the United States Code.

Under **3.24.110 A.1. a.**, the Montgomery-Spear House qualifies Such a conclusion is supported in writing by architectural historians<sup>10</sup>. It is one of the earliest structures in this part of West Berkeley and the last remaining here.

Under **3.24.110 A.1.b.**, the Montgomery-Spear House qualifies as a significant and meaningful example of a two-story Italianate Victorian. Specific features include the entry, two-story-high, three-faceted bay window, gables, overall massing and size. The property is an outstanding example from its period, style and architectural movement.

Under **3.24.110 A.2**, the Montgomery-Spear House qualifies for its cultural value and under **3.24.110 A.4** for its historic value.

Culturally and historically, it was the early home of civic leader Charles H. Spear. During his time at 2212 Fifth Street, he served as Berkeley Town Clerk, Alameda County Recorder, port warden in San Francisco and President of the State Board of Harbor Commissioners. Spear was

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<sup>10</sup> See Thompson article, 2007, Cultural Resources Assessment by Minor, 2019 and City of Berkeley Historic Evaluation by Preservation Architecture, 2020.

also active in political campaigns, from co-managing a Congressional campaign to serving as chairman of the state's Republican campaign committee.

By the time of the San Francisco Earthquake and Fire, the house was the home to the Kellings, an extended family with roots in the pioneer days of San Francisco. The Bernal's came later, staying the longest of all. Recent ownership by the Herst Family Trust, long-time owners of the nearby Peerless Lighting site, provides insight on the saga of development and the complicated debates over it in West Berkeley.

Such a history spans the entire timeline of the City of Berkeley, from the eve of its incorporation to the present day.



While the building has seen change in recent history, the overall appearance has not changed significantly and the building retains several important features, hidden and in plain sight, that can still be preserved.

**Historic Value:** City Yes Neighborhood Yes

**Architectural Value:** City Yes Neighborhood Yes

**17. Is the Property Endangered?** Yes

## 18. Photographs

Daniella Thompson (Exterior Views, 2006)

Fran Cappelletti (Exterior Views, 2021)

Ormsby Donogh files, BAHA Archive

Google Maps (2008 through 2021)

## 19. Bibliography

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A Tale of Two Mystery Houses and One Politician, Daniella Thompson, November 13, 2007, [http://berkeleyheritage.com/eastbay\\_then-now/spear.html](http://berkeleyheritage.com/eastbay_then-now/spear.html) .

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**20. Recorder: Fran Cappelletti**

**Date: July 29, 2021**

**Organization: Berkeley Architectural Heritage Association**

