



AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, October 11, 2022
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/88115464108>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free) and enter Meeting ID: 881 1546 4108. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Consent Calendar

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent Calendar for it to move to Action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

- 1. 2023 Tax Rate: Transportation Network Company User Tax**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,834-N.S. setting the 2023 tax rate (effective January 1, 2023) for the transportation network company at the following rates: 53.775 cents on the user for each prearranged trip that originates in the City that is not part of a pooled prearranged trip and 26.249 for each pooled prearranged trip on each user who arranges each prearranged trip that originates in the City and which comprises part of the pooled prearranged trip.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 2. Zoning Ordinance Amendments Making Technical Edits and Corrections to Berkeley Municipal Code (BMC) Title 23**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,835-N.S. containing technical edits, corrections and other non-substantive amendments to the following sections of the Zoning Ordinance:
-BMC Section 23.204.050 (C-C Zoning District)
-BMC Section 23.204.080 (C-E Zoning District)
-BMC Section 23.204.090 (C-NS Zoning District)
-BMC Section 23.204.130 (C-DMU District)
-BMC Section 23.206.050 (Protected Uses)
-BMC Section 23.304.030 (Setbacks)
-BMC Section 23.304.090 (Usable Open Space)
-BMC Section 23.322.030 (Required Parking Spaces)
-BMC Section 23.406.070 (Design Review)
First Reading Vote: All Ayes.
Financial Implications: None
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 3. Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference**
From: City Manager
Recommendation: Adopt a Resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference, initially ratified by the City Council on September 28, 2021, and subsequently reviewed and ratified on October 26, 2021, November 16, 2021, December 14, 2021, January 10, 2022, February 8, 2022, March 8, 2022, March 22, 2022, April 12, 2022, May 10, 2022, May 31, 2022, June 28, 2022, July 26, 2022, August 23, 2022, and September 20, 2022.
Financial Implications: To be determined
Contact: Farimah Brown, City Attorney, (510) 981-6950

Consent Calendar

- 4. Contract No. 117596-1 Amendment: Animal Fix Clinic (formerly Fix Our Ferals) for Spay and Neuter Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to increase the total Spay Neuter Your Pet (SNYP) allocation from \$23,812 to \$35,000 and execute a contract and any necessary amendments with Animal Fix Clinic (formerly Fix Our Ferals) to provide no-cost spay and neuter surgeries to eligible pet owners for FY 2023, increasing the contract amount by \$17,500 for a new total contract amount not to exceed \$67,218 and extending the terms of the contract to September 14, 2023.
Financial Implications: General Fund - \$17,500
Contact: Peter Radu, City Manager's Office, (510) 981-7000
- 5. Contract No. 108-410-1 Amendment: Paw Fund for Spay and Neuter Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to increase the total Spay Neuter Your Pet (SNYP) allocation from \$23,812 to \$35,000 and to execute a contract and amendments with Paw Fund to provide no-cost spay and neuter surgeries to eligible pet owners for FY 2023, increasing the contract amount by \$17,500, for a new total contract amount not to exceed \$134,466 and extending the terms of the contract to September 14, 2023.
Financial Implications: General Fund - \$17,500
Contact: Peter Radu, City Manager's Office, (510) 981-7000
- 6. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 11, 2022**
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval. Total estimated cost of items included in this report is \$2,968,600.
Financial Implications: Various Funds - \$2,968,600
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 7. Contract No. 3220192 Amendment: Alameda County Network of Mental Health Clients**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 3220192 with Alameda County Network of Mental Health Clients, Berkeley Drop-In Center (BDIC) Community Crisis Response Services to add \$100,000 to hire one additional homeless outreach staff member, increasing the not-to-exceed amount to \$490,000, and extending the contract by one year to December 31, 2023.
Financial Implications: See report.
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

8. Revenue Grant Agreement: Funding Support from the State of California Women, Infant, Children Program

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or her designee to submit a grant agreement to the State of California, to accept the grants, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the Women, Infants, and Children (WIC) program in the projected total amount of \$1,810,197 for Federal Fiscal Years (FFY) 2023 through 2025.

Financial Implications: See report

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

9. Expand the Program Manager Series by Establishing the Principal Program Manager Classification and Salary Range

From: City Manager

Recommendation: Adopt a Resolution to expand the Program Manager Series by establishing the Principal Program Manager classification with a monthly stepped salary range of \$12,651.60 to \$15,309.90 effective October 7, 2022.

Financial Implications: See report

Contact: Donald E. Ellison, Human Resources, (510) 981-6800

10. Classification and Salary: Establishing the Diversity, Equity, and Inclusion Officer Classification and Salary Range

From: City Manager

Recommendation: Adopt a Resolution to expand the Diversity, Equity, and Inclusion Officer classification with a monthly stepped salary range of \$11,497.20 - \$15,107.73 effective October 7, 2022.

Financial Implications: See report

Contact: Donald E. Ellison, Human Resources, (510) 981-6800

11. Classification and Salary: Assistant to the City Attorney

From: City Manager

Recommendation: Adopt a Resolution to establish the Assistant to the City Attorney classification with a monthly stepped salary range of \$11,497.20- \$15,107.73 effective October 11, 2022.

Financial Implications: See report

Contact: Donald E. Ellison, Human Resources, (510) 981-6800

Consent Calendar

12. Revision of the Tool Lending Specialist Classification to Reflect an Accurate Scope of Duties with a Four Percent (4%) Salary Increase

From: City Manager

Recommendation: Adopt a Resolution amending Resolution No. 62,558-N.S. to approve the revision of the Tool Lending Specialist job specification to accurately reflect the scope of duties and to increase the current salary schedule by four percent (4%) effective March 16, 2021, or the employee's start date, if more recent.

Financial Implications: See report

Contact: Tess Mayer, Library, (510) 981-6100

13. Contract: Abbe & Associates LLC for the development of the Integrated Zero Waste Management Strategic Plan

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Abbe & Associates LLC for the development of a draft and final Integrated Zero Waste Management Strategic Plan. Abbe & Associate LLC's submittal was rated as the most comprehensive and responsive proposal to the RFP, Spec. No. 22-11477-C, released April 28, 2022. The contract's total amount not to exceed is \$500,000.

Financial Implications: See report

Contact: Liam Garland, Public Works, (510) 981-6300

Council Consent Items

14. Residential Preferential Parking (RPP) Program Expansion for West Berkeley Neighborhoods Within Two Blocks of Commercial Corridors

From: Councilmember Kesarwani (Author), Councilmember Taplin (Co-Sponsor)

Recommendation: Referral to the City Manager to expand the scope of the Residential Preferential Parking (RPP) program as originally proposed by staff during the May 14, 2019 City Council Public Hearing as a way to allow more residents to opt-in to this program.

Financial Implications: See report

Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

Council Consent Items

- 15. Regulation of Autonomous Vehicles** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*
From: Councilmember Taplin (Author), Councilmember Harrison (Co-Sponsor), Councilmember Robinson (Co-Sponsor)
Recommendation: Refer to the City Attorney the assessment of the legal abilities and opportunities for the City Council to regulate the operation, sale, and testing of autonomous vehicles (AVs) within the City of Berkeley and report to the Facilities, Infrastructure, Transportation, Environment and Sustainability Committee (FITES) on all findings.
Policy Committee Recommendation: To approve the item with a positive recommendation.
Financial Implications: Staff time
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 16. Adopt an Ordinance Adding Chapter 13.09 to the Berkeley Municipal Code Prohibiting Discriminatory Reports to Law Enforcement** *(Reviewed by the Public Safety Committee)*
From: Councilmember Harrison (Author), Councilmember Hahn (Co-Sponsor)
Recommendation:
1. Adopt an Ordinance Amending Chapter 13.09 to the Berkeley Municipal Code Prohibiting Discriminatory Reports to Law Enforcement.
2. Refer to the City Manager to report to Council within twelve months with anonymized data and information regarding discriminatory reports to law enforcement.
Policy Committee Recommendation: Approve the item with a positive recommendation.
Financial Implications: Staff time
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 17. Referral to the November 2022 AAO #1 Budget Process for \$50,000 in Additional Traffic Calming at MLK and Addison**
From: Councilmember Harrison (Author)
Recommendation: Referral to the November 2022 AAO1 Budget Process for \$50,000 in additional traffic calming at MLK and Addison.
Financial Implications: \$50,000
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Council Consent Items

18. **Referral to the Transportation and Infrastructure Commission and City Manager to Consider and Make Recommendations Regarding the Policy of Deploying Rectangular Rapid Flashing Beacons and Other Treatments at Dangerous or High-Collision Pedestrian and Bicycle Intersections**
From: Councilmember Harrison (Author)

Recommendation: Referral to the Transportation and Infrastructure Commission and City Manager to consider and make recommendations regarding the policy of deploying Rectangular Rapid Flashing Beacon (RRFB) and other treatments at dangerous or high-collision pedestrian and bicycle intersections.

Financial Implications: See report

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

19. **Land Acknowledgement Recognizing Berkeley as the Ancestral, Unceded Home of the Ohlone people**

From: Councilmember Hahn (Author), Mayor Arreguin (Co-Sponsor)

Recommendation:

1. Adopt the Land Acknowledgement Statement Resolution recognizing that Berkeley is the ancestral, unceded home of the Ohlone people.
2. Display the Land Acknowledgement in writing at all in-person or online Regular meetings of the City Council and read the Acknowledgement at the first Regular meeting of each month in which Regular City Council meetings are held.
3. Recommend to all Berkeley Commissions, Committees, Boards, and other elected and appointed City entities to consider inclusion of the Land Acknowledgement in meeting practices and direct the City Manager to convey a copy of this Item and Resolution to all such entities for reference.
4. Direct the City Manager to post the Land Acknowledgement or a prominent link to the Acknowledgement on the home page of the City's website and to create a webpage dedicated to Ohlone history and culture.
5. Now and in the future, consider additional more substantive reparative and restorative actions, including but not limited to those described under the heading "Actions/Alternatives Considered."

Financial Implications: See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Action Calendar

The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

The Presiding Officer will request that persons wishing to speak use the "raise hand" function to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action items may be reordered at the discretion of the Chair with the consent of Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak use the "raise hand" function to be recognized and to determine the number of persons interested in speaking at that time.

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

20. Referral Response: Amendments to the Zoning Ordinance to clarify and streamline the permit process for Amusement Device Arcades

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of Zoning Ordinance amendments to provide consistency for the incidental use of Amusement Devices and regulate Amusement Device Arcades as Commercial Recreation Centers.

Financial Implications: See report.

Contact: Jordan Klein, Planning and Development, (510) 981-7400

21. ZAB Appeal: 2018 Blake Street, Use Permit #ZP2021-0095

From: City Manager

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.

Financial Implications: None

Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar

22a. Fair Workweek Ordinance; Adding Berkeley Municipal Code Chapter 13.110

(Reviewed by the Health, Life Enrichment, Equity & Community Committee) (Item Contains revised material)

From: Commission on Labor

Recommendation: Adopt first reading of the proposed Fair Workweek Ordinance, adding Berkeley Municipal Code Chapter 13.110.

Policy Committee Recommendation: To forward the Commission on Labor's item to Council with a positive recommendation to adopt the version of the ordinance dated "7/7/22" that was presented to the Health, Life Enrichment, Equity & Community Committee at the July 11, 2022 meeting.

Financial Implications: See report

Contact: Margot Ernst, Commission Secretary, (510) 981-5400

Action Calendar

22b. Companion Report: Fair Workweek Ordinance; Adding Berkeley Municipal Code Chapter 13.110 *(Reviewed by the Health, Life Enrichment, Equity & Community Committee)*

From: City Manager

Recommendation: Direct this item to the Health, Life Enrichment, Equity, and Community Policy Committee for the following: Review and evaluate the proposed policy; and Evaluate resources needed to conduct the necessary analysis of impacts and costs associated with implementing the proposed policy.

Policy Committee Recommendation: To forward the Commission on Labor's item to Council with a positive recommendation to adopt the version of the ordinance dated "7/7/22" that was presented to the Health, Life Enrichment, Equity & Community Committee at the July 11, 2022 meeting.

Financial Implications: See report

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

23. Reconsideration of Hopkins Corridor Plan in Light of Newly Available Material Information

From: Councilmember Hahn (Author), Councilmember Wengraf (Co-Sponsor)

Recommendation:

1. Proceed with Paving of Hopkins Street from Sutter Street to San Pablo Avenue as currently scheduled for 2023.

2. Proceed with implementation of the approved facilities from Sutter to McGee Avenue (including the four-way stop sign at McGee) in accordance with the Supplemental 3 recommendations approved by the City Council on May 10, 2022, including but not limited to the requirement that Community Building/Placemaking elements be developed and implemented simultaneously with Complete Streets/Traffic elements, to the greatest extent feasible.

3. Apply up to the full \$300,000 allocated between the FY 23 and FY 24 budgets towards the Community Building/Placemaking elements on the nine-block segment of Hopkins from Sutter to McGee to support their full and simultaneous implementation, as designed by a Landscape Architect.

4. Place on hold work towards implementing the changes for the three blocks of Hopkins from McGee to Gilman Street approved on May 10, 2022 pending further study of the alternatives, consideration of the specifications listed below under Alternatives to be Considered and Independent Study Specifications and additional City Council action, after the required study and community input, to either affirm the Council's actions of May 10, 2022 or to implement a substitute or modified program.

5. Refer \$400,000 to the FY 2024 budget process to fund a comprehensive, independent study of the McGee to Gilman portion of Hopkins Street, as specified below under Alternatives to be Considered and Independent Study Specifications.

Financial Implications: See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Action Calendar

24. Harriet Tubman Terrace Tenant Support

From: Housing Advisory Commission

Recommendation: Recommend City Council take the following actions:

- Review the video created by tenants about conditions at Harriet Tubman Terrace that was shown at the July 7, 2022 Housing Advisory Commission meeting;
- Direct the City Manager to investigate health and safety violations and other grievances identified by tenants at Harriet Tubman Terrace; and
- City Council request Harriet Tubman Terrace provide tenants with a dedicated tenant advocate to assist with relocation and other needs.

Financial Implications: See report.

Contact: Mike Uberti, Commission Secretary, (510) 981-7400

Information Reports

25. Commission on Disability Fiscal Year 2022-2023 Work Plan

From: Commission on Disability

Contact: Andrew Brozyna, Commission Secretary, (510) 981-6300

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance 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 use permit or variance, 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.*

Archived indexed video streams are available at:

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

Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the 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 to the City Clerk Department at 2180 Milvia Street. 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 Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <https://berkeleyca.gov/>.

Agendas and agenda reports may be accessed via the Internet at:

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

and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@cityofberkeley.info

Libraries: Main – 2090 Kittredge Street,
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,
North Branch – 1170 The Alameda, South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.



Captioning services are provided at the meeting, on B-TV, and on the Internet.

~~~~~  
*I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on September 29, 2022.*

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville, City Clerk

## Communications

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through [Records Online](#).*

### **COVID-19 Moratorium Eviction Abuse**

1. Thelma Tajirian

### **Dominguez Lawsuit and House Cars**

2. Eric Friedman

### **Wildfire Prevention**

3. Bruce Feingold

### **Wildlife Crossing Under University Avenue**

4. Mike Vanderman

### **Preserving City Hall and the Veterans Building**

5. Leila Moncharsh

**Russian Sister Cities**

6. Phil Allen

**Use of Measure G Funds for Leasing Options**

7. Cielo Rios (2)

**2136-2154 San Pablo Draft EIR**

8. Kelly Hammargren

9. Sharon Gong, Planning and Development, Land Use Division

**Trash Along Berkeley Roads**

10. Alleen Manning

**COVID Mask Policy for the City of Berkeley**

11. Kristie Lavelle

12. Sofia Pavlova

**Only One Active Member on the Elmwood Business Improvement Advisory Board**

13. Kieron Slaughter, on behalf of the Office of Economic Development

**Enforce Zero Waste Policing and Education**

14. Chrise de Tournay Birkhahn (2)

**Concerts at Greek Theaters – Noise Issue and Drivers Leaving**

15. Hunter Schiff-Welsh

**More Moderate-Income Housing**

16. Lani Allen

**Bug Infested Library Books**

17. Barbara Gilbert

**Berkeley 2022 Cannabis Policy Scoreboard**

18. Getting It Right from the Start

**Council Meetings and Religious Holidays**

19. Barbara Gilbert

**Violation of the Fair Campaign Practices by the 2022 School Board Candidates**

20. Berkeley Parents Union

**New Zoning Rules**

21. Robert Lauriston

22. Susan Taylor

23. Avram Gur Arye

24. Benjamin Lehman

### **Market and Low-Income Housing**

25. Patrick Sheahan, on behalf of Claremont-Elmwood Neighborhood Association

### **British Home Secretary and Police Symbolic Gestures**

26. Pamela Michaud

### **Berkeley Police Departments Budget**

27. Nancy Becker

### **Leaders with Integrity Needed in Berkeley**

28. Elana Auerbach

### **Serving the Public**

29. Ako2account@

30. Al Dolgosh

31. Jami Page

32. Doug

33. Public Citizen

34. Ronnie C.

35. Donny Cash

36. Scott Jackson

### **Bond Measure L**

37. David Lerman

38. Joel Libove

### **Existing Building Carbonization Code**

39. Christopher La Combe

### **Supplemental Communications and Reports**

*Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.*

- **Supplemental Communications and Reports 1**  
Available by 5:00 p.m. five days prior to the meeting.
- **Supplemental Communications and Reports 2**  
Available by 5:00 p.m. the day before the meeting.
- **Supplemental Communications and Reports 3**  
Available by 5:00 p.m. two days following the meeting.

ORDINANCE NO. 7,834-N.S.

IMPOSING A GENERAL TAX ON USERS OF TRANSPORTATION NETWORK COMPANIES AT A RATE OF 53.775 CENTS FOR PRIVATE TRIPS AND 26.249 CENTS FOR POOLED TRIPS

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

Section 1. The 2023 Tax Rate, effective January 1, 2023, to fund general municipal services is set at 53.775 cents for private trips and 26.249 for pooled trips.

Section 2. This tax rate will result in estimated total collections of \$978,705.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on September 20, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.





ORDINANCE NO. 7,835-N.S.

AMENDING TITLE 23 OF THE BERKELEY MUNICIPAL CODE TO CORRECT ERRORS AND MAKE NON-SUBSTANTIVE, TECHNICAL EDITS TO THE ZONING ORDINANCE

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

Section 1. That Berkeley Municipal Code Section 23.204.050.D Table 23.204-8 is amended as follows:

**Table 23.204-8. C-C DEVELOPMENT STANDARDS**

|                                                                                                                      | PROJECT LAND USE     |                                 |                                                          | SUPPLEMENTAL STANDARDS   |
|----------------------------------------------------------------------------------------------------------------------|----------------------|---------------------------------|----------------------------------------------------------|--------------------------|
|                                                                                                                      | NON-RESIDENTIAL      | MIXED USE                       | RESIDENTIAL ONLY                                         |                          |
| Lot Area Minimum                                                                                                     |                      |                                 |                                                          | 23.304.020               |
| New Lots                                                                                                             | No minimum           |                                 | 5,000 sq. ft.                                            |                          |
| Per Group Living Accommodation Resident                                                                              | 350 sq. ft. [1]      |                                 |                                                          |                          |
| Usable Open Space, Minimum                                                                                           |                      |                                 |                                                          | 23.304.090               |
| Per Dwelling Unit                                                                                                    | 200 sq. ft.          | 200 sq. ft. [2]                 | 200 sq. ft.                                              |                          |
| Per Group Living Accommodation Resident                                                                              | 90 sq. ft.           |                                 |                                                          |                          |
| Floor Area Ratio, Maximum                                                                                            | 3.0                  |                                 | No maximum                                               |                          |
| Main Building Height, Minimum                                                                                        | No minimum           |                                 |                                                          |                          |
| Main Building Height, Maximum                                                                                        | 40 ft. and 2 stories | 40 ft. and 3 stories [3]<br>[4] | 35 ft. and 3 stories                                     | 23.304.050               |
| Lot Line Setbacks, Minimum                                                                                           |                      |                                 |                                                          | 23.304.030--Setbacks     |
| Abutting/Confronting a Non-residential District                                                                      | No minimum           |                                 | See Table 23.204-9                                       |                          |
| Abutting/Confronting a Residential District                                                                          | See 23.304.030.C     |                                 |                                                          |                          |
| Building Separation, Minimum                                                                                         | No minimum           |                                 | 23.304.040--Building Separation in Residential Districts |                          |
| Lot Coverage, Maximum                                                                                                | 100%                 |                                 | See Table 23.204-10                                      | 23.304.120--Lot Coverage |
| Notes:                                                                                                               |                      |                                 |                                                          |                          |
| [1] One additional resident is allowed for remaining lot area between 200 and 350 square feet.                       |                      |                                 |                                                          |                          |
| [2] Minimum open space for mixed use projects can be reduced with a UP(PH). See 23.204.050.D.3.                      |                      |                                 |                                                          |                          |
| [3] In mixed use buildings, the third and higher stories must be used for residential purposes.                      |                      |                                 |                                                          |                          |
| [4] The maximum height of a mixed use project can be increased to 50 ft and 4 stories with the issuance of a UP(PH). |                      |                                 |                                                          |                          |

Section 2. That Berkeley Municipal Code Section 23.204.080.D Table 23.204-21 is amended as follows:

**Table 23.204-21. C-E DEVELOPMENT STANDARDS**

|                                                                                                   | Project Land Use              |                      | Supplemental Standards        |
|---------------------------------------------------------------------------------------------------|-------------------------------|----------------------|-------------------------------|
|                                                                                                   | Non-Residential and Mixed Use | Residential Only     |                               |
| Lot Area, Minimum                                                                                 | No minimum                    | 5,000 sq. ft.        | 23.304.020--Lot Requirements  |
| New Lots                                                                                          | No minimum                    | 5,000 sq. ft.        |                               |
| Per Group Living Accommodation Resident                                                           | 350 sq. ft. [1]               |                      |                               |
| Usable Open Space                                                                                 |                               |                      | 23.304.090--Usable Open Space |
| Per Dwelling Unit                                                                                 | 200 sq. ft. [2]               |                      |                               |
| Per Group Living Accommodation Resident                                                           | 90 sq. ft.[2]                 |                      |                               |
| Floor Area Ratio, Maximum                                                                         |                               |                      |                               |
| Corner Lot                                                                                        | 1.0                           | No maximum           |                               |
| All Other Lot                                                                                     | 0.8                           |                      |                               |
| Main Building Height, Minimum                                                                     | No minimum                    | No minimum           |                               |
| Main Building Height, Maximum                                                                     | 28 ft. and 2 stories [3]      | 35 ft. and 3 stories |                               |
| Lot Line Setbacks, Minimum                                                                        |                               |                      | 23.304.030--Setbacks          |
| Abutting/Confronting a Non-residential District                                                   | No minimum                    | See Table 23.204-22  |                               |
| Abutting/Confronting a Residential District                                                       | See Table 23.304-3            |                      |                               |
| Building Separation, Minimum                                                                      | No minimum                    | See Table 23.204-22  |                               |
| Lot Coverage, Maximum                                                                             | 100%                          | See Table 23.204-23  | 23.304.120--Lot Coverage      |
| Notes:                                                                                            |                               |                      |                               |
| [1] One additional resident is allowed for remaining lot area between 200 and 350 square feet.    |                               |                      |                               |
| [2] Open space requirements for mixed use projects may be modified by the ZAB. See 23.204.080.D.3 |                               |                      |                               |
| [3] A basement level devoted exclusively to parking is not counted as a story.                    |                               |                      |                               |

Section 3. That Berkeley Municipal Code 23.204.090.D Table 23.204-24 is amended as follows:

Table 23.204-24. C-NS DEVELOPMENT STANDARDS

|                                                                                                                                                    | Project Land Use              |                      | Supplemental Standards        |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|----------------------|-------------------------------|
|                                                                                                                                                    | Non-Residential and Mixed Use | Residential Only     |                               |
| Lot Area, Minimum                                                                                                                                  |                               |                      |                               |
| New Lots                                                                                                                                           | 4,000 sq. ft.                 | 5,000 sq. ft.        | 23.304.020                    |
| Per Group Living Accommodation Resident                                                                                                            | 350 sq. ft. [1]               |                      |                               |
| Usable Open Space, Minimum                                                                                                                         |                               |                      |                               |
| Per Dwelling Unit                                                                                                                                  | 40 sq. ft. [2]                | 200 sq. ft.          | 23.304.090--Usable Open Space |
| Per Group Living Accommodation Resident                                                                                                            | No minimum                    | 90 sq. ft.           |                               |
| Floor Area Ratio, Maximum                                                                                                                          | 1.0                           | No maximum           |                               |
| Main Building Height [3]                                                                                                                           |                               |                      |                               |
| Minimum                                                                                                                                            | 2 stories                     | No minimum           |                               |
| Maximum                                                                                                                                            | 35 ft. and 3 stories          | 28 ft. and 2 stories |                               |
| Lot Line Setbacks, Minimum                                                                                                                         |                               |                      |                               |
| Abutting/Confronting a Non-residential District                                                                                                    | No minimum                    | See Table 23.204-25  | 23.304.030                    |
| Abutting/Confronting a Residential District                                                                                                        | See 23.304.030.C.2            |                      |                               |
| Building Separation, Minimum                                                                                                                       | No minimum [4]                | See Table 23.204-25  | 23.304.040                    |
| Lot Coverage, Maximum                                                                                                                              | 100%                          | See Table 23.204-26  | 23.304.120                    |
| Notes:                                                                                                                                             |                               |                      |                               |
| [1] One additional resident is allowed for remaining lot area between 200 and 350 square feet.                                                     |                               |                      |                               |
| [2] For mixed use projects, usable open space dimensions may be smaller than required in 23.304.090.B.3, but no dimension may be less than 6 feet. |                               |                      |                               |
| [3] Basement levels devoted exclusively to parking are not counted as a story.                                                                     |                               |                      |                               |
| [4] For mixed use projects, minimum building separation shall be as required for residential-only projects. See Table 23.204-25                    |                               |                      |                               |

Section 4. That the Berkeley Municipal Code 23.204.130.E.4 Table 23.204-40 is amended as follows:

**Table 23.204-40. C-DMU USABLE OPEN SPACE REQUIREMENTS**

|                                                                                                                                                       | <b>MINIMUM USABLE OPEN SPACE</b>                                                        | <b>SUPPLEMENTAL STANDARDS</b> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|-------------------------------|
| Residential Uses                                                                                                                                      | 80 sq. ft./unit [1]                                                                     | 23.304.090—Usable Open Space  |
| Non-Residential Uses                                                                                                                                  | 1 sq. ft. of privately-owned public open space per 50 sq. ft. of commercial floor area. |                               |
| <b>Notes:</b>                                                                                                                                         |                                                                                         |                               |
| [1] Each square foot of usable open space provided as privately-owned public open space is counted as two square feet of required on-site open space. |                                                                                         |                               |

Section 5. That Berkeley Municipal Code 23.206.050.A.7.(d) is amended as follows:

(d) *MU-LI Lots Under Common Ownerships*. Protected industrial uses in the MU-LI district may be changed to a non-protected use if:

- i. The protected industrial use is on a lot or group of abutting and confronting lots under single ownership and with more than one building; and
- ii. 25 percent or less of the total gross floor area in all buildings on the lot(s) remains as a protected industrial use.

Section 6. That Berkeley Municipal Code Section 23.304.030.B Table 23.304-1 is amended as follows:

**Table 23.304-1. ALLOWED SETBACK REDUCTIONS IN RESIDENTIAL DISTRICTS**

| <b>DISTRICT WHERE ALLOWED</b>   | <b>WHEN ALLOWED</b> | <b>MINIMUM SETBACK WITH REDUCTION</b> | <b>REQUIRED PERMIT</b> | <b>REQUIRED ADDITIONAL FINDINGS [1]</b>                                                                                                                                                   |
|---------------------------------|---------------------|---------------------------------------|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Front Setback Reductions</b> |                     |                                       |                        |                                                                                                                                                                                           |
| ES-R                            | On any lot          | No minimum.                           | UP(PH) [2]             | The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose. |
| R-S; R-SMU                      | On any lot          | No minimum                            | AUP                    | The reduced setback is appropriate given the setbacks and architectural design of surrounding buildings                                                                                   |

|       |                                                                                                                              |            |     |                                                                                                         |
|-------|------------------------------------------------------------------------------------------------------------------------------|------------|-----|---------------------------------------------------------------------------------------------------------|
| R-SMU | For either: 1) a main building with dwelling units or group living accommodations; or 2) any building north of Durant Avenue | No minimum | AUP | The reduced setback is appropriate given the setbacks and architectural design of surrounding buildings |
|-------|------------------------------------------------------------------------------------------------------------------------------|------------|-----|---------------------------------------------------------------------------------------------------------|

**Rear Setback Reductions**

|                                      |                                                                                                                              |                  |            |                                                                                                                                                                                           |
|--------------------------------------|------------------------------------------------------------------------------------------------------------------------------|------------------|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ES-R [3]                             | On any lot                                                                                                                   | No minimum       | UP(PH) [2] | The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose. |
| R-1, R-1A                            | On a lot less than 100 ft. deep                                                                                              | 20% of lot depth | ZC         | None                                                                                                                                                                                      |
| R-1A                                 | To construct a dwelling unit                                                                                                 | 12 ft.           | AUP        | The unit would not cause a detrimental impact on emergency access; or on light, air or privacy for neighboring properties.                                                                |
| R-2, R-2A, R-3, R-4, R-5, R-S, R-SMU | On a lot with two or more main buildings with dwelling units                                                                 | No minimum       | AUP        | No additional findings                                                                                                                                                                    |
| R-SMU                                | For either: 1) a main building with dwelling units or group living accommodations; or 2) any building north of Durant Avenue | No minimum       | AUP        | The reduction is appropriate given the setbacks and architectural design of surrounding buildings                                                                                         |

**Side Setback Reductions**

|           |                                |                                                      |            |                                                                                                                                                                                           |
|-----------|--------------------------------|------------------------------------------------------|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ES-R [3]  | Any lot                        | No minimum                                           | UP(PH) [2] | The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose. |
| R-1, R-1A | Lot width less than 40 ft. [4] | 10% of lot width or 3 ft., whichever is greater      | ZC         | None                                                                                                                                                                                      |
|           |                                |                                                      |            |                                                                                                                                                                                           |
| R-2, R-2A | Lot width less than 40 ft.     | First and second stories: 10% of lot width or 3 ft., | ZC         | None                                                                                                                                                                                      |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                              |                                          |     |                                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|-----|---------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                              | whichever is greater; Third story: 5 ft. |     |                                                                                                         |
| R-SMU                                                                                                                                                                                                                                                                                                                                                                                                                                                            | For either: 1) a main building with dwelling units or group living accommodations; or 2) any building north of Durant Avenue | No minimum                               | AUP | The reduced setback is appropriate given the setbacks and architectural design of surrounding buildings |
| <p>Notes:</p> <p>[1] Findings are in addition to any AUP or Use Permit findings required in <u>23.406</u>--Specific Permit Requirements.</p> <p>[2] Fire Department must review and approve reduced setbacks in respect to fire safety.</p> <p>[3] For lots less than 5,000 square feet, reductions are not allowed for property lines abutting a property under different ownership.</p> <p>[4] Not permitted for rear main buildings in the R-1A district.</p> |                                                                                                                              |                                          |     |                                                                                                         |

Section 7. That Berkeley Municipal Code Section 23.304.090.A is amended as follows:

A. *Applicability.* The standards in this section apply to areas used to satisfy minimum usable open space requirements.

Section 8. That Berkeley Municipal Code Section 23.304.030.B.7 is amended as follows:

7. *Solar Energy Equipment.* The Zoning Officer may approve an AUP for solar energy equipment to project into a required setback upon finding that:

- (a) The projection is necessary to install the solar energy equipment;
- (b) The proposed structures and equipment are installed with the primary purpose to collect, store, and use solar energy; and

Section 9. That Berkeley Municipal Code Section 23.322.030.C.2 Table 23.322-4 is amended as follows:

Table 23.322-4. REQUIRED OFF-STREET PARKING IN MANUFACTURING DISTRICTS

| Land Use                                                                                                                                                                                                                                                                                                | Required Parking Spaces                                                                                                                                 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Residential Uses</b>                                                                                                                                                                                                                                                                                 |                                                                                                                                                         |
| Accessory Dwelling Unit                                                                                                                                                                                                                                                                                 | See Chapter 23.306                                                                                                                                      |
| Dwellings                                                                                                                                                                                                                                                                                               | None required                                                                                                                                           |
| Group Living Accommodation                                                                                                                                                                                                                                                                              | None required                                                                                                                                           |
| <b>Non-Residential Uses</b>                                                                                                                                                                                                                                                                             |                                                                                                                                                         |
| All non-residential uses except uses listed below                                                                                                                                                                                                                                                       | 2 per 1,000 sq. ft.                                                                                                                                     |
| Art/Craft Studio                                                                                                                                                                                                                                                                                        | 1 per 1,000 sq. ft.                                                                                                                                     |
| Community Care Facility                                                                                                                                                                                                                                                                                 | 1 per 2 non-resident employees                                                                                                                          |
| Food Service Establishment                                                                                                                                                                                                                                                                              | 1 per 300 sq. ft.                                                                                                                                       |
| Library                                                                                                                                                                                                                                                                                                 | 1 per 500 sq. ft. of publicly accessible floor area                                                                                                     |
| Laboratories                                                                                                                                                                                                                                                                                            | 1 per 650 sq. ft.                                                                                                                                       |
| Nursing Home                                                                                                                                                                                                                                                                                            | 1 per 5 residents, plus 1 per 3 employees                                                                                                               |
| Medical Practitioners                                                                                                                                                                                                                                                                                   | One per 300 sq. ft.                                                                                                                                     |
| Large Vehicle Sales and Rental                                                                                                                                                                                                                                                                          | MU-LI District: 1.5 per 1,000 sq. ft.                                                                                                                   |
|                                                                                                                                                                                                                                                                                                         | All Other Districts: 1 per 1,000 sq. ft. of display floor area plus 1 per 500 sq. ft. of other floor area; 2 per service bay                            |
| Manufacturing                                                                                                                                                                                                                                                                                           | MU-R District: 1.0 per 1,000 sq. ft.                                                                                                                    |
|                                                                                                                                                                                                                                                                                                         | All Other Districts: 1 per 1,000 sq. ft. for spaces less than 10,000 sq. ft.; 1 per 1,500 sq. ft. for spaces 10,000 sq. ft. or more                     |
| Storage, warehousing, and wholesale trade                                                                                                                                                                                                                                                               | 1 per 1,000 sq. ft. for spaces of less than 10,000 sq. ft.; 1 per 1,500 sq. ft. for spaces 10,000 sq. ft. or more                                       |
| Live/Work                                                                                                                                                                                                                                                                                               | MU-LI District: 1 per 1,000 sq. ft. of work area where workers/clients are permitted                                                                    |
|                                                                                                                                                                                                                                                                                                         | MU-R District: if workers/clients are permitted in work area, 1 per first 1,000 sq. ft. of work area and 1 per each additional 750 sq. ft. of work area |
| <p>Notes:</p> <p>[1] For multiple dwellings where the occupancy will be exclusively for persons over the age of 62, the number of required off-street parking spaces may be reduced to 25% of what would otherwise be required for multiple-family dwelling use, subject to obtaining a Use Permit.</p> |                                                                                                                                                         |

**Section 10.** That Berkeley Municipal Code Section 23.406.070.A is amended as follows:

A. Purpose. Design Review is a discretionary process to ensure that exterior changes to buildings comply with the City of Berkeley Design Guidelines and other applicable City design standards and guidelines.

Section 11: Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on September 20, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.





Office of the City Attorney

CONSENT CALENDAR  
October 11, 2022

To: Honorable Mayor and Members of the City Council  
Madame City Manager

From: Farimah Faiz Brown, City Attorney

Subject: Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference

RECOMMENDATION

Adopt a resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference, initially ratified by the City Council on September 28, 2021, and subsequently reviewed and ratified on October 26, 2021, November 16, 2021, December 14, 2021, January 10, 2022, February 8, 2022, March 8, 2022, March 22, 2022, April 12, 2022, May 10, 2022, May 31, 2022, June 28, 2022, July 26, 2022, August 23, 2022, and September 20, 2022.

FISCAL IMPACT OF RECOMMENDATION

To be determined.

CURRENT SITUATION AND ITS EFFECTS

The City Council made the initial findings required under the Government Code on September 28, 2021. The Council must make the findings every thirty days in order to continue to meet exclusively through video conference or teleconference.

Pursuant to California Government Code section 8630 and Berkeley Municipal Code Chapter 2.88.040, on March 3, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to conditions of extreme peril to the safety of persons and property within the City as a consequence of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19), including a confirmed case in the City of Berkeley. As a result of multiple confirmed and presumed cases in Alameda County, the County has declared a local health emergency. On March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency due to the spread of COVID-19. On March 10, 2020, the City

Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312.

On March 17, 2020, Governor Newsom signed Executive Order N-29-20, which suspended certain portions of the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) related to the holding of teleconferenced meetings by City legislative bodies. Among other things, Executive Order N-29-20 suspended requirements that each location from which an official accesses a teleconferenced meeting be accessible to the public. These changes were necessary to allow teleconferencing to be used as a tool for ensuring social distancing. City legislative bodies have held public meetings via videoconference and teleconference pursuant to these provisions since March 2020. These provisions of Executive Order N-29-20 will expire on September 30, 2021.

COVID-19 continues to pose a serious threat to public health and safety. There are now over 4,700 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley. Additionally, the SARS-CoV-2 B.1.617.2 (“Delta”) variant of COVID-19 that is currently circulating nationally and within the City is contributing to a substantial increase in transmissibility and more severe disease.

As a result of the continued threat to public health posed by the spread of COVID-19, state and local officials continue to impose or recommend measures to promote social distancing, mask wearing and vaccination. Holding meetings of City legislative bodies in person would present imminent risks to the health and safety of the public and members of legislative bodies, and therefore public meetings cannot safely be held in person at this time

Assembly Bill 361 (Rivas), signed into law by Governor Newsom on September 16, 2021, amended a portion of the Brown Act (Government Code Section 54953) to authorize the City Council, during the state of emergency, to determine that, due to the spread of COVID-19, holding in-person public meetings would present an imminent risk to the health or safety of attendees, and therefore City legislative bodies must continue to meet via videoconference and teleconference. Assembly Bill 361 requires that the City Council must review and ratify such a determination every thirty (30) days. Therefore, if the Council passes this resolution on October 11, 2022, the Council will need to review and ratify the resolution by November 10, 2022.

This item requests that the Council review the circumstances of the continued state of emergency posed by the spread of COVID-19, and find that the state of emergency continues to directly impact the ability of the public and members of City legislative bodies to meet safely in person, that holding public meetings of City legislative bodies in person would present imminent risks to the health and safety of attendees, and that state and local officials continue to promote social distancing, mask wearing and vaccination. This item further requests that the Council determine that City legislative bodies, including but not limited to the City Council and its committees, and all commissions and boards, shall continue to hold public meetings via videoconference

and teleconference, and that City legislative bodies shall continue to comply with all provisions of the Brown Act, as amended by SB 361.

#### BACKGROUND

On March 1, 2020, Alameda County Public Health Department and Solano County Public Health Department reported two presumptive cases of COVID-19, pending confirmatory testing by the Centers for Disease Control (CDC), prompting Alameda County to declare a local health emergency.

On March 3, 2020, the City's Director of Emergency Services proclaimed a local emergency due to the spread of COVID-19, including a confirmed case in the City of Berkeley and multiple confirmed and presumed cases in Alameda County.

On March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency due to the spread of COVID-19.

On March 10, 2020, the City Council ratified the Proclamation of Local Emergency. Since that date, there have been over 4,700 confirmed cases of COVID-19 and at least 57 deaths in the City of Berkeley.

On March 17, 2020, Governor Newsom signed Executive Order N-29-20 which suspended certain portions of the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) to allow teleconferencing of public meetings to be used as a tool for ensuring social distancing. As a result, City legislative bodies have held public meetings via teleconference throughout the pandemic. The provisions of Executive Order N-29-20 allowing teleconferencing to be used as a tool for social distancing will expire on September 30, 2021.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Not applicable.

#### RATIONALE FOR RECOMMENDATION

The Resolution would enable the City Council and its committees, and City boards and commissions to continue to hold public meetings via videoconference and teleconference in order to continue to socially distance and limit the spread of COVID-19.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

Farimah Brown, City Attorney, City Attorney's Office (510) 981-6998  
Mark Numainville, City Clerk, (510) 981-6908

Attachments:1: Resolution Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference

RESOLUTION NO. –N.S.

RESOLUTION MAKING THE REQUIRED FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 54953(E)(3) AND DIRECTING CITY LEGISLATIVE BODIES TO CONTINUE TO MEET VIA VIDEOCONFERENCE AND TELECONFERENCE

WHEREAS, in accordance with Berkeley Municipal Code section 2.88.040 and sections 8558(c) and 8630 of the Government Code, which authorize the proclamation of a local emergency when conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a City exist, the City Manager, serving as the Director of Emergency Services, beginning on March 3, 2020, did proclaim the existence of a local emergency caused by epidemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (“COVID-19”), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency pursuant to the California Emergency Services Act, in particular, Government Code section 8625; and

WHEREAS, the Proclamation of a State of Emergency issued by Governor Newsom on March 4, 2020 continues to be in effect; and

WHEREAS, on September 16, 2021, Governor Newsom signed into law AB 361, which authorizes the City Council to determine that, due to the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference; and

WHEREAS, the City Council does find that the aforesaid conditions of extreme peril continue to exist, and now include over 4,700 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley; and

WHEREAS, the City Council recognizes that the SARS-CoV-2 B.1.617.2 (“Delta”) variant of COVID-19 that is currently circulating nationally and within the City is contributing to a substantial increase in transmissibility and more severe disease; and

WHEREAS, as a result of the continued threat to public health posed by the spread of COVID-19, state and local officials continue to impose or recommend measures to promote social distancing, mask wearing and vaccination; and

WHEREAS, holding meetings of City legislative bodies in person would present imminent risks to the health and safety of the public and members of legislative bodies, and therefore public meetings cannot safely be held in person at this time; and

WHEREAS, the City Council made the initial findings required by the Government Code on September 28, 2021; and

WHEREAS, the City Council made subsequent findings required by the Government Code on October 26, 2021, November 16, 2021, December 14, 2021, January 10, 2022, February 8, 2022, March 8, 2022, March 22, 2022, April 12, 2022, May 10, 2022, May 31, 2022, June 28, 2022, July 26, 2022, August 23, 2022, and September 20, 2022; and

WHEREAS, the City Council will need to again review the need for the continuing necessity of holding City legislative body meetings via videoconference and teleconference by November 10, 2022.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that, pursuant to Government Code section 54953, the City Council has reviewed the circumstances of the continued state of emergency posed by the spread of COVID-19, and finds that the state of emergency continues to directly impact the ability of the public and members of City legislative bodies to meet safely in person, that holding public meetings of City legislative bodies in person would present imminent risks to the health and safety of attendees, and that state and local officials continue to promote social distancing, mask wearing and vaccination.

BE IT FURTHER RESOLVED that City legislative bodies, including but not limited to the City Council and its committees, and all commissions and boards, shall continue to hold public meetings via videoconference and teleconference.

BE IT FURTHER RESOLVED that all City legislative bodies shall comply with the requirements of Government Code section 54953(e)(2) and all applicable laws, regulations and rules when conducting public meetings pursuant to this resolution.





Office of the City Manager

CONSENT CALENDAR  
OCTOBER 11, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams Ridley, City Manager  
 Submitted by: Peter Radu, Assistant to the City Manager  
 Subject: Contract No. 117596-1 Amendment: Animal Fix Clinic (formerly Fix Our Ferals) for Spay and Neuter Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to increase the total Spay Neuter Your Pet (SNYP) allocation from \$23,812 to \$35,000 and execute a contract and any necessary amendments with Animal Fix Clinic (formerly Fix Our Ferals) to provide no-cost spay and neuter surgeries to eligible pet owners for FY 2023, increasing the contract amount by \$17,500 for a new total contract amount not to exceed \$67,218 and extending the terms of the contract to September 14, 2023.

FISCAL IMPACTS OF RECOMMENDATION

The “Spay Neuter Your Pet” (SNYP) grant comes from the General Fund and is a community agency allocation that is given by Animal Services each year. The SNYP program provided \$23,812 to Animal Fix Clinic (formerly Fix Our Ferals) for FY 2018, \$11,906 for FY 2021, \$14,000 for FY 2022, for a total of \$49,718. Staff propose to award the amount of \$17,500 to Animal Fix Clinic in FY 2023, for a total amount not to exceed \$67,218.

CURRENT SITUATION AND ITS EFFECTS

The current contract between the City of Berkeley and Animal Fix Clinic expired on July, 31, 2023. Animal Fix Clinic has contracted with the City of Berkeley to provide no-cost spay and neuter surgeries to eligible pet owners since FY 2018. By providing no-cost spay and neuter surgeries, Animal Fix Clinic decreases the number of unwanted pet offspring and reduces the number of homeless animals entering the Dona Spring Animal Shelter.

A second contractor, Paw Fund has contracted with the City of Berkeley to provide no-cost spay neuter and surgeries to eligible pet owners since 2016. The FY 2023 SNYP grant will be divided between these two community-based organizations.

BACKGROUND

Many low-income pet owners would like to access spay and neuter services for their pets but are unable to afford the cost of surgery through local veterinary clinics. Animal Fix Clinic consistently works with low-income pet owners and is able to reach out to eligible pet owners whose animals need spay and neuter surgeries. The SNYP program provides for 175 free spay or neuter surgeries each year which decreases unwanted litters of pets and decreases the number of unwanted pets entering the Dona Spring Animal Shelter.

RATIONALE FOR RECOMMENDATION

Animal Fix Clinic is well equipped and capable of providing the services under the SNYP program. If this funding is not authorized, it would prevent 60 animals belonging to low income pet owners from being spay or neutered at no cost to the owner.

ALTERNATIVE ACTIONS CONSIDERED

The alternative to providing free spay and neuter surgeries to low income residents is to refer them to low cost spay and neuter clinics in the surrounding area. Prices in these clinics range from \$150 to \$500 and waiting lists for appointments are four months which is prohibitive to many pet owners

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or climate impacts associated with the subject of this report.

CONTACT PERSON

Amelia Funghi, Animal Services Manager, (510) 981-6603

Attachments:

1. Resolution



RESOLUTION NO.

CONTRACT NO. 117569-1 AMENDMENT: ANIMAL FIX CLINIC (FORMERLY FIX OUR FERALS) TO PROVIDE NO-COST SPAY AND NEUTER SURGERIES TO ELIGIBLE PET OWNERS FOR FY 2023, WITH A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$67,218

WHEREAS, The City of Berkeley SNYP program funds no-cost spay and neuter surgeries to eligible low-income pet owners; and

WHEREAS, The Animal Fix Clinic is able to reach eligible low-income pet owners, and to provide no-cost spay and neuter services; and

WHEREAS, The 'Spay Neuter Your Pet' (SNYP) grant comes from the General Fund and is a community agency allocation that is given by Animal Services each year.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to increase the general fund allocation of SNYP from \$23,812 to \$35,000 and execute Contract No. 117569-1, and any necessary amendments, with Animal Fix Clinic for spay and neuter services for FY2023, increasing the amount of the contract by \$17,500 for a new total not-to-exceed total of \$67,218, and extending the terms of the contract to September 14, 2023.





Office of the City Manager

CONSENT CALENDAR  
OCTOBER 11, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams Ridley, City Manager  
 Submitted by: Peter Radu, Assistant to the City Manager  
 Subject: Amendment to Contract No. 108-410-1: Paw Fund for Spay and Neuter Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to increase the total Spay Neuter Your Pet (SNYP) allocation from \$23,812 to \$35,000 and to execute a contract and amendments with Paw Fund to provide no-cost spay and neuter surgeries to eligible pet owners for FY 2023, increasing the contract amount by \$17,500, for a new total contract amount not to exceed \$134,466 and extending the terms of the contract to September 14, 2023.

FISCAL IMPACTS OF RECOMMENDATION

The “Spay Neuter Your Pet” (SNYP) grant comes from the General Fund and is a community agency allocation that is given by Animal Services each year. The SNYP program provided \$23,812 to Paw Fund for FY 2016, \$23,812 for FY 2017, \$23,812 for FY 2019 and \$23,812 for FY 2020, \$11,906 for FY 2021, \$9,812 for FY 2022 for a total of \$116,966. Staff propose to award the amount of \$17,500 in FY23 to Paw Fund, for a total amount not to exceed \$134,466.

CURRENT SITUATION AND ITS EFFECTS

The current contract between the City of Berkeley and Paw Fund expired on June 30, 2022. Paw Fund has contracted with the City of Berkeley to provide no-cost spay and neuter surgeries to eligible pet owners since FY 2016. By providing no-cost spay and neuter surgeries, Paw Fund decreases the number of unwanted pet offspring and reduces the number of homeless animals entering the Dona Spring Animal Shelter.

A second contractor, Animal Fix Clinic (formerly Fix Our Ferals), has contracted with the City of Berkeley to provide no-cost spay neuter and surgeries to eligible pet owners since 2017. The FY 2023 SNYP grant will be divided between these two community-based organizations.

BACKGROUND

Many low-income pet owners would like to access spay and neuter services for their pets but are unable to afford the cost of surgery through local veterinary clinics. Paw Fund consistently works with low-income pet owners and is able to reach out to eligible pet owners whose animals need spay and neuter surgeries. The SNYP program provides for 175 free spay or neuter surgeries each year which decreases unwanted litters of pets and decreases the number of unwanted pets entering the Dona Spring Animal Shelter.

RATIONALE FOR RECOMMENDATION

Paw Fund is well equipped and capable of providing the services under the SNYP program. If this funding is not authorized, it would prevent 60 animals belonging to low income pet owners from being spay or neutered at no cost to the owner.

ALTERNATIVE ACTIONS CONSIDERED

The alternative to providing free spay and neuter surgeries to low income residents is to refer them to low cost spay and neuter clinics in the surrounding area. Prices in these clinics range from \$150 to \$500 and waiting lists for appointments are four months which is prohibitive to many pet owners

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or climate impacts associated with the subject of this report.

CONTACT PERSON

Amelia Funghi, Animal Services Manager, (510) 981-6603

Attachments:

1. Resolution

RESOLUTION NO.

CONTRACT NO. 108-410-1 AMENDMENT: PAW FUND TO PROVIDE NO-COST SPAY AND NEUTER SURGERIES TO ELIGIBLE PET OWNERS FOR FY 2023, WITH A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$134,466

WHEREAS, The City of Berkeley SNYP program funds no-cost spay and neuter surgeries to eligible low-income pet owners; and

WHEREAS, The Paw Fund is able to reach eligible low-income pet owners, and to provide no-cost spay and neuter services; and

WHEREAS, The 'Spay Neuter Your Pet' (SNYP) grant comes from the General Fund and is a community agency allocation that is given by Animal Services each year,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized increase the general fund allocation of SNYP from \$23,812 to \$35,000 and to execute Contract No. 108-410-1, and any necessary amendments, with Paw Fund for spay and neuter services FY2023, increasing the amount of the contract by \$17,500 for a new total not to exceed \$134,466 and extending the terms of the contract to September 14, 2023.





Office of the City Manager

CONSENT CALENDAR  
October 11, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 11, 2022

**RECOMMENDATION**

Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

Total estimated cost of items included in this report is **\$2,968,600**.

| <b><u>PROJECT</u></b>                                                   | <b><u>Fund</u></b> | <b><u>Source</u></b>                         | <b><u>Amount</u></b> |
|-------------------------------------------------------------------------|--------------------|----------------------------------------------|----------------------|
| State Tobacco Prevention Program External Evaluator                     | n/a                | n/a                                          | \$93,600             |
| Consultant Services for Citywide Residential Objective Design Standards | 621                | Permit Service Center                        | \$350,000            |
| Toxics and Environmental Health Management System Solution              | 622<br>011         | Unified Program (CUPA)<br>GF - Discretionary | \$115,000            |
| Staffing Assessment                                                     | 011                | GF - Discretionary                           | \$70,000             |
| Restroom in the ROW                                                     | 511                | Measure T1                                   | \$1,000,000          |
| Martin Luther King Jr.                                                  | 306                | State Capital Grant                          | \$1,340,000          |

|                                                                                                                    |                          |                                                                                                                                                                      |                    |
|--------------------------------------------------------------------------------------------------------------------|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| Way Vision Zero Quick<br>Build Project (Dwight Way<br>to Russell Street)<br><b>City Project No.:</b><br>PWTRBP2201 | 134<br>135<br>142<br>501 | Measure BB local<br>Streets & Roads<br><br>Measure BB local<br>Streets & Road<br><br>Measure BB<br>Bicycle &<br>Pedestrian<br>Program<br><br>Capital<br>Improvements |                    |
| <b>Total:</b>                                                                                                      |                          |                                                                                                                                                                      | <b>\$2,968,600</b> |

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager’s purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

BACKGROUND

On May 6, 2008, Council adopted Ordinance No. 7,035-N.S., amending the City Manager’s purchasing authority for services.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The Finance Department reviews all formal bid and proposal solicitations to ensure that they include provisions for compliance with the City’s environmental policies. For each contract that is subject to City Council authorization, staff will address environmental sustainability considerations in the associated staff report to City Council.

RATIONALE FOR RECOMMENDATION

Need for the services.

ALTERNATIVE ACTIONS CONSIDERED



Formal Bid Solicitations and Request for Proposals  
Scheduled for Possible Issuance After Council  
Approval on October 11, 2022

CONSENT CALENDAR  
October 11, 2022

None.

CONTACT PERSON

Darryl Sweet, General Services Manager, Finance, 510-981-7329

Attachments:

- 1: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 11, 2022
  - a. State Tobacco Prevention Program External Evaluator
  - b. Consultant Services for Citywide Residential Objective Design Standards
  - c. Toxics and Environmental Health Management System Solution
  - d. Staffing Assessment
  - e. Restroom in the ROW
  - f. Martin Luther King Jr Way Vision Zero Quick Build Project (Dwight Way to Russell Street)

Note: Original of this attachment with live signature of authorizing personnel is on file in General Services.

DATE SUBMITTED: October 11, 2022

| SPECIFICATI<br>ON NO. | DESCRIPTION<br>OF GOODS /<br>SERVICES<br>BEING<br>PURCHASED                               | APPROX.<br>RELEASE<br>DATE | APPROX.<br>BID<br>OPENING<br>DATE | INTENDED USE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | ESTIMATED COST  | BUDGET CODE TO BE<br>CHARGED                            | DEPT. / DIVISION                                                             | CONTACT<br>NAME &<br>PHONE            |
|-----------------------|-------------------------------------------------------------------------------------------|----------------------------|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|---------------------------------------------------------|------------------------------------------------------------------------------|---------------------------------------|
| 23-11549-C            | State Tobacco<br>Prevention<br>Program External<br>Evaluator                              | 10/12/2022                 | 11/7/2022                         | In partnership with the California Department of Public Health as Local Lead Agency, the City of Berkeley is required to hire an External Evaluator (EE) from outside of the agency who fulfills the requirements of the Local Program Evaluator (LPE). The EE is generally implementing activities such as development of data collection instruments, data collection training and protocols, sampling methodology, data analysis, and report writing. Duties may also include assisting with data translation and dissemination. | \$93,600        | HHPLLA2301/<br>NONPERSONNEL/<br>CONTRSERVI/<br>CNSLTNTS | HHCS/PH                                                                      | Rebecca Day-<br>Rodriguez<br>981-5337 |
| <b>Dept TOTAL</b>     |                                                                                           |                            |                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>\$93,600</b> |                                                         |                                                                              |                                       |
| 23-11550-C            | Consultant<br>Services for<br>Citywide<br>Residential<br>Objective<br>Design<br>Standards | 12/7/2022                  | 1/5/2023                          | Consultant services to analyze and develop residential objective design standards, which will require research, analysis, community engagement, and graphics production.                                                                                                                                                                                                                                                                                                                                                            | \$350,000       | 621-53-584-622-0000-<br>000-472-612990                  | Planning and<br>Development<br>Department / Land<br>Use Planning<br>Division | Grace Wu<br>981-7484                  |

| SPECIFICATI<br>ON NO. | DESCRIPTION<br>OF GOODS /<br>SERVICES<br>BEING<br>PURCHASED | APPROX.<br>RELEASE<br>DATE | APPROX.<br>BID<br>OPENING<br>DATE | INTENDED USE                                                                                                                              | ESTIMATED COST   | BUDGET CODE TO BE<br>CHARGED                                                                 | DEPT. / DIVISION                                     | CONTACT<br>NAME &<br>PHONE                                           |
|-----------------------|-------------------------------------------------------------|----------------------------|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|------------------|----------------------------------------------------------------------------------------------|------------------------------------------------------|----------------------------------------------------------------------|
| 23-11553-C            | Toxics and Environmental Health Management System Solution  | 11/4/2022                  | 11/29/2022                        | Fully integrated Toxics and Environmental Health Management System/Solution EHMS for the Toxics and Environmental Health divisions.       | \$115,000        | Planning: 622-53-582-601-0000-000-472-613130<br><br>HHCS: 011-51-501-501-0000-000-451-612990 | Planning / Toxics<br><br>HHCS / Environmental Health | Eryn Blackwelder / Planning 981-7498<br><br>Ann Song / HHCS 926-0639 |
| <b>Dept TOTAL</b>     |                                                             |                            |                                   |                                                                                                                                           | <b>\$465,000</b> |                                                                                              |                                                      |                                                                      |
| 23-11551-C            | Staffing Assessment                                         | 10/31/2022                 | 11/28/2022                        | Comprehensive staffing assessment for all sworn staff of the Police Department.                                                           | \$70,000         | 011-71-701-801-0000-000-421-612990                                                           | Police / Operations Division                         | Lieutenant Melanie Turner mturner@cityofberkeley.info                |
| <b>Dept TOTAL</b>     |                                                             |                            |                                   |                                                                                                                                           | <b>\$70,000</b>  |                                                                                              |                                                      |                                                                      |
| 23-11552-C            | Restroom in the ROW                                         | 3/29/2023                  | 5/1/2023                          | Installation of new prefabricated restroom for public use 24/7. The scope includes design of the foundation and all associated utilities. | \$1,000,000      | 511-54-623-677-0000-000-444-663110-PWT1CB2202                                                | PW Engineering                                       | Uriel Gonzalez 981-6627                                              |

| SPECIFICATI<br>ON NO. | DESCRIPTION<br>OF GOODS /<br>SERVICES<br>BEING<br>PURCHASED                               | APPROX.<br>RELEASE<br>DATE | APPROX.<br>BID<br>OPENING<br>DATE | INTENDED USE                                                                                                                                                                                                                                                                                                                                                                                                                                                    | ESTIMATED COST        | BUDGET CODE TO BE<br>CHARGED                                                                                                                                                                                                                                                                                                                                                                                                                      | DEPT. / DIVISION              | CONTACT<br>NAME &<br>PHONE |
|-----------------------|-------------------------------------------------------------------------------------------|----------------------------|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|----------------------------|
| 23-11555-C            | Martin Luther King Jr. Way Vision Zero Quick Build Project (Dwight Way to Russell Street) | 10/17/2022                 | 11/15/2022                        | Contractor to provide construction services for installation of Quick Build pedestrian refuge islands, hardened centerlines, high-visibility crosswalks, advanced yield markings and signage, Rectangular Rapid Flashing Beacons (RRFB), crosswalk lighting, and improvement of intersection sightlines through red curbing the approaches at crosswalks. Scope of work also includes pavement rehabilitation, associated curb ramp improvements, and striping. | \$1,340,000           | Funds anticipated to be charged in the first year include:<br><br>306 State Capital Grants:<br>306-54-622-668-0000-000-431-665110-(\$470,000)<br><br>134 Measure BB Local Streets & Roads:<br>134-54-622-668-0000-000-431-665110-(\$180,000)<br><br>135 Measure BB Local Streets & Roads:<br>135-54-622-668-0000-000-431-665110-(\$100,000)<br><br>142 Measure BB Bicycle & Pedestrian Program:<br>142-54-622-668-0000-000-431-665110-(\$220,000) | Public Works - Transportation | Ian Bronswick<br>981-6399  |
| <b>Dept TOTAL</b>     |                                                                                           |                            |                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>\$2,340,000</b>    |                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                               |                            |
| <b>TOTAL</b>          |                                                                                           |                            |                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>\$2,968,600.00</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                               |                            |







Office of the City Manager

CONSENT CALENDAR  
October 11, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services  
 Subject: Contract No. 3220192 Amendment: Alameda County Network of Mental Health Clients

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 3220192 with Alameda County Network of Mental Health Clients, Berkeley Drop-In Center (BDIC) Community Crisis Response Services to add \$100,000 to hire one additional homeless outreach staff member, increasing the not-to-exceed amount to \$490,000, and extending the contract by one year to December 31, 2023.

FISCAL IMPACTS OF RECOMMENDATION

This added \$100,000 of General Fund to BDIC's Community Crisis Response Services contract will increase the not-to-exceed amount to \$490,000. Funds are available in budget code 011-51-504-535-0000-000-444-636110-, drawn from the approval of FY22 AAO #1 in November 2021.

CURRENT SITUATION AND ITS EFFECTS

Amending the BDIC Community Crisis Response Services contract is a Strategic Plan Priority Project, advancing our goal to champion and demonstrate social and racial equity. The \$100,000 from the budget referral in Annual Appropriations Ordinance (AAO) is to fund additional homeless outreach for Shattuck Avenue at Dwight Way to Adeline Street at 62<sup>nd</sup> Street, allowing the BDIC team to provide expanded outreach to underserved populations. As a part of BDIC's current contract for the Community Crisis Response Services, the Berkeley Drop-In Center has been providing outreach in a five-block radius of their drop-in location at 3234 Adeline Street as well as post-crisis counseling groups for individuals who have experienced a crisis. This additional outreach worker will be expected to participate in applicable coordination meetings with other homeless outreach providers in Berkeley, including the City of Berkeley's Homeless Response Team to coordinate around specific health and safety concerns that may arise.

BACKGROUND

As part of the Re-Imagining Public Safety process, the City has been engaged in planning for a Specialized Care Unit (SCU) that will ultimately become a 24/7 mobile

unit designed to respond to and support people who are experiencing a mental health or substance abuse crisis without direct involvement with the police. This in-depth design process for the SCU continued throughout FY22 and into FY23.

To address the urgent need for non-police crisis support, on June 29, 2021, Berkeley City Council allocated up to \$1,200,000 in the FY 2022 budget from the American Rescue Plan Act (ARPA) in support of community crisis response services to meet the immediate needs to strengthen supports on the ground for individuals on the verge of crisis. As a result of the competitive bidding process, the Alameda County Network of Mental Health Clients, Berkeley Drop-In Center was awarded \$390,000 of ARPA funds to provide these crisis and post-crisis support services. The City and BDIC entered into contract #3220192 on January 1, 2022 and BDIC has performed well under the contract to date.

Hiring an additional outreach worker will promote health and safety in South Berkeley by providing a focused and dedicated service to the homeless population in this neighborhood.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The Berkeley Drop-In Center is the most qualified organization to receive these funds because of their implementation of the Community Crisis Response Services, a contract which was awarded after a competitive RFP process was completed in FY22. Through these crisis response services, BDIC has established an infrastructure to provide outreach, crisis support services, and post-crisis care to members of the Berkeley community. Adding this outreach worker will increase their capacity and the ability to provide additional services to the homeless population in these crucial areas in South Berkeley.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Katherine Hawn, Senior Management Analyst, Health, Housing, and Community Services, 510-847-8532



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

CONTRACT NO. 3220192 AMENDMENT: ALAMEDA COUNTY NETWORK OF  
MENTAL HEALTH CLIENTS

WHEREAS, Contract No. 3220192 was awarded to the Alameda County Network of Mental Health Clients, Berkeley Drop-In Center (BDIC) to provide community crisis response services after a competitive solicitation process in FY22, and

WHEREAS, through Contract No. 3220192 BDIC is providing crisis and post-crisis support as well as outreach within a five-block radius of the Berkeley Drop-In Center location at 3234 Adeline Street; and

WHEREAS, \$100,000 was allocated in AAO#1 in FY22 to additional homeless outreach for the South Shattuck Avenue at Dwight Way to Adeline Street at 62<sup>nd</sup> Street and the immediately adjacent neighborhoods; and

WHEREAS, BDIC is the most qualified organization to receive this funding given their existing infrastructure.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley to amend Contract No. 3220192 for Alameda County Network of Mental Health Clients to add \$100,000 to hire one additional homeless outreach staff member, increasing the not-to-exceed amount to \$490,000, to provide outreach and additional services at South Shattuck Avenue at Dwight Way to Adeline Street at 62<sup>nd</sup> Street and the immediately adjacent neighborhoods and extend the contract by one year to December 31, 2023.





Office of the City Manager

CONSENT CALENDAR

October 11, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services

Subject: Revenue Grant Agreement: Funding Support from the State of California  
Women, Infant, Children Program

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to submit a grant agreement to the State of California, to accept the grants, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the Women, Infants, and Children (WIC) program in the projected total amount of \$1,810,197 for Federal Fiscal Years (FFY) 2023 through 2025.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley will receive funds in the estimated amount of \$1,810,197 from the State of California, Women, Infants and Children (WIC) program for FFY 2023 through FFY 2025. The contract will be assigned a contract number. The grant funding will be deposited in the Health (General) Grant Fund 312 (Revenue Budget Code is 312-51-506-562-2061-000-000-432110-). There is no match required and this contract is expected to be for \$603,399 each year for Federal Fiscal Years 2023 through 2025.

Spending of these grant funds is subject to Council approval of the budget and the Annual Appropriations Ordinances each fiscal year. Depending on the timing of when grants are officially awarded and the amounts are determined, the grant budget will be adjusted as part of a future amendment to the FY 2023 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

The State of California-funded WIC program is a Strategic Plan Priority Project, advancing our goal to create a resilient, safe, connected, and prepared city, champion and demonstrate social and racial equity and be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community. The Health, Housing and Community Services Department (HHCS) provides a broad range of public health and community health services in Berkeley; with the goals of achieving health equity, promoting healthy environments and behaviors, protecting residents from disease, and preventing illness, disability, and premature death.

BACKGROUND

The City of Berkeley receives funding from many sources annually to complete activities to improve the health of the community. As a local health jurisdiction, the City is entitled to specific State funding to meet core public health objectives. HHCS' Public Health Division (HHCS/PHD) is committed to providing essential services to the community to prevent the spread of disease and to promote healthy environments.

The State of California WIC grant contributes to the Department's work towards improving the health of our community by mitigating the negative health effects of poor nutrition among low income women, infants and children by providing nutritious foods to supplement diets, information on healthy eating, breastfeeding support and referrals to health care services.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

These funds support vital services related to our mandates as a public health jurisdiction and local initiatives designed to address health inequities in Berkeley and improve the health of Berkeley residents. This grant supports the Department's mission and provides the City with funding to continue working to protect and improve the health of the community.

ALTERNATIVE ACTIONS CONSIDERED

This funding is essential for HHCS/PHD's mission and goals. The alternative action of not seeking any of these funding sources would result in a significant reduction in public health services to the community

CONTACT PERSON

Janice Chin, Manager, Public Health Division, HHCS, (510) 981-5121

Attachments:

1. Resolution

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

GRANT AGREEMENT: STATE OF CALIFORNIA FOR THE WOMEN, INFANTS AND CHILDREN PROGRAM

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division (HHCS/PHD), is committed to providing nutritious foods to supplement inadequate diets, nutrition education, and referrals to health care for pregnant, breastfeeding, and non-breastfeeding postpartum women, infants and children up to age five who are found to be at nutritional risk; and

WHEREAS, HHCS provides a broad range of needed public health program services to the community; and

WHEREAS, HHCS works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, HHCS seeks to achieve health equity; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to accept State of California funding for federal fiscal years 2023 through 2025 for the Women, Infants and Children program: to provide nutritious foods to supplement inadequate diets, nutrition education, and referrals to health care for pregnant, breastfeeding, and non-breastfeeding postpartum women, infants and children up to age five who are found to be at nutritional risk; execute any resultant revenue agreements and amendments; and implement the projects and appropriation of funding in the estimated amount of \$1,810,197 for related expenses. Budget Codes (Revenue): 312-51-506-562-2061-000-000-432110-; (Expenditure) 312-51-506-562-2061-000-451-various; A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
October 11, 2022

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Donald Ellison, Interim Director of Human Resources  
Subject: Expand the Program Manager Series by Establishing the Principal Program Manager Classification and Salary Range

RECOMMENDATION

Adopt a Resolution to expand the Program Manager Series by establishing the Principal Program Manager classification with a monthly stepped salary range of \$12,651.60 to \$15,309.90 effective October 7, 2022.

FISCAL IMPACTS OF RECOMMENDATION

There is no significant fiscal impact of the recommendation. The monthly stepped salary range for the existing Program Manager I and II classification is \$9,515 to \$13,478. The recommended monthly salary range for the new classification of Principal Program Manager is \$12,651.60 to \$15,309.90.

CURRENT SITUATION AND ITS EFFECTS

The Human Resources Department is proposing the establishment of a new classification of Principal Program Manager.

The Program Manager series is a city-wide classification. The Principal Program Manager was created to expand the Program Manager series to create a promotional opportunity in the various city departments.

The Human Resources Department contracted with Bryce Consulting to develop a base salary recommendation. Bryce Consulting is an agency that provides a variety of human resource services to non-profit and public-sector clients. The staff is recommending a monthly salary range of \$12,651.60 - \$15,309.90.

| Principal Program Manager | Salary (Monthly) |
|---------------------------|------------------|
| Classification Step 1     | \$12,651.60      |
| Classification Step 5     | \$15,309.90      |

BACKGROUND

The Personnel Board discussed and voted unanimously to send this classification to the City Council for approval at its September 6, 2022 meeting. (Vote: Ayes: Dixon, Gilbert, Karpinski, Lacey, Wenk, Noes: None Abstains: None).

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

It has been the policy of the City to create the necessary classification and salary schedule to accommodate new duties and responsibilities, reflect programmatic changes, maintain competitive salaries and, when applicable, comply with regulatory requirements.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Donald E. Ellison, Human Resources, Human Resources, (510) 981-6807.

Attachments:

1. Resolution

Exhibit A: Classification Specification and Salary Schedule



RESOLUTION NO. -N.S.

CLASSIFICATION: PRINCIPAL PROGRAM MANAGER

WHEREAS, the Human Resources Department maintains the Classification and Compensation plan for the City of Berkeley; and

WHEREAS, the Human Resources Department has completed a classification review and recommended establishing the Principal Program Manager classification to create a promotional opportunity in various city departments;

WHEREAS, the series will lead to wider outreach and a more diverse pool of potential qualified candidates, and create a professional path for dedicated employees by allowing the division to retain and develop top talent that directly benefits our city's stakeholders;

WHEREAS, this classification also responds to Human Resource's request to develop such a classification in the last contract cycle, and supports the City's Strategic Plan goals to "Foster a dynamic, sustainable, and locally-based economy" and "Attract and retain a talented and diverse City government workforce."

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Classification for Principal Program Manager is established, with a salary range and classification specification as shown on Exhibit A, effective October 7, 2022.

Exhibit A: Principal Program Manager, Classification Specification and Salary Schedule



Class Code:  
28990

## Principal Program Manager

Bargaining Unit: Public Employees Union Local One

CITY OF BERKELEY  
Established Date: XXXX

### SALARY RANGE

\$72.99 - \$88.33 Hourly  
\$5,839.20 - \$7,066.11 Biweekly  
\$12,651.60 - \$15,309.90 Monthly  
\$151,89.22 - \$183,718.85 Annually

### DESCRIPTION:

#### DEFINITION

Plans, organizes, directs and supervises one or more major City programs or projects that have a high degree of visibility and are of substantial impact including the development and implementation of program goals and elements; performs a variety of technical tasks relative to assigned program or project; and develops procedures, programs and methodologies.

#### CLASS CHARACTERISTICS

This management level classification may be populated with multiple incumbents who exercise a broad range of authority over complex programs critical to a department's mission. The Principal Program Manager is a supervisory level with responsibility for directing one or more major City programs or projects of a complex nature. Incumbents are expected to demonstrate skills and knowledge particular to their assignment. Under general direction, the Principal Program Manager organizes, coordinates and directs various staff and activities associated with the development and implementation for programs and projects.

Principal Program Manager is distinguished from the Program Manager II in that it has full supervisory responsibilities, including completing performance evaluations and counseling for performance improvement.

### EXAMPLES OF DUTIES:

Classifications: Creation of Communications Specialist Classification

Page 2

The following list of duties is intended only to describe the various types of work that may be performed and the level of technical complexity of the assignment(s) and is not intended to be an all-inclusive list of duties. The omission of a specific duty statement does not exclude it from the position if the work is consistent with the concept of the classification, or is similar or closely related to another duty statement.

1. Recommends and assists in the implementation of goals and objectives; establishes schedules and methods for the performance of project or program implementation; implements policies and procedures;
2. Plans, prioritizes, assigns, supervises and reviews the work of staff involved in the performance of project or program implementation as well as the activities of professional, paraprofessional and support staff;
3. Evaluates operations and activities of assigned responsibilities; recommends improvements and modifications; prepares various reports on operations and activities;
4. Participates in budget preparation and administration; prepares cost estimates for budget recommendations; submits justifications for staff, equipment, and supplies; monitors and controls expenditures;
5. Participates in the selection of staff; provides or coordinates staff training; works with employees to correct deficiencies; implements discipline procedures;
6. Organizes, coordinates, and manages one or more major programs or projects with high visibility and impact;
7. Supervises administrative functions associated with program management including budget preparation, financial management, and grant application preparation and administration; manages the procurement process including the development of RFP/RFQs; negotiates terms, conditions and administers contracts;
8. Represents the department in a variety of meetings and forums involving program coordination and implementation;
9. Conducts complex analyses and makes technical investigations and research on a variety of issues impacting the City;
10. Plans, develops and supervises complex studies and prepares and presents findings and recommendations;
11. Serves as liaison with representatives from federal, state, local, private and community organizations in the implementation of assigned program(s);
12. Reviews the effectiveness of service delivery and work flow; develops and supervises the implementation of recommendations regarding program elements;
13. Analyzes laws and regulations and their impact to assigned program(s);
14. Develops and maintains informational and statistical reports regarding program performance, goal attainment, and service levels;
15. Maintains regular contact with public, including internal and external meetings and/or site visits to ensure compliance with program requirements;
16. Performs related duties as assigned.

**KNOWLEDGE AND ABILITIES:**

Classifications: Creation of Communications Specialist Classification

Page 3

Note: The level and scope of the knowledges and skills listed below are related to job duties as defined under Class Characteristics.

Knowledge of:

1. Advanced principles and practices of project/program development, management and administration in the assigned program area;
2. Management and administrative principles and practices;
3. Principles of budget development and administration;
4. Principles and practices of supervision, training and performance evaluations;
5. Advanced principles and practices of research, analysis, and report writing;
6. Principles and practices of effective employee supervision, including selection, training, work evaluation and discipline;
7. Pertinent Federal, State, and local statutes, ordinances, and regulations, as needed for area of assignment;
8. Regulatory and programmatic requirements and services as they relate to assigned program;
9. Principles and practices of grant administration, public procurement, contract law and negotiations.

Ability to:

1. Organize, implement and direct program or project operations and activities;
2. Effectively plan, develop, implement and supervise comprehensive programs with a broad impact and high degree of complexity;
3. Assist in the development and monitoring of an assigned program budget;
4. Collect and analyze large volumes of data and reach a sound conclusion;
5. Supervise, train and evaluate assigned staff;
6. Use, at a highly proficient level, computers, computer applications, and software including Word, Excel, and other software relevant to the assigned program area;
7. Prepare and present clear and concise technical or analytical reports and visually engaging presentations for City Council and community;
8. Interpret and apply program requirements and/or regulatory practices, rules, and policies to actual situations;
9. Meet deadlines in a highly political environment;
10. Communicate effectively, both orally and in writing;
11. Effectively analyze legislation and/or regulatory changes and their impact to City services;
12. Establish and maintain productive working relationships with those contacted in the course of the work;
13. Use English effectively to communicate in person, over the telephone, and in writing;

Classifications: Creation of Communications Specialist Classification

Page 4

14. Use tact, initiative, prudence, and independent judgment within general policy, procedural, and legal guidelines; and
15. Manage and supervise support staff.

**MINIMUM QUALIFICATIONS:**

A TYPICAL WAY OF GAINING THE KNOWLEDGE AND SKILLS OUTLINED ABOVE IS:

Equivalent to graduation from a four (4) year college or university with major coursework in business or public administration, or a related field and five (5) years in the development and implementation of programs, including two (2) years in a lead capacity. Experience in a public agency setting is desirable. Additional professional-level experience as outlined above may be substituted for the college education on a year-for-year basis.

**OTHER REQUIREMENTS:**

Must be able to travel to various locations within and outside the City of Berkeley to meet program needs and to fulfill the job responsibilities. When driving on City business, the incumbent is required to maintain a valid California driver's license as well as a satisfactory driving record. Must be able to attend evening and weekend meetings.





Office of the City Manager

CONSENT CALENDAR

October 11, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Donald Ellison, Interim Director of Human Resources

Subject: Classification and Salary: Establishing the Diversity, Equity, and Inclusion Officer Classification and Salary Range

RECOMMENDATION

Adopt a Resolution to expand the Diversity, Equity, and Inclusion Officer classification with a monthly stepped salary range of \$11,497.20 - \$15,107.73 effective October 7, 2022.

FISCAL IMPACTS OF RECOMMENDATION

None. The Fiscal Year 2023-2024 Adopted Biennial Budget includes funding for this position.

CURRENT SITUATION AND ITS EFFECTS

On June 9, 2020, Councilmember Kesarwani and co-sponsors Councilmembers Wengraf, Droste, and Bartlett, submitted an urgency item requesting consideration in the budget process of an \$150,000 one-time allocation to establish an Office of Racial Equity. The request described the Office as consisting of a Racial Equity Officer and a supporting specialist. However, the continuation of the COVID-19 pandemic throughout 2020 and 2021, and the associated dampening effects on the economy led to some new initiatives being deferred, including the creation of an Office of Racial Equity. While the item was considered during the November 2020 Annual Appropriations Ordinance, it was not funded at that time.

A number of jurisdictions have created some form of Office of Racial Equity or Officer. These classifications have reported to the City/County Manager's Office to underscore the importance of the work and to centralize and manage the often cross-departmental/cross-sector work more effectively and collaboratively.

The creation of this single-position executive management classification will coordinate activities with City departments and outside agencies and provide support to the City Manager and City Council. This will be the anchor position within the newly created Diversity, Equity and Inclusion Division within the City Manager's Office and will be an

internal alignment with Assistant to the City Manager. Additionally, an Office Specialist II will also support this Division after it is established.

Therefore, staff recommends that the Personnel Board establish the Diversity, Equity and Inclusion Officer classification to enable the City Manager’s Office to function more efficiently and provide adequate services to the community.

The Human Resources Department contracted with Bryce Consulting to develop a base salary recommendation based on similar public agencies within the area with similar job classifications. Bryce Consulting is an agency that provides a variety of human resource services to non-profit and public-sector clients. To align with the Assistant to the City Manager classification, staff is recommending a monthly salary range of \$11,497.20-\$15,107.73.

|                                          |                  |
|------------------------------------------|------------------|
| Diversity, Equity, and Inclusion Officer | Salary (Monthly) |
| Classification Step 1                    | \$11,497.20      |
| Classification Step 5                    | \$15,107.73      |

**BACKGROUND**

The Personnel Board discussed and voted unanimously to send this classification to the City Council for approval at its September 6, 2022 meeting. (Vote: Ayes: Dixon, Gilbert, Karpinski, Lacey, Wenk, Noes: None Abstains: None).

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

**RATIONALE FOR RECOMMENDATION**

It has been the policy of the City to create the necessary classification and salary schedule to accommodate new duties and responsibilities, reflect programmatic changes, maintain competitive salaries and, when applicable, comply with regulatory requirements.

**ALTERNATIVE ACTIONS CONSIDERED**

None.

**CONTACT PERSON**

Donald E. Ellison, Human Resources, Human Resources, (510) 981-6807.

**Attachments:**

- 1. Resolution  
Exhibit A: Classification Specification



RESOLUTION NO. -N.S.

CLASSIFICATION: DIVERSITY, EQUITY, AND INCLUSION OFFICER

WHEREAS, the Human Resources Department maintains the Classification and Compensation plan for the City of Berkeley; and

WHEREAS, the Human Resources Department has completed a classification review and recommended establishing the Diversity, Equity, and Inclusion Officer classification in the City Manager's Office;

WHEREAS, this classification will ensure the City continues to accomplish its social and equity goals and initiatives in a timely and effective manner.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Classification for Diversity, Equity, and Inclusion Officer is established, with a salary range and classification specification as shown on Exhibit A, effective September 7, 2022.

Exhibit A: Diversity, Equity, and Inclusion Officer Classification Specification

## DIVERSITY, EQUITY AND INCLUSION OFFICER

### DEFINITION:

Under direction, to plan organize, direct and review the activities and operations of the Diversity, Equity and Inclusion Division within the City Manager's Office; to coordinate activities with City departments and outside agencies; and to provide highly responsible and complex support to the City Manager and City Council.

### CLASS CHARACTERISTICS:

This is a single-position executive management classification. The Diversity, Equity and Inclusion Officer's duties are administrative/managerial and highly complex in nature, involving highly technical functions. The incumbent has broad management authority for the day-to-day operations of the Diversity, Equity and Inclusion Division.

### EXAMPLES OF DUTIES:

The following list of duties is intended only to describe the various types of work that may be performed and the level of technical complexity of the assignment(s) and is not intended to be an all-inclusive list of duties. The omission of a specific duty statement does not exclude it from the position if the work is consistent with the concept of the classification or is similar or closely related to another duty statement.

1. Develop, plan and implement division goals and objectives; recommend and administer policies and procedures;
2. Coordinate division activities with those of other departments and outside agencies and organizations; provide staff assistance to the City Manager; prepare and present staff reports and other necessary correspondence;
3. Direct, oversee and participate in the development of the division's work plan; assign work activities, projects and programs; monitor work flow; review and evaluate work products, methods and procedures;
4. Supervise and participate in the development and administration of the division budget; direct the forecast of additional funds needed for staffing, equipment, materials and supplies; monitor and approve expenditures; implement mid-year adjustments;
5. Select, train, motivate and evaluate personnel; provide or coordinate staff training; conduct performance evaluations; implement discipline procedures; maintain discipline and high standards necessary for the efficient and professional operation of the division;
6. Represent the division to outside groups and organizations; participate in outside community and professional groups and committees; provide technical assistance as necessary;
7. Prepare and make presentations to City officials, community members and others as required;
8. Provide vision and leadership to effectively integrate inclusion into the organization, working closely with City and community leadership and diversity point people to shape and implement plans and strategies aligned with City goals and create a welcoming environment for all;
9. Facilitate and coordinate strategic planning and prioritization in the areas of diversity and inclusion; conduct periodic climate surveys; and work collaboratively to develop and

- implement strategies and initiatives that advance a climate of diversity and inclusion and support the City's mission, vision and goals;
10. Collaborate with senior management to integrate diversity best practices into City workplace practices, including business practices and programming;
  11. Engage appropriate stakeholders to develop, implement, operationalize and measure the City's strategic diversity and inclusion plan, vision and related goals;
  12. Collaborate with Human Resources to develop strategic hiring and retention efforts to attract and retain a highly talented, diverse workforce;
  13. Propose citywide policy and administrative changes that impact equity in city government and the delivery of services to the community;
  14. Coordinate a wide variety of diversity programming at the City and community level addressing all dimensions of diversity and inclusion;
  15. Create and implement communication strategies and content management for training, web resources, social media and print materials to support diversity inclusion and related initiatives;
  16. Provide leadership and oversight of programs and activities that promote workplace diversity; serve as an expert advisor on matters of equity and disparities; assist as needed on special assignments and projects involving City-wide equity issues;
  17. Serve as a spokesperson for the City on matters related to diversity and inclusion;
  18. Participate on committees, boards, task forces, and in community activities as assigned; attend meetings, conferences, and workshops as assigned;
  19. Build and maintain positive working relationships with co-workers, other employees and the public using principles of good customer service;
  20. Perform related duties as assigned.

**KNOWLEDGE AND ABILITIES:**

Note: The level and scope of the knowledges and skills listed below are related to job duties as defined under Class Characteristics.

Knowledge of:

1. Cultural awareness and methods to build trust, credibility and navigate a complex landscape as it relates to diversity and inclusion;
2. Social, political and environmental issues influencing equity program development and implementation;
3. Effective institutional change management principles and practices;
4. Best practices for building diversity and inclusion;
5. Methods for developing and implementing recruitment and retention strategies focused on building a diverse workforce;
6. Principles and practices of leadership, motivation, team building and conflict resolution;
7. Pertinent local, State and Federal laws, rules and regulations;
8. Organizational and management practices as applied to the analysis and evaluation of programs, policies and operational needs;

9. Principles and practices of organization, administration and personnel management;
10. Principles and practices of budget preparation and administration;
11. Principles of supervision, training and performance evaluation;
12. Investigative principles, methods, and practices;
13. Public relations practices and techniques; public speaking;
14. Research methods; report writing techniques; statistical concepts and methods; principles and techniques of project management.

Ability to:

1. Plan, direct and control the administration and operations of the Diversity, Equity and Inclusion Division;
2. Exercise tact and diplomacy in dealing with highly sensitive, complex and confidential issues and situations with broad effects on City policies and issues;
3. Develop and implement division policies;
4. Gain cooperation through discussion and collaboration;
5. Successfully develop, control and administer division budget and expenditures;
6. Interpret and apply City policies, procedures, rules and regulations;
7. Supervise, train and evaluate assigned staff;
8. Meet critical deadlines; make decisions under pressure;
9. Prepare and give effective public presentations;
10. Prepare and present complex narrative and statistical reports, correspondence, and other documents;
11. Communicate clearly and concisely, both orally and in writing;
12. Operate and use modern office equipment including computers and applicable software;
13. Establish and maintain effective working relationships with those contacted in the course of work.

**MINIMUM QUALIFICATIONS:**

**A TYPICAL WAY OF GAINING THE KNOWLEDGE AND SKILLS OUTLINED ABOVE IS:**

Equivalent to a Bachelor's degree from an accredited college or university with major coursework in sociology, education, public administration, ethnic studies, community, or a related field and five years of experience administering community, educational or social justice programs.

**OTHER REQUIREMENTS:**

Must be able to travel to various locations within and outside the City of Berkeley to meet program needs and to fulfill the job responsibilities. When driving on City business, the incumbent is required to maintain a valid California driver's license as well as a satisfactory driving record.



Office of the City Manager

CONSENT CALENDAR

October 11, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Donald Ellison, Interim Director of Human Resources  
 Subject: Classification and Salary: Assistant to the City Attorney

RECOMMENDATION

Adopt a Resolution to establish the Assistant to the City Attorney classification with a monthly stepped salary range of \$11,497.20- \$15,107.73 effective October 11, 2022.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The City Attorney has identified the need for a non-attorney classification that can perform sensitive, complex and difficult analytical work. Policy proposals and referrals from the City Council and City Departments often require monitoring and research that falls outside the scope of legal analysis, including providing analytical support on issues that have significant City or community implications.

There is a need for monitoring, research, and writing related to a wide range of City projects that have significant City or community implications. Currently these functions are being performed by attorneys, but they do not always require legal expertise. A highly organized and analytical person with policy expertise and strong writing skills could perform these tasks for the City Attorney's Office at less expense to the City, thereby freeing up attorney time to be used for exclusively for tasks that require legal expertise.

The City Attorney's Office provides legal advice and support to the entire City, including the City Council, City Manager, all City Departments, as well as appointed City Boards and Commissions. Legal advice and support includes litigating on behalf of the City, drafting or reviewing contracts, leases, ordinances, and resolutions, advising on ballot measures, acting as the Risk Manager for the City, and providing legal advice to staff engaged in affordable housing, homelessness response work, pandemic response work, land-use and zoning, infrastructure projects, economic development efforts and major policy initiatives such as the Re-Imagining Public Safety Task Force and other multi departmental projects that may have legal implications.

The Human Resources Department contracted with Bryce Consulting to create the Assistant to the City Attorney. The City Attorney would like the salary to be comparable to the Assistant to the City Manager. This job is very similar to the Assistant to the City Manager classification, and therefore the proposed salary range is identical. Staff is recommending a monthly salary range of \$11,497.20- \$15,107.73.

|                                |                  |
|--------------------------------|------------------|
| Assistant to the City Attorney | Salary (Monthly) |
| Classification Step 1          | \$11,497.20      |
| Classification Step 5          | \$15,107.73      |

BACKGROUND

The Personnel Board discussed and voted unanimously to send this classification to the City Council for approval at its September 6, 2022 meeting (Vote: Ayes: Bartlow, Dixon, Lacey, Wenk, Karpinski, Gilbert, Noes: None Abstains: None).

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

It has been the policy of the City to create the necessary classification and salary schedule to accommodate new duties and responsibilities, reflect programmatic changes, maintain competitive salaries and, when applicable, comply with regulatory requirements.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Donald E. Ellison, Human Resources, Human Resources, (510) 981-6807.

Attachments:

- 1. Resolution  
Exhibit A: Classification Specification and Salary Schedule
- 2. Organizational Chart

RESOLUTION NO. -N.S.

CLASSIFICATION: ASSISTANT TO THE CITY ATTORNEY UNREPRESENTED

WHEREAS, the Human Resources Department maintains the Classification and Compensation plan for the City of Berkeley; and

WHEREAS, the Human Resources Department has completed a classification review and recommended establishing the Assistant to the City Attorney.

WHEREAS, the City Attorney has identified the need for a non-attorney classification that can perform sensitive, complex and difficult analytical work. Policy proposals and referrals from the City Council and City Departments often require monitoring and research that falls outside the scope of legal analysis, including providing analytical support on issues that have significant City or community implications.

WHEREAS, the Personnel Board recommended on September 6, 2022 to establish the classification and salary range of Assistant to the City Attorney exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) and Unrepresented, effective October 11, 2022

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Classification for Assistant to the City Attorney is established, with a salary range and classification specification as shown on Exhibit A, effective October 11, 2022.

Exhibit A: Assistant to the City Attorney, Classification Specification and Salary Schedule



Class Code:  
XXXXX

## Assistant to the City Attorney

Bargaining Unit: Unrepresented Classifications

CITY OF BERKELEY  
Established Date: XXXX

### SALARY RANGE

\$66.3251- \$87.1592 Hourly  
\$5,306.40- \$6,972.80 Biweekly  
\$11,497.20- \$15,107.73 Monthly  
\$137,966.40 - \$181,292.80 Annually

### DESCRIPTION:

#### DEFINITION

Under direction, provides highly responsible and specialized administrative and analytical and support within the City Attorney's Office and performs related work as assigned.

#### CLASS CHARACTERISTICS

The Assistant to the City Attorney is a single level classification within the City Attorney's Office. This class performs sensitive, complex and difficult analytical work as a member of the City Attorney's staff, including providing analytical support on issues that have significant City or community implications. Incumbents have considerable latitude for the exercise of independent judgment, particularly when representing the City Attorney's Office in meetings with other agencies, boards and commissions and community groups.

### EXAMPLES OF DUTIES:

The following list of duties is intended only to describe the various types of work that may be performed and the level of technical complexity of the assignment(s) and is not intended to be an all-inclusive list of duties. The omission of a specific duty statement does not exclude it from the position if the work is consistent with the concept of the classification, or is similar or closely related to another duty statement.



1. Represents and supports the City Attorney's Office with employee and citizen group discussions, and meetings; monitors pending items and keeps the City Attorney informed about matters of importance; provides the City Attorney with accurate and timely information to support decision-making and policy direction;
2. Assists in the preparation, development, and administration of the department operating budget;
3. Collects, compiles and analyzes information from various sources on a variety of specialized topics related to the operations of the City Attorney's Office;
4. Researches, evaluates, and prepares statistical, financial, and demographic data used in reports, studies, surveys and analyses; analyzes and makes recommendations in the development and administration of assigned program area;
5. Investigates, analyzes, develops and prepares special studies or projects and corresponding documentation and technical reports;
6. Negotiates and administers contracts; ensures compliance with department procedures, City policies, and pertinent laws, regulations and ordinances;
7. Assists in the development and analysis of departmental policies, procedures and systems;
8. Receives, researches, and responds to questions from outside agencies, other City departments and the general public;
9. Prepares and presents staff reports and presentations at various City Council, commission/board, and other governmental meetings; drafts City Council documents; serves on various committees and task forces;
10. Conducts research, administers special projects and assures implementation of programs developed and initiated by the City Attorney;
11. Consults with the City Attorney and Deputy City Attorneys in solving administrative issues.
12. Represent the City Attorney's Office to outside agencies and organizations; participates in outside community and professional groups and committees; provides technical assistance as necessary;
13. Builds and maintains positive working relationships with co-workers, other City employees and the public using principles of good customer service.
14. Performs related work as assigned.

#### KNOWLEDGE AND ABILITIES:

Note: The level and scope of the knowledges and skills listed below are related to job duties as defined under Class Characteristics.

#### Knowledge of:

1. Principles, practices and techniques of project management;
2. Principles and practices of public administration, including principles of organization, budgeting, fiscal analysis, long-range financial planning, and the functions and activities of a municipal government;
3. Pertinent local, state and federal rules, regulations and laws;
4. Modern office procedures and computer equipment;
5. Principles and practices of organizational analysis and management;

6. Methods of complex research and technical report writing.

Ability to:

1. Effectively represent the City in contacts with governmental agencies, community groups, and various business and professional organizations;
2. Conduct analytical, management, and operational studies, evaluating alternatives, and making sound, effective recommendations;
3. Gain cooperation through discussion and persuasion;
4. Interpret and apply City and department policies, procedures, rules and regulations;
5. Evaluate programs and services from an operational and productivity standpoint;
6. Prepare clear, concise and competent reports, correspondence and other written materials;
7. Communicate clearly and concisely, both orally and in writing;
8. Establish and maintain effective working relationships with those contacted in the course of work.

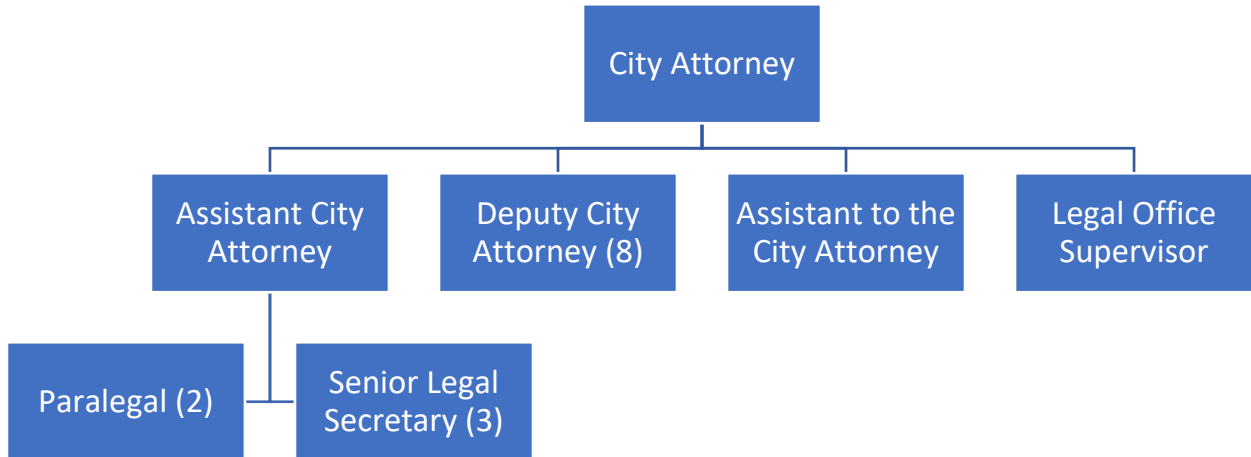
**MINIMUM QUALIFICATIONS:**

**A TYPICAL WAY OF GAINING THE KNOWLEDGE AND SKILLS OUTLINED ABOVE IS:**

Equivalent to graduation from an accredited college or university with major course work in business administration, public administration, or related field and four (4) years of increasingly responsible analytical experience in a municipal government environment that included the development and administration of programs.

**OTHER REQUIREMENTS:**

Specified positions may require possession of a valid California driver's license and have a satisfactory driving record. Must be a current member of the California State Bar Association. Must be willing and able to attend evening meetings.







CONSENT CALENDAR

October 11, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Tess Mayer, Director of Library Services

Subject: Revision of the Tool Lending Specialist Classification to Reflect an Accurate Scope of Duties with a Four Percent (4%) Salary Increase

RECOMMENDATION

Adopt a Resolution amending Resolution No. 62,558-N.S. to approve the revision of the Tool Lending Specialist job specification to accurately reflect the scope of duties and to increase the current salary schedule by four percent (4%) effective March 16, 2021, or the employee's start date, if more recent.

FISCAL IMPACTS OF RECOMMENDATION

The Library's personnel budget is funded by the Library Tax Fund. The current salary range for this position is \$6,132.89 - \$6,795.44 monthly. The proposed adjusted monthly salary range would be \$6,378.23 - \$7,067.26, reflecting the 4% increase. There are three full-time Tool Lending Specialist positions on the team. These team members would also be receiving retroactive back pay dating back to 3/16/21 or their date of hire if more recent, for the difference between their current pay rate and this proposed adjusted rate.

CURRENT SITUATION AND ITS EFFECTS

The Tool Lending Library's collection expanded to include the lending of culinary tools in March 2021. Prior to that, the emphasis of the collection had been on gardening, home maintenance and repair and the tools and equipment used in the building trades. Because the culinary tools represent a distinct and significant body of knowledge, this increase in scope needs to be reflected in both the classification language and compensation of the position.

BACKGROUND

The Tool Lending Library has provided Berkeley residents with access to free home repair tools for over 40 years. It is a beloved institution in Berkeley and beyond and has served as a model for other such libraries nationally. The Tool Lending Specialist is a unique classification to the Library within the City of Berkeley, as well as unique in its kind amongst other public library systems. Although a few other library systems have tool lending libraries, such as Oakland Public Library, the staffing model for those entities is different and does not feature specialists who offer subject matter expertise

that is shared with residents as a critical aspect of the service. The Tool Lending Specialist classification was established in 1988 and was revised once in 2004.

Changes to this City classification must be reviewed by the Personnel Board and the Board of Library Trustees for adoption.

The Personnel Board approved this change on May 9, 2022. Action: Motion/Second/Carry): Gilbert/Wenk to approve the Recommendation to Revise the Tool Lending Specialist Job Duties and Compensation. Vote: Ayes: Bartlow, Dixon, Gilbert, Karpinski, Lacey, Wenk, Noes: None, Absent: None, Abstentions: None. Board of Library Trustees approved this change on June 1, 2022. Action: Motion/Second/Carry: Trustee Davenport / Trustee Selawsky to adopt resolution #R22-030. Vote: Ayes: Trustees Davenport, Greene, Hahn, Roth and Selawsky. Noes: None. Absent: None. Abstentions: None.

The City Council is charged with establishing job classifications and the compensation of all employees (Sections 31 and 32 of the City Charter) thus these changes need to be reviewed by the City Council for final approval.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental impacts associated with the recommendations in this report.

#### RATIONALE FOR RECOMMENDATION

The Tool Lending Specialist classification has not been updated for 18 years. It is important to ensure that the classification and compensation accurately reflect the full scope of work that is being supported by this team, particularly since a significant change occurred.

#### ALTERNATIVE ACTIONS CONSIDERED

The City Council could refrain from approving this classification and compensation change, although the Personnel Board and the Board of Library Trustees have. This would require Library staff to renegotiate Tool Lending Specialist duties with SEIU 1021 Maintenance and Clerical and potentially find alternatives to the current service model.

#### CONTACT PERSON

Tess Mayer, Director of Library Services, Library, 510-981-6195

#### Attachments

1. Resolution
2. City of Berkeley Tool Lending Specialist Classification (showing changes)

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

CLASSIFICATION AND SALARY RESOLUTION FOR SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 1021 MAINTENANCE AND CLERICAL CHAPTERS AND AMENDING RESOLUTION NO. 62,558-N.S.

WHEREAS, the Tool Lending Specialist classification, which is represented by Service Employees International Union, Local 1021 Maintenance and Clerical, and a classification unique to the Library; and

WHEREAS, this position was established upon Board of Library Trustees recommendation in 1988, with no major revisions since 2004; and

WHEREAS, the addition of culinary tools represents a distinct and significant body of knowledge that is shared with Berkeley residents as an aspect of service; and

WHEREAS, the Board of Library Trustees may recommend to the Personnel Board and the City Council revisions to this classification so that the specifications meet Library needs; and

WHEREAS, the Human Resources Department maintains the Classification and Compensation plan for the City of Berkeley; and

WHEREAS, an updated salary structure to reflect a four percent (4%) increase will better reflect the scope of responsibility and make the position more desirable and competitive in future recruitments.

WHEREAS, the Personnel Board recommended on May 9, 2022, and the Board of Library Trustees approved on June 1, 2022, to increase the Salary Schedule for Tool Lending Specialists to an hourly 5-step salary range of Step 1 (n/a), Step 2 (n/a), Step 3: \$34.3516 Step 4: \$36.1594, and Step 5: \$38.0626, reflecting an increase of four percent (4%) to each step effective March 16, 2021.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Resolution No. 62,558-N.S., Classification and Salary Resolution for Service Employees International Union Local 1021 Maintenance and Clerical Chapters is amended to increase the salary range for Tool Lending Specialists effective March 16, 2021, with 4% increase with subsequent annual COLA increase to an hourly salary structure shown below.

| <b>TOOL LENDING SPECIALIST</b> | <b>Step 1</b> | <b>Step 2</b> | <b>Step 3</b> | <b>Step 4</b> | <b>Step 5</b> |
|--------------------------------|---------------|---------------|---------------|---------------|---------------|
| March 2021 Rates               | n/a           | n/a           | 33.0304       | 34.7687       | 36.5987       |
| With 4% Increase               | n/a           | n/a           | 34.3516       | 36.1594       | 38.0626       |
| With 2021 4% COLA 7/25/21      | n/a           | n/a           | 35.7257       | 37.6058       | 39.5852       |
| With 2022 3% COLA 7/10/22      | n/a           | n/a           | 36.7975       | 38.734        | 40.7727       |

## TOOL LENDING SPECIALIST

### DEFINITION

Under supervision, provides tools, equipment, instructional manuals, and basic reference service regarding home maintenance and repair to patrons of the Berkeley Tool Lending Library; orders, maintains, and repairs tools and equipment; performs related work as assigned.

### CLASS CHARACTERISTICS

The Tool Lending Specialist is a skilled library support class assigned to the Berkeley Tool Lending Library. The duties require a sound working knowledge of home improvement and culinary arts used by the do-it-yourself community. This class is distinguished from other library support classes in that the duties specifically apply to basic home improvement, culinary arts-related reference service, and the circulation of tools and home improvement equipment. ~~home maintenance and repair and the tools and equipment used in the building trades (carpentry, plumbing, electrical, and painting). This class is distinguished from other library support classes in that the duties specifically apply to basic home improvement and building construction-related reference service. and the circulation of tools and building construction equipment.~~

### EXAMPLES OF DUTIES

1. Selects and lends a variety of culinary tools, building trade, ~~and~~ gardening tools, and equipment to residents of the City;
2. Recommends to the Library the purchase of tools and equipment; advises on the purchase of instructional manuals for the Tool Lending Library collection;
3. Maintains tools and equipment in an operable condition, including making necessary repairs; sends tools out to private tool repair companies when a more difficult repair is required;
4. Processes lending requests and answers patron questions in person or by phone;
5. Maintains the reserve and waiting list, retrieves overdue materials, and collects fines;
6. Advises patrons on the correct and safe use of tools and equipment; answers basic patron reference questions regarding home maintenance and repair;
7. Collects and maintains records and prepares reports regarding tools and equipment borrowed, patron demographics, telephone inquiries, and the amount of fees and fines collected;
8. Monitors expenditures related to tool repair and purchase;
9. Attends community meetings and public hearings to explain functions of the Tool Lending Library;
10. Maintains library in a clean and orderly condition;
11. Monitors developments related to tools, equipment, and instructional material on home maintenance and repair;
12. Maintains inventory records;
13. May instruct staff or volunteers on job duties; and



14. Performs related work as assigned.

### QUALIFICATIONS

Note: The level and scope of the knowledge, skills, and abilities listed below are related to job duties as defined under Class Characteristics.

#### Knowledge of:

1. Tools, equipment, and instructional manuals used in culinary tools, building repair, and construction trades;
2. Standard culinary and building maintenance repair and maintenance procedures and terminology;
3. Basic stock and inventory control methods, including requisitioning, receiving, storing, and lending;
4. Record keeping, report preparation, and filing methods and techniques;
5. Basic business arithmetic;
6. Standard safety practices and techniques in the building trades;
7. Basic tool and equipment repair, and repair resources; and
8. Operation of standard office equipment.

#### Skill in and ability to:

1. Provide sound information and appropriate tools and equipment to patrons;
2. Develop and implement lending and inventory control procedures;
3. Understand and follow oral and written instructions;
4. Organize work, set priorities, and exercise sound independent judgment;
5. Prepare and maintain accurate records and reports;
6. Establish and maintain effective working relationships with those contacted in the course of the work;
7. Gather and evaluate data and make logical recommendations; and
8. Instruct others in work procedures.

### OTHER REQUIREMENTS:

Must be able to work evenings, weekends and irregular shifts.

A TYPICAL WAY OF GAINING THE KNOWLEDGE AND SKILLS OUTLINED ABOVE IS: Equivalent to graduation from high school and two years of experience which has provided a working knowledge of the tools and equipment used in the building construction trades (carpentry, plumbing, painting, masonry, and electrical).

Established: 12/1988

Revised: 04/2004; 03/2022





Office of the City Manager

CONSENT CALENDAR  
OCTOBER 11, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Liam Garland, Director, Public Works

Subject: Contract Award: Abbe & Associates LLC for the Integrated Zero Waste Management Strategic Plan

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Abbe & Associates LLC for the development of a draft and final Integrated Zero Waste Management Strategic Plan for a not-to-exceed amount of \$500,000 for the contract term of October 31, 2022 through June 30, 2025.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract is available in the Zero Waste Fund, Budget Codes: 601-54-627-732-3019-000-472-612990 (\$200,000), 601-54-627-733-3019-000-472-612990 (\$200,000), 601-54-627-734-3023-000-472-612990 (\$100,000).

CURRENT SITUATION AND ITS EFFECTS

On April 28, 2022, the City released a Request for Proposal (RFP), Specification No. 22-11477-C, seeking qualified firms for the development and completion of an Integrated Zero Waste Management Strategic Plan (Plan) to provide methodologies and guidance for the City's Zero Waste Division's operation, personnel, program and financial requirements to meet the City's Climate Action Plan and Zero Waste goals. The Plan's development will include robust public participation and outreach, plus City Council and staff input on both the draft and final Plan.

On June 23, 2022, the City received two proposals from professional consulting firms, which were evaluated by a panel of City staff using a set of RFP criteria that included the City of Berkeley's local vendor preference policy and the Alameda CTC Local Business Contract Equity (LBCE) program. Both firms demonstrated extensive relevant capabilities and experience in their proposals. The selection panel determined Abbe & Associates LLC to be the highest-ranking firm based on their proposal.

The development and adoption of a City Council approved Integrated Zero Waste Management Strategic Plan is a Strategic Plan Priority Project, advancing our goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

## BACKGROUND

The City's Solid Waste Management Plan (1995 and 2000), the Source Reduction and Recycling Element (1992) and the Climate Action Plan (2009) are the most recent documents guiding the City's efforts toward eliminating Berkeley's materials sent to landfills to achieve its goal of zero waste. Although proposed, the City's most recent Solid Waste Management Plan Update (2005) was not formerly adopted by the City. The 2005 update was designed to achieve a 2010 goal of reaching 75% diversion of all materials being disposed.

This plan will establish how this City will reach zero waste and provide guidance on the City's solid waste management system. It will highlight the approaches taken to date by the City, Zero Waste Division, Zero Waste Commission, and community members, and propose an integrated and coordinated approach moving forward.

The City Auditor's Report, Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal, and the City's Zero Waste Commission both concluded that a comprehensive, written strategic plan that clearly defines roles and responsibilities and assigns sufficient resources is needed to guide the City and its Zero Waste Division towards the goal of achieving zero waste. Important components to developing an Integrated Zero Waste Management Strategic Plan will be the identification of a target percentage for a Zero Waste Goal, determining the potential costs to achieving a set goal, and reevaluating and proposing a revised target year.

On July 24, 2017, the Zero Waste Commission passed a motion recommending the City move forward immediately to: 1) redefine the City's Zero Waste Goal and 2) issue the RFP for a Zero Waste Management Strategic Plan.

## ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

An Integrated Zero Waste Management Strategic Plan will enhance the environmental sustainability of our community through waste reduction, material reuse and recycling, and composting of all organics as well as conserve natural resources. An approved Plan and its defined Zero Waste guidelines and approaches will also reduce air and water pollution, and greenhouse gas emissions, protect human health, and create local jobs.

## RATIONALE FOR RECOMMENDATION

An Integrated Zero Waste Management Strategic Plan that incorporates and reflects public, City staff, and City Council input and recommendations is necessary to ensure the City has the committed resources, staffing, and guidelines to meet its Zero Waste Goal.

ALTERNATIVE ACTIONS CONSIDERED

No feasible alternatives were identified.

CONTACT PERSON

Greg Apa, Solid Waste & Recycling Manager, Public Works, (510) 981-6359  
Andrew Brozyna, Deputy Director of Operations, Public Works, (510) 981-6396

Attachments:

1: Resolution

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

CONTRACT AWARD: ABBE & ASSOCIATES LLC FOR THE INTEGRATED ZERO WASTE MANAGEMENT STRATEGIC PLAN

WHEREAS, the City's Solid Waste Management Plan (1995 and 2000), the Source Reduction and Recycling Element (1992), and the Climate Action Plan (2009) are the most recent documents guiding the City's efforts toward eliminating Berkeley's materials sent to landfills to achieve its goal of zero waste; and

WHEREAS, the City's most recent Solid Waste Management Plan Update (2005) was designed to achieve a 2010 goal of reaching 75% diversion of all materials being disposed, it was not formerly adopted by the City Council; and

WHEREAS, the City agrees that compliance with statewide goals of: 1) AB 75, Integrated Solid Waste Management Plan; 2) AB 341, 75% of solid waste generated by a source to be reduced, recycled, or composted by the year 2020; 3) AB 1826, implementing an organic waste recycling program to divert organic waste generated by businesses; and 4) SB1383, Short-Lived Climate Pollutants: Organic Waste Emissions Regulations, targets a 50% reduction from the 2014 level of disposed organic waste by 2020 and 75% reduction by 2025; promotes the City's Zero Waste Goal; and

WHEREAS, funding for this contract is available in the Zero Waste Fund; and

WHEREAS, the City recognizes the need for a publicly vetted and approved Integrated Zero Waste Management Strategic Plan that will provide guidelines, pathways, and identify resources required to meet the City's Climate Action Plan and Zero Waste goals, and State legislative mandates.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments with Abbe & Associates LLC for the development of a draft and final Integrated Zero Waste Management Strategic Plan, for an amount not to exceed \$500,000 for the contract term of October 31, 2022 through June 30, 2025. A record signature copy of the said contract and any amendments is to be on file in the City Clerk Department.



Rashi Kesarwani  
Councilmember, District 1

CONSENT CALENDAR  
OCTOBER 11, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author), Councilmember Terry Taplin (Co-Sponsor)

SUBJECT: Residential Preferential Parking (RPP) Program Expansion for West Berkeley Neighborhoods Within Two Blocks of Commercial Corridors

RECOMMENDATION

Referral to the City Manager to expand the scope of the Residential Preferential Parking (RPP) program as originally proposed by staff during the May 14, 2019 City Council Public Hearing<sup>1</sup> as a way to allow more residents to opt-in to this program.

Expansion of this program should consider:

- Raising permit fees for cost neutrality of the program while increasing both parking enforcement staff and equipment to enable expanded RPP enforcement;
- Adopting a graduated fee increase as recommended by Councilmember Kesarwani in 2019 and presented to Council during the September 10, 2019 City Council meeting<sup>2</sup> whereby each additional permitted vehicle associated with a particular address pays a higher fee—up to three permits (see Table 1);
- Conducting an analysis of Fiscal Year (FY) 2022 Residential Preferential Parking (RPP) Program costs and revenues and returning to Council with an updated fee increase proposal to be effective in the new fiscal permit year for the program.

---

<sup>1</sup> May 14, 2019 City Council Meeting Public Hearing: Residential Preferential Parking Program Reform & Expansion Phase II: Recommendations for Increased Enforcement Staffing, Enhanced Football Game Day Enforcement Operations, and Expansion (attached)

<sup>2</sup> September 10, 2019 City Council Meeting: Residential Preferential Parking (RPP) Program: Summer 2019 Update, p. 5 (attached)

**Table 1. Proposed alternate fee structure conceptually suggested by Councilmember Kesarwani in 2019**

| Permit Type                                                                                          | Current Fee | Proposed Fee                                                                       | Change from Current                                      |
|------------------------------------------------------------------------------------------------------|-------------|------------------------------------------------------------------------------------|----------------------------------------------------------|
| Annual Residential & In-Home Care                                                                    | \$66        | <b>\$66</b> first permit<br><b>\$96</b> second permit<br><b>\$126</b> third permit | 0% first permit<br>45% second permit<br>91% third permit |
| Semi-Annual Residential & In-Home Care                                                               | \$33        | <b>\$33</b> first permit<br><b>\$48</b> second permit<br><b>\$63</b> third permit  | “ “                                                      |
| 1-Day Visitor                                                                                        | \$3         | <b>\$3</b>                                                                         | N/A                                                      |
| 14-Day Visitor                                                                                       | \$34        | <b>\$34</b>                                                                        | N/A                                                      |
| 1-Day Senior Center                                                                                  | \$1         | <b>\$1</b>                                                                         | N/A                                                      |
| Community-Serving Facility                                                                           | \$83        | <b>\$108</b>                                                                       | 30%                                                      |
| Merchant                                                                                             | \$185       | <b>\$241</b>                                                                       | 30%                                                      |
| Surcharge per Additional Annual Residential Permit Over Maximum of 3 per Address, if Waiver Approved | \$100       | <b>\$100</b> , applied to 3 <sup>rd</sup> permit fee (\$126)                       | N/A                                                      |

Table taken from the September 10, 2019 City Council Agenda: RPP Summer 2019 Update, p. 5

Eligibility areas to be considered for expansion should also follow the guidelines established in the May 14, 2019 Public Hearing on recommended changes to the RPP program. Specifically, neighbors and neighborhoods would need to satisfy the below requirements in order to opt-in to this program:

- Petitioners obtaining agreement of +51 percent of all housing units in the area;
- Staff verifying limited parking availability in the mid-morning and mid-afternoon;
- Parcel location within two blocks of a major commercial corridor, or adjacent to existing RPP boundaries; and
- In residentially-zoned areas, at least one full block (both sides of a street) must be included in the petition.<sup>3</sup>

#### CURRENT SITUATION AND ITS EFFECTS

***The City's parking enforcement team is under-resourced and unable to meet the growing demand for services.*** According to the staff Information Report presented to Council on May 14, 2019, while demands on parking enforcement have increased over the years, staffing levels have remained static. The result has been

<sup>3</sup> May 14, 2019 City Council Meeting Public Hearing: Residential Preferential Parking Program Reform & Expansion Phase II: Recommendations for Increased Enforcement Staffing, Enhanced Football Game Day Enforcement Operations, and Expansion, p. 8



parking enforcement officers (PEOs) being unable to enforce parking restrictions in any given area more than once daily rendering our parking enforcement mechanism weak, at best.<sup>4</sup> The report notes that 18 PEOs patrol geographic areas that include both parking meters and RPP time-limited parking areas, enforcing parking restrictions on more than 1,000 blockfaces with two-hour time limit restrictions, 460 blockfaces with meters of varying time limits, in addition to all other time-limited parking areas throughout the city. Roughly half of parking enforcement time is spent conducting RPP time-limited patrols while the rest is spent enforcing time meters, other time-limited areas, school zones, travel time and dealing with emergencies, such as traffic collisions. Staff do not have the capacity to make multiple visits to a given area on a daily basis. Any new block opting into the RPP program—either in the existing zone or in the possible expanded zone—further reduces the capacity for enforcement.

***Current areas of eligibility for RPP permits exclude most of West Berkeley.*** The current RPP eligibility map on the City of Berkeley’s website (below) shows that the RPP eligibility areas are mostly concentrated east of Sacramento Street, surrounding the University of California, Berkeley. The RPP program was instituted in 1980 to protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic, presumably from students at the university and employees associated with both neighborhood and student-oriented businesses.

---

<sup>4</sup> May 14, 2019 Information Report to Berkeley City Council: Residential Preferential Parking Program: Spring 2019 Update (attached).



Current RPP Eligibility Map, taken from the City of Berkeley website, August, 2022. Areas outlined in bold indicate boundary lines.

Residents in close proximity to *any* commercial corridor, however, feel the impacts of non-resident-related traffic and difficulties parking close to one's residence. University and San Pablo Avenues, for instance, host establishments drawing high customer volumes, such as Acme Bread, Thai Table, and Casa de Cultura whose popularity compels people to drive in from various parts of the City and beyond, resulting in parking impacts on residential streets. The District 1 office has also received numerous complaints over the years from residents living within a couple blocks of San Pablo Avenue regarding parking impacts from some of the many automotive businesses that use residential street parking for both employees and customer cars, despite prohibitions against doing so. Residents in these areas are unable to opt-in to the RPP program and have no recourse to combat some of the parking and traffic issues.

***Parking demands in residential areas adjacent to San Pablo Avenue are likely to increase as development along the corridor increases.*** In the District 1 portion

of San Pablo Avenue, north of University Avenue, the below developments are already well underway in the planning and entitlement stages:

- 1740 San Pablo Avenue: 54 units
- 1701 San Pablo Avenue: 110 units
- 1201-1205 San Pablo Avenue: 66 units

The above numbers constitute a total of 230 additional housing units that will be built within a 10 block stretch of San Pablo Avenue and added to the area within the next couple of years. Two additional locations, 1835 and 1200 San Pablo Avenue, have at times had project proposals, though the projects have since stalled. The neighborhood blocks around San Pablo Avenue are currently ineligible to opt-in to the RPP program, and this item seeks to give these blocks an opportunity to opt-in to RPP if they so choose. We note that it is current City policy for residents of new developments to be ineligible for the RPP program.

#### BACKGROUND

The RPP program, established in 1980, was intended to 1) protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic; 2) help maintain the quality of life in residential areas; and 3) to provide neighborhood parking for residents living on that street. The program limits most non-permit holders to parking for up to two hours, thus keeping more daytime spaces available for residents on a given block, between 9 a.m. and 7 p.m. Monday through Friday, and on some blocks Saturday.

On March 11, 2014, City Council directed staff to evaluate expansion of the RPP program beyond its then-current boundaries.<sup>5</sup> During a September 19, 2017 City Council Worksession, staff discussed some challenges with the RPP program, notably that it was operating at a deficit, and proposed some solutions to be implemented over the next several years.<sup>6</sup> On February 27, 2018, staff returned to Council with suggested policy reforms that were all passed:

- Increase permit fees for program cost neutrality;
- Limit annual permits to three per address;
- Expand RPP eligibility to two new zones in West Berkeley<sup>7</sup>

<sup>5</sup> March 11, 2014 City Council Agenda: Expansion of Permit Parking to Impacted Areas (attached)

<sup>6</sup> September 19, 2017 City Council Agenda: Residential Preferential Parking (RPP) Program Recommendations (attached)

<sup>7</sup> February 27, 2018 City Council Agenda: Residential Preferential Parking (RPP) Program Reform and Expansion (attached)

On May 14, 2019, staff recommended an Ordinance amendment to Berkeley Municipal Code Chapter 14.72 to allow RPP in areas zoned Mixed Use-Light Industrial; adoption of a resolution to expand and enhance the RPP program by raising permit fees for cost neutrality while increasing parking enforcement staff and equipment to augment enforcement and improve UC Berkeley home football gameday parking enforcement; adoption of a resolution modifying parking restrictions in specified RPP zones on UC Berkeley home football game days; and adoption of a resolution establishing a new Parking Fine Schedule. That same day, staff also presented an information report updating the Council about the effects of the 2018 RPP Program adjustments. Notably, while the fee adjustment did help reduce the operational deficit, it did not eliminate it. The Ordinance amendment as well as the two resolutions were passed during the May 14, 2019 meeting, while Council recommended the fee increase be referred to the Agenda and Rules Committee for future scheduling and discussion. It was scheduled for the July 23, 2019 City Council Agenda, held over again, and rescheduled for the September 10, 2019 City Council Agenda. During the September 10, 2019 meeting, staff recommended conducting an analysis of Fiscal Year (FY) 2020 Residential Preferential Parking (RPP) Program costs and revenues and returning to Council in early 2020 with updated fee increase proposal(s) to be effective the following fiscal year for program enhancement and expansion. Due to the pandemic, this issue never returned to a Council agenda. This current recommendation simply re-establishes a staff process that had already been set into motion but was abruptly halted due to the pandemic and its effects.

### FISCAL IMPACT

There will be costs associated with the RPP Program expansion as well as offsets to those costs. According to the May 14, 2019 Public Hearing, those costs were projected as follows:

Annual cost of \$909,972 from the general fund for:

- Six (6) Parking Enforcement Officers (\$124,818 per FTE; total \$748,907/year)
- One (1) Parking Enforcement Supervisor (\$138,065/year);
- New RPP sign installation, including labor and materials, at \$23,000/year

And, one time costs of \$680,178 for:

- Six (6) parking enforcement vehicles (\$210,000 total)
- Six (6) automated license plate recognition (ALPR) systems (\$78,363 each, \$470,178 total)

These fees would be offset by permit fee increases as well as an increase of revenue from citations. The May 14, 2019 proposed fee increase is shown in Table 2 below:

**Table 2. Proposed Permit Fee Increase as presented during the May 14, 2019 Public Hearing, p. 4**

| Permit Type                                                                   | Current Fee | Proposed Fee | \$ Increase | % Increase |
|-------------------------------------------------------------------------------|-------------|--------------|-------------|------------|
| Annual Residential & In-Home Care                                             | \$66.00     | \$90.00      | \$24.00     | 36.4%      |
| 1-Day Visitor                                                                 | \$3.00      | \$4.00       | \$1.00      | 33.3%      |
| 14-Day Visitor                                                                | \$34.00     | \$47.00      | \$13.00     | 38.2%      |
| Semi-Annual Residential & In-Home Care                                        | \$33.00     | \$45.00      | \$12.00     | 36.4%      |
| Community-Serving Facility                                                    | \$83.00     | \$114.00     | \$31.00     | 37.3%      |
| Merchant                                                                      | \$185.00    | \$253.00     | \$68.00     | 36.8%      |
| 1-Day Senior Center                                                           | \$1.00      | \$1.00       | N/A         | N/A        |
| Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits | \$15.00     | \$21.00      | \$6.00      | 40.0%      |

Considerable time has elapsed between that meeting and today which is why an updated fiscal analysis is part of the current recommendation. These numbers and table above have been provided to give an approximation of costs for the RPP program expansion.

#### ENVIRONMENTAL IMPACTS

The RPP program two-hour time limits and other enforced timed-parking restrictions may encourage some drivers to use alternate modes of travel resulting in reduced parking demand and congestion.

#### CONTACT

Councilmember Rashi Kesarwani, District 1

(510) 981-7110

#### Attachments:

- 1) September 10, 2019 City Council Agenda: Residential Preferential Parking (RPP) Program: Summer 2019 Update
- 2) May 14, 2019 City Council Agenda, item #50: Residential Preferential Parking Program Reform and Expansion Phase II: Recommendations for Increased Staffing, Enhanced Football Game Day Enforcement, and Expansion
- 3) May 14, 2019 City Council Agenda, item #61: Residential Preferential Parking: Spring 2019 Update

- 4) February 27, 2018 City Council Agenda: Residential Preferential Parking (RPP) Program Reform and Expansion
- 5) September 19, 2017 City Council Agenda: Residential Preferential Parking (RPP) Program Recommendations
- 6) March 11, 2014 City Council Agenda: Expansion of Permit Parking to Impacted Areas



Office of the City Manager

ACTION CALENDAR  
September 10, 2019  
(Continued from July 23, 2019)

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Phillip Harrington, Director, Public Works  
Subject: Residential Preferential Parking (RPP) Program: Summer 2019 Update

RECOMMENDATION

Direct staff to conduct analysis of Fiscal Year (FY) 2020 Residential Preferential Parking (RPP) Program costs and revenues and return to Council early 2020 with updated fee increase proposal(s) to be effective April 1, 2020 for the FY 2021 permit year, for Program enhancement and expansion.

FISCAL IMPACTS OF RECOMMENDATION

Staff time associated with the ongoing analysis is included in the FY 2020 & FY 2021 Biennial Budget as it is part of the baseline RPP Program.

CURRENT SITUATION AND ITS EFFECTS

This report summarizes changes to the RPP Program since the May 14, 2019 Council Meeting, at which staff presented a package of “mid-term” reforms to the RPP Program.<sup>1</sup> A summary of Council action at this meeting is provided in the Background section below, and the full report is included as Attachment 2.

RPP Program Operations

In July 2019, the City began processing annual RPP permit renewals, visitor permit sales, and new permit applications for FY 2020 using the new Passport parking and citation management system.<sup>2</sup> This system allows RPP customers to use their license plates as permits, removing the need for bumper permits, and streamlines new RPP permit applications by allowing customers to check their eligibility and submit required documentation online. Fees for FY 2020 permits remained unchanged from FY 2019.

To answer a question from Councilmember Kesarwani, staff also prepared an analysis evaluating the potential of a graduated pricing model for annual RPP permits, whereby

---

<sup>1</sup> May 14, 2019 *City Council Agenda: Residential Preferential Parking (RPP) Program Reform and Expansion Phase II: Recommendations for Increased Staffing, Enhanced Football Game Day Enforcement, and Expansion* <http://bit.ly/2ZW6Ee5>

<sup>2</sup> October 16, 2018 *City Council Agenda: Contract: Passport Labs Incorporated for a Parking Management System* <http://bit.ly/2LtRN6N>

the costs for each additional permit up to the limit of three (3) would increase incrementally. The analysis showed that this pricing model could generate revenue on par with the original staff recommendation. Graduated pricing would be more equitable since those who own more cars and have more impact on neighborhood parking would pay a greater share of the Program cost. Implementing such a pricing model is now possible using the Passport system. A summary of this proposal is provided as Attachment 2.

Unfortunately, expanding the RPP Program beyond its current boundaries is not financially possible at this time. As discussed at the May 14, 2019 meeting, additional staff are required to enforce any new areas. Permit fees are an important revenue source supporting the RPP Program, as residents and other permit holders directly benefit from the parking availability resulting from time limit enforcement. With permit renewals currently underway, the window of opportunity to affect FY 2020 permit fees has closed.

#### BACKGROUND

The RPP Program began in 1980 (1) to protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic; (2) to assure continued quality of life for residents; and (3) to provide neighborhood parking for residents. The Program limits parking for vehicles not displaying an RPP permit in most RPP areas to two hours, and reserves available daytime parking for residents, between 8:00 a.m. and 7:00 p.m. Monday through Friday, and in some areas Saturday.

In March 2014,<sup>3</sup> Council directed staff to evaluate expanding the RPP Program beyond its then-current geographic boundaries. At a September 2017 Council Worksession, staff proposed incremental changes to be implemented over a three-year period.<sup>4</sup> In February 2018, staff returned to Council with a first set of “short-term” policy reforms, including increased permit fees for Program cost neutrality, a limit of three (3) annual permits per address, and an expansion of RPP eligibility to two new zones in West Berkeley.<sup>5</sup>

At the May 14, 2019 Council Meeting, staff presented a package of “mid-term” reforms to the RPP Program. These recommendations included increasing permit fees to pay for new staff and equipment that would enhance enforcement in existing Program areas, particularly on UC Berkeley home football game days, and allowing expansion to new areas. Council took the following action:

---

<sup>3</sup> March 11, 2014 *City Council Agenda: Expansion of Permit Parking to Impacted Areas*: <http://bit.ly/2vTgnqD>

<sup>4</sup> September 19, 2017 *City Council Agenda: Residential Preferential Parking (RPP) Program Recommendations*: <https://bit.ly/2iWaPDa>

<sup>5</sup> February 27, 2018 *City Council Agenda: Residential Preferential Parking (RPP) Program Reform and Expansion*: <https://bit.ly/2Yq6tYB>.



- Amended the Berkeley Municipal Code via ordinance to allow residents in areas zoned Mixed Use-Light Industrial and who meet all other requirements applicable to Mixed Use-Residential zoned areas to submit an opt-in petition to the RPP Program, which would be enforced upon hiring new enforcement staff;
- Established via resolution “Enhanced Fine Areas” in portions of RPP zones B, D, F, G, and I to prohibit parking without a valid RPP permit on UC Berkeley home football game days; and
- Established via resolution a new Parking Fine Schedule including parking fines of \$225 for not displaying a valid RPP permit in new Enhanced Fine Areas.

Council did not approve a new fee schedule for RPP permits, which would have increased all permit fees by an average of 37% to generate additional revenue for six (6) new Parking Enforcement Officers, one (1) new supervisor, and associated equipment. These staff positions would allow for enhanced enforcement in existing RPP Program areas, particularly during staff shortages on Cal football game days, and enforcing restrictions in new areas not currently within RPP Program boundaries.

Improving the effectiveness of the RPP Program is a Strategic Plan Priority Project, advancing the City’s goals to:

- Provide an efficient and financially-healthy City government; and
- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

ENVIRONMENTAL SUSTAINABILITY

This item has no discernible environmental effects.

RATIONALE FOR RECOMMENDATION

For continued RPP Program cost neutrality, staff seek to present cost and revenue analyses that reflect the most recent available data. Both the original RPP permit fee increase proposal and the alternative model are based on FY 2019 revenues. RPP revenues fluctuate from year to year, and as the City transitions to the new Passport parking management system, any permit fee increase proposals will require an assessment of FY 2020 costs and revenues to maximize accuracy and applicability.

ALTERNATIVE ACTIONS CONSIDERED

Council could schedule a public hearing to approve fee increase proposals based on FY 2019 data, but any authorized changes at this time would have no meaningful fiscal effect until the FY 2021 permit renewal period in spring 2020.

CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works (510) 981-7061  
Danette Perry, Parking Services Manager, Public Works (510) 981-7057  
Gordon Hansen, Senior Planner, Public Works (510) 981-7064

**Attachments:**

- 1: Alternative Graduated RPP Fee Increase Model (Based on FY 2019 Revenues)
- 2: May 14, 2019 Council Report: "Residential Preferential Parking Program Reform and Expansion Phase II: Recommendations for Increased Staffing, Enhanced Football Game Day Enforcement and Expansion"

Proposed Alternate FY 2020 Fee Structure

The fee structure below was developed in response to an inquiry from Councilmember Kesarwani. The analysis is based in part on FY 2019 permit revenues.

| Permit Type                                                                                          | Current Fee | Proposed Fee                                                                       | Change from Current                                      |
|------------------------------------------------------------------------------------------------------|-------------|------------------------------------------------------------------------------------|----------------------------------------------------------|
| Annual Residential & In-Home Care                                                                    | \$66        | <b>\$66</b> first permit<br><b>\$96</b> second permit<br><b>\$126</b> third permit | 0% first permit<br>45% second permit<br>91% third permit |
| Semi-Annual Residential & In-Home Care                                                               | \$33        | <b>\$33</b> first permit<br><b>\$48</b> second permit<br><b>\$63</b> third permit  | “ “                                                      |
| 1-Day Visitor                                                                                        | \$3         | <b>\$3</b>                                                                         | N/A                                                      |
| 14-Day Visitor                                                                                       | \$34        | <b>\$34</b>                                                                        | N/A                                                      |
| 1-Day Senior Center                                                                                  | \$1         | <b>\$1</b>                                                                         | N/A                                                      |
| Community-Serving Facility                                                                           | \$83        | <b>\$108</b>                                                                       | 30%                                                      |
| Merchant                                                                                             | \$185       | <b>\$241</b>                                                                       | 30%                                                      |
| Surcharge per Additional Annual Residential Permit Over Maximum of 3 per Address, if Waiver Approved | \$100       | <b>\$100</b> , applied to 3 <sup>rd</sup> permit fee (\$126)                       | N/A                                                      |

Revenue Estimates

In the May 14, 2019 Council Report, the proposed permit fees resulted in a cost-neutral program. According to staff estimates, the alternate fee structure would result in the same.

| RPP Fee Proposal         | Description                                                                             | Estimated Revenue Generated |
|--------------------------|-----------------------------------------------------------------------------------------|-----------------------------|
| <b>Original 5/14/19</b>  | Raise all RPP permit fees by an average of 37%                                          | \$1,305,240                 |
| <b>Alternate 6/2019</b>  | Adopt graduated pricing for annual permits & 30% increase for other annual permit types | \$1,304,649                 |
| Difference from original |                                                                                         | (\$591)                     |

Relevant Statistics

Of nearly 9,500 accounts issued annual residential permits in FY 2019...

- 66% had one (1) permit
- 25% had two (2) permits
- 8% had three (3) permits
- Just over 1% had four (4) or more permits



Office of the City Manager

PUBLIC HEARING  
May 14, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Phillip Harrington, Director, Public Works  
 Subject: Residential Preferential Parking Program Reform and Expansion Phase II: Recommendations for Increased Staffing, Enhanced Football Game Day Enforcement, and Expansion

RECOMMENDATION

Conduct a public hearing and upon conclusion:

1. Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 14.72 to allow Residential Preferential Parking (RPP) in areas zoned Mixed Use-Light Industrial;
2. Adopt a Resolution to expand and enhance the RPP Program, raising permit fees for cost neutrality while increasing parking enforcement staff and equipment to augment RPP enforcement, improving UC Berkeley home football game parking enforcement, allowing more residents to opt-in, and rescinding Resolution 68,344-N.S.;
3. Adopt a Resolution modifying parking restrictions in specified RPP Zones on UC Berkeley home football game days as follows: establish “Enhanced Fine Areas” to prohibit parking without a valid RPP permit in portions of RPP Zones B, D, F, G, and I; and install new RPP signs in zones B, D, F, G, and I to clearly indicate UC Berkeley home football game day parking prohibitions; and
4. Adopt a Resolution establishing a new Parking Fine Schedule, including parking fines of \$225 per violation of BMC 14.40.090 in new Enhanced Fine Areas on posted UC football game days, and rescinding Resolution No. 68,466-N.S.

SUMMARY

The recommended actions constitute a package of “mid-term” changes to the RPP Program, developed in response to previous Council direction. These changes include: 1) hiring (7) seven more parking enforcement personnel to augment enforcement in existing and new RPP Zones, particularly on UC Berkeley home football game days; 2) instituting new parking restrictions and increased fines on football game days; 3) allowing blocks currently ineligible for RPP to opt-in to the Program; and 4) increasing permit fees to make the Program cost-neutral.

**FISCAL IMPACTS OF RECOMMENDATION**

The recommendation would provide staffing to increase enforcement of RPP Program parking restrictions, including during UC Berkeley football games, and allow many currently ineligible residents to opt-in to the Program. The capital and operational cost and revenue elements associated with these changes are summarized below. These are new obligations, in addition to existing costs to operate the program.

**Football Game Day Enforcement Cost**

Implementing the recommendation for the 2019 football season will incur a one-time capital cost of \$80,000, including:

- Approximately 500 new Residential Preferential Parking (RPP) signs specifying new parking restrictions, at a unit cost of \$100 per sign, and 250 person hours to install the new signs for a one-time labor cost of \$25,000; and
- Approximately 500 decals to identify football game dates (replaced annually) at cost of \$5,000. Initial decal installation included with sign installation cost. Annual decal replacement requires 100 person hours at a cost of \$10,000.

Staff calculates the ongoing cost to be \$15,000 annually. Initial and annual costs are summarized in the table below:

|              |           | <b>Initial Cost</b>            | <b>Ongoing Annual Cost</b> |
|--------------|-----------|--------------------------------|----------------------------|
| Signs        | Materials | \$50,000                       | N/A                        |
|              | Labor     | \$25,000                       | N/A                        |
| Decals       | Materials | \$5,000                        | \$5,000                    |
|              | Labor     | Included in sign installation. | \$10,000                   |
| <b>Total</b> |           | <b>\$80,000</b>                | <b>\$15,000</b>            |

Currently, the UC Berkeley Athletics Department reimburses the City for signs produced and installed to manage football game day traffic. The current signs are over 20 years old; in 2017, UC paid approximately \$18,600 for sign and decal maintenance costs. Staff recommend that City leadership coordinate with UC Berkeley to fund the recommended one-time signage/decal upgrades, plus ongoing annual costs.<sup>1</sup>

**RPP Program Enforcement Enhancement and Expansion Cost**

The fiscal impact of all of these recommendations will be realized in the General Fund (011). All permit fees and citation revenues, including revenue from new enforcement staff, will be deposited in the General Fund. In turn, all new staff and equipment costs will come out of the General Fund. Costs include:

- Six (6) Parking Enforcement Officers (\$124,818 per FTE; total \$748,908/year), and one (1) Parking Enforcement Supervisor at \$138,065/year;

---

<sup>1</sup> If UC Berkeley is unable to pay this cost, then the funding would come from the General Fund.

- Six (6) parking enforcement vehicles (\$210,000 total), each equipped with standard automated license plate recognition (ALPR) systems at \$78,363 each (\$470,178), annualized over a five-year period;<sup>2</sup> and
- New RPP sign installation, including labor and materials, at \$23,000 per year.<sup>3</sup>

#### Estimated New Revenue

During the 2018 season, football-related RPP citations resulted in \$49,100 in revenue, and staff anticipates the new “Enhanced Fine Areas” to generate an additional \$31,650. More significantly, hiring six (6) more PEOs is expected to increase citation revenue in both new and existing RPP areas. Staff estimate that each new PEO would issue up to \$75,000/year in RPP citations, for a total of \$450,000/year.

#### Incremental Fiscal Impact in FY 2020

Hiring of new PEOs and procurement of associated enforcement equipment would take place over the course of FY 2020, resulting in incremental increases in new citation revenue as new staff are selected, trained, and deployed. Similarly, each opt-in petition for new areas will take time to verify and bring to Council for approval, resulting in delayed revenues from permits purchased in expansion areas. Therefore, the full fiscal impact of the Program’s expansion and enhancement will not be seen in FY 2020. Staff will continue to monitor the Program’s costs and revenues as new enforcement staff are hired.

#### User Fee Increases for Cost Neutrality

Per Council Budget Policies,<sup>4</sup> the RPP Program should pay for itself. As of March 2019, the RPP Program still runs a deficit of approximately \$124,675. The deficit has shrunk by \$71,125 since FY 2017, when the deficit was approximately \$195,800. This deficit reduction, but not elimination, may be due in part to a decline in permit revenues following the 20% fee increase on April 1, 2018. Customers may also have reevaluated their needs in light of the new maximum of three (3) annual permits per address.

The proposed fee structure would go into effect June 1, 2019, to support increasing enforcement in FY 2020. It is estimated to generate approximately \$368,280 of additional revenue, including \$21,600 from annual permit sales in potential new opt-in areas, for the General Fund (Fund 011). The following table reflects increases for each type of permit in the RPP fee structure to result in a cost-neutral Program.

---

<sup>2</sup> Proposed permit fees incorporate half of PEO salary costs, and half of the one-time vehicle and equipment costs, as RPP enforcement accounts for approximately half of all parking enforcement duties. Remaining costs are expected to be covered by new revenues resulting from new staff enforcing other duties, such as street sweeping, parking meter payments, and school zones.

<sup>3</sup> Up to twenty blocks in new areas would be allowed to join the Program per year. Staff assumes six RPP signs per block (three signs on each side of the block), and approximately \$1,150 per block.

<sup>4</sup> “Council Budget Policies”: <http://bit.ly/2z4UiFY>

| Permit Type                                                                   | Current Fee | Proposed Fee | \$ Increase | % Increase |
|-------------------------------------------------------------------------------|-------------|--------------|-------------|------------|
| Annual Residential & In-Home Care                                             | \$66.00     | \$90.00      | \$24.00     | 36.4%      |
| 1-Day Visitor                                                                 | \$3.00      | \$4.00       | \$1.00      | 33.3%      |
| 14-Day Visitor                                                                | \$34.00     | \$47.00      | \$13.00     | 38.2%      |
| Semi-Annual Residential & In-Home Care                                        | \$33.00     | \$45.00      | \$12.00     | 36.4%      |
| Community-Serving Facility                                                    | \$83.00     | \$114.00     | \$31.00     | 37.3%      |
| Merchant                                                                      | \$185.00    | \$253.00     | \$68.00     | 36.8%      |
| 1-Day Senior Center                                                           | \$1.00      | \$1.00       | N/A         | N/A        |
| Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits | \$15.00     | \$21.00      | \$6.00      | 40.0%      |

The proposed fee structure is estimated to generate approximately \$1,305,240 in revenue for the General Fund in FY 2021, once all new staff have been hired and anticipated expansion has occurred. This increase of \$368,280 in revenue would close the projected deficit, resulting in a cost-neutral Program (the \$600 difference is within the margin of approximation). With the proposed fee increase, the total Program revenue is projected to be \$3.41 million including revenue resulting from an increase in RPP-related citations due to higher staffing levels and new football fines.

| RPP Program Financial Components      | April 2018-March 2018 Actuals | FY 2021 Projections |
|---------------------------------------|-------------------------------|---------------------|
| Total RPP Permit Fee Revenue          | \$936,960                     | \$1,305,240         |
| RPP-Related Citation Revenue          | \$1,573,840                   | \$2,023,840         |
| Football RPP-Related Citation Revenue | \$49,100                      | \$80,750            |
| <b>Total Revenue</b>                  | <b>\$2,559,910</b>            | <b>\$3,409,830</b>  |
| <b>Total RPP Program Costs</b>        | <b>\$2,684,580</b>            | <b>\$3,409,230</b>  |
| <b>RPP Program Deficit/Surplus</b>    | <b>(\$124,670)</b>            | <b>\$600</b>        |

CURRENT SITUATION AND ITS EFFECTS

This report represents “mid-term” changes to the RPP Program as part of ongoing RPP Program Reform & Expansion. Building on the initial “short-term” changes enacted by Council in February 2018, described in the accompanying Information Report on this Agenda, this report recommends “mid-term” changes that respond to remaining resident requests and Council referrals.

UC Berkeley Football Game Day Parking Demand

The UC Berkeley football season typically spans twelve (12) games between September and November. Up to seven (7) games per year are played at California

Memorial Stadium (“stadium”), near the eastern end of Bancroft Avenue. Most home games occur on Saturday afternoons or evenings. Neighborhoods surrounding UC Berkeley currently have RPP. South of campus, RPP Zones A, B, D, and K are enforced Monday to Saturday, with the exception of Zones I (Telegraph) and L (Claremont), which are not enforced on Saturday. North of campus, RPP Zones F and G are enforced Monday through Friday.

Game attendees who drive and park in surrounding neighborhoods can make it difficult for some residents to find parking near their homes during games. In fall 2017, the City analyzed game day parking south of campus.<sup>5</sup> The analysis found that parking occupancy in the study area increased by about 25% on a game day compared to a non-game day, with increases of approximately 35-50% closest to campus (RPP Zones B, D, and I). Anecdotal evidence from residents also suggests poor parking by visitors may impede access to residential driveways at times.

Existing Game Day Parking Restrictions

Special parking restrictions and enforcement on football game days currently includes:

- Increased fines for certain parking violations<sup>6</sup> within the boundaries of Cedar Street (north), Berkeley-Oakland city limits (south and east), and Oxford and Fulton Streets (west), with double fines in RPP Zones A, B, and D; and
- Tow-away zones for all vehicles on certain streets close to campus,<sup>7</sup> and additional no-parking areas at metered parking spaces in the Southside and Northside areas.

The Berkeley Police Department (BPD) requires substantial staff time and resources for football game day duties. BPD typically assigns sworn officers on overtime to patrol areas near the stadium to discourage bad behavior.<sup>8</sup> Any staffing gap is filled by parking enforcement personnel. Between five and seven PEOs may be reassigned to game day duty, with one PEO specifically assigned to regulate access to the Panoramic Hill neighborhood (RPP Zone K). That leaves between two and four PEOs to enforce meter payments, curb markings, or RPP time limits elsewhere in the City. As shown in the table below, the City does not have enough PEOs to provide regular Saturday enforcement in addition to football duties on game days.

| Enforcement Duties | Number of Assigned PEOs |
|--------------------|-------------------------|
|--------------------|-------------------------|

<sup>5</sup> Specifically, Zones A, B, D, I, and L. While not explicitly studied, staff assume neighborhoods north of campus experience similar game day parking demand patterns.

<sup>6</sup> Football game day defined as 9:30 a.m. to 11 p.m., regardless of game start time. Most football game day citation rates are 150% of non-game day citation rates. For example, a citation for a vehicle parked in a No Parking Zone (red curb) that is normally \$64 costs \$96 on a game day.

<sup>7</sup> For example: Piedmont Avenue between the stadium and Channing Way, Bancroft Way between Warring Street and Bowditch Street, and College Avenue between Bancroft Way and Dwight Way.

<sup>8</sup> UC Berkeley reimburses the City for BPD overtime costs.



|                                             | <b>Non-Game Days</b> | <b>Football Game Days</b> |
|---------------------------------------------|----------------------|---------------------------|
| Game Day Activities                         | 0                    | 5-7                       |
| Parking Meters, Curbs, Time Limits, and RPP | 7-9                  | 2-4                       |

Requests for Further Program Expansion

In the past year, staff received four (4) opt-in requests from residents outside of the current RPP eligibility area, all of them in northwest Berkeley.<sup>9</sup> In the previous five years, staff have received another five (5) requests from residents outside of the program boundaries.<sup>10</sup> A map depicting these requests is provided as Attachment 5.

Recommendation: Increase and Enhance RPP Enforcement, Including on Football Game Days, and Expand RPP Eligibility

1. Enhanced Enforcement in Existing RPP Areas

Due to staffing constraints discussed in the accompanying Information Report on this Agenda, enforcement in existing RPP areas occurs only once per day. Staff recommend hiring sufficient parking enforcement staff to resume morning and afternoon patrols of existing RPP areas. This will help reinforce RPP time limits, particularly on streets near popular destinations such as public facilities or commercial districts. Increased patrols may also reduce the amount of one-off requests from residents who do not observe enforcement as frequently, which reduce PEOs’ ability to conduct regularly-scheduled beat patrols.

To further increase parking enforcement capacity, staff also recommend that PEOs should no longer accompany street sweeping vehicles. Instead, beat officers would enforce restrictions during the three-hour restriction window, before the sweeper cleans the street, to allow time for other responsibilities.<sup>11</sup> Additionally, staff strongly recommend against introducing additional permit types for resident services, e.g., ‘nanny permits’, or ‘gardener permits’, which serve as exemptions from RPP restrictions. In addition to further increasing already high parking demand in some areas, adding new permits for non-residents dilutes the Program’s effectiveness for all existing permit holders and encourages more driving, which is contrary to the City’s

---

<sup>9</sup> Requests received in FY 2019 include: 10th Street between Cedar and Jones Streets; 10th Street from University Avenue to Allston Way, Addison Street from 10th Street to San Pablo Avenue, and Allston Way from 10th Street to San Pablo Avenue; Camelia Street from 7th to 8th Street; and Page Street from 8th to 9th Street.

<sup>10</sup> Requests received prior to FY 2019 include: Campus Drive from Avenida Drive to the Berkeley Lab Campus; Spruce Street from Los Angeles Avenue to Eunice Street; Stannage Avenue between Gilman Street and Harrison Street; Stanton Street from Ashby Avenue to Prince Street; and various areas adjacent to Solano Avenue.

<sup>11</sup> In the future, street sweeping vehicles may be equipped with GPS beacons, which would allow residents to check when streets reopen for parking in real-time.

Climate Action Plan goals of reducing vehicular emissions.

2. Enhanced Game Day Parking Management and Enforcement

In response to Council referrals, staff has prepared a proposal for the 2019 football season to improve parking availability for residents in neighborhoods closest to campus. Illustrated in Attachment 6, this proposal builds on existing game day restrictions by adding tougher penalties for non-residents closer to the stadium:

- **New tow-away areas for vehicles without a valid RPP permit** on streets within one quarter-mile of the stadium (including portions of RPP Zones D and I), where demand was heaviest on the game day analyzed in fall 2017.
- **New “Enhanced Fine Areas”** on streets within one half-mile of the stadium (including portions of RPP Zones F and G north of campus and portions of Zones B and D south of campus), where vehicles without a valid RPP permit will be subject to a one-time fine of \$225.<sup>12</sup>

This proposal maximizes game day staff capacity and effectiveness in areas where residents experience the most inconvenience. While current enforcement requires two passes to determine whether a non-permitted vehicle exceeds the time limit, under this proposal a PEO will need to check only once to verify whether a vehicle has a permit.

Signage is critical to effective enforcement of parking restrictions. In addition to clearly defining expectations for visitors, signage justifies the issuance of citations that violate posted restrictions. Details about the costs and content of new signage required to implement this proposal is provided in the Fiscal Impacts section of this report.

3. Additional Strategies to Increase Parking Availability on Game Days

While some street parking spaces near the stadium are restricted on game days, metered parking is available for visitors in Downtown, Southside/Telegraph, and the Northside area.<sup>13</sup> Staff will return to Council later this year with options for special events, including adjusting special event rate setting ability at City parking garages, and piloting demand-responsive special event pricing at goBerkeley parking meters.

4. Further Expansion of RPP Program Eligibility

Although there have been relatively few opt-in requests from outside the current Program boundary, they still represent a customer need that the City cannot meet with existing staffing levels. To maximize enforcement resources, currently ineligible residents would be able to opt-in under the following conditions:

---

<sup>12</sup> Staff are sensitive to low income residents and visitors who may not be able to afford this fine. Options include a payment plan (AB 503), as well as applying to perform Community Service in lieu of paying for parking citations.

<sup>13</sup> Meters operate 9 a.m. to 6 p.m. Monday to Saturday. On the Northside, Hearst Avenue between Euclid Avenue and La Loma Avenue is a tow-away zone on game days.

- A. Meet all existing requirements, including petitioner obtaining agreement of 51+% of all housing units in an area, and staff verifying limited parking availability in the mid-morning and mid-afternoon;
- B. Parcels must be located within two (2) blocks of a major commercial corridor (e.g., San Pablo Avenue or Gilman Street); or be adjacent to existing RPP boundaries; and
- C. In residentially-zoned areas, at least one full block (i.e., two sides of a street) must be included in the petition.

Petitioners in areas zoned Mixed Use-Residential or Mixed-Use Light Industrial will be subject to restrictions approved by Council in 2018 for Mixed Use Area P, including a reduced maximum of two (2) annual permits available per address. While slightly more restrictive than current requirements, this expansion approach would allow all petitioners who have submitted opt-in requests to date to be eligible for RPP.

**5. Staffing Requirements**

Enhanced enforcement, including new football game day restrictions, requires five (5) new PEOs and one (1) Parking Enforcement Supervisor, plus standard equipment. Expansion requires one (1) additional PEO for every twenty full blocks (i.e., both sides of a street) added to the Program, plus standard equipment.

**BACKGROUND**

The RPP Program began in 1980 (1) to protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic; (2) to assure continued quality of life for residents; and (3) to provide neighborhood parking for residents. The Program limits parking for vehicles not displaying an RPP permit in most RPP areas to two hours, and reserves available daytime parking for residents, between 9:00 a.m. and 7:00 p.m. Monday through Friday, and on some blocks Saturday.

In March 2014,<sup>14</sup> Council directed staff to evaluate expanding the RPP Program beyond its then-current geographic boundaries. At a September 2017 Council Worksession, staff discussed several challenges with the RPP Program, and proposed incremental solutions to be implemented over the next three years.<sup>15</sup> In February 2018, staff returned to Council with a first set of “short-term” policy reforms, including increased permit fees for Program cost neutrality, a limit of three (3) annual permits per address, and an expansion of RPP eligibility to two new zones in West Berkeley.<sup>16</sup> Improving the effectiveness of the RPP Program is a Strategic Plan Priority Project, advancing the City’s goals to:

---

<sup>14</sup> March 11, 2014 *City Council Agenda: Expansion of Permit Parking to Impacted Areas:* <http://bit.ly/2vTgnqD>

<sup>15</sup> September 19, 2017 *City Council Agenda: Residential Preferential Parking (RPP) Program Recommendations:* <https://bit.ly/2iWaPDa>

<sup>16</sup> February 27, 2018 *City Council Agenda: Residential Preferential Parking (RPP) Program Reform and Expansion:* <https://bit.ly/2Yq6tYB>.

- Provide an efficient and financially-healthy City government; and
- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

### Football Game Day Enforcement

On April 5, 2016, Councilmembers Capitelli, Droste, and Wengraf sponsored a Referral to the Transportation Commission to review game day parking fines in RPP areas around campus, and to recommend higher fees to deter visitors from parking in those areas.<sup>17</sup> On July 25, 2017, the Transportation Commission submitted a Council Report recommending an increase of game day parking fines to \$300 for vehicles without a valid RPP permit in Zones A, B, and D south of campus, but Council did not adopt the Commission's recommendation.<sup>18</sup> On September 25, 2018, Councilmembers Droste, Wengraf, and Mayor Arreguin submitted a referral to the City Manager to implement game day parking restrictions similar to the Transportation Commission's 2017 proposal, but taking into account additional concerns such as parking on the north side of campus.<sup>19</sup>

### ENVIRONMENTAL SUSTAINABILITY

Increasing parking fines for vehicles without valid RPP permits on football game days should increase parking availability for residents in neighborhoods near campus, reducing traffic congestion and vehicle emissions as drivers spend less time searching for parking. Increased fines may also encourage the use of alternative forms of transportation to UC football games.

Expansion of the RPP Program may encourage some drivers who work in commercial areas adjacent to proposed RPP areas to consider using other modes of travel, potentially reducing parking demand and congestion. While use of these other transportation modes may result in a corresponding reduction in traffic and greenhouse gases, staff anticipate the "two-hour shuffle" (i.e., moving a vehicle every two hours to avoid a ticket) may also begin to occur in new RPP areas among commuters who continue to drive. This behavior would have an adverse impact on traffic congestion, air quality, and excess fuel consumption.

### RATIONALE FOR RECOMMENDATION

At the September 19, 2017 Worksession, Council expressed support for a roadmap for RPP reform and expansion, including short-, mid-, and long-term changes to the

---

<sup>17</sup> April 5, 2016 *City Council Agenda: Refer to Transportation Commission to Reassess UC Berkeley Game Day Parking Fines in RPP Areas A, B, D, F and G Surrounding Campus* <https://bit.ly/2GRoSzi>

<sup>18</sup> July 25, 2017 *City Council Agenda: Referral Response: Reassess UC Berkeley Game Day Parking Fines in RPP Areas A, B, D, F, and G Surrounding Campus* <https://bit.ly/2fwXaEj>

<sup>19</sup> September 25, 2018 *City Council Agenda: Refer to the City Manager UC Berkeley Game Day Parking Restrictions and Fines in RPP Surrounding Campus* <https://bit.ly/2EwSnfS>

Program. Short-term recommendations were approved by Council in February 2018. The proposals contained in this report comprise staff's "mid-term" recommendations.

In their September 25, 2018 referral, Councilmembers Droste, Wengraf, and Mayor Arreguin supported increasing parking fines to increase parking availability for residents affected by football game demand. Previously, the Transportation Commission has also supported higher fines.

ALTERNATIVE ACTIONS CONSIDERED

The following table summarizes four alternatives considered by staff:

| Alternative                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Estimated Annual Permit Fee |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| <u>Option 1: Staff Recommendation, Enhanced RPP and Football Enforcement, and Expansion, Without Changing Saturday Enforcement.</u>                                                                                                                                                                                                                                                                                                                                                      | \$90/year<br>(+36% / +\$24) |
| <u>Option 2: Saturday Enforcement in All Areas, Enhanced RPP and Football Enforcement, and Expansion</u> <ul style="list-style-type: none"> <li>• Implement Saturday patrols of all RPP Zones,<sup>20</sup> plus increased RPP and football enforcement, and expansion as in Option 1</li> <li>• Increase permit fees to eliminate deficit and add seven (7) PEOs and one (1) supervisor for increased RPP enforcement, one (1) PEO per twenty new blocks/year, and equipment</li> </ul> | \$97/year<br>(+47% / +\$31) |
| <u>Option 3: Expansion and Enhanced Football Enforcement</u> <ul style="list-style-type: none"> <li>• Implement enhanced football enforcement and expansion as in Option 1</li> <li>• No change to existing RPP enforcement levels/frequency</li> <li>• Increase permit fees to eliminate deficit and add three (3) PEOs and one (1) supervisor for football, one (1) PEO per twenty new blocks/year, and equipment</li> </ul>                                                           | \$88/year<br>(+34% / +\$22) |
| <u>Option 4: Expansion Only</u> <ul style="list-style-type: none"> <li>• Expand RPP Program eligibility per guidelines in Option 1</li> <li>• No changes to existing RPP and football enforcement levels</li> <li>• Increase permit fees to eliminate deficit and add one (1) new PEO and equipment per twenty new blocks/year</li> </ul>                                                                                                                                                | \$82/year<br>(+24% / +\$16) |

Council could also reject all options, which would maintain the status quo RPP Program, including its structural deficit.

**CONTACT PERSON**

Farid Javandel, Transportation Manager, Public Works (510) 981-7061  
 Danette Perry, Parking Services Manager, Public Works (510) 981-7057  
 Gordon Hansen, Senior Planner, Public Works (510) 981-7064

**Attachments:**

- 1: Ordinance
- 2: Resolution: Fees: Residential Preferential Parking Permits
- 3: Resolution: Establish “Enhanced Fine Area” and Double Fine Locations
- 4: Resolution: Modify Parking Violation Fine Schedule
  - Exhibit A: Schedule of Fines and Late Payment Penalties for Parking Violations
  - Exhibit B: List of New Parking Violations

<sup>20</sup> Adding enforcement at streets with RPP restrictions in Zones C, E, F, G, H, I, J, L, M, O, and P.

Residential Preferential Parking Program Reform & Expansion  
Phase II: Recommendations for Increased Enforcement Staffing, Enhanced  
Football Game Day Enforcement Operations, and Expansion

PUBLIC HEARING  
May 14, 2019

- 5: Public Hearing Notice
- 6: FY 2019 and Prior Out of Area RPP Opt-In Requests
- 7: Proposed 2019 UC Berkeley Football Game Day Parking Restrictions

ORDINANCE NO. #,###-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 14.72 TO ALLOW FURTHER EXPANSION OF THE RESIDENTIAL PREFERENTIAL PARKING (RPP) PROGRAM

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

Section 1. That Berkeley Municipal Code Section 14.72.030 is amended to read as follows:

**14.72.030 Definitions.**

A. "Designated residential parking permit area" means any contiguous area upon which the Council imposes parking limitations pursuant to the authority granted by this chapter.

B. "Block front" means all of the property on one side of a street between two consecutive intersecting streets.

BC. "Mixed use" means the use of a lot or building with two or more different land uses including, but not limited to, residential, commercial, retail, office or manufacturing, in a single structure or a group of physically integrated structures; in a neighborhood context, it means blocks containing single-use residences interspersed with other land uses, such as commercial or industrial.

DG. "Mixed Use-Residential" and "Mixed Use-Light Industrial" refers to the zoning designations so defined in Berkeley Municipal Code Chapters 23E.84 and 23E.80, respectively.-

ED. "Assessor's Use Code" means the code used by the Alameda County Assessor to assess property for property tax purposes. These codes cover a range of building descriptions and uses, including a variety of residential uses.

FE. "Nonresidential vehicle" means a motor vehicle not eligible to be issued a residential parking permit, pursuant to the terms and conditions of this chapter, for the specific area in which it is parked. However, it could be eligible for a local business parking permit, or any other parking permit the council shall designate.

GF. "Residential parking permit" means a permit issued under this chapter which, when displayed upon a vehicle, as described herein, shall exempt said vehicle from parking time restrictions established pursuant to this chapter.

HG. "Local business parking permit" means a permit issued under this chapter which, when displayed upon a motor vehicle, shall exempt said vehicle from parking time restrictions established pursuant to this chapter.

IH. "Trapped resident" means: 1) any resident whose dwelling is on a block that may not legally opt-in because less than 80% of the block fronts are residentially zoned and



either: a) whose address is on a block front adjacent to and/or surrounded by block fronts that are already included in the RPP program; or b) whose address is within the general boundary of a designated RPP area; or 2) any resident whose dwelling abuts controlled curb parking and either: a) whose address is on a block front adjacent to and/or surrounded by RPP areas; or b) whose address is within the general boundary of a designated RPP area.

**JJ.** "Neighborhood-service community facility" means churches, schools and senior centers located wholly within the general boundary of an RPP designated area.

**KJ.** "Neighborhood-serving business and establishment" means any business or establishment located in a neighborhood commercial district as defined in the Zoning Ordinance Section Cl a, Cl b, Cl c, Cl b(E).

**LK.** "One-day visitor permit" means a parking permit issued pursuant to this chapter or an ordinance enacted pursuant to authority granted herein, which shall exempt the vehicle from parking time restrictions pursuant to this chapter, for the date indicated upon the face of said permit.

**LM.** "Two-week visitor permit" shall mean a parking permit issued pursuant to this chapter or an ordinance enacted pursuant to authority granted herein, which shall exempt the vehicle from parking time restrictions established pursuant to this chapter for a period of 14 consecutive calendar days, beginning upon the date indicated upon the face of said permit.

**NM.** "Motor vehicle" shall be an automobile, truck, motorcycle or other self-propelled form of transportation not in excess of 8,000 pounds gross weight and not in excess of 20 feet in length. A trailer, trailer coach, utility trailer, motor home/(RV), or any other type of vehicle as defined in the California Vehicle Code that is not self-propelled, is not eligible for an RPP permit.

**ON.** "Controlled curb parking" means any on-street parking with existing parking limitations, such as meters, time restrictions, red zone, etc.

**PO.** "Schools" shall mean any school or other place of learning providing a pre-school, elementary or secondary level of study, and which regularly employs a staff of at least 15 certificated persons regularly employed as a classroom teacher.

**QP.** "Senior centers" means the three senior centers affiliated with the City: North Berkeley Senior Center, South Berkeley Senior Center and the West Berkeley Senior Center.

Section 2. That Berkeley Municipal Code Section 14.72.050 is amended to read as follows:

**14.72.050 Designation of a residential permit parking area.**

A. There shall be two alternative processes by which City Council could consider any area for designation as a residential permit parking area:

1. Residents petition. The City Council shall consider for designation as a residential permit parking area any proposed area for which a petition has been submitted which meets and satisfies the following requirements:

a. Prior to obtaining signatures, neighborhood organizers shall consult with City staff to assure that the proposed area meets guidelines set in the administrative regulations for the establishment of permit parking boundaries.

b. The petition shall contain a description or a map showing the proposed residential permit parking area.

c. Said description or map shall be followed in the petition by a statement describing the residential permit parking program and the current residential permit fees.

d. The statement shall be followed by a signature, printed name, address, and date of signing of the application by a number of adult residents including at least 51% of the housing units within the area.

e. For applicants in areas zoned ~~Mixed Use-Residential~~ or Mixed Use-Light Industrial, a petition shall only be deemed valid if at least 51% of the housing units on each block ~~face-front~~ have an address that has a residential Assessor's Use Code.

f. All petitions shall be the same as the standard petition form developed by City staff. Any petition form different from the standard petition form shall be deemed invalid for the purposes of this chapter.

g. In the proposed residential permit parking area, at least 80% of the block fronts with unlimited on-street parking must be residentially zoned, and at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.

h. In areas zoned ~~Mixed Use-Residential~~ or Mixed Use-Light Industrial, at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.

2. City Council initiation. City Council shall consider for designation as a residential permit parking area any area for which the following requirements have been met:

a. City Council shall initiate the area as a residential permit parking area.

b. For areas zoned ~~Mixed Use-Residential~~ or Mixed Use-Light Industrial, Council shall only initiate the area as a residential permit parking area if at least 51% of the housing

units on each block face-front have an address that has a residential Assessor's Use Code.

c. In the proposed residential permit parking area at least 80% of the block fronts with unlimited on-street parking must be residentially zoned, and at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m. or unlimited on-street parking is projected to be impacted by parking spillover from a more congested residential permit parking area.

d. In areas zoned Mixed Use-Residential or Mixed Use-Light Industrial, at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.

e. A notice of intent to establish permit parking shall be sent to all addresses within the proposed residential parking permit area.

B. Upon receipt by the City Council of a petition as described in subsection A.1 of this section, or after Council has initiated a residential permit parking area as described in subsection A.2 of this section, the Council shall:

1. Undertake or cause to be undertaken such surveys or studies which it deems necessary.

2. Cause to be drafted a resolution which would establish a residential permit parking area based upon the aforementioned proposal and studies, including all regulations and time restrictions determined by the Council to be reasonable and necessary in such area.

C. The Council shall thereafter conduct a public hearing on said draft resolution. Notice of the hearing shall be posted at least ten days prior to the hearing on all block fronts proposed to be included in the residential permit parking area. Following the hearing, the City Council may enact, amend or reject said draft resolution in any manner, including but not limited to, modification of boundaries of the proposed area and the restrictions imposed on such proposed area. In order to grant permit parking designation, Council shall find that the designation will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing in the area of designation. In reaching this decision, consideration shall be given to the residents' support for residential permit parking, the existing parking conditions, the expected effectiveness of residential permit parking in improving parking conditions, and the location and size of the residential permit parking area.

Section 3. That Berkeley Municipal Code Section 14.72.090 is amended to read as follows:

**14.72.090 Residential parking permit.**

A. The City Manager and/or his/her designee shall issue residential parking permits with a term not to exceed one year to motor vehicles which comply with the requirements set forth in this section.

1. No more than three (3) permits may be purchased for each residential address. Applicants may request a waiver if additional permits are needed.

2. In areas zoned Mixed Use-Residential (MU-R) or Mixed Use-Light Industrial (MULI), no more than two (2) permits may be purchased for each residential address. Applicants may request a waiver if additional permits are needed.

3. The City Traffic Engineer is authorized to issue such rules and regulations necessary to grant waivers to the annual permit limits.

B. A residential parking permit may be issued for a motor vehicle only upon application of the following person:

1. The applicant must demonstrate that he or she is currently a resident of the area for which the permit is to be issued; and

2. The applicant must demonstrate that he or she has ownership or continuing custody of the motor vehicle for which the permit is to be issued; and

3. Any motor vehicle to be issued a permit must have a vehicle registration indicating registration within the area for which the permit is to be issued.

C. A residential parking permit may in addition be issued for any vehicle in the area regularly utilized by a person who owns or leases commercial property and actively engages in business activity within the particular residential permit parking area. However, no more than one parking permit, or any greater number which the City Council may determine appropriate for the particular residential permit parking involved area, may be issued for each business establishment for a motor vehicle registered to or under the control of such a person.

D. A residential parking permit may be issued for any vehicle utilized in the area by a nonresidential nonbusiness enterprise, such as a church, school, or hospital, located wholly or partially within the particular residential permit parking area. However, no more than one parking permit, or any greater number which the City Council may determine appropriate for the particular permit parking area involved, may be issued for each such enterprise within each permit area for a motor vehicle registered to or under the control of such an enterprise.

E. Any person to whom a residential parking permit has been issued pursuant to this section shall be deemed a permit holder.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

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

FEEES: RESIDENTIAL PREFERENTIAL PARKING PERMITS

WHEREAS, on February 27, 2018, Council adopted Resolution No. 68,344-N.S., establishing a revised fee schedule for parking permits for annual residential preferential parking; 1-Day Visitors, 2-Week Visitors, and annual in-home care, annual community-serving facility, annual merchant, 1-Day Senior Center, Semi-annual residential, and Semi-annual in-home care permits issued for the Residential Preferential Parking (RPP) Program, and rescinded Resolution No. 66,895-N.S.; and

WHEREAS, the current RPP Program is operating at an annual deficit of at least \$124,675; and

WHEREAS, staffing for the RPP Program will be increased to allow for enhanced enforcement activities in existing Program areas, a comprehensive overhaul of University of California, Berkeley football game day parking, and actively managed expansion of opt-in eligibility; and

WHEREAS, increased staffing will incur additional yearly costs, but will also deliver new citation revenue;

WHEREAS, it is necessary to increase RPP permit fees in order to operate the RPP Program as a cost-neutral program in accordance with Council Budget Policies.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following fees for the RPP Program are hereby established:

| Permit Type                                                                                 | Permit Fees |
|---------------------------------------------------------------------------------------------|-------------|
| Annual Residential & In-Home Care                                                           | \$90.00     |
| 1-Day Visitor                                                                               | \$4.00      |
| 14-Day Visitor                                                                              | \$47.00     |
| Semi-Annual Residential & In-Home Care                                                      | \$45.00     |
| Community-Serving Facility                                                                  | \$114.00    |
| Merchant                                                                                    | \$253.00    |
| 1-Day Senior Center                                                                         | \$1.00      |
| Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits               | \$21.00     |
| Surcharge Per Additional Annual Residential Permit Over Maximum, Only If Waiver is Approved | \$100.00    |

BE IT FURTHER RESOLVED that these fees shall be effective June 1, 2019 for FY 2020 permit purchases and shall be deposited into the General Fund.

BE IT FURTHER RESOLVED that Resolution No. 68,344-N.S. is hereby rescinded effective June 1, 2019.

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

ESTABLISHING THE ZONES FOR “ENHANCED FINE AREAS” AND FOOTBALL GAME DAY VIOLATIONS, AND AUTHORIZING THE CITY MANAGER TO MAKE AN ANNUAL DETERMINATION AND NOTICE OF DATES ON WHICH FOOTBALL DAY VIOLATIONS WILL BE ISSUED

WHEREAS, City Council Resolution No. 65,813-N.S. restated the geographic area for football game day citations; and

WHEREAS, University of California football games attract a large number of visitors who drive to the game and park in residential neighborhoods to the north and south of campus, which typically makes it difficult for residents to find parking in close proximity to their homes on football game days; and

WHEREAS, current enforcement of the two-hour time limit for vehicles without a valid permit in portions of Residential Preferential Parking (RPP) Zones closest to the stadium is time intensive, reducing the ability of Parking Enforcement to maximize limited staff capacity on game days; and

WHEREAS, the permanent double parking fine program established by Resolution No. 63,800-N.S. has not deterred extended game day parking in portions of RPP Zones B and D, particularly in comparison to private off-street facilities in the vicinity of the stadium offering game day parking for up to \$100; and

WHEREAS, staff have confirmed with Parking Enforcement leadership that new “Enhanced Fine Areas,” in which vehicles without a valid RPP permit would not be permitted to park on football game days, would maximize limited enforcement capacity on football game days; and

WHEREAS, concurrent with this Resolution, the Council is considering adoption of another Resolution establishing a new schedule of parking violations and fines for parking violations, including in new “Enhanced Fine Areas;” and

WHEREAS, the existing “double parking fine” program would continue to be in effect on football game days in addition to the new “Enhanced Fine Areas;” and

WHEREAS, the schedule of parking violations and fines for parking violations may be revised in the future without affecting established zones for football day citations and Enhanced Fine Areas and the City Manager’s authorization to determine and provide public noticing of dates for these violations.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the established zone for the northerly Enhanced Fine Area is north to (not including) Cedar Street, west to (not including) Shattuck Avenue, south to Hearst Avenue, and east to the existing boundary of RPP Zones F and G.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the southerly Enhanced Fine Area is north to Dwight Way between Telegraph Avenue and Regent Street, north to Haste Street between Regent Street and Bowditch Street, north to Dwight Way between Bowditch Street and College Avenue; east to (but not including) College Avenue between Dwight Way and Parker Street; north to (but not including) Parker Street between College Avenue and Warring Street; east to Warring Street between Parker Street and Derby Street; north to Derby Street between Warring Street and Belrose Avenue; east to (but not including) Belrose Avenue/Claremont Boulevard between Derby Street and Russell Street; south to (but not including) Russell Street between Belrose Avenue/Claremont Boulevard and Telegraph Avenue; and west to (but not including) Telegraph Avenue between Russell Street and Dwight Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the easterly Enhanced Fine Area is north to the southern boundary of RPP Zone K between Channing Way and the Berkeley-Oakland city limits; east to the Berkeley-Oakland city limits; south to (but not including) Dwight Way between the Berkeley-Oakland city limits and Prospect Street; and west to (but not including) Prospect Street between Dwight Way and Channing Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for football day citations is north to (not including) Cedar Street, south and east to the Berkeley-Oakland city limits, and west to Oxford and Fulton Streets (including both sides of these streets).

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the City Manager is directed to annually determine the dates during which there are higher parking fines for football day citations, and provide reasonable notice to the public of these dates.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that Resolution No. 65,813-N.S. is hereby rescinded.



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

ESTABLISHING A NEW SCHEDULE OF PARKING VIOLATIONS AND FINES FOR PARKING VIOLATIONS AND LATE PAYMENT PENALTIES; AND RESCINDING RESOLUTION NO. 68,466-N.S.

WHEREAS, the State of California Vehicle Code Section 40203.5 states “the schedule of parking penalties for parking violations and late payment penalties shall be established by the governing body of the jurisdiction where the notice of violation is issued;” and

WHEREAS, University of California football games attract a large number of visitors who drive to the game and park in residential neighborhoods to the north and south of campus, which typically makes it difficult for residents to find parking in close proximity to their homes on football game days; and

WHEREAS, concurrent with this Resolution, the Council is considering adoption of another Resolution establishing new “Enhanced Fine Areas” in portions of Residential Preferential Parking (RPP) Zones F and G north of campus, and in portions of RPP Zones B, D, and I south of campus, wherein vehicles without a valid RPP permit would not be permitted to park on football game days; and

WHEREAS, in May 2018, the City Council adopted Resolution No. 68,466-N.S. establishing a new schedule of fines for parking violations to enable the City to properly cite vehicles in violation of new laws managing parking for electric vehicles.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a new schedule of parking violations and late payment penalties is established, as set forth in Exhibit A, which includes fines and late penalties for violations of BMC Section 14.40.090 pertaining to parking restrictions in new “Enhanced Fine Areas” in effect on football game days only; and

BE IT FURTHER RESOLVED that Resolution No. 68,466-N.S. is hereby rescinded.

Exhibits

- A: Schedule of Fines and Late Payment Penalties for Parking Violations
- B: List of New Parking Violations

Exhibit A: Schedule of Fines and Late Payment Penalties for Parking Violations

| Code | Section     | Violation Description<br>(For citations issued to a vehicle)<br>FD = Football Game Days 9 a.m. to 11 p.m.<br>FD fines = 50% higher on most violations &<br>100% higher for violations in RPP Zones A,<br>B, D | Fine<br>Amount | On Day 28<br>+\$30 | On Day 47<br>+\$50 |
|------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------|--------------------|
| BMC  | 6.24.020    | Off-St Rsrv Pkg No Permit Displayed                                                                                                                                                                           | \$48           | \$78               | \$128              |
| BMC  | 6.24.020    | FD Off-St Rsrv Pkg No Permit Displayed                                                                                                                                                                        |                |                    |                    |
| BMC  | 6.24.020    | Non-Electric Vehicle Parked in Electric Vehicle Space                                                                                                                                                         | \$35           | \$65               | \$115              |
| BMC  | 6.24.060    | Electric Vehicle Exceeding EV Parking Space Time Limit                                                                                                                                                        | \$30           | \$60               | \$110              |
| BMC  | 6.24.020    | Electric Vehicle Not Actively Charging in EV Parking Space                                                                                                                                                    | \$35           | \$65               | \$115              |
| BMC  | 6.24.093    | P&D Dispensing Mach Tkt Not Displayed                                                                                                                                                                         | \$43           | \$73               | \$123              |
| BMC  | 6.24.093    | FD P&D Dispensing Mach Tkt Not Displayed                                                                                                                                                                      | \$65           | \$95               | \$145              |
| BMC  | 6.24.096    | Improper Display of P&D Disp Mach Tkt                                                                                                                                                                         | \$43           | \$73               | \$123              |
| BMC  | 6.24.096    | FD Improper Display of P&D Disp Mach Tkt                                                                                                                                                                      | \$65           | \$95               | \$145              |
| BMC  | 6.24.100 B  | P&D Station Expired Time                                                                                                                                                                                      | \$43           | \$73               | \$123              |
| BMC  | 6.24.100 B  | FD P&D Station Expired Time                                                                                                                                                                                   | \$65           | \$95               | \$145              |
| BMC  | 6.24.103 B  | Time Limits Enforced at Inoperable P&D Sta                                                                                                                                                                    | \$43           | \$73               | \$123              |
| BMC  | 6.24.103 B  | FD Time Limits Enforced at Inoperable P&D Sta                                                                                                                                                                 | \$65           | \$95               | \$145              |
| BMC  | 6.24.130    | Off-St Facility: Motorcycle Zone Only                                                                                                                                                                         | \$48           | \$78               | \$128              |
| BMC  | 6.24.130    | Off-St Facility: Pkg Outside Markings                                                                                                                                                                         | \$48           | \$78               | \$128              |
| BMC  | 6.24.130    | FD Off-St Facility: Pkg Outside Markings                                                                                                                                                                      | \$72           | \$102              | \$152              |
| BMC  | 6.24.130    | Off-St Facility: Disabled Zone                                                                                                                                                                                | \$288          | \$318              | \$368              |
| BMC  | 6.24.130    | FD Off-St Facility: Disabled Zone                                                                                                                                                                             | \$288          | \$318              | \$368              |
| BMC  | 6.24.130    | Off-St Facility: Restricted Load Zone                                                                                                                                                                         | \$48           | \$78               | \$128              |
| BMC  | 6.24.130    | FD Off-St Facility: Restricted Load Zone                                                                                                                                                                      | \$72           | \$102              | \$152              |
| BMC  | 6.24.130    | Off-St Facility: Unmarked Space                                                                                                                                                                               | \$48           | \$78               | \$128              |
| BMC  | 6.24.130    | FD Off-St Facility: Unmarked Space                                                                                                                                                                            | \$72           | \$102              | \$152              |
| BMC  | 6.24.140    | Off-St Facility: Backed-In                                                                                                                                                                                    | \$48           | \$78               | \$128              |
| BMC  | 9.52.140    | Unattended Taxi Over 5 Min                                                                                                                                                                                    | \$91           | \$121              | \$171              |
| BMC  | 13.52.040   | Unauth Pkg on Private Property                                                                                                                                                                                | \$41           | \$71               | \$121              |
| BMC  | 14.24.070   | Unauth Vehicle on Private Prop                                                                                                                                                                                | \$64           | \$94               | \$144              |
| BMC  | 14.36.030 A | No Parking on Divisnl Islands                                                                                                                                                                                 | \$55           | \$85               | \$135              |
| BMC  | 14.36.030 A | FD No Parking on Divisnl Islands                                                                                                                                                                              | \$83           | \$113              | \$163              |
| BMC  | 14.36.030 C | No Parking Zone (Sign Posted)                                                                                                                                                                                 | \$64           | \$94               | \$144              |
| BMC  | 14.36.030 C | FD No Parking Zone (Sign Posted)                                                                                                                                                                              | \$96           | \$126              | \$176              |
| BMC  | 14.36.030 C | No Parking Zone (Red Curb)                                                                                                                                                                                    | \$64           | \$94               | \$144              |
| BMC  | 14.36.030 C | FD No Parking Zone (Red Curb)                                                                                                                                                                                 | \$96           | \$126              | \$176              |

| Code | Section     | Violation Description<br>(For citations issued to a vehicle)<br>FD = Football Game Days 9 a.m. to 11 p.m.<br>FD fines = 50% higher on most violations &<br>100% higher for violations in RPP Zones A,<br>B, D | Fine<br>Amount | On Day 28<br>+\$30 | On Day 47<br>+\$50 |
|------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------|--------------------|
| BMC  | 14.36.030 D | No Parking Street Sweeping (sign)                                                                                                                                                                             | \$49           | \$79               | \$129              |
| BMC  | 14.36.030 E | No Parking on Railroad Tracks                                                                                                                                                                                 | \$64           | \$94               | \$144              |
| BMC  | 14.36.030 F | Hazard Obstructing Traffic                                                                                                                                                                                    | \$64           | \$94               | \$144              |
| BMC  | 14.36.030 F | FD Hazard Obstructing Traffic                                                                                                                                                                                 | \$96           | \$126              | \$176              |
| BMC  | 14.36.030 G | Construct: No Permit on Dashboard                                                                                                                                                                             | \$64           | \$94               | \$144              |
| BMC  | 14.36.030 G | FD Construct: No Permit on Dashboard                                                                                                                                                                          | \$96           | \$126              | \$176              |
| BMC  | 14.36.050   | On Street 72 or More Consec hrs                                                                                                                                                                               | \$60           | \$90               | \$140              |
| BMC  | 14.36.060   | Repair Vehicle on Street                                                                                                                                                                                      | \$52           | \$82               | \$132              |
| BMC  | 14.36.080   | Vehicle Parked in School Zone                                                                                                                                                                                 | \$51           | \$81               | \$131              |
| BMC  | 14.36.090   | Pkg on Grade Brake/Block Wheels                                                                                                                                                                               | \$55           | \$85               | \$135              |
| BMC  | 14.36.110   | Emerg Prkg w/o Permit (Tow CVC<br>22651)                                                                                                                                                                      | \$52           | \$82               | \$132              |
| BMC  | 14.40.010   | 3 min Limit Zone Overtime                                                                                                                                                                                     | \$43           | \$73               | \$123              |
| BMC  | 14.40.010   | FD 3 min Limit Zone Overtime                                                                                                                                                                                  | \$65           | \$95               | \$145              |
| BMC  | 14.40.010   | 5 min Limit Zone Overtime                                                                                                                                                                                     | \$43           | \$73               | \$123              |
| BMC  | 14.40.010   | FD 5 min Limit Zone Overtime                                                                                                                                                                                  | \$65           | \$95               | \$145              |
| BMC  | 14.40.010   | 10 min Limit Zone Overtime                                                                                                                                                                                    | \$43           | \$73               | \$123              |
| BMC  | 14.40.010   | FD 10 min Limit Zone Overtime                                                                                                                                                                                 | \$65           | \$95               | \$145              |
| BMC  | 14.40.010   | 12 min Limit Zone Overtime                                                                                                                                                                                    | \$43           | \$73               | \$123              |
| BMC  | 14.40.010   | 15 min Limit Zone Overtime                                                                                                                                                                                    | \$43           | \$73               | \$123              |
| BMC  | 14.40.010   | 24 min Limit Zone Overtime                                                                                                                                                                                    | \$43           | \$73               | \$123              |
| BMC  | 14.40.010   | FD 24 min Limit Zone Overtime                                                                                                                                                                                 | \$65           | \$95               | \$145              |
| BMC  | 14.40.020   | 30 min Limit Zone Overtime                                                                                                                                                                                    | \$43           | \$73               | \$123              |
| BMC  | 14.40.020   | FD 30 min Limit Zone Overtime                                                                                                                                                                                 | \$65           | \$95               | \$145              |
| BMC  | 14.40.030   | 1 hr Limit Zone Overtime                                                                                                                                                                                      | \$43           | \$73               | \$123              |
| BMC  | 14.40.030   | FD 1 hr Limit Zone Overtime                                                                                                                                                                                   | \$65           | \$95               | \$145              |
| BMC  | 14.40.030   | Faulty Meter Over 1 hr Limit                                                                                                                                                                                  | \$43           | \$73               | \$123              |
| BMC  | 14.40.040   | 2 hr Limit Zone Overtime                                                                                                                                                                                      | \$43           | \$73               | \$123              |
| BMC  | 14.40.040   | FD 2 hr Limit Zone Overtime                                                                                                                                                                                   | \$65           | \$95               | \$145              |
| BMC  | 14.40.040   | Faulty Meter Over 2 hr Limit                                                                                                                                                                                  | \$43           | \$73               | \$123              |
| BMC  | 14.40.050 A | Parallel Pkg Veh Outside Markers                                                                                                                                                                              | \$48           | \$78               | \$128              |
| BMC  | 14.40.050 B | Veh Facing Wrong Way 1-way St                                                                                                                                                                                 | \$48           | \$78               | \$128              |
| BMC  | 14.40.050 B | FD Veh Facing Wrong Way 1-way St                                                                                                                                                                              | \$72           | \$102              | \$152              |
| BMC  | 14.40.050 B | Pkg Over 18" from Curb 1-way St                                                                                                                                                                               | \$51           | \$81               | \$131              |
| BMC  | 14.40.050 B | FD Pkg Over 18" fr Curb 1-way St                                                                                                                                                                              | \$77           | \$107              | \$157              |
| BMC  | 14.40.060 A | Diagonal Pkg Veh Outside Markers                                                                                                                                                                              | \$51           | \$81               | \$131              |
| BMC  | 14.40.060 B | Diagonal Pkg FW Over 6" from Curb                                                                                                                                                                             | \$51           | \$81               | \$131              |
| BMC  | 14.40.070 A | No Stopping 4-6pm (Tow CVC 22651)                                                                                                                                                                             | \$64           | \$94               | \$144              |
| BMC  | 14.40.070 A | FD No Stopping 4-6pm (Tow CVC<br>22651)                                                                                                                                                                       | \$96           | \$126              | \$176              |
| BMC  | 14.40.070 A | No Stopping 7-9am (Tow CVC 22651)                                                                                                                                                                             | \$64           | \$94               | \$144              |

| Code | Section     | Violation Description<br>(For citations issued to a vehicle)<br>FD = Football Game Days 9 a.m. to 11 p.m.<br>FD fines = 50% higher on most violations &<br>100% higher for violations in RPP Zones A,<br>B, D | Fine<br>Amount | On Day 28<br>+\$30 | On Day 47<br>+\$50 |
|------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------|--------------------|
| BMC  | 14.40.070 A | No Stopping 9pm-6am (Tow CVC 22651)                                                                                                                                                                           | \$64           | \$94               | \$144              |
| BMC  | 14.40.070 A | Posted No Stopping Tow Away                                                                                                                                                                                   | \$64           | \$94               | \$144              |
| BMC  | 14.40.090   | RPP Zone No RPP Permit Displayed                                                                                                                                                                              | \$49           | \$79               | \$129              |
| BMC  | 14.40.090   | FD RPP Zone A,B,D No Permit Dsply                                                                                                                                                                             | \$98           | \$128              | \$178              |
| BMC  | 14.40.090   | RPP Zone K No Permit Displayed                                                                                                                                                                                | \$57           | \$87               | \$137              |
| BMC  | 14.40.090   | RPP Zone RPP Permit Expired                                                                                                                                                                                   | \$49           | \$79               | \$129              |
| BMC  | 14.40.090   | FD RPP Zone A,B,D Permit Expired                                                                                                                                                                              | \$98           | \$128              | \$178              |
| BMC  | 14.40.090   | RPP Zone Permit Improper Display                                                                                                                                                                              | \$49           | \$79               | \$129              |
| BMC  | 14.40.090   | FD RPP A,B,D Permit Impropr Dsply                                                                                                                                                                             | \$98           | \$128              | \$178              |
| BMC  | 14.40.090   | No RPP Permit Displayed in Enhanced Fine Area (Football Game Days)                                                                                                                                            | \$225          | \$255              | \$305              |
| BMC  | 14.40.130   | Pkg/Standing in City Lots/Spaces                                                                                                                                                                              | \$55           | \$85               | \$135              |
| BMC  | 14.40.130 A | City Lot No Permit Displayed                                                                                                                                                                                  | \$57           | \$87               | \$137              |
| BMC  | 14.40.130 C | Reserved Pkg No Permit Displayed                                                                                                                                                                              | \$49           | \$79               | \$129              |
| BMC  | 14.40.130 E | Reserved City Hall Pkg Towable                                                                                                                                                                                | \$64           | \$94               | \$144              |
| BMC  | 14.40.150 A | Car Parking in Motorcycle Area                                                                                                                                                                                | \$51           | \$81               | \$131              |
| BMC  | 14.40.150 B | Motorcycle Zone Overtime                                                                                                                                                                                      | \$51           | \$81               | \$131              |
| BMC  | 14.40.160   | DbI-Pkd Commer Vehicle Center St                                                                                                                                                                              | \$60           | \$90               | \$140              |
| BMC  | 14.44.020 B | Commer Zone No Permit (yellow)                                                                                                                                                                                | \$57           | \$87               | \$137              |
| BMC  | 14.44.020 B | FD Commer Zone No Permit (yellow)                                                                                                                                                                             | \$86           | \$116              | \$166              |
| BMC  | 14.44.020 A | Commercial Zone Overtime                                                                                                                                                                                      | \$57           | \$87               | \$137              |
| BMC  | 14.44.020 A | FD Commercial Zone Overtime                                                                                                                                                                                   | \$86           | \$116              | \$166              |
| BMC  | 14.44.030   | Passenger Load Zone (white curb)                                                                                                                                                                              | \$57           | \$87               | \$137              |
| BMC  | 14.44.030   | FD Passgr Load Zone (white curb}                                                                                                                                                                              | \$86           | \$116              | \$166              |
| BMC  | 14.44.040   | No Stopping Bicycle Zone                                                                                                                                                                                      | \$55           | \$85               | \$135              |
| BMC  | 14.44.040   | FD No Stopping Bicycle Zone                                                                                                                                                                                   | \$83           | \$113              | \$163              |
| BMC  | 14.44.050   | Special Passenger Load Zone only                                                                                                                                                                              | \$57           | \$87               | \$137              |
| BMC  | 14.44.060   | Parking in Coach (bus) Zone                                                                                                                                                                                   | \$64           | \$94               | \$144              |
| BMC  | 14.44.060   | FD Parking in Coach (bus} Zone                                                                                                                                                                                | \$96           | \$126              | \$176              |
| BMC  | 14.44.070   | Unauthorized Use of Funeral Zone                                                                                                                                                                              | \$51           | \$81               | \$131              |
| BMC  | 14.44.080   | Taxicab Parking Only                                                                                                                                                                                          | \$51           | \$81               | \$131              |
| BMC  | 14.44.080   | Unauthorized Taxicab Stand Pkg                                                                                                                                                                                | \$51           | \$81               | \$131              |
| BMC  | 14.46.040 B | Non-Electric Vehicle Parked in EV Space                                                                                                                                                                       | \$49           | \$79               | \$129              |
| BMC  | 14.46.050 B | Electric Vehicle Exceeding EV Space Time Limit                                                                                                                                                                | \$43           | \$73               | \$123              |
| BMC  | 14.46.050 C | Electric Vehicle Not Actively Charging in EV Space                                                                                                                                                            | \$43           | \$73               | \$123              |
| BMC  | 14.52.050 A | Meter Street: Expired Meter                                                                                                                                                                                   | \$43           | \$73               | \$123              |
| BMC  | 14.52.050 A | FD Meter Street: Expired Meter                                                                                                                                                                                | \$65           | \$95               | \$145              |
| BMC  | 14.52.050 B | Pay & Display Station Expired Time                                                                                                                                                                            | \$43           | \$73               | \$123              |

| Code | Section     | Violation Description<br>(For citations issued to a vehicle)<br>FD = Football Game Days 9 a.m. to 11 p.m.<br>FD fines = 50% higher on most violations &<br>100% higher for violations in RPP Zones A,<br>B, D | Fine<br>Amount | On Day 28<br>+\$30 | On Day 47<br>+\$50 |
|------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------|--------------------|
| BMC  | 14.52.050 B | FD Pay & Display Sta Expired Time                                                                                                                                                                             | \$65           | \$95               | \$145              |
| BMC  | 14.52.060 A | Meter St: Extending Meter Time                                                                                                                                                                                | \$43           | \$73               | \$123              |
| BMC  | 14.52.060 A | FD Meter St: Extending Meter Time                                                                                                                                                                             | \$65           | \$95               | \$145              |
| BMC  | 14.52.060 B | Pay & Display Station Extend Time                                                                                                                                                                             | \$43           | \$73               | \$123              |
| BMC  | 14.52.060 B | FD Pay & Display Sta Extend Time                                                                                                                                                                              | \$65           | \$95               | \$145              |
| BMC  | 14.52.063   | P&D Dispensing Mach Tkt Not Displayed                                                                                                                                                                         | \$43           | \$73               | \$123              |
| BMC  | 14.52.063   | FD P&D Dispens Mach Tkt Not Displayed                                                                                                                                                                         | \$65           | \$95               | \$145              |
| BMC  | 14.52.066   | Improper Display of P&D Disp Mach Tkt                                                                                                                                                                         | \$43           | \$73               | \$123              |
| BMC  | 14.52.066   | FD Improper Display of P&D Disp Mach Tkt                                                                                                                                                                      | \$65           | \$95               | \$145              |
| CVC  | 4000        | No Evidence Current Registration                                                                                                                                                                              | \$50           | \$80               | \$130              |
| CVC  | 4000        | Expired Registration                                                                                                                                                                                          | \$50           | \$80               | \$130              |
| CVC  | 4461 B      | Improper Lending of DP Placard or Plate                                                                                                                                                                       | \$550          | \$580              | \$630              |
| CVC  | 4461 C      | Improper Display of DP Placard or Plate                                                                                                                                                                       | \$550          | \$580              | \$630              |
| CVC  | 4461 D      | Improper Use of DP Placard or Plate                                                                                                                                                                           | \$550          | \$580              | \$630              |
| CVC  | 4463 C      | Use of Forged, Counterfeit, or False DP Placard or Plate                                                                                                                                                      | \$550          | \$580              | \$630              |
| CVC  | 5200        | Missing License Plates                                                                                                                                                                                        | \$25           | \$55               | \$105              |
| CVC  | 5201        | Lic Plates Improperly Positioned                                                                                                                                                                              | \$25           | \$55               | \$105              |
| CVC  | 5202        | Hanging/Detached License Plate                                                                                                                                                                                | \$25           | \$55               | \$105              |
| CVC  | 5204 A      | Expired Tags (read back)                                                                                                                                                                                      | \$25           | \$55               | \$105              |
| CVC  | 5204 A      | Missing Tags                                                                                                                                                                                                  | \$25           | \$55               | \$105              |
| CVC  | 21113 A     | Parking on Public Grounds                                                                                                                                                                                     | \$54           | \$84               | \$134              |
| CVC  | 21211 B     | Vehicle Blocking Bicycle Lane                                                                                                                                                                                 | \$54           | \$84               | \$134              |
| CVC  | 21718       | Parking on Freeway                                                                                                                                                                                            | \$54           | \$84               | \$134              |
| CVC  | 22500 A     | Parking in an Intersection                                                                                                                                                                                    | \$60           | \$90               | \$140              |
| CVC  | 22500 A     | FD Parking in an Intersection                                                                                                                                                                                 | \$86           | \$116              | \$166              |
| CVC  | 22500 B     | Parking in Crosswalk                                                                                                                                                                                          | \$60           | \$90               | \$140              |
| CVC  | 22500 B     | FD Parking in Crosswalk                                                                                                                                                                                       | \$90           | \$120              | \$170              |
| CVC  | 22500 C     | Parking in Safety Zone                                                                                                                                                                                        | \$60           | \$90               | \$140              |
| CVC  | 22500 C     | FD Parking in Safety Zone                                                                                                                                                                                     | \$90           | \$120              | \$170              |
| CVC  | 22500 D     | Parking within 15' of Fire Station                                                                                                                                                                            | \$60           | \$90               | \$140              |
| CVC  | 22500 D     | FD Parking within 15' of Fire Station                                                                                                                                                                         | \$90           | \$120              | \$170              |
| CVC  | 22500 E     | Parking in Driveway                                                                                                                                                                                           | \$60           | \$90               | \$140              |
| CVC  | 22500 E     | FD Parking in Driveway                                                                                                                                                                                        | \$90           | \$120              | \$170              |
| CVC  | 22500 F     | Parking On/Across Sidewalk                                                                                                                                                                                    | \$60           | \$90               | \$140              |
| CVC  | 22500 F     | FD Parking On/Across Sidewalk                                                                                                                                                                                 | \$90           | \$120              | \$170              |
| CVC  | 22500 G     | Parking Construction No Permit                                                                                                                                                                                | \$60           | \$90               | \$140              |
| CVC  | 22500 G     | FD Parking Construction No Permit                                                                                                                                                                             | \$90           | \$120              | \$170              |
| CVC  | 22500 H     | Double-Parked                                                                                                                                                                                                 | \$60           | \$90               | \$140              |

| Code | Section   | Violation Description<br>(For citations issued to a vehicle)<br>FD = Football Game Days 9 a.m. to 11 p.m.<br>FD fines = 50% higher on most violations &<br>100% higher for violations in RPP Zones A,<br>B, D | Fine<br>Amount | On Day 28<br>+\$30 | On Day 47<br>+\$50 |
|------|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------|--------------------|
| CVC  | 22500 H   | FD Double-Parked                                                                                                                                                                                              | \$90           | \$120              | \$170              |
| CVC  | 22500 I   | Parking/Stopping in Coach Zone                                                                                                                                                                                | \$263          | \$293              | \$343              |
| CVC  | 22500 I   | FD Parking/Stopping in Coach Zone                                                                                                                                                                             | \$263          | \$293              | \$343              |
| CVC  | 22500 J   | Parking in Tunnel                                                                                                                                                                                             | \$54           | \$84               | \$134              |
| CVC  | 22500 K   | Parking on Bridge                                                                                                                                                                                             | \$54           | \$84               | \$134              |
| CVC  | 22500 L   | Blocking Disabled Ramp                                                                                                                                                                                        | \$288          | \$318              | \$368              |
| CVC  | 22502 A   | Parking Over 18" from Curb 2-Way St                                                                                                                                                                           | \$69           | \$99               | \$149              |
| CVC  | 22502 A   | FD Parking Over 18" from Curb 2-Way St                                                                                                                                                                        | \$104          | \$134              | \$184              |
| CVC  | 22503 E   | Parking Over 10" from Curb 1-Way St                                                                                                                                                                           | \$58           | \$88               | \$138              |
| CVC  | 22507.8 A | Parking in Disabled Zone                                                                                                                                                                                      | \$317          | \$347              | \$397              |
| CVC  | 22507.8 B | Obstructing Access Disabled Zone                                                                                                                                                                              | \$317          | \$347              | \$397              |
| CVC  | 22507.8 B | FD Obstructing Access Disabled Zone                                                                                                                                                                           | \$317          | \$347              | \$397              |
| CVC  | 22514 a   | Parking within 15' of Fire Hydrant                                                                                                                                                                            | \$78           | \$108              | \$158              |
| CVC  | 22514 a   | FD Parking within 15' of Fire Hydrant                                                                                                                                                                         | \$117          | \$147              | \$197              |
| CVC  | 22521     | Parking within 7.5' of Railroad Tracks                                                                                                                                                                        | \$54           | \$84               | \$134              |
| CVC  | 22522     | Parking within 3' of Wheelchair Ramp                                                                                                                                                                          | \$317          | \$347              | \$397              |
| CVC  | 22522     | FD Parking within 3' of Wheelchair Ramp                                                                                                                                                                       | \$317          | \$347              | \$397              |
| CVC  | 22523 a   | Abandon Vehicle on Highway                                                                                                                                                                                    | \$168          | \$198              | \$248              |
| CVC  | 22523 b   | Abandon Vehicle on Pub/Prvt Prop                                                                                                                                                                              | \$168          | \$198              | \$248              |

Note: In addition to citation placed on vehicle, "Notice of Violation" is mailed to registered owner seven (7) days after citation and indicated when the fine penalty increases will occur: On Day 28 after citation issuance, the fine increases by \$30. If payment is not received within 45 days after issuance, on Day 47, the fine increases by an additional \$50.

Exhibit B: List New Parking Violations

| <b>Code</b> | <b>Section</b> | <b>Violation Description</b><br>(For citations issued to a vehicle)<br>FD = Football Game Days 9 a.m. to 11 p.m.<br>FD fines = 50% higher on most violations &<br>100% higher for violations in RPP Zones A,<br>B, D | <b>Fine Amount</b> | <b>On Day 28<br/>+\$30</b> | <b>On Day 47<br/>+\$50</b> |
|-------------|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|----------------------------|----------------------------|
| BMC         | 14.40.090      | No RPP Permit Displayed in Enhanced Fine Area (Football Game Days)                                                                                                                                                   | \$225              | \$255                      | \$305                      |

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**FEES: RESIDENTIAL PREFERENTIAL PARKING PERMITS**

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Public Works is proposing to increase the cost of annual Residential Preferential Parking (RPP) permits, effective June 1, 2019, for permits purchased for FY 2020, as summarized below:

| Permit Type                                                                         | Current Fee | Proposed Fee |
|-------------------------------------------------------------------------------------|-------------|--------------|
| Annual Residential & In-Home Care                                                   | \$66.00     | \$90.00      |
| 1-Day Visitor                                                                       | \$3.00      | \$4.00       |
| 14-Day Visitor                                                                      | \$34.00     | \$47.00      |
| Semi-Annual Residential & In-Home Care                                              | \$33.00     | \$45.00      |
| Community-Serving Facility                                                          | \$83.00     | \$114.00     |
| Merchant                                                                            | \$185.00    | \$253.00     |
| 1-Day Senior Center                                                                 | \$1.00      | \$1.00       |
| Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits       | \$15.00     | \$21.00      |
| Surcharge Per Additional Annual Residential Permit Over Maximum, If Waiver Approved | \$100.00    | \$100.00     |

The hearing will be held on Tuesday, May 14, 2019 at 6:00 p.m. in the School District Board Room, 1231 Addison Street.

For further information, please contact Farid Javandel, Transportation Division Manager, at (510) 981-7061.

A copy of the agenda material for this hearing will be available on the City’s website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of May 2, 2019.

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**



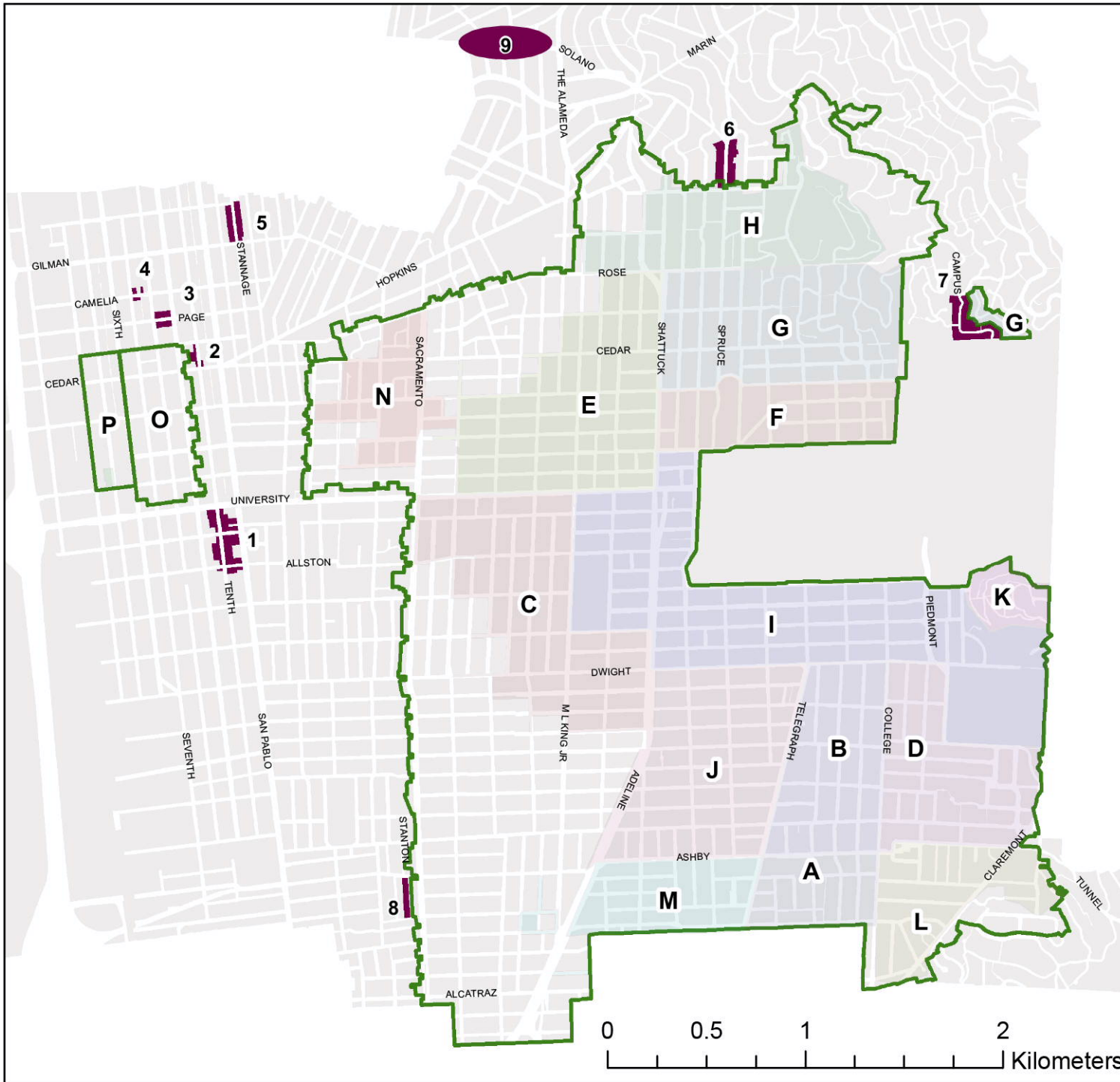
**part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

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 at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

**Published:** May 3 and May 10, 2019 – The Berkeley Voice

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 2, 2019.

Mark Numainville, City Clerk



ATTACHMENT 6

EXISTING ELIGIBILITY AND INELIGIBLE OPT-IN REQUESTS

- Existing RPP Area Extents
- Current Eligibility Boundary
- Out of Area Opt-In Requests

FY 2019 Requests

1. 10th between University and Allston with adjacent side streets
2. 10th between Jones and Cedar
3. Page between 8th and 9th
4. Camelia between 7th and 8th

Requests Prior to FY 2019

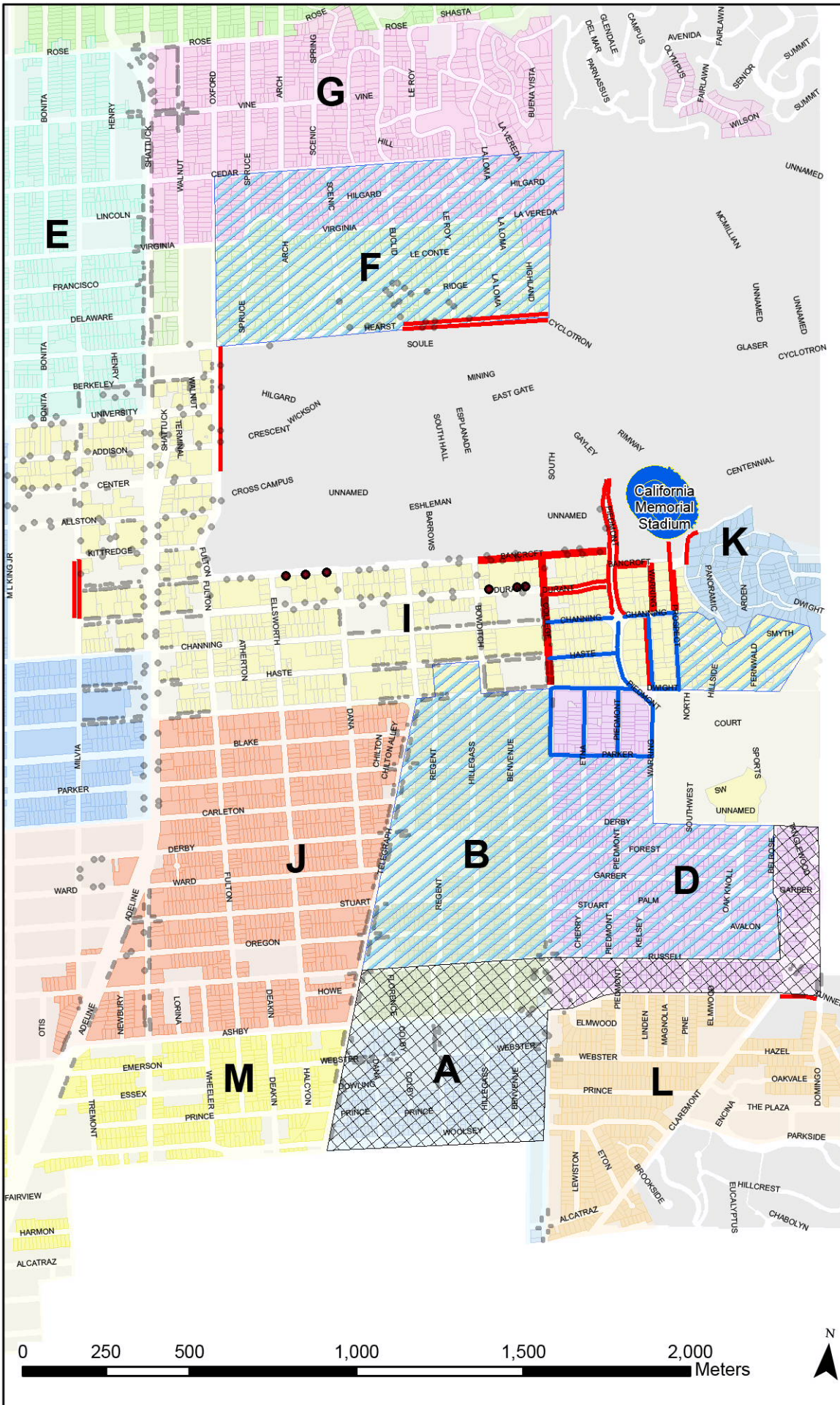
5. Stannage between Gilman and Harrison
6. Spruce between Los Angeles to Eunice
7. Campus between Avenita and LBL Campus
8. Stanton between Ashby and Prince
9. Multiple requests from Solano neighborhood

This map is for reference purposes only.

Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors.
March 20, 2019



ATTACHMENT 7: PROPOSED 2019 UC BERKELEY FOOTBALL GAME DAY PARKING RESTRICTIONS



Existing Restrictions

- Single Space Meters (9AM-6PM)
- Pay And Display Meters (9AM-6PM)
- Meters With Additional No Parking Restrictions
- ▨ Double Fine Area (200%)
- Existing Football Tow Zones

Proposed Restrictions

- ▨ Enhanced Fine Area for Non-Permit Holders (\$225)
- Proposed New Tow Zone For Non-Permit Holders

This map is for reference purposes only.

Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors.
March 20, 2019





Office of the City Manager

PUBLIC HEARING

May 14, 2019

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Phillip Harrington, Director, Public Works
Subject: Residential Preferential Parking Program Reform and Expansion Phase II: Recommendations for Increased Staffing, Enhanced Football Game Day Enforcement, and Expansion

RECOMMENDATION

Conduct a public hearing and upon conclusion:

1. Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 14.72 to allow Residential Preferential Parking (RPP) in areas zoned Mixed Use-Light Industrial;
2. Adopt a Resolution to expand and enhance the RPP Program, raising permit fees for cost neutrality while increasing parking enforcement staff and equipment to augment RPP enforcement, improving UC Berkeley home football game parking enforcement, allowing more residents to opt-in, and rescinding Resolution 68,344-N.S.;
3. Adopt a Resolution modifying parking restrictions in specified RPP Zones on UC Berkeley home football game days as follows: establish "Enhanced Fine Areas" to prohibit parking without a valid RPP permit in portions of RPP Zones B, D, F, G, and I; and install new RPP signs in zones B, D, F, G, and I to clearly indicate UC Berkeley home football game day parking prohibitions; and
4. Adopt a Resolution establishing a new Parking Fine Schedule, including parking fines of \$225 per violation of BMC 14.40.090 in new Enhanced Fine Areas on posted UC football game days, and rescinding Resolution No. 68,466-N.S.

SUMMARY

The recommended actions constitute a package of "mid-term" changes to the RPP Program, developed in response to previous Council direction. These changes include: 1) hiring (7) seven more parking enforcement personnel to augment enforcement in existing and new RPP Zones, particularly on UC Berkeley home football game days; 2) instituting new parking restrictions and increased fines on football game days; 3) allowing blocks currently ineligible for RPP to opt-in to the Program; and 4) increasing permit fees to make the Program cost-neutral.

FISCAL IMPACTS OF RECOMMENDATION

The recommendation would provide staffing to increase enforcement of RPP Program parking restrictions, including during UC Berkeley football games, and allow many currently ineligible residents to opt-in to the Program. The capital and operational cost and revenue elements associated with these changes are summarized below. These are new obligations, in addition to existing costs to operate the program.

Football Game Day Enforcement Cost

Implementing the recommendation for the 2019 football season will incur a one-time capital cost of \$80,000, including:

- Approximately 500 new Residential Preferential Parking (RPP) signs specifying new parking restrictions, at a unit cost of \$100 per sign, and 250 person hours to install the new signs for a one-time labor cost of \$25,000; and
- Approximately 500 decals to identify football game dates (replaced annually) at cost of \$5,000. Initial decal installation included with sign installation cost. Annual decal replacement requires 100 person hours at a cost of \$10,000.

Staff calculates the ongoing cost to be \$15,000 annually. Initial and annual costs are summarized in the table below:

		Initial Cost	Ongoing Annual Cost
Signs	Materials	\$50,000	N/A
	Labor	\$25,000	N/A
Decals	Materials	\$5,000	\$5,000
	Labor	Included in sign installation.	\$10,000
Total		\$80,000	\$15,000

Currently, the UC Berkeley Athletics Department reimburses the City for signs produced and installed to manage football game day traffic. The current signs are over 20 years old; in 2017, UC paid approximately \$18,600 for sign and decal maintenance costs. Staff recommend that City leadership coordinate with UC Berkeley to fund the recommended one-time signage/decal upgrades, plus ongoing annual costs.¹

RPP Program Enforcement Enhancement and Expansion Cost

The fiscal impact of all of these recommendations will be realized in the General Fund (011). All permit fees and citation revenues, including revenue from new enforcement staff, will be deposited in the General Fund. In turn, all new staff and equipment costs will come out of the General Fund. Costs include:

- Six (6) Parking Enforcement Officers (\$124,818 per FTE; total \$748,908/year), and one (1) Parking Enforcement Supervisor at \$138,065/year;

¹ If UC Berkeley is unable to pay this cost, then the funding would come from the General Fund.

- Six (6) parking enforcement vehicles (\$210,000 total), each equipped with standard automated license plate recognition (ALPR) systems at \$78,363 each (\$470,178), annualized over a five-year period;² and
- New RPP sign installation, including labor and materials, at \$23,000 per year.³

Estimated New Revenue

During the 2018 season, football-related RPP citations resulted in \$49,100 in revenue, and staff anticipates the new “Enhanced Fine Areas” to generate an additional \$31,650. More significantly, hiring six (6) more PEOs is expected to increase citation revenue in both new and existing RPP areas. Staff estimate that each new PEO would issue up to \$75,000/year in RPP citations, for a total of \$450,000/year.

Incremental Fiscal Impact in FY 2020

Hiring of new PEOs and procurement of associated enforcement equipment would take place over the course of FY 2020, resulting in incremental increases in new citation revenue as new staff are selected, trained, and deployed. Similarly, each opt-in petition for new areas will take time to verify and bring to Council for approval, resulting in delayed revenues from permits purchased in expansion areas. Therefore, the full fiscal impact of the Program’s expansion and enhancement will not be seen in FY 2020. Staff will continue to monitor the Program’s costs and revenues as new enforcement staff are hired.

User Fee Increases for Cost Neutrality

Per Council Budget Policies,⁴ the RPP Program should pay for itself. As of March 2019, the RPP Program still runs a deficit of approximately \$124,675. The deficit has shrunk by \$71,125 since FY 2017, when the deficit was approximately \$195,800. This deficit reduction, but not elimination, may be due in part to a decline in permit revenues following the 20% fee increase on April 1, 2018. Customers may also have reevaluated their needs in light of the new maximum of three (3) annual permits per address.

The proposed fee structure would go into effect June 1, 2019, to support increasing enforcement in FY 2020. It is estimated to generate approximately \$368,280 of additional revenue, including \$21,600 from annual permit sales in potential new opt-in areas, for the General Fund (Fund 011). The following table reflects increases for each type of permit in the RPP fee structure to result in a cost-neutral Program.

² Proposed permit fees incorporate half of PEO salary costs, and half of the one-time vehicle and equipment costs, as RPP enforcement accounts for approximately half of all parking enforcement duties. Remaining costs are expected to be covered by new revenues resulting from new staff enforcing other duties, such as street sweeping, parking meter payments, and school zones.

³ Up to twenty blocks in new areas would be allowed to join the Program per year. Staff assumes six RPP signs per block (three signs on each side of the block), and approximately \$1,150 per block.

⁴ “Council Budget Policies”: <http://bit.ly/2z4UiFY>

Permit Type	Current Fee	Proposed Fee	\$ Increase	% Increase
Annual Residential & In-Home Care	\$66.00	\$90.00	\$24.00	36.4%
1-Day Visitor	\$3.00	\$4.00	\$1.00	33.3%
14-Day Visitor	\$34.00	\$47.00	\$13.00	38.2%
Semi-Annual Residential & In-Home Care	\$33.00	\$45.00	\$12.00	36.4%
Community-Serving Facility	\$83.00	\$114.00	\$31.00	37.3%
Merchant	\$185.00	\$253.00	\$68.00	36.8%
1-Day Senior Center	\$1.00	\$1.00	N/A	N/A
Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits	\$15.00	\$21.00	\$6.00	40.0%

The proposed fee structure is estimated to generate approximately \$1,305,240 in revenue for the General Fund in FY 2021, once all new staff have been hired and anticipated expansion has occurred. This increase of \$368,280 in revenue would close the projected deficit, resulting in a cost-neutral Program (the \$600 difference is within the margin of approximation). With the proposed fee increase, the total Program revenue is projected to be \$3.41 million including revenue resulting from an increase in RPP-related citations due to higher staffing levels and new football fines.

RPP Program Financial Components	April 2018- March 2018 Actuals	FY 2021 Projections
Total RPP Permit Fee Revenue	\$936,960	\$1,305,240
RPP-Related Citation Revenue	\$1,573,840	\$2,023,840
Football RPP-Related Citation Revenue	\$49,100	\$80,750
Total Revenue	\$2,559,910	\$3,409,830
Total RPP Program Costs	\$2,684,580	\$3,409,230
RPP Program Deficit/Surplus	(\$124,670)	\$600

CURRENT SITUATION AND ITS EFFECTS

This report represents “mid-term” changes to the RPP Program as part of ongoing RPP Program Reform & Expansion. Building on the initial “short-term” changes enacted by Council in February 2018, described in the accompanying Information Report on this Agenda, this report recommends “mid-term” changes that respond to remaining resident requests and Council referrals.

UC Berkeley Football Game Day Parking Demand

The UC Berkeley football season typically spans twelve (12) games between September and November. Up to seven (7) games per year are played at California

Memorial Stadium (“stadium”), near the eastern end of Bancroft Avenue. Most home games occur on Saturday afternoons or evenings. Neighborhoods surrounding UC Berkeley currently have RPP. South of campus, RPP Zones A, B, D, and K are enforced Monday to Saturday, with the exception of Zones I (Telegraph) and L (Claremont), which are not enforced on Saturday. North of campus, RPP Zones F and G are enforced Monday through Friday.

Game attendees who drive and park in surrounding neighborhoods can make it difficult for some residents to find parking near their homes during games. In fall 2017, the City analyzed game day parking south of campus.⁵ The analysis found that parking occupancy in the study area increased by about 25% on a game day compared to a non-game day, with increases of approximately 35-50% closest to campus (RPP Zones B, D, and I). Anecdotal evidence from residents also suggests poor parking by visitors may impede access to residential driveways at times.

Existing Game Day Parking Restrictions

Special parking restrictions and enforcement on football game days currently includes:

- Increased fines for certain parking violations⁶ within the boundaries of Cedar Street (north), Berkeley-Oakland city limits (south and east), and Oxford and Fulton Streets (west), with double fines in RPP Zones A, B, and D; and
- Tow-away zones for all vehicles on certain streets close to campus,⁷ and additional no-parking areas at metered parking spaces in the Southside and Northside areas.

The Berkeley Police Department (BPD) requires substantial staff time and resources for football game day duties. BPD typically assigns sworn officers on overtime to patrol areas near the stadium to discourage bad behavior.⁸ Any staffing gap is filled by parking enforcement personnel. Between five and seven PEOs may be reassigned to game day duty, with one PEO specifically assigned to regulate access to the Panoramic Hill neighborhood (RPP Zone K). That leaves between two and four PEOs to enforce meter payments, curb markings, or RPP time limits elsewhere in the City. As shown in the table below, the City does not have enough PEOs to provide regular Saturday enforcement in addition to football duties on game days.

Enforcement Duties	Number of Assigned PEOs
--------------------	-------------------------

⁵ Specifically, Zones A, B, D, I, and L. While not explicitly studied, staff assume neighborhoods north of campus experience similar game day parking demand patterns.

⁶ Football game day defined as 9:30 a.m. to 11 p.m., regardless of game start time. Most football game day citation rates are 150% of non-game day citation rates. For example, a citation for a vehicle parked in a No Parking Zone (red curb) that is normally \$64 costs \$96 on a game day.

⁷ For example: Piedmont Avenue between the stadium and Channing Way, Bancroft Way between Warring Street and Bowditch Street, and College Avenue between Bancroft Way and Dwight Way.

⁸ UC Berkeley reimburses the City for BPD overtime costs.

	Non-Game Days	Football Game Days
Game Day Activities	0	5-7
Parking Meters, Curbs, Time Limits, and RPP	7-9	2-4

Requests for Further Program Expansion

In the past year, staff received four (4) opt-in requests from residents outside of the current RPP eligibility area, all of them in northwest Berkeley.⁹ In the previous five years, staff have received another five (5) requests from residents outside of the program boundaries.¹⁰ A map depicting these requests is provided as Attachment 5.

Recommendation: Increase and Enhance RPP Enforcement, Including on Football Game Days, and Expand RPP Eligibility

1. Enhanced Enforcement in Existing RPP Areas

Due to staffing constraints discussed in the accompanying Information Report on this Agenda, enforcement in existing RPP areas occurs only once per day. Staff recommend hiring sufficient parking enforcement staff to resume morning and afternoon patrols of existing RPP areas. This will help reinforce RPP time limits, particularly on streets near popular destinations such as public facilities or commercial districts. Increased patrols may also reduce the amount of one-off requests from residents who do not observe enforcement as frequently, which reduce PEOs’ ability to conduct regularly-scheduled beat patrols.

To further increase parking enforcement capacity, staff also recommend that PEOs should no longer accompany street sweeping vehicles. Instead, beat officers would enforce restrictions during the three-hour restriction window, before the sweeper cleans the street, to allow time for other responsibilities.¹¹ Additionally, staff strongly recommend against introducing additional permit types for resident services, e.g., ‘nanny permits’, or ‘gardener permits’, which serve as exemptions from RPP restrictions. In addition to further increasing already high parking demand in some areas, adding new permits for non-residents dilutes the Program’s effectiveness for all existing permit holders and encourages more driving, which is contrary to the City’s

⁹ Requests received in FY 2019 include: 10th Street between Cedar and Jones Streets; 10th Street from University Avenue to Allston Way, Addison Street from 10th Street to San Pablo Avenue, and Allston Way from 10th Street to San Pablo Avenue; Camelia Street from 7th to 8th Street; and Page Street from 8th to 9th Street.

¹⁰ Requests received prior to FY 2019 include: Campus Drive from Avenida Drive to the Berkeley Lab Campus; Spruce Street from Los Angeles Avenue to Eunice Street; Stannage Avenue between Gilman Street and Harrison Street; Stanton Street from Ashby Avenue to Prince Street; and various areas adjacent to Solano Avenue.

¹¹ In the future, street sweeping vehicles may be equipped with GPS beacons, which would allow residents to check when streets reopen for parking in real-time.

Climate Action Plan goals of reducing vehicular emissions.

2. Enhanced Game Day Parking Management and Enforcement

In response to Council referrals, staff has prepared a proposal for the 2019 football season to improve parking availability for residents in neighborhoods closest to campus. Illustrated in Attachment 6, this proposal builds on existing game day restrictions by adding tougher penalties for non-residents closer to the stadium:

- **New tow-away areas for vehicles without a valid RPP permit** on streets within one quarter-mile of the stadium (including portions of RPP Zones D and I), where demand was heaviest on the game day analyzed in fall 2017.
- **New “Enhanced Fine Areas”** on streets within one half-mile of the stadium (including portions of RPP Zones F and G north of campus and portions of Zones B and D south of campus), where vehicles without a valid RPP permit will be subject to a one-time fine of \$225.¹²

This proposal maximizes game day staff capacity and effectiveness in areas where residents experience the most inconvenience. While current enforcement requires two passes to determine whether a non-permitted vehicle exceeds the time limit, under this proposal a PEO will need to check only once to verify whether a vehicle has a permit.

Signage is critical to effective enforcement of parking restrictions. In addition to clearly defining expectations for visitors, signage justifies the issuance of citations that violate posted restrictions. Details about the costs and content of new signage required to implement this proposal is provided in the Fiscal Impacts section of this report.

3. Additional Strategies to Increase Parking Availability on Game Days

While some street parking spaces near the stadium are restricted on game days, metered parking is available for visitors in Downtown, Southside/Telegraph, and the Northside area.¹³ Staff will return to Council later this year with options for special events, including adjusting special event rate setting ability at City parking garages, and piloting demand-responsive special event pricing at goBerkeley parking meters.

4. Further Expansion of RPP Program Eligibility

Although there have been relatively few opt-in requests from outside the current Program boundary, they still represent a customer need that the City cannot meet with existing staffing levels. To maximize enforcement resources, currently ineligible residents would be able to opt-in under the following conditions:

¹² Staff are sensitive to low income residents and visitors who may not be able to afford this fine. Options include a payment plan (AB 503), as well as applying to perform Community Service in lieu of paying for parking citations.

¹³ Meters operate 9 a.m. to 6 p.m. Monday to Saturday. On the Northside, Hearst Avenue between Euclid Avenue and La Loma Avenue is a tow-away zone on game days.

- A. Meet all existing requirements, including petitioner obtaining agreement of 51+% of all housing units in an area, and staff verifying limited parking availability in the mid-morning and mid-afternoon;
- B. Parcels must be located within two (2) blocks of a major commercial corridor (e.g., San Pablo Avenue or Gilman Street); or be adjacent to existing RPP boundaries; and
- C. In residentially-zoned areas, at least one full block (i.e., two sides of a street) must be included in the petition.

Petitioners in areas zoned Mixed Use-Residential or Mixed-Use Light Industrial will be subject to restrictions approved by Council in 2018 for Mixed Use Area P, including a reduced maximum of two (2) annual permits available per address. While slightly more restrictive than current requirements, this expansion approach would allow all petitioners who have submitted opt-in requests to date to be eligible for RPP.

5. Staffing Requirements

Enhanced enforcement, including new football game day restrictions, requires five (5) new PEOs and one (1) Parking Enforcement Supervisor, plus standard equipment. Expansion requires one (1) additional PEO for every twenty full blocks (i.e., both sides of a street) added to the Program, plus standard equipment.

BACKGROUND

The RPP Program began in 1980 (1) to protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic; (2) to assure continued quality of life for residents; and (3) to provide neighborhood parking for residents. The Program limits parking for vehicles not displaying an RPP permit in most RPP areas to two hours, and reserves available daytime parking for residents, between 9:00 a.m. and 7:00 p.m. Monday through Friday, and on some blocks Saturday.

In March 2014,¹⁴ Council directed staff to evaluate expanding the RPP Program beyond its then-current geographic boundaries. At a September 2017 Council Worksession, staff discussed several challenges with the RPP Program, and proposed incremental solutions to be implemented over the next three years.¹⁵ In February 2018, staff returned to Council with a first set of “short-term” policy reforms, including increased permit fees for Program cost neutrality, a limit of three (3) annual permits per address, and an expansion of RPP eligibility to two new zones in West Berkeley.¹⁶ Improving the effectiveness of the RPP Program is a Strategic Plan Priority Project, advancing the City’s goals to:

¹⁴ March 11, 2014 *City Council Agenda: Expansion of Permit Parking to Impacted Areas:* <http://bit.ly/2vTgnqD>

¹⁵ September 19, 2017 *City Council Agenda: Residential Preferential Parking (RPP) Program Recommendations:* <https://bit.ly/2iWaPDa>

¹⁶ February 27, 2018 *City Council Agenda: Residential Preferential Parking (RPP) Program Reform and Expansion:* <https://bit.ly/2Yq6tYB>.

- Provide an efficient and financially-healthy City government; and
- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

Football Game Day Enforcement

On April 5, 2016, Councilmembers Capitelli, Droste, and Wengraf sponsored a Referral to the Transportation Commission to review game day parking fines in RPP areas around campus, and to recommend higher fees to deter visitors from parking in those areas.¹⁷ On July 25, 2017, the Transportation Commission submitted a Council Report recommending an increase of game day parking fines to \$300 for vehicles without a valid RPP permit in Zones A, B, and D south of campus, but Council did not adopt the Commission’s recommendation.¹⁸ On September 25, 2018, Councilmembers Droste, Wengraf, and Mayor Arreguin submitted a referral to the City Manager to implement game day parking restrictions similar to the Transportation Commission’s 2017 proposal, but taking into account additional concerns such as parking on the north side of campus.¹⁹

ENVIRONMENTAL SUSTAINABILITY

Increasing parking fines for vehicles without valid RPP permits on football game days should increase parking availability for residents in neighborhoods near campus, reducing traffic congestion and vehicle emissions as drivers spend less time searching for parking. Increased fines may also encourage the use of alternative forms of transportation to UC football games.

Expansion of the RPP Program may encourage some drivers who work in commercial areas adjacent to proposed RPP areas to consider using other modes of travel, potentially reducing parking demand and congestion. While use of these other transportation modes may result in a corresponding reduction in traffic and greenhouse gases, staff anticipate the “two-hour shuffle” (i.e., moving a vehicle every two hours to avoid a ticket) may also begin to occur in new RPP areas among commuters who continue to drive. This behavior would have an adverse impact on traffic congestion, air quality, and excess fuel consumption.

RATIONALE FOR RECOMMENDATION

At the September 19, 2017 Worksession, Council expressed support for a roadmap for RPP reform and expansion, including short-, mid-, and long-term changes to the

¹⁷ April 5, 2016 *City Council Agenda: Refer to Transportation Commission to Reassess UC Berkeley Game Day Parking Fines in RPP Areas A, B, D, F and G Surrounding Campus* <https://bit.ly/2GRoSzi>

¹⁸ July 25, 2017 *City Council Agenda: Referral Response: Reassess UC Berkeley Game Day Parking Fines in RPP Areas A, B, D, F, and G Surrounding Campus* <https://bit.ly/2fwXaEj>

¹⁹ September 25, 2018 *City Council Agenda: Refer to the City Manager UC Berkeley Game Day Parking Restrictions and Fines in RPP Surrounding Campus* <https://bit.ly/2EwSnfS>

Program. Short-term recommendations were approved by Council in February 2018. The proposals contained in this report comprise staff's "mid-term" recommendations.

In their September 25, 2018 referral, Councilmembers Droste, Wengraf, and Mayor Arreguin supported increasing parking fines to increase parking availability for residents affected by football game demand. Previously, the Transportation Commission has also supported higher fines.

ALTERNATIVE ACTIONS CONSIDERED

The following table summarizes four alternatives considered by staff:

Alternative	Estimated Annual Permit Fee
<u>Option 1: Staff Recommendation, Enhanced RPP and Football Enforcement, and Expansion, Without Changing Saturday Enforcement.</u>	\$90/year (+36% / +\$24)
<u>Option 2: Saturday Enforcement in All Areas, Enhanced RPP and Football Enforcement, and Expansion</u> <ul style="list-style-type: none"> • Implement Saturday patrols of all RPP Zones,²⁰ plus increased RPP and football enforcement, and expansion as in Option 1 • Increase permit fees to eliminate deficit and add seven (7) PEOs and one (1) supervisor for increased RPP enforcement, one (1) PEO per twenty new blocks/year, and equipment 	\$97/year (+47% / +\$31)
<u>Option 3: Expansion and Enhanced Football Enforcement</u> <ul style="list-style-type: none"> • Implement enhanced football enforcement and expansion as in Option 1 • No change to existing RPP enforcement levels/frequency • Increase permit fees to eliminate deficit and add three (3) PEOs and one (1) supervisor for football, one (1) PEO per twenty new blocks/year, and equipment 	\$88/year (+34% / +\$22)
<u>Option 4: Expansion Only</u> <ul style="list-style-type: none"> • Expand RPP Program eligibility per guidelines in Option 1 • No changes to existing RPP and football enforcement levels • Increase permit fees to eliminate deficit and add one (1) new PEO and equipment per twenty new blocks/year 	\$82/year (+24% / +\$16)

Council could also reject all options, which would maintain the status quo RPP Program, including its structural deficit.

CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works (510) 981-7061
 Danette Perry, Parking Services Manager, Public Works (510) 981-7057
 Gordon Hansen, Senior Planner, Public Works (510) 981-7064

Attachments:

- 1: Ordinance
- 2: Resolution: Fees: Residential Preferential Parking Permits
- 3: Resolution: Establish “Enhanced Fine Area” and Double Fine Locations
- 4: Resolution: Modify Parking Violation Fine Schedule
 - Exhibit A: Schedule of Fines and Late Payment Penalties for Parking Violations
 - Exhibit B: List of New Parking Violations

²⁰ Adding enforcement at streets with RPP restrictions in Zones C, E, F, G, H, I, J, L, M, O, and P.

- 5: Public Hearing Notice
- 6: FY 2019 and Prior Out of Area RPP Opt-In Requests
- 7: Proposed 2019 UC Berkeley Football Game Day Parking Restrictions

ORDINANCE NO. #,###-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 14.72 TO ALLOW FURTHER EXPANSION OF THE RESIDENTIAL PREFERENTIAL PARKING (RPP) PROGRAM

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

Section 1. That Berkeley Municipal Code Section 14.72.030 is amended to read as follows:

14.72.030 Definitions.

A. "Designated residential parking permit area" means any contiguous area upon which the Council imposes parking limitations pursuant to the authority granted by this chapter.

B. "Block front" means all of the property on one side of a street between two consecutive intersecting streets.

BC. "Mixed use" means the use of a lot or building with two or more different land uses including, but not limited to, residential, commercial, retail, office or manufacturing, in a single structure or a group of physically integrated structures; in a neighborhood context, it means blocks containing single-use residences interspersed with other land uses, such as commercial or industrial.

DG. "Mixed Use-Residential" and "Mixed Use-Light Industrial" refers to the zoning designations so defined in Berkeley Municipal Code Chapters 23E.84 and 23E.80, respectively.-

ED. "Assessor's Use Code" means the code used by the Alameda County Assessor to assess property for property tax purposes. These codes cover a range of building descriptions and uses, including a variety of residential uses.

FE. "Nonresidential vehicle" means a motor vehicle not eligible to be issued a residential parking permit, pursuant to the terms and conditions of this chapter, for the specific area in which it is parked. However, it could be eligible for a local business parking permit, or any other parking permit the council shall designate.

GF. "Residential parking permit" means a permit issued under this chapter which, when displayed upon a vehicle, as described herein, shall exempt said vehicle from parking time restrictions established pursuant to this chapter.

HG. "Local business parking permit" means a permit issued under this chapter which, when displayed upon a motor vehicle, shall exempt said vehicle from parking time restrictions established pursuant to this chapter.

IH. "Trapped resident" means: 1) any resident whose dwelling is on a block that may not legally opt-in because less than 80% of the block fronts are residentially zoned and

either: a) whose address is on a block front adjacent to and/or surrounded by block fronts that are already included in the RPP program; or b) whose address is within the general boundary of a designated RPP area; or 2) any resident whose dwelling abuts controlled curb parking and either: a) whose address is on a block front adjacent to and/or surrounded by RPP areas; or b) whose address is within the general boundary of a designated RPP area.

JJ. "Neighborhood-service community facility" means churches, schools and senior centers located wholly within the general boundary of an RPP designated area.

KJ. "Neighborhood-serving business and establishment" means any business or establishment located in a neighborhood commercial district as defined in the Zoning Ordinance Section Cl a, Cl b, Cl c, Cl b(E).

LK. "One-day visitor permit" means a parking permit issued pursuant to this chapter or an ordinance enacted pursuant to authority granted herein, which shall exempt the vehicle from parking time restrictions pursuant to this chapter, for the date indicated upon the face of said permit.

LM. "Two-week visitor permit" shall mean a parking permit issued pursuant to this chapter or an ordinance enacted pursuant to authority granted herein, which shall exempt the vehicle from parking time restrictions established pursuant to this chapter for a period of 14 consecutive calendar days, beginning upon the date indicated upon the face of said permit.

NM. "Motor vehicle" shall be an automobile, truck, motorcycle or other self-propelled form of transportation not in excess of 8,000 pounds gross weight and not in excess of 20 feet in length. A trailer, trailer coach, utility trailer, motor home/(RV), or any other type of vehicle as defined in the California Vehicle Code that is not self-propelled, is not eligible for an RPP permit.

ON. "Controlled curb parking" means any on-street parking with existing parking limitations, such as meters, time restrictions, red zone, etc.

PO. "Schools" shall mean any school or other place of learning providing a pre-school, elementary or secondary level of study, and which regularly employs a staff of at least 15 certificated persons regularly employed as a classroom teacher.

QP. "Senior centers" means the three senior centers affiliated with the City: North Berkeley Senior Center, South Berkeley Senior Center and the West Berkeley Senior Center.

Section 2. That Berkeley Municipal Code Section 14.72.050 is amended to read as follows:

14.72.050 Designation of a residential permit parking area.

A. There shall be two alternative processes by which City Council could consider any area for designation as a residential permit parking area:

1. Residents petition. The City Council shall consider for designation as a residential permit parking area any proposed area for which a petition has been submitted which meets and satisfies the following requirements:

a. Prior to obtaining signatures, neighborhood organizers shall consult with City staff to assure that the proposed area meets guidelines set in the administrative regulations for the establishment of permit parking boundaries.

b. The petition shall contain a description or a map showing the proposed residential permit parking area.

c. Said description or map shall be followed in the petition by a statement describing the residential permit parking program and the current residential permit fees.

d. The statement shall be followed by a signature, printed name, address, and date of signing of the application by a number of adult residents including at least 51% of the housing units within the area.

e. For applicants in areas zoned ~~Mixed Use-Residential~~ or Mixed Use-Light Industrial, a petition shall only be deemed valid if at least 51% of the housing units on each block ~~face-front~~ have an address that has a residential Assessor's Use Code.

f. All petitions shall be the same as the standard petition form developed by City staff. Any petition form different from the standard petition form shall be deemed invalid for the purposes of this chapter.

g. In the proposed residential permit parking area, at least 80% of the block fronts with unlimited on-street parking must be residentially zoned, and at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.

h. In areas zoned ~~Mixed Use-Residential~~ or Mixed Use-Light Industrial, at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.

2. City Council initiation. City Council shall consider for designation as a residential permit parking area any area for which the following requirements have been met:

a. City Council shall initiate the area as a residential permit parking area.

b. For areas zoned ~~Mixed Use-Residential~~ or Mixed Use-Light Industrial, Council shall only initiate the area as a residential permit parking area if at least 51% of the housing

units on each block face-front have an address that has a residential Assessor's Use Code.

c. In the proposed residential permit parking area at least 80% of the block fronts with unlimited on-street parking must be residentially zoned, and at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m. or unlimited on-street parking is projected to be impacted by parking spillover from a more congested residential permit parking area.

d. In areas zoned Mixed Use-Residential or Mixed Use-Light Industrial, at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.

e. A notice of intent to establish permit parking shall be sent to all addresses within the proposed residential parking permit area.

B. Upon receipt by the City Council of a petition as described in subsection A.1 of this section, or after Council has initiated a residential permit parking area as described in subsection A.2 of this section, the Council shall:

1. Undertake or cause to be undertaken such surveys or studies which it deems necessary.

2. Cause to be drafted a resolution which would establish a residential permit parking area based upon the aforementioned proposal and studies, including all regulations and time restrictions determined by the Council to be reasonable and necessary in such area.

C. The Council shall thereafter conduct a public hearing on said draft resolution. Notice of the hearing shall be posted at least ten days prior to the hearing on all block fronts proposed to be included in the residential permit parking area. Following the hearing, the City Council may enact, amend or reject said draft resolution in any manner, including but not limited to, modification of boundaries of the proposed area and the restrictions imposed on such proposed area. In order to grant permit parking designation, Council shall find that the designation will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing in the area of designation. In reaching this decision, consideration shall be given to the residents' support for residential permit parking, the existing parking conditions, the expected effectiveness of residential permit parking in improving parking conditions, and the location and size of the residential permit parking area.

Section 3. That Berkeley Municipal Code Section 14.72.090 is amended to read as follows:

14.72.090 Residential parking permit.

A. The City Manager and/or his/her designee shall issue residential parking permits with a term not to exceed one year to motor vehicles which comply with the requirements set forth in this section.

1. No more than three (3) permits may be purchased for each residential address. Applicants may request a waiver if additional permits are needed.

2. In areas zoned Mixed Use-Residential (MU-R) or Mixed Use-Light Industrial (MULI), no more than two (2) permits may be purchased for each residential address. Applicants may request a waiver if additional permits are needed.

3. The City Traffic Engineer is authorized to issue such rules and regulations necessary to grant waivers to the annual permit limits.

B. A residential parking permit may be issued for a motor vehicle only upon application of the following person:

1. The applicant must demonstrate that he or she is currently a resident of the area for which the permit is to be issued; and

2. The applicant must demonstrate that he or she has ownership or continuing custody of the motor vehicle for which the permit is to be issued; and

3. Any motor vehicle to be issued a permit must have a vehicle registration indicating registration within the area for which the permit is to be issued.

C. A residential parking permit may in addition be issued for any vehicle in the area regularly utilized by a person who owns or leases commercial property and actively engages in business activity within the particular residential permit parking area. However, no more than one parking permit, or any greater number which the City Council may determine appropriate for the particular residential permit parking involved area, may be issued for each business establishment for a motor vehicle registered to or under the control of such a person.

D. A residential parking permit may be issued for any vehicle utilized in the area by a nonresidential nonbusiness enterprise, such as a church, school, or hospital, located wholly or partially within the particular residential permit parking area. However, no more than one parking permit, or any greater number which the City Council may determine appropriate for the particular permit parking area involved, may be issued for each such enterprise within each permit area for a motor vehicle registered to or under the control of such an enterprise.

E. Any person to whom a residential parking permit has been issued pursuant to this section shall be deemed a permit holder.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

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

FEES: RESIDENTIAL PREFERENTIAL PARKING PERMITS

WHEREAS, on February 27, 2018, Council adopted Resolution No. 68,344-N.S., establishing a revised fee schedule for parking permits for annual residential preferential parking; 1-Day Visitors, 2-Week Visitors, and annual in-home care, annual community-serving facility, annual merchant, 1-Day Senior Center, Semi-annual residential, and Semi-annual in-home care permits issued for the Residential Preferential Parking (RPP) Program, and rescinded Resolution No. 66,895-N.S.; and

WHEREAS, the current RPP Program is operating at an annual deficit of at least \$124,675; and

WHEREAS, staffing for the RPP Program will be increased to allow for enhanced enforcement activities in existing Program areas, a comprehensive overhaul of University of California, Berkeley football game day parking, and actively managed expansion of opt-in eligibility; and

WHEREAS, increased staffing will incur additional yearly costs, but will also deliver new citation revenue;

WHEREAS, it is necessary to increase RPP permit fees in order to operate the RPP Program as a cost-neutral program in accordance with Council Budget Policies.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following fees for the RPP Program are hereby established:

Permit Type	Permit Fees
Annual Residential & In-Home Care	\$90.00
1-Day Visitor	\$4.00
14-Day Visitor	\$47.00
Semi-Annual Residential & In-Home Care	\$45.00
Community-Serving Facility	\$114.00
Merchant	\$253.00
1-Day Senior Center	\$1.00
Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits	\$21.00
Surcharge Per Additional Annual Residential Permit Over Maximum, Only If Waiver is Approved	\$100.00

BE IT FURTHER RESOLVED that these fees shall be effective June 1, 2019 for FY 2020 permit purchases and shall be deposited into the General Fund.

BE IT FURTHER RESOLVED that Resolution No. 68,344-N.S. is hereby rescinded effective June 1, 2019.

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

ESTABLISHING THE ZONES FOR “ENHANCED FINE AREAS” AND FOOTBALL GAME DAY VIOLATIONS, AND AUTHORIZING THE CITY MANAGER TO MAKE AN ANNUAL DETERMINATION AND NOTICE OF DATES ON WHICH FOOTBALL DAY VIOLATIONS WILL BE ISSUED

WHEREAS, City Council Resolution No. 65,813-N.S. restated the geographic area for football game day citations; and

WHEREAS, University of California football games attract a large number of visitors who drive to the game and park in residential neighborhoods to the north and south of campus, which typically makes it difficult for residents to find parking in close proximity to their homes on football game days; and

WHEREAS, current enforcement of the two-hour time limit for vehicles without a valid permit in portions of Residential Preferential Parking (RPP) Zones closest to the stadium is time intensive, reducing the ability of Parking Enforcement to maximize limited staff capacity on game days; and

WHEREAS, the permanent double parking fine program established by Resolution No. 63,800-N.S. has not deterred extended game day parking in portions of RPP Zones B and D, particularly in comparison to private off-street facilities in the vicinity of the stadium offering game day parking for up to \$100; and

WHEREAS, staff have confirmed with Parking Enforcement leadership that new “Enhanced Fine Areas,” in which vehicles without a valid RPP permit would not be permitted to park on football game days, would maximize limited enforcement capacity on football game days; and

WHEREAS, concurrent with this Resolution, the Council is considering adoption of another Resolution establishing a new schedule of parking violations and fines for parking violations, including in new “Enhanced Fine Areas;” and

WHEREAS, the existing “double parking fine” program would continue to be in effect on football game days in addition to the new “Enhanced Fine Areas;” and

WHEREAS, the schedule of parking violations and fines for parking violations may be revised in the future without affecting established zones for football day citations and Enhanced Fine Areas and the City Manager’s authorization to determine and provide public noticing of dates for these violations.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the established zone for the northerly Enhanced Fine Area is north to (not including) Cedar Street, west to (not including) Shattuck Avenue, south to Hearst Avenue, and east to the existing boundary of RPP Zones F and G.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the southerly Enhanced Fine Area is north to Dwight Way between Telegraph Avenue and Regent Street, north to Haste Street between Regent Street and Bowditch Street, north to Dwight Way between Bowditch Street and College Avenue; east to (but not including) College Avenue between Dwight Way and Parker Street; north to (but not including) Parker Street between College Avenue and Warring Street; east to Warring Street between Parker Street and Derby Street; north to Derby Street between Warring Street and Belrose Avenue; east to (but not including) Belrose Avenue/Claremont Boulevard between Derby Street and Russell Street; south to (but not including) Russell Street between Belrose Avenue/Claremont Boulevard and Telegraph Avenue; and west to (but not including) Telegraph Avenue between Russell Street and Dwight Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the easterly Enhanced Fine Area is north to the southern boundary of RPP Zone K between Channing Way and the Berkeley-Oakland city limits; east to the Berkeley-Oakland city limits; south to (but not including) Dwight Way between the Berkeley-Oakland city limits and Prospect Street; and west to (but not including) Prospect Street between Dwight Way and Channing Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for football day citations is north to (not including) Cedar Street, south and east to the Berkeley-Oakland city limits, and west to Oxford and Fulton Streets (including both sides of these streets).

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the City Manager is directed to annually determine the dates during which there are higher parking fines for football day citations, and provide reasonable notice to the public of these dates.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that Resolution No. 65,813-N.S. is hereby rescinded.

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

ESTABLISHING A NEW SCHEDULE OF PARKING VIOLATIONS AND FINES FOR PARKING VIOLATIONS AND LATE PAYMENT PENALTIES; AND RESCINDING RESOLUTION NO. 68,466-N.S.

WHEREAS, the State of California Vehicle Code Section 40203.5 states “the schedule of parking penalties for parking violations and late payment penalties shall be established by the governing body of the jurisdiction where the notice of violation is issued;” and

WHEREAS, University of California football games attract a large number of visitors who drive to the game and park in residential neighborhoods to the north and south of campus, which typically makes it difficult for residents to find parking in close proximity to their homes on football game days; and

WHEREAS, concurrent with this Resolution, the Council is considering adoption of another Resolution establishing new “Enhanced Fine Areas” in portions of Residential Preferential Parking (RPP) Zones F and G north of campus, and in portions of RPP Zones B, D, and I south of campus, wherein vehicles without a valid RPP permit would not be permitted to park on football game days; and

WHEREAS, in May 2018, the City Council adopted Resolution No. 68,466-N.S. establishing a new schedule of fines for parking violations to enable the City to properly cite vehicles in violation of new laws managing parking for electric vehicles.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a new schedule of parking violations and late payment penalties is established, as set forth in Exhibit A, which includes fines and late penalties for violations of BMC Section 14.40.090 pertaining to parking restrictions in new “Enhanced Fine Areas” in effect on football game days only; and

BE IT FURTHER RESOLVED that Resolution No. 68,466-N.S. is hereby rescinded.

Exhibits

- A: Schedule of Fines and Late Payment Penalties for Parking Violations
- B: List of New Parking Violations

Exhibit A: Schedule of Fines and Late Payment Penalties for Parking Violations

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	6.24.020	Off-St Rsrv Pkg No Permit Displayed	\$48	\$78	\$128
BMC	6.24.020	FD Off-St Rsrv Pkg No Permit Displayed			
BMC	6.24.020	Non-Electric Vehicle Parked in Electric Vehicle Space	\$35	\$65	\$115
BMC	6.24.060	Electric Vehicle Exceeding EV Parking Space Time Limit	\$30	\$60	\$110
BMC	6.24.020	Electric Vehicle Not Actively Charging in EV Parking Space	\$35	\$65	\$115
BMC	6.24.093	P&D Dispensing Mach Tkt Not Displayed	\$43	\$73	\$123
BMC	6.24.093	FD P&D Dispensing Mach Tkt Not Displayed	\$65	\$95	\$145
BMC	6.24.096	Improper Display of P&D Disp Mach Tkt	\$43	\$73	\$123
BMC	6.24.096	FD Improper Display of P&D Disp Mach Tkt	\$65	\$95	\$145
BMC	6.24.100 B	P&D Station Expired Time	\$43	\$73	\$123
BMC	6.24.100 B	FD P&D Station Expired Time	\$65	\$95	\$145
BMC	6.24.103 B	Time Limits Enforced at Inoperable P&D Sta	\$43	\$73	\$123
BMC	6.24.103 B	FD Time Limits Enforced at Inoperable P&D Sta	\$65	\$95	\$145
BMC	6.24.130	Off-St Facility: Motorcycle Zone Only	\$48	\$78	\$128
BMC	6.24.130	Off-St Facility: Pkg Outside Markings	\$48	\$78	\$128
BMC	6.24.130	FD Off-St Facility: Pkg Outside Markings	\$72	\$102	\$152
BMC	6.24.130	Off-St Facility: Disabled Zone	\$288	\$318	\$368
BMC	6.24.130	FD Off-St Facility: Disabled Zone	\$288	\$318	\$368
BMC	6.24.130	Off-St Facility: Restricted Load Zone	\$48	\$78	\$128
BMC	6.24.130	FD Off-St Facility: Restricted Load Zone	\$72	\$102	\$152
BMC	6.24.130	Off-St Facility: Unmarked Space	\$48	\$78	\$128
BMC	6.24.130	FD Off-St Facility: Unmarked Space	\$72	\$102	\$152
BMC	6.24.140	Off-St Facility: Backed-In	\$48	\$78	\$128
BMC	9.52.140	Unattended Taxi Over 5 Min	\$91	\$121	\$171
BMC	13.52.040	Unauth Pkg on Private Property	\$41	\$71	\$121
BMC	14.24.070	Unauth Vehicle on Private Prop	\$64	\$94	\$144
BMC	14.36.030 A	No Parking on Divisnl Islands	\$55	\$85	\$135
BMC	14.36.030 A	FD No Parking on Divisnl Islands	\$83	\$113	\$163
BMC	14.36.030 C	No Parking Zone (Sign Posted)	\$64	\$94	\$144
BMC	14.36.030 C	FD No Parking Zone (Sign Posted)	\$96	\$126	\$176
BMC	14.36.030 C	No Parking Zone (Red Curb)	\$64	\$94	\$144
BMC	14.36.030 C	FD No Parking Zone (Red Curb)	\$96	\$126	\$176

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.36.030 D	No Parking Street Sweeping (sign)	\$49	\$79	\$129
BMC	14.36.030 E	No Parking on Railroad Tracks	\$64	\$94	\$144
BMC	14.36.030 F	Hazard Obstructing Traffic	\$64	\$94	\$144
BMC	14.36.030 F	FD Hazard Obstructing Traffic	\$96	\$126	\$176
BMC	14.36.030 G	Construct: No Permit on Dashboard	\$64	\$94	\$144
BMC	14.36.030 G	FD Construct: No Permit on Dashboard	\$96	\$126	\$176
BMC	14.36.050	On Street 72 or More Consec hrs	\$60	\$90	\$140
BMC	14.36.060	Repair Vehicle on Street	\$52	\$82	\$132
BMC	14.36.080	Vehicle Parked in School Zone	\$51	\$81	\$131
BMC	14.36.090	Pkg on Grade Brake/Block Wheels	\$55	\$85	\$135
BMC	14.36.110	Emerg Prkg w/o Permit (Tow CVC 22651)	\$52	\$82	\$132
BMC	14.40.010	3 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 3 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.010	5 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 5 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.010	10 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 10 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.010	12 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	15 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	24 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 24 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.020	30 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.020	FD 30 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.030	1 hr Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.030	FD 1 hr Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.030	Faulty Meter Over 1 hr Limit	\$43	\$73	\$123
BMC	14.40.040	2 hr Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.040	FD 2 hr Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.040	Faulty Meter Over 2 hr Limit	\$43	\$73	\$123
BMC	14.40.050 A	Parallel Pkg Veh Outside Markers	\$48	\$78	\$128
BMC	14.40.050 B	Veh Facing Wrong Way 1-way St	\$48	\$78	\$128
BMC	14.40.050 B	FD Veh Facing Wrong Way 1-way St	\$72	\$102	\$152
BMC	14.40.050 B	Pkg Over 18" from Curb 1-way St	\$51	\$81	\$131
BMC	14.40.050 B	FD Pkg Over 18" fr Curb 1-way St	\$77	\$107	\$157
BMC	14.40.060 A	Diagonal Pkg Veh Outside Markers	\$51	\$81	\$131
BMC	14.40.060 B	Diagonal Pkg FW Over 6" from Curb	\$51	\$81	\$131
BMC	14.40.070 A	No Stopping 4-6pm (Tow CVC 22651)	\$64	\$94	\$144
BMC	14.40.070 A	FD No Stopping 4-6pm (Tow CVC 22651)	\$96	\$126	\$176
BMC	14.40.070 A	No Stopping 7-9am (Tow CVC 22651)	\$64	\$94	\$144

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.40.070 A	No Stopping 9pm-6am (Tow CVC 22651)	\$64	\$94	\$144
BMC	14.40.070 A	Posted No Stopping Tow Away	\$64	\$94	\$144
BMC	14.40.090	RPP Zone No RPP Permit Displayed	\$49	\$79	\$129
BMC	14.40.090	FD RPP Zone A,B,D No Permit Dsply	\$98	\$128	\$178
BMC	14.40.090	RPP Zone K No Permit Displayed	\$57	\$87	\$137
BMC	14.40.090	RPP Zone RPP Permit Expired	\$49	\$79	\$129
BMC	14.40.090	FD RPP Zone A,B,D Permit Expired	\$98	\$128	\$178
BMC	14.40.090	RPP Zone Permit Improper Display	\$49	\$79	\$129
BMC	14.40.090	FD RPP A,B,D Permit Impropr Dsply	\$98	\$128	\$178
BMC	14.40.090	No RPP Permit Displayed in Enhanced Fine Area (Football Game Days)	\$225	\$255	\$305
BMC	14.40.130	Pkg/Standing in City Lots/Spaces	\$55	\$85	\$135
BMC	14.40.130 A	City Lot No Permit Displayed	\$57	\$87	\$137
BMC	14.40.130 C	Reserved Pkg No Permit Displayed	\$49	\$79	\$129
BMC	14.40.130 E	Reserved City Hall Pkg Towable	\$64	\$94	\$144
BMC	14.40.150 A	Car Parking in Motorcycle Area	\$51	\$81	\$131
BMC	14.40.150 B	Motorcycle Zone Overtime	\$51	\$81	\$131
BMC	14.40.160	DbI-Pkd Commer Vehicle Center St	\$60	\$90	\$140
BMC	14.44.020 B	Commer Zone No Permit (yellow)	\$57	\$87	\$137
BMC	14.44.020 B	FD Commer Zone No Permit (yellow)	\$86	\$116	\$166
BMC	14.44.020 A	Commercial Zone Overtime	\$57	\$87	\$137
BMC	14.44.020 A	FD Commercial Zone Overtime	\$86	\$116	\$166
BMC	14.44.030	Passenger Load Zone (white curb)	\$57	\$87	\$137
BMC	14.44.030	FD Passgr Load Zone (white curb}	\$86	\$116	\$166
BMC	14.44.040	No Stopping Bicycle Zone	\$55	\$85	\$135
BMC	14.44.040	FD No Stopping Bicycle Zone	\$83	\$113	\$163
BMC	14.44.050	Special Passenger Load Zone only	\$57	\$87	\$137
BMC	14.44.060	Parking in Coach (bus) Zone	\$64	\$94	\$144
BMC	14.44.060	FD Parking in Coach (bus) Zone	\$96	\$126	\$176
BMC	14.44.070	Unauthorized Use of Funeral Zone	\$51	\$81	\$131
BMC	14.44.080	Taxicab Parking Only	\$51	\$81	\$131
BMC	14.44.080	Unauthorized Taxicab Stand Pkg	\$51	\$81	\$131
BMC	14.46.040 B	Non-Electric Vehicle Parked in EV Space	\$49	\$79	\$129
BMC	14.46.050 B	Electric Vehicle Exceeding EV Space Time Limit	\$43	\$73	\$123
BMC	14.46.050 C	Electric Vehicle Not Actively Charging in EV Space	\$43	\$73	\$123
BMC	14.52.050 A	Meter Street: Expired Meter	\$43	\$73	\$123
BMC	14.52.050 A	FD Meter Street: Expired Meter	\$65	\$95	\$145
BMC	14.52.050 B	Pay & Display Station Expired Time	\$43	\$73	\$123

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.52.050 B	FD Pay & Display Sta Expired Time	\$65	\$95	\$145
BMC	14.52.060 A	Meter St: Extending Meter Time	\$43	\$73	\$123
BMC	14.52.060 A	FD Meter St: Extending Meter Time	\$65	\$95	\$145
BMC	14.52.060 B	Pay & Display Station Extend Time	\$43	\$73	\$123
BMC	14.52.060 B	FD Pay & Display Sta Extend Time	\$65	\$95	\$145
BMC	14.52.063	P&D Dispensing Mach Tkt Not Displayed	\$43	\$73	\$123
BMC	14.52.063	FD P&D Dispens Mach Tkt Not Displayed	\$65	\$95	\$145
BMC	14.52.066	Improper Display of P&D Disp Mach Tkt	\$43	\$73	\$123
BMC	14.52.066	FD Improper Display of P&D Disp Mach Tkt	\$65	\$95	\$145
CVC	4000	No Evidence Current Registration	\$50	\$80	\$130
CVC	4000	Expired Registration	\$50	\$80	\$130
CVC	4461 B	Improper Lending of DP Placard or Plate	\$550	\$580	\$630
CVC	4461 C	Improper Display of DP Placard or Plate	\$550	\$580	\$630
CVC	4461 D	Improper Use of DP Placard or Plate	\$550	\$580	\$630
CVC	4463 C	Use of Forged, Counterfeit, or False DP Placard or Plate	\$550	\$580	\$630
CVC	5200	Missing License Plates	\$25	\$55	\$105
CVC	5201	Lic Plates Improperly Positioned	\$25	\$55	\$105
CVC	5202	Hanging/Detached License Plate	\$25	\$55	\$105
CVC	5204 A	Expired Tags (read back)	\$25	\$55	\$105
CVC	5204 A	Missing Tags	\$25	\$55	\$105
CVC	21113 A	Parking on Public Grounds	\$54	\$84	\$134
CVC	21211 B	Vehicle Blocking Bicycle Lane	\$54	\$84	\$134
CVC	21718	Parking on Freeway	\$54	\$84	\$134
CVC	22500 A	Parking in an Intersection	\$60	\$90	\$140
CVC	22500 A	FD Parking in an Intersection	\$86	\$116	\$166
CVC	22500 B	Parking in Crosswalk	\$60	\$90	\$140
CVC	22500 B	FD Parking in Crosswalk	\$90	\$120	\$170
CVC	22500 C	Parking in Safety Zone	\$60	\$90	\$140
CVC	22500 C	FD Parking in Safety Zone	\$90	\$120	\$170
CVC	22500 D	Parking within 15' of Fire Station	\$60	\$90	\$140
CVC	22500 D	FD Parking within 15' of Fire Station	\$90	\$120	\$170
CVC	22500 E	Parking in Driveway	\$60	\$90	\$140
CVC	22500 E	FD Parking in Driveway	\$90	\$120	\$170
CVC	22500 F	Parking On/Across Sidewalk	\$60	\$90	\$140
CVC	22500 F	FD Parking On/Across Sidewalk	\$90	\$120	\$170
CVC	22500 G	Parking Construction No Permit	\$60	\$90	\$140
CVC	22500 G	FD Parking Construction No Permit	\$90	\$120	\$170
CVC	22500 H	Double-Parked	\$60	\$90	\$140

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
CVC	22500 H	FD Double-Parked	\$90	\$120	\$170
CVC	22500 I	Parking/Stopping in Coach Zone	\$263	\$293	\$343
CVC	22500 I	FD Parking/Stopping in Coach Zone	\$263	\$293	\$343
CVC	22500 J	Parking in Tunnel	\$54	\$84	\$134
CVC	22500 K	Parking on Bridge	\$54	\$84	\$134
CVC	22500 L	Blocking Disabled Ramp	\$288	\$318	\$368
CVC	22502 A	Parking Over 18" from Curb 2-Way St	\$69	\$99	\$149
CVC	22502 A	FD Parking Over 18" from Curb 2-Way St	\$104	\$134	\$184
CVC	22503 E	Parking Over 10" from Curb 1-Way St	\$58	\$88	\$138
CVC	22507.8 A	Parking in Disabled Zone	\$317	\$347	\$397
CVC	22507.8 B	Obstructing Access Disabled Zone	\$317	\$347	\$397
CVC	22507.8 B	FD Obstructing Access Disabled Zone	\$317	\$347	\$397
CVC	22514 a	Parking within 15' of Fire Hydrant	\$78	\$108	\$158
CVC	22514 a	FD Parking within 15' of Fire Hydrant	\$117	\$147	\$197
CVC	22521	Parking within 7.5' of Railroad Tracks	\$54	\$84	\$134
CVC	22522	Parking within 3' of Wheelchair Ramp	\$317	\$347	\$397
CVC	22522	FD Parking within 3' of Wheelchair Ramp	\$317	\$347	\$397
CVC	22523 a	Abandon Vehicle on Highway	\$168	\$198	\$248
CVC	22523 b	Abandon Vehicle on Pub/Prvt Prop	\$168	\$198	\$248

Note: In addition to citation placed on vehicle, "Notice of Violation" is mailed to registered owner seven (7) days after citation and indicated when the fine penalty increases will occur: On Day 28 after citation issuance, the fine increases by \$30. If payment is not received within 45 days after issuance, on Day 47, the fine increases by an additional \$50.

Exhibit B: List New Parking Violations

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.40.090	No RPP Permit Displayed in Enhanced Fine Area (Football Game Days)	\$225	\$255	\$305

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

FEES: RESIDENTIAL PREFERENTIAL PARKING PERMITS

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Public Works is proposing to increase the cost of annual Residential Preferential Parking (RPP) permits, effective June 1, 2019, for permits purchased for FY 2020, as summarized below:

Permit Type	Current Fee	Proposed Fee
Annual Residential & In-Home Care	\$66.00	\$90.00
1-Day Visitor	\$3.00	\$4.00
14-Day Visitor	\$34.00	\$47.00
Semi-Annual Residential & In-Home Care	\$33.00	\$45.00
Community-Serving Facility	\$83.00	\$114.00
Merchant	\$185.00	\$253.00
1-Day Senior Center	\$1.00	\$1.00
Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits	\$15.00	\$21.00
Surcharge Per Additional Annual Residential Permit Over Maximum, If Waiver Approved	\$100.00	\$100.00

The hearing will be held on Tuesday, May 14, 2019 at 6:00 p.m. in the School District Board Room, 1231 Addison Street.

For further information, please contact Farid Javandel, Transportation Division Manager, at (510) 981-7061.

A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of May 2, 2019.

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.

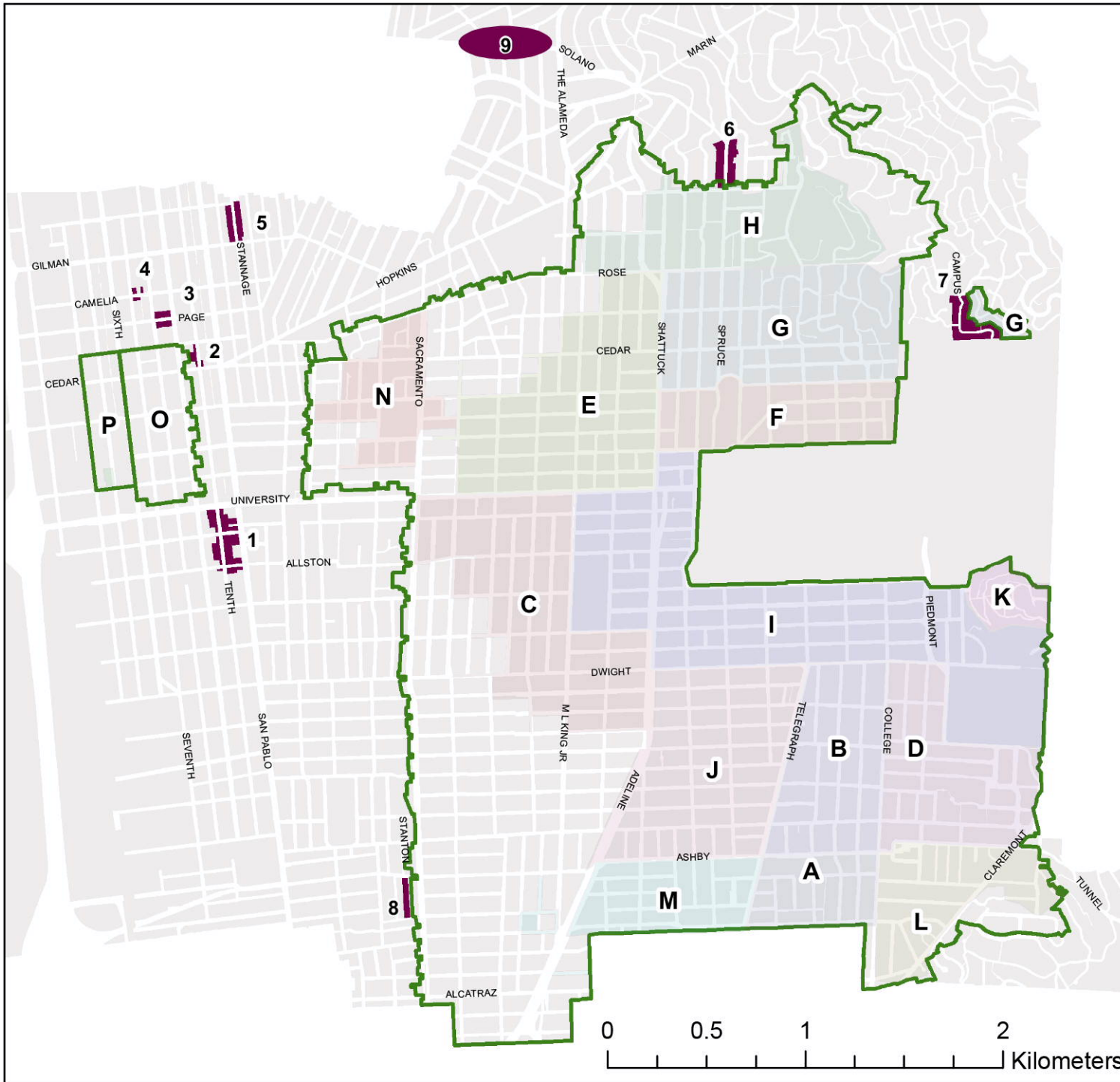
If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

Published: May 3 and May 10, 2019 – The Berkeley Voice

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 2, 2019.

---

Mark Numainville, City Clerk



# ATTACHMENT 6

## EXISTING ELIGIBILITY AND INELIGIBLE OPT-IN REQUESTS

- Existing RPP Area Extents
- Current Eligibility Boundary
- Out of Area Opt-In Requests

### FY 2019 Requests

1. 10th between University and Allston with adjacent side streets
2. 10th between Jones and Cedar
3. Page between 8th and 9th
4. Camelia between 7th and 8th

### Requests Prior to FY 2019

5. Stannage between Gilman and Harrison
6. Spruce between Los Angeles to Eunice
7. Campus between Avenita and LBL Campus
8. Stanton between Ashby and Prince
9. Multiple requests from Solano neighborhood

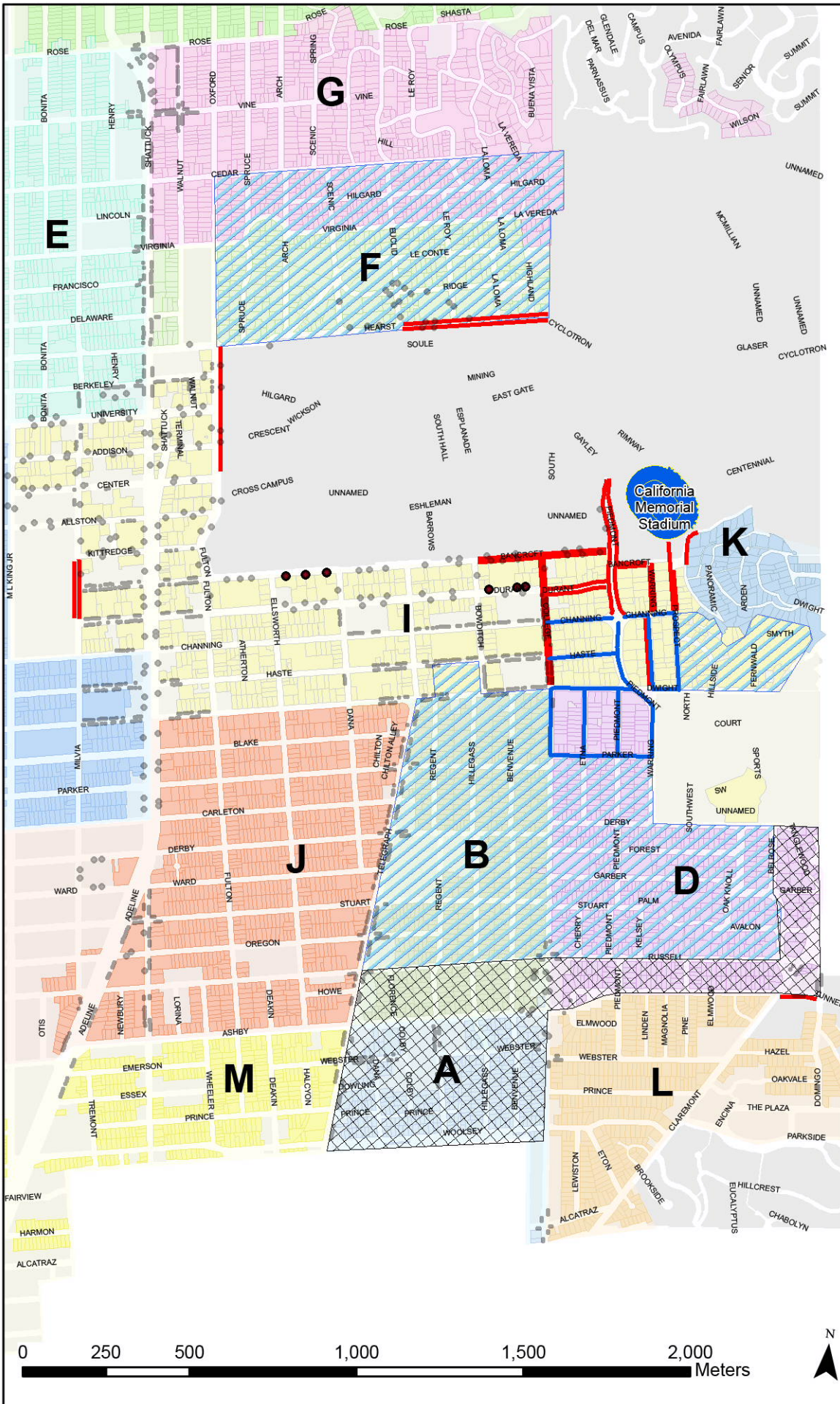
This map is for reference purposes only.





Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors.  
March 20, 2019



**CITY OF BERKELEY**  
 Transportation Division  
 1947 Center Street  
 Berkeley CA 94704

# ATTACHMENT 7: PROPOSED 2019 UC BERKELEY FOOTBALL GAME DAY PARKING RESTRICTIONS



- Existing Restrictions**
- Single Space Meters (9AM-6PM)
  - Pay And Display Meters (9AM-6PM)
  - Meters With Additional No Parking Restrictions
-  Double Fine Area (200%)  
 Existing Football Tow Zones
- Proposed Restrictions**
-  Enhanced Fine Area for Non-Permit Holders (\$225)
  -  Proposed New Tow Zone For Non-Permit Holders

This map is for reference purposes only.

Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors.  
March 20, 2019





Office of the City Manager

## INFORMATION CALENDAR

May 14, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Phillip Harrington, Director, Public Works  
 Subject: Residential Preferential Parking Program: Spring 2019 Update

### INTRODUCTION

This report provides an update on the effects of the 2018 “short-term” adjustments to the Residential Preferential Parking Program (RPP). An accompanying Public Hearing Report, also on the May 14, 2019 agenda, provides a road map for continued strategic reform and expansion of the Program in the “mid-term” timeframe (Fiscal Years 2020-2021).

### CURRENT SITUATION AND ITS EFFECTS

On February 13, 2018, Council approved staff recommendations to expand eligibility for Residential Preferential Parking to two new areas in West Berkeley (Area O and Area P, in the area zoned Mixed-Use Residential); authorize new meters in West Berkeley to manage commercial parking adjacent to residences in mixed-use areas; add a limit of three (3) annual permits available for purchase at most residential addresses; and increase permit fees to eliminate the Program’s operating deficit. Since these recommendations were approved, the following has occurred:

- Increased RPP Program fiscal solvency. Effective July 1, 2018, RPP permit fees increased and the annual permit cap (3 permits per address) was implemented. As of March 2019, revenues from RPP permit sales were 12% lower than the previous year, with 9% fewer permits sold.<sup>1</sup> Due in part to these lower than expected revenues, the Program continues to operate at a deficit of approximately \$124,675. Nevertheless, this represents a reduction of \$71,125 in the Program deficit since FY 2017, when the structural deficit totaled \$195,800.
- Implementation of annual permit maximum. As part of the February 2018 action, Council approved a new maximum of three (3) annual permits in most areas. Customers needing more than the maximum are able to apply for a waiver to the limit. As of March 1, 2019, a total of 105 waiver forms were received, with 93 approved for a permit. Per the BMC, these “additional permits” incur a \$100 surcharge on the base permit fee. Initially created to facilitate the waiver process,

<sup>1</sup> Analysis for Fiscal Year 2019 included the most recent twelve months of available data at the time of writing: April 2018 through March 2019.

a new email address, [RPP@cityofberkeley.info](mailto:RPP@cityofberkeley.info), has provided the public a new way to submit questions about the RPP Program.

- Despite the introduction of two new RPP areas, few residents in these areas have taken advantage of access to RPP Program protections. After Council approved the expansion of RPP opt-in eligibility in February 2018, staff sent a letter to each residential address in the new West Berkeley Areas O and P (and the expansion of existing Area L) announcing the decision and explaining how to opt-in to the RPP Program. As of March 1, 2019, only four (4) out of a total of 537 newly-eligible residential parcels successfully submitted an opt-in request, which was approved by Council on January 29, 2019.<sup>2</sup>
- Enforcement of street sweeping restrictions has not changed. See “Update: Parking Enforcement Operations” section below.

Update: Permit Saturation Analysis

To better understand the Program’s role in mitigating parking demand between residents and visitors, staff performed an analysis of “permit saturation,” i.e., the ratio of permits issued per permitted parking space. This type of analysis, which was also conducted by the San Francisco Municipal Transportation Agency (SFMTA) in its recent *San Francisco Residential Permit Parking Evaluation and Reform Project*,<sup>3</sup> sheds light on demand for parking in different RPP Program areas.

This analysis included annual permits issued for FY 2019 in the Southside and Elmwood neighborhoods (Areas A, B, D, I, and L).<sup>4</sup> As summarized in the table below and depicted in Attachment 1, annual permits issued in each area account for 72% to more than 100% of permitted parking spaces in these neighborhoods. In Area B, more annual permits are issued than permitted parking spaces are available, and in Area I, the saturation rate is nearly 100%.

| RPP Area | On-Street Permit Parking Supply, 2017 | Annual RPP Permits Issued for FY 2019 | Permit Saturation % |
|----------|---------------------------------------|---------------------------------------|---------------------|
| B        | 1009                                  | 1142                                  | 113%                |
| I        | 990                                   | 973                                   | 98%                 |
| A        | 497                                   | 425                                   | 86%                 |
| D        | 1318                                  | 1067                                  | 81%                 |
| L        | 923                                   | 667                                   | 72%                 |

<sup>2</sup> January 29, 2019 City Council Agenda: Implement Residential Preferential Parking (RPP) Program on Sections of Fifth Street and Martin Luther King Jr. Way: <https://bit.ly/2SXCEiW>

<sup>3</sup> San Francisco Residential Permit Parking Evaluation and Reform Project, <https://bit.ly/2tXwxfJ>

<sup>4</sup> Note: This analysis does not account for any visitor, community facility, and/or Gig car-share permits issued for FY 2019, which further contribute to variable parking demand in these neighborhoods. Likewise, it does not account for actual usage of the parking permits, e.g., the variability in parking demand on a block-to-block level, or parking occupancy of permit holders over the course of a day.

While this analysis is only a snapshot of parking conditions in some RPP areas, it indicates that there is significant competing parking demand among permitted residents, let alone from non-permitted visitors who are subject to the two-hour time limit, which the Program was originally designed to mitigate.

Additional data collection and analysis on the RPP Program in the Southside and Elmwood neighborhoods will be conducted as part of the grant-funded Residential Shared Parking Pilot (RSPP) project, which will begin later this year.<sup>5</sup> This pilot project will also examine alternatives to permit-based management of non-resident parking demand.

#### Update: Parking Enforcement Operations

Since staff provided Council with the “Phase I” RPP Reform and Expansion update in early 2018, there have been no substantive changes to parking enforcement operations. Eighteen (18) Parking Enforcement Officers (PEOs) patrol geographic “beats” that include a mix of parking meters and RPP time-limited parking areas. Within these beats, PEOs enforce parking restrictions on over 1,000 blockfaces<sup>6</sup> with RPP two-hour time limit restrictions, 460 blockfaces with parking meters of varying time limits, and all other time-limited parking areas.

Three (3) more PEOs are solely assigned to enforce street sweeping restrictions. In areas with street sweeping, posted signs prohibit parking during three-hour windows, e.g., 9:00 a.m. to 12:00 p.m., or 12:30 p.m. to 3:30 p.m. These three-hour windows are designed to maximize flexibility for street sweeping activities, which may be delayed due to localized issues such as heavy leaf falls in areas with thick tree canopies.

Enforcement of street sweeping parking restrictions consists of driving street sweeping routes immediately in front of the sweeper and issuing citations to vehicles in violation of parking restrictions. When the sweeper’s hopper is full, the PEO must wait for the sweeper to empty its load at the City’s Solid Waste Management and Transfer station, then return to the route before continuing enforcement activities. If the sweeper and its accompanying PEO have completed a blockface prior to the end of the three-hour window, vehicles are *de facto* allowed to park on the street in violation of posted restrictions. While providing a convenience to adjacent residents, the current street sweeping enforcement practice reduces the capacity of PEOs to conduct other duties.

In all, approximately half of parking enforcement time is spent conducting RPP time limit patrols. The remaining half includes enforcing parking meters, time limited areas, school zones, travel time, and being pulled away for emergencies (e.g., traffic collisions). As demands on parking enforcement increased over the past several years while staffing

<sup>5</sup> July 24, 2018 *City Council Agenda: Contract: Nelson\Nygaard for Parking Data Collection and Analysis Services for the goBerkeley Residential Shared Parking Pilot* <https://bit.ly/2nFcqQ2>

<sup>6</sup> A blockface is defined as one side of one street, e.g., the west side of Milvia Street between Allston Way and Center Street.

levels remained constant, PEOs no longer conduct both morning and afternoon patrols of time limits in RPP areas—depending on daily duties, a blockface may be patrolled either in the morning or in the afternoon. Similarly, each new resident “opt-in” petition approved by Council further reduces the frequency and availability of enforcement for existing parking areas.

### BACKGROUND

The RPP Program began in 1980 (1) to protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic; (2) to assure continued quality of life for residents; and (3) to provide neighborhood parking for residents. The Program limits parking for vehicles not displaying an RPP permit in most RPP areas to two hours, and reserves available daytime parking for residents, between 9:00 a.m. and 7:00 p.m. Monday through Friday, and on some blocks Saturday.

In March 2014,<sup>7</sup> Council directed staff to evaluate expanding the RPP Program beyond its then-current geographic boundaries. At a September 2017 Council Worksession, staff discussed several challenges with the RPP Program, and proposed incremental solutions to be implemented over the next three years.<sup>8</sup> In February 2018, staff returned to Council with a first set of “short-term” policy reforms, including increased permit fees for Program cost neutrality, a limit of three (3) annual permits per address, and an expansion of RPP eligibility to two new zones in West Berkeley.<sup>9</sup> Improving the effectiveness of the RPP Program is a Strategic Plan Priority Project, advancing the City’s goals to:

- Provide an efficient and financially-health City government; and
- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

### ENVIRONMENTAL SUSTAINABILITY

The presence of two-hour time limits for non-residents as part of the RPP Program may encourage some commuters to use other modes of travel, potentially reducing parking demand and congestion. However, other commuters may continue to drive despite the restrictions, and move their cars every two hours to avoid being ticketed. This behavior has an adverse impact on traffic congestion, air quality, and excess fuel consumption.

### POSSIBLE FUTURE ACTION

This report is accompanied by a RPP Public Hearing Report, also on the May 14, 2019 agenda, which provides recommendations for enhancing and expanding the RPP Program over the next several years.

<sup>7</sup> March 11, 2014 *City Council Agenda: Expansion of Permit Parking to Impacted Areas*: <http://bit.ly/2vTgngD>

<sup>8</sup> September 19, 2017 *City Council Agenda: Residential Preferential Parking (RPP) Program Recommendations*: <https://bit.ly/2iWaPDa>

<sup>9</sup> February 27, 2018 *City Council Agenda: Residential Preferential Parking (RPP) Program Reform and Expansion*: <https://bit.ly/2Yq6tYB>.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Please refer to the Fiscal Impacts section of the accompanying report for more information.

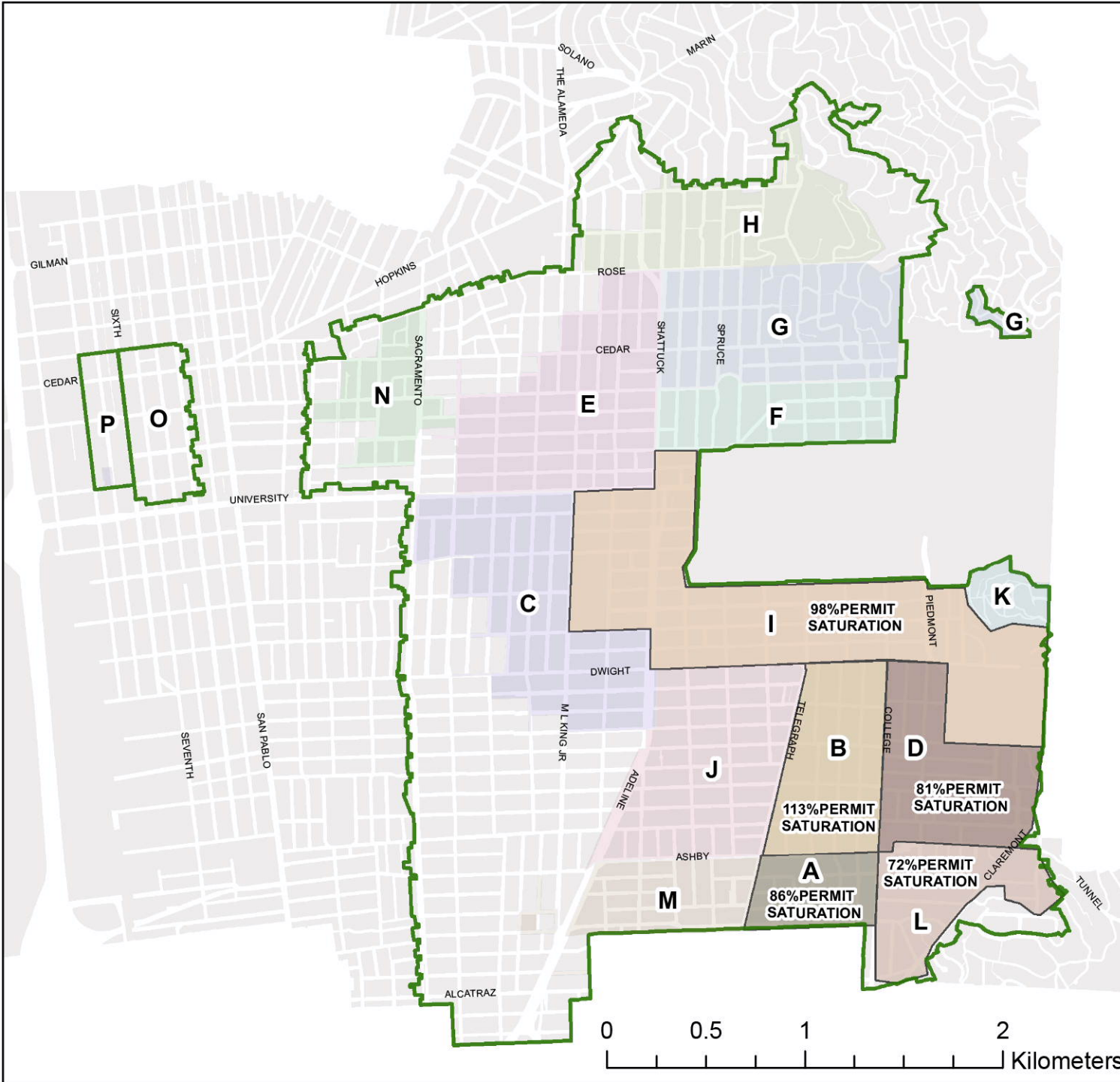
CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works (510) 981-7061  
Danette Perry, Parking Services Manager, Public Works (510) 981-7057  
Gordon Hansen, Senior Planner, Public Works (510) 981-7064

Attachments:

1: FY 2019 Permit Saturation





# ATTACHMENT 1

## FY 2019 PERMIT SATURATION

- Existing RPP Area Extents
- Current Eligibility Boundary

This map is for reference purposes only.

Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors.  
March 20, 2019



**CITY OF BERKELEY**  
 Transportation Division  
 1947 Center Street  
 Berkeley CA 94704



Office of the City Manager

PUBLIC HEARING  
February 27, 2018  
(Continued from February 13, 2018)

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Phillip L. Harrington, Director, Public Works  
Subject: Residential Preferential Parking (RPP) Program Reform and Expansion

RECOMMENDATION

Conduct a public hearing and upon conclusion:

1. Adopt second reading of Ordinance No. 7,589-N.S. amending Berkeley Municipal Code Title 14 to expand eligibility for Residential Preferential Parking to specified areas, allow Residential Preferential Parking in areas zoned Mixed Use Residential, authorize new meters in West Berkeley to manage commercial parking adjacent to residences in mixed-use areas, add a cap on the number of annual permits residents may purchase, and
2. Adopt a Resolution raising permit fees to eliminate the Program's operating deficit and rescinding Resolution No. 66,895-N.S. effective March 1, 2018.

SUMMARY

The recommended actions constitute a package of short-term changes to the RPP Program, developed in response to Council feedback at the September 19, 2017 Residential Preferential Parking (RPP) Program Recommendations Worksession.<sup>1</sup> The changes include: 1) expanding the RPP Program to three new areas in the City by strategically reallocating Parking Enforcement resources currently assigned to street sweeping; 2) implementing the RPP Program in mixed-use areas near Fourth Street in West Berkeley, under a new set of guidelines specifically developed for mixed-use areas; and 3) strengthening the RPP Program's effectiveness by increasing permit fees to make the program cost-neutral and setting a maximum number of residential permits per address available for purchase in a year.

FISCAL IMPACTS OF RECOMMENDATION

Per established Council Budget Policies,<sup>2</sup> the RPP Program should pay for itself. Following the September 19, 2017 Residential Preferential Parking (RPP) Program Recommendations Worksession with Council, staff completed the Fiscal Year (FY)

---

<sup>1</sup> September 19, 2017 *City Council Agenda: Residential Preferential Parking (RPP) Program Recommendations*: <http://bit.ly/2iWaPDa>

<sup>2</sup> "Council Budget Policies": <http://bit.ly/2z4UiFY>

2017 RPP Program analysis, which found the Program’s structural annual deficit decreased to approximately \$195,800.

The proposed fee structure is projected to generate approximately \$196,400 of additional revenue for the General Fund (Fund 010) beginning March 1, 2018. The following table reflects increases for each type of permit in the RPP fee structure to result in a cost-neutral Program.

| Permit Type                                                                   | Current Fee | Proposed Fee | \$ Increase | % Increase |
|-------------------------------------------------------------------------------|-------------|--------------|-------------|------------|
| Annual Residential & In-Home Care                                             | \$55.00     | \$66.00      | \$11.00     | 20%        |
| 1-Day Visitor                                                                 | \$2.75      | \$3.00       | \$0.25      | 9%         |
| 14-Day Visitor                                                                | \$28.50     | \$34.00      | \$5.50      | 19%        |
| Semi-Annual Residential & In-Home Care                                        | \$27.50     | \$33.00      | \$5.50      | 20%        |
| Community-Serving Facility                                                    | \$69.00     | \$83.00      | \$14.00     | 20%        |
| Merchant                                                                      | \$154.00    | \$185.00     | \$31.00     | 20%        |
| 1-Day Senior Center                                                           | \$1.25      | \$1.00       | -\$0.25     | -20%       |
| Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits | \$12.50     | \$15.00      | \$2.50      | 20%        |

The proposed fee structure will generate approximately \$1,199,400 in revenue for the General Fund in FY 2019. This increase of \$196,400 in revenue would close the current deficit, resulting in a cost-neutral Program (the \$600 difference is within the margin of approximation). With the proposed fee increase, the total Program revenue is projected to be \$2.53 million including the revenue resulting from RPP-related citations.

| RPP Program Financial Components   | FY 2017 Actuals    | FY 2019 Projections |
|------------------------------------|--------------------|---------------------|
| Total RPP Permit Fee Revenue       | \$1,003,000        | \$1,199,400         |
| RPP-Related Citation Revenue       | \$1,332,400        | \$1,332,400         |
| <b>Total Revenue</b>               | <b>\$2,335,400</b> | <b>\$2,530,900</b>  |
| <b>Total RPP Program Costs</b>     | <b>\$2,531,200</b> | <b>\$2,531,800</b>  |
| <b>RPP Program Deficit/Surplus</b> | <b>(\$195,800)</b> | <b>\$600</b>        |

These revenue projections are based on the RPP Program at its current geographic extents. While RPP revenues are assumed to increase as residents opt-in and purchase permits in new areas (discussed below), actual amounts of new permit purchases and citations are unknown, making future revenues difficult to forecast.

Program Expansion Costs

Program expansion costs primarily consist of new sign installation (labor and materials), which is approximately \$1,150 per block.<sup>3</sup> Assuming thirty-two new blocks opt-in, the total cost of expansion will be approximately \$36,800. Within the special West Berkeley Mixed-Use area, new parking meters will cost approximately \$87,040. Funding for the Program expansion will be recommended for appropriation through the FY 2018 Second Amendment to the FY 2018 Annual Appropriations Ordinance from the Parking Meter Fund 840-5505-431.11-01 and 840-5505-431.55-20 (\$36,800), and 840-4940-431.71-41 and 840-4940-431.70-41 (\$87,040). The costs and revenues associated with the parking meters relate to the Parking Meter Fund, not the RPP Program.

Enforcement in the expansion areas will not incur new staff costs, pursuant to a strategic reallocation of labor on street sweeping routes, as discussed in more detail below. Staff expect the modest costs of expansion will be covered by new revenues, particularly with the increase in permit fees. Staff will continue to monitor the costs and revenues of the RPP Program as it expands.

CURRENT SITUATION AND ITS EFFECTS

Parking in residential areas is currently managed through two separate programs: the street sweeping program, which cleans most residential streets in the flat areas of the City; and the RPP Program currently in effect in fourteen zones to the north, west, and south of the University of California at Berkeley (UC-Berkeley) campus. Under the street sweeping program, parking is prohibited on applicable streets for a three-hour window once per month. Streets included in the RPP Program have two-hour time limits for vehicles without an applicable RPP permit. Parking Enforcement staff regularly monitor these areas to ensure motorists consistently adhere to posted street sweeping restrictions and RPP time limits.

Fifteen Parking Enforcement Officers (PEOs) patrol geographic “beats” that include a mix of meters and RPP time limited parking areas. Three more PEOs are solely assigned to enforce street sweeping restrictions, which consists of driving street sweeping routes immediately in front of the sweeper and issuing citations to vehicles in violation of parking restrictions. Under current business practices, when the sweeper reaches maximum rubbish capacity, the PEO must wait for the sweeper to empty its load at the City’s Solid Waste Management and Transfer station, then return to the route before continuing enforcement activities. These three PEOs could be used to enforce additional RPP areas, thus allowing the City to modestly but strategically expand the RPP Program in the short-term without hiring additional PEO staff.<sup>4</sup>

---

<sup>3</sup> Staff assumes six RPP signs per block (three signs on each side of the block).

<sup>4</sup> Under this proposal, PEOs would no longer accompany street sweeping vehicles, but beat officers would enforce restrictions during the three-hour restriction window, before the sweeper cleans the street, and allow time for other pending responsibilities. This recommendation was developed in collaboration with Police and Parking Enforcement staff. In the future, street sweeping vehicles may be equipped with GPS beacons, which would allow residents to check when streets reopen for parking in real-time.

Staff Proposal: Targeted Expansion of the Existing RPP Program

Based on recent requests by residents to join the RPP Program, staff recommend expanding the existing RPP Program to two areas in the short-term:

1. Expansion of Area L (Claremont). Up to eight blocks of Encina Place, Oakvale Avenue, The Plaza Drive, Parkside Drive, and Nogales Street would be able to petition for Area L RPP designation and right to purchase permits.
2. New West Berkeley Area. Up to sixteen blocks in the residential area bounded by Jones Street, University Avenue, Sixth Street, and Ninth Street would be able to petition for RPP permits.

Residents in these areas would be able to opt-in to the Program under existing guidelines as set forth in BMC Section 14.72,<sup>5</sup> and would be restricted in the number of permits they are able to purchase per reforms recommended in this report. See Attachment 5 for a map of these targeted expansion areas.

Staff Proposal: RPP Expansion to the Mixed-Use Areas of West Berkeley

Parts of West Berkeley are zoned as Mixed-Use Residential.<sup>6</sup> In practice, mixed-use development may consist of buildings with ground-floor commercial or retail space and residences in upper floors, or may also manifest as blocks containing residences interspersed with commercial or industrial spaces (or vice versa).

Because the standard RPP Program was developed for implementation in “residentially zoned” neighborhoods only (defined as primarily single- or multi-family homes), a modified approach is needed for the Mixed-Use Residential zone adjacent to the Fourth Street commercial area in West Berkeley.<sup>7</sup> Presently, curb parking in this mixed-use area is largely unregulated, with a few time-limited spaces adjacent to some businesses. Preliminary observations suggest parking availability during the day is severely constrained and appears to be very popular with local area employees. Staff is sensitive to potential conflicts between employees and residents, and are designing an approach that includes:

- Leveraging existing parking management tools wherever possible, including parking meters for increasing parking availability adjacent to commercial land uses, and standard RPP time-limit restrictions adjacent to residences. Depending on local needs, meter time limits could extend to four or eight hours.
- In blocks with residences interspersed among other uses, designating up to one-half of that block’s curb space for RPP time-limited parking if a majority of these residences petition to opt-in to the Program, leaving the other parking spaces available for other uses. In standard RPP areas, entire block faces adjacent to

<sup>5</sup> Berkeley Municipal Code Section 14.72: <http://bit.ly/2C0Oob0>

<sup>6</sup> Berkeley Municipal Code Chapter 23E.84: <http://bit.ly/2zd09sB>

<sup>7</sup> This area roughly includes Fourth and Fifth Streets between Jones Street and Hearst Avenue. See Attachment 5 for a map showing this area.

residences are typically included in the Program, because of the homogenous nature of these residentially-zoned areas.

- Phasing in the installation of meters on mixed-use blocks, contingent on residential opt-ins, to reduce the impact of “spillover” parking on residents while providing for employee and customer parking.
- Limiting the number of available residential permits to two per address, given on-street supply constraints. In standard RPP areas, the recommended cap is three per address.

Other cities have approached mixed-use areas in different ways: While some (like Oakland) have embraced merchant or employee permits, others (like San Francisco) have focused more on bolstering the use of meters and long time limits to ensure permit parking privileges are not diluted.

#### Staff Proposal: RPP Program Management Reform

Subsequent to Council’s support at the September 19, 2017 Residential Preferential Parking (RPP) Program Recommendations Worksession, staff will implement a cap for FY 2019 permits where three residential permits per address will be available for purchase in one year. In special circumstances, applicants may request a waiver to this limit. If the waiver is approved by the Traffic Engineer, each additional permit above the cap will incur a surcharge of \$100, in addition to the base annual fee. Any resulting reduction in the number of annual permits sold per each address will increase the Finance Department’s capacity to fulfill permits and provide customer service for an expanding RPP Program.

The attached Ordinance also modifies BMC Chapter 14.72.030 to clarify the definition of a “trapped resident.”

#### Staff Proposal: RPP Permit Fee Increase

Council last set RPP permit fees via Resolution No. 66,895 on December 16, 2014<sup>8</sup> with the goal of reducing the program deficit and with the expectation that the remaining deficit would be eliminated through a future Council action. At this time fees do not cover the costs associated with administering the Program. Current fees only partially support: Parking Enforcement staffing costs to enforce parking restrictions in RPP areas; Finance Revenue Collection and Customer Service costs for printing, postage, and processing renewals; and Public Works Transportation costs to manage the Program. As discussed in the Fiscal Impacts section, the current RPP Program operates at a deficit of approximately \$195,800. Staff has proposed an increase of approximately 20% for all permit fees to close the funding gap.

---

<sup>8</sup> December 16, 2014: *City Council Agenda: Fees: New Rate Schedule for Residential Preferential Parking Permits*: <http://bit.ly/2DQsKXP>

Next Steps

If these recommendations are approved, staff will begin processing opt-in requests immediately, and will fully implement the targeted expansion in the FY 2019 permit year. Effective March 1, 2018, all FY 2019 permits will be sold at the new rates proposed in the attached resolution.

Staff intend to bring additional mid-term recommendations to Council in coming months, after new Automated License Plate Recognition (ALPR) systems are in full operation. These recommendations will include proposals for staffing, additional RPP Program expansion areas, consistent Monday-Saturday enforcement, and a UC-Berkeley Football Game Day Special Event Permit proposal.

BACKGROUND

In March 2014,<sup>9</sup> Council asked staff to evaluate the costs and benefits of allowing the RPP Program to expand beyond its then-current geographic boundaries. At the September 19, 2017 Council Worksession, staff presented a comprehensive analysis of challenges to the RPP Program, and proposed solutions to these challenges to be implemented in stages over the next three years. This report responds to Council's comments at that Worksession, particularly in Attachment 4, and provides a road map for strategic reform and expansion of the existing Program in the short-term timeframe (FY 2018-2019).

The RPP Program was instituted in 1980 (1) to protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic; (2) to assure continued quality of life for residents; and (3) to provide neighborhood parking for residents. The Program limits parking for vehicles not displaying an RPP permit in most RPP areas to two hours, and reserves available daytime parking for residents, between 9:00a.m. and 7:00p.m. Monday through Friday, and on some blocks Saturday.

ENVIRONMENTAL SUSTAINABILITY

Expansion of the RPP Program may encourage some drivers who work in commercial areas adjacent to proposed RPP areas to consider using other modes of travel, thereby potentially reducing parking demand and congestion. Implementing a limit on the number of available permits may also encourage residents to consider alternatives to driving and parking for trips within the City. While use of other transportation modes may result in a reduction in vehicle traffic and a corresponding reduction in greenhouse gases, based, however, upon feedback from merchants adjacent to existing RPP Program areas, staff anticipate the "two-hour shuffle" may also begin to occur in RPP expansion areas. This behavior would have an adverse impact on traffic congestion, air quality, and excess fuel consumption.

---

<sup>9</sup> March 11, 2014 *City Council Agenda: Expansion of Permit Parking to Impacted Areas:*  
<http://bit.ly/2vTgnqD>

RATIONALE FOR RECOMMENDATION

At the September 19, 2017 Worksession, Council consensus was for staff to begin expansion of the RPP Program, impose caps on the number of available residential permits, and reduce the Program deficit. The recommendations contained in this report address these requests.

ALTERNATIVE ACTIONS CONSIDERED

Council could reject these recommendations, which would keep the status quo RPP Program, including its ongoing operating deficit.

CONTACT PERSON

Farid Javandel, Manager, Transportation Division, Public Works (510) 981-7061  
Danette Perry, Manager, Parking Services, Public Works (510) 981-7057  
Gordon Hansen, Senior Planner, Public Works (510) 981-7064

Attachments:

- 1: Ordinance for Second Reading
- 2: Resolution
- 3: Public Hearing Notice
- 4: Response to Council Questions from September 19, 2017 Worksession
- 5: Map of Targeted Expansion Areas



ORDINANCE NO. 7,589-N.S.

AMENDING BERKELEY MUNICIPAL CODE TITLE 14 TO EXPAND METERED AREAS  
IN WEST BERKELEY AND REFORM AND EXPAND THE RESIDENTIAL  
PREFERENTIAL PARKING (RPP) PROGRAM

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

Section 1. That Berkeley Municipal Code Section 14.52.010 amended to read as follows:

**14.52.010 Parking meter zones.**

A. Parking meter zones are those streets or portions of streets in the City hereinafter described as zones within which the parking of motor vehicles shall be controlled, regulated and inspected with the aid of parking meters, pay-and-display stations and/or a City-approved software application that processes pay-by-phone payments from a mobile phone, consisting of:

Acton Street, both sides, from 150 feet north of University Avenue to University Avenue.

Adeline Street, east side, from Ward to Stuart Street.

Adeline Street, both sides, from Stuart Street to Oregon Street.

Adeline Street, east side, from Oregon Street to Russell Street.

Adeline Street, both sides, from Russell Street to Ashby Avenue.

Alcatraz Avenue, south side, from 75 feet east of College Avenue to College Avenue.

Ashby Avenue, both sides, from Domingo Avenue to Claremont Avenue.

Blake Street, both sides, from Telegraph Avenue to 125 feet west of Telegraph Avenue.

Bonar Street, east side, from University Avenue to 150 feet south of University Avenue.

Bonar Street, west side, from University Avenue to Addison Street.

California Street, both sides, from 100 feet north of University Avenue to 100 feet south of University Avenue.

Camelia Street, north side, from Ninth Street to Tenth Street.

Camelia Street, north side, from San Pablo Avenue to 100 feet west of San Pablo Avenue.

Claremont Avenue, east side, from Russell Street to Ashby Avenue.

Claremont Avenue, west side, from Russell Street to Claremont Boulevard.

Colby Street, west side, from Webster Street to South Hospital Drive.

College Avenue, east side, from 150 feet north of Alcatraz Avenue to Berkeley-Oakland city limits south of Alcatraz Avenue.

College Avenue, west side, from Alcatraz Avenue to Berkeley-Oakland city limit, south of Alcatraz Avenue.

Colusa Avenue, east side, from 225 feet south of Solano Avenue to Catalina Avenue.

Colusa Avenue, west side, from 180 feet south of Solano Avenue to Catalina Avenue.

Curtis Street, both sides, from 100 feet north of University Avenue to University Avenue.

Derby Street, north side, from 150 feet east of Telegraph Avenue to 50 feet west of Telegraph Avenue.

Derby Street, south side, from 150 feet east of Telegraph Avenue to Telegraph Avenue.

Derby Street, south side from Milvia Street to 300 feet east of Milvia Street.

Domingo Avenue, both sides, from Berkeley-Oakland city limit to Ashby Avenue.

Dwight Way, north side, from San Pablo Avenue extending 40 feet east of San Pablo Avenue.

Ensenada Avenue, east side, from 90 feet south of Solano Avenue, to 66 feet north of Solano Avenue.

Euclid Avenue, west side, beginning at Hearst Avenue and extending 130 feet north of Ridge Road.

Euclid Avenue, east side, beginning at Hearst Avenue and extending 135 feet north of Ridge Road.

Francisco Street, both sides, from Shattuck Avenue to 100 feet west of Shattuck Avenue.

Fresno Avenue, east side, from 69 feet south of Solano Avenue to Solano Avenue.

Grayson Street, south side, from San Pablo Avenue extending 60 feet west of San Pablo Avenue.

Grove Street, both sides, from Allston Way to Berkeley Way.

Hearst Avenue, north side, from Scenic Avenue to LaLoma Avenue.

Hearst Avenue, north side, from Third Street to Fifth Street.

Hearst Avenue, south side, from Euclid Avenue to Gayley Road.

Hearst Avenue, south side, from Oxford Street to Arch Street

Hearst Avenue, south side, from Third Street to Sixth Street.

LaLoma Avenue, both sides, from Hearst Avenue to Ridge Road.

LeRoy Avenue, both sides, from Hearst Avenue to Ridge Road.

Lincoln Street, south side, from Shattuck Avenue to 150 feet west of Shattuck Avenue.

McKinley Avenue, east side, from approximately 110 feet from Allston Way to 155 feet, Monday through Friday, nine a.m. to six p.m.

Milvia Street, east side from Derby Street to Ward Street.

Modoc Street, east side, from 90 feet south of Solano Avenue to Solano Avenue.

Modoc Street, west side, from 66 feet south of Solano Avenue to Solano Avenue.

Oregon Street, north side, from 75 feet east of Telegraph Avenue to 50 feet west of Telegraph Avenue.

Oregon Street, south side, from 175 feet east of Telegraph Avenue to Telegraph Avenue.

Oregon Street, both sides, from Adeline Street to Shattuck Avenue.

Page Street, north side, from San Pablo Avenue to Tenth Street.

Pardee Street, south side, from San Pablo Avenue extending 60 feet west of San Pablo Avenue.

Parker Street, both sides, from 200 feet west of Regent Street to 100 feet west of Telegraph Avenue.

Peralta Avenue, both sides, from Solano Avenue to Capistrano Avenue.

Regent Street, west side, from Ashby Avenue to South Hospital Drive.

Regent Street, east side, from Ashby Avenue to 125 feet south of Webster Street.

Ridge Road, north side, beginning 120 feet west of Euclid Avenue and extending 100 feet east of Euclid Avenue.

Ridge Road, south side, from 180 feet west of Euclid Avenue to LeRoy Avenue.

Rose Street, north side, from 100 feet east of Shattuck Avenue to 100 feet west of Henry Street.

Rose Street, south side, from Walnut Street to Shattuck Place.

Russell Street, south side, from 75 feet east of Telegraph Avenue to 100 feet west of Telegraph Avenue.

San Pablo Avenue, both sides, from Hearst Avenue to Allston Way.  
San Pablo Avenue, both sides, from Harrison Street to Gilman Street.  
San Pablo Avenue, east side, from Gilman Street to Camelia Street.  
San Pablo Avenue, both sides, from Camelia Street to Virginia Street.  
San Pablo Avenue, both sides, from Virginia Street to Delaware Street.  
San Pablo Avenue, both sides, from Delaware Street to Hearst Avenue.  
San Pablo Avenue, both sides, from Allston Way to Channing Way.  
San Pablo Avenue, east side, from Channing Way to Parker Street.  
San Pablo Avenue, both sides, from Parker Street to Heinz Street.  
San Pablo Avenue, east side, from Russell Street to Burnett Street.  
San Pablo Avenue, west side, from Bancroft Way to Ashby Avenue.  
Scenic Avenue, east side, from Hearst Avenue to Ridge Road.  
Shattuck Avenue, both sides, from 100 feet north of Rose Street to Hearst Street.  
Shattuck Avenue, east side, from Rose Street to Vine Street.  
Shattuck Avenue, east side, from Ward Street to Stuart Street.  
Shattuck Avenue, west side, from 200 feet south of Ward Street to Stuart Street.  
Shattuck Avenue, both sides, from Stuart Street to Oregon Street.  
Shattuck Avenue, east side, from Oregon Street to Russell Street.  
Shattuck Avenue, both sides, from Russell Street to Ashby Avenue.  
Shattuck Avenue, west side, from Ward Street to Ashby Avenue.  
Shattuck Place, west side, from Rose Street to Shattuck Avenue.  
Solano Avenue, both sides, from Tulare Avenue to The Alameda.  
Solano Avenue, north side, from 140 feet to 184 feet east of The Alameda.  
South Hospital Drive, south side, from Colby Street to 75 feet west of Colby Street.  
Stuart Street, south side, from 50 feet east of Telegraph Avenue to Telegraph Avenue.  
Stuart Street, north side, from Adeline Street to 70 feet east of Shattuck Avenue.  
Tacoma Avenue, both sides, from Solano Avenue to 66 feet north of Solano Avenue.  
Telegraph Avenue, west side, from Dwight Way to Prince Street.  
Telegraph Avenue, east side, from Dwight Way to Woolsey Street.  
The Alameda, east side, from Los Angeles Avenue to Solano Avenue.  
Tenth Street, both sides, from Gilman Street to Camelia Street.  
The Alameda, west side, from 220 feet north of Los Angeles Avenue to 90 feet north of Solano Avenue.  
Tulare Avenue, east side, from 90 feet south of Solano Avenue to Solano Avenue.  
University Avenue, both sides, from McGee Avenue to Third Street.  
Vine Street, north side, from 75 feet east of Walnut Street to 100 feet east of Henry Street.  
Vine Street, south side, from 100 feet east of Henry Street to 150 feet east of Walnut Street.  
Virginia Street, north side, from 150 feet east of Shattuck Avenue to 150 feet west of Shattuck Avenue.  
Virginia Street, south side, from Shattuck Avenue to 125 feet west of Shattuck Avenue.  
Walnut Street, both sides, from University Avenue to Berkeley Way.  
Walnut Street, west side, from Rose Street to 200 feet south of Vine Street.  
Walnut Street, east side, from 75 feet north of Vine Street to 125 feet south of Vine Street.  
Ward Street, north side from Milvia Street to 300 feet east of Milvia Street.  
Webster Street, north side, from Bateman Street to Regent Street.

Webster Street, north side, from Colby Street to 150 feet west of Telegraph Avenue.  
Webster Street, south side, from Colby Street to 100 feet west of Telegraph Avenue.  
Fifth Street, both sides, from Addison Street to Hearst Avenue.  
Fifth Street, west side, from Hearst Street to Virginia Street.  
Fourth Street, east side, from Addison Street to Virginia Street.  
Fourth Street, west side, from Addison Street to Cedar Street.  
Sixth Street, east side, Addison Street to University Avenue.  
Seventh Street, east side, from University Avenue to 150 feet south of University Avenue.  
Eighth Street, west side, from 100 feet north of University Avenue to 200 feet south of University Avenue.  
Ninth Street, west side, from 75 feet north of University Avenue to 150 feet south of University Avenue.  
Ninth Street, east side from Gilman Street to 300 feet north of Gilman Street.  
Tenth Street, east side, from 100 feet north of University Avenue to 100 feet south of University Avenue.  
Tenth Street, west side from Gilman Street to 300 feet north of Gilman Street.

B. goBerkeley Program parking meter zones are those streets or portions of streets in the City located within the goBerkeley Areas hereinafter described as zones within which the parking of motor vehicles shall be controlled, regulated and inspected with the aid of parking meters, pay-and-display stations, and/or a City-approved software application that processes pay-by-phone payments from a mobile phone at fees set in 14.52.120(B):

Addison Street, north side, from Martin Luther King Jr. Way to 170 feet west of Martin Luther King Jr. Way.  
Allston Way, both sides, from Harold Way to Shattuck Avenue.  
Allston way, south side, from Oxford Street to Martin Luther King Jr. Way.  
Ashby Avenue, north side, from College Avenue to Benvenue Avenue.  
Ashby Avenue, south side, from Benvenue Avenue to Elmwood Avenue.  
Ashby Place, east side, from Ashby Avenue to a point 80 feet north of Ashby Avenue.  
Bancroft Way, both sides, from Piedmont Avenue to Fulton Street.  
Bancroft Way, both sides, from Fulton Street to Milvia Street.  
Benvenue Avenue, west side, from Ashby Avenue to 100 feet south of Ashby Avenue.  
Berkeley Way, south side, from Oxford Street to 385 feet west of Shattuck Avenue.  
Berkeley Way, north side, from Oxford Street to Henry Street.  
Blake Street, south side, from 80 feet west of Shattuck Avenue to Shattuck Avenue.  
Bonita Avenue, east side, from University Avenue to Berkeley Way.  
Bowditch Street, east side, from Bancroft Way to Dwight Way.  
Center Street, north side, from Oxford Street to Martin Luther King Jr. Way.  
Center Street, south side, from Oxford Street to Martin Luther King Jr. Way.  
Channing Way, north side, from 200 feet west of Dana Street to College Avenue.  
Channing Way, north side, beginning 250 feet west of Shattuck Avenue to Shattuck Avenue.  
College Avenue, east side, from 75 feet south of Webster Street to 175 feet north of Russell Street.  
College Avenue, west side, from 140 feet north of Russell Street to Webster Street.

College Avenue, east side, from Bancroft Way to 200 feet south of Dwight Way.  
College Avenue, west side, from Bancroft Way to Dwight Way.  
Dana Street, west side, between Bancroft Way and Channing Way.  
Dana Street, west side, from Haste Street to 150 feet south of Haste Street.  
Durant Avenue, north side, from Ellsworth Street to College Avenue.  
Durant Avenue, south side, from Ellsworth Street to College Avenue.  
Durant Avenue, both sides, from Milvia Street to Fulton Street.  
Dwight Way, both sides, from Milvia Street to Fulton Street.  
Dwight Way, south side, from Hillegass Avenue to Benvenue Street.  
Dwight Way, north side, from 300 feet east of Dana Street to 300 feet east of Telegraph Avenue.  
Dwight Way, south side, beginning 325 feet west of Telegraph Avenue and extending 125 feet east of Regent Street.  
Dwight Way, north side, from Bowditch Street to College Avenue.  
Grant Street, both sides, from 100 feet north of University Avenue to 100 feet south of University Avenue.  
Fulton Street, both sides, from Bancroft Way to Kittredge Street.  
Fulton Street, west side, beginning at Durant Avenue and extending south for 80 feet.  
Fulton Street, east side, from Bancroft Way to Durant Avenue.  
Harold way, both sides, from Allston Way to Kittredge Street  
Haste Street, both sides, from Milvia Street to 250 feet east of Shattuck Avenue.  
Haste Street, north side, from College Avenue to Dana Street.  
Haste Street, south side, beginning 350 feet west of Telegraph Avenue to 300 feet east of Telegraph Avenue.  
Haste Street, south side, from Bowditch Street to College Avenue.  
Hearst Avenue, north side, from Oxford Street to Shattuck Avenue.  
Hearst Avenue, south side, from Shattuck Avenue to Oxford Street  
Kittredge Street, both sides, from Shattuck Avenue to Oxford Street.  
Martin Luther King Jr. Way, both sides, from Center Street to Addison Street.  
Milvia Street, both sides, from Berkeley Way to Addison Street.  
Oxford Street, west side, from Hearst Avenue to University Avenue.  
Russell Street, north side, from 85 feet east of College Avenue to 175 feet west of College Avenue.  
Russell Street, south side, from 200 feet west of College Avenue to 120 feet east of College Avenue.  
Shattuck Avenue, both sides, from Hearst Street to University Avenue.  
Shattuck Avenue, both sides, of the west roadway, from University Avenue to Addison Street (Shattuck Square).  
Shattuck Avenue, both sides, of the east roadway, from University Avenue to Addison Street (Shattuck Square).  
Shattuck Avenue, both sides, of the west roadway, from Addison Street to Center Street (Berkeley Square).  
Shattuck Avenue, both sides, of the east roadway, from Addison Street to Center Street (Berkeley Square).  
University Avenue, both sides, from Oxford Street to McGee Avenue.

Webster Street, north side, from 125 feet east of College Avenue to 100 feet west of College Avenue.

Webster Street, south side, from 100 feet west of College Avenue to 125 feet east of College Avenue.

Addison Street, both sides, from Milvia Street to Oxford Street.

Allston Way, both sides, from MLK Jr. Way to Oxford Street.

Berkeley Square, both sides, from Addison Street to Center Street.

Center Street, both sides, from MLK Jr. Way to Oxford Street.

Harold Way, both sides, from Allston Way to Kittredge Street.

Kittredge Street, both sides, from Milvia Street to Shattuck Avenue.

Milvia Street, east side, from Kittredge Street to Center Street.

Milvia Street, both sides, from Center Street to Addison Street.

MLK Jr. Way, both sides, from Center Street to Allston Way.

Oxford Street, both sides, from University Avenue to Kittredge Street.

Oxford Street, east side, from Hearst Street to University Avenue.

Parker Street, both sides, from 100 feet west of Shattuck Avenue to Shattuck Avenue.

Parker Street, north side, from 100 feet east of Shattuck Avenue to Shattuck Avenue.

Shattuck Avenue, both sides, from Center Street to Carleton Street.

Telegraph Avenue, both sides, from Dwight Way to Bancroft Way.

C. The City Traffic Engineer shall cause parking meters and pay-and-display stations to be installed and maintained in all parking meter zones and goBerkeley Program parking meter zones.

Section 2. That Berkeley Municipal Code Section 14.72.030 amended to read as follows:

**14.72.030 Definitions.**

A. "Designated residential parking permit area" means any contiguous area upon which the Council imposes parking limitations pursuant to the authority granted by this chapter.

B. "Mixed use" means the use of a lot or building with two or more different land uses including, but not limited to, residential, commercial, retail, office or manufacturing, in a single structure or a group of physically integrated structures; in a neighborhood context, it means blocks containing single-use residences interspersed with other land uses, such as commercial or industrial.

C. "Mixed Use-Residential" refers to the zoning designation so defined in Berkeley Municipal Code Chapter 23E.84.

D. "Assessor's Use Code" means the code used by the Alameda County Assessor to assess property for property tax purposes. These codes cover a range of building descriptions and uses, including a variety of residential uses.

E. "Nonresidential vehicle" means a motor vehicle not eligible to be issued a residential parking permit, pursuant to the terms and conditions of this chapter, for the specific area in which it is parked. However, it could be eligible for a local business parking permit, or any other parking permit the council shall designate.

F. "Residential parking permit" means a permit issued under this chapter which, when displayed upon a vehicle, as described herein, shall exempt said vehicle from parking time restrictions established pursuant to this chapter.

G. "Local business parking permit" means a permit issued under this chapter which, when displayed upon a motor vehicle, shall exempt said vehicle from parking time restrictions established pursuant to this chapter.

H. "Trapped resident" means: 1) any resident whose dwelling is on a block that may not legally opt-in because less than 80% of the block fronts are residentially zoned and either: a) whose address is on a block front adjacent to and/or surrounded by block fronts that are already included in the RPP program; or b) whose address is within the general boundary of a designated RPP area; or 2) any resident whose dwelling abuts controlled curb parking and either: a) whose address is on a block front adjacent to and/or surrounded by RPP areas; or b) whose address is within the general boundary of a designated RPP area.

I. "Neighborhood-service community facility" means churches, schools and senior centers located wholly within the general boundary of an RPP designated area.

J. "Neighborhood-serving business and establishment" means any business or establishment located in a neighborhood commercial district as defined in the Zoning Ordinance Section Cla, Clb, Clc, Clb(E).

K. "One-day visitor permit" means a parking permit issued pursuant to this chapter or an ordinance enacted pursuant to authority granted herein, which shall exempt the vehicle from parking time restrictions pursuant to this chapter, for the date indicated upon the face of said permit.

L. "Two-week visitor permit" shall mean a parking permit issued pursuant to this chapter or an ordinance enacted pursuant to authority granted herein, which shall exempt the vehicle from parking time restrictions established pursuant to this chapter for a period of 14 consecutive calendar days, beginning upon the date indicated upon the face of said permit.

M. "Motor vehicle" shall be an automobile, truck, motorcycle or other self-propelled form of transportation not in excess of 8,000 pounds gross weight and not in excess of 20 feet in length. A trailer, trailer coach, utility trailer, motor home/(RV), or any other type of vehicle as defined in the California Vehicle Code that is not self-propelled, is not eligible for a RPP permit.

N. "Controlled curb parking" means any on-street parking with existing parking limitations, such as meters, time restrictions, red zone, etc.

O. "Schools" shall mean any school or other place of learning providing a pre-school, elementary or secondary level of study, and which regularly employs a staff of at least 15 certificated persons regularly employed as a classroom teacher.

P. "Senior centers" means the three senior centers affiliated with the City: North Berkeley Senior Center, South Berkeley Senior Center and the West Berkeley Senior Center.

Section 3. That Berkeley Municipal Code Section 14.72.050 amended to read as follows:

**14.72.050 Designation of a residential permit parking area.**

A. There shall be two alternative processes by which City Council could consider any area for designation as a residential permit parking area:

1. Residents petition. The City Council shall consider for designation as a residential permit parking area any proposed area for which a petition has been submitted which meets and satisfies the following requirements:
  - a. Prior to obtaining signatures, neighborhood organizers shall consult with City staff to assure that the proposed area meets guidelines set in the administrative regulations for the establishment of permit parking boundaries.
  - b. The petition shall contain a description or a map showing the proposed residential permit parking area.
  - c. Said description or map shall be followed in the petition by a statement describing the residential permit parking program and the current residential permit fees.
  - d. The statement shall be followed by a signature, printed name, address, and date of signing of the application by a number of adult residents including at least 51% of the housing units within the area.
  - e. For applicants in areas zoned Mixed-Use Residential, a petition shall only be deemed valid if at least 51% of the housing units on each block face have an address that has a residential Assessor's Use Code.
  - f. All petitions shall be the same as the standard petition form developed by City staff. Any petition form different from the standard petition form shall be deemed invalid for the purposes of this chapter.
  - g. In the proposed residential permit parking area at least 80% of the block fronts with unlimited on-street parking must be residentially zoned, and at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.
  - h. In areas zoned Mixed-Use Residential, at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.
2. City Council initiation. City Council shall consider for designation as a residential permit parking area any area for which the following requirements have been met:
  - a. City Council shall initiate the area as a residential permit parking area.
  - b. For areas zoned Mixed Use-Residential, Council shall only initiate the area as a residential permit parking area if at least 51% of the housing units on each block face have an address that has a residential Assessor's Use Code.
  - c. In the proposed residential permit parking area at least 80% of the block fronts with unlimited on-street parking must be residentially zoned, and at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m. or unlimited on-street parking is projected to be impacted by parking spillover from a more congested residential permit parking area.
  - d. In areas zoned Mixed Use-Residential, at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.
  - e. A notice of intent to establish permit parking shall be sent to all addresses within the proposed residential parking permit area.



B. Upon receipt by the City Council of a petition as described in subsection A.1 of this section, or after Council has initiated a residential permit parking area as described in subsection A.2 of this section, the Council shall:

1. Undertake or cause to be undertaken such surveys or studies which it deems necessary.
2. Cause to be drafted a resolution which would establish a residential permit parking area based upon the aforementioned proposal and studies, including all regulations and time restrictions determined by the Council to be reasonable and necessary in such area.

C. The Council shall thereafter conduct a public hearing on said draft resolution. Notice of the hearing shall be posted at least ten days prior to the hearing on all block fronts proposed to be included in the residential permit parking area. Following the hearing, the City Council may enact, amend or reject said draft resolution in any manner, including but not limited to, modification of boundaries of the proposed area and the restrictions imposed on such proposed area. In order to grant permit parking designation, Council shall find that the designation will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing in the area of designation. In reaching this decision consideration shall be given to the residents' support for residential permit parking, the existing parking conditions, the expected effectiveness of residential permit parking in improving parking conditions, and the location and size of the residential permit parking area.

Section 4. That Berkeley Municipal Code Section 14.72.090 amended to read as follows:

**14.72.090 Residential parking permit.**

A. The City Manager and/or his/her designee shall issue residential parking permits with a term not to exceed of one year to motor vehicles which comply with the requirements set forth in this section.

1. No more than three (3) permits may be purchased for each residential address. Applicants may request a waiver if additional permits are needed.
2. In areas zoned Mixed Use-Residential (MU-R), no more than two (2) permits may be purchased for each residential address. Applicants may request a waiver if additional permits are needed.
3. The City Traffic Engineer is authorized to issue such rules and regulations necessary to grant waivers to the annual permit limits.

B. A residential parking permit may be issued for a motor vehicle only upon application of the following person:

1. The applicant must demonstrate that he or she is currently a resident of the area for which the permit is to be issued; and
2. The applicant must demonstrate that he or she has ownership or continuing custody of the motor vehicle for which the permit is to be issued; and
3. Any motor vehicle to be issued a permit must have a vehicle registration indicating registration within the area for which the permit is to be issued.

C. A residential parking permit may in addition be issued for any vehicle in the area regularly utilized by a person who owns or leases commercial property and actively engages in business activity within the particular residential permit parking area. However, no more than one parking permit, or any greater number which the City Council may determine appropriate for the particular residential permit parking involved area, may be issued for each business establishment for a motor vehicle registered to or under the control of such a person.

D. A residential parking permit may be issued for any vehicle utilized in the area by a nonresidential nonbusiness enterprise, such as a church, school, or hospital, located wholly or partially within the particular residential permit parking area. However, no more than one parking permit, or any greater number which the City Council may determine appropriate for the particular permit parking area involved, may be issued for each such enterprise within each permit area for a motor vehicle registered to or under the control of such an enterprise.

E. Any person to whom a residential parking permit has been issued pursuant to this section shall be deemed a permit holder.

Section 5. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on February 13, 2018, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: None.

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

FEES: RESIDENTIAL PREFERENTIAL PARKING PERMITS

WHEREAS, on December 16, 2014, Council adopted Resolution No. 66,895-N.S., establishing a revised fee schedule for parking permits for annual residential preferential parking; 1-Day Visitors, 2-Week Visitors, and annual in-home care, annual community-serving facility, annual merchant, 1-Day Senior Center, Semi-annual residential, and Semi-annual in-home care permits issued for the Residential Preferential Parking (RPP) Program, and rescinded Resolution No. 66,075-N.S.; and

WHEREAS, the current RPP Program is operating at an annual deficit of at least \$195,800; and

WHEREAS, it is necessary to increase RPP permit fees in order to operate the RPP Program as a cost-neutral program in accordance with Council Budget Policies.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following fees for the RPP Program are hereby established:

| Permit Type                                                                                          | Permit Fees |
|------------------------------------------------------------------------------------------------------|-------------|
| Annual Residential & In-Home Care                                                                    | \$66.00     |
| Semi-Annual Residential & In-Home Care                                                               | \$33.00     |
| 1-Day Visitor                                                                                        | \$3.00      |
| 14-Day Visitor                                                                                       | \$34.00     |
| Community-Serving Facility                                                                           | \$83.00     |
| Merchant                                                                                             | \$185.00    |
| 1-Day Senior Center                                                                                  | \$1.00      |
| Replacement Fee for Annual, 14-Day, Community-Serving Facility, & Merchant Permits                   | \$15.00     |
| Surcharge Per Additional Annual Residential Permit Over Cap of Three (3), Only If Waiver is Approved | \$100.00    |

BE IT FURTHER RESOLVED that these fees shall be effective March 1, 2018 for FY 2019 permit purchases and shall be deposited into the General Fund.

BE IT FURTHER RESOLVED that Resolution No. 66,895-N.S. is hereby rescinded effective March 1, 2018.

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL  
CITY COUNCIL CHAMBERS, 2134 MARTIN LUTHER KING JR. WAY**

**FEES: RESIDENTIAL PREFERENTIAL PARKING PERMITS  
TUESDAY, FEBRUARY 27, 2018 AT 6:00 P.M.**

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Public Works is proposing to increase the cost of annual Residential Preferential Parking (RPP) permits, effective March 1, 2018, for permits purchased for FY 2019, as summarized below:

| <b>Permit Type</b>                                                                                   | <b>Current Fee</b> | <b>Proposed Fee</b> |
|------------------------------------------------------------------------------------------------------|--------------------|---------------------|
| Annual Residential & In-Home Care                                                                    | \$55.00            | \$66.00             |
| Semi-Annual Residential & In-Home Care                                                               | \$27.50            | \$33.00             |
| 1-Day Visitor                                                                                        | \$2.75             | \$3.00              |
| 14-Day Visitor                                                                                       | \$28.25            | \$34.00             |
| Community-Serving Facility                                                                           | \$69.00            | \$83.00             |
| Merchant                                                                                             | \$154.00           | \$185.00            |
| 1-Day Senior Center                                                                                  | \$1.25             | \$1.00              |
| Replacement Fee for Annual, 14-Day, Community-Serving Facility, & Merchant Permits                   | \$12.50            | \$15.00             |
| Surcharge Per Additional Annual Residential Permit Over Cap of Three (3), Only If Waiver is Approved | N/A                | \$100.00            |

The hearing will be held on February 27, 2018, at 6:00 p.m. in the City Council Chambers, 2134 Martin Luther King, Jr. Way.

A copy of the agenda material for this hearing will be available on the City’s website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **February 15, 2018**.

For further information, please contact Farid Javandel, Transportation Division Manager, at (510) 981-7061.

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist at 981-6418 (V) or 981-6347

(TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

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](mailto:clerk@cityofberkeley.info) for further information.

**Published:** February 16 and February 23, 2018 – The Berkeley Voice

Pursuant to Government Code Section 6062a

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on February 15, 2018.

Mark Numainville, City Clerk

**City of Berkeley, Public Works Department, Transportation Division
Responses to Council Questions at City of Berkeley Council Worksession,
September 19, 2017**

The Mayor and other Councilmembers asked a number of specific questions of staff at the September 19, 2017 Worksession concerning the Residential Preferential Parking (RPP) Program. This document summarizes staff's responses to these questions.

Question 1: How do we prioritize phasing in blocks? (Mayor Arreguin)

Answer: There are two ways blocks can opt-in, either by resident petition or City Council initiation. (BMC [14.72.050](#)) Resident petitions are addressed in the order they are received.

Question 2: Can we require residents to park one vehicle on their property? (Hahn)

Answer: Likely not, as streets are public property. We can, however, institute caps on the number of permits households can purchase. Neighboring cities have conducted parking inventory studies and indicated which parcels can accommodate off-street parking, and have subsequently reduced the caps to account for driveways, etc.

Question 3: Why do certain commercial areas not have meters? (Wengraf)

Answer: Parking meters may not be appropriate for all commercial areas, particularly if parking is generally available even at peak times. Due to a combination of historic pushback from businesses, as well as limited staff and materials resources, staff have typically waited for businesses or business districts to request the installation of meters to increase (or maintain) customer parking availability.

Question 4: How would you assess [whether visitors have paid to park in RPP areas, under a program wherein non-permitholders are required to pay]? (Maio)

Answer: One suggested methodology would be to require payment if a valid RPP permit is not displayed. Pay by phone technology will make it easy to pay to park without meters at every space, and pay stations can be installed at the ends of blocks to ensure those without smartphones can pay as well.

Question 5: How do you guarantee enforcement? (Davila)

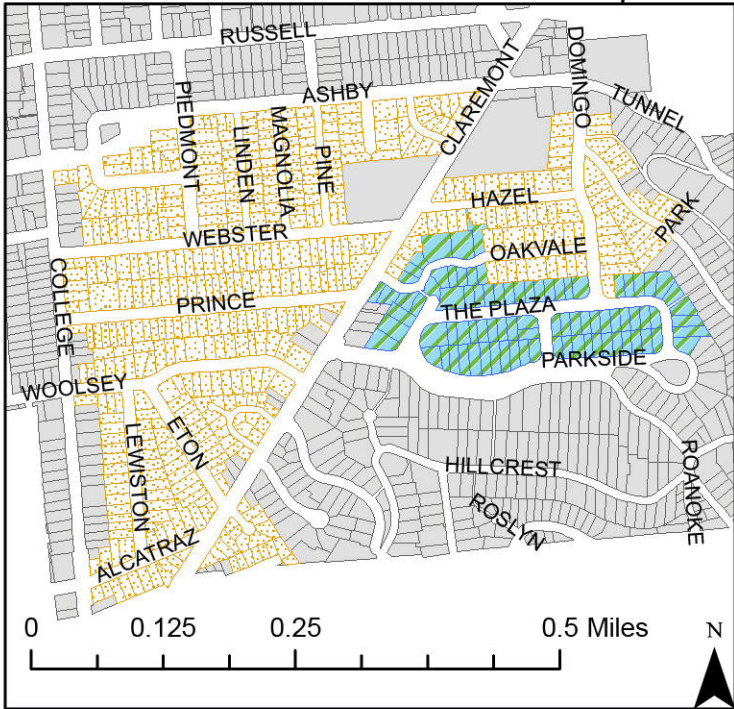
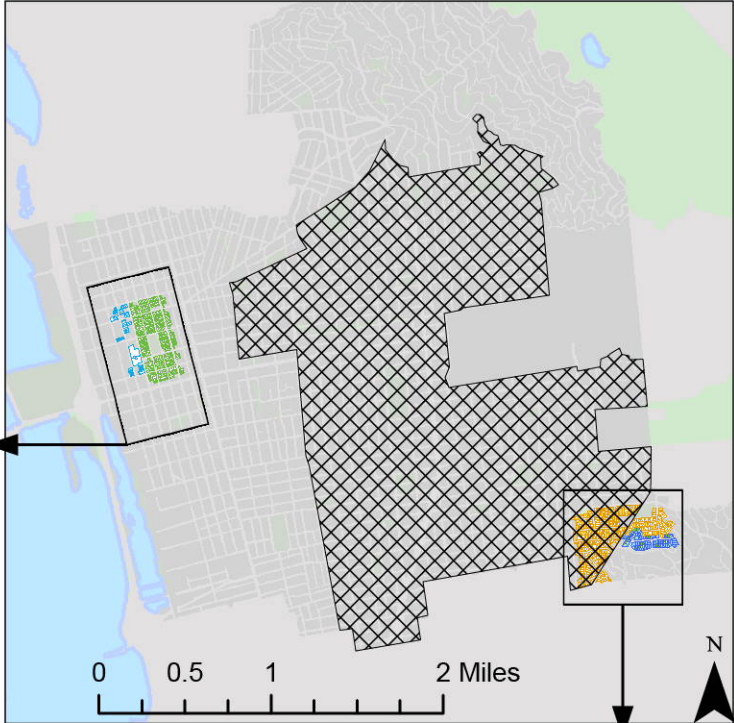
Answer: Public Works/Transportation cannot guarantee enforcement alone. The Parking Enforcement Unit is overseen by the Berkeley Police Department. However, a service level agreement could help to ensure certain levels of enforcement activity are spent on RPP areas.

Question 6: How do you opt-out of the RPP program? (Davila)






Answer: By petition. A minimum of 51% of the housing units must sign the petition to exclude their block from residential permit parking designation. (BMC [14.72.060](#))

Question 7: Is there a breakdown between revenue from permit purchases and revenue from enforcement? (Wengraf)

Answer: Yes. Gross RPP permit revenue for FY 2017 was approximately \$1m. Gross Parking Citation revenue collected for RPP citations during FY 2017 totaled approximately \$1.3m.



ATTACHMENT 5: MAP OF TARGETED EXPANSION AREAS

-  Existing RPP Area Boundary
-  Proposed Mixed Use Eligible
-  Proposed New Area Eligible
-  Currently Opted into Area L
-  Proposed Eligible to Opt In

This map is for reference purposes only.
Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors.
January 17, 2018



Office of the City Manager

WORKSESSION
September 19, 2017

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip L. Harrington, Director, Department of Public Works

Subject: Residential Preferential Parking (RPP) Program Recommendations

INTRODUCTION

This worksession shall discuss the origins of the Residential Preferential Parking (RPP) Program including related City policies; challenges facing the current RPP Program; recommendations for improving Program operation in the existing 14 RPP areas, and applying those improvements to new RPP areas as the Program expands.

CURRENT SITUATION AND ITS EFFECTS

At the May 31, 2016 Work Session,¹ staff presented an update to City Council on the feasibility of expanding the RPP Program citywide. As a follow-up, staff conducted a comprehensive FY 2016 analysis of the City's RPP Program. That analysis reviewed the Program's fiscal solvency, considered its efficacy in meeting City policy goals (summarized in Attachment 1), and identified several existing challenges:

1. The RPP Program operates at a deficit. In FY 2016, the Program accrued an operational deficit of \$290,354, meaning the General Fund effectively subsidizes 11% of the Program. This does not satisfy Council-adopted fiscal policies, which call for "developing long-term strategies to reduce unfunded liabilities," and if the RPP Program is to be expanded, "requiring...new programs to pay for themselves."²
2. There are no limits on annual permit purchases, meaning residents may purchase as many permits as they want. Berkeley is an outlier as most cities with residential permit programs, including San Francisco and Oakland, have a cap on the number of annual permits available per year to discourage individual overuse of shared on-street parking resources.³
3. The two-hour time limit for non-permit holders results in adverse impacts within neighborhoods. Anecdotal evidence from merchants and residents

¹May 31, 2016 Council Work Session: *Citywide Residential Preferential Parking Expansion* at <http://bit.ly/2k6uGkG>

²City of Berkeley Budget Office: Council Budget Policies: <http://bit.ly/2k5n2b7>

³A summary of policies guiding permit maximums in San Francisco, Oakland, and Walnut Creek is provided as Attachment 2.

- indicates that the current two-hour time limit leads to the “two-hour shuffle,” as nonresidents (e.g., employees of nearby commercial districts) move their cars every two hours to avoid the risk of a citation. This behavior causes increased congestion, noise, and greenhouse gas emissions.
4. The RPP Program may not fully reflect new transportation options, current resident needs, or Council priorities and goals. Berkeley has changed in the nearly 40 years since the RPP Program was first implemented, and a larger conversation about the goals and strategies of the RPP Program is needed to ensure it continues to effectively and equitably address the City’s needs.
 5. Football game day parking poses a unique, infrequent but perennial challenge in certain RPP areas. At the July 25, 2017 Council Meeting, staff presented a recommendation from the Transportation Commission summarizing current problems with non-resident parking in RPP areas surrounding the University of California-Berkeley (UC Berkeley) campus on football game days. Staff recommended new resident-only permit restrictions, and a \$300 fine for others parking in RPP areas during these events.⁴ While a more robust strategy is needed to address this issue, the specific nature of this problem calls for a targeted strategy independent of the RPP Program at large (i.e., football games occur six days per year, while the RPP Program is in effect 313 days per year).

BACKGROUND

The RPP Program was instituted in 1980 (1) to protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic (2) to assure continued quality of life for residents, and (3) to provide neighborhood parking for residents. The Program limits parking for vehicles not displaying an RPP permit in most RPP areas to two hours, and reserves available daytime parking for residents, between 9:00a.m. and 7:00p.m. Monday through Friday, and on some blocks Saturday.

There are currently fourteen RPP zones (Zones A-N) that cover central Berkeley and lie largely adjacent to commercial areas and/or the UC Berkeley campus. Eligible streets are added to the RPP Program when residents on an eligible block submit a qualifying number of signatures exceeding 51% on petitions to “opt-in” to the RPP Program, and a parking survey shows at least 75% of available on-street parking spaces of the subject blocks are occupied during mid-morning and mid-afternoon.

In March 2014,⁵ Council asked staff to evaluate the costs and benefits of allowing the RPP Program to expand beyond its current geographic boundaries. Staff has

⁴July 25, 2017 *City Council Agenda: Referral Response: Reassess UC Berkeley Game Day Parking Fines in RPP Areas A, B, D, F, and G Surrounding Campus* at <http://bit.ly/2fwXaEj>

⁵March 11, 2014 *City Council Agenda: Expansion of Permit Parking to Impacted Areas* <http://bit.ly/2vTgnqD>

periodically returned to Council since then to solicit feedback on expanding the Program.

ENVIRONMENTAL SUSTAINABILITY

Expansion of the RPP Program may encourage some drivers who work in commercial areas adjacent to proposed RPP areas to consider using other modes of travel, thereby potentially reducing parking demand and congestion. However, based upon feedback from merchants adjacent to existing RPP Program areas, staff anticipate the “two-hour shuffle” may also begin to occur in RPP expansion areas. This behavior would have an adverse impact on traffic congestion, air quality, and excess fuel consumption. Implementing limits on the number of available permits, and progressive rates for purchasing more than one permit, may also encourage residents to consider alternatives to driving and parking for trips within the City.

POSSIBLE FUTURE ACTION

Staff recommends three tiers of adjustments to the RPP Program that would be implemented over the next several years:

Short-Term Recommendations (FY 2018): Strengthen Existing RPP Program

- **Increase permit costs to eliminate the Program deficit.** Cost neutrality is achievable by increasing all permit costs by 31%, with the annual residential permit increasing to \$72/year.
- **Implement a cap on the number of annual permits that can be purchased by a single address/household.** Staff recommends a maximum of three (3) permits, with a waiver available for special circumstances. Permit maximums could also be variable by RPP area depending on demand and available supply.
- **Implement progressive rates for multiple permits.** Under this model, residents would pay more for a second and third annual permit, with a similar model established for visitor permits.
- **Evaluate the feasibility of providing low-income permits while maintaining Program cost neutrality.**

Develop Targeted Strategy for Game Day Parking in Campus-Adjacent RPP Areas

- **Implement a “Special Event Permit” overlay in parts of RPP areas surrounding the UC Berkeley campus.** The Transportation Commission recommendation to solve game day parking issues represented a “stick” (i.e., largely punitive) approach to addressing resident concerns. By contrast, Staff recommend a “carrot” approach which would include increasing game day fines and offering a limited number of strategically priced game-time permits allowing visitors to park in residential areas near the stadium. Under this program, revenue from the visitor permits would help support the overall RPP Program, and non-residents needing to park in residential areas for non-game reasons (i.e., employees for a shift) would not be unduly penalized. Staff plan to collect data during upcoming games to better understand parking

availability constraints and recommend where to implement the special event overlay.

Mid-Term Recommendations (FY 2019): Strategically Expand RPP Program

- **Incrementally expand RPP Program “citywide,” increasing permit fees commensurately to maintain cost neutrality.** Staff recommend initially allowing either 50 or 125 new blocks to opt into the Program. Based on staff’s analysis, the annual permit price should be set at \$79/year for up to 50 new blocks, or \$87/year for up to 125 new blocks to maintain cost neutrality.
- **Consider a longer time limit for non-residents in some areas to reduce the frequency of the “two-hour shuffle.”**
- **Reassess the RPP Program’s fiscal solvency on a yearly basis.**

Long-Term Recommendations (FY 2018-2021): Reassess Overall RPP Program

- **Conduct a full assessment of the RPP Program.** In 2015, the San Francisco Municipal Transportation Agency launched a comprehensive review of its 40-year old Residential Parking Permit program.⁶ Staff recommends a similar evaluation of our RPP Program, which would include setting new goals and metrics to track effectiveness. The upcoming Residential Shared Parking Pilot program may assist this process, modeling stakeholder outreach, goal setting, and new strategies in pilot RPP areas around the Elmwood and Southside.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Revenue supporting the RPP Program comes from permit sales and RPP-related parking citations. While staff assumes revenue increases with new Special Event Permits for football game days, and as the Program expands to new blocks, actual amounts of new permit purchases and citations are unknown, making future revenues difficult to forecast. Nevertheless, increasing permit fees to eliminate the ongoing operational deficit at existing and future geographic extents will result in a cost-neutral Program, allowing permit issuance and parking enforcement services to continue without depriving other City programs of needed General Fund support. Further evaluation of recommended policy adjustments will require an undetermined amount of staff time and resources.

CONTACT PERSON

Farid Javandel, Transportation Division Manager (510) 981-7061

Danette Perry, Parking Services Manager (510) 981-7057

Gordon Hansen, Senior Planner (510) 981-7064

Attachments:

1: Summary of Adopted City Policies Related to RPP

⁶San Francisco Municipal Transportation Agency: Residential Parking Permit Evaluation & Reform Project
<http://bit.ly/1OSUmw6>

2: Summary of Peer City Residential Parking Permit Policies

City Policies Related to the Residential Preferential Parking (RPP) Program

This document summarizes adopted City plans and other policies that address the Residential Preferential Parking (RPP) Program, driving and parking behavior in Berkeley, and/or City fiscal policies. These plans/policies include:

1. Berkeley Municipal Code
2. City of Berkeley General Plan
3. Berkeley Climate Action Plan
4. Southside Plan
5. West Berkeley Circulation Master Plan: Transportation Demand Management (TDM) Plan Report
6. Council Budget Priorities

1. Berkeley Municipal Code

The Berkeley Municipal Code (BMC) sets forth the laws of the City of Berkeley. It is periodically modified by Council Ordinance.

Chapter 14.72 of the BMC outlines the premise, purpose, and methods of the RPP Program. Chapters 14.72, 14.76, and 14.80 provide specific guidance on RPP Areas A (Bateman), B (Willard), and C (Magna), respectively.

These BMC sections are too long to include in this summary in full, so only certain provisions are excerpted here. The full BMC is available here:

<http://www.codepublishing.com/CA/Berkeley/>

Section 14.72.010 Legislative Purpose.

This chapter is enacted in response to the serious adverse effects caused in certain areas and neighborhoods of Berkeley by motor vehicle congestion, particularly the long-term parking of motor vehicles on the streets of such areas and neighborhoods by nonresidents thereof. As set forth in more specific detail in Section 14.72.020, such long term parking by nonresidents threatens the health, safety and welfare of all of the residents of Berkeley. In order to protect and promote the integrity of these areas and neighborhoods, it is necessary to enact parking regulations restricting unlimited parking by nonresidents therein, while providing the opportunity for residents to park near their homes. Uniform parking regulations restricting residents and nonresidents alike would not serve the public interest, rather such regulations would contribute to neighborhood decline while ignoring the public transit alternatives to automobile travel available to nonresidents. For the reasons set forth in this chapter, a system of preferential resident parking is enacted hereby for the City of Berkeley (Ord. 5908-NS § 1, 1989; Ord. 5803-NS § 2, (part), 1987)

Section 14.72.020 Legislative Findings

A. General Finding. The City Council finds as a result of public testimony, evidence generated by both professional urban planning studies and derived from other sources, that the continued vitality of Berkeley depends on the preservation of safe, healthy and attractive neighborhoods and other residential areas therein. The Council further finds that one factor that has detracted from the safety, health and attractiveness of neighborhoods and other residential areas of the City is the excessive and burdensome

practice of nonresidents of certain areas and neighborhoods parking their motor vehicles for extended periods of time therein. Since there is in Berkeley at any one time a large surplus of motor vehicles over available on and off-street parking spaces, this condition detracts from a healthy and complete urban environment. A system of preferential resident parking will serve to reduce a number of strains on residents of the City and thus promote the general public welfare.

B. Specific Findings. The following specific legislative findings of the City Council in support of preferential resident parking are set forth as illustrations only and do not exhaust the subject of the factual basis supporting its adoption:

1. The safety, health, and welfare of the residents of Berkeley can be greatly enhanced by maintenance of the attractiveness and livability of its neighborhoods and other residential areas.
2. A large portion of Berkeley residents possess automobiles and, as a result, are daily faced with the need to store these automobiles in or near their residences.
3. Certain neighborhoods and areas of Berkeley do not have sufficient on or off-street space to accommodate the convenient parking of motor vehicles by residents thereof in the vicinity of their homes. To the extent that such facilities do exist, the program set forth herein is designed to encourage the maximum feasible utilization of off-street parking facilities.
4. Such areas as described above are often further burdened by influxes of motor vehicles owned by nonresidents which compete for the inadequate available on-street parking spaces.
5. There further exist certain parking "attractors" within Berkeley, such as hospital and university complexes, employment centers, BART stations, and locations convenient for commute parking, which further exacerbate resident parking problems.
6. Unnecessary vehicle miles, noise, pollution, and strains on interpersonal relationships caused by the conditions set forth herein work unacceptable hardships on residents of these neighborhoods and other residential areas by causing the deterioration of air quality, safety, tranquility, and other values available in an urban residential environment.
7. If allowed to continue unchecked, these adverse effects on the residents of Berkeley will contribute to a further decline of the living conditions therein, a reduction in the attractiveness of residing within Berkeley, and consequent injury to the general public welfare.
8. The system of residential permit parking as enacted by this chapter will serve to promote the safety, health and welfare of all the residents of Berkeley by (a) reducing unnecessary personal motor vehicle travel, noise, and pollution, and (b) promoting improvements in air quality, the convenience and attractiveness of urban residential living, and the increased use of public mass transit facilities available now and in the future. (Ord. 5908-NS § 1, 1989; Ord. 5803-NS § 2 (part), 1987)

Section 14.72.040 Permit Parking Exemption.

A. A motor vehicle on which is displayed a valid residential parking permit as provided for herein shall be permitted to stand or be parked in the residential permit parking areas for which the permit has been issued without being limited by time restrictions established pursuant to this chapter or any resolution thereunder. Additionally, a motor vehicle displaying a valid local business parking permit or a valid neighborhood-serving community facility permit as provided herein shall be permitted to stand or park in a designated residential permit parking area for which the permit has been issued without being limited by time restrictions established pursuant to this chapter. Any vehicle which does not display a valid parking permit shall be subject to the preferential parking regulation and consequent penalties in effect for such area.

B. A residential or local business parking permit or any other permit as designated by council shall not guarantee or reserve to the holder thereof an on-street parking space within the designated residential permit parking area.

C. This chapter shall not be interpreted or applied in a manner which shall abridge or alter regulations established by authority other than this chapter. (Ord. 5908-NS § 1, 1989; Ord. 5803-NS § 2, (part), 1987)

2. City of Berkeley General Plan: A Guide for Public Decision-Making (2001)

The Berkeley General Plan (Plan) is a comprehensive, long-range statement of community priorities and values developed to guide public decision-making. The Plan's goals, objectives, and policies serve as a guide for day-to-day decisions that are essential for responsive government. It was last updated in 2001. The following excerpts are from the "Transportation Element" of the General Plan, which establishes policies for the movement of people, goods, and vehicles through the City.

The full Plan is available here: <http://bit.ly/2uKUvZr>

The Transportation Element is available here: <http://bit.ly/2fx0v6l>

Policy T-10 Trip Reduction

To reduce automobile traffic and congestion and increase transit use and alternative modes in Berkeley, support, and when appropriate require, programs to encourage Berkeley citizens and commuters to reduce automobile trips, such as:

6. "Car-sharing" programs.

8. Programs to encourage neighborhood-level initiatives to reduce traffic by encouraging residents to combine trips, carpool, telecommute, reduce the number of cars owned, shop locally, and use alternative modes.

9. Programs to reward Berkeley citizens and neighborhoods that can document reduced car use.

Policy T-12 Education and Enforcement

Support, and when possible require, education and enforcement programs to encourage carpooling and alternatives to single-occupant automobile use, reduce speeding, and increase pedestrian, bicyclist, and automobile safety.

Actions:

A. Consider developing a program that rewards households, block groups, or neighborhood organizations that can document their reduction in automobile use. Consider discounts on electric bicycles to reward automobile use reduction.

Policy T-13 Major Public Institutions

Work with other agencies and institutions, such as the University of California, the Berkeley Unified School District, Lawrence Berkeley Laboratory, Vista Community College, the Alameda County Court, and neighboring cities to promote Eco-Pass and to pursue other efforts to reduce automobile trips. (Also see Land Use Policy LU-39.)

Actions:

F. Continue limiting the number of residential parking permits given to BUSD faculty and staff.

Policy T-31 Residential Parking

Regulate use of on-street parking in residential areas to minimize parking impacts on neighborhoods. (Also see Land Use Policy LU-10.)

Actions:

A. Improve enforcement of the Residential Preferential Parking Program.

B. Restrict Residential Parking Permits to residents of the district and further limit the number of guest passes that can be issued to a single address.

C. Correct abuses of 14-day and 1-day Residential Preferential Parking visitor permits.

D. Do not issue parking permits to residents of new car-free housing developments or to residents of projects which have been granted variances to reduce required off-street parking.

E. Discourage use of on-street parking for long-term storage of cars.

F. Enforce regulations against parking on lawns and sidewalks.

G. Ensure provision of adequate off-street parking for new projects in low-density residential areas.

H. Add information on transit alternatives on parking tickets.

I. Allow the expansion of RPP areas if it is found that additional residential streets are being used for employee and other commercial parking or vehicle storage.

J. Revise the RPP program to further restrict the number of permits issued to institutional users and set clear standards for issuance of RPP permits to institutions that include requirements for on-site transportation demand management programs and transportation alternatives.

Policy T-40 Parking Impacts

When considering parking impacts under the California Environmental Quality Act for residential projects with more than two units located in the Avenue Commercial, Downtown, or High Density Residential land use classifications, any significant parking impacts identified that result from the project should be mitigated by improving alternatives to automobile travel and thereby reducing the need for parking. Examples include improvements to public transportation, pedestrian access, car sharing programs, and bicycle facility improvements. Parking impacts for these projects should not be mitigated through the provision of additional parking on the site. The City finds that:

1. Parking supply and demand may easily be adjusted by changing local pricing policies and by changing how the supply is managed.
2. As the parking supply increases or parking costs decrease, automobile use becomes a more attractive transportation alternative and demand for parking increases. As parking supply decreases and its price increases, demand decreases.
3. Increasing the parking supply increases automobile use, which causes a measurably negative impact on the environment.

3. Berkeley Climate Action Plan (2009)

In 2006, Berkeley voters approved ballot Measure G, which set forth a mandate to reduce the city's greenhouse gas emissions by 80% below 2000 levels by 2050. The Berkeley Climate Action Plan was written through a community-wide process and was adopted by City Council on June 2, 2009. The community's target for the year 2020 is to reduce community-wide GHG emissions 33% (below 2000 levels).

Chapter 3: Sustainable Transportation & Land Use: Pricing Strategies

As well as encouraging residents to choose an alternative to the car, it is important that those who choose or need to drive a car pay the full costs, including environmental costs, of doing so. This is especially true for individuals who drive alone. Examples of how these costs may be addressed in Berkeley include:

- Expanding parking pricing (e.g., meters and/or permit zones) to certain areas where parking is currently free
- Implementing a parking fee that would make it more expensive for individuals to own multiple cars

- Increasing parking costs associated with existing on- and off-street parking facilities

As well as serving as a disincentive to driving, such fees also serve to build revenue that can be used to provide enhanced, more sustainable mobility options in Berkeley and in the region. Action must be taken to ensure that any additional fees do not negatively affect low-income households. On the contrary, fees should be structured and employed to improve access to a range of transportation modes. (pp. 19-20)

Chapter 3: Sustainable Transportation & Land Use: Goal #3: Manage Parking More Effectively to Minimize Driving Demand and to Encourage and Support Alternatives to Driving

a. Policy: Design and implement parking strategies to create disincentives for driving – especially for single-occupancy commuting – and, where possible, to build revenue for transportation services.

Implementing Actions

- Identify areas in Berkeley in which increased parking rates would effectively discourage driving and generate new revenue while not having a significant negative effect on local businesses. Such neighborhoods should be well served by alternative transportation options.
- Identify areas in Berkeley in which extending parking meter hours of enforcement would effectively discourage driving and build new revenue while not having a significant negative effect on local businesses.
- Evaluate the feasibility and efficacy of redesigning the Residential Preferential Parking (RPP) Program so as to apply it citywide (in every neighborhood) and utilize the revenue to design programs and infrastructure that make alternative transportation options more accessible, convenient, and attractive.
- Structure RPP permit costs so that each additional permit acquired by a given household escalates in cost.
- Consider setting RPP permit prices based on the fuel efficiency of the vehicle for which the permit is being acquired.
- Install RPP permit holder-exempt parking meters in some RPP zones. (pp. 35-36)

4. Southside Plan (2001/2011)

Strategic Statement: Overarching goal #2: Reduce the number of trips to, from, and through the Southside made in single occupant automobiles (p. 67)

Policy T-E3: Rigorously enforce the Residential Preferential Parking Program. Make changes to the visitor/guest permits to eliminate abuses of 14-day and 1-day visitor/guest permits. Consider increasing the cost of these temporary permits; placing a limit on the number that can be purchased at one time and over the course of a year; replacing 14-day permits with 7-day permits; and/or making them more difficult to counterfeit. (p.95)

5. West Berkeley Circulation Master Plan: Transportation Demand Management (TDM) Plan Report (2009)

Program Integration Goals

Development of a Parking Strategy that Makes Transit User Costs Lower than Single Occupancy Vehicle Parking Costs. Parking is perhaps the most critical “background condition” within the TDM modeling that significantly increases the effectiveness of many individual TDM measures. It is recommended that the City take on a proactive monitoring effort to target areas where parking management is necessary and work with local residents, business owners and stakeholders to identify strategies that make the cost of driving and/or parking more expensive than the transit alternative. Different strategies should be developed for the different user groups and types of new development in the area. For residents, this plan should consider a residential parking permit (RPP) zone to preserve existing parking for West Berkeley residents and enforced meters or time-restrictions to manage auto trips made by employees or visitors. While on-street pricing may be used to effectively discourage employee travel to West Berkeley, its implementation should balance the needs of all users in West Berkeley to ensure retail uses are not negatively impacted.

6. Council Budget Policies

The City Council has established budget policies which guide the development of the City’s budget. These policies have been established to help manage financial pressures to address growing demands upon City resources, while preserving long-term fiscal stability.

The fiscal policies adopted by the Council include:

- Focusing on the long-term fiscal health of the City by adopting a two-year budget and conducting multi-year planning;
- Building a prudent reserve;
- Developing long-term strategies to reduce unfunded liabilities;
- Controlling labor costs while minimizing layoffs;
- Allocating one-time revenue for one-time expenses;
- Requiring enterprise and grant funds to balance and new programs to pay for themselves;
- Any new expenditure requires revenue or expenditure reductions; and
- New policy: no new capital projects until current program is funded.

Summary of Peer City Residential Parking Permit Policies

Oakland, San Francisco, and Walnut Creek all have Residential Parking Permit programs. Each one of these cities also has rules limiting the maximum number of permits that residents may purchase. This document summarizes these policies in comparison with Berkeley's current policies.

City of Berkeley

- Annual Residential Permits (\$55):
 - The City currently imposes no caps on the number of annual RPP permits.
- Visitor Permits (\$2.75 for 1-Day, \$28.50 for 14-Day):
 - Residents may purchase up to 20 1-Day Visitor Permits in a permit year.
 - Residents may purchase three (3) 14-Day Visitor Permits in a permit year.
- Other Permits:
 - Annual In-Home Care Permit (\$55): If customers require 24-hour, in-home care services, they may purchase up to a maximum of three (3) In-Home Care Permits.
 - Annual Merchant Parking Permit (\$154): Businesses within a designated Merchant Permit address range may purchase one (1) Merchant Parking Permit annually.
 - Annual Neighborhood-Serving Community Facility Permit (\$69): The total number of permits issued must not exceed 60% of the enterprise's employees.
 - One-Day Senior Event Permit (\$1): The total number of permits issued must not exceed 60% of the senior event group's membership.

City of Oakland

- Annual Residential Permits (\$82 all areas except Area M; Area M \$160): There are limits to the number of residential permits issued per address by RPP area:
 - Area F: One (1) permit
 - Areas A, B, C, D, E, G, I, J, K, and L: Three (3) permits
 - Area M: No limit
 - Area N: Two (2) permits
- Visitor Permits (\$5 for 1-day; \$50 for 2-week):
 - Residents may purchase up to five (5) 1-day and/or 2-week temporary permits on any calendar day.
- Merchant Permits (\$96 all areas except Area M):
 - Merchants receive one transferable hanging permit. The maximum number of merchants that can be issued per business license is either one (1) permit or two (2) stickers.

Note: Some sections of some RPP areas in Oakland have first year "free" permits.

City of San Francisco

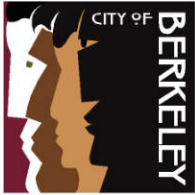
- Annual Permit for Residents (\$128 passenger vehicle, \$96 motorcycle):
 - A maximum of four (4) annual residential permits may be issued to a single address. In special circumstances, residents may request a waiver to this limit.
- Short-Term Permits: The City limits the number of visitor permits that can be purchased with a yearly maximum and a progressive rate structure:
 - One-Day Permits: Up to 20 one-day permits per address are available for purchase with the following rates:
 - 1-5 permits per calendar year: \$6.00 per permit
 - 6-15 permits per calendar year: \$8.00 per permit
 - 16-20 permits per calendar year: \$11.00 per permit
 - Weekly Permits: Two-week increment permits may be purchased with the following rates – maximum 32 weeks allowed per calendar year per address:
 - Two weeks: \$45.00
 - Four weeks: \$65.00
 - Six weeks: \$84.00
 - Eight weeks: \$109.00
- Other Permits:
 - Business Permit (\$128):
 - Commercial property owners operating a business on an RPP zoned block may obtain one (1) parking permit for a personal vehicle per postal address.
 - Up to three (3) additional permits may be purchased for delivery vehicles with commercial license plates that are registered to the business address.
 - Annual Permit for Medical Caregiver (\$128): Up to three (3) permits may be issued for use by the resident’s health care provider.
 - Annual Permit for Child Caregiver (\$128): One (1) transferable parking permit for use by persons who provide childcare for a minor 12 years of age and under. This permit is counted towards the maximum four (4) permits allowed per address.
 - Teacher/Fire Station/Foreign Consulate Permits: A limited number of parking permits are available by special request.

City of Walnut Creek

- Annual Residential Permit (\$15):
 - Up to three (3) permits per dwelling unit for specific vehicles owned by residents of that dwelling unit.
 - Up to two (2) guest permits per dwelling unit for residents of such unit for visitors. One (1) additional guest permit may be issued to nonresident

property owners for properties owned in that RPP area upon submission of proof of ownership.

- A maximum of ten (10) free one (1) day guest parking permits, per special event by special request.



CITY COUNCIL
Linda Maio

CONSENT CALENDAR
March 11, 2014

TO: Honorable Mayor and Members of the City Council
FROM: Councilmembers Linda Maio and Darryl Moore
SUBJECT: Expansion of Permit Parking to Impacted Areas

RECOMMENDATION:

Refer to the City Manager the expansion of Residential Permit Parking to impacted areas beyond "The Donut," an expansion that is sensitive to the mix of uses that are both residential and commercial, such as exist in West Berkeley.

BACKGROUND:

As intensification of commercial uses grows in West Berkeley, residential neighbors who have no off-street parking find themselves in a hardship situation. They are unable to park near enough to their homes to manage groceries and children, or disability needs. Employees of commercial uses who commute park all day on these streets. Given that many of the properties for both residential and commercial are historic and lack on-site parking, street parking becomes highly competitive. Residents I have heard from are sensitive to the fact that they live in a mixed use area and know the businesses need parking as well. Some have suggested that they can "share the block" and have at least half be residential permit parking. This matter will ultimately go to the Transportation Commission but is being referred to the City Manager, as the first step is to conduct appropriate studies for implementing permit parking.

What follows are excerpts from an email that is typical of those I have been receiving:

Ms. Maio,

I have lived on Cedar Street between 5th and 6th, since 1981. During this time I have seen many positive changes in our neighborhood, and a few that are not so great. Perhaps the most noticeable and constant problems are traffic and parking. Many of my neighbors have no driveways at all, and often find it impossible to park in front of, or even near their homes. This presents special difficulties for the elderly, the handicapped, and those with young children.

FINANCIAL IMPLICATIONS:

Staff time to identify impacted areas and appropriate studies.

CONTACT:

Councilmember Linda Maio, District 1, 510-981-7110, lmaio@cityofberkeley.info



CONSENT CALENDAR

October 11th, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin, Councilmember Kate Harrison, and
Councilmember Rigel Robinson

Subject: Regulation of Autonomous Vehicles

RECOMMENDATION

Refer to the City Attorney the assessment of the legal abilities and opportunities for the City Council to regulate the operation, sale, and testing of autonomous vehicles (AVs) within the City of Berkeley and report to the Facilities, Infrastructure, Transportation, Environment and Sustainability Committee (FITES) on all findings.

POLICY COMMITTEE RECOMMENDATION

On July 20, 2022, the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee took the following action: M/S/C (Robinson/Harrison) to approve the item with a positive recommendation.

CURRENT SITUATION AND ITS EFFECTS

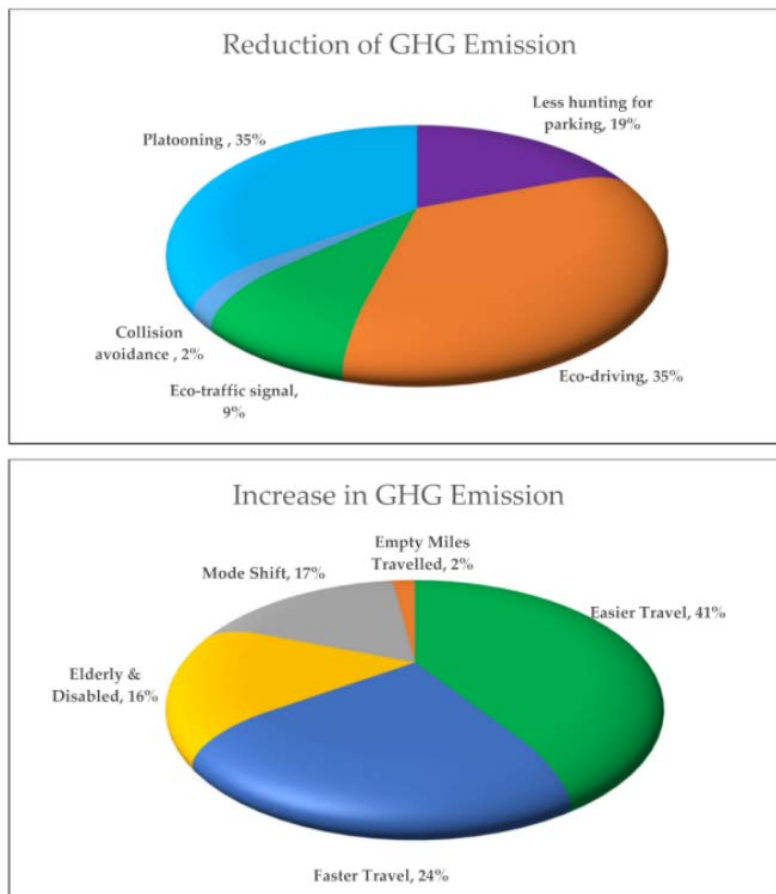
Autonomous vehicles, better known as driverless cars, are an emerging technology with such potential to transform our transportation system that it inspires great optimism as well as an equal amount of trepidation. Advocates and opponents of the technology agree that the full automation of personal automobiles will have enormous ripple effects throughout our society, impacting the job market, public safety, energy consumption, and our every understanding of how we design our cities and transportation systems. Those pursuing AV technology view removing the variable of human error from personal vehicle transportation as the solution to congestion, fuel efficiency, and traffic accidents themselves. Proponents of AVs also see driverless cars as a valuable resource for persons with disabilities who cannot currently drive personal vehicles, expanding the mobility options for millions.¹ Others are more suspicious of driverless cars.

Some studies suggest any gains made by AVs in reducing congestion and traffic accidents could very well be neutralized by an induced demand for this exciting new transportation method.² Furthermore, the introduction of truly autonomous vehicles into

¹ Faisal, Asif, et al. "Understanding autonomous vehicles." *Journal of transport and land use* 12.1 (2019): 45-72.

² Medina-Tapia, Marcos, and Francesc Robusté. "Implementation of connected and autonomous vehicles in cities could have neutral effects on the total travel time costs: modeling and analysis for a circular city." *Sustainability* 11.2 (2019): 482.

the market at a time when environmental and street safety advocates are pushing for a decline in all kinds of personal vehicle mode-shares could undo decades of work to reduce car dependency. Of particular concern to the City of Berkeley will be the impact that AVs have on greenhouse gas emissions. On one hand, reduced driving time searching for parking, the potential for autonomous driving to be more fuel-efficient, reduced congestion, and disruptions to the decision-making systems that encourage the unnecessary growth in size of modern personal vehicles could very well reduce emissions. On the other hand, easier and faster travel and the widening of accessibility that fully autonomous vehicles will bring may boost car mode-share beyond levels consistent with our climate needs.³ While difficult to know for certain, “it is quite possible that AVs could be more energy-efficient, thereby reducing the GHG by functional unit-basis as per-passenger-mile (ppm); however, the overall gain related to transportation GHG emissions could be swamped by a surge in increased vehicle miles traveled (VMT)”⁴. Whether driverless cars revolutionize transportation for better or worse, policymakers must be prepared for an influx of these new vehicles.



Potential impacts of autonomous vehicles on greenhouse gas emissions.⁵

³ Massar, Moneim, et al. "Impacts of autonomous vehicles on greenhouse gas emissions—positive or negative?." *International Journal of Environmental Research and Public Health* 18.11 (2021): 5567.

⁴ Massar, Moneim, et al.

⁵ Massar, Moneim, et al.

According to recent data provided by the California Department of Motor Vehicles, 2021 was a record-setting year for miles driven by test-autonomous vehicles (AVs) in California.⁶ Despite the sudden growth in AVs on public roads in recent years, municipal governments have limited control over the regulation of AV testing and little access to basic information on the testing itself. This will pose a growing concern to local policymakers in the coming years as AV testing continues to spread. In California, AV testing oversight belongs to the DMV and the California Public Utilities Commission. This concentration of regulatory power at the state level makes it difficult to even determine the number of AV tests that have been conducted on Berkeley's streets, particularly because the DMV and CPUC do not require that AV companies report the whereabouts of their vehicles.⁷ In order for the City to plan for the introduction of AVs onto public roads, use what limited regulatory abilities may be available, and lobby the state government to expand its oversight power, the Berkeley City Council must be made aware of all legal options for setting both AV testing rules and rules for functional AVs in a future where testing is complete and AVs are commercially available.

Beyond the testing of AVs that is expected to continue for many years, Berkeley must be prepared for a scenario where AVs are widely sold and threaten many of the City's transportation and climate goals. For the sake of safer streets and a reduction of fossil fuel emissions, the City of Berkeley is pursuing a growth in non-car transportation mode shares in its transportation, infrastructure, and planning policies. This pursuit may easily be threatened by the sudden availability of self-driving cars. The option for drivers to choose a vehicle that offers the present day convenience of an automobile with an added reduction in the actual requirement to drive the vehicle carries the possibility of undoing any progress made if no preemptive regulatory policies are made. While it will be many years before self-driving cars are available or even common on Berkeley's streets, the City must proceed with transportation planning that is cautious with AVs and committed to a future where cars are not the largest mode-share.

RATIONALE FOR RECOMMENDATION

It is important for the City of Berkeley to have a clear understanding of its exact responsibilities when it comes to autonomous vehicles and where state and federal bodies hold most power. With that knowledge, the City Council can lobby the state government and federal agencies both for more power over the regulation of driverless cars as well as for specific policies that Council determines should be enacted but lacks the power to do alone.

FISCAL IMPACTS

Staff time for the referral response.

⁶<https://techcrunch.com/2022/02/10/fewer-autonomous-vehicle-companies-in-california-drive-millions-more-miles-in-testing/>

⁷ <https://www.sfexaminer.com/findings/how-san-francisco-became-an-autonomous-vehicle-test-course/>

ENVIRONMENTAL IMPACTS

Reducing the use of automobiles on Berkeley's streets is a critical task for the reduction of the City's fossil fuel emissions, an immense share of which come from private vehicle emissions.⁸

CONTACT

Terry Taplin, Councilmember, District 2, (510) 981-7120

ATTACHMENTS

1. Understanding Autonomous Vehicles
2. Impacts of Autonomous Vehicles on Greenhouse Gas Emissions—Positive or Negative?

⁸<https://berkeleyca.gov/sites/default/files/2022-01/Berkeley-Climate-Action-Plan.pdf>

JTLU

Understanding autonomous vehicles

Author(s): Asif Faisal, Md Kamruzzaman, Tan Yigitcanlar and Graham Currie

Source: *Journal of Transport and Land Use*, Vol. 12, No. 1 (2019), pp. 45-72

Published by: Journal of Transport and Land Use

Stable URL: <https://www.jstor.org/stable/10.2307/26911258>

REFERENCES

Linked references are available on JSTOR for this article:

https://www.jstor.org/stable/10.2307/26911258?seq=1&cid=pdf-reference#references_tab_contents

You may need to log in to JSTOR to access the linked references.

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <https://about.jstor.org/terms>



Journal of Transport and Land Use is collaborating with JSTOR to digitize, preserve and extend access to *Journal of Transport and Land Use*

JSTOR

Understanding autonomous vehicles: A systematic literature review on capability, impact, planning and policy

Asif Faisal

Queensland University of Technology
asifiqbalmohammad.faisal@hdr.qut.edu.au

Tan Yigitcanlar

Queensland University of Technology
tan.yigitcanlar@qut.edu.au

Md Kamruzzaman

Monash University
md.kamruzzaman@monash.edu

Graham Currie

Monash University
graham.currie@monash.edu

Abstract: Advancement in automated driving technology has created opportunities for smart urban mobility. Automated vehicles are now a popular topic with the rise of the smart city agenda. However, legislators, urban administrators, policymakers, and planners are unprepared to deal with the possible disruption of autonomous vehicles, which potentially could replace conventional transport. There is a lack of knowledge on how the new capabilities will disrupt and which policy strategies are needed to address such disruption. This paper aims to determine where we are, where we are headed, what the likely impacts of a wider uptake could be, and what needs to be done to generate desired smart urban mobility outcomes. The methodology includes a systematic review of the existing evidence base to understand capability, impact, planning, and policy issues associated with autonomous vehicles. The review reveals the trajectories of technological development, disruptive effects caused by such development, strategies to address the disruptions, and possible gaps in the literature. The paper develops a framework outlining the inter-links among driving forces, uptake factors, impacts and possible interventions. It concludes by advocating the necessity of preparing our cities for autonomous vehicles, although a wider uptake may take quite some time.

Article history:

Received: March 28, 2018
Received in revised form:
November 6, 2018
Accepted: November 6, 2018
Available online: January 28,
2019

1 Introduction

The convergence of technology and the city is seen as a possible remedy to overcome the challenges of urbanization such as climate change, congestion, and greenhouse gas (GHG) emissions (Yigitcanlar, 2016). Transport, as an integral part of the city, is responsible for about a quarter to one-third of GHG emissions (Kamruzzaman, Hine, & Yigitcanlar, 2015; Arbolino, Carlucci, Cira, Loppolo, & Yigitcanlar, 2017; Yigitcanlar, Foth, & Kamruzzaman, 2018). Technology in the name of smart urban mobility is

Copyright 2019 Asif Faisal, Tan Yigitcanlar, Md Kamruzzaman & Graham Currie
<http://dx.doi.org/10.5198/jtl.u.2019.1405>

ISSN: 1938-7849 | Licensed under the [Creative Commons Attribution – Noncommercial License 4.0](https://creativecommons.org/licenses/by-nc/4.0/)

The *Journal of Transport and Land Use* is the official journal of the World Society for Transport and Land Use (WSTLUR) and is published and sponsored by the University of Minnesota Center for Transportation Studies.

becoming a key concept of the contemporary urban policy agenda to address the undesirable effects of transport (Creutzig et al., 2015; Perveen, Yigitcanlar, Kamruzzaman, & Hayes, 2017; Perveen, Kamruzzaman, & Yigitcanlar, 2017, 2018; Yigitcanlar & Kamruzzaman, 2018b).

As originally conceived within the smart cities agenda (Yigitcanlar, 2015; Lara, Costa Furlani, & Yigitcanlar, 2016; Trindade et al., 2017; Chang, Sabatini-Marques, da Costa, Selig, & Yigitcanlar, 2018; Yigitcanlar et al., 2018a), the smart urban mobility concept is characterized by an integration of sustainable and smart vehicular technologies, and cooperative intelligent transport systems (ITS) through cloud-servers and big-data-based vehicular networks (Kim, Moom, & Suh, 2015). In other words, smart urban mobility is conceptualized as urban traffic services combined with smart technologies (Chun & Lee, 2015). Undoubtedly one of the most advanced applications that utilizes numerous ITS tools as a part of the smart urban transport system is autonomous vehicle (AV)—a.k.a. automated car, self-driving car or driverless car (Spyropoulou, Penttinen, Karlaftis, Vaa, & Golias, 2008; Chong et al., 2013; Olaverri-Monreal, 2016).

The basic concept of road vehicle automation refers to the replacement of some or all of the human labor of driving by electronic and/or mechanical devices (Shladover, 2018). Origins of the automated driving technology can be traced back to the early 20th century. At that time, the technology was concentrated on autonomous speed, break, lane control, and other basic cruise control aspects (Shladover, Su, & Lu, 2012; Anderson et al., 2014; Arnaout & Arnaout, 2014; Pendleton et al., 2017). However, only during the last decade or so, incubating conditions of the Digital and 4th Industrial Revolutions gave birth to rapid technological advancements in the field; resulting in numerous prototype AVs being trailed on the roads (Christie, Koymans, Chanard, Lasgouttes, & Kaufmann, 2016).

Many research articles have been published in the academic literature describing the technological advancement of AVs (Denaro, Zmud, Shladover, Smith, & Lappin, 2014). However, academic literature outlining the AV induced disruptions (both positive and negative) in cities and how policies are being introduced to promote or address various disruptive effects is fairly limited (Bagloee, Tavana, Asadi, & Oliver, 2016; Gruel & Stanford, 2016; Truong, De Gruyter, Currie, & Delbosc, 2017), despite a recent prediction suggests that by 2045, AVs would account for up to half of all road travel (Bansal & Kockelman, 2017; Litman, 2017). Even more so, there is no study, to our knowledge, in the academic literature that critically scrutinizes the state of AVs from a combined perspective focusing on its capability, impact and existing/potential policy interventions to reduce/foster the disruptive effects.

Against this backdrop, this paper aims to determine where we are at, where we are headed to, what the likely impacts of wider AV uptake could be, and what needs to be done for AVs to generate desired smart urban mobility outcomes—with a particular focus on the capability, impact and policy. In order to achieve this aim, the study undertakes a systematic review of the literature on AVs published in peer-reviewed journals. The review concentrates on the following research objectives: (a) Highlighting the main findings and contributions of the reviewed literature; (b) Mapping out the relationships among the capability, impact, planning interventions, and pre-deployment policy to accommodate AVs as well as to reduce the undesirable effects of AVs; (c) Determining the gaps in the literature and pointing out directions for prospective research. A key outcome of this research is the development of an AV driving forces, uptake factors, impacts and interventions framework.

2 Autonomous vehicles in a nutshell

2.1 Historical background

Vehicle automation was originally envisioned as early as in 1918 (Pendleton et al., 2017), and the first concept of automated vehicle was exhibited by General Motors in 1939 (Shladover, 2018). The initial phase of research and development (R&D) was jointly initiated by General Motors and Radio Corporation of America Sarnoff Laboratory in the 1950s (Shladover, 2018). From 1964 to 2003, several other R&D programs were operational in the US, Europe, and Japan under individual and joint initiatives of different government institutes and academia to develop automated bus and truck platoons, super-smart vehicle systems, and video image processing of driving scene recognition (Shladover, 2018). AV research was accelerated through the Defense Advanced Research Projects Agency's (DARPA) Grand Challenges Program in the US in 2004. The challenges resulted in AVs capable of traversing desert terrain in 2005, and in 2007. Researchers also managed to place AVs on urban roads through the DARPA's Urban Challenge Program (Pendleton et al., 2017; Shladover, 2018). Since then, R&D continued at a fast pace in both academia and industrial settings.

Volvo, for instance, started its journey to autonomous driving in 2006, introduced its full autonomous test vehicle in 2017, and has plans to bring its unsupervised AV to the market by 2021. Tech giant Google started its journey towards full AVs in 2009, and by 2017 Google's AV fleet, WAYMO, has completed three million miles driving within four US states. In 2014, TESLA announced that its car will be capable of self-driving about 90% of the time. Today, all TESLA models are equipped with self-driving capability. By 2020, Audi, BMW, Mercedes-Benz and Nissan are expecting to have their AVs in the market.

Bloomberg (2017) provides an inventory of how cities around the globe are preparing for the transition to a world with AVs. According to this study, 36 cities were hosting AV tests, or have committed to doing so in the near future; where 18 other cities are undertaking long-range surveys of the regulatory, planning, and governance issues associated with AVs, but have not yet started piloting. The inventory considers of those piloting cities that were partnering on tests of a variety of AV products, including retrofitted autos and brand-new vehicles like conveyors (small, cart-sized AVs that travel on sidewalks). Testbed locations are generally isolated places from the rest of the city, such as technology parks, college campuses, urban renewal districts, highways, and former international mega-event sites. Therefore, as stated by Bloomberg (2017), while these trials are happening, they are not yet tackling the full challenges of navigating through complex urban environments. Table 1 lists the cities that are piloting (hosting AV tests or have committed to doing so in the near future) or preparing (undertaking long-range surveys of the regulatory, planning, and governance issues raised by AVs, but have not yet started piloting) themselves for an AV uptake.

Table 1. List of cities testing or in preparation for AVs (Bloomberg, 2017)

Piloting cities	Piloting cities (continued)	Preparing cities
Adelaide, AU	Melbourne, AU	Auckland, NZ
Amsterdam, NL	Oslo, NO	Buenos Aires, AR
Austin, US	Paris, FR	Cambridge, US
Boston, US	Pittsburgh, US	Columbus, US
Bristol, UK	Reno, US	Denver, US
Chandler, US	Rotterdam, NL	Dublin, US
Chiba City, JP	San Antonio, US	Los Angeles, US
Detroit, US	San Francisco, US	Montréal, CA
Dubai, UAE	San Jose, US	Nashville, US
Edmonton, CA	Seongnam, KR	Orlando, US
Eindhoven, NL	Singapore	Palo Alto, US
Gothenburg, SE	Toronto, CA	Portland, US
Haarlem, NL	Wageningen, NL	Rionegro, CO
Helsinki, FI	Washington, DC, US	Sacramento, US
Las Vegas, US	West Midlands, UK	Santa Monica, US
London, UK	Wuhan, CN	Seattle, US
Lyon, FR	Wuhu, CN	São Paulo, BR
Milton Keynes, UK	Zhuzhou, CN	Tel Aviv, IL

2.2 Autonomous technology

In line with the automation concept, a taxonomy of 4-level of vehicle automation was developed by the National Highway Traffic Safety Administration (NHTSA) in 2013 (Wadud, MaKenzie, & Leiby, 2016), and a 5-level automation was introduced by the Society of Automotive Engineers International (SAE) in 2014—later on updated in 2016 (Coppola & Morisio, 2016; SAE, 2016a, 2016b; Snyder, 2016; Milakis, van Arem, & van Wee, 2017). In 2016, NHTSA adopted SAE's taxonomy and automation levels (NHTSA, 2016). SAE's taxonomy and automation levels have become an industry standard, and also frequently referred in the academic literature (Rubin, 2016; Scheltes & de Almeida Correia, 2017; Walker & Marchau, 2017; Shladover, 2018). Table 2 describes the operational functions included in automated driving system (ADS), and the role of human driver at each level of vehicle automation.

Table 2. Taxonomy of road vehicle automation derived from SAE (2016a)

Level of automation	Automated driving system		Human driver	
	Operational function	Capability	Operational function	Capability
Level 1 (most functions are controlled by driver)	Control: lateral and longitudinal	In some driving modes	Localisation Perception Planning Management	In all driving modes
Level 2 (at least one driver assistance system is automated)	Control: lateral and longitudinal	In some driving modes	Localisation Perception Planning Management	In all driving modes
Level 3 (driver is able to shift safety-critical functions to vehicle)	Control: lateral and longitudinal Localisation Perception Planning	In some driving modes	Management	In all driving modes
Level 4 (fully-autonomous, but not in every driving scenario)	Control: lateral and longitudinal Localisation Perception Planning Management	In some driving modes	n/a	n/a
Level 5 (fully-autonomous, vehicle's performance is equal that of human driver in every driving scenario)	Control: lateral and longitudinal Localisation Perception Planning Management	In all driving modes	n/a	n/a

In theory, an automated vehicle system can only be termed as an “autonomous” system, when all the dynamic driving tasks, at all driving environment, can be performed by the vehicle’s automated system. According to the Federal Automated Vehicles Policy of the US Department of Transportation, a vehicle is denoted as AV if it has levels 3-5 automated systems (DoT, 2016). However, these levels of autonomy are not strictly maintained in the literature and any level of autonomy is referred to as autonomous (Shladover, 2018). Throughout this paper, the term AV will refer to the levels 3-5 automated systems only.

Driving requires a variety of functions, including localization, perception, planning, control, and management (Coppola & Morisio, 2016). Information acquisition is a prerequisite to localization, and perception. If all of these functions, including information acquisition, are available in a vehicle, it could definitely be termed as an AV. If any AV has to communicate with other infrastructures to collect information, or to negotiate its maneuvers, it is termed as connected autonomous vehicle (CAV) (Shladover, 2018), and when any manually driven vehicle, whether manual or automated, has to communicate with other infrastructures to collect information, or to negotiate its maneuvers, it is termed as connected vehicle (CV) (Hendrickson, Biehler, & Mashayekh, 2014; Coppola & Morisio, 2016). Therefore, CV technology is complimentary or has synergistic effect on the implementation of AV to some extent (Shladover, 2018), though connectivity is not a mandatory feature of AVs (Hendrickson et al., 2014).

2.3 Perceived benefits

AVs are expected to be operational both as private and as commercial vehicle (Heinrichs, 2016; Collingwood, 2017; Wadud, 2017). One of the perceived advantages and flexibility of autonomous private car over the conventional private car is that it can simultaneously be used among all members in a family. Commercial AVs could be operated as taxi, bus, and freight services. AV taxis can provide service as a combination of conventional car-sharing and taxi services, which is referred to as shared AV (SAV) or driverless taxi (Fagnant & Kockelman, 2014; Krueger, Rashidi, & Rose, 2016).

Perception prevails that driverless taxi is likely to complement/supplement traditional public transit service, and it can potentially replace the private car and conventional taxis because SAVs are expected to be relatively inexpensive and facilitating opportunity for multitasking during a ride (Malokin, Circella, & Mokhtarian, 2015; Krueger et al., 2016; Milakis, Snelder, van Arem, Homem, & van Wee, 2017). In spite of having cooperation within the fleet, conventional taxi drivers seek to maximize individual profit, overruling minimum wait time and less passenger kilometers travelled (PKT), as identified by the fleet cooperation (Boesch, Ciari, & Axhausen, 2016).

Some transport network companies (TNC), such as Uber and Lyft, have been trying to develop a model similar to SAVs in their operations. However, in this model, human drivers are still responsible for routing, relocation, operation times, and many other decision-making factors. On the contrary, 100% central control system of SAV can overcome the limitations of conventional taxi services. Thus, SAV can ensure more system-optimal and overall profit-maximizing network with a higher service level and lower empty travel cost with respect to conventional taxi services, and TNCs (Fagnant, Kockelman, & Bansal, 2015). With a comprehensive ICT integration, SAV could facilitate dynamic ridesharing (DRS). Hence, SAV can either provide service with DRS or without DRS facility (Krueger et al., 2016).

The barriers to traditional ridesharing service could be overcome through the introduction of DRS (Krueger et al., 2016) or driverless taxi (Martinez & Viegas, 2017). The concept of “mobility-as-a-service” (MaaS) can also be accommodated with the introduction of SAV and DRS. Commercial operations like taxi, bus and freight service can benefit from automation through the postponement of driver costs (Wadud, 2017). Deployment of autonomous private car or taxi may reduce parking demand at urban core locations, repurposing those spaces for the use of other economic activity and in turn, it may act to increase urban density in central business district (CBD) locations (Bagloee et al., 2016; Levine, Segev, & Thode, 2017).

In contrast, reliability, comfort, and reduced perceived value of time may encourage long commute distances, contributing to urban sprawl and influencing real-estate values in ex-urban areas (Heinrichs, 2016; Rubin, 2016; Snyder, 2016). Integration of platooning features in freight and bus services, with the help of autonomous and cooperative technology, can play a vital role in increasing road capacity. These are few prominent and divergent examples of AV, considering its diversity in use.

The technological advancement and potential benefits of AVs, as discussed above, are linked together (Heinrichs, 2016). How are these benefits likely to be translated in the form and structure of urban systems? This research compiles evidence from published literature to address this question.

3 Methodology

This research applies a systematic review of the literature to achieve the research aim and objectives. A systematic literature review follows an explicit protocol for higher data reliability and for shaping the diversity of knowledge in a specific research field (Rowley & Slack, 2004; Brereton, Kitchenham, Budgen, Turner, & Khalil, 2007; Bask & Rajahonka, 2017). It aims at abating bias through comprehensive literature searches and delivers an evaluation trajectory for the reviewer verdicts, procedures and inferences (Burgess, Singh, & Koroglu, 2006; Bask & Rajahonka, 2017). The review involves three major

activities: (a) Planning; (b) Realization or review; (c) Reporting and presentation (Tranfield, Denyer, & Smart, 2003; Bask & Rajahonka, 2017; Oliveira et al., 2017).

The above three activities were undertaken according to the methodological principles recommended by Oliveira, Márcio de Almeida et al. (2016) and Oliveria, Albergaria De Mello Bandeira et al. (2017): (a) Planning activity consists of identifying the need for revision (why), purpose of the review (what), and developing the protocol of the review (how, when and where); (b) Review activity including identification, selection, and inclusion of papers, evaluation of the selected papers, extraction of data and information, and synthesis of data; (c) Reporting and presentation includes preparing reports, and presenting results.

Firstly, a research plan involving the research aim and objectives, keywords, and a set of inclusion and exclusion criteria was developed. Research objectives were framed, to explore links among various aspects of AVs and thus to recognize promising areas for future research. As the keyword, we decided to use “autonomous vehicle” OR “automated vehicle” OR “driverless car” OR “self-driving car”. To focus on the research objectives, we identified the inclusion criteria—peer-reviewed research articles in English language. An online search was conducted using a university library search engine that connects to 393 different databases including ScienceDirect, Scopus, Web of Science, Wiley online library, directory of open access journals (DOAJ), and so on. Edited or authored books, articles published in other languages, grey literature such as government or industry reports and non-academic research, and editorial papers were not included in the review. The search included only peer-reviewed and full text journal articles available online—procedia papers are considered as journal articles, due to relatively limited numbers of journal articles published on the topic.

Secondly, the search was conducted in January 2018 for journal articles published between January 2000 and January 2018. The review focused on the post-2000 articles due to limited studies focused on AVs prior to this date—particularly on the impact, planning and policy issues. Several thematic searches were specified through a combination of multiple keywords. The keywords used in all thematic searches were divided into two parts: The first part (specified by first parentheses) was directed to the title of the articles, and the second part was directed to the abstract. The resultant search items were initially checked by reading the abstract and then by reading the full-text in order to verify their scope against the research objectives.

The first thematic search was conducted using the search tag of (“autonomous vehicle” OR “automated vehicle” OR “driverless car” OR “self-driving car”) AND (“control” OR “management” OR “localization” OR “lane change” OR “maneuver” OR “platooning” OR “merging” OR “crash avoidance” OR “cruise control” OR “navigation” OR “car-sharing” OR “multitasking” OR “valet parking” OR “capabilities” OR “features”) to identify studies that focus on the AV capabilities. The search resulted in 616 papers, which were reduced to 49 articles after checking the abstract and further reduced to 16 articles after reading the full-text.

The next thematic search was conducted using the search tag of (“autonomous vehicle” OR “automated vehicle” OR “driverless car” OR “self-driving car”) AND (“influence” OR “impact” OR “implication” OR “effect” OR “planning”) keywords to identify articles that focus on the AV impacts. The search resulted in 154 papers. We have gone through the abstracts of these papers and limited the selection to 51 articles. After reading the full papers to make sure that they actually fit into our scope of interest, the selection was limited to 33 journal articles.

We conducted next search in the database using the search tag of (“autonomous vehicle” OR “automated vehicle” OR “driverless car” OR “self-driving car”) AND (“policy” OR “law” OR “legislation” OR “legal”) to identify papers that focus on the AV policies. The search resulted in 159 papers in total, which were screened through by reading the abstract (resulted in 29 articles) and full-text (resulted in 12 articles).

In total, 61 journal articles (peer-reviewed and full text available online) fulfilled our selection criteria, and these papers were then read again and reviewed. Following the selection, we categorized the reviewed papers according to subthemes. Then, we extracted data from the reviewed papers in tables, formulated according to the three subthemes (Appendix Tables A-C). Each table contained the following information against each of the selected article: name of authors, year of publication, title of the article, name of the journal, research aim/objectives, theoretical perspective/framework, method, and main findings.

Then, we discussed and linked up the individual findings of each subtheme into one. Some reviewed papers were discarded at this stage that did not match directly with the subthemes. This helped us to understand where we are at, where we are headed to, what the likely impacts of wider AV uptake are, and what needs to be done for AV to generate desired smart urban mobility outcomes.

The final stage of the review process was to write up and present our findings in the format of a literature review paper. In this process, some relevant literature, although not meeting the pre-determined selection criteria, are included as supporting material to better appreciate the background context and discuss the findings—e.g., books, book chapters, government policies, and online reports. With these, the total number of the reviewed and cited references is increased to over 150.

4 Results

4.1 General observations

In reviewing the literature, technological advancement, policy and legislation analysis, transport modelling and simulation, surveys and interviews, scenario analysis, and case study investigations were found to be the main techniques for qualitative and quantitative analyses in the reviewed 61 papers. These studies are assembled under three broad categories, namely: (a) AV capability—containing 16 studies; (b) AV impact and planning interventions—containing 33 papers; (c) AV policy—containing 12 articles. Review efforts found only 1 paper (peer-reviewed journal article) in the area of planning interventions. This indicates that there exists a gap in the literature in the planning area.

Papers in the AV capability category mainly discussed: (a) How AV operates on public roads; (b) What type of AV capabilities are currently available; (c) What sort of hardware and software are responsible for AV operation; (d) Barriers against the uptake of AV technology; (e) What type of benefits are offered by the AV capabilities.

Articles in the AV impact and planning interventions category mainly elaborated: (a) How perceived value of travel time changes; (b) What type of capacity implications might evolve; (c) How AVs will contribute to reduce road traffic accidents; (d) How AVs might increase or decrease congestion and delay; (e) Whether AVs will enhance or reduce GHG emissions; (f) How employment sector will be affected; (g) How public health can be benefited from AV deployment; (h) How SAVs can contribute in changing car ownership model; (i) How urban land use might be affected due to changes in parking demand, changes in travel time, changes in travel distance; (j) How capital investment decision will be affected. (k) What sort of planning interventions might be required to accommodate disruptions or to control disruptions. The impacts typically cover economic, societal, environmental, and political and governance aspects.

Papers in the AV policy category mainly examined: (a) How conflict can be avoided in between national/federal and state governments in formulating laws; (b) What the jurisdiction of national/federal and state governments should be; (c) How governments, industries, scholars, and professionals can negotiate and agree on formulating laws on liability and privacy; (d) Which organization should standardize or certify technology; (e) Which vehicle should get priority on the road; (f) What should be the new pricing mechanism to manage vehicle kilometers travelled (VKT).

The reviewed literature, in all categories, illustrate that research on AV is mainly limited to developed countries such as the US, the Netherlands, the UK, Canada, Australia, Israel, Germany, Italy, Singapore, Russia, Poland. This finding shows parallels with the AV piloting and preparing cities listed in Table 1. The oldest article reviewed in this study dates back to 2012 (Smith, 2012). Although there were other articles published prior to 2012, Smith's (2012) paper was the earliest published article that satisfied the selection criteria of this research. The majority of papers were published in 2016 onwards (84%)—indicating an exponential growth trend of research on this topic.

4.2 Capabilities

According to many, since the invention of the automobile technology about a century ago, the biggest change to personal mobility is happening right now with AVs (Volvo, 2017). In the presence of autonomous driving technology and capabilities, mobility is predicted to be safer, sustainable, and more convenient, as ADS of an AV will replace the human driver for all sort of dynamic driving tasks in some or all roadway and environmental conditions (Shladover, 2018). When AVs attain the capability of replacing human driver, it actually can perform five basic operational functions through its ADS—localization, perception, planning, control, and management (Coppola & Morisio, 2016; Pendleton et al., 2017). In doing so, AVs will possess certain technological features, advantages or capabilities over a conventional or human driven vehicle. These include platooning, fuel efficiency, eco-driving, adaptive cruise control with queue assist, crash avoidance, lane keeping, lane changing, valet parking or park assist pilot, traffic sign and signal identification, cyclist and pedestrian detection, and safe maneuvering at intersections (Anderson et al., 2014).

At a particular time, the predicted benefit offered by individual AV feature will largely depend on the AV price, acceptance, operational mode (private or shared), AV share in the traffic mix, level of automation in the traffic mix, and fuel efficiency (Diakaki, Papageorgiou, Papar]michail, & Nikolos, 2015; Davidson & Spinoulas, 2016; Daziano, Sarrias, & Leard, 2017; Piao et al., 2016; Chen, Gonder, Young, & Wood, 2017). These are seen as the influencing parameters of an AV scenario (Correia, & van Arem, 2016; Davidson & Spinoulas, 2016). AVs, however, might present a future full of nightmares resulting from different combinations within these parameters, especially if there do not exist adequate planning interventions.

A summary of the literature in this area is presented in Appendix Table A and discussed below.

- **Platooning:** Highly random and fluctuating car-following behaviors of human drivers are one of the main factors to prompt accidents, oscillations, and traffic congestion. This results in low efficiency in traffic flows and severe environmental impact in many urban regions (Hoogendoorn, van Arem, & Hoogendoorn, 2014).

To overcome these issues, Gong, Shen and Du (2016) developed a novel platoon car-following control scheme that modelled an interconnected dynamic platoon system of CAVs and AVs. Their proposed scheme effectively reduces disturbance transmission of speed errors and relative spacing from the leading vehicle to following vehicles along the platoon. This means that this scheme accomplishes the “string stability” of the platoon. In some other studies, it is also shown that the performance of the conventional cooperative adaptive cruise control (CACC) scheme is outperformed by the developed car-following control scheme in the capacity of achieving stable and smoother traffic flows and traffic oscillations reduction (van Arem, van Driel, & Visser, 2006; Gong et al., 2016).

With the help of multi-platooning of AVs, Fernandes & Nunes (2012) performed another study to address the urban traffic congestion issue. In this study, they conceptualized design of a multi-platoon communicant AVs to travel along a dedicated lane, where AVs can exit from platoons to offline station and merge back into platoons along the main track following novel

algorithms. According to the algorithms, inter-platoon leaders' constant spacing are ensured and offline station vehicles are allowed to leave and join the platoon on main track cooperatively. Simulation results of several scenarios confirmed that proposed algorithms guarantee high traffic capacity and vehicle density and reduce traffic congestion. Validation results of these features also proved that the proposed algorithms enable a clear benefit of a platooning system in comparison to bus- and light-rail-based transit systems (Fernandes & Nunes, 2012).

It is observed from the simulation models of Gong et al. (2016) and Fernandes & Nunes (2012), connectivity among the AVs within a platoon is a prerequisite to form a stable platoon string.

- **Merging or Mandatory Lane Change:** Most freeway congestion results from traffic oscillations (or stop-and-go) near freeway ramps, caused by merging activities (Zhou et al., 2017). Freeway sections near ramps are considered as the bottlenecks of the freeway system. In a merging situation, if different ratios of AVs equipped with longitudinal and lateral detecting technology, and advance cruise control (ACC) are penetrated on freeway with human driven vehicles, cooperative intelligent driver model (CIDM) of AVs could practically improve the freeway performance (Xiao & Gao, 2010; Zhou et al., 2017). The results from an experiment show that with an increased AV penetration on freeways, standard deviation of speed dispersion or oscillation caused by merged-in vehicle could be reduced progressively, i.e., road safety could be improved. It also shows that when the safe time gap is less than 1.0 second, AVs can improve travel efficiency by minimizing travel time (Zhou, Qu, & Jin, 2017).

Althe, Qian, and de la Fortelle (2017) assumed a nearer plausible traffic scenario, where all vehicles have semi-autonomous features (ACC, automated braking and accelerating, lane keeping assistance), and are driven by human drivers. In such a scenario, a supervised coordination framework can remove the risk of collision or deadlocks with vehicles arriving from sides, either at intersections or roundabouts, or when merging on freeways (Dresner & Stone, 2008; Zohdy & Rakha, 2016). This framework mainly overrides human control inputs when they would become unsafe and create blocked situation in the defined supervisory area at intersections, roundabout, or merging points.

Xie, Zhang, Gartner, & Arsava (2017) performed an optimization-based ramp control strategy in a CAV and AV environment to evaluate the performance of freeway due to presence of merging vehicle. Results of nine different combination of freeway and ramp vehicle inputs (veh/h) under three ramp control cases demonstrate that "optimal ramp control model" outperforms two other control cases: "gradual speed limit" and "do nothing" with regards to performance measurement indicators—average delay time, vehicle throughput and average speed (Xie et al., 2017). It is observed that all the three types of freeway merging algorithms, mentioned above can improve speed dispersion on freeway, road safety, travel efficiency, congestion level, average delay time, vehicle throughput, and average speed in a merging situation with the help of different level of autonomous features of AVs with or without V2V and V2I connectivity.

- **Lane Changing:** To progress towards a fully automated highway driving, the riskiest component added to the advanced driver assistance systems (ADAS) of an AV is lane changing maneuver. This maneuver is the riskiest and challenging in the sense that it involves ego vehicle's (vehicle under consideration, i.e., AV in this case) path change in the presence of other moving vehicles all around it as well as it has to consider changes in both the longitudinal and lateral velocity of the ego vehicle (Nilsson, Brannstrom, Coelingh, & Fredriksson, 2017). During the lane change attempt by a human driver, there are possibilities of collision with at least four vehicles—front and rear vehicles in the same lane, and front and following vehicles in the target lane (Bai, Quan, Fu, Gan, & Wang, 2017; Nilsson et

al., 2017). This sort of collisions can be avoided by selecting an inter-vehicle traffic gap and time instance to perform the lane change maneuver by executing a novel lane change maneuver algorithm in a mixed highway traffic environment with both human drivers and AVs with or without V2V and V2I communication (Nilsson et al., 2017), or in an AV only environment through vehicle to vehicle communication among the vehicles (Bai et al., 2017).

The collisions lead to probable consequences of loss of lives and traffic congestion. In addition to that, due to lack of determining a safe inter-vehicle gap and time instance to perform the maneuver, there exists oscillation, travel delay and capacity reduction in traffic flow (Nilsson et al., 2017). Automated lane changes can address about 4-10% of all accidents that are caused by human error (Luo, Xiang, Cao, & Li, 2015). Uncoordinated lane-changing and exiting behaviors by AVs can also considerably interrupt traffic flow by slowing down other vehicles, or even in worse scenario, by inviting accidents (Meissner, Chantem, & Heaslip, 2016; Talebpour & Mahmassani, 2016). Cooperative lane-changing of AV can ensure improvement of traffic stability, homogeneity, and efficiency, and reduction in traffic congestion (Nie et al., 2016).

- **Valet Parking:** Autonomous or valet parking is an obvious component of driver assistance technologies (Brookhuis, de Waard, & Janssen, 2001; Li & Shao, 2015). Three sequential steps- circumstance recognition, open-loop (when controller does not require verification of system output or modification of command to the system) motion planning and, closed-loop (information flows around a feedback loop) control execution, are responsible for successful autonomous parking (Lee et al., 2009; Li & Shao, 2015). AVs will not be capable of delivering its full benefits without having this feature as every trip has to be started from and end at a parking place. Relevant products have already been made available in the market by many of the original equipment manufacturers such as Tesla, Volvo, Audi, BMW, Ford, Land Rover, Mercedes-Benz, Nissan, and Toyota (Li & Shao, 2015).

Valet or auto-pilot parking features of AVs are expected to find cheap or free parking spaces after dropping off the passenger. This in turn saves travel time or cost for commuters or passengers because the passengers do not require: (a) Cruising for a parking space; (b) Walking to the vehicle to pick up; (c) Paying for costly parking (Zhang, Guhathakurta, Fang, & Zhang, 2015). Valet parking has also a number of technical advantages over traditional human-driven parking. It is capable of: (a) Avoiding dynamic obstacles; (b) Moving in the narrow passage parking areas; (c) Parking in a narrower space; (d) Ensuring optimization of gear changes; (e) Avoiding crash occurrence; (f) Finding fastest and shortest parking path; (g) Minimizing search time for parking spot (Fagnant & Kockelman, 2015).

The abovementioned significant AV capabilities have the capacity to induce or affect certain transport system variables (TSV) and as a consequence these variables will disrupt environment, investment, health, employment, infrastructure design, and land-use options. Some of the effects may contribute to the society in a better way, while society may be worse off in others. Timely control of TSV through adoption of short-, mid-, and long-term planning and policy options by concerned national, state and local governments can help in materializing wider AV deployment if this is considered appropriate (Coppola & Morisio, 2016).

4.3 Impact and planning interventions

The extent of AVs' impacts to the society largely depends on their share in the total vehicle fleet (Pinjari & Menon, 2013; Litman, 2017) and level of the AV uptake and usage differentiated by—(a) Light use: private or shared (Gruel & Stanford, 2016; Heinrichs, 2016; Dia, & Javanshour, 2017); (b) Heavy use: bus (Smolnicki & Sotys, 2016) or freight (Wadud, 2017). Impacts begin with a shift in transport demand and supply variables equilibrium (Childress, Nicholos, Charlton, & Coe, 2015; Rubin, 2016), necessitating obvious adjustments in planning with new ideas, and innovations (Zakharenko, 2016).

The impacts, from a system level to societal level may have ripple effect on each other at multiple levels (Milakis, van Arem, & van Wee, 2017).

The probable areas of influence at a transport system level (either on supply side or demand side), include VKT, PKT, vehicle hours travelled (VHT), value of time (VOT), speed, capacity, headway, traffic flow, delay, travel cost, vehicle operating cost (VOC). These will further affect planning parameters in general such as infrastructure design, transport modelling, capital investment, car ownership, land use, employment, energy consumption, traffic safety and public health, environment (Dixit, Chand, & Nair, 2016). Planning authorities at local and state levels have to cope with the expected disruption in certain cases and impose planning and policy measures to control rest of the disruptions.

A summary of the literature in this area is presented in Appendix Table B and discussed below.

- **Infrastructure Design:** Road infrastructure will require new design criteria as lateral and longitudinal capacity of the roadway might be changed due to lane keeping and platooning respectively. Lane width might be reclaimed due to more accuracy in maintaining lateral alignment (Smith, 2012). To improve network performance and vehicle throughput, AVs might require dedicated road network in certain areas (Chen, He, Yin, & Du, 2017). Considering the impacts on infrastructure design, literature suggests the following planning recommendations (Hendrickson et al., 2014): (a) Pavement marking may require repainting; (b) No changes are expected in the design of clear zone; (c) Radio advisories and ITS message signs may or may not be obsolete depending on the presence of connectivity in automation; (d) Dedicated short range communications (DSRC) locations for traffic signals have to be identified and prioritized in case of automation with connectivity.
- **Car Ownership:** Flexibility of SAV and its operation would reduce operational and fixed cost and thereby reduce car ownership (Milakis, van Arem, & van Wee, 2017). The results of an agent-based modelling of different SAV scenarios indicate that each SAV can replace around eleven conventional cars (Fagnant & Kockelman, 2014). Due to exclusion of driver's talent and time, driverless taxi or autonomous car sharing program paves the way to be a cheaper travel option and may discourage traditional car ownership (Bagloee et al., 2016). Though this may be highly unlikely, some visions of pooled/shared ownership of AVs suggest that there could be no need to own private motor vehicles at all in the future (Levin & Boyles, 2015)—also see Ma, Zheng, and Wolfson (2015) for a model on real-time city-scale ridesharing. Planners may replace numbers of conventional on-street and off-street parking facilities by ensuring provision of few suburban multistory garages. They may also execute pickup and drop off points for AVs near transport hubs by eliminating existing paid and unpaid parking lots. This will promote tech- and transit-oriented developments (TTOD).
- **Employment:** Reduction of traffic congestion, travel time savings, and lower transportation costs of goods could be achieved at the expense of individuals, currently employed in building, driving, and maintenance of automobiles (Crayton & Meier, 2017). Spilling effects in labor market might be a reality due to falloffs in certain related jobs, like driver licensing, traffic policing, and insurance sales (Crayton & Meier, 2017). Moreover, a future with fewer vehicles would also lead to fewer jobs in the automotive industry as a whole (Snyder, 2016). In contrast, Gill, Kirk, Godsmark, & Flemming (2015) predicted potential employment gains in three sectors up to 15%—conversion of parking facilities related construction, roads and highways modification, and IT product and services. State or federal governments might declare rehabilitation package, especially for the abundant drivers of taxi, bus and commercial vehicles. Governments might also arrange specific training depending on the eligibility of drivers so that they can find a job in new sectors. Currently employed automobile technicians and mechanics can be trained up for new technology and this will help them to be remain in the same track without losing job. Automobile industries can also support government's novel initiatives with financial contribution.

- **Energy Consumption and Emissions:** Practically, fuel/energy consumption of any transport mode depends on travel activity performed by that mode and energy intensity (consumption per kilometer) of that particular mode, and emission is the product of energy consumption and fuel carbon content (Wadud et al., 2016). Automation might plausibly reduce road transport energy consumption and GHG emissions by approximately half—or nearly double them depending on automation level, AV features, use type, and policy intervention (Wadud et al., 2016).

Litman (2017) predicts that a major share of AVs in road transport will contribute to energy conservation by 2040–2060. Chen, He et al. (2017) indicate that vehicle automation may contribute 45% savings on fuel consumption in optimistic scenario and 30% fuel consumption in pessimistic scenario. Another study shows a 37% of energy savings is possible when AVs are used in conjunction with public transport in lieu of personal car (Moorthy, De Kleine, Keoleian, Good, & Lewis, 2017). On the other hand, large share of SAV fleet could improve fuel efficiency by abandoning highspeed and rapid acceleration of car (Milakis, van Arem, & van Wee, 2017). Liu, Kockelman, Boesch, & Ciari (2017) show that introduction of SAV systems can save 22.4% of total distance-based fuel consumption and this savings cannot be negated by extra VKT.

Large share of SAV fleet could also limit emissions by abandoning highspeed and rapid acceleration of car (Milakis, van Arem, & van Wee, 2017). Possibility of total distance-based (lifecycle and driving cycle) savings of GHG emissions is 16.8–42.7% due to introduction of SAV systems, and this savings cannot be negated by extra VKT due to AV's advancement, eco-technologies, and change in energy source (Liu et al., 2017). Another study in Lisbon city shows that replacement of conventional private car, taxi and bus by self-driving shared taxi and taxi-bus, keeping existing metro service could contribute in reducing carbon emissions (Martinez et al., 2017). It is also estimated that electric driven autonomous taxis could significantly reduce GHG emissions in 2030 with respect to current conventional and hybrid vehicles (Greenblatt & Saxena, 2015). Smith (2012) predicted reduction of emissions per VKT with an overall increase in total emissions.

It can be summarized that automation related road transport energy consumption and emission figures are still uncertain in their magnitude. This is because energy consumption and emissions are generally not a direct consequence of automation, rather it is affected by changes in vehicle operations, vehicle design, choice of energy, policy intervention, or transportation system design, which are more indirectly facilitated by automation (Wadud et al., 2016). Policymakers probably have to consider VKT based pricing to substitute earlier fuel tax, if energy source is shifted from fossil fuel to electricity. This is a step toward safeguarding government's financial revenue on the eve of electric vehicle. Government can also promote green vehicle operation by allowing less tax on vehicle purchase price and by reducing vehicle registration fee.

- **Traffic Safety and Public Health:** Until now, no empirical proof is established about the overall safety advantages of AVs (Winkle, 2016). Most of the investigation related to AVs' potential for crash protection was performed considering assumed AV deployment and market penetration scenarios. These assumptions were based on expert estimates, third-party forecasts and relevant database.

The German In-Depth Accident Study (GIDAS) and NHTSA crash databases show approximately 93% of road crashes happen due to human error, and it has been speculated that this figure might be completely ruled out in case of full automation of vehicles. Even level 0, and level 1 features of AVs have the potential to minimize one third of the traffic accidents (Bagolee et al., 2016). Daimler, manufacturer of Mercedes-Benz, published a forecasting models on vehicle-safety and crash research in 2010, which suggests increased automation can result in a reduction of crashes by 10% by 2020, 50% by 2050, 71% by 2060, and a total reduction by 2070 (Winkle, 2016). A US study projected that conversion of 10% and 90% of US vehicle

fleet to AV would respectively act to reduce annual crashes by 0.2 and 4.2 million, and it could respectively save 1,100 and 21,700 human lives annually (Collingwood, 2017).

Yet, adjustments of driving behavior in relation to levels 1-3 automation features may invite accidents in many cases (Milakis, van Arem, & van Wee, 2017). However, new crash risks may emerge due to automated system failures in certain cases, and road users may favor additional risk-taking behavior assuming the AV system's perceived and actual competencies (Litman, 2017). By assuring road safety through higher level of AVs, ripple effect of accident related tangible and intangible costs like medical costs, legal costs, insurance and administrative costs, emergency service costs, workplace losses, and property damages can be minimized (Bagolee et al., 2016). This will help federal or state governments to reconsider their budgets in the near future.

- **Capital Investment:** AVs might act to reduce proposed existing road expansion investment as platooning might significantly increase road capacity—as much as five times by one source (Fernandes & Nunes, 2012). That is why, the literature recommends re-evaluating planned road system capacity enhancement projects before making final investment decision. It has also been suggested that ITS and level of service (LOS) investment projects are assessed for compatibility with CAV fleets (Hendrickson et al., 2014).
- **Land Use:** AVs will either promote urbanization or promote suburbanization. In reality, transport network will tend to flow in between these two scenarios, depending on transport and urban planning policy, prevailing local conditions, and dissemination of different driverless mobility solutions (Smolnicki & Sołtys, 2016).

At the regional level, accessibility improvements through lower generalized cost of transport due to vehicle automation will result in ex-urbanization to remote areas of former inner city, leading to attractive green urban sprawl surrounding metropolitan regions (Bagolee et al., 2016; Crayton et al., 2017; Milakis, van Arem, & van Wee, 2017) with lower house prices (Heinrichs, 2016), and decline in rent outside CBD (Zakharenko, 2016). AVs' favor towards urban sprawl may prove transit service superfluous except for dense urban areas (Meyer, Becker, Bösch, & Axhausen, 2017). Urban sprawl is also subject to availability of land and land-use policies (Yigitcanlar & Kamruzzaman, 2014; Milakis, van Arem, & van Wee, 2017).

At the urban/local level, presence of commuting AVs and SAVs (with or without dynamic ride sharing) may free up daytime downtown on-street and off-street parking spaces (Bagolee et al., 2016; Heinrichs, 2016; Zakharenko, 2016; Milakis, van Arem, & van Wee, 2017). Different spatial distribution of urban parking demand will be evolved against different SAV operation strategies and client's preferences (Zhang et al., 2015). The results of an agent-based model show that the clients adopting SAV system in lieu of conventional private car can eliminate up to 90% of parking demand at a low market penetration rate of 2% (Zhang et al., 2015). On the other hand, SAVs have the potential to tackle the transport related-social exclusion (Duvarci, Yigitcanlar, & MizoKami, 2015; Kamruzzaman, Yigitcanlar, Yang, & Mohamed, 2016; Yigitcanlar, Mohamed, Kamruzzaman, & Piracha, 2018).

Driving robots' capability of valet parking may promote neighborhood parking zones or collective garages in the inner-city districts. The presence of auto-valet garages will allow more vehicles to be parked and creates the possibility of increasing density of urban core areas by repurposing released parking spaces due to less demand for parking in CBD areas (Heinrichs, 2016). The saved off-street parking spaces could be repurposed for infill residential and commercial development, allowing increase in economic activity to contribute to the further CBD density (Bagolee et al., 2016; Milakis, van Arem, & van Wee, 2017), and the saved on-street spaces could be transformed into HOV lanes, bus lanes, cycle lanes, or new public spaces (Milakis, van Arem, & van Wee, 2017).

Possibility of significant increase in road capacity through platooning—as much as five times (Fernandes & Nunes, 2012) could save road spaces that might be reallocated to other

travel modes—like buses, cycling and walking. In an ideal condition, where all the vehicles in roads are fully autonomous, highway capacity might increase around 100% (Farmer, 2016).

Regulatory body may think about limiting the projected increased AV traffic. Because in presence of public transit, under certain conditions AVs will connect to the transit without entering CBD (Zakharenko, 2016). Local and state government authorities have to decide whether they will allow or limit urban sprawl. It should be exclusively bounded by city's land-use policy. Moreover, most of the state and local authorities should decide reallocation of city's road space and parking spaces depending on nature of travel pattern and traffic behavior in a new form of traffic mix.

Considering too many aspects of AV impacts, Isaac (2016) recommended generalized medium- to long-term planning activities. Medium- and long-term planning activities include: (a) Updating transport model with new assumptions; (b) Forecasting financial revenues; (c) Designating traffic lanes for simultaneous operation of AV and/or conventional automobile; (d) Updating traffic signs and markings; (e) Reducing lane widths; (f) Adjusting speed limits, traffic signal locations and timing; (g) Eliminating or reducing parking spaces and add more drop off/pick up locations; (h) Reclaiming city center surface parking lots for potential future developments; (i) Reclaiming right-of-way for people and other mode of transport; (j) Doubling use of the suburb on-street parking areas as charging stations; (k) Developing new predictive models for pavement maintenance.

4.4 Pre-deployment policy

Higher level of vehicle automation poses regulatory challenges for the AV manufacturing countries (Nowakowski, Shladover, Chan, & Tan 2015). The uptake of a new technology like AV should be regulated through federal and state governments' pre-deployment policy. Major regulating policies are revolving around testing and deployment, cybersecurity and privacy, liabilities and insurance, ethics, and repair/maintenance and calibration. Proactive actions in this regard may ensure rapid AV uptake in some jurisdictions and reactive or inert actions may delay the whole uptake process in some other jurisdictions. As an example, AV legislation and policies in the US, the Netherlands, the UK and Sweden are paving the way for other countries (Nowakowski et al., 2015, Vellinga, 2017). However, the first fatal crash by a self-driving UBER involving pedestrian in the US proves that more research, development, legislation and planning are needed for a safer and wider AV uptake.

A summary of the literature in this area is presented in Appendix Table C and discussed below.

- Testing and Deployment: Two main aspects in relation to AV operation, to be bounded by regulation, are testing and deployment. These two main challenges are linked with devising regulations in this particular area to ensure safety without hindering innovation, and defining meaningful requirements or standards without having such technical standards for ADS in place (Nowakowski et al., 2015). Another significant concern focuses on how to maintain legal consistency in different jurisdictions to avoid confrontation with AV manufacturers and to encourage innovation (Vellinga, 2017). Around the globe, policymakers are yet to establish such a consistent legal ground for AV design, testing and deployment. Regulating bodies and practiced legal instruments used by these bodies are also different from each other. Some authorities follow "binding regulation," some follow "non-binding regulation," and some other follow "granting exemption" (Vellinga, 2017).

In the US, technology aspects of vehicle safety are regulated by federal government agency, and other safety aspects related to vehicle registration and driver's training, evaluation, and licensing are the functions of state government (Nowakowski, Shladover, & Chan, 2016; Vellinga, 2017), but in the UK and the Netherlands, federal government agencies regulate all aspects of vehicle safety for testing and deployment (Vellinga, 2017). Currently, the US federal

government agency NHTSA and the UK Department of Transport (DoT) is in favor of non-binding test and deployment regulations for AV under the cover of national policy and code of practice respectively. On the contrary, one of the US states, California has binding legislations in place to regulate the testing and deployment of AVs. Against the backdrop of binding and non-binding regulations and policy, Dutch Vehicle Authority (RDW) granted exemptions to AV from certain laws under certain conditions.

NHTSA provides guidance for both manufacturers and states, though these are not mandatory to abide by. Manufacturers involved in designing, developing, testing and selling should follow the NHTSA policy and guidance to ensure safe testing and deployment of AVs on public roads, and states should follow the policy to prevent inconsistencies in AV laws and regulations among the states. The main exception of the UK Code of Practice over NHTSA policy is that it also addresses the requirements about the test driver. RDW grants the exemption to AV testing on public roads with test specific conditions once all the functionalities to be tested are passed on test track. Both the “binding regulations” and “exemption under conditions” are legally binding for manufacturers to ensure safety during testing (Vellinga, 2017). Though “exemption under conditions” poses legal uncertainty for manufacturers, it flourishes technical developments. On the other hand, non-binding regulation can guide manufacturers or testing organizations to adjust with continuous changes in regulation with advancement in technology (Maurer, Gerdes, Lenz, & Winner, 2016).

- **Privacy and Cybersecurity:** AV will essentially be equipped with tracing technology to recognize accident causing factors and consequently to mitigate product liability (Bruin, 2016). At the same time, AV equipped with such technology might have serious impact on information privacy of the persons in side or around such vehicles. Manufacturers should be held responsible if AV fails to comply with laws associated with protection of personal data (Bruin, 2016). Privacy mainly relates to control over autonomy, information, and surveillance when it comes to AV (Glancy, 2012). Personal autonomy is one’s ability to make choices independently about oneself. Use of AV inherently affect autonomy by taking over human control in the way people move one place to another (Collingwood, 2017). Personal information privacy can be violated as AV will collect, store, use, own, transfer, or destroy data/information due to improper or non-existent disclosure control (Collingwood, 2017).

As an example, transmission of present location, past travel pattern, and future travel plan could compromise privacy of AV user. Personal information collection through comprehensive legal and illegal AV tracking will affect privacy associated with surveillance. To protect the privacy associated with AV, generated data ownership pattern and limit of onward data transmission and its usage have to be finalized in the upcoming data privacy act of different countries. To protect the different privacy interests, legislators and regulators should have answers of following questions—Why it is collected, what will be the uses of personal data. How long data should be preserved. Who can and cannot have access to it. Glancy (2012) argued that, without suitable legal safeguards for privacy, AV could face challenges of “market resistance” from prospective users who recognize AV as threats to their privacy.

On the other hand, at the advent of increased computerization and networking, AVs are accumulating autonomous capabilities and are inviting cyber-threats as permanent allies (Yagdereli, Gemci, & Aktas, 2015). One of the main cause of ADS failure is cyber-attacks and software and hardware defects. Hence, this system should be equipped with such defensive system that can respond automatically and dynamically to deliberate and inadvertent attacks and defects (Yagdereli et al., 2015). A cybersecurity system should primarily safeguard on-board data storage, data sharing (Lee, 2017). Cybersecurity concerns should be bounded by regulatory action to protect consumer interests and promote future growth against autonomous unmanned system vulnerabilities. Considering rapid growth and interstate nature of AV tech-

nology, Lee (2017) emphasizes federal government to take charge of formulating nationwide regulatory framework for communications, privacy, and cybersecurity pertaining to this technology. Within the federal framework, states and industry should conduct experiment and develop self-regulation. In line with formulated regulations AV cybersecurity requirements should be determined and documented in the systems' requirements documents and it should be done before the design of the system (Yagdereli et al., 2015).

- **Liability and Insurance:** Data obtained through on-board vehicular systems and sensors of ADS can provide sufficient details of an accident to determine many liability decisions with high degree of precision (Dhar, 2016). This will help to identify "at-fault" driver or vehicle and ensure quick processing of insurance payment to victim. This accurate identification of accident related physical factors to environmental factors to human factors would eventually quash delays and litigation costs linked with tort laws and also exclude necessity for no-fault insurance, which is alive at dozens of US states at the moment.

Though emergence of AV makes fault identification accurate and smoother than before, it also raises a big question: who will be held responsible for the accident: driver (till SAE level 3), owner, operator, or manufacturer. ADS of AVs serve generally a robotic function and raises novel issues in criminal law as robot can malfunction and cause serious harm to people and property. As robotic systems are inappropriate for criminal punishment, humans who produce, program, and deploy robots should be subject to criminal punishment if the robots are intentionally used to cause harm to others (Gless, Silverman, & Weigend, 2016). However, Gless et al. (2016) advocates in favor of limiting the liability of vehicle operators, if they undermine to initiate reasonable measures to control the risk originated from ADS.

In the US, states are responsible for liability regimes and insurance (Vellinga, 2017). The Californian draft AV Express Terms suggested that the manufacturer should be held responsible in case of collision or accidents caused by AV and that has to be covered by proper insurance. The Dutch law intended to hold the possessor of AV liable for development risks as they cannot invoke the defense that can be called on by the manufacturer (Vellinga, 2017). The UK proposal discussed first party insurance option for the victim but it did not suggest any other substantial changes in liability rules (UK Parliament, 2016). In this case, victim, regardless of liability, can claim from his insurer and later, insurer can recover the amount from the manufacturer—if manufacturer is found liable. Sweden is practicing first party insurance model since 1975 (Schellekens, 2015).

If the liability of human driver or owner of the car would shift to manufacturer in case of collision, this might slow down the progress of AV development (Vellinga, 2017). In addition to this, insurance companies may become less interested to insure the high risk of AVs. This issue can be addressed by limiting the amount of damages one can claim due to the fault of AV. In parallel government could be a reinsurer to encourage the insurance companies to insure AVs (Vellinga, 2017).

5 Discussion and conclusion

Within the contemporary smart city debate, AVs represent a way to create an ideal city form and developments in the autonomous driving technology have the potential to bring smart mobility to our rapidly urbanizing world; but for others AV is a branding hoax (Yigitcanlar & Lee, 2014; Yigitcanlar & Kamruzzaman, 2018a). Despite a large body of recent literature on AV's, only a limited number of studies have outlined the disruptive effects that AV might bring on city planning and society in general. This paper, through a systematic review of the literature, aimed to determine the current state of research literature on AV technology, the future direction that this technology is leading to, how the changes are

likely to affect our day-to-day travel behavior and long-term changes in the structure of our cities, and what would be the likely policy tools for a smooth transitioning of the technology.

As the literature suggests, AVs' major disruptions in our cities will be in urban transport, land use, employment, parking, car ownership, infrastructure design, capital investment decisions, sustainability, mobility, and traffic safety. It is clear from this study that preparing our cities for AVs through progressive planning is critical to achieving the benefits and to address the resulting disruption. On the eve of rising AV demand, local and state governments should be equipped with better policy and planning tools to accommodate AV technology and its impacts. In parallel, timely interventions from international, national/federal and state levels in terms of regulating, standardizing and certifying this technology and approval of appropriate legislative measures to ensure testing, deployment, privacy, security, and liability issues are addressed. These are discussed in the following sub-sections in detail.

5.1 Driving forces, uptake factors, impacts and interventions framework

This paper has investigated the AV phenomenon from the perspectives of AV capability, impact and planning interventions, and pre-deployment policy. Research area covered under this study is only a small part of a broader framework. Based on the findings of the reviewed papers, the study synthesized a broader framework—for AV driving forces, uptake factors, impacts and interventions—illustrated in Figure 1 and discussed below.

Any new innovation demands external thrust or driving forces from social, political, economic, environmental, and technological sectors that might push forward or pull back the key factors responsible for uptake of that very new innovation. With the help of a force matrix, by awarding score against uncertainty and impact of each force, most influential forces behind the key uptake factors can be ranked. Future plausible scenarios of any new technological innovation uptake are the product of multiple combinations of the highly ranked influential driving forces. In the case of AV uptake, relevant driving forces are technological advancements, economic conditions, customer attitudes, environmental conditions, and government policies. Plausible AV scenarios emerged through any two high ranked influential forces might be termed as AVs in boom, in demand, in standby, or in doubt. The prominent uptake factors under any plausible AV scenario that might lead to changes in values of transport system level variables are AV type, AV growth trend, AV automation level, AV fuel type, AV capabilities, and so on.

Each future plausible AV scenario generally owns a set of AV supply parameters that can act as input parameters for transport modelling. Inclusion of these new modelling input parameters in existing transport modelling exercise can signify impact of AV uptake patterns through expected changes in output parameters. From the modelling output one can identify the changes in demand parameters from scenario to scenario at transport system level. The demand parameters value might roam around VKT, individual driving speed, per capita distance travelled, per capita generalized cost, per capita travel item, parking demand, per capita travel cost, and mode share by trips. This will dictate the quantitative and qualitative changes in societal parameters—see societal impact box in Figure 1.

Finally, decision-makers and planners have to counteract with intervening planning and policy initiatives in the necessary disruptive areas so that optimum benefits from AV can be realized for a city. In this case, the framework highlights some of the prospective areas of planning and policy interest. These are congestion pricing, lane width reduction, new modelling assumptions, on-street charging points, reduction in on- and off-street parking spaces, introduction of zonal parking garages, adjusting signal location and timings, adjusting speed limits, and optimizing AV share.

As the paper investigated the AV phenomenon from the perspectives of capability, impact, planning interventions, and pre-deployment policies, it focused on few of the selective parameters from each block of the described framework. In relation to the framework, this paper mainly researched one of the

driving forces vigorously—pre-deployment government policy. The reviewed pre-deployment government policies are—testing and deployment, privacy and cybersecurity, and liability and insurance. Out of the mentioned uptake and penetration factors, we elaborated the capabilities of AV. The reviewed areas of capabilities are platooning, merging, lane changing, and valet parking. In the area of AV's societal impacts and counter measure to negotiate those impacts, the paper reviewed infrastructure design, car ownership, employment, energy consumption and emission, traffic safety and public health, capital investment, and land use.

By analyzing our research area, it is understood that pre-deployment government policy and AV capabilities have lot of contributions in assuming or estimating transport model input parameters. On the other hand, changes in model output parameters can be directly or indirectly translated into societal impact or disruptions. This will ultimately lead to short-, medium-, and, long-term planning and policy interventions at the local, regional, and state levels to address various disruptions or the impacts of AVs.

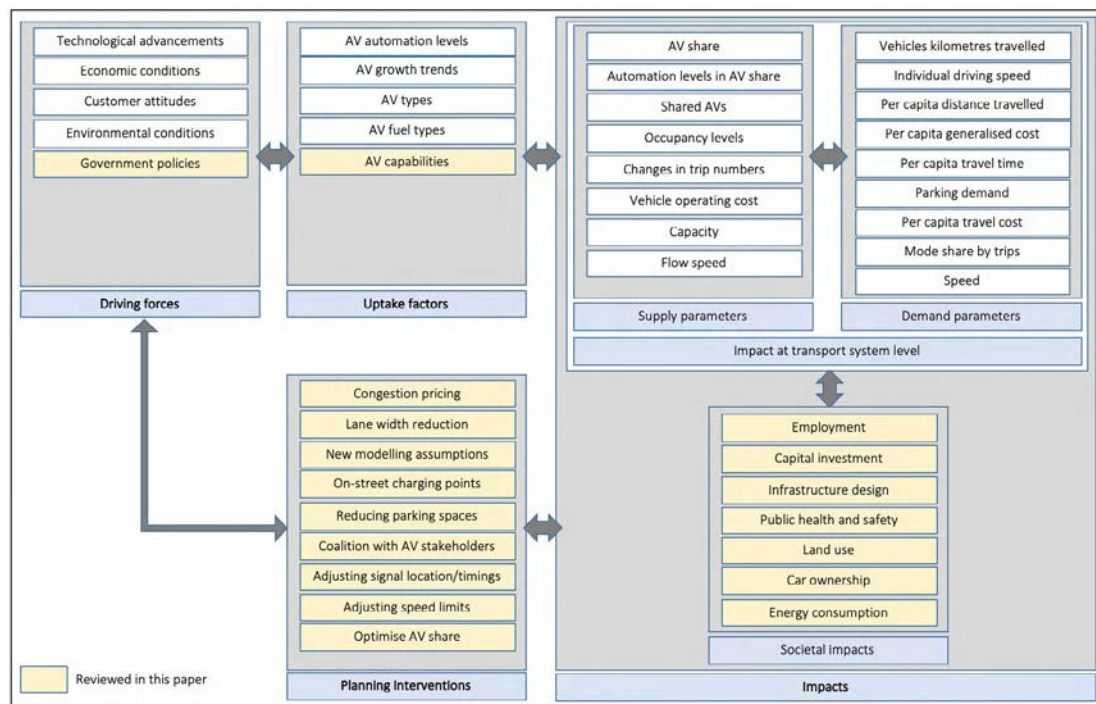


Figure 1. AV driving forces, uptake factors, impacts and interventions framework

5.2 Research implications

The review of the literature suggests that most studies to date are optimistic about the potential benefits that AVs might bring to cities. Rarely have these assumptions been critically examined. In many cases the potential benefits as being advocated are more theory than practice. For example, almost all studies accepted the crash reduction rate (by 90%) with AVs because human error is responsible for most crashes. They assume that when humans are not in charge of driving, crashes would not happen; a rather heroic assumption. These studies do not consider a myriad of issues that can might cause an AV to be involved in a crash such as software failure, factors that are not included within the AVs' artificial intelligence, failure to recognize a new street layout pattern, and so on.

Additionally, frequently claimed benefits of AVs in the literature are that they will reduce congestion through optimum use of road spaces using the platooning technology. These studies rarely consider

the scenario that an effective platooning will only work if all AVs are travelling from a defined origin to a defined destination in a dedicated lane. However, trip origins and destinations vary from person to person which implies that AVs will have to frequently change lanes for entry and exit. Moreover, if a non-AV enters into a platoon, the efficiency of platooning will reduce. More importantly, the saved road spaces are likely to be occupied by the induced trips expected to be generated by less mobile people today. Furthermore, the passenger multitasking benefits within AVs may act to increase suburbanization and urban sprawl resulting in additional VKT, and ultimately consume more road space. The prevailing implication that AV's will increase sharing including higher car occupancy also seem weak and should be explored using research on human factors and by investigating AV trial outcomes.

The findings of the review also suggest that effective policy can: (a) Reduce the reliance on traditional vehicles (including AVs); (b) Foster the use of autonomous public transport vehicles (AVPT); (c) Discourage and reduce sprawling development. These are elaborated below:

- In terms of policy to reduce traditional low occupancy private motor vehicle dependency there is a significant supporting literature (Banister, 1997; Newman & Kenworthy, 1999; Yigitcanlar, Fabian, & Coiacetto, 2008; Kamruzzaman, Yigitcanlar, Washington, & Currie, 2014). The policy and planning aspects discussed in the urban and transport planning and urban studies literatures without a specific focus on AVs are also relevant to the AV context (Firnkorner & Müller, 2015; Newman & Kenworthy, 2015). This indicates that there is still a need for further conceptual and empirical explorations for figuring out how to develop and implement AV-related policies and plans to obtain desired outcomes.
- As for the policy to increase the patronage of AVPTs, there is limited research and knowledge. Will the factors (both pull and push) influencing public transport patronage be valid for AVPTs with the widespread deployment of personal AVs or SAVs? The common logic suggests that AVPTs patronage would increase only in the case of convenience of private motor vehicle or private AV is offered. The convenience factors include access to public transport stops (Murray, Davis, Stimson, & Ferreira, 1998; Yigitcanlar, Sipe, Evens, & Pitot, 2007), weather and climatic conditions to access and use public transport (Kashfi, Bunker, & Yigitcanlar, 2015a, 2015b), travel time, cost and in-vehicle conditions (Beirão & Cabral, 2007). Owczarzak and Zak (2015) built a decision model based on the concept of public transportation on demand based on AVs. They find reliability and safety of AVPTs (unlike traditional determinants such as fare, and travel time) will be the key determinants of user acceptance and thus increased patronage (Lamondia, Fagnant, Qu, Barrett, & Kockelman, 2016; Becker & Axhausen, 2017). Similarly, Payre, Cestac, and Delhomme (2014) highlight the importance of acceptance of the technology in its wider roll out. This calls for further empirical investigations both on user confidence and policy formulation aspects of AVPTs.
- In terms of policy to discourage and reduce the sprawling urban development, there is not much research besides some warnings and speculations. For instance, Lari, Douma, and Onyiah (2015) warned us that the decreased travel costs in terms of time and energy (as may be generated by AVs) could result in people living further from urban centers, which would likely to create urban sprawl. The sprawl issue seems to be the biggest challenge for urban policy and planning, hence, there is an urgent need for empirical studies to model the impacts of AVs on our cities, and then develop competent planning policies and actions to address these challenges. Urban policy makers should take this issue seriously.

5.3 Limitations and research directions

The following research limitations should be considered: (a) Exclusion of literature outside the peer-reviewed full text articles available online, might limit the spectrum of the review as a relatively new field AV research has been mostly published in conference proceedings, book chapters, and white papers; (b)

Selection of the search keywords might omit inclusion of some relevant literature; (c) The authors' unconscious bias might have an impact on the execution of the review, and interpretation of the findings; (d) The methodological approach is limited to a manually handled literature review technique; further analytical techniques could have been considered—such as scientometrics, content analysis, cognitive mapping, and concept clustering—to generate a clearer picture of the investigated topic.

As indicated by Yigitcanlar, Currie, and Kamruzzaman. (2017), through the convergence of automation, electrification and ride-sharing technologies, AVs could significantly reshape real estate, urban development and city planning—as the automobile did in the last century. This transformation creates an opportunity for planners to make our cities more citizen-centered by bringing back the human-scale and walkable city practices that motor vehicle domination removed. How well prepared are urban planners, however, to mitigate the disruptive impacts on our cities? Do we yet even understand what these disruptions and their implications are? This review of the literature reveals that presently, urban planning as a profession is largely unprepared for AVs. Urban and transport planners need to be aware, smart and proactive about the potential impacts, particularly in terms of the potential for renewed urban sprawl. A future involving widespread use of AVs presents both land-use opportunities and challenges. Progressive outcomes will require an objective assessment of their complex land-use, economic and community influences on our evolving cities. We, hence, advocate the necessity of preparing our cities for AVs and generating desired smart urban mobility outcomes—through appropriate policies, timely legislations, and accurate planning standards and guidelines—even a wider uptake might take quite some time.

Acknowledgements

This research did not receive any specific grant from funding agencies in the public, commercial or not-for-profit sectors. The authors thank the Editor-in-Chief Prof. David M. Levinson and anonymous referees for their invaluable comments on an earlier version of the manuscript.

References

- Althe, F., Qian, X., & De La Fortelle, A. (2017). An algorithm for supervised driving of cooperative semi-autonomous vehicles. *IEEE Transactions on Intelligent Transportation Systems*, *18*, 3527–3539.
- Anderson, J. M., Nidhi, K., Stanley, K. D., Sorensen, P., Samaras, C., & Oluwatola, O. A. (2014). *Autonomous vehicle technology*. Santa Monica, CA: Rand Corp.
- Arbolino, R., Carlucci, F., Cira, A., Ioppolo, G., & Yigitcanlar, T. (2017). Efficiency of the EU regulation on greenhouse gas emissions in Italy. *Ecological Indicators*, *81*, 115–123.
- Arnaut, G., & Arnaut, J. P. (2014). Exploring the effects of cooperative adaptive cruise control on highway traffic flow using microscopic traffic simulation. *Transportation Planning and Technology*, *37*, 186–199.
- Bagloe, S. A., Tavana, M., Asadi, M., & Oliver, T. (2016). Autonomous vehicles. *Journal of Modern Transportation*, *24*, 284–303.
- Bai, W., Quan, J., Fu, L., Gan, X., & Wang, X. (2017). Online fair allocation in autonomous vehicle sharing. In *GLOBECOM 2017-2017 IEEE Global Communications Conference* (pp. 1-6), Singapore.
- Banister, D. (1997). Reducing the need to travel. *Environment and Planning B*, *24*, 437–449.
- Bansal, P., & Kockelman, K. M. (2017). Forecasting Americans' long-term adoption of connected and autonomous vehicle technologies. *Transportation Research Part A*, *95*, 49–63.
- Bask, A., & Rajahonka, M. (2017). The role of environmental sustainability in the freight transport mode choice: A systematic literature review with focus on the EU. *International Journal of Physical Distribution and Logistics Management*, *47*, 560–602.
- Becker, F., & Axhausen, K. W. (2017). Literature review on surveys investigating the acceptance of automated vehicles. *Transportation*, *44*, 1293–1306.
- Beirão, G., & Cabral, J. S. (2007). Understanding attitudes towards public transport and private car. *Transport Policy*, *14*, 478–489.
- Bloomberg. (2017). *Is your city getting ready for AVs?* Retrieved from <http://avsincities.bloomberg.org/global-atlas>
- Boesch, P. M., Ciari, F., & Axhausen, K. W. (2016). Autonomous vehicle fleet sizes required to serve different levels of demand. *Transportation Research Record*, *2542*, 111–119.
- Brereton, P., Kitchenham, B. A., Budgen, D., Turner, M., & Khalil, M. (2007). Lessons from applying the systematic literature review process within the software engineering domain. *Journal of Systems and Software*, *80*, 571–583.
- Brookhuis, K., de Waard, D., & Janssen, W. (2001). Behavioral impacts of advanced driver assistance systems: An overview. *European Journal of Transport and Infrastructure Research*, *1*, 245–253.
- Bruin, R. D. (2016). Autonomous intelligent cars on the European intersection of liability and privacy. *European Journal of Risk Regulation*, *7*, 485.
- Burgess, K., Singh, P. J., & Koroglu, R. (2006). Supply chain management. *International Journal of Operations and Production Management*, *26*, 703–729.
- Chang, D. L., Sabatini-Marques, J., da Costa, E. M., Selig, P. M., & Yigitcanlar, T. (2018). Knowledge-based, smart and sustainable cities. *Journal of Open Innovation*, *4*, 5.
- Chen, Y., Gonder, J., Young, S., & Wood, E. (2017). Quantifying autonomous vehicles national fuel consumption impacts. *Transportation Research Part A*. doi.org/10.1016/j.tra.2017.10.012
- Chen, Z. B., He, F., Yin, Y. F., & Du, Y. C. (2017). Optimal design of autonomous vehicle zones in transportation networks. *Transportation Research Part B*, *99*, 44–61.
- Childress, S., Nichols, B., Charlton, B., & Coe, S. (2015). Using an activity-based model to explore the potential impacts of automated vehicles. *Transportation Research Record*, *2493*, 99–106.
- Chong, Z. J., Qin, B., Bandyopadhyay, T., Wongpiromsarn, T., Rebsamen, B., Dai, P., & Ang Jr, M. H.

- (2013). Autonomy for mobility on demand. In S. Lee, H. Cho, K. J. Yoon, & J. Lee (Eds.), *Intelligent autonomous systems 12*, (pp. 671–682). Berlin: Springer, Berlin.
- Christie, D., Koymans, A., Chanard, T., Lasgouttes, J. M., & Kaufmann, V. (2016). Pioneering driverless electric vehicles in Europe. *Transportation Research Procedia*, 13, 30–39.
- Chun, B. T., & Lee, S. H. (2015). Review on ITS in smart city. *Advanced Science and Technology Letters*, 98, 52–54.
- Collingwood, L. (2017). Privacy implications and liability issues of autonomous vehicles. *Information and Communications Technology Law*, 26, 32–45.
- Coppola, R., & Morisio, M. (2016). Connected car. *ACM Computing Surveys*, 49, 46.
- Correia, G. H. de A., & van Arem, B. (2016). Solving the user optimum privately-owned automated vehicles assignment problem UO-POAVAP: A model to explore the impacts of self-driving vehicles on urban mobility. *Transportation Research Part B*, 87, 64–88.
- Crayton, T. J., & Meier, B. M. (2017). Autonomous vehicles. *Journal of Transport and Health*, 6, 245–252.
- Creutzig, F., Jochem, P., Edelenbosch, O. Y., Mattauch, L., van Vuuren, D. P., McCollum, D., & Minx, J. (2015). *Transport. Science*, 350, 911–912.
- Davidson, P., & Spinoulas, A. (2016). Driving alone versus riding together. *Road and Transport Research*, 253, 51–66.
- Daziano, R. A., Sarrias, M., & Leard, B. (2017). Are consumers willing to pay to let cars drive for them? *Transportation Research Part C*, 78, 150–164.
- Denaro, R. P., Zmud, J., Shladover, S., Smith, B. W., & Lappin, J. (2014). Automated vehicle technology. *King Coal Highway*, 292, 19–24.
- Dhar, V. (2016). Equity, safety, and privacy in the autonomous vehicle era. *Computer*, 49, 80–83.
- Dia, H., & Javanshour, F. (2017). Autonomous shared mobility-on-demand. *Transportation Research Procedia*, 22, 285–296.
- Diakaki, C., Papageorgiou, M., Papamichail, I., & Nikolos, I. (2015). Overview and analysis of vehicle automation and communication systems from a motorway traffic management perspective. *Transportation Research Part A*, 75, 147–165.
- Dixit, V. V., Chand, S., & Nair, D. J. (2016). Autonomous vehicles: *Disengagements, accidents and reaction times*. *PLoS One*, 11, e0168054.
- DoT. (2016). *Federal automated vehicles policy: Accelerating the next revolution in roadway safety*. Washington, DC: US Department of Transport (DoT).
- Dresner, K., & Stone, P. (2008). A multiagent approach to autonomous intersection management. *Journal of Artificial Intelligence Research*, 31, 591–656.
- Duvarci, Y., Yigitcanlar, T., & Mizokami, S. (2015). Transportation disadvantage impedance indexing. *Journal of Transport Geography*, 48, 61–75.
- Fagnant, D. J., & Kockelman, K. M. (2014). The travel and environmental implications of shared autonomous vehicles, using agent-based model scenarios. *Transportation Research Part C*, 40, 1–13.
- Fagnant, D. J., & Kockelman, K. (2015). Preparing a nation for autonomous vehicles: Opportunities, barriers and policy recommendations for capitalizing on self-driven vehicles. *Transportation Research Part A*, 77, 167–181.
- Fagnant, D. J., Kockelman, K. M., & Bansal, P. (2015). Operations of shared autonomous vehicle fleet for Austin, Texas, market. *Transportation Research Record*, 2536, 98–106.
- Farmer, D. L. (2016). Autonomous vehicles: The implications on urban transportation and traffic flow theory. *Institute of Transportation Engineers Journal*, 86, 34–37.
- Fernandes, P., & Nunes, U. (2012). Platooning with IVC-enabled autonomous vehicles: Strategies to

- mitigate communication delays, improve safety and traffic flow. *IEEE Transactions on Intelligent Transportation Systems*, 13, 91–106.
- Firnknorn, J., & Müller, M. (2015). Free-floating electric carsharing-fleets in smart cities. *Environmental Science and Policy*, 45, 30–40.
- Gill, V., Kirk, B., Godsmark, P., & Flemming, B. (2015). *Automated vehicles*. Ottawa: The Conference Board of Canada.
- Glancy, D. J. (2012). Privacy in autonomous vehicles. *Santa Clara Law Review*, 52, 1171–1239.
- Gless, S., Silverman, E., & Weigend, T. (2016). If robots cause harm, who is to blame? *New Criminal Law Review*, 19, 412–436.
- Gong, S., Shen, J., & Du, L. (2016). Constrained optimization and distributed computation-based car following control of a connected and autonomous vehicle platoon. *Transportation Research Part B*, 94, 314–334.
- Greenblatt, J. B., & Saxena, S. (2015). Autonomous taxis could greatly reduce greenhouse-gas emissions of US light-duty vehicles. *Nature Climate Change*, 5, 860–863.
- Gruel, W., & Stanford, J. M. (2016). Assessing the long-term effects of autonomous vehicles. *Transportation Research Procedia*, 13, 18–29.
- Heinrichs, D. (2016). Autonomous driving and urban land use. In: M. Maurer, J. C. Gerdes, B. Lenz, & H. Winner. (Eds.), *Autonomous driving: Technical, legal and social aspects* (pp. 213–231). Berlin: Springer.
- Hendrickson, C., Biehler, A., & Mashayekh, Y. (2014). *Connected and autonomous vehicles 2040 vision*. Harrisburg, PA: Pennsylvania Department of Transportation.
- Hoogendoorn, R., van Arem, B., & Hoogendoorn, S. (2014). Automated driving, traffic flow efficiency and human factors: A literature review. *Transportation Research Record*, 2422, 113–120.
- Isaac, L. (2016). How local governments can plan for autonomous vehicles. In G. Meyer & S. Beiker (Eds.), *Road vehicle automation 3*, (pp. 59-70). Berlin: Springer.
- Kamruzzaman, M., Yigitcanlar, T., Washington, S., & Currie, G. (2014). Australian baby boomers switched to more environmentally friendly modes of transport during the global financial crisis. *International Journal of Environmental Science and Technology*, 11, 2133–2144.
- Kamruzzaman, M., Hine, J., & Yigitcanlar, T. (2015). Investigating the link between carbon dioxide emissions and transport related social exclusion in rural Northern Ireland. *International Journal of Environmental Science and Technology*, 12, 3463–3478.
- Kamruzzaman, M., Yigitcanlar, T., Yang, J., & Mohamed, A. (2016). *Measures of transport-related social exclusion*. *Sustainability*, 8, 696.
- Kashfi, S., Bunker, J., & Yigitcanlar, T. (2015a). Effects of transit quality of service characteristics on daily bus ridership. *Transportation Research Record*, 2535, 55–64.
- Kashfi, S., Bunker, J., & Yigitcanlar, T. (2015b). Understanding the effects of complex seasonality on suburban daily transit ridership. *Journal of Transport Geography*, 46, 67–80.
- Kim, J., Moon, Y. J., & Suh, I. S. (2015). Smart mobility strategy in Korea on sustainability, safety and efficiency toward 2025. *IEEE Intelligent Transportation Systems Magazine*, 7, 58–67.
- Krueger, R., Rashidi, T. H., & Rose, J. M. (2016). Preferences for shared autonomous vehicles. *Transportation Research Part C*, 69, 343–355.
- Lamondia, J. J., Fagnant, D. J., Qu, H., Barrett, J., & Kockelman, K. (2016). Shifts in long-distance travel mode due to automated vehicles and travel survey analysis. *Transportation Research Record*, 2566, 1–11.
- Lara, A., Costa, E., Furlani, T., & Yigitcanlar, T. (2016). Smartness that matters: Comprehensive and human-centered characterization of smart cities. *Journal of Open Innovation*, 2, 8.
- Lari, A., Douma, F., & Onyiah, I. (2015). Self-driving vehicles and policy implications. *Minnesota Jour-*

- nal of Law Science and Technology*, 16, 735.
- Lee, C. (2017). Grabbing the wheel early: Moving forward on cybersecurity and privacy protections for driverless cars. *Federal Communications Law Journal*, 69, 25–52.
- Lee, C. K., Lin, C. L., & Shiu, B. M. (2009). Autonomous vehicle parking using hybrid artificial intelligent approach. *Journal of Intelligent and Robotic Systems*, 56, 319–343.
- Levin, M. W., & Boyles, S. D. (2015). Effects of autonomous vehicle ownership on trip, mode, and route choice. *Transportation Research Record*, 2493, 29–38.
- Levine, M. L., Segev, L. L., & Thode, S. F. (2017). A largely unnoticed impact on real estate. *Appraisal Journal*, 85, 51–59.
- Li, B., & Shao, Z. (2015). A unified motion planning method for parking an autonomous vehicle in the presence of irregularly placed obstacles. *Knowledge-Based Systems*, 86, 11–20.
- Litman, T. (2017). *Autonomous vehicle implementation predictions*. Victoria, BC: Victoria Transport Policy Institute.
- Liu, J., Kockelman, K. M., Boesch, P. M., & Ciari, F. (2017). Tracking a system of shared autonomous vehicles across the Austin, Texas, network using agent-based simulation. *Transportation*, 44, 1261–1278.
- Luo, Y., Xiang, Y., Cao, K., & Li, K. (2016). A dynamic automated lane change maneuver based on vehicle-to-vehicle communication. *Transportation Research Part C*, 62, 87–102.
- Ma, S., Zheng, Y., & Wolfson, O. (2015). Real-time city-scale taxi ridesharing. *IEEE Transactions on Knowledge and Data Engineering*, 27, 1782–1795.
- Malokin, A., Circella, G., & Mokhtarian, P. L. (2015). How do activities conducted while commuting influence mode choice? Testing public transportation advantage and autonomous vehicle scenarios. In *94th Annual Meeting of the Transportation Research Board*, Washington DC, January 11–15.
- Martinez, L. M., & Viegas, J. M. (2017). Assessing the impacts of deploying a shared self-driving urban mobility system: An agent-based model applied to the city of Lisbon, Portugal. *International Journal of Transportation Science and Technology*, 6, 13–27.
- Maurer, M., Gerdes, J. C., Lenz, B., & Winner, H. (Eds.). (2016). *Autonomous driving: Technical, legal and social aspects*. Berlin: Springer.
- Meissner, E., Chantem, T., & Heaslip, K. (2016). Optimizing departures of automated vehicles from highways while maintaining mainline capacity. *IEEE Transactions on Intelligent Transportation Systems*, 17, 3498–3511.
- Meyer, J., Becker, H., Bösch, P. M., & Axhausen, K. W. (2017). Autonomous vehicles. *Research in Transportation Economics*, 62, 80–91.
- Milakis, D., van Arem, B., & van Wee, G. (2017). Policy and society related implications of automated driving: A review of literature and directions for future research. *Journal of Intelligent Transportation Systems*, 21, 324–348.
- Milakis, D., Snelder, M., van Arem, B., Homem, G., & van Wee, G. (2017). Development and transport implications of automated vehicles in the Netherlands. *European Journal of Transport and Infrastructure Research*, 17, 63–85.
- Moorthy, A., De Kleine, R., Keoleian, G., Good, J., & Lewis, G. (2017). Shared autonomous vehicles as a sustainable solution to the last mile problem. *SAE International Journal of Passenger Cars-Electronic and Electrical Systems*, 10, 328–336.
- Murray, A. T., Davis, R., Stimson, R. J., & Ferreira, L. (1998). Public transportation access. *Transportation Research Part D*, 3, 319–328.
- Newman, P., & Kenworthy, J. (1999). *Sustainability and cities*. New York: Island Press.
- Newman, P., & Kenworthy, J. (Eds.) (2015). *The end of automobile dependence*. New York: Island Press.
- NHTSA. (2016). Federal automated vehicles policy. Retrieved from <https://www.transportation.gov/>

- AV/federal-automated-vehicles-policy-september-2016
- Nie, J., Zhang, J., Ding, W., Wan, X., Chen, X., & Ran, B. (2016). Decentralized cooperative lane-changing decision-making for connected autonomous vehicles. *IEEE Access*, 4, 9413–9420.
- Nilsson, J., Brannstrom, M., Coelingh, E., & Fredriksson, J. (2017). Lane change maneuvers for automated vehicles. *IEEE Transactions on Intelligent Transportation Systems*, 18, 1087–1096.
- Nowakowski, C., Shladover, S. E., Chan, C. Y., & Tan, H. S. (2015). Development of California regulations to govern testing and operation of automated driving systems. *Transportation Research Record*, 2489, 137–144.
- Nowakowski, C., Shladover, S. E., & Chan, C. Y. (2016). Determining the readiness of automated driving systems for public operation development of behavioral competency requirements. *Transportation Research Record*, 2559, 65–72.
- Olaverri-Monreal, C. (2016). Autonomous vehicles and smart mobility related technologies. *Infocommunications Journal*, 8, 17–24.
- Oliveira, C. M., Márcio de Almeida, D. A., de Mello, A. L., do Couto Assumpção, F., Dos Santos Gonçalves, F., & Gonçalves, D. N. (2016). Identificando os desafios e as boas práticas para o transporte urbano de cargas, por meio de uma revisão bibliográfica sistemática. *Transportes*, 24, 9–19.
- Oliveira, C. M., Albergaria De Mello Bandeira, R., Vasconcelos Goes, G., Schmitz Gonçalves, D. N., & D'Agosto, M. D. (2017). Sustainable vehicles-based alternatives in last mile distribution of urban freight transport: A systematic literature review. *Sustainability*, 9, 1324.
- Owczarzak, Ł., & Żak, J. (2015). Design of passenger public transportation solutions based on autonomous vehicles and their multiple criteria comparison with traditional forms of passenger transportation. *Transportation Research Procedia*, 10, 472–482.
- Payre, W., Cestac, J., & Delhomme, P. (2014). Intention to use a fully automated car. *Transportation Research Part F*, 27, 252–263.
- Pendleton, S. D., Andersen, H., Du, X., Shen, X., Meghjani, M., Eng, Y. H., & Ang, M. H. (2017). Perception, planning, control, and coordination for autonomous vehicles. *Machines*, 5, 6.
- Perveen, S., Yigitcanlar, T., Kamruzzaman, M., & Hayes, J. (2017). Evaluating transport externalities of urban growth. *International Journal of Environmental Science and Technology*, 14, 663–678.
- Perveen, S., Kamruzzaman, M., & Yigitcanlar, T. (2017). Developing policy scenarios for sustainable urban growth management. *Sustainability*, 9, 1787.
- Perveen, S., Kamruzzaman, M., & Yigitcanlar, T. (2018). What to assess to model the transport impacts of urban growth? A Delphi approach to review the space-time suitability of transport indicators. *International Journal of Sustainable Transportation*. doi.org/10.1080/15568318.2018.1491077
- Piao, J., McDonald, M., Hounsell, N., Graindorge, M., Graindorge, T., & Malhene, N. (2016). Public views towards implementation of automated vehicles in urban areas. *Transportation Research Procedia*, 14, 2168–2177.
- Pinjari, A. R., & Menon, N. (2013). *Highway capacity impacts of autonomous vehicles*. Tampa, FL: Center for Urban Transportation Research.
- Rowley, J., & Slack, F. (2004). Conducting a literature review. *Management Research News*, 27, 31–39.
- Rubin, J. (2016). Connected autonomous vehicles: Travel behavior and energy use. In G. Meyer & S. Beiker (Eds.), *Road vehicle automation 3*, (pp. 151–162). Berlin: Springer.
- SAE. (2016a). *Automated driving*. Retrieved from https://www.sae.org/misc/pdfs/automated_driving.pdf
- SAE. (2016b). Taxonomy and definitions for terms related to driving automation systems for on-road motor vehicles. Retrieved from http://standards.sae.org/j3016_201609
- Schellekens, M. (2015). Self-driving cars and the chilling effect of liability law. *Computer Law and Security*

- ity Review, 31, 506–517.
- Scheltes, A., & de Almeida Correia, G. H. (2017). Exploring the use of automated vehicles as last mile connection of train trips through an agent-based simulation model. *International Journal of Transportation Science and Technology*, 6, 28–41.
- Shladover, S. E., Su, D., Lu, X. Y. (2012). Impacts of cooperative adaptive cruise control on freeway traffic flow. *Transportation Research Record*, 2324, 63–70.
- Shladover, S. E. (2018). Connected and automated vehicle systems. *Journal of Intelligent Transportation Systems*, 22, 190–200.
- Smith, B. W. (2012). Managing autonomous transportation demand. *Santa Clara Law Review*, 52, 1401–1422.
- Smolnicki, P. M., & Sołtys, J. (2016). Driverless mobility. *Procedia Engineering*, 161, 2184–2190.
- Snyder, R. (2016). Implications of autonomous vehicles: A planner's perspective. *Institute of Transportation Engineers Journal*, 86, 25–28.
- Spyropoulou, I., Penttinen, M., Karlaftis, M., Vaa, T., & Golias, J. (2008). ITS solutions and accident risks: Prospective and limitations. *Transport Reviews*, 28, 549–572.
- Talebpour, A., & Mahmassani, H. S. (2016). Influence of connected and autonomous vehicles on traffic flow stability and throughput. *Transportation Research Part C*, 71, 143–163.
- Tranfield, D., Denyer, D., & Smart, P. (2003). Towards a methodology for developing evidence-informed management knowledge by means of systematic review. *British Journal of Management*, 14, 207–222.
- Trindade, E., Hinnig, M., Costa, E., Sabatini-Marques, J., Bastos, R., & Yigitcanlar, T. (2017). Sustainable development of smart cities. *Journal of Open Innovation*, 3, 11.
- Truong, L. T., De Gruyter, C., Currie, G., & Delbosc, A. (2017). Estimating the trip generation impacts of autonomous vehicles on car travel in Victoria. *Transportation*, 44, 1279–1292.
- UK Parliament. (2016). Vehicle technology and automation bill. Retrieved from https://publications.parliament.uk/pa/bills/cbill/2016-2017/0143/cbill_2016-20170143_en_2.htm
- van Arem, B., van Driel, C., & Visser, R. (2006). The impact of co-operative adaptive cruise control on traffic flow characteristics. *IEEE Transactions on Intelligent Transportation Systems*, 7, 429–436.
- Vellinga, N. E. (2017). From the testing to the deployment of self-driving cars. *Computer Law and Security Review*, 33, 847–863.
- Volvo. (2017). Autonomous driving. Retrieved from <https://www.volvocars.com/intl/about/our-innovation-brands/intellisafe/autonomous-driving>
- Wadud, Z., MacKenzie, D., & Leiby, P. (2016). Help or hindrance? *Transportation Research Part A*, 86, 1–18.
- Wadud, Z. (2017). Fully automated vehicles. *Transportation Research Part A*, 101, 163–176.
- Walker, W. E., & Marchau, V. A. (2017). Dynamic adaptive policymaking for the sustainable city. *International Journal of Transportation Science and Technology*, 6, 1–12.
- Winkle, T. (2016). Safety benefits of automated vehicles. In M. Winner (Ed.), *Autonomous driving* (pp. 335–364). Berlin: Springer.
- Xiao, L., & Gao, F. (2010). A comprehensive review of the development of adaptive cruise control systems. *Vehicle System Dynamics*, 48, 1167–1192.
- Xie, Y., Zhang, H., Gartner, N. H., & Arsava, T. (2017). Collaborative merging strategy for freeway ramp operations in a connected and autonomous vehicles environment. *Journal of Intelligent Transportation Systems*, 21, 136–147.
- Yağdereli, E., Gemci, C., & Aktaş, A. Z. (2015). A study on cyber-security of autonomous and unmanned vehicles. *Journal of Defense Modeling and Simulation*, 12, 369–381.
- Yigitcanlar, T., Sipe, N., Evans, R., & Pitot, M. (2007). A GIS-based land use and public transport ac-

- cessibility indexing model. *Australian Planner*, 44, 30-37.
- Yigitcanlar, T., Fabian, L., & Coiacetto, E. (2008). Challenges to urban transport sustainability and smart transport in a tourist city. *Open Transportation Journal*, 1, 19–36.
- Yigitcanlar, T., & Kamruzzaman, M. (2014). Investigating the interplay between transport, land use and the environment: A review of the literature. *International Journal of Environmental Science and Technology*, 11, 2121–2132.
- Yigitcanlar, T., & Lee, S. (2014). Korean ubiquitous-eco-city. *Technological Forecasting and Social Change*, 89, 100–114.
- Yigitcanlar, T. (2015). Smart cities: An effective urban development and management model? *Australian Planner*, 52, 27–34.
- Yigitcanlar, T. (2016). *Technology and the city: Systems, applications and implications*. New York: Routledge.
- Yigitcanlar, T., Currie, G., & Kamruzzaman, M. (2017). *Driverless vehicles could bring out the best—or worst—in our cities by transforming land use*. Retrieved from <https://theconversation.com/driverless-vehicles-could-bring-out-the-best-or-worst-in-our-cities-by-transforming-land-use-84127>
- Yigitcanlar, T., & Kamruzzaman, M. (2018a). Does smart city policy lead to sustainability of cities? *Land Use Policy*, 73, 49–58.
- Yigitcanlar, T., & Kamruzzaman, M. (2018b). Smart cities and mobility: Does the smartness of Australian cities lead to sustainable commuting patterns? *Journal of Urban Technology*. doi.org/10.1080/10630732.2018.1476794
- Yigitcanlar, T., Kamruzzaman, M., Buys, L., Ioppolo, G., Sabatini-Marques, J., Costa, E., & Yun, J. (2018a). Understanding ‘smart cities’: Intertwining development drivers with desired outcomes in a multidimensional framework. *Cities*, 81, 145–160.
- Yigitcanlar, T., Foth, M., & Kamruzzaman, M. (2018b). Towards post-anthropocentric cities: Reconceptualizing smart cities to evade urban ecocide. *Journal of Urban Technology*. doi.org/10.1080/10630732.2018.1524249
- Yigitcanlar, T., Mohamed, A., Kamruzzaman, M., & Piracha, A. (2018c). Understanding transport-related social exclusion: A multidimensional approach. *Urban Research and Policy*. doi.org/10.1080/108111146.2018.1533461
- Zakharenko, R. (2016). Self-driving cars will change cities. *Regional Science and Urban Economics*, 61, 26–37.
- Zhang, W., Guhathakurta, S., Fang, J., & Zhang, G. (2015). Exploring the impact of shared autonomous vehicles on urban parking demand: An agent-based simulation approach. *Sustainable Cities and Society*, 19, 34–45.
- Zhou, M., Qu, X., & Jin, S. (2017). On the impact of cooperative autonomous vehicles in improving freeway merging. *IEEE Transactions on Intelligent Transportation Systems*, 18(6), 1422–1428.
- Zohdy, I. A., & Rakha, H. A. (2016). Intersection management via vehicle connectivity: The intersection cooperative adaptive cruise control system concept. *Journal of Intelligent Transportation Systems*, 20, 17–32.

Appendix

Appendix available as a supplemental file at www.jtlu.org/index.php/jtlu/rt/suppFiles/1405/0.



Review

Impacts of Autonomous Vehicles on Greenhouse Gas Emissions—Positive or Negative?

Moneim Massar ¹, Imran Reza ¹, Syed Masiur Rahman ^{2,*}, Sheikh Muhammad Habib Abdullah ³,
Arshad Jamal ¹ and Fahad Saleh Al-Ismail ^{2,4,5}

¹ Department of Civil & Environmental Engineering, College of Engineering and Applied Engineering, King Fahd University of Petroleum & Minerals, Dhahran 31261, Saudi Arabia; g201705990@kfupm.edu.sa (M.M.); ireza@kfupm.edu.sa (I.R.); arshad.jamal@kfupm.edu.sa (A.J.)

² Center for Environment & Water, Research Institute, King Fahd University of Petroleum & Minerals, Dhahran 31261, Saudi Arabia; fsalismail@kfupm.edu.sa

³ Department of Civil Engineering, Bangladesh University of Engineering & Technology, Dhaka 1000, Bangladesh; habibce09@gmail.com

⁴ K.A. CARE Energy Research and Innovation Center (ERIC), King Fahd University of Petroleum & Minerals, Dhahran 31261, Saudi Arabia

⁵ Department of Electrical Engineering, King Fahd University of Petroleum & Minerals, Dhahran 31261, Saudi Arabia

* Correspondence: smrahman@kfupm.edu.sa; Tel.: +966-13-860-2991

Abstract: The potential effects of autonomous vehicles (AVs) on greenhouse gas (GHG) emissions are uncertain, although numerous studies have been conducted to evaluate the impact. This paper aims to synthesize and review all the literature regarding the topic in a systematic manner to eliminate the bias and provide an overall insight, while incorporating some statistical analysis to provide an interval estimate of these studies. This paper addressed the effect of the positive and negative impacts reported in the literature in two categories of AVs: partial automation and full automation. The positive impacts represented in AVs' possibility to reduce GHG emission can be attributed to some factors, including eco-driving, eco traffic signal, platooning, and less hunting for parking. The increase in vehicle mile travel (VMT) due to (i) modal shift to AVs by captive passengers, including elderly and disabled people and (ii) easier travel compared to other modes will contribute to raising the GHG emissions. The result shows that eco-driving and platooning have the most significant contribution to reducing GHG emissions by 35%. On the other side, easier travel and faster travel significantly contribute to the increase of GHG emissions by 41.24%. Study findings reveal that the positive emission changes may not be realized at a lower AV penetration rate, where the maximum emission reduction might take place within 60–80% of AV penetration into the network.

Keywords: autonomous vehicle; GHG; emission; COVID-19; CLD; energy consumption; VMT



Citation: Massar, M.; Reza, I.; Rahman, S.M.; Abdullah, S.M.H.; Jamal, A.; Al-Ismail, F.S. Impacts of Autonomous Vehicles on Greenhouse Gas Emissions—Positive or Negative?. *Int. J. Environ. Res. Public Health* **2021**, *18*, 5567. <https://doi.org/10.3390/ijerph18115567>

Academic Editor: Farooq Sher

Received: 9 March 2021

Accepted: 29 April 2021

Published: 23 May 2021

Publisher's Note: MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.



Copyright: © 2021 by the authors. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

1. Introduction

According to the United Nations Framework on Climate Change Convention, the transportation sector was responsible for 27% of US greenhouse gas (GHG) emissions in 2010 [1]. GHGs are one of the leading causes of the greenhouse effect worldwide [2]. They serve as artificial heat-trapping agents within the earth's atmosphere. From the perspective of road transportation, fuel sources such as diesel, natural gas, and gasoline produce different GHGs in the form of byproducts. Gaseous emissions resulting from burning these energy sources include methane (CH₄), carbon dioxide (CO₂) and nitrous oxide (N₂O), which can last in the planet's atmosphere for several decades, causing continuous global warming [3]. These unregulated GHGs emissions disturb the natural gas cycles governing the planet and pose a significant threat to various flora and fauna types [4]. In European countries, the transport sector was responsible for 30.5% of GHG emissions and 12% contribution of GHG emissions from road transport in 2014 [5]. Another study conducted

in China by Liu et al. predicted that the transport sector alone would account for 84.7% GHG emission by the year 2040 [6]. Rising concerns about the negative environmental externalities of road transportation activity and development have urged governments worldwide to assess transportation projects' environmental impacts before implementation. The modern automobile industry trend is to move towards the development of autonomous cars [7]. Multiple considerations are driving this change, including but not limited to improved safety, greater productivity, less fuel consumption and reduced traffic congestion [8,9]. Autonomous vehicles (AVs), also known as driverless or self-driving vehicles, are those vehicles that can operate without driver control the steering, accelerate or brake; the automation ranges from 0: no automation to 5: fully automated [10].

Existing literature on connected and autonomous vehicles mostly addresses their potential impact on the likelihood of traffic safety, travel behavior and congestion, as well as energy use. The effects of partially to fully automated vehicles on traffic performance and greenhouse gas emissions are still obscure. There are many uncertainties prevailing around the actual operation of fully automated vehicles. The Information Handling Services (IHS) Automotive experts reported that it is expected to happen by 2030. HIS estimates also suggest that globally the number of fully automated vehicles (AVs) in operation will be around 21 million in 2035 [11]. Another study reported that connected vehicles would strike the 250 million mark by 2020 [12]; a quarter of a billion cars in operation. A previous study also predicted that fully AVs be offered for auction before 2020 [13]. A projection is that AVs will dominate 20–40% of vehicle market share by 2030; however, it is believed that full-scale transition to AVs is likely to happen in stages over the coming few decades [14].

AVs are mainly equipped with contemporary car technologies, allowing computers to help in various driving operations and reduce human involvement to varying degrees. With rapid advances in communication, autonomous, and car technologies that have far-reaching effects on the transportation sector, it is critical to understand these technologies' role in achieving sustainable urban mobility goals. This involves the safe and smooth operation of people and goods movement in an environmentally friendly manner. The carbon emission rate from each transport mode is significantly influenced by an array of factors, like the type of fuel, vehicle type, and age, etc. Many studies investigated the impacts of the widespread adoption of AV technology [15,16]. The impacts considered air pollutants, including GHG emissions. AVs' introduction may contribute to increased ridesharing, traffic flow smoothing, platooning, efficient driving, efficient routing, eco traffic signal, and less hunting for parking [17–21]. As a result, the energy consumption will be less, contributing to the reduction of GHG emissions. A number of previous studies have investigated the role of AVs in improving transport sustainability by compressing energy use and GHG emissions. For example, one such estimation for the full automation developed by Wadud et al. considering the shared-vehicle scenario was based on the "Strong Responses" [22]. According to this concept, the maximum energy savings through car-sharing, eco-driving, right-sizing, and platooning are wholly neutralized by maximum energy increases from new user groups and higher speeds. In their study, Greenblatt and Shaheen explored the GHG reduction benefits of driverless taxis in the US and claimed that the deployment of each such taxi in the country would cause than 87–94% fewer emissions per vehicle-km trip by the year 2030 [23]. The authors also stated that each deployed driverless taxi in the same year would also cause a 63–82% reduction in GHG emissions than traditional fuel-driven and hybrid electric vehicles. Such reduction would primarily result from variations in three aspects: higher vehicle-km/vehicle/per-year increased fuel efficiency due to re-designed lighter/smaller vehicle sizes, less air friction, and reductions in GHG emissions through electricity consumption. On the other hand, AV may generate increased trips due to faster and more comfortable driving and new trips by captive passengers, such as elderly and disabled individuals [24].

Tomás et al. investigated the GHG implications of three different AV penetration rates (10, 20, and 30%) along an urban freeway corridor in the city of Porto, Portugal [25]. Authors used vehicle-specific power (VSP) and EEA-33 (environmental emergencies member

countries) methodologies coupled with the VISSIM traffic model. It was noted that AVs yielded statistically low emission benefits at the corridor level at penetration rates less than 30%. In their study, Stasinopoulos et al. adopted a system dynamics approach and developed a stock and flow model to examine the GHG impacts of vehicle automation in various scenarios [26]. The study reported that emissions benefits of the transition to AVs might be negated by the inefficient use of AVs and induced demand. In another study, Wang et al. compared the fuel-cycle GHG emissions of AVs and vehicle electrification using an activity-based travel demand model for the Hamilton and Greater area [27]. It was concluded that full-scale induction of AVs would result in higher vehicle kilometers traveled, and hence, more GHG emissions are expected (2.5%). On the other hand, vehicle electrification may reduce vehicle emission intensities by approximately 11% and regional GHG emissions by over 5%. Hong and Zimmerman predicted that AVs can reduce GHG emissions by 20% compared to no-AV conditions in the year 2040, even under the worst-case scenario if vehicle automation provoked increased personal use with 85% vehicle fleet electrification [28]. A study conducted by Liu et al. also suggested that high AVs penetration rates in the long-term (by the year 2045) under optimistic scenarios will lead to a net reduction of GHG emissions [29].

This paper develops a landscape of multi-faceted issues related to GHG emissions from AV adoption at different levels by reviewing, synthesizing, analyzing, and comparing contrast research studies. While comparing the GHG emissions from AVs to its counterpart, fossil fuel vehicles (FFV) may have different attribute levels (e.g., gasoline-powered, eclectic, hydrogen-powered), this review study is only limited to the realm that both AVs and FFVs are only operated on fossil fuels. The study provides a causality analysis of GHG emissions from AVs from a holistic point of view. The primary objective of using a causal loop diagram (CLD) in our study is to understand the factors that can critically affect how the adoption of AVs may bring energy and GHG emission benefits to the transportation sector. CLD is used to see how these factors interact and influence the emission benefits of adopting AVs in the transport industry. Another section addressed the dynamics of GHG emissions during a global pandemic, focusing on travel behavior and how the individual vehicle ownership model may change in favor of adopting AVs.

The remainder of this paper is structured as below. Section 2 provides an overview of the study methodology. Section 3 presents a description of the causes of GHG reduction by AVs, while the possible causes of the increase of GHG emission by adopting AVs are discussed in Section 4. Section 5 illustrates the changes in GHG emission at different AV penetration levels. Section 6 covers a discussion of the relationship between energy consumption and GHG emission; two sub-sections of Section 6 shed light on the causal loops of GHG emission from AVs from a system perspective and changed travel behavior during a global pandemic, respectively. Finally, Section 7 summarizes the study findings with concluding remarks.

2. Methodology

The systematic review has a formal protocol describing the strategy proposed for conducting the examination, identifying questions and methods employed to carry out the analysis [30]. The review process used in this study comprises three steps:

1. Planning: Defining the research issue, setting the criteria, identifying the limitation and development of the overall protocol.
2. Execution: Selection of research in database, categorizing useful references and bibliography, abstract of published manuscript.
3. Analysis: Summarizing the selected articles and classifying it to fit the proposed protocol.

Various guidelines could manifest a systematic literature review. One of the popular methods is demonstrated by Kitchenham and Charters, a process that entails a number of tasks, including establishing a review protocol, identifying and selecting primary studies, extracting and synthesizing data, and finally, reporting study findings [31]. This paper focused on a systematic keyword search in the topic section of literature databases from

disparate sources and repositories. The articles were searched for based on specific terms such as “autonomous vehicles,” “self-driving car,” and “driverless car” appeared in the title, keywords, and abstract in the journal database. However, care was taken to single out the articles which were not focused on autonomous driving related to extensive applications, testing, and research in robotics, underwater vehicles, unmanned aerial vehicles, etc. The effects of AV-generated GHG emissions are explicitly investigated to achieve an overall classification to identify current gaps in the scientific literature in the realm of AV-related publications for roads, traffic studies related to commuting. The year of publication timeline and number of citations were taken out of the equation in selecting the articles to maximize the number for consideration. Articles found in different databases were also identified for eliminating duplication. The flowchart presented (Figure 1) illustrates the methodology deployed in this study.

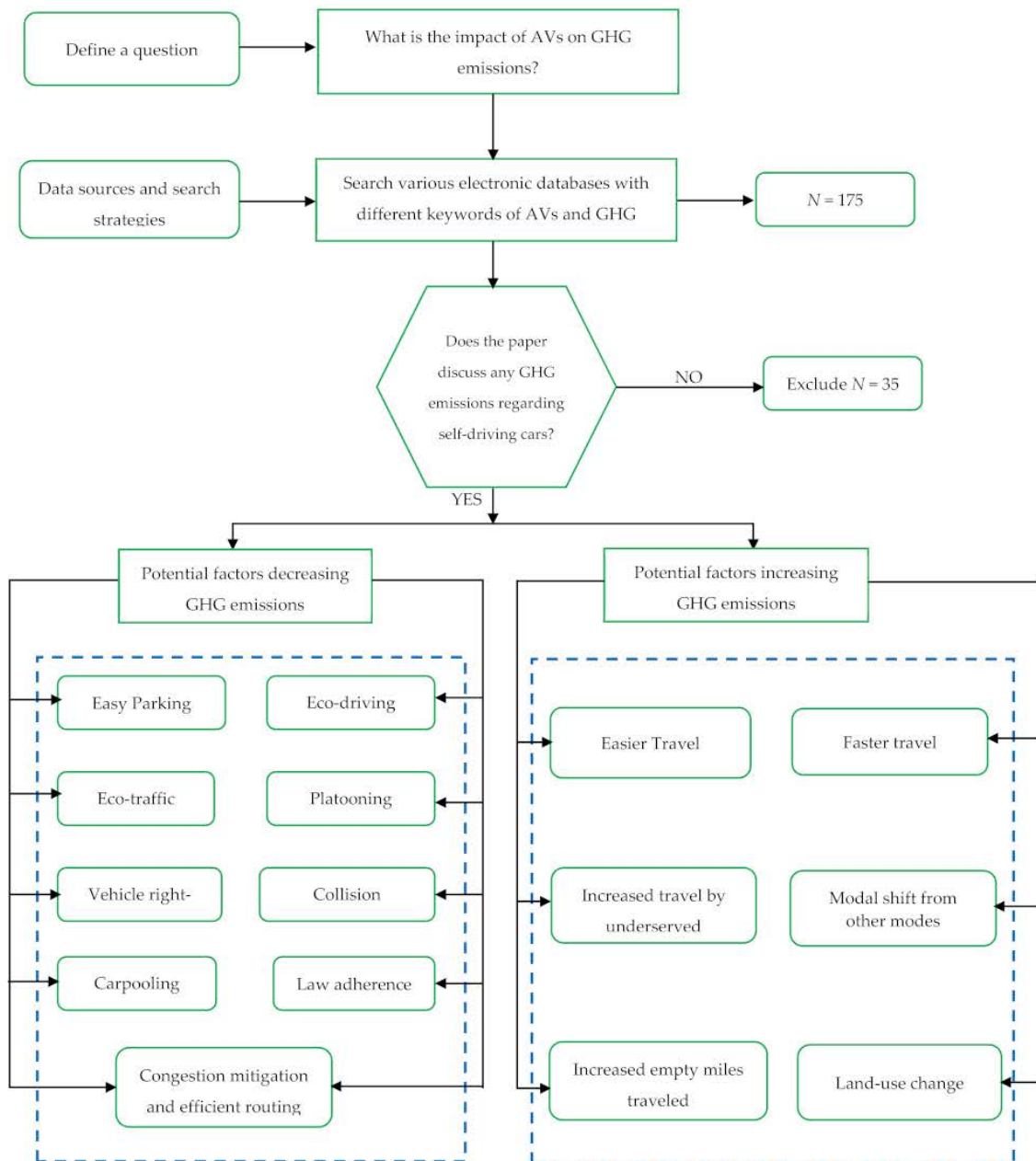


Figure 1. Methodology plan.

3. Causes of Reduction in GHG Emissions

This section provides a brief explanation of potential factors that are expected to reduce lower GHG emissions due to vehicle automation. Two types of vehicle automation strategies are considered, i.e., partial automation and full automation.

3.1. Easy Parking

Guccione and Holland identified that drivers looking for parking are responsible for about one-third of traffic in the city [32]. From the fuel efficiency point of view, a vehicle searching for parking leads to a double threat. Being on the road consumes extra fuel for itself; the additional traffic makes the other vehicle suffer by staying more on-road and ending up using undue fuel. Roadside parking maneuver also has an important share in cities carbon emission system [33]. Shoup added to the literature with an estimation of 2–11% of total emission in a CBD being caused by parking hunt [34]. Easy parking refers to parking spaces' availability through communication technologies that allow vehicles and infrastructure to exchange information, resulting in accurate parking information. In another study, Brown et al. estimated up to 5% of emissions in an average passenger car is attributed to the search for parking. Fully automated vehicles can achieve a 5–11% emission reduction from reduced circulation for parking in the cities [35]. Moriarty and Wang also estimated that parking space could be drastically reduced, and vehicles searching for parking could be cut down by 80% with shared ownership of AVs [10]. During peak traffic hours when congestion is high and off-peak travel periods, when most parking spaces may be occupied, the same reduction may occur. Partially automated vehicles would also minimize emissions due to improved ability to locate available parking spaces correctly; however, the projected savings could be lower, considering the lack of automatic implementation. In general, the easy parking feature of vehicle automation is expected to reduce GHG emissions depending upon various other factors, due to minimum vehicle idling and searching for suitable parking locations.

3.2. Eco-Driving

Eco-driving refers to efficient driving through maximizing speed and acceleration operating profiles. Eco-driving is often referred to as "Hypermiling," and is nothing but a set of driving skills practiced by enthusiastic drivers to push the fuel economy's limit by minimizing braking-acceleration cycles, as braking causes a waste of energy [15,36]. CAV technologies have the ability to leverage and extend such efficient driving benefits by enabling vehicles to incorporate eco-driving automatically. CAVs can coordinate with other vehicles with smarter communication capability to make integrated driving decisions that would optimize overall traffic flow conditions and support the entire driving platoon. Barth and Boriboonsoms deployed a traffic simulation model to determine the emission effects of coordinated eco-driving [15]. The coordinated eco-driving system takes advantage of a virtual traffic management center to monitor vehicles' speed and acceleration characteristics. They simulated a mixed fleet of vehicles on Southern California highways and estimated that carbon dioxide emissions reduction within a range of 10–20% could be achieved by eco-driving on congested highways. However, it has been noted that the reduction of emission starts to disappear as traffic approaches free flow. In a similar study, Barth demonstrated that a coordinated eco-driving system would minimize emissions by 5–10% in heavily congested road traffic [15]. Li and Gao conducted a series of micro-simulation modeling studies to investigate speed synchronization impacts in a connected environment [37]. Their primary objective was to establish an optimal control strategy to optimize fleet-level average fuel economy in a connected vehicle environment. The findings suggested that reducing 10% of GHG emissions could be achieved in such an arrangement.

Two research projects conducted at the Virginia Tech Transportation Institute estimated potential emissions impacts of vehicle-to-vehicle (V2V) communication and coordination [19,38]. The proposed method involved complex optimization models integrating road-characteristics, information of the lead vehicle, vehicle acceleration portfolio, and

microscopic fuel consumption models to produce a fuel optimal speed profile for vehicles in the network. Optimal driving cycles may reduce energy consumption by 35–50% under oversaturated conditions if these conditions exist at all in reality [39]. It is well known that frequent stops and accelerations/decelerations operations contribute to significant fuel consumption. The eco-driving attribute of AVs facilitates smooth vehicle navigation through the network, due to smart communication with other vehicles, as well as highway infrastructure, which in turn lowers the GHG emissions.

3.3. Eco Traffic Signal

AVs can communicate with infrastructure on their own, particularly with traffic signals at intersections. This communication offers information to vehicles, which helps them change their driving pattern, thereby minimizing the number of stops at the intersection referred to as the eco traffic signal system. Li and Gao investigated optimal signal control strategies for fuel economy in a connected vehicle environment and showed that gasoline vehicles could achieve 10% emission reduction via such strategies [37]. Rakha et al. estimated potential emission impacts of vehicle-to-vehicle communication and signal coordination, and it turned out to be 8–23% emission savings depending on the vehicles' traveling attributes [19,40].

The potential to reduce fuel consumption and GHG emission at the intersection is very high, as vehicles traveling near intersections at lower speeds tend to consume more fuel [41]. Yelchuru and Waller adopted micro-simulation models to estimate vehicle emissions under connected eco-traffic signal timing and the associated optimal signal timing plans [42]. According to the study, under a fully connected protocol, 2–6% emission reduction can be achieved in an average passenger vehicle. Zimmerman et al. compared traffic patterns before and after a user information system was introduced at different signalized intersections in Phoenix, Arizona [43]. The empirical data reported that the delay was reduced by 6.2%, resulting in a 1.8% emission reduction using vehicle speed profile and energy consumption correlation. As mentioned, signalized intersections in urban areas have the huge potential to reduce GHG emissions at the network level. AVs are equipped with different sophisticated sensors for communication with roadway surroundings that can guide the drivers/vehicles to adjust the driving patterns, minimize stops and speed variance. All these factors will reduce fuel consumption and hence vehicular emissions.

3.4. Collision Avoidance

Human error accounts for more than 90% of accidents [44,45]. Collision avoidance systems in AVs are designed to provide necessary information ahead of time to the vehicle by means of well-designed vehicle mount sensors to avoid collisions. The sensors track nearby vehicles and objects to warn the system of preemptive maneuvers. In addition to the obvious individual advantages of accident avoidance, the system provides collective fuel-saving and environmental benefits by eliminating the chance of traffic congestion that might have arisen at a vehicle crash scene. According to Schrank et al., nationwide, 1.9% of GHG emission by the light duty vehicle (LDV) fleet was produced, due to the traffic congestion created at the accident spot [46]. Najm et al. integrated forward collision warning and adaptive cruise control functions to develop the ACAS for LDV applications [47]. The development of ACAS was based on an operational field test of 10 vehicle fleets driven by 66 drivers among diverse age and gender groups. The ACAS system has the potential to prevent about 10% of all rear-end crashes, which is expected to bring some indirect emission benefits. The collision avoidance attribute of both partial and full automation will reduce the GHG emissions, by preventing and minimizing jams and traffic congestion causing traffic accidents.

3.5. Platooning

The vehicle platooning concept refers to the practice of multiple vehicles trailing closely enough to minimize aerodynamic drag to save energy and reduce vehicle emissions.

Vehicle platooning can be safely and successfully implemented by leveraging automation and connectivity technologies. This strategy is particularly attractive considering that a significant portion of fuel consumption is attributed to confronting aerodynamic resistance while driving. Kasseris estimated that aerodynamic drag accounted for 50–75% of the tractive energy requirements for driving on a highway [48]. The shape of the vehicles in the convoy, distance headway, and order of the vehicles are the variables responsible for drag reduction in platooning. Since platooning advantage is more applicable to the vehicles in the middle of the pack, average fuel saving increases with the number of vehicles in the platoon. For two sedan cars running 1 m apart, the average reduction in drag has been estimated to be 10% [49]. Drag reductions ranging from 20% to 60% have been reported for platoons consisting of mixed vehicle types [50,51]. For a 3-truck platoon of freight trucks, Tsugawa has reported a 10% reduction in energy consumption at 80 km/h, with a 20 m gap between trucks; the reduction could reach up to 15% at 5 m gap [52]. The assumption that 50% tractive energy is used to overcome drag resistance could be combined to the advantage of vehicle platooning, which may yield an overwhelming 22.5–27.5% emission reduction. Zabat et al. also examined the potential of emission reduction in vehicle platooning through experiments done in a series of wind tunnels, along with numeric simulations using a passenger van [53]. They found that the average emission reduction per vehicle ranges from 10% to 30%, depending on the vehicles' space in the platoon, number of vehicles, and other variables. Another study confirmed that when 15 vehicles are driving 6–8 m apart, they may achieve optimum fuel saving in the platoon, however, such a gap is extremely unsafe for conventional human-driven cars, but entirely within the capacities of autonomous vehicles [54]. It may be argued from the present literature that AVs vehicle platooning will lead to lower GHG transport emissions, primarily due to drag reduction and lower speed fluctuations.

3.6. Vehicle Right-Sizing

Automation technologies have the potential to scale down the size of automobiles without compromising safety [22]. A significant improvement in fuel efficiency could be achieved by vehicle downsizing. The LDVs are designed to run on US roads with the least capacity of holding four passengers [22,55]. However, the average occupancy of these LDVs is only 1.67 in 2009 [56]. Once individual trip requirements are fulfilled, vehicle right-sizing can significantly reduce the average energy intensity. The vehicle size appropriation works best when it is coupled with car-sharing or carpooling. A fleet of shared AVs could easily supply the right-sized vehicle to meet passenger demand and discourage over-designed cars from being under-used [57]. MacKenzie et al. tested multiple conflicting influences on vehicle weight in terms of technological changes and functional improvement [58]. They indicated that progress in energy efficiency technology had been counterbalanced by increasing vehicle size and vehicle content. In particular, their study revealed that, for an average 2011 model car in the U.S., the safety-related features accounted for a total of 7.7% of the car's weight, and dislodging them could result in a 5.5% reduction in emission. In general, a reduction of 20% in vehicular weight is attributed to a 20% increase in fuel efficiency [59]. The engine power required and amount of fuel consumed during a trip are proportional to the size of a vehicle. With AVs technologies in practice, manufacturers can scale down the vehicle sizes, leading to substantial energy and GHG emission benefits.

3.7. Congestion Mitigation and Efficient Routing

As intermittent traffic experiences frequent stop-and-go and idling conditions, a car driving through heavy traffic will use more fuel, thus emitting more GHG than uncongested traffic. AVs will have the ability to coordinate with other vehicles and infrastructures (V2V and V2I) at the intersection, to improve the traffic flow and reduce the crash frequency that will result in less energy use and less GHG emission [22]. Bigazzi and Clifton's study indicated that internal combustion engines (ICEs) fail to maintain fuel efficiency in slow-moving traffic at a speed of 30 miles per hour or lower [60]. In contrast, Gas electric

hybrid vehicles are less sensitive to speed variations and retain fuel efficiency roughly at 20 mph. Though vehicles with different powertrain respond differently to congestion, an AV essentially powered by electricity has a higher potential of reducing GHS.

V2I technology available in AVs could also reroute cars within the road network in case of an unexpected influx of traffic into the grid network generated from a sports/entertainment event [61]. A fully developed city's infrastructure is capable of receiving data from vehicles, anticipating traffic flows, and route vehicles with preference and faster routes given to emergency responders and school buses most efficiently [62]. Smart vehicle communication characteristics of AVs can give early warnings of traffic incidents and unanticipated traffic ahead. This will allow the vehicles to take optimal routes and smoothly flow through the network, and hence lower GHG emissions are released into the atmosphere.

3.8. Carpooling

The occupancy rate is a key factor for GHG emissions associated with existing car travel. Fewer passengers per vehicle will result in more vehicles running on the road than required, and this will result in emissions increasing by several folds. For instance, only 11% of Americans carpool to work, and a staggering average of 113.6 million people make solo trips to and from work daily [63]. AVs have the potential to emerge as a new paradigm of business model to leverage the benefit of ridesharing, which would bring about a modal shift from individually owned vehicles to shared mobility services. Such changes are expected to reduce transportation GHGs significantly. AVs will also provide the option of carpooling and ridesharing that can lower GHGs emissions by reducing the auto-ownership, and travel through other less convenient transport modes.

3.9. Traffic Law Adherence

Iglinski and Babiak believe that autonomous vehicles will more strictly adhere to traffic laws as compared to the human driver, due to their integrated onboard programming logic [64]. AVs will be more likely to travel at posted speed limits designed to cater to optimal fuel efficiency, reducing GHGs considerably. Similarly, AVs will also strictly comply with traffic signals and thus reducing the nuisance and congestion created by human traffic. GHG reduction at different levels of vehicle automation reported in the literature are listed in Table 1.

Table 1. Reduction of GHG emission at different levels of vehicle automation.

Study	Level of Automation	Cause of Reduction in GHG	Results	Condition
Stephens (2016) [17]	Partial Automation	Driver profile and Traffic flow calming	0–10%	During peak hours
	Full Automation		0–5%	During non-peak hours
Barth and Boriboonsomsin (2009) [15]	Full Automation	Eco-driving	10–21%	During peak hours
			5–11%	During non-peak hours
Xia et al. (2013) [65]	Full Automation	Eco-driving	10–20%	Congested highway traffic.
Li and Gao (2013) [37]			nearly 0%	Free flow
Rakha (2012) [40]	Full Automation	Eco-driving	5–10%	Under congested city traffic
Yelchuru (2014) [42]			10%	Under congested city traffic
Schrank et al. (2012) [46]	Partial automation	Eco-traffic signal timing	8–23%	Under different speed, congestion level and design characteristics
	Full Automation		1.8–2%	City driving
Stephens (2016) [17]	Partial Automation	Collision avoidance	2–6%	City driving
	Full Automation		0–0.95%	City driving
Stephens (2016) [17]	Full Automation	Collision avoidance	0–1.9%	City driving

Table 1. Cont.

Study	Level of Automation	Cause of Reduction in GHG	Results	Condition
Stephens (2016) [17]	Partial Automation	Platooning	0–12.5%	During peak hours
Schito (2012) [50]	Full Automation		12.5–25%	During non-peak hours
			22.5–27.5%	During non-peak hours
			10% to 30%	During peak hours
Zabat et al. (1995) [53]	Full Automation		20–25%	During non-peak hours
Wadud et al. (2016) [22]	Full Automation	Vehicle/powertrain resizing	3% to 25%	During non-peak hours
Wadud et al. (2016) [22]	Full Automation	Vehicle/powertrain resizing	45%–	No condition mentioned
Burns et al. (2013) [66]	Full Automation		roughly 50%	
Shoup (2006) [34]	Full Automation	Less Hunting for Parking	2–11%	During city driving
Brown et al. (2014) [35]	Full Automation		5–11%	
Barth (2009) [15]	Partial Automation		2–5%	
Brown et al. (2014) [35]	Full Automation	Increase in Ridesharing	Roughly 12%	During city driving
Stephens (2016) [17]	Partial Automation	Faster travel	0–10%	During peak hours
	Full Automation		10–40%	During non-peak hours
Haan et al. (2007) [67]	Full Automation		20–40%	During non-peak hours
Brown et al. (2014) [35]	Full Automation		0–40%	During non-peak hours
	Partial Automation		0–10%	During non-peak hours
Stephens (2016) [17]	Partial Automation	Easier travel	4–13%	No condition mentioned
Stephens (2016) [17]	Full Automation		30–156%	Living farther
Childress et al. (2015) [68]	Full Automation		3.6–19.6%	Capacity will increase and value of travel time cost will reduce
Gucwa (2014) [69]	Partial Automation		4–8%	Living farther
Brown et al. (2014) [35]	Full Automation		50%	
MacKenzie et al. (2014) [58]	Partial Automation	4–13%	Increased Travel by Underserved Populations	Elderly and disabled would travel as much as drivers without medical conditions
Stephens (2016) [17]	Full Automation	2–40%		
MacKenzie et al. (2014) [58]	Partial Automation	2–10%		
Harper et al. (2016) [70]	Partial Automation	Mode Shift from Walking, Transit and Regional Air	Up to 12%	No condition mentioned
Brown et al. (2014) [35]	Full Automation		Up to 40%	
Fagnant and Kockelman (2014) [71]	Full Automation	Increased empty miles travelled	5% to 11%	On city driving

4. Causes of Increase in GHG Emissions

This section reviews some of the predominant factors that may increase GHG emissions due to vehicle automation. The impact of two-vehicle automation strategies, i.e., partial automation and full automation, will be discussed.

4.1. Easier Travel

Easier travel involves reaching destinations more quickly due to capacity increases and fewer crashes, and lower travel costs. Travel may be faster and more reliable if crashes and congestion are reduced, and travel demand may increase. Capacity would effectively increase by less congestion and fewer crash delays, which could also trigger increased travel. Using activity-based travel model-generated scenarios, Childress et al. analyzed possible changes in travel patterns in the Puget Sound region [68]. These evaluated scenarios were comprised of a 30% increase in roadway capacity, resulting in a 3.6% increase in emissions, and a 35% reduction for the highest-income households in the perceived value of travel

time cost. In a different scenario, assuming everyone owned an automated vehicle (no shared one), which resulted in a 30% increase in roadway capacity and 50% less parking costs, along with a 19.6% increase in emissions. People may be more likely to drive in automated vehicles under congested conditions. Easier travel means that more and more people will be attracted to use AVs, especially during traffic congestion situations. Greater demand and increase in road capacity will ultimately lead to increased vehicular emissions.

4.2. Faster Travel

CAVs will be able to navigate and respond more quickly than human drivers with the state-of-the-art communication technology available onboard; it follows that AVs will be able to ride more safely at higher speeds than human drivers. AVs are expected to leverage V2V and V2I networks that communicate charted courses seamlessly to raise the speed limits on freeways [62]. To ensure a safe driving environment that accounts for operator reaction time, vehicle design, and road limitations, speed limits were initially imposed in the US, later changed at the federal level to minimize fuel consumption [32]. Therefore, an increase in fuel consumption is expected for increasing speed limits across the country due to AVs [22]. Considering driver's value of time analysis, Wadud et al. analyzed the possible repercussions of increased highway travel speeds due to automation technologies [22]. A typical car's speed-fuel consumption relationship was used to conclude that GHG emission of the highway could increase by 20–40% [72]. According to Brown et al., the increase in highway fuel use could be as high as 40% or more as a result of faster travel [73]. Brown et al. focused on travelers' time budgets based on Schafer et al.'s observation that different societies display the same willingness to travel [35,74]. They hypothesized that if people could travel faster, they might prefer to live further away from their regular destinations, only to promote urban sprawl. Ultimately, this might trigger a possible increase in emissions by 50%. The onboard vehicle communication and sensing technologies of AVs will require a higher posted speed limit at the network level. It is established that faster travel is accompanied by greater fuel consumption, and hence the rate of GHG emissions.

4.3. Increased Travel by Underserved Populations

Although access to mobility services to the disabled and people at dotage rendered by the AVs seems beneficial for society, it is likely to increase overall VMT. Due to the lack of adequate data on why some population groups travel less than others, it is difficult to forecast future travel patterns of those who are currently underserved. MacKenzie et al. observed from the 2014 National Household Travel Survey data that VMT for adults over 62 years old is much lower than the 42 years old group [58]. Fully automated vehicles could fulfill this travel demand. They estimated that increased travel could raise emissions by 2–10%. Harper et al. assumed that non-drivers would travel as much as drivers in each age group aged between 19–64; drivers with medical conditions are also expected to have similar travel patterns as drivers without medical conditions within each age group [70]. Dividing the sample population into three distinct groups of non-drivers 19 and older, elderly drivers without a medical condition, and drivers 19 and older with a medical condition, it was estimated that the underserved could increase emissions up to 12% by using fully automated vehicles. Examining data from the 2009 NHTS and the 2003 Bureau of Transportation Statistics publication "Freedom to Travel," Brown et al. estimated a 40% increase in GHG emission, If all age segments traveled close to the top decile in each segment [35]. The fact that AVs can be used by non-drivers, people without driving licenses or people with special needs will increase the road user population and hence the daily number of vehicle trips. However, although it may have several positive prospects, GHGs are expected to increase.

4.4. Mode Shift

The theory of travel behavior implies that the preference to use one mode over another is influenced by several variables, including, but not limited to, socio-economic status, age, gas price, urban form, and transportation options availability. Metropolitan Area Planning Council (MAPC) conducted a study in the Boston area, in which researchers found that those who use transit passes daily, or weekly, would replace transportation network companies for transit frequently. Frequent transit users are more likely to be willing to sacrifice the service in favor of a ride-sharing opportunity, even at a large difference in cost or forfeiting the money they already paid to avail the service [75]. A ride in a driver-less, fully autonomous vehicle will likely be cheaper [76,77]. New mobility services, and eventually autonomous vehicles, on the contrary, could increase ridership by solving the first-mile/last-mile problem and serving as a complement to mass transportation, thereby increasing GHG emissions. Shifting a staggering 56.5 billion miles (according to the National Transit Database for 2013) to vehicle-miles constitutes an increase in emissions of 2.0%. If it is assumed to be in city travel only, it accounts for an increase of 3.7% in city emission. Considering the change from air transport, an estimated 79.8 billion passenger miles traveled over domestic flights of less than 500 miles. Shifting all of these passenger-mile to non-shared vehicle-mile AVs in a possible scenario reflects a rise of 2.9% in emissions. However, this condition is projected to increase emissions only on highways. With AVs in operation at relatively lower journey costs than other transport modes, more and more people will be inclined to use AVs, which will also lead to high GHG emissions.

4.5. Increased Empty Miles Traveled

AVs have not been extensively studied for potential changes in vehicle travel without a passenger. A vehicle owner could send his driverless AV to pick up family members or send nearby locations beforehand to minimize wait time. An agent-based model of self-driving vehicles moving in a square grid representing an imperial city was used by Fagnant and Kockelman to investigate the travel patterns of users of a shared fleet of self-driving vehicles [71]. With some predefined available data from 2009 NHTS, they examined scenarios with varying trip generation rates, level of network congestion, neighborhood size and vehicle relocation strategies. Finally, the study concluded that almost 11 conventional vehicles could be replaced by a self-driving vehicle with an increase of 5–11% in emission for vehicle repositioning. Vehicle idling while waiting for the passengers' pick up from their destinations is the main source of increased vehicle miles traveled and resulting emissions.

4.6. Land Use Change

Since individuals are liberated from the pressure of being behind the wheel and can use the time for work or recreation instead, there is a likelihood that they can accept longer commutes. For example, Cervero and Murakami observed data from 370 urbanized areas in the U.S. They deployed structural equation modeling to determine the relationship of population density with VMT per capita and found that an increase in population density leads to a decrease in per capita VMT [78]. When it comes to urban form, they pointed out a vital issue: traditionally, societies have been more reluctant to relocate residential roads or emphasize keeping the roads in the first place when built [79]. These findings indicate that if the introduction of AVs increases the pressure of growth in suburban areas, an increase in GHG emissions could result as people are concentrated in areas that facilitate more auto travel. Access of AVs to remote and sub-urban areas will encourage the public to opt for longer commutes and frequent travel, which will ultimately cause increased vehicular emissions at the network level.

5. Change in GHG Emissions at Different AV Penetration Levels

This section investigates changes in emissions at different AV penetration levels using integrated traffic microsimulation and emission models. With better operating efficiency and improved powertrain technology, AVs are expected to yield overall emission benefits.

Stogios et al. designed a study to evaluate the potential impacts that AVs could offer under varying scenarios [80]. Under interrupted and uninterrupted traffic flow conditions, high and low traffic conditions were evaluated. This study integrated the use of VISSIM microscopic software with the MOVES emission model to assess vehicular emissions. Eight inbuilt car-following and two lane-changing parameters present within the VISSIM model are investigated, representing AV driving behavior. The high traffic volume is reflected by an increase of 50% increase of the demand, while low traffic volume is produced by reducing the demand by 50%. A set of simulations is completed in the VISSIM model with 10%, 30%, 50%, 70%, and 90% of AVs penetration rate to investigate the changes in emission from the base condition. The study revealed that headway time has the highest impact on emissions and average delay than other parameters. Maximum headway time representing a cautious driving behavior resulted in a 31% increase in overall emissions, while a shorter headway time resembling aggressive driving behavior reduces the emission by 10%. The growing penetration of AVs into the network within high-traffic conditions results in minor incremental changes in emission factors and the number of stops per vehicle. In contrast, aggressive AVs reduce the average number of stops and emissions with increased market penetration. The AV penetration rate results, however, are not as evident under low traffic conditions. That is to conclude from the study that AVs will offer the maximum benefits under congested traffic conditions.

Olia et al. deployed the PARAMICS microsimulation framework integrated with CMEM emission model to measure the vehicle emission at different market penetration of connected autonomous vehicles [81]. The CMEM model is capable of continuously estimating gas emissions and fuel consumption at the microscopic level. The emission and fuel consumption in the CMEM model vary based on vehicle type, age, fuel system, and emission control technology. The vehicles in this model were divided into three categories, unfamiliar non-connected, familiar non-connected and CVs to produce emission factors for CO₂, CO, NO_x and HC. The results showed that with a gradual increase of CVs market penetration, the emission factors decreased. The maximum emission benefit could be realized at 50% CV penetration, where the GHG emission is reduced by 30% from the base condition.

Another study by Conlon and Lin attempted to quantify the changes in CO₂ emission as the AVs are gradually penetrated into a congested urban road network [82]. SUMO traffic microsimulation and Newton-based greenhouse gas model (NGM) emission model were integrated to estimate the emission for different AV penetration, ranging from 0% to 100% into the network with an interval of 10%. At an AV penetration rate lower than 30%, the total CO₂ emission had increased from the baseline of 0% AVs. The increase of total emission is explained by the difficulty in the interaction between human-driven vehicles (HDVs) and AVs. As the AVs penetration rate gradually increased, the study network started to realize the benefit of AVs in traffic operation, travel speed, and emission reduction. However, the emission reduction remained plateaued between a wide range of 40% to 90% AV penetration. Finally, at full AV penetration with no heterogeneity, the network was found to yield a maximum reduction of CO₂ emission of 4.08% from the base condition. The changes in emission at different AV penetration levels from different studies could be compared for better understanding (Figure 2). Existing literature in this regard suggests that noticeable emission benefits of AVs at the network level can be achieved at penetration rates ranging between 30% and 50%.

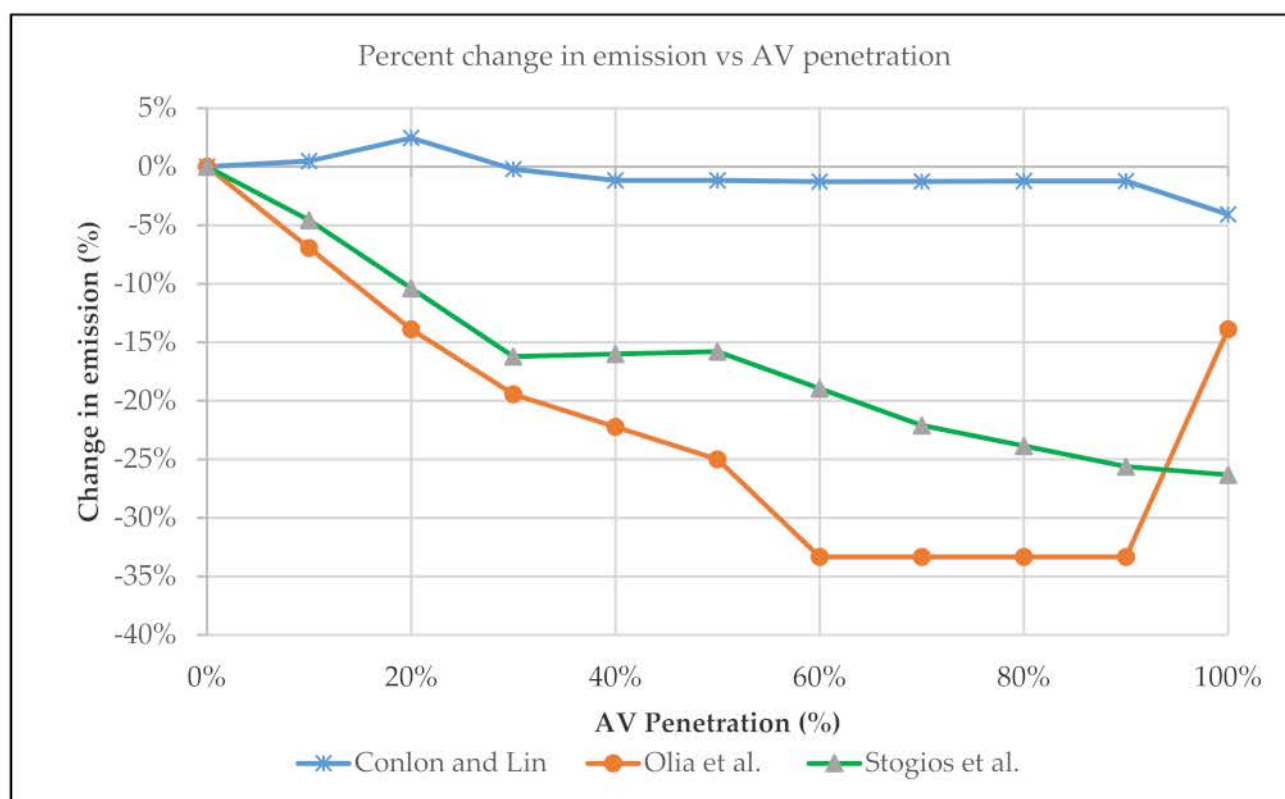


Figure 2. Emission changes by AV penetration [80–82].

6. Energy Consumption and GHG Emission

In recent years, the transportation sector has become the top GHG emitter surpassing electricity generation in the U.S. It accounted for approximately 28.5% of total atmospheric emissions in the country and continued to be the rapidly growing emissions source of any energy-related sector [83,84]. The global share of GHG from transportation is estimated to be around 24% of all emissions [85]. Passenger cars are accountable for 75% and 60% of transportation emissions worldwide and in the U.S., respectively [84,85]. The emergence of AVs can bring numerous energy and emission benefits, due to homogeneous traffic flows, lower highway congestion, lighter and smart vehicles shaped to minimize air resistance, minimum vehicle idling, the need for less powerful engines, etc. This would further enhance fuel efficiency and reduce emissions.

Similarly, shorter time spent searching for nearby parking and reduced needs for construction, operation, and maintenance of parking infrastructures could also bring various environmental benefits. Furthermore, the prospects that AVs serving passengers' demand for performing various activities will be larger than traditional vehicles cannot be excluded. Under such circumstances, larger vehicle sizes may somehow limit fuel efficiency gains. However, shared AVs may be programmed to continuously drive rather than looking for parking in the city's downtown until the next call for a ride, thus generating more emissions. This issue may be partially mitigated by programming the AVs to drive themselves outside of the downtown of an urban area where parking is free or relatively cheaper. However, this extra travel will lead to more energy consumption, creating more traffic congestion and subsequently producing more vehicular emissions.

In the literature, numerous studies have discussed the prospects of fuel energy saving through vehicle automation. For example, Wu et al. reported that the deployment of a fuel economy optimization system could offer the automated systems or human drivers with essential guidance about optimal deceleration/acceleration profiles, taking into account vehicle current speed and acceleration, as well as other information such as headway spac-

ing, signs, and traffic lights [86]. The authors conducted a driving simulator experiment in an urban setting through a network of signalized intersections and noted a nearly 31% reduction in fuel consumption for drivers using the system. Likewise, Khondaker and Kattan reported that a variable speed limit control algorithm resulted in approximately 16% fuel savings compared to an uncontrolled scenario [87]. The proposed control system integrated real-time intelligence about individual driver behavior (like the level of compliance with the established speed limits, acceleration/deceleration) in the situation of 100% connected vehicles (CVs) environment. However, fuel savings were only marginal at a penetration rate of CVs below 50%. In their study, Li et al. demonstrated that under automated car-following scenarios, the application of a pulse-and-gliding (PnG) controller could offer up to 20% savings in fuel compared to a conventional linear-quadratic (LQ)-based controller [88]. Other field tests and simulation studies have also shown that various types of adaptive cruise controller (ACC) and cooperative adaptive cruise controller (CACC) vehicle control algorithms could significantly reduce fuel energy consumption [89–92].

Zohdy and Rakha designed a controller equipped with CACC that can guide the optimum course of vehicles in the context of the urban road intersections network [93]. The study compared the fuel consumption for their system with various intersection geometries, and noted that on average, 11%, 45%, and 33% fuel saving were obtained compared to conventional intersection control approaches of a roundabout all-way-stop and traffic signal, respectively. In their studies, Kamalanathsharma, and Rakha; Asadi and Vahidi, and Ala et al. reported that the CACC that uses vehicles to infrastructure (V2I) communication to optimize vehicle trajectories in the vicinity could lead to a reduction in a fuel energy saving of about 47%, 30%, and 19%, respectively [94–96]. A recent study conducted by Manzie et al. also reported that a road-vehicle environment where vehicles can exchange traffic flow information via inter-vehicle communication and sensors could achieve about 15–25% savings in fuel consumptions [97]. They further stated that this number could reach as high as 33%, depending on the amount and quality of traffic information that they can process and exchange.

Similarly, in another study, Wang et al. observed that a higher penetration rate of intelligent vehicles equipped with a longitudinal vehicle controller was associated with lower NO_x emissions in a congested platoon [98]. Bose and Ioannou reported that a fleet containing only 10% ACC-equipped vehicles could lower NO_x emissions by 1.5% CO and CO₂ emissions by up to 60% [99]. Choi and Bae examined the CO₂ emissions profiles for manual and CVs under lane changing operations [100]. The study found that CVs can lead to 7.1% less CO₂ emission, while lane change can maneuver faster to a slower lane. Likewise, lane change operations for CVs from a slower to a faster lane were associated with around 11.8% CO₂ emissions benefits. Fagnant and Kockelman conducted a larger-scale agent-based study. They replicated a mid-sized city scenario where nearly 3.5% of the total trips on a given day are undertaken by shared AVs [71].

These researchers observed that autonomous vehicles could have a significant positive effect on reducing various pollutants (i.e., SO₂, CO, NO_x, volatile organic compounds (VOC), PM₁₀, and GHG). VOCs and CO emissions were reduced the most, mainly due to the lower frequency of the vehicle's cold start. Effects on the particulate matter with a diameter less than 10 μm (PM₁₀) and GHG were comparatively insignificant due to the need for additional trips that shared vehicles have to make to pick up and drop off passengers from different locations. However, it is worth mentioning that this simulation study was limited by the assumptions that automated vehicles in the fleet are not essentially powered by electricity, hybrid-electric, or running on alternative fuel and passengers would not make trips more frequently. The long-term effect of automated vehicle-related emission reduction could realize a very optimistic level, as indicated in a study by Greenblatt and Saxena that estimated the emission of shared electric autonomous taxis. The study found that the GHG reduction per vehicle per mile in 2030 could be 87–94% less than the emissions of gasoline-based internal combustion vehicles in 2014 and 63–82% less compared to hybrid-electric vehicle emissions in 2030 [101].

Brown et al. also predicted considerable energy-saving up to 91% per automated vehicle in 2030 in a framework that accounted for the highest impact of energy-saving factors (e.g., efficient travel, electrification and optimized vehicle weight) and increased energy use (e.g., increased travel distance by dependent traveler) [35]. However, the factors and to what extent they will offer emission benefit in the future remains an open question. As a result, the trade-off between energy savings and increased energy use from automated vehicles might fluctuate substantially.

Few studies have also argued that the benefit in emission reduction by AVs could be fully offset by increased travel, due to lower costs involved in travelling. A study by Taiebat et al. used microeconomic modeling and applied econometric techniques to analyze the travel and energy impacts of CAVs with respect to the price of fuel and travel time [102]. While increased fuel economy in CAVs reduces the amount of energy required per mile traveled, it also decreases the cost of travel, encouraging additional travel and leading to an energy “rebound effect.” The elasticities of VMT demand with respect to fuel and time costs were estimated using the developed microeconomic model under income and time constraints. The forecasted travel demand for a typical household was estimated to increase by 2–47%. Numerous plausible scenarios involving changes in fuel economy and time costs resulted in an overall increase in energy consumption. In higher-income quantiles, backfire is more likely as the reduction in time cost is less appreciated in this class, only to offset the energy savings from CAVs. On average, a 38% reduction in time costs completely offsets a 20% increase in fuel economy provided by CAVs. Numerous researchers have also pointed out that the higher penetration of automated vehicles may actually increase the vehicle fleet number and contribute to the rise of GHGs in the environment [103]. The burgeoning number of automated on-demand mobility or ride-hailing services may lead to an enlargement of the number of vehicles in the fleet, increased VMTs and road congestion, and thereby increased fuel consumption and GHG emissions.

Synthesizing the result of all the previous studies, some charts could be developed to better understand and visualize the results of the level of GHG decrease or increase. The first graph (Figure 3) shows the factors that will increase emissions, while others are for the factors that will reduce the emission (Figure 4). In the last chart, Figure 5 demonstrates the result ranges for all research studies.

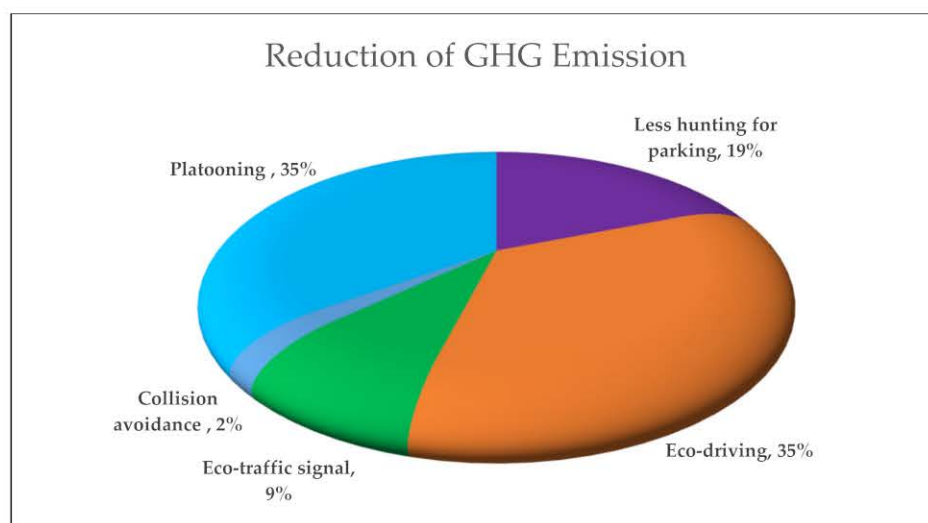


Figure 3. Average contribution of the causes on GHG emission reduction.

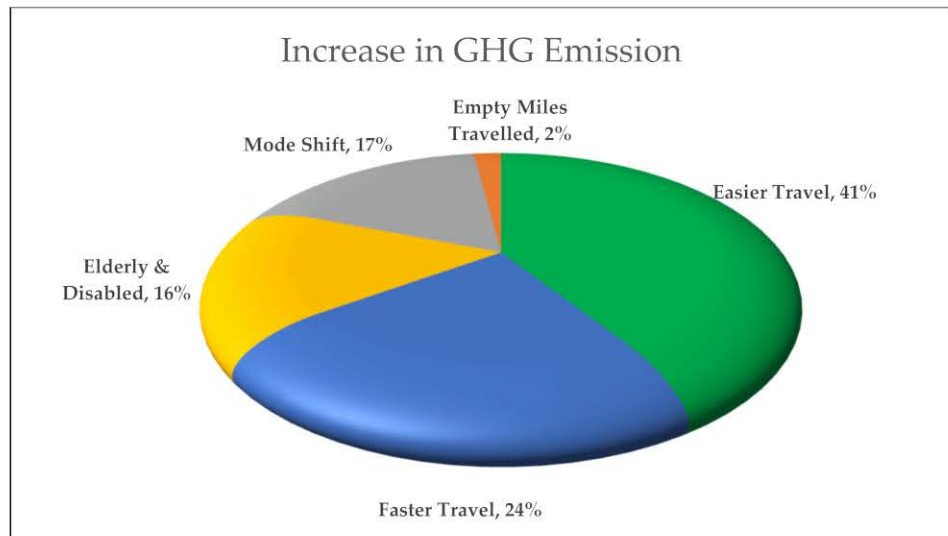


Figure 4. Average contribution of the causes on GHG emission increase.

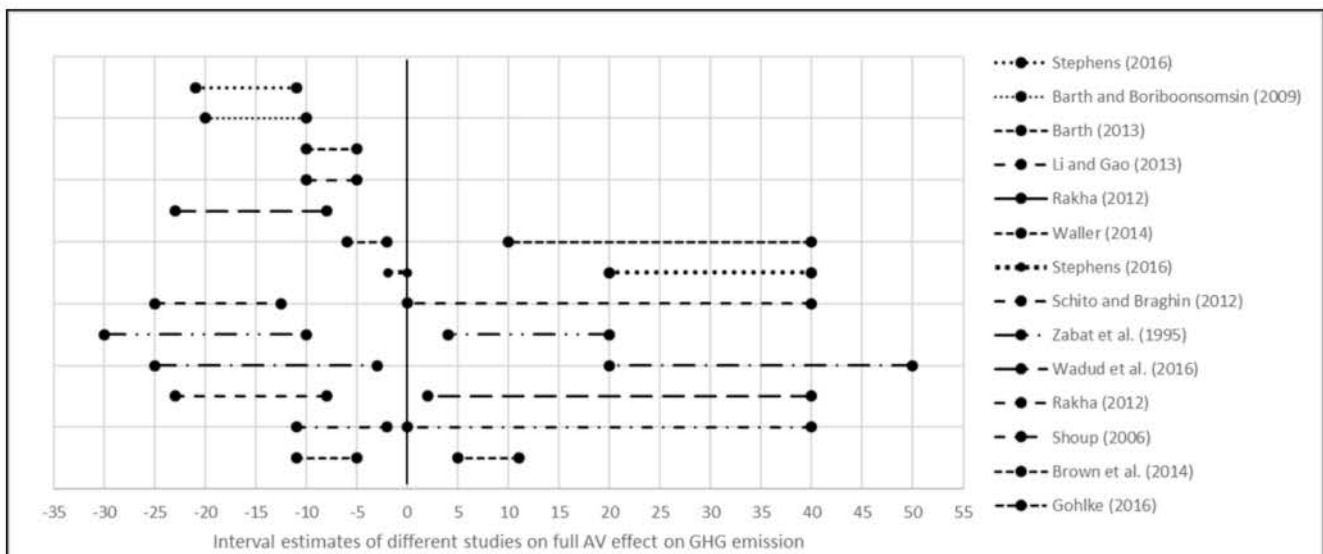


Figure 5. Interval estimates of different studies on full AV effects on GHG emission.

6.1. Causal Loop Diagram (CLD) of the AV's Effect on GHG Emission

In transport studies, system dynamics have been applied, as the feedback and connections provided by these models are useful for defining interactions of variables within the transport system. Shepherd provided a review of the different system dynamics modeling approaches used in transport systems [104]. In his study, he mentioned that the causal loop diagram (CLD) is the primary technique used to analyze the qualitative relationships between various aspects of the system within system dynamics modeling. CLD is a helpful tool to explore possible sources of dissent to strategies, synergies, and repercussions within the system. Such prospects will then help identify potential problem statements that can be addressed by quantitative modeling. A CLD illustrates how important variables of the system interrelate with each other by using text, arrows and symbols. Arrow running from the “cause” to the “effect” with a polarity represents the interaction between two variables, known as a causal connection. A positive polarity indicates that deviations in the “causal” variable would result in deviations in the “effect” variable in the same direction, assuming all other influences remain constant in the system. Similarly, a negative arrow shows that

changes in one variable cause the other to change in the opposite direction, given that all other conditions are fixed.

The feedback loops created by the causal relationship are termed as balancing (B) or reinforcing (R) based on the polarity sign, which represents positive or negative feedbacks, respectively within the system [105].

A CLD is developed based on the literature to depict the interactions of different root causes and variables with the GHG emissions from AVs (Figure 6). The CLD starts with the gradual penetration or increased market share of AVs within the transportation system. This system dynamic model assumes that both the non-AVs and AVs use fossil fuel for power generation. Since the AVs are fuel-efficient, there is a substantial chance that the demand for AVs increases, with all its benefits in terms of traffic safety, operation, and management. However, since the AVs are expected to offer several benefits to the transport system, the introductory retail price of it might be some fold higher than the conventional non-AVs. A higher retail price of AV will impart a negative effect on AV's market share.

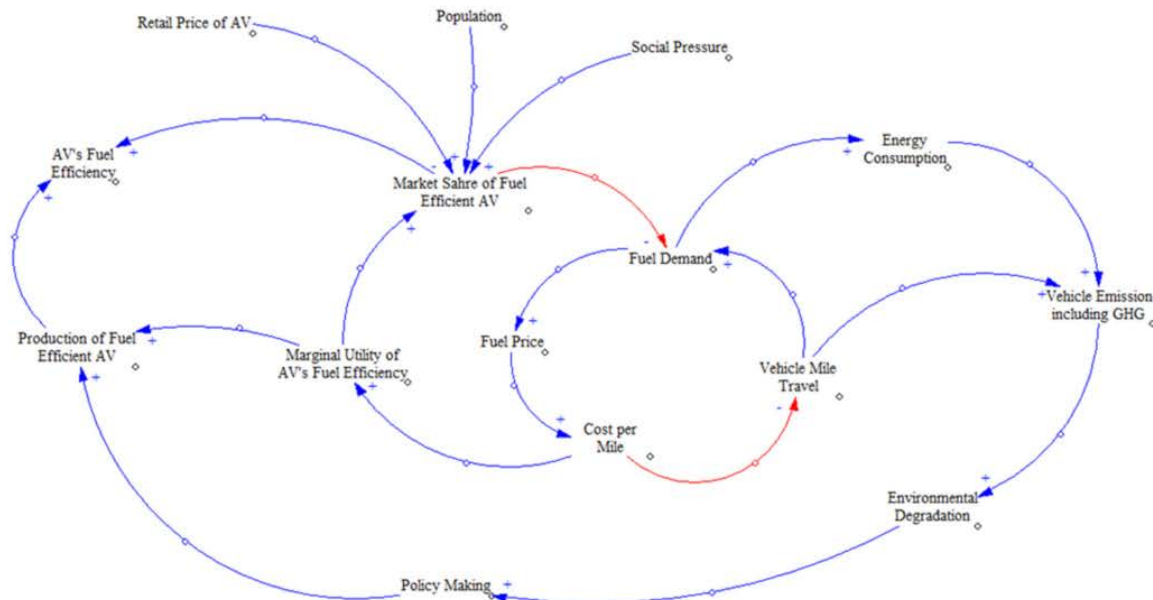


Figure 6. Causal Loop Diagram of the influence of fuel-efficient AVs on GHG emissions (inspired by [106,107]).

Nevertheless, the increase in population and social pressure to purchase AVs will positively affect the AV's penetration rate to the market. In this context, it is predicted that the number of cars in the city will increase as the population increases, causing road congestion as well. Congestion reduces the efficiency of automobile engines, contributing to increased fuel consumption and leading to higher rates of pollution [107]. An increased market share of fuel-efficient AVs will reduce the fuel demand as a whole. The reduced fuel demand initiates a balancing loop; a shortfall of demand will push the fuel price to increase and increase travel cost per mile, only to be balanced by less miles traveled. The price of gasoline is a wobble that can play either in favor or against AVs. As observed today, gasoline prices have not prevented the ownership and use of fossil fuel vehicles (FFV) in general, but if prices go up, FFV use could fall as people move to more affordable choices, given the limited nature of petrol resources. However, an increase in the cost/miles travel will observe fuel-efficient AVs' marginal utility as people will enjoy the added benefit by buying an additional AV unit.

A reinforcing loop will also generate fuel demand. In the event of increased demand, energy consumption will also escalate, giving rise to vehicle emission or GHG emission. Implementing pollution reduction policies that cause environmental degradation should be balanced in this loop, though there is a delay in this cycle that prevents it from performing

as planned. The mounting pressure on policy regulation to control the environmental degradation will possibly deter the growing AV production. More capital is expected to be invested within the automobile industry to make the AVs more fuel-efficient.

6.2. AVs Potential Impact on Reducing GHG Emission during a Global Pandemic

On 30 January 2020, the World Health Organization (WHO) announced the respiratory coronavirus disease outbreak 2019 (COVID-19) and subsequently, on 13 March, declared a global pandemic. While government policies in most countries reduced mobility, travel also declined in response to the number of local cases in the respective country. This shows how people adapted their travel behavior depending on the level of information available on the outbreak. Not only did people restrict their travel, but destinations were often avoided that had more infected cases. The automotive and transport industries are closely observing how consumer behavior changes will impact AV technologies in key aspects of the economy and daily life, given that numerous changes have been imposed upon people's daily lives due to the global COVID-19 pandemic.

COVID-19 is overhauling the consumer's perceptions towards public transit in ways that are likely to support AV technology in the longer run. As the pandemic has spread across the world, people have generally remained home, either by choice or by local directives. Hence, transit ridership has declined substantially, barring essential and emergency support workers. Major cities like New York, Washington, D.C., and San Francisco of the US have seen the ridership plummeted by a staggering 70–90% in August 2020 compared to the same time in the previous year [108]. While the decrease in ridership is attributed to home-based work, the closure of educational institutes, and local travel bans, consumers have become more interested in personal motor vehicle ownership than ever before. While the potential car customer might be putting new purchases on hold, McKinsey's recent survey reported that "20 percent of people in the United States who do not possess a vehicle under their name, now considering buying one" [108]. This group mainly includes people who live in cities and rely on public transportation for mobility. While the customer demands for new and used cars may have temporarily postponed adopting AV systems in the consumer sector, the COVID-19 pandemic per se warranted the important role of AV in day-to-day business and, most importantly, to deal with the risks posed by COVID-19.

Over the past decade, the automotive industry has had to adapt to changing attitudes to mobility, with global car ownership predicted to peak in 2034 before beginning its decline. However, with many still reluctant to use public transport due to the risk of infection, the prospect of owning a car may seem more inviting in the context of the unprecedented COVID-19 pandemic. This change in attitudes towards mobility is already evident in the adoption of micro-mobility solutions, while some have predicted that autonomous vehicles, capable of driving with some to no human input, may see an acceleration in terms of development, deployment and public interest. With industrial activity forced to slow down, flight and car journeys decreasing, greenhouse gas emissions around the world have plummeted. Consumers will get used to these changes, which is likely to see an increase in the adoption of autonomous vehicles in the future. These new vehicles are meant to be fuel-efficient, affordable, clean and green and a natural feature in smart cities and interactive communities—and will forever change the future of mobility. One of the key barriers to autonomous vehicle rollout is public perception, with a 2018 survey by OpenText revealing that 52% of consumers would not buy a driverless car. However, the COVID-19 pandemic may have contributed to changing attitudes. When weighing up the risk of COVID-19 infection presented by public transport or shared mobility, it is possible that the public will look more favorably on driverless cars. The current pandemic has had a significant impact on transport demand and mode, with a shift away from shared mobility, and in particular public transport, because of worries over public health.

7. Conclusions

Net effects of vehicle automation on emissions across a variety of illustrative examples show that automation could theoretically reduce GHG emissions and energy usage plausibly by almost half—or double-fold—depending on the implications that would come to the fore [22]. It is believed that reductions in GHG emissions through AVs' adoption will be negated to an unascertained extent, mainly due to increased car travel, facilitated by other factors such as lower perceived travel time and costs per km/trip, probable loss of public transport patronage, and possible increases in car ownership. Thus, it is quite possible that AVs could be more energy-efficient, thereby reducing the GHG by functional unit-basis as per-passenger-mile (ppm); however, the overall gain related to transportation GHG emissions could be swamped by a surge in increased vehicle miles traveled (VMT).

The effect of AV adoption on consumer travel patterns could be more pronounced from environmental aspects rather than technical attributes. While it is challenging to accurately estimate the behavioral fronts to AV adoption, a more tangible consideration of the relationship between different AV adoption models and anticipated travel behavior is vital for estimating AVs' environmental impacts. It may be argued from the discussion presented herein that if AVs are deployed within less approbatory areas or if the road transportation sector is continued to be dominated by privately owned vehicles, it is likely that AVs may escalate the transport-related GHG emissions. Hence, adoption tendencies like vehicle ownership models are also expected to largely influence whether AVs will decrease or increase the overall VMT as well as the subsequent GHG emissions. Few studies have indicated that the positive emission changes may not be realized at lower AV penetration rate, where the maximum emission reduction might take place within the 60–80% AV penetration rate.

Impacts of autonomous vehicles on GHG emission are highly dependent on continuous technological development and evolution, market reaction, and regulatory actions, making it challenging to confidently predict the overall benefits expected to deliver by AVs to the transportation systems in terms of GHG emission. With long-term land-use adjustments, the role of policy, welfare and equity yet to be explored and the potential effects of AVs remain unknown; it is unlikely that we can anticipate long-term effects on GHG emission with certainty. Moreover, the overwhelming COVID-19 global pandemic has also posed challenges to some of the well-perceived mode choice models, which may force the policymaker to adopt suitable mobility alternatives that ensure public health and safety. Therefore, it is of paramount importance to develop appropriate methodologies, tools, and techniques to better understand the impact of GHG emissions for AV adoption at different levels by harnessing an appropriate system approach.

Author Contributions: Conceptualization, M.M. and S.M.R.; methodology, M.M. and S.M.R.; writing—original draft preparation, M.M., I.R. and S.M.R.; writing—review and editing, S.M.H.A., A.J. and F.S.A.-I.; visualization, I.R., A.J. and S.M.R.; supervision, S.M.R. and F.S.A.-I.; project administration, S.M.R. All authors have read and agreed to the published version of the manuscript.

Funding: This research received no external funding.

Institutional Review Board Statement: Not Applicable.

Informed Consent Statement: Not Applicable.

Acknowledgments: The authors would like to gratefully acknowledge the support of King Fahd University of Petroleum & Minerals (KFUPM) in conducting this research.

Conflicts of Interest: The authors declare no conflict of interest.

References

1. Vahidi, A.; Sciarretta, A. Energy Saving Potentials of Connected and Automated Vehicles. *Transp. Res. Part C Emerg. Technol.* **2018**, *95*, 822–843. [[CrossRef](#)]
2. Facts, E.F. *US Transportation Sector Greenhouse Gas Emissions 1990–2013*; US Environmental Protection Agency: Washington, DC, USA, 2015.

3. National Academies of Sciences, Engineering, and Medicine. *Commercial Motor Vehicle Driver Fatigue, Long-Term Health, and Highway Safety: Research Needs*; National Academies Press: Washington, DC, USA, 2016; ISBN 0-309-39252-7.
4. Metcalf, G.E. Market-Based Policy Options to Control US Greenhouse Gas Emissions. *J. Econ. Perspect.* **2009**, *23*, 5–27. [CrossRef]
5. Andrés, L.; Padilla, E. Driving Factors of GHG Emissions in the EU Transport Activity. *Transp. Policy* **2018**, *61*, 60–74. [CrossRef]
6. Liu, D.; Yang, D.; Huang, A. LEAP-Based Greenhouse Gases Emissions Peak and Low Carbon Pathways in China's Tourist Industry. *Int. J. Environ. Res. Public Health* **2021**, *18*, 1218. [CrossRef]
7. Crayton, T.J.; Meier, B.M. Autonomous Vehicles_ Developing a Public Health Research Agenda to Frame the Future of Transportation Policy. *J. Transp. Health* **2017**, *6*, 245–252. [CrossRef]
8. Newman, P.; Kenworthy, J. *Sustainability and Cities: Overcoming Automobile Dependence*; Island Press: Washington, DC, USA, 1999.
9. Mersky, A.C.; Samaras, C. Fuel Economy Testing of Autonomous Vehicles. *Transp. Res. Part C* **2016**, *65*, 31–48. [CrossRef]
10. Moriarty, P.; Wang, S.J. Could Automated Vehicles Reduce Transport Energy? In *Energy Procedia*; Elsevier Ltd.: Amsterdam, The Netherlands, 2017; Volume 142, pp. 2109–2113.
11. Markit, I. *Autonomous Vehicle Sales Forecast to Reach 21 Mil. Globally in 2035, According to IHS Automotive*; IHS Markit: London, UK, 2016.
12. Rivera, J.; van der Meulen, R. *Gartner Says 4.9 Billion Connected 'Things' Will Be in Use in 2015*; Gartner: Barcelona, Spain, 2014.
13. Alexander-Kearns, M.; Peterson, M.; Cassidy, A. The Impact of Vehicle Automation on Carbon Emissions. Center for American Progress. Available online: <https://www.americanprogress.org/issues/green/reports/2016/11/18/292588/theimpact-of-vehicle-automation-on-carbon-emissions-where-uncertainty-lies> (accessed on 11 November 2020).
14. Litman, T. *Safer Than You Think!: Revising the Transit Safety Narrative*; TRID: Victoria, BC, Canada, 2016.
15. Barth, M.; Boriboonsomsin, K. Energy and Emissions Impacts of a Freeway-Based Dynamic Eco-Driving System. *Res. Part D Transp.* **2009**, *14*, 400–410. [CrossRef]
16. Chen, T.; Kockelman, K.; Hanna, J.P. Operations of a Shared, Autonomous, Electric Vehicle Fleet: Implications of Vehicle & Charging Infrastructure Decisions. *Transp. Res. Part A Policy Pract.* **2016**, *94*, 243–254.
17. Stephens, T.; Gonder, J.; Chen, Y.; Lin, Z.; Liu, C.; Gohlke, D. *Estimated Bounds and Important Factors for Fuel Use and Consumer Costs of Connected and Automated Vehicles*; National Renewable Energy Lab.(NREL): Golden, CO, USA, 2016.
18. Barkenbus, J.N. *Author's Personal Copy Eco-Driving: An Overlooked Climate Change Initiative*; Elsevier: Amsterdam, The Netherlands, 2009. [CrossRef]
19. Rakha, H.; Kamalanathsharma, R.K. *Eco-Driving at Signalized Intersections Using V2I Communication*; IEEE: Piscataway, NJ, USA, 2011; pp. 341–346.
20. Psaraki, V.; Pagoni, I.; Schafer, A. Techno-Economic Assessment of the Potential of Intelligent Transport Systems to Reduce CO2 Emissions. *IET Intell. Transp. Syst.* **2012**, *6*, 355–363. [CrossRef]
21. Pettigrew, S.; Fritschi, L.; Norman, R. The Potential Implications of Autonomous Vehicles in and around the Workplace. *Int. J. Environ. Res. Public Health* **2018**, *15*, 1876. [CrossRef] [PubMed]
22. Wadud, Z.; MacKenzie, D.; Leiby, P. Help or Hindrance? The Travel, Energy and Carbon Impacts of Highly Automated Vehicles. *Transp. Res. Part A Policy Pract.* **2016**, *86*, 1–18. [CrossRef]
23. Greenblatt, J.B.; Shaheen, S. Automated Vehicles, On-Demand Mobility, and Environmental Impacts. *Curr. Sustain. Renew. Energy Rep.* **2015**, *2*, 74–81. [CrossRef]
24. Anderson, J.; Nidhi, K.; Stanley, K.; Sorensen, P. *Autonomous Vehicle Technology: A Guide for Policymakers*; Rand Corporation: Santa Monica, CA, USA, 2014.
25. Tomás, R.F.; Fernandes, P.; Macedo, E.; Bandeira, J.M.; Coelho, M.C. Assessing the Emission Impacts of Autonomous Vehicles on Metropolitan Freeways. *Transp. Res. Procedia* **2020**, *47*, 617–624. [CrossRef]
26. Stasinopoulos, P.; Shiwakoti, N.; Beining, M. Use-Stage Life Cycle Greenhouse Gas Emissions of the Transition to an Autonomous Vehicle Fleet: A System Dynamics Approach. *J. Clean. Prod.* **2021**, *278*, 123447. [CrossRef]
27. Wang, A.; Stogios, C.; Gai, Y.; Vaughan, J.; Ozonder, G.; Lee, S.; Posen, I.D.; Miller, E.J.; Hatzopoulou, M. Automated, Electric, or Both? Investigating the Effects of Transportation and Technology Scenarios on Metropolitan Greenhouse Gas Emissions. *Sustain. Cities Soc.* **2018**, *40*, 524–533. [CrossRef]
28. Le Hong, Z.; Zimmerman, N. Air Quality and Greenhouse Gas Implications of Autonomous Vehicles in Vancouver, Canada. *Transp. Res. Part D Transp. Environ.* **2021**, *90*, 102676. [CrossRef]
29. Liu, F.; Zhao, F.; Liu, Z.; Policy, H.H.-E. *Can Autonomous Vehicle Reduce Greenhouse Gas Emissions? A Country-Level Evaluation*; Elsevier: Amsterdam, The Netherlands, 2019.
30. de Souza Melaré, A.V.; González, S.M.; Faceli, K.; Casadei, V. Technologies and Decision Support Systems to Aid Solid-Waste Management: A Systematic Review. *Waste Manag.* **2017**, *59*, 567–584. [CrossRef] [PubMed]
31. Kitchenham, B.; Charters, S. *Guidelines for Performing Systematic Literature Reviews in Software Engineering*; Technical report, Ver. 2.3 EBSE Technical Report; EBSE: Keele, UK, 2007.
32. Guccione, L.; Holland, B. *Car & (No) Driver*; Rocky Mountain Institute (RMI): Basalt, CO, USA, 2013.
33. Wang, W.; Zhong, H.; Zeng, Y.; Liu, Y.; Chen, J. A Carbon Emission Calculation Model for Roadside Parking. *Int. J. Environ. Res. Public Health* **2021**, *18*, 1906. [CrossRef] [PubMed]
34. Shoup, D.C. Cruising for Parking. *Transp. Policy* **2006**, *13*, 479–486. [CrossRef]

35. Brown, A.; Gonder, J.; Repac, B. *An Analysis of Possible Energy Impacts of Automated Vehicles*; Springer: Berlin/Heidelberg, Germany, 2014; pp. 137–153.
36. Torbert, R.; Herrschaft, B. *Driving Miss Hazy: Will Driverless Cars Decrease Fossil Fuel Consumption?* Rocky Mountain Institute: Basalt, CO, USA, 2016.
37. Li, J.-M.; Gao, Z. Exploring the Impact of Speed Synchronization through Connected Vehicle Technology on Fleet-Level Fuel Economy. *SAE Int. J. Passeng. Cars Electron. Electr. Syst.* **2013**, *6*, 213–221. [CrossRef]
38. Rakha, H.A.; Ahn, K.; Park, S. AERIS: Eco-Driving Application Development and Testing (No. FHWA). 2012. Available online: <https://vtechworks.lib.vt.edu/handle/10919/55092> (accessed on 11 November 2020).
39. He, Y.; Rios, J.; Chowdhury, M.; Pisu, P.; Bhavsar, P. Forward Power-Train Energy Management Modeling for Assessing Benefits of Integrating Predictive Traffic Data into Plug-in-Hybrid Electric Vehicles. *Transp. Res. Part D Transp. Environ.* **2012**, *17*, 201–207. [CrossRef]
40. Rakha, H.; Kamalanathsharma, R.; Ahn, K. *AERIS: Eco-Vehicle Speed Control at Signalized Intersections Using I2V Communication Final Report*; Virginia Polytechnic Institute and State University: Blacksburg, VA, USA, 2012.
41. Al-Turki, M.; Jamal, A.; Al-Ahmadi, H.M.; Al-Sughaiyer, M.A.; Zahid, M. On the Potential Impacts of Smart Traffic Control for Delay, Fuel Energy Consumption, and Emissions: An NSGA-II-Based Optimization Case Study from Dhahran, Saudi Arabia. *Sustainability* **2020**, *12*, 7394. [CrossRef]
42. Yelchuru, B.; Waller, T. Preliminary Eco-Traffic Signal Timing Modeling Results. 2014. Available online: <https://www.itsbenefits.its.dot.gov/ITS/benecost.nsf/SummID/B2014-00912> (accessed on 11 November 2020).
43. Zimmerman, C.; Marks, J.; Jenq, J.; Cluett, C.; DeBlasio, A. *Phoenix Metropolitan Model Deployment Initiative Evaluation Report (Draft)*; TRID: Washington, DC, USA, 2000.
44. NHTSA. *Fatality Analysis Reporting System*; National Highway Traffic Safety Administration; NHTSA, US Department of Transportation: Washington, DC, USA, 2008.
45. Zahid, M.; Chen, Y.; Khan, S.; Jamal, A.; Ijaz, M.; Ahmed, T. Predicting Risky and Aggressive Driving Behavior among Taxi Drivers: Do Spatio-Temporal Attributes Matter? *Int. J. Environ. Res. Public Health* **2020**, *17*, 3937. [CrossRef] [PubMed]
46. Schrank, D. *TTI's 2012 Urban Mobility Report*; Texas A&M Transportation Institute, The Texas A&M University System: Bryan, TX, USA, 2012.
47. Najm, W.; Stearns, M.; Howarth, H.; Koopmann, J.; Hitz, J. *Evaluation of an Automotive Rear-End Collision Avoidance System*; Department of Transportation, National Highway Traffic Safety Administration: Cambridge, MA, USA, 2006.
48. Kasseris, E.P. *Comparative Analysis of Automotive Powertrain Choices for the Near to Mid-Term Future*; Massachusetts Institute of Technology: Cambridge, MA, USA, 2006.
49. Zhu, H.; Yang, Z. *Simulation of the Aerodynamic Interaction of Two Generic Sedans Moving Very Closely*; IEEE: Piscataway, NJ, USA, 2011; pp. 2595–2600.
50. Schito, P. Numerical and Experimental Investigation on Vehicles in Platoon. *SAE Int. J. Commer. Veh.* **2012**, *5*, 63–71. [CrossRef]
51. Duan, K.; Mcdaniel, C.; Muller, A.; Yokota, B.; Kleissl, J. *Effects of Highway Slipstreaming on California Gas Consumption*; University of California: San Diego, CA, USA, 2007.
52. Tsugawa, S. An Overview on an Automated Truck Platoon within the Energy ITS Project. *Ifac Proc. Vol.* **2013**, *46*, 41–46. [CrossRef]
53. Zabat, M.; Stabile, N.; Farascaroli, S. *UC Berkeley Research Reports Title the Aerodynamic Performance of Platoons*; California PATH Research Report; California PATH: Oakland, CA, USA, 1995; 8p. Available online: <https://escholarship.org/uc/item/8ph187fw> (accessed on 15 December 2020). California PATH Research Report.
54. Dávila, A.; Nombela, M. *Sartre-Safe Road Trains for the Environment Reducing Fuel Consumption through Lower Aerodynamic Drag Coefficient*; SAE Technical Paper; SAE: Warrendale, PA, USA, 2011.
55. Mccarthy, J.F. *Sustainability of Self-Driving Mobility: An Analysis of Carbon Emissions Between Autonomous Vehicles and Conventional Modes of Transportation*; Harvard University: Cambridge, MA, USA, 2017.
56. Davis, S.; Diegel, S.; Boundy, R. *Transportation Energy Data Book Edition 31*; Oak Ridge National Laboratory: Oak Ridge, TN, USA, 2012.
57. Organisation for Economic Co-Operation and Development. *Urban Mobility System Upgrade: How Shared Self-Driving Cars Could Change City Traffic*; International Transport Forum (ITF): Paris, France, 2015.
58. MacKenzie, D.; Zoepf, S.; Heywood, J. Determinants of US Passenger Car Weight. *Int. J. Veh. Des.* **2014**, *65*, 73–93. [CrossRef]
59. Joost, W.J. Reducing Vehicle Weight and Improving US Energy Efficiency Using Integrated Computational Materials Engineering. *Jom* **2012**, *64*, 1032–1038. [CrossRef]
60. Bigazzi, A.Y.; Clifton, K.J. Modeling the Effects of Congestion on Fuel Economy for Advanced Power Train Vehicles. *Transp. Plan. Technol.* **2015**, *38*, 149–161. [CrossRef]
61. Dey, K.C.; Rayamajhi, A.; Chowdhury, M.; Bhavsar, P.; Martin, J. Vehicle-to-Vehicle (V2V) and Vehicle-to-Infrastructure (V2I) Communication in a Heterogeneous Wireless Network—Performance Evaluation. *Transp. Res. Part C Emerg. Technol.* **2016**, *68*, 168–184. [CrossRef]
62. Porter, C.; Brown, A.; DeFlorio, J.; McKenzie, E.; Tao, W. *Effects of Travel Reduction and Efficient Driving on Transportation: Energy Use and Greenhouse Gas Emissions*; Transportation Energy Futures Series: Washington, DC, USA, 2013; (DOE/GO-102013-3704).
63. Shaheen, S.; Cohen, A.; Bayen, A. *The Benefits of Carpooling*; University of California: San Diego, CA, USA, 2018.

64. Igliński, H.; Babiak, M. Analysis of the Potential of Autonomous Vehicles in Reducing the Emissions of Greenhouse Gases in Road Transport. *Procedia Eng.* **2017**, *192*, 353–358. [CrossRef]
65. Xia, H.; Wu, G.; Boriboonsomsin, K.; Barth, M.J. Development and Evaluation of an Enhanced Eco-Approach Traffic Signal Application for Connected Vehicles. In Proceedings of the 16th International IEEE Conference on Intelligent Transportation Systems (ITSC 2013), The Hague, The Netherlands, 6–9 October 2013; pp. 296–301.
66. Burns, L. Sustainable Mobility: A Vision of Our Transport Future. *Nature* **2013**, *497*, 181. [CrossRef]
67. De Haan, P.; Peters, A.; Scholz, R.W. Reducing Energy Consumption in Road Transport through Hybrid Vehicles: Investigation of Rebound Effects, and Possible Effects of Tax Rebates. *J. Clean. Prod.* **2007**, *15*, 1076–1084. [CrossRef]
68. Childress, S.; Nichols, B.; Charlton, B.C.-T. Using an Activity-Based Model to Explore the Potential Impacts of Automated Vehicles. *Transp. Res. Rec.* **2015**, *2493*, 99–106. [CrossRef]
69. Gucwa, M. Mobility and Energy Impacts of Automated Cars. In Proceedings of the Automated Vehicles Symposium, San Francisco, CA, USA, 15–17 July 2014.
70. Harper, C.D.; Hendrickson, C.T.; Mangones, S.; Samaras, C. *Estimating Potential Increases in Travel with Autonomous Vehicles for the Non-Driving, Elderly and People with Travel-Restrictive Medical Conditions*; Elsevier: Amsterdam, The Netherlands, 2016. [CrossRef]
71. Fagnant, D.J.; Kockelman, K.M. *The Travel and Environmental Implications of Shared Autonomous Vehicles, Using Agent-Based Model Scenarios*; Elsevier: Amsterdam, The Netherlands, 2014. [CrossRef]
72. Berry, I.M. *The Effects of Driving Style and Vehicle Performance on the Real-World Fuel Consumption of U.S. Light-Duty Vehicles*; Massachusetts Institute of Technology: Cambridge, MA, USA, 2007.
73. Thomas, J.; Hwang, H.-L.; West, B.; Huff, S. Predicting Light-Duty Vehicle Fuel Economy as a Function of Highway Speed. *Sae Int. J. Passeng. Cars Mech. Syst.* **2013**, *6*, 859–875. [CrossRef]
74. Schäfer, A.; Heywood, J.; Jacoby, H.; Waitz, I. *Transportation in a Climate-Constrained World*; MIT Press: Cambridge, MA, USA, 2009.
75. Gehrke, S.; Felix, A.; Metropolitan Area Planning Council. Fare Choices: A Survey of Ride-Hailing Passengers in Metro Boston. 2018. Available online: https://pdxscholar.library.pdx.edu/trec_seminar/152/ (accessed on 15 December 2020).
76. Whitney, J. *Autonomous Vehicles: How US Cities Are Preparing*; University of Oregon: Eugene, OR, USA, 2018.
77. Ullah, I.; Jamal, A.; Subhan, F. Public Perception of Autonomous Car: A Case Study for Pakistan. *Adv. Transp. Stud.* **2019**, *49*, 145–154.
78. Cervero, R.; Murakami, J. Effects of Built Environments on Vehicle Miles Traveled: Evidence from 370 US Urbanized Areas. *Environ. Plan. A* **2010**, *42*, 400–418. [CrossRef]
79. Barrington-Leigh, C.; Millard-Ball, A. More Connected Urban Roads Reduce US GHG Emissions. *Environ. Res. Lett.* **2017**, *12*, 044008. [CrossRef]
80. Stogios, C.; Kasraian, D.; Roorda, M.J.; Hatzopoulou, M. Simulating Impacts of Automated Driving Behavior and Traffic Conditions on Vehicle Emissions. *Transp. Res. Part D Transp. Environ.* **2019**, *76*, 176–192. [CrossRef]
81. Olia, A.; Abdelgawad, H.; Abdulhai, B.; Razavi, S.N. Assessing the Potential Impacts of Connected Vehicles: Mobility, Environmental, and Safety Perspectives. *J. Intell. Transp. Syst.* **2016**, *20*, 229–243. [CrossRef]
82. Conlon, J.; Lin, J. Greenhouse Gas Emission Impact of Autonomous Vehicle Introduction in an Urban Network. *Transp. Res. Rec.* **2019**, *2673*, 142–152. [CrossRef]
83. *Bloomberg New Energy Finance*; New Energy Outlook 2018; Bloomberg New Energy Finance: New York, NY, USA, 2018; Available online: <https://about.bnef.com/new-energy-outlook/> (accessed on 15 December 2020).
84. EPA. *US Transportation Sector Greenhouse Gas Emissions: 1990–2011*; Office of Transportation and Air Quality EPA-420-F-13-033a; EPA: Washington, DC, USA, 2013.
85. *Global Energy & CO₂ Status Report 2017*; IEA: Paris, France, 2018.
86. Wu, C.; Zhao, G.; Ou, B. A Fuel Economy Optimization System with Applications in Vehicles with Human Drivers and Autonomous Vehicles. *Transp. Res. Part D Transp. Environ.* **2011**, *16*, 515–524. [CrossRef]
87. Khondaker, B.; Kattan, L. Variable Speed Limit: A Microscopic Analysis in a Connected Vehicle Environment. *Transp. Res. Part C Emerg. Technol.* **2015**, *58*, 146–159. [CrossRef]
88. Li, S.E.; Peng, H.; Li, K.; Wang, J. Minimum Fuel Control Strategy in Automated Car-Following Scenarios. *IEEE Trans. Veh. Technol.* **2012**, *61*, 998–1007. [CrossRef]
89. Kamal, M.A.S.; Taguchi, S.; Yoshimura, T. Efficient Driving on Multilane Roads under a Connected Vehicle Environment. *IEEE Trans. Intell. Transp. Syst.* **2016**, *17*, 2541–2551. [CrossRef]
90. Luo, L.; Liu, H.; Li, P.; Wang, H. Model Predictive Control for Adaptive Cruise Control with Multi-Objectives: Comfort, Fuel-Economy, Safety and Car-Following. *J. Zhejiang Univ. Sci. A* **2010**, *11*, 191–201. [CrossRef]
91. Rios-Torres, J.; Malikopoulos, A.A. Automated and Cooperative Vehicle Merging at Highway On-Ramps. *IEEE Trans. Intell. Transp. Syst.* **2016**, *18*, 780–789. [CrossRef]
92. Wang, M.; Daamen, W.; Hoogendoorn, S.; Van Arem, B. Potential Impacts of Ecological Adaptive Cruise Control Systems on Traffic and Environment. *Int. J. Intell. Transp. Syst.* **2014**, *8*, 77–86. [CrossRef]
93. Zohdy, I.H.; Rakha, H.A. Intersection Management via Vehicle Connectivity: The Intersection Cooperative Adaptive Cruise Control System Concept. *J. Intell. Transp. Syst.* **2016**, *20*, 17–32. [CrossRef]
94. Kamalanathsharma, R.K.; Rakha, H.A. Leveraging Connected Vehicle Technology and Telematics to Enhance Vehicle Fuel Efficiency in the Vicinity of Signalized Intersections. *J. Intell. Transp. Syst.* **2016**, *20*, 33–44. [CrossRef]

95. Asadi, B.; Vahidi, A. Predictive Cruise Control: Utilizing Upcoming Traffic Signal Information for Improving Fuel Economy and Reducing Trip Time. *Ieee Trans. Control Syst. Technol.* **2010**, *19*, 707–714. [[CrossRef](#)]
96. Ala, M.V.; Yang, H.; Rakha, H. Modeling Evaluation of Eco-Cooperative Adaptive Cruise Control in Vicinity of Signalized Intersections. *Transp. Res. Rec.* **2016**, *2559*, 108–119. [[CrossRef](#)]
97. Manzie, C.; Watson, H.; Halgamuge, S. Fuel Economy Improvements for Urban Driving: Hybrid vs. Intelligent Vehicles. *Transp. Res. Part C Emerg. Technol.* **2007**, *15*, 1–16. [[CrossRef](#)]
98. Wang, Z.; Chen, X.; Ouyang, Y.; Li, M. Emission Mitigation via Longitudinal Control of Intelligent Vehicles in a Congested Platoon. *Comput. Aided Civ. Infrastruct. Eng.* **2015**, *30*, 490–506. [[CrossRef](#)]
99. Bose, A.; Ioannou, P. Evaluation of the Environmental Effects of Intelligent Cruise Control Vehicles. *Transp. Res. Rec.* **2001**, *1774*, 90–97. [[CrossRef](#)]
100. Choi, J.-E.; Bae, S.-H. Development of a Methodology to Demonstrate the Environmental Impact of Connected Vehicles under Lane-Changing Conditions. *Simulation* **2013**, *89*, 964–976. [[CrossRef](#)]
101. Greenblatt, J.B.; Saxena, S. Autonomous Taxis Could Greatly Reduce Greenhouse-Gas Emissions of US Light-Duty Vehicles. *Nat. Clim. Chang.* **2015**, *5*, 860–863. [[CrossRef](#)]
102. Taiebat, M.; Stolper, S.; Xu, M. Forecasting the Impact of Connected and Automated Vehicles on Energy Use: A Microeconomic Study of Induced Travel and Energy Rebound. *Appl. Energy* **2019**, *247*, 297–308. [[CrossRef](#)]
103. Kopelias, P.; Demiridi, E.; Vogiatzis, K.; Skabardonis, A.; Zafiropoulou, V. Connected & Autonomous Vehicles—Environmental Impacts—A Review. *Sci. Total Environ.* **2020**, *712*, 135237. [[PubMed](#)]
104. Shepherd, S.P. A Review of System Dynamics Models Applied in Transportation. *Transp. B Transp. Dyn.* **2014**, *2*, 83–105. [[CrossRef](#)]
105. Sterman, J. *System Dynamics: Systems Thinking and Modeling for a Complex World*; Massachusetts Institute of Technology: Cambridge, MA, USA, 2002.
106. Stepp, M.D.; Winebrake, J.J.; Hawker, J.S.; Skerlos, S.J. Greenhouse Gas Mitigation Policies and the Transportation Sector: The Role of Feedback Effects on Policy Effectiveness. *Energy Policy* **2009**, *37*, 2774–2787. [[CrossRef](#)]
107. Andrea, P.; Conor, H.; Veronica, P. *The Influence of Transport on GHG Emission in Brisbane*; The University of Queensland: Brisbane, Australia, 2014.
108. Boll, C. The Impact of COVID-19 on Adoption of Autonomous Vehicle Technology. 2020. Available online: <https://www.foley.com/en/insights/publications/2020/08/covid-19-adoption-autonomous-vehicle-technology> (accessed on 11 November 2020).



Kate Harrison
Vice Mayor, District 4

CONSENT CALENDAR
October 11, 2022

To: Honorable Mayor and Members of the City Council
From: Councilmember Harrison (Author) and Councilmember Hahn (Co-sponsor)
Subject: Adopt an Ordinance Adding Chapter 13.09 to the Berkeley Municipal Code Prohibiting Discriminatory Reports to Law Enforcement

RECOMMENDATION

1. Adopt an Ordinance Amending Chapter 13.09 to the Berkeley Municipal Code Prohibiting Discriminatory Reports to Law Enforcement.
2. Refer to the City Manager to report to Council within twelve months with anonymized data and information regarding discriminatory reports to law enforcement.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

As the City of Berkeley addresses disparate policing outcomes, it is critical to consider potential bias stemming from community-initiated calls for service. Over the past year, there have been numerous high-profile instances, including in the Bay Area, of people allegedly calling law enforcement on innocent people on purely discriminatory grounds. It is likely that numerous additional instances go unreported each year. Such incidents cause serious harm to the person falsely accused of a crime, contribute to defamation, cause anxiety and distrust among people of color and other people, and put an unnecessary strain on law enforcement officers responding to frivolous and false calls. Berkeley is not immune to such discriminatory calls and therefore it is the public interest to explicitly expand existing laws regarding false police reports such that it is explicitly unlawful to engage in such behavior and that any aggrieved person may seek restitution through civil means.

POLICY COMMITTEE RECOMMENDATION

On September 19, 2022, the Public Safety Committee adopted the following action: M/S/C (Taplin/Kesarwani) to approve the item with a positive recommendation. Vote: All Ayes

Adopt an Ordinance Adding Chapter 13.09 to the Berkeley Municipal Code Prohibiting Discriminatory Reports to Law Enforcement

BACKGROUND

This Ordinance is modelled upon the City and County of San Francisco's recently unanimously adopted 2020 Caution Against Racially and Exploitative Non-Emergencies (CAREN) Act. A similar bill also passed in the State of Virginia.¹

These laws were passed in the wake of the global protest movement in response to the murder of George Floyd, which highlighted discriminatory calls to law enforcement, including notable incidents in New York City's Central Park and Oakland's Lake Merritt.²

In addition to causing serious harm to the person(s) falsely accused of a crime, anxiety and distrust among people of color and other groups, such incidents put an unnecessary strain on law enforcement officers responding to frivolous and false calls. However, this ordinance is not intended to discourage individuals from contacting law enforcement when they are facing real danger or desire to report a crime.

The Berkeley Police Review Commission's 2017 "To Achieve Fairness and Impartiality: Report and Recommendations" cited a number of anecdotal reports from community members alleging discriminatory calls for law enforcement service, including:

- A racially-mixed family was having pizza at Bobby G's on University. Another diner called police saying that the mixed couple were "abusing their child by drinking beer and wine in front of their child." Two police cars arrived with lights flashing. The owner attested that the family were regulars, and were minding their own business watching a football game. Police interrogated the African American father for one hour in a hallway at the restaurant.
- An African American man, a security guard in uniform with a licensed gun, was talking with a Caucasian female on the corner of Bonar and Allston Way after a ceremony at the Berkeley Youth Association. A Caucasian man drove by, parked the car, got out and started videotaping the couple. The African American man asked the driver to stop videotaping. The man answered that it was his right to do so and started making statements such as "don't bring a gun into my neighborhood." After a heated back-and-forth, the driver called the police. Eight cars arrived. The lead officer reviewed the credentials of the African-American man, was satisfied and departed. One of the remaining officers stayed and continue to ask the same questions for another 15 minutes. The African American security guard registered that he felt he was "unduly questioned" and was being "badgered."
- The owners of "44 Restaurant and Lounge" lodged a complaint with NAACP and police. During happy hour to 8p.m.the guests that frequent the bar are a racially mixed crowd. After 8p.m.the guests are predominantly African American. After a minor complaint to police from a resident, the police parked a car with lights off across the street from the establishment for a period of four months. "44" has no history of rowdiness or spillover from bar patrons onto the

¹ Ebrahimji, Alisha, and Amanda Jackson, "San Francisco's 'CAREN Act,' Making Racially Biased 911 Calls Illegal, Is One Step Closer to Becoming a Law," *CNN*, October 21, 2020, www.cnn.com/2020/10/20/us/caren-act-911-san-francisco-board-passes-first-read-trnd/index.html.

² Nir, Sarah Maslin, "How 2 Lives Collided in Central Park, Rattling the Nation," *The New York Times*, June 14, 2020, www.nytimes.com/2020/06/14/nyregion/central-park-amy-cooper-christian-racism.html; Fearnow, Benjamin, "A Black Family's Sunday Barbecue Was Interrupted after a Woman Called out Their Charcoal Grill and Phoned the Cops," *Newsweek*, May 10, 2018, www.newsweek.com/lake-merritt-bbq-barbecue-video-oakland-racist-charcoal-east-bay-black-family-919355.

Adopt an Ordinance Adding Chapter 13.09 to the Berkeley Municipal Code Prohibiting Discriminatory Reports to Law Enforcement

sidewalk or the street. The bar down the street, Nick's Lounge, has spillover into the street almost every night. The owners of "44" and the NAACP observed there is no police presence at Nick's.³

The Berkeley Police Review Commission's 2017 report was not exhaustive and it is likely that there were numerous additional unreported incidents involving individuals contacting law enforcement to report innocuous behavior as suspicious, or to falsely report alleged criminal behavior, for what appear to be solely discriminatory reasons. Berkeley Police Department staff also cited biased calls for service as a potential factor in racially disparate policing outcomes during the Mayor's Fair and Impartial Working Group meetings. The intent of this ordinance and referral is to prohibit and daylight these incidents, and to provide an avenue for restitution through the court system.

The misuse of law enforcement by members of the public to discriminate against others is intolerable. Creating a civil cause of action for damages will also discourage this type of behavior and provide a tangible compensation for victims.

Berkeley Municipal Code 13.08 already prohibits persons from knowingly reporting or causing to be reported:

"any false or fictitious request for protection or assistance, or any false or fictitious information indicating that a crime has been or is about to be committed, or to knowingly cause the Police Department to respond to any such false or fictitious report, or to request any assistance or investigation in connection with or as a result of any such false or fictitious report or false or fictitious information."

This ordinance expands the scope of this existing law to explicitly prohibit false or frivolous reports involving individuals who contact law enforcement to report innocuous behavior as suspicious, or to falsely report alleged criminal behavior, for what appear to be solely discriminatory reasons. Discriminatory calls are defined as those that are made on the basis of a person's actual or perceived race, color, ancestry, ethnicity, national origin, place of birth, sex, age, religion, creed, disability, sexual orientation, gender identity, weight, or height, and with the intent to do any of the following:

- (1) Infringe upon the person's rights under either the California Constitution or the United States Constitution;
- (2) Discriminate against the person;
- (3) Cause the person to feel harassed, humiliated, or embarrassed;
- (4) Cause the person to be expelled from a place in which the person is lawfully located;
- (5) Damage the person's reputation or standing within the community; or
- (6) Damage the person's financial, economic, consumer, or business prospects or interests.

In addition, any aggrieved person may enforce the provisions of this ordinance by means of a civil action, including special, general and punitive damages.

³ Berkeley Police Review Commission, "To Achieve Fairness and Impartiality: Report and Recommendations from the Berkeley Police Review Commission," November 15, 2017, https://www.cityofberkeley.info/uploadedFiles/Police_Review_Commission/Level_3_-_General/FAIR%20%20IMPARTIAL%20POLICING%20REPORT%20final.pdf

Adopt an Ordinance Adding Chapter 13.09 to the Berkeley Municipal Code Prohibiting Discriminatory Reports to Law Enforcement

FINANCIAL IMPLICATIONS

Staff time will be necessary to implement and enforce this ordinance. However, this ordinance already in part tracks existing law and practices regarding false police reports.

ENVIRONMENTAL SUSTAINABILITY

No immediately identifiable environmental impact.

CONTACT

Councilmember Kate Harrison
kharrison@cityofberkeley.info | 510-981-7140

ATTACHMENTS:

1. Ordinance

ORDINANCE NO. -N.S.

ADDING A NEW CHAPTER 13.09 TO THE BERKELEY MUNICIPAL CODE
PROHIBITING DISCRIMINATORY REPORTS TO LAW ENFORCEMENT

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

Section 1. The Berkeley Municipal Code Chapter 13.09 is added to read as follows:

Chapter 13.09
Discriminatory Reports to Law Enforcement

Sections:

13.09.010 Findings and Purpose.

13.09.020 Discriminatory Reports to Law Enforcement Prohibited.

13.09.030 Civil Cause of Action.

13.09.040 Undertaking for the General Welfare.

13.09.050 Severability.

13.09.010 Findings and Purpose.

The Council finds and expressly declares as follows:

- A. There have been numerous incidents across the country involving individuals contacting law enforcement to report innocuous behavior as suspicious, or to falsely report alleged criminal behavior, for what appear to be solely discriminatory reasons. Discriminatory law enforcement reports against people of color for racially motivated reasons are common enough that many people of color have experienced one or more incident of being contacted by law enforcement when engaging in normal day-to-day activities. These incidents cause serious harm to the person falsely accused of a crime, cause anxiety and distrust among people of color, and put an unnecessary strain on law enforcement officers responding to frivolous and false calls.
- B. The misuse of law enforcement by members of the public to discriminate against others should not be tolerated and the City should take action to stop such behavior in every way possible. Creating a means for people who suffer this kind of discrimination to seek redress from those who have targeted them through a civil cause of action for damages will discourage this type of behavior and provide a tangible way for these victims to be compensated for this wrong.
- C. This ordinance is not intended to discourage individuals from contacting law enforcement when they are facing real danger or desire to report a crime. It will allow individuals who have been reported to law enforcement for unfair and unnecessary reasons to seek justice and restitution, and will motivate people who contact law enforcement to consider the reasons they are making the report.

13.09.020 Discriminatory Reports to Law Enforcement Prohibited.

(a) It shall be unlawful to knowingly make a false or frivolous call to police to cause a peace officer to arrive at a location to contact a person, with the primary intent to do any of the following on the basis of the person's actual or perceived race, color, ancestry, ethnicity, national origin, place of birth, sex, age, religion, creed, disability, sexual orientation, gender identity, weight, or height:

- (1) Infringe upon the person's rights under either the California Constitution or the United States Constitution;
- (2) Discriminate against the person;
- (3) Cause the person to feel harassed, humiliated, or embarrassed;
- (4) Cause the person to be expelled from a place in which the person is lawfully located;
- (5) Damage the person's reputation or standing within the community; or
- (6) Damage the person's financial, economic, consumer, or business prospects or interests.

13.09.030 Civil Cause of Action.

(a) Any aggrieved person may enforce the provisions of this Section by means of a civil action.

- (1) A person found to have violated Section 13.09.020 (a) in a cause of action under subsection (a) shall be liable to the aggrieved person for special and general damages, but in no case less than \$1,000 plus attorneys' fees and the costs of the action. In addition, punitive damages may be awarded in a proper case.
- (2) Nothing in this Section shall preclude any person from seeking any other remedies, penalties, or procedures provided by law.

13.09.040 Undertaking for the General Welfare.

In enacting and implementing this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

13.09.050 Severability.

If any section, subsection, sentence, clause, phrase, or word of this Chapter, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this Chapter. The Council of the City of Berkeley hereby declares that it would have passed this Chapter and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Chapter or application thereof would be subsequently declared invalid or unconstitutional.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Kate Harrison
Vice Mayor, District 4

CONSENT CALENDAR
October 11, 2022

To: Honorable Mayor and Members of the City Council
From: Vice Mayor Harrison
Subject: Referral to the November 2022 AAO #1 Budget Process for \$50,000 in Additional Traffic Calming at MLK and Addison

RECOMMENDATION

Referral to the November 2022 AAO1 Budget Process for \$50,000 in additional traffic calming at MLK and Addison.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

In 2022, the City of Berkeley installed a median and RRFB at the intersection of Martin Luther King Jr. Way (MLK) and Addison Street as a key feature of converting Addison Street into a Bike Boulevard. A few weeks after installation was completed, a driver tragically collided with a senior couple while they were crossing MLK on Addison.¹

The City of Berkeley is committed to an equity-focused, data-driven effort to eliminate traffic deaths and severe injury collisions by 2028² and has described how it is going to achieve this in the 2017 Bicycle, 2019 Vision Zero Action, and 2020 Pedestrian Plans. Despite these documents and recent efforts to enhance pedestrian and bike infrastructure in the City, traffic violence remains a serious issue. According to the Berkeley Police Department, 2021 was deadliest year for road users in Berkeley since at least 1984. In 2021 alone, 433 collisions resulted in injuries—a 37% increase from 2020.³

The MLK and Addison intersection is of critical citywide importance for thousands of Berkeley residents. This intersection serves as an important corridor for seniors, elementary, middle, high school and college students, shoppers, those accessing government services, and inhabitants of existing and new housing. This referral

¹ Emilie Raguso, “Major injuries after driver strikes older married couple in Berkeley crosswalk,” Bekeleyside, July 10, 2022, <https://www.berkeleyside.org/2022/07/10/driver-strikes-older-married-couple-berkeley-crosswalk-major-injuries>.

² Berkeley Vision Zero Plan, <https://berkeleyca.gov/your-government/our-work/adopted-plans/vision-zero-action-plan>.

³ Emilie Raguso, “8 people died in Berkeley crashes in 2021, overall collisions were up 34%,” Bekeleyside, February 25, 2022, <https://www.berkeleyside.org/2022/02/25/berkeley-traffic-collisions-fatalities-up-2021-police-data>.

recommends that \$50,000 in additional traffic calming at MLK and Addison be added to the November 2022 AAO #1 budget process.

BACKGROUND

The United States, including Berkeley, has relied almost exclusively on driver “education” for decades to make streets safer, while peer countries in Europe and Asia have invested in physical infrastructure to boost safety. Traffic fatalities in the United States rose to just under 43,000 in 2021,⁴ while fatalities in Europe have dramatically decreased.⁵ Likewise, deaths on Berkeley’s roads are at a 37 year high.⁶ Americans are not more prone to making mistakes than their counterparts. The City of Berkeley understands this well and has been undertaking serious efforts to improve the safety of roadways through infrastructure improvements.

At the same time, the climate crisis continues to worsen. Drought, wildfire, extreme weather and heat, and sea-level rise are occurring.⁷ Given an estimated 60% of Berkeley’s emissions come from transportation, the City has committed to decreasing reliance on polluting private motor vehicle by improving bike and pedestrian infrastructure.

According to the 2017 Bicycle Plan, a four beacon RRFB, like the one installed at MLK and Addison, can raise vehicle yielding compliance to 88%.⁸ Yet, this requires pedestrians and cyclists to always remember to hit the button. At MLK and Addison, despite being a designated bike boulevard, cyclists must dismount, walk onto the sidewalk, hit the button, move off the sidewalk, and resume biking and could choose to remain on the bike and cross without activating the flashing beacons. For pedestrians, we were reminded from the horrible collision on July 9, 2022, that the median and flashing beacons can be insufficient at protecting vulnerable road users from bodily harm.

There are many additional intersection treatments detailed in the 2017 Bicycle Plan that can improve safety for all road users. For instance, to ensure RRFB activation, the city could install pedestrian and cyclist detection systems, the latter of which is commonly used throughout the city already. Witnesses report that the RRFB was not activated by the pedestrians who were hit when crossing this intersection. A speed table or raised crosswalks could also further slow cars—these have been shown to reduce vehicle/pedestrian crashes by 45%, however staff note that Council policy discourages

⁴ National Highway Traffic Safety Administration, “Newly Released Estimates Show Traffic Fatalities Reached a 16-Year High in 2021,” <https://www.nhtsa.gov/press-releases/early-estimate-2021-traffic-fatalities>.

⁵ Frank Jacobs, “U.S. road deaths far outnumber those in Europe. Why?,” Big Think, June 1, 2022, <https://bigthink.com/strange-maps/road-deaths-us-eu/>.

⁶ Emilie Raguso, February 25, 2022.

⁷ City of Berkeley, Climate Action Plan, <https://berkeleyca.gov/sites/default/files/2022-01/Berkeley-Climate-Action-Plan.pdf>

⁸ Berkeley Bicycle Facility Design Toolbox, https://berkeleyca.gov/sites/default/files/2022-01/Berkeley-Bicycle-Plan-2017_AppendixF_Facility%20Design%20Toolbox.pdf.

speed tables on arterials, emergency response routes, and bus routes.⁹ In addition, the RRFB could be converted into a pedestrian hybrid beacon requiring motorists to make a complete stop. This item does not specific treatments but defers to staff's expertise to determine the highest impact treatments. It is vital and in the public interest that the City finds the right policy solutions so future tragic collisions at the MLK and Addison intersection can be avoided.

FISCAL IMPACTS OF RECOMMENDATION

\$50,000 for traffic safety improvements at the intersection of Martin Luther King Jr. Way and Addison Street.

ENVIRONMENTAL SUSTAINABILITY

Transportation accounts for a substantial portion of Berkeley's total emissions. The City is committed to increasing the modal share of walking and biking to reduce vehicle miles traveled.

CONTACT PERSON

Vice Mayor Kate Harrison, (510) 981-7140

⁹ Ibid.



Kate Harrison
Vice Mayor, District 4

CONSENT CALENDAR
October 11, 2022

To: Honorable Mayor and Members of the City Council

From: Vice Mayor Harrison

Subject: Referral to the Transportation and Infrastructure Commission and City Manager to Consider and Make Recommendations Regarding the Policy of Deploying Rectangular Rapid Flashing Beacons and Other Treatments at Dangerous or High-Collision Pedestrian and Bicycle Intersections

RECOMMENDATION

Referral to the Transportation and Infrastructure Commission and City Manager to consider and make recommendations regarding the policy of deploying Rectangular Rapid Flashing Beacon (RRFB) and other treatments at dangerous or high-collision pedestrian and bicycle intersections.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

The City of Berkeley is committed to an equity-focused, data-driven effort to eliminate traffic deaths and severe injury collisions by 2028¹ and has described how it is going to achieve this in the 2017 Bicycle, 2019 Vision Zero Action, and 2020 Pedestrian Plans. Despite these documents and recent efforts to enhance pedestrian and bike infrastructure in the City, traffic violence remains a serious issue. According to the Berkeley Police Department, 2021 was deadliest year for road users in Berkeley since at least 1984. In 2021 alone, 433 collisions resulted in injuries—a 37% increase from 2020.²

As part of bike and pedestrian implementation plans, staff have begun installing RRFB at various dangerous intersections, likely resulting in relative safety improvements. Such intersections connect various neighborhoods, and are corridors for seniors, students, shoppers, those accessing government services, and inhabitants of existing and new housing. However, recent tragic incidents, the advent of the City's vision zero plan, and ongoing efforts to revise the Bike Plan should prompt the City to consider whether more passive treatments are appropriate for the most dangerous intersections.

¹ Berkeley Vision Zero Plan, <https://berkeleyca.gov/your-government/our-work/adopted-plans/vision-zero-action-plan>.

² Emilie Raguso, "8 people died in Berkeley crashes in 2021, overall collisions were up 34%," *Berkeleyside*, February 25, 2022, <https://www.berkeleyside.org/2022/02/25/berkeley-traffic-collisions-fatalities-up-2021-police-data>.

This referral asks the newly established Transportation and Infrastructure Commission and the City Manager to consider and make recommendations regarding RRFB and other traffic safety treatments impacting pedestrians and bicyclists at high-collision intersections.

BACKGROUND

The United States, including Berkeley, has relied almost exclusively on driver “education” for decades to make streets safer, while peer countries in Europe and Asia have invested in physical infrastructure to boost safety. Traffic fatalities in the United States rose to just under 43,000 in 2021,³ while fatalities in Europe have dramatically decreased.⁴ Likewise, deaths on Berkeley’s roads are at a 37 year high.⁵ Americans are not more prone to making mistakes than their counterparts. The City of Berkeley understands this well and has been undertaking serious efforts to improve the safety of roadways through infrastructure improvements.

According to the 2017 Bicycle Plan, a four beacon RRFB, like the one installed at MLK and Addison, can raise vehicle yielding compliance to 88%.⁶ Yet, this raises the question about the remaining times when there is not yielding compliance, and the fact that RRFB requires pedestrians and cyclists to always remember to hit the button. Is 88% compliance acceptable in a Vision Zero City? We were reminded from the horrible collision on July 9, 2022, that the median and flashing beacons can be insufficient at protecting vulnerable road users from bodily harm.

There are many additional intersection treatments detailed in the 2017 Bicycle Plan that can improve safety for all road users. For instance, to ensure RRFB activation, the city could install pedestrian and cyclist detection systems, the latter of which is commonly used throughout the city already. A speed table or raised crosswalks could also further slow cars—these have been shown to reduce vehicle/pedestrian crashes by 45%.⁷ In addition, the RRFB could be converted into a pedestrian hybrid beacon requiring motorists to make a complete stop.

This referral does not favor any treatment. Rather it asks its newly established Transportation and Infrastructure Commission and City staff to as appropriate consider and make recommendations about the appropriateness of various options in light of recent trends and best practices. This is particularly important as the City is updating its

³ National Highway Traffic Safety Administration, “Newly Released Estimates Show Traffic Fatalities Reached a 16-Year High in 2021,” <https://www.nhtsa.gov/press-releases/early-estimate-2021-traffic-fatalities>.

⁴ Frank Jacobs, “U.S. road deaths far outnumber those in Europe. Why?,” Big Think, June 1, 2022, <https://bigthink.com/strange-maps/road-deaths-us-eu/>.

⁵ Emilie Raguso, February 25, 2022.

⁶ Berkeley Bicycle Facility Design Toolbox, https://berkeleyca.gov/sites/default/files/2022-01/Berkeley-Bicycle-Plan-2017_AppendixF_Facility%20Design%20Toolbox.pdf.

⁷ Ibid.

Referral to the Transportation and Infrastructure Commission and City Manager to Consider and Make Recommendations Regarding the Policy of Deploying Rectangular Rapid Flashing Beacons and Other Treatments at Dangerous or High-Collision Pedestrian and Bicycle Intersections

CONSENT CALENDAR
October 11, 2022

now five-year-old Bike Plan and has a numerous dangerous bike boulevard and pedestrian intersections similar to MLK and Addison. At the same time, pedestrian and bicycle traffic has increased and is expected to increase in coming years and the Council placed a significant bond on the ballot to fund affordable housing and infrastructure, including various bicycle and pedestrian upgrades. It is vital and in the public interest that the City finds the right policy solutions so future tragic collisions can be avoided.

FISCAL IMPACTS OF RECOMMENDATION

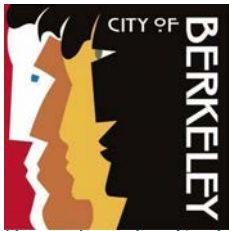
Staff time will be needed to develop recommendations to improve traffic safety policy at the high-collision intersections.

ENVIRONMENTAL SUSTAINABILITY

Transportation accounts for a significant portion of Berkeley's total emissions. The City is committed to increasing the modal share of walking and biking to reduce vehicle miles traveled.

CONTACT PERSON

Vice Mayor Kate Harrison, (510) 981-7140



Councilmember Sophie Hahn
City of Berkeley, District 5

CONSENT CALENDAR

October 11, 2022

To: Honorable Mayor and Members of the City Council
From: Councilmember Hahn (Author)
 Mayor Jesse Arreguín (Co-Sponsor)
Subject: Land Acknowledgement Recognizing Berkeley as the Ancestral, Unceded Home of the Ohlone people.

RECOMMENDATION

1. Adopt the Land Acknowledgement Statement Resolution recognizing that Berkeley is the ancestral, unceded home of the Ohlone people.
2. Display the Land Acknowledgement in writing at all in-person or online Regular meetings of the City Council and read the Acknowledgement at the first Regular meeting of each month in which Regular City Council meetings are held.
3. Recommend to all Berkeley Commissions, Committees, Boards, and other elected and appointed City entities to consider inclusion of the Land Acknowledgement in meeting practices and direct the City Manager to convey a copy of this Item and Resolution to all such entities for reference.
4. Direct the City Manager to post the Land Acknowledgement or a prominent link to the Acknowledgement on the home page of the City's website and to create a webpage dedicated to Ohlone history and culture.
5. Now and in the future, consider additional more substantive reparative and restorative actions, including but not limited to those described under the heading "Actions/Alternatives Considered."

SUMMARY

Acknowledging that the City of Berkeley rests upon the ancestral lands of the Chochenyo speaking Lisjan Ohlone people brings attention to their centuries of resistance to colonial violence and reminds our City and community of the need to take concrete restorative actions.

The settlers of California, primarily Europeans seeking religious converts, agricultural land and economic opportunity during the gold rush, committed one of the most egregious genocides in history. Settlers murdered 80 percent of Indigenous people in the state from

1846 to 1873 through massacre by state-directed militias, enslavement in mining and agricultural production, displacement causing starvation, and compulsory assimilation.¹

Land acknowledgment is a traditional custom that dates back centuries in many Native nations and communities. Today, land acknowledgments are used by Native Peoples and non-Natives to recognize Indigenous Peoples who are the original stewards of the lands on which we now live.² To begin public meetings, dozens of localities across the United States including Denver (CO), Portland (OR), and Phoenix (AZ) now share official land acknowledgements. Many public agencies, including the National Park Service, the National Aeronautics and Space Administration (NASA), read these acknowledgements as well. The practice has been common for nearly a decade in Canada, New Zealand, and Australia.³

Locally, many public and public-facing private institutions have also adopted land acknowledgement statements including UC Berkeley, Mills College, Chabot Las Positas Community College District, California College of the Arts, UCSF, Stanford, and recently, Berkeley's Rent Stabilization Board.

However impactful these statements may be, it's important to consider that land acknowledgements have been criticized as appropriating the Indigenous practice of acknowledging the ancestral roots of land without taking concrete action against ongoing oppression.⁴ According to University of Oklahoma Professor of Native American Cultural Studies Dustin Tahmahkera, "To acknowledge Indigenous homelands and to return those lands are related, but the former alone allows for rhetoric without further action."⁵

Dr. Duke Redbird, an Elder of the Saugeen First Nation in Ontario recently noted that Canada has invited non-Indigenous territories such as Prince Edward Island into the government's confederation, giving them lawmaker representation in parliament, while excluding millions of Indigenous people from the same opportunity:⁶

¹ Madley, B. (2016). *An American Genocide. The United States and the California Indian Catastrophe.* Yale University Press. Print. p. 10, 12. Note: approximately, one in ten of these 125,000 deaths were the result of direct violence, often perpetuated by volunteer militias. Others resulted indirectly through displacement and disease.

² Smithsonian National Museum of the American Indian, Honoring Original Indigenous Inhabitants: Land Acknowledgment. [Web](#).

³ Dewey, C. (2021). Growing Number of Cities Weigh Tribal 'Land Acknowledgements.' Pew Research Trust. [Web](#).

⁴ Kaur, H. (2021). Land acknowledgments are often an empty gesture, some Indigenous people say. CNN. [Web](#).

⁵ Wood, G. (2021). 'Land Acknowledgments' Are Just Moral Exhibitionism. The Atlantic. [Web](#).

⁶ Museum of Toronto (2020). Ask an Elder: What do Land Acknowledgements represent? [Web](#).

To get up in government and give a land acknowledgement without even inviting us into confederation, we were left out. What is the land acknowledgement supposed to represent? Give us a feeling that we should be grateful? Grateful for what?

Naomi Bob, an Indigenous Youth Wellness Project Coordinator with the Snaw'naw'as and Nanoose First Nation, shared his perspective:⁷

I'm seeing land acknowledgements done in a way that is tokenizing and minimizes responsibility and our history... It's really easy to list off your host nations you found off of a google search but I want to hear how you as an individual have ended up on their land and I want to hear about the work you're doing to reconcile responsibilities you have inherited . . .

One of the leading advocacy groups for land acknowledgement, the Native Governance Center, acknowledges this issue of “optical allyship,” asking that local governments and community groups craft land acknowledgements that go beyond a mere statement, by providing research on the history of Indigenous peoples and offering concrete actions to support them. The organization’s Guide to Indigenous Land Acknowledgement states “every moment spent agonizing over land acknowledgement wording is time that could be used to actually support indigenous people... an apology or an acknowledgement is one thing, but what are you going to do next?”⁸

At an April 2022 Berkeley Rent Stabilization Board meeting Lisjan Ohlone Chairperson Corrina Gould spoke in support of their land acknowledgment and emphasized that we must acknowledge not only the past but also the future. She stressed that land acknowledgements are “a way to create goals together so there is an ongoing partnership taking care of the lands, and waters, and places that we live.”⁹ The City of Berkeley should honor this intention and use this resolution and the Land Acknowledgement practice as a first step to bring attention to these histories and as a foundation for further concrete actions.

This item asks for the Land Acknowledgement to be formally adopted, displayed, and spoken by the City Council at the start of proceedings, and asks other appointed and elected governmental bodies in Berkeley to consider adopting similar Land

⁷ CFSC Video (2020). Why are land acknowledgments important? Naomi Bob - Indigenous Voices on Reconciliation. [Web](#).

⁸ Native Governance Center (2019), quoting Dr. Kate Beane of the Falandreau Santee Dakota and Muskogee Creek as well as Robert Larson of the Sioux Indian Community. A Guide to Indigenous Land Acknowledgement. [Web](#).

⁹ City of Berkeley (2022). Berkeley Rent Board Adopts Land Acknowledgement Statement. [Web](#).

Acknowledgement practices. More importantly, *it is intended to serve as a starting point for further restorative and reparative work our City and community must engage in*, not as an end in and of itself.

BACKGROUND

The United States, the State of California, and the City of Berkeley came into being through the deliberate and sustained genocide of Indigenous people, and modern forms of this colonial violence continue to this day both here in Berkeley and across the country and globe. This history is often obscured or erased. Schools for decades have failed to teach the truth about this legacy, replacing hard and ugly facts with a variety of convenient myths and misrepresentations. Surviving Native Americans endured forced reeducation at boarding schools that suppressed oral history transmission, and fear of violence and murder drove many to hide their Indigenous ancestry, further eroding culture and memory.¹⁰ But Lisjan Ohlone and other Native American people found ways to survive this murderous and cultural genocide, and many are with us today.

To contextualize this painful history, honor the Indigenous people who have survived and resisted this violence, and chart a new path forward for our community, this item briefly recounts elements of this history to understand the present.

The Ohlone are a group of around 50 separate tribes, who for 10,000 years lived on ancestral lands that spanned the coast of what is now known as San Francisco through Monterey Bay to the lower Salinas Valley.¹¹ There were eight different nations in the Bay Area alone, including the Lisjan; many came to adopt the term Ohlone in solidarity with other nations to push back against the Spanish colonizers' blanket name of "Costanoan."¹²

The territory xučyun (Huchiun), extending from what is now known as the Berkeley Hills to the Bay Shore from West Oakland to El Cerrito, is the home territory of the Chochenyo speaking Ohlone people. The cities of Alameda, Berkeley, Emeryville, El Cerrito, and most of Oakland were created on this ancestral territory. Nearly 310,000 Indigenous people across the region lived in what is now called California, speaking as many as 100 languages.¹³

Spain began colonizing these lands in 1769, establishing military forts and religious "mission" outposts across the region, including Mission San Jose in Fremont and

¹⁰ Madley, B. (2016). Ibid. p. 10.

¹¹ UC Berkeley, n.d. Berkeley sits in the territory of xučyun. [Web](#).

¹² Gould, Corrina. (2021). Berkeley's Ohlone History. Peralta Community Garden. [Web](#).

¹³ Madley, B. (2016). Ibid. p. 23.

Mission Dolores in San Francisco, that enslaved the ancestors of some modern-day Berkeley and East Bay Ohlone people.¹⁴ ¹⁵Spain used slavery, rape, and torture of Indigenous people to secure silver mines to compete against colonial powers like Russia and Britain and “spiritually conquer” the region in the name of Catholicism.¹⁶ In this period, Spain claimed ownership of the land and granted use rights to some ranchers and farmers.¹⁷

In 1818, the Spanish soldier Luis Peralta petitioned the Spanish authorities to be granted 48,000 acres extending from modern day San Leandro Creek to El Cerrito. This area, encapsulating modern day Berkeley, was known as “Rancho San Antonio.” Two of Peralta’s four sons, Domingo and Vicente (for which streets are named today), administered the territory for nearly two decades, through the transfer of the region to Mexico from Spain. Ranching appropriated and destroyed native landscapes and diverted streams for irrigation at great cost to native peoples, some of whom found ways to survive amid ongoing Spanish oppression.¹⁸

Following Mexican independence in 1821, the new Mexican government granted private land rights to individual “ranchos” through the Missions: these land grant settlers began occupying prime agricultural lands across the state, but remained less than 20 percent of California’s population – the remainder being Native American.¹⁹ The Peralta family soon had company in the form of other landed “aristocratic” families, which replaced the missionary friars as the most powerful people across the region.²⁰

Amid the 1850’s Gold Rush, U.S. soldiers victorious over Mexico and other squatters began to make legal claims to the Peralta lands. Federal judges of the California Land Commission in 1851, not well prepared for their tasks, attempted to resolve these numerous land disputes, but the Peraltas were overwhelmed by lawyers’ bills and property taxes, eventually selling off much of their lands to pay their debts.²¹ Meanwhile the violent occupation of settlers as well as the spread of European diseases like smallpox reduced the Indigenous population to only 150,000 people by the time the United States had taken legal control of what is now California in 1846, during the Mexican-American war.²²

¹⁴ Novan, K. (2021). California Agriculture: Dimensions and Issues, 2nd Edition: Chapter 3, California’s Evolving Landscape. University of California: Giannini Foundation of Agricultural Economics. [Web](#). p. 59.

¹⁵ Gould, Corrina. (2021). Ibid.

¹⁶ Novan, K. (2021). Ibid. p. 59.

¹⁷ Madley, B. (2016). Ibid. p. 27 - 38.

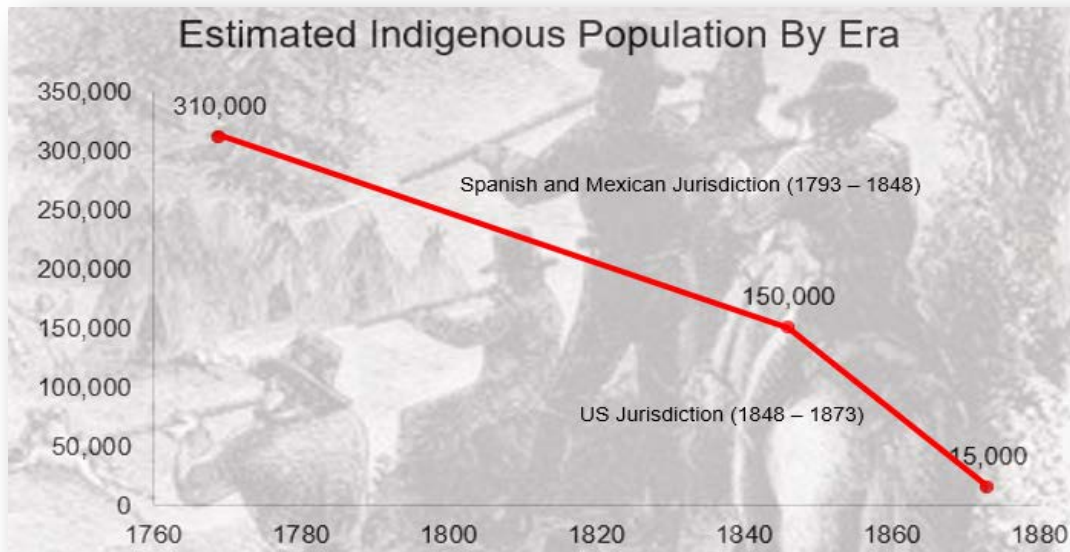
¹⁸ Wollenberg, C. (2008). Berkeley: A City in History. Chapter One: First Settlers. UC Press. p. 8. [Web](#).

¹⁹ Novan, K. (2021). Ibid. p. 60. / Lindsay, B.C. (2012), p. 131

²⁰ Wollenberg, C. (2008). Ibid. P. 8

²¹ Wollenberg, C. (2008). Ibid. P. 14

²² Madley, B. (2016). Ibid. p. 3, 12



So began the era of more affirmative, state-sponsored genocide that led US Indian Affairs Commissioner John Collier to declare in 1935 that “The world’s annals contain few comparable instances of swift depopulation— practically, of racial massacre—at the hands of a conquering race.”²³ Brenden C. Lindsay, Associate Professor of History at Sacramento State and author of *Murder State: California’s Native American Genocide*, concludes that “northern California’s Native population faced a genocidal assault perhaps unrivaled in North America in terms of its ferocity, bloodiness, and loss of human life,” this violence was executed through state-sponsored and state-tolerated violence, enslavement, and displacement.²⁴

It was just not just a select few who engaged in this violence. European settlers flooding into Northern California in search of gold came with a manufactured fear of Indigenous people, due to repetitive, sensationalized, and false storytelling in newspapers and other reports. Deaths from disease, natural causes, and even suicide were attributed to Indigenous people while actual violence by Indigenous people against settlers was quite rare. For example, contrary to popular myths, only 115 of nearly 90,000 new settlers were killed in conflicts with Indigenous people during the 1840s.²⁵ This manufactured fear, which translated into hatred, provided pretext for California Governors John

²³ Madley, B.

²⁴ Lindsay, B.C. (2012) *Murder State: California’s Native American Genocide, 1846-1873*. University of Nebraska Press. Print. p. 177

²⁵ Lindsay, B.C. (2012). *Ibid.* p. 9, 23, 31, 39, 120.

McDougal and Peter Burnett to legally sanction volunteer militias tasked with pushing Indigenous people off farming and ranching lands in the most economically efficient way possible: massacre.²⁶ Justifying this genocide with slurs like “digger,” Indigenous people were equated with animals for the purpose of literally hunting them with guns.²⁷

Many Indigenous people were enslaved for labor as well. Prominent State Senators and ranchers during California’s early years pushed the Governor to create reservations where Indigenous people could be used for hard labor but kept separate from whites. Legislation was also passed echoing legislation in southern States to reduce Indigenous people to non-legal entities who could be legally enslaved.²⁸ If Indigenous people were found drunk on Sundays, they were arrested and enslaved: the Los Angeles Star reported one instance where a jail door fell down because the cell was so crowded with imprisoned native people.²⁹ These and similar atrocities precipitated the unsuccessful pan-Indigenous “Garra Revolt” during the 1850s.

This enslavement also went hand in hand with displacement from ranching, which led to extreme poverty and starvation, with many Indigenous people desperate for work to survive. Ranching throughout California depended on the labor of enslaved Indigenous people as quests for gold by settlers drained the labor force.³⁰ Ranchers hunted deer and elk that competed for food with their cows and horses, devastating wild herds. Domesticated animals like cows, pigs, and sheep ate thousands of acres of plants Indigenous people depended on for food.³¹ This environmental devastation drove some Indigenous people such as the Paiutes to attack cows and horses (though even this tactic of survival was exaggerated by settlers, who often attributed the natural deaths of domesticated animals to Indigenous people).³² In an ironic twist, Indigenous peoples who killed domesticated animals tended to receive more in reservation funding, as this act of resistance created heavy costs for the ranchos.

The legal system, disguised with the veneer of “democratic will,” barred Indigenous people from testifying in court against settlers: in practice, legalizing their murder.³³ The Treaty of Guadalupe-Hidalgo, which ended the Mexican-American War, was violated as California took Indigenous affairs, a federal responsibility, into local hands following

²⁶ Lindsay, B.C. (2012). *Ibid.* p. 151, 170.

²⁷ Lindsay, B.C. (2012). *Ibid.* p. 133, 185

²⁸ Lindsay, B.C. (2012). *Ibid.* p. 146-148

²⁹ Lindsay, B.C. (2012). *Ibid.* p. 23, 153

³⁰ Lindsay, B.C. (2012). *Ibid.* p. 31, 136, 153

³¹ Lindsay, B.C. (2012). *Ibid.* p. 176, 181, 183, 186

³² Lindsay, B.C. (2012). *Ibid.* p. 17, 136, 186

³³ Lindsay, B.C. (2012). *Ibid.* p. 27, 28, 132, 168,

statehood.³⁴ For its part, however, the federal government reimbursed the cost of volunteer militias with millions in funding, effectively bankrolling massacre. It also issued a decree allowing soldiers from the Mexican-American war to claim up to 160 acres of land in California as a bounty, another factor in the demise of Ranchos and the establishment of “land rights” - to land that was stolen once from Indigenous peoples and a second time from the “owners” of formerly Spanish and later Mexican Ranchos.

The Sogorea Te’ Land Trust is an urban Indigenous women-led land trust based in the Bay Area that facilitates the return of Indigenous land to Indigenous people. The Trust’s website includes a short history of the Lisjan Ohlone, which parallels the history recounted in other sources.

“The Lisjan people have lived in the territory of Huchiun since the beginning of time. For thousands of years, hundreds of generations, the Lisjan Ohlone people have lived on the land that is now known as the East Bay in the San Francisco Bay Area. We did not own the land, we belonged to it. Generation after generation, we have cultivated reciprocal relationships with the plants and animals we share this place with, and developed beautiful and powerful cultural practices that keep us in balance.

The Confederated Villages of Lisjan are one of many Ohlone nations, each with its own geography and history. Our tribes, cultures and languages are as diverse as the ecosystems we live within. When the Spanish invaded in the late 1700s, in their ignorance they called us Costanoan, people of the coast. In the 1960s and 70s, inspired by the Black Power and American Indian Movements, we organized and renamed ourselves Ohlone. The different nations of Ohlone people are connected but have different territories and languages. The Confederated Villages of Lisjan speak the language Chochenyo.

The Lisjan are made up of the six nations that were directly enslaved at Mission San Jose in Fremont, CA and Mission Dolores in San Francisco, CA: Lisjan (Ohlone), Karkin (Ohlone), Bay Miwok, Plains Miwok, Delta Yokut and Napien (Patwin). Our territory includes 5 Bay Area counties; Alameda, Contra Costa, Solano, Napa and San Joaquin, and we are directly tied to the “Indian Town” census of the 1920s and the Verona Band.

The colonization of this land began with the reign of terror inflicted by Spanish soldiers and missionaries who sought to convert all Indigenous people into Catholic subjects of Spain and steal their land. The Missions were plantations, built by slave

³⁴ Lindsay, B.C. (2012). Ibid. p. 28, 140-143

labor and sustained through brutal physical violence and extractive land practices. The Spanish brought deadly diseases, invasive species, and Christian ideology, based on human dominion of the natural world, causing devastating consequences for the Lisjan people and all living beings we have shared the land with.

After a brief but harrowing Mexican rancho period, Lisjan survivors faced extermination policies by the United States that aimed to eliminate California Indians entirely. In a climate of virulent racial discrimination and state-sponsored vigilante killings, most Lisjan families survived by isolating themselves and concealing their identities. Cultural and spiritual traditions were forced into dormancy or secrecy, and much knowledge perished with the passing of generations.

Despite these concerted efforts to erase our history and identity, the Lisjan community forms a diverse and vibrant constellation of tribes and families. Utilizing a wide array of survival strategies to navigate a profoundly altered 21st century world, we continue to revitalize our cultural practices and uphold our responsibilities to protect and care for our ancestral homeland.

We have survived over two centuries of genocide and colonization during the Spanish, Mexican and American eras. Today, we continue to inhabit our ancestral homeland, fight for our sacred sites and revitalize our cultural practices.”³⁵

Despite the incredible strength it has taken to survive the repeated onslaughts of slavery, disease, environmental destruction, land appropriation, and state-sponsored physical and cultural genocide, centuries of trauma from colonization manifest themselves in ongoing struggles for Indigenous People in California and beyond. The nearly two million Indigenous people living under U.S. jurisdiction suffer the highest rate of poverty of any racial group—almost twice the national average. Rates of suicide, alcoholism, gang membership, and sexual abuse are also far higher than that of the non-Indigenous population, with challenges particularly acute on reservations.³⁶

By restoring sovereignty and land to Indigenous people, with negotiated environmental protections and meaningful economic opportunity, is one way to help repair deeply scarred communities.

As Standing Rock and other pipeline opposition campaigns have shown, Indigenous peoples living under U.S. jurisdiction continue to stand up against pipelines, oil extraction,

³⁵ Sogorea Te' Land Trust, Lisjan (Ohlone) History & Territory. [Web](#).

³⁶ Riley, N.S. (2016). One Way to Help Native Americans: Property Rights. The Atlantic. [Web](#).

and other desecrations that destroy their limited lands and poison communities with cancer and polluted water. The petroleum industry has demolished sacred sites and confronts individuals who resist with rubber bullets, attack dogs, and other war-like practices.³⁷ While Indigenous People are anything but a monolith, this common cause against extraction, pollution and desecration unites many. As Dallas Goldtooth of the Dakota Nation and Indigenous Environmental Network has described:

[Resistance] resonates across the diaspora of Indigenous Peoples. This is a critical moment we find ourselves in on this planet, not just in the sense for addressing climate change, but also a sense for social justice, a sense of just overall justice for all species. Indigenous Peoples tend to be, and rightfully are, on the frontline of those fights and those struggles. That's encapsulated by this idea of us rising together.

This connection even extends internationally, as the state of California plays an outsized role in the extraction and destruction of Indigenous homelands in the Amazon as well. In turn, the deforestation of the Amazon destroys moisture distribution that contains wildfires across North America, and California in particular.³⁸ A recent investigation demonstrated that California consumes more oil extracted from the Western Amazon than any other region on earth, refining it for airports, Amazon, PepsiCo and COSTCO.³⁹

In another example of the enduring nexus between our State and community and forces of destruction to Indigenous lands, a federal investigation found the largest animal production company in the world, JBS, has been implicated in the continued deforestation of the Amazon as well as the torture and murder of Indigenous people of the Amazon.^{40 41} Several of Europe's largest supermarket chains have responded by banning JBS beef products, acknowledging that animal feed crops and animal grazing drives 80 percent of Amazon deforestation.^{42 43} Through our consumption here in Berkeley, we literally fuel practices that continue to destroy Indigenous People and the lands on which they survive.

³⁷ Buntin, A.C. (2017). Indigenous Resistance: The Big Picture behind Pipeline Protests. Cultural Survival. [Web](#).

³⁸ Lazard, O. (2020). One Answer to California's Fires Lies in the Amazon. Carnegie Europe. [Web](#).

³⁹ Amazon Watch. Linked Fates: How California's Oil Imports Affect the Future of the Amazon Rainforest. [Web](#).

⁴⁰ Mano, A. (2021). Brazil's JBS bought 301,000 cattle from 'irregular' farms in the Amazon, audit finds. Reuters. [Web](#).

⁴¹ Phillips, D. (2020). Brazilian meat companies linked to farmer charged with 'massacre' in Amazon. The Guardian. [Web](#).

⁴² Spring, J. and Deutsch, A. (2021). European supermarkets stop selling Brazil beef over deforestation links. Reuters. [Web](#).

⁴³ Butler, R. (2009). Controlling the Ranching Boom that Threatens the Amazon. Yale School of the Environment. [Web](#).

With knowledge of these connections between the meat we eat and petroleum we consume to continued oppression of Indigenous People and desecration of their lands, we should consider actions like the boycotts undertaken in European countries.

Thoughtfully acknowledging our own history and current aspirations for local and other Indigenous Peoples prior to public deliberation offers hope for more permanent and meaningful restorative action in Berkeley as well as statewide, nationally, and across the globe.

REVIEW OF EXISTING PLANS PROGRAMS, POLICIES, AND LAWS

The City of Berkeley has a legacy of acknowledging the oppression and genocide of Indigenous people and taking concrete steps to support their struggle against institutions that grew out of settler-colonialist ideology as well as oppressive actions that persist today.

In 1992, Berkeley became the first city in the United States to rename as Indigenous Peoples' Day the federal holiday formerly recognized as Columbus Day. This action motivated changes to BUSD's history curriculum and undermined a long-standing revisionist history that European colonizer Christopher Columbus was a hero instead of a violent leader whose arrival led to the murder, enslavement, rape, and disease-related deaths of millions of Indigenous People.⁴⁴ Since then, nearly 130 cities nationwide and 20 states have acknowledged this day of recognition as well.

In 2000, the City of Berkeley officially designated the West Berkeley Shellmound, one of 425 ceremonial burial mounds that ringed San Francisco Bay to honor ancestors, as a landmark. The site is also recognized by the State of California and is eligible for listing on the National Register of Historic Places, meaning it meets all of the criteria for such listing. In 2020, the National Trust for Historic Preservation designated the Berkeley Shellmound and Village Site one of the 11 Most Endangered Historic Places in the United States.⁴⁵

Regarding the significance of the Shellmound and Village historic district, the "Shellmound - Ohlone Heritage Site and Sacred Ground" website documents that:

"For thousands of years, the people of this original village on the East Bay shore thrived on the abundant resources of land and sea, developing a sophisticated maritime culture. Towering over the village was a great mound, estimated to have been at least 20 feet high and hundreds of feet long, one of the largest of the 425

⁴⁴ Associated Press (1992). In Berkeley, Day for Columbus Is Renamed. New York Times. [Web](#).

⁴⁵ Dinkelspiel, F. (2020). West Berkeley Shellmound is now considered one of the U.S.'s 11 most endangered historic places. BerkeleySide. [Web](#).

shellmound funerary monuments that once lined the shores of San Francisco Bay. These mounds are older than the pyramids in Egypt and most of the major cities in the world.

Archaeologists have long recognized the importance of the West Berkeley Shellmound site, also known as the “West Berkeley Site,” or CA-ALA-307. The site has been determined eligible for listing on the National Register of Historic Places under all four criteria, and is listed on the California Register of Historical Resources. Archaeological evidence from the West Berkeley Site has fundamentally shaped understandings of the early human history of the San Francisco Bay Area, and ongoing research continues to enrich and reinterpret an amazing historical narrative.

Eminent UC Berkeley archaeologist Kent Lightfoot describes the West Berkeley Site as a fishing village where “an active port was maintained over hundreds of years,” with dozens of tule balsa canoes going out on fishing and hunting expeditions, or ferrying people and goods across the Bay. Large nets were used to catch fish such as sturgeon, salmon, thresher sharks, jacksmelt and surfperch. Hunters pursued antelope, deer, tule elk, dolphins, porpoises, otters, sea birds and other quarry, cooking their catch in underground ovens and hearths.

A unique 40-foot long oval-shaped building at the site is thought to have functioned as a center for ceremonies, dances and special meetings. Charmstones, abalone pendants and other ritual items have been recovered from the site. Hundreds of human burials have been recorded, as well as ritual burials of coyotes and a California condor.”⁴⁶

In May of 2009, the City Council adopted a resolution recognizing and endorsing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), a statement of values denouncing forced assimilation, land removal, violent exploitation, cultural genocide, and other actions abridging Indigenous People’s right to self-determination.⁴⁷ In 2015, the Council later delivered a letter to the UN Secretary General and US Ambassador to the UN urging this declaration to be adopted as a convention, which would be legally binding.

In January of 2016, the City Council adopted a resolution formally recognizing the Ohlone Peoples as the original inhabitants of Berkeley and referred to the Berkeley Shellmound landmark.⁴⁸ The latter affirmed the City’s commitment to the “defense of Indigenous rights,

⁴⁶ Shellmound – Ohlone Heritage Site and Sacred Grounds. [Web](#).

⁴⁷ United Nations General Assembly (2007). United Nations Declaration on the Rights of Indigenous Peoples. [Web](#).

⁴⁸ Berkeley Resolution No. 67,352-N.S. Recognizing the Ohlone Peoples. [Web](#).

culture, and dignity” as an official value, committing that “free, prior, and informed consent of the Ohlone and other Indigenous people should be integral to any alteration planning for the Berkeley Shellmound sacred site...”⁴⁹ The success of this measure underscores how Indigenous groups including Ohlone members and conservation activists have organized in spreading awareness throughout the community about their homeland and sacred sites in Berkeley and the Bay Area.

In January 2018, Council adopted a policy changing Berkeley's City Limits signs to read "Welcome to Berkeley - Ohlone Territory." In October 2018, the City Council took further action and adopted a similar measure replacing all existing Welcome to Berkeley signs to signs including "Ohlone Territory." As part of their deliberations, the City Council decided that in addition to recognizing the Ohlone People through signage, there was a need for more learning opportunities to add historical context, including a special Council session on Ohlone history and culture, a webpage on the City of Berkeley website linking to cultural and historic information, and inviting representatives of the Ohlone to speak at a City Council meeting.

On June 9, 2020 the City Council passed an item to paint the words “Black Lives Matter” and “Ohlone Territory” on streets adjacent to Berkeley’s City Hall.

At its January 20, 2022 meeting, the Berkeley Rent Board unanimously voted to adopt a land acknowledgement statement to be read out loud at all future board and committee meetings.⁵⁰

In the spirit of continuing to demonstrate and deepen the City of Berkeley’s commitment to recognition and inclusion of the Ohlone People we bring the proposal for an official land acknowledgment forward, including consideration of concrete actions that may follow from public deliberation.

ACTIONS/ALTERNATIVES CONSIDERED:

The City of Berkeley should consult with Lisjan Ohlone leadership regarding any decisions related to restorative, reparative, or other supportive actions. Some actions the City may wish to consult on include:

⁴⁹ Berkeley Resolution No. 67,353-N.S. Honor Berkeley Shellmound Indigenous Sacred Site, UC Berkeley Return Ancestral Remains to Ohlone Peoples. [Web](#).

⁵⁰City of Berkeley (2022). Berkeley Rent Board Adopts Land Acknowledgement Statement. [Web](#).

Create Easements and/or Return City land: The Sogorea Te' Land Trust and the City of Oakland on September 8, 2022 announced a visionary, historic plan to return approximately five acres of land owned by the City to Indigenous stewardship.

The Oakland City Council will hold hearings to consider conveying the site, known as Sequoia Point, to the Sogorea Te' Land Trust, and the East Bay Ohlone tribe, Confederated Villages of Lisjan Nation. The City would grant a cultural conservation easement in perpetuity to the Land Trust, allowing the Land Trust to immediately use the land for natural resource restoration, cultural practices, public education, and to plan for additional future uses.

What started out with a casual conversation between Oakland Mayor Libby Schaaf and tribal Chairperson Corrina Gould in 2018, grew into a partnership between the City and the Land Trust to begin to address the historic harms of Oakland's founding.

In the short term, the easement would allow the Land Trust to immediately begin tending to the land, gather Native plants and foods, clean up the area, and perform environmental and natural habitat restoration. The long-term vision of this project is to create a thriving, beautiful, ceremonial gathering place and structure where Indigenous people and their guests can come together and share cultural information and celebrations.

"I am committed to returning land to Indigenous stewardship, to offer some redress for past injustices to Native people," said Mayor Schaaf. "I hope the work we are doing in Oakland with the Sogorea Te' Land Trust can serve as a model for other cities working to return Indigenous land to the Indigenous community we stole it from."

In recognition of this historic moment, tribal Chairperson Corrina Gould said, "This agreement will restore our access to this important area, allowing a return of our sacred relationship with our ancestral lands in the hills. The easement allows us to begin to heal the land and heal the scars that have been created by colonization for the next generations."⁵¹

Berkeley should consider this or similar actions to return land to Ohlone ownership and/or stewardship.

⁵¹ Sogorea Te' Land Trust and City of Oakland Announce Plan to Return Land to Indigenous Stewardship. [Web](#).

Local Support for Land Transfers: As part of the land acknowledgement process, the City of Berkeley might consider encouraging residents to donate land to indigenous stakeholders such as the Sogorea Te' Land Trust that partners with dozens of local food justice and environmental groups to protect our shared environment.⁵² The Council could recognize donations of land or actions taken by community members to donate land through wills. The City could also partner to distribute information on the Sogorea Te' Land Trust and include information about the Trust on its website, including a guide to these types of donations produced by the Sustainable Economies Law Center, a copy of which is attached.^{53 54}

Local support for Voluntary Land Taxes: The City of Berkeley may consider further means to encourage residents to donate Indigenous causes through payment of voluntary land taxes, "Shuumi," that support the return of Indigenous land to Indigenous people.⁵⁵ The Sogorea Te' Land Trust, located in the East Bay, has such a program, and a similar program allows residents of the Humboldt Bay region to pay a voluntary tax to the Wiyot people. In Seattle, nearly 4,300 residents have signed up to pay the Duwamish Tribe symbolic rent.⁵⁶

Support for Statewide Indigenous Land Sovereignty: The City of Berkeley may continue its consideration of support letters, resolutions, and education campaigns that highlight exploitation of ancestral Indigenous people and lands.

Future efforts could support action to return land or pay restitution to Indigenous people. Returning land to Indigenous sovereignty or using restitution funds for Indigenous-led sustainability initiatives acknowledges the leading role that the securing of land had in the genocide of Indigenous people across the region.⁵⁷

Berkeley further may consider statements of support for giving Indigenous people sovereignty over national and local parks, acknowledging the acts of violence and genocide that drove them from these locations. Precedent exists in New Zealand and Australia.

⁵² Sogorea Te' Land Trust. Return the Land / Land Return. [Web](#).

⁵³ Sustainable Economies Law Center. Options for Transferring Land. [Web](#).

⁵⁴ Note: for lands outside this region, individuals can often find information on donations by searching "Tribal Historic Preservation Officer" along with the name of the nation they wish to give to.

⁵⁵ Sogorea Te' Land Trust. Shuumi Land Tax. [Web](#).

⁵⁶ Singh, M. (2019). Native American 'land taxes': a step on the roadmap for reparations. The Guardian. [Web](#).

⁵⁷ Lindsay, B.C. (2012) Murder State: California's Native American Genocide, 1846-1873. University of Nebraska Press. Print. P. 147- 186.

Indigenous communities are already stakeholders in park management, with a century of experience managing the layers of bureaucracy involved in managing these lands.⁵⁸

CONSULTATION/OUTREACH OVERVIEW AND RESULTS

Much like the process the Rent Stabilization Board pursued, the wording and intentions behind this land acknowledgement were developed in close consultation with Ohlone representatives. Academic and Native American sources underly the brief historical overview.

RATIONALE FOR RECOMMENDATION

The City of Berkeley has a moral obligation to acknowledge local and broader atrocities against Indigenous people, and continued injustices. The regular repetition of the Land Acknowledgement, coupled with opportunities for deeper learning, will serve as a constant reminder of our responsibilities, and open the door to further restorative actions by the City and members of the community.

IMPLEMENTATION, ADMINISTRATION & ENFORCEMENT

Very little staff time or expense is needed to carry out the requirements of this referral. For Zoom meetings, a written version of the Acknowledgement will need to be prepared for screening prior to Council meetings, and the Agenda Committee will need to add the reading of the Acknowledgement to the Ceremonial Agenda of the first Regular City Council meeting of each month. For in-person meetings, a poster-sized version of the Land Acknowledgement should be produced for display in a prominent location in the Council chambers. This likely can be accomplished for under \$100.

Staff will further need to convey a copy of this item and resolution to the secretaries and chairs of each appointed or elected body in Berkeley, with a note that the City Council has requested such bodies to consider incorporating the acknowledgement into their meeting practices.

Posting the Land Acknowledgement on the City's website homepage and completing the new Ohlone history webpage is a limited expense and should be completed as quickly as possible. Other jurisdictions and organizations that practice the reading of Land Acknowledgements often also include pages about the history of local Indigenous People on their websites. These can serve as examples. Consultation with Lisjan Ohlone representatives is central to ensuring what is posted is complete and accurate.

⁵⁸ Treuer, D. (2021). Return the National Parks to the Tribes. The Atlantic. [Web](#).

ENVIRONMENTAL SUSTAINABILITY

This resolution raises awareness of how genocide and exploitation of land and other natural resources intersects with climate change, wildfire, food insecurity, and other major challenges our community – and planet - face. It will also raise awareness of the local conservation and environmental work of the Ohlone people.

FISCAL IMPACT

See Section in Implementation, Administration, and Enforcement for a description of de minimus associated costs.

OUTCOMES & EVALUATION

The City Council should partner with the Ohlone to develop and carry out more substantive acts of education, partnership, and restitution. This will prevent the land acknowledgement statement from becoming a mere “check-box of optical allyship.”

CONTACT PERSON

Councilmember Sophie Hahn, shahn@cityofberkeley.info; 510-682-5905

Attachments

1. Land Acknowledgement Statement
2. Land Acknowledgement Resolution
3. Sustainable Economies Law Center Options for Transferring Land – A Brief Guide

ATTACHMENT 1

Land Acknowledgement Statement

The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.

ATTACHMENT 2 - RESOLUTION

RESOLUTION #####-N.S.

RECOGNIZING THAT BERKELEY IS THE ANCESTRAL, UNCEDED HOME OF THE
OHLONE PEOPLE AND ADOPTING AN OFFICIAL CITY OF BERKELEY LAND
ACKNOWLEDGEMENT AND PRACTICES

WHEREAS Acknowledging that the City of Berkeley rests upon the ancestral lands of the Chochochenyo speaking Lisjan Ohlone people brings attention to their centuries of resistance to colonial violence and reminds our City and community of the need to take concrete restorative actions; and

WHEREAS Land acknowledgment is a traditional custom that dates back centuries in many Native nations and communities, land acknowledgments continue to be used by Native Peoples and non-Natives to recognize Indigenous Peoples who are the original stewards of the lands on which we now live; and

WHEREAS To begin public meetings, localities across the United States including Denver (CO), Portland (OR), and Phoenix (AZ) now share official land acknowledgements as well as many public agencies, including the National Park Service, the National Aeronautics and Space Administration (NASA); and

WHEREAS Many public and public-facing private institutions have also adopted land acknowledgement statements including UC Berkeley, Mills College, Chabot Las Positas Community College District, California College of the Arts, UCSF, Stanford, and recently, Berkeley's Rent Stabilization Board; and

WHEREAS One of the leading advocacy groups for land acknowledgement, the Native Governance Center, asks that land acknowledgements go beyond a mere statement, by providing research on the history of indigenous peoples and offering concrete actions to support them; and

WHEREAS The settlers of California, primarily Europeans seeking religious converts, agricultural land, and economic opportunity during the gold rush committed one of the most egregious genocides in history, murdering 80 percent of Indigenous people in the state from 1846 to 1873 through massacre by state-directed militias, enslavement in mining and agricultural production, displacement causing starvation, and compulsory assimilation; and

WHEREAS The Lisjan people have lived in the territory of Huchiun, the land that is now known as the East Bay in the San Francisco Bay Area, since the beginning of time and for thousands of years and hundreds of generations; and

WHEREAS the Lisjan people did not own the land, *they belonged to it*, and generation after generation they have cultivated reciprocal relationships with plants and animals and developed beautiful and powerful cultural practices that keep us in balance; and

WHEREAS The Confederated Villages of Lisjan are one of many Ohlone nations, each with its own geography and history, whose tribes, cultures and languages are as diverse as the ecosystems we live within; and

WHEREAS The Lisjan are made up of the six nations that were directly enslaved at Mission San Jose in Fremont, CA and Mission Dolores in San Francisco, CA: Lisjan (Ohlone), Karkin (Ohlone), Bay Miwok, Plains Miwok, Delta Yokut and Napian (Patwin); and

WHEREAS The colonization of the land where Berkeley is located began with the reign of terror inflicted by Spanish soldiers and missionaries who sought to convert all Indigenous people into Catholic subjects of Spain and steal their land; and

WHEREAS The Missions were plantations, built by slave labor and sustained through brutal physical violence and extractive land practices, and the Spanish also brought deadly diseases, invasive species, and Christian ideology based on human dominion of the natural world, causing devastating consequences for the Lisjan people and all living beings they shared the land with; and

WHEREAS After a brief but harrowing Mexican rancho period, Lisjan survivors faced extermination policies by the United States that aimed to eliminate California Indians entirely; and

WHEREAS In a climate of virulent racial discrimination and state-sponsored vigilante killings, most Lisjan families survived by isolating themselves and concealing their identities, and cultural and spiritual traditions were forced into dormancy or secrecy resulting in much knowledge perishing with the passing of generations; and

WHEREAS Despite these concerted efforts to erase Lisjan history and identity, the Lisjan community forms a diverse and vibrant constellation of tribes and families that utilizes a wide array of survival strategies to navigate a profoundly altered 21st century

world, and the Lisjan continue to revitalize their cultural practices and uphold their responsibilities to protect and care for their ancestral homeland; and

WHEREAS Having survived over two centuries of genocide and colonization during the Spanish, Mexican and American eras, the Lisjan continue to inhabit their ancestral homeland, fight for their sacred sites, and revitalize their cultural practices; and

WHEREAS The City of Berkeley has a legacy of acknowledging the oppression and genocide of Indigenous people and taking both symbolic and concrete steps to support their struggle against institutions that grew out of settler-colonialist ideology as well as steps to address oppressive actions that persist today; and

WHEREAS In 1992, Berkeley became the first city in the United States to rename as Indigenous Peoples' Day the federal holiday formerly recognized as Columbus Day, which motivated changes to BUSD's history curriculum and undermined a long-standing revisionist history that European colonizer Christopher Columbus was a hero instead of a violent leader whose arrival led to the murder, enslavement, rape, and disease-related deaths of millions of Indigenous People; and

WHEREAS In 2000, the City of Berkeley officially designated the West Berkeley Shellmound, one of 425 ceremonial burial mounds that ringed San Francisco Bay to honor ancestors, as an official Landmark, and the site is also recognized by the State of California and is eligible for listing on the National Register of Historic Places, meaning it meets all of the criteria for such listing; and

WHEREAS In 2020, the National Trust for Historic Preservation designated the Berkeley Shellmound and Village Site one of the 11 Most Endangered Historic Places in the United States; and

WHEREAS In May of 2009, the City Council adopted a resolution recognizing and endorsing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), a statement of values denouncing forced assimilation, land removal, violent exploitation, cultural genocide, and other actions abridging Indigenous People's right to self-determination and in 2015 the Council delivered a letter to the UN Secretary General and US Ambassador to the UN urging this declaration to be adopted as a convention, which would be legally binding; and

WHEREAS In January of 2016, the City Council adopted a resolution formally recognizing the Ohlone Peoples as the original inhabitants of Berkeley and affirmed the City's commitment to the "defense of Indigenous rights, culture, and dignity" as an official value,

committing that “free, prior, and informed consent of the Ohlone and other Indigenous people should be integral to any alteration planning for the Berkeley Shellmound sacred site...”; and

WHEREAS In January 2018, the City Council adopted a policy changing Berkeley's City Limits signs to read "Welcome to Berkeley - Ohlone Territory" and in October 2018, the City Council took further action and adopted a similar measure replacing all existing Welcome to Berkeley signs to signs including "Ohlone Territory;" and

WHEREAS During deliberations to recognize the Ohlone on City Limit Signs, the City Council decided that in addition to recognizing the Ohlone People through signage, there was a need for more learning opportunities to add historical context, including a special Council session on Ohlone history and culture, a webpage on the City of Berkeley website linking to cultural and historic information, and inviting representatives of the Ohlone to speak at a City Council meeting; and

WHEREAS On June 9, 2020 the City Council passed an item to paint the words “Black Lives Matter” and “Ohlone Territory” on streets adjacent to Berkeley’s City Hall; and

WHEREAS At its January 20, 2022 meeting, the Berkeley Rent Board unanimously voted to adopt a land acknowledgement statement to be read out loud at all future board and committee meetings, providing an important example for the City to follow.

NOW THEREFORE, BE IT RESOLVED In the spirit of continuing to demonstrate and deepen the City of Berkeley’s recognition, inclusion, restitution, and repair towards the Lisjan Ohlone, whose ancestral home lies where the City of Berkeley is located, and who have survived centuries of cultural, physical, and environment genocide at the hands of Spanish, Mexican, and American colonists, the Council of the City of Berkeley hereby adopts the following Land Acknowledgement:

The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley’s residents have and continue to benefit from the use and occupation of

this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.

BE IT FURTHER RESOLVED That the Land Acknowledgement shall be displayed in writing at all Regular Meetings of the Berkeley City Council and shall be read out loud during the Ceremonial portion of the first Regular City Council Meeting of each month.



OPTIONS FOR TRANSFERRING LAND

A BRIEF GUIDE

This short guide summarizes various options for landowners interested in transferring land to another person, group, or community. Landowners who are particularly interested in transferring ownership to nonprofit land trusts, indigenous tribes, and community-based organizations will find this guide most useful.

Because we have written this guide with landowners in mind, we also provide a brief consideration of the advantages and disadvantages of each option from that perspective. Having said that, we think it is essential that landowners consider their own goals as well as the goals and needs of the party or community to whom they would like to transfer land.

Four key questions to consider as you read through this guide focus on the *financial* and *use* needs of the parties.

1. What are the **financial needs** of the transferring party?
2. What are the **financial needs** of the receiving party?
3. What are the **use needs** of the transferring party after the transfer?
4. What are the **use needs** of the receiving party after the transfer?

The land transfer mechanisms covered in this guide include:

- Full Value Sale
- Charitable (Bargain) Sale
- Full Donation
- Donation of a Remainder Interest
- Revocable Transfer on Death (Lady Bird Deed)
- Donation by Bequest
- Sale or Donation of an Easement

In any situation, we strongly recommend that you seek individualized tax, legal, and estate planning advice to determine which of these options is best suited to your circumstances. Laws vary from state to state, so having appropriate counsel where the land is located is critical.



Full Value Sale

This is likely the kind of transfer of ownership that most people are familiar with. In this scenario, the landowner sells to the buyer at a price determined by a third-party appraisal. The buyer pays the full value and receives title to the property. For many people, including nonprofits and other community-based organizations, a full value sale is not an affordable option. However, there are ways to make this option more affordable by delaying payment in two ways.

1. **Installment Sale:** An installment sale allows the buyer to make payments over several years at intervals and amounts that are agreeable to both parties. The landowner would retain title to the property until the final payment. The parties could agree to provide the buyer with use of the land at any point during the payment period, including at the first payment or after payment has been made in full.
2. **Seller Financing:** Alternatively, the landowner could provide seller financing, meaning that title immediately transfers to buyer, and in exchange, the landowner gets a promissory note in which the buyer promises to pay the landowner over time, with or without interest. A deed of trust is recorded on the property to secure payment of the promissory note.

Advantages of this option:

- Fee simple ownership of land gives the buyer the greatest ability to fulfill their mission and ensure secure tenure over the long term.

Disadvantages of this option:

- The landowner will have to pay income tax on the capital gain if the land has appreciated in value since it was originally purchased.
- This is the least financially feasible option for buyers, particularly nonprofit organizations with a limited budget and limited capacity to raise capital.
- An installment sale may limit the buyer's uses of the land until the transfer is complete.



Charitable (Bargain) Sale

A charitable, or bargain, sale occurs when the landowner sells land to a *tax-exempt nonprofit* organization for less than market value. This kind of sale makes the land more affordable to the buying nonprofit, and can offer tax deduction benefits to the selling landowner. The parties can also use the **Installment Sale** or **Seller Financing** options discussed above in this situation as well, if affordability is still a concern for the nonprofit buying the land.

Advantages of this option:

- The difference between full market value and the sale price can qualify the landowner for an income tax deduction and capital gains tax reduction for that portion of the value. This can offset the income taxes and capital gains taxes the landowner will incur from the sale of the property, after reducing ordinary income.
- If the land has significantly increased in value since the seller purchased it, this option can offset a large amount of the resulting capital gains liability for the increased value.
- The nonprofit buyer will be more likely to afford the purchase price of the land.

Disadvantages of this option:

- The landowner does not realize the full income from the market value of the property.
- This may not be the best strategy if the landowner would otherwise qualify for public benefits in the next several years. Recently transferred assets like land can negatively impact eligibility for benefits.



Full Donation

This is the simplest way to transfer land to another party and is the most affordable option for receiving nonprofits or community-based organizations to advance their mission to protect, preserve, and steward land in the long term.

Advantages of this option:

- Fee simple donation to an eligible tax-exempt organization would give the landowner the greatest immediate income tax benefits, sometimes for the full appraised value of the land, in addition to relief from property taxes, and potential estate tax benefits.
- The receiving party would not require financing in order to receive the land.
- The land would be immediately available to the receiving party.

Disadvantages of this option:

- The landowner does not realize the full income from the market value of the property.
- This may not be the best strategy if the landowner would otherwise qualify for public benefits in the next several years. Recently transferred assets like land can negatively impact eligibility for benefits.



Donation of a Remainder Interest

If the landowner would like to donate the land to an eligible tax-exempt nonprofit organization but retain the ability to live on the land during their, or their family members', lifetime, they can donate what is called a "remainder interest" in the land while retaining what is called a "life estate."

Advantages of this option:

- Full transfer to the receiving party will occur immediately upon the landowner's death. Upon the landowner's, or their designated family members', death, this kind of transfer avoids the expense and delay of probate.
- The landowner may be able to receive an immediate income tax deduction for the value of the property that was donated (determined by an appraisal).
- This may be a good option for landowners who receive public benefits. The state can make a claim for repayment of these benefits against an estate and place a lien on property after death. However, because donating a remainder interest is irrevocable, the property will not be part of the estate at death.
- The land will not be subject to capital gains tax on appreciated value.
- The property will not be part of the donor's taxable estate, where the donor (and/or the donor's spouse) are the only life tenants.

Disadvantages of this option:

- The landowner will need to pay the property taxes on the land while retaining use of the property.
- The landowner does not realize the full income from the market value of the property.
- The receiving party would not require financing in order to receive the land.
- Without another agreement, the land will not be immediately available for use by the receiving party.



Revocable Transfer on Death Deed (Lady Bird Deed)

Lady Bird Deeds, which are only available in some states, are similar to deeds described above that create a life estate and donate a remainder interest, except that Lady Bird Deeds are revocable, meaning that the landowner can, during their lifetime, revoke the transfer. This gives more control to the landowner, but can put the receiving party in an uncertain position. Lady Bird Deeds are available in California until 2021, unless legislation is introduced to extend the law.

Advantages of this option:

- Transfer of title will occur immediately upon the landowner's death, so the donation will not be subject to the expense and delay of probate.
- The land donation will not be subject to capital gains tax on appreciated value.
- The landowner can revoke the deed at any time during their lifetime.

Disadvantages of this option:

- Because the deed is revocable, the landowner does not receive an income tax deduction available with other land donations.
- Without another agreement, the land will not be immediately available to the receiving party.
- The receiving party would not require financing in order to receive the land.
- This kind of transfer does not provide reliable certainty to the receiving party since the transfer can be revoked during the landowner's lifetime.



Donation by Will or Living Trust (Bequest)

A landowner can donate land in a will or through a revocable living trust. Both strategies allow the landowner to retain full use of the land during their lifetime.

Advantages of this option:

- Reduces estate or inheritance taxes.
- Can be changed or revoked at any time during landowner's lifetime.
- The receiving party would not require financing in order to receive the land.

Disadvantages of this option:

- The landowner will still be responsible for paying property taxes for the entire property during their lifetime.
- Without another agreement, the land will not be immediately available to the receiving party.



Agricultural, Conservation, or Cultural Easement Donation

An *easement* is an agreement between the landowner and a third party that affects the landowner's rights on the land covered by the easement. Easements are generally recorded on the deed of the property and are therefore permanent. Conservation, agricultural, and cultural easements are specific kinds of agreements that can be entered into with eligible organizations or tribes that can also qualify as a charitable contribution if donated by the landowner.

- A *conservation easement* permanently restricts uses on the land that interfere with the ecological conservation of that land.
- An *agricultural easement* permanently protects farmland by setting limitations on the use of the land.
- A *cultural easement*, available in some states, grants indigenous communities certain access rights to lands for continuing and preserving cultural heritage.

Easements can be sold or donated. The party holding the easement cannot also be the party that holds title to the land.

Advantages of this option:

- The landowner can retain ownership of the land and convey the land to their heirs.
- If the easement meets IRS criteria, the landowner may be able to deduct the value of any donated portion of the easement up to 50% of their adjusted gross income, or 100% if they are a farmer, for up to 15 years.
- Affirmative easements (those requiring certain uses) can increase the value of the easement and reduce the overall value of the land, making it more affordable if the easement is sold instead of donated
- In addition to an income tax deduction, the easement may reduce property taxes and estate taxes.

Disadvantages of this option:

- Easements do not convey an ownership interest in the land to the party holding the easement. This may not align with the intent of either or both parties.
- Easements can be expensive to enforce, thus creating a financial liability for the easement-holding party.
- Easements, alone, do not preserve long-term affordability of land, because an easement only reduces the relative market value of the land, but does not immunize the land value from increasing through speculation and other market forces.



Office of the City Manager

PUBLIC HEARING
October 11, 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: Referral Response: Amendments to the Zoning Ordinance to clarify and streamline the permit process for Amusement Device Arcades

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt the first reading of Zoning Ordinance amendments to provide consistency for the incidental use of Amusement Devices and regulate Amusement Device Arcades as Commercial Recreation Centers.

SUMMARY

This report presents Zoning Ordinance amendments recommended to improve consistency between the Title 23 Zoning definitions of Amusement Devices, Amusement Device Arcades (Arcades) and Incidental Use¹, and apply the permit structure for Commercial Recreation Centers to Amusement Device Arcades.

FISCAL IMPACTS OF RECOMMENDATION

Zoning Ordinance amendments will have minimal financial impacts on the City. Permit fees compensate the City for review expenses. In addition, zoning changes are expected to reduce barriers and costs to those interested in operating Amusement Devices, which could have an economic benefit to the City.

¹ **BMC Chapter 23.502.020 Defined Terms:**

Amusement Device: Any machine or device which may be operated for use as a game, contest or amusement upon the insertion of a coin, slug or token in any slot or receptacle attached to such machine or connected therewith, which does not contain a payoff device for the return of slugs, money, coins, checks, tokens or merchandise.

Amusement Device Arcade: A type of commercial recreation center which contains six or more amusement devices. An amusement device arcade is a type of commercial recreation center irrespective of whether the amusement devices are the principal commercial activity of the establishment.

Use, Incidental: A use of a lot and/or building that is secondary to the principal permitted use, but that by nature could be independent. An incidental use shall not exceed 25 percent of the floor area of the primary use, and if it consists of the commercial sales of a different line of products or services than the primary use, such incidental use may not generate gross receipts in excess of 33 percent of the gross receipts generated by the primary use.

CURRENT SITUATION AND ITS EFFECTS

Commercial Recreation Centers (CRC) are non-theater establishments where recreation facilities are offered or amusement devices are provided as a principal commercial activity. In 2018, City Council adopted a tiered permitting structure for CRCs. **Tables 1 and 2** show the distinct thresholds established per General Plan designation, which coincide with various zoning districts according to purpose and intensity.

Table 1: Avenue Commercial Permit Threshold for CRCs

Size Threshold (square feet)	Permit Required ²
Under 5,000	ZC
5,000 - 10,000	AUP
Over 10,000	UP(PH)

*Outdoor uses require UP(PH)

Table 2: Neighborhood Commercial Permit Threshold for CRCs

Size Threshold (square feet)	Permit Required
Under 3,000	AUP
Over 3,000	UP(PH)

*Outdoor uses require UP(PH)

Arcades are defined by the BMC as a type of CRC, yet they are regulated separately; in some districts they are prohibited, and in others they require a Use Permit regardless of the proposed establishment's square footage. The proposed Zoning Ordinance amendments are presented in this report and fall under two categories:

1. Regulate Arcades as Commercial Recreation Centers
2. Modify Regulations Allowing Amusement Devices Incidental to a Permitted Use

To read more about each recommendation presented below, please see the Planning Commission Report (Attachments 2 and 3).

1. Regulate Arcades as Commercial Recreation Centers

Proposed amendments outlined in this category will allow Arcades to be regulated as Commercial Recreation Centers (CRCs).

² Zoning Certificate (ZC) | Administrative Use Permit (AUP) | Use Permit, Public Hearing (UP(PH))

Rationale: The CRC permitting structure adopted by City Council in December 2018 as part of the Small Business Support Package is clear, easy to understand and is appropriate for Arcades, and so should be used for Arcades as well. Arcades are currently defined as a type of CRC, but are listed separately in Use Tables and have different permit requirements. Regulating Arcades as CRCs will reduce redundancy and discrepancies in the BMC.

- **Modify Arcades in the Allowed Use Table - Table 23.204-1 to refer to the CRC permitting structure to be regulated as CRC use. Figure 1 shows the modification of Amusement Arcade in the allowed use table for Commercial Zoning Districts. Figure 2 shows the current CRC regulations that Arcades will be folded into under each District.**

Figure 1. Summary of Proposed Amendments to regulate Arcades as CRCs

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted - = Permitted with AUP, see Error! Reference source not found.(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS	
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC		
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses													
Adult-oriented Business	UP(PH)*	UP(PH)*	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH)*	NP	Error! Reference source not found..A	
See Error! Reference source not found..A													
Amusement Device Arcade	UP(PH)*	UP(PH)*	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)*	UP(PH)*	UP(PH)*	Error! Reference source not found..B	
Bar/Cocktail Lounge/Tavern	UP(PH)*	UP(PH)*	UP(PH)*	-	NP	UP(PH)*	UP(PH)*	NP	UP(PH)*	UP(PH)*	UP(PH)	Error! Reference source not found..B.3; Error! Reference source not found..B.2; Error! Reference source not found.	
Commercial Recreation Center	See Error! Reference source not found..A												

Figure 2. Existing CRC Regulations

Districts	CRC Size Thresholds (sq. ft.)	Permit Required
Neighborhood Commercial		
C-N	Under 3,000 Over 3,000	AUP UP(PH)
C-E		
C-NS		
C-SA		
C-SO		
C-AC		

Avenue Commercial

C-C	Under 5,000 5,000-10,000 Over 10,000	ZC AUP UP(PH)
C-U		
C-T		
C-W		
C-DMU		

Manufacturing District

M	Prohibited
MM	Prohibited
MU-LI	AUP
MU-R	Prohibited

- Remove Special Provisions preventing Amusement Device Arcades from locating within a radius of 600 feet of any primary or secondary school (as seen below).

23.302.070 B. Amusement Arcades

1. Distances from Schools. An Amusement Device Arcade may not be established within a radius of six hundred (600) feet of any primary or secondary school.)

Rationale: This provision was established in the 1990s to prevent Amusement Device Arcades from establishing too close to primary and secondary schools. However, the advancement of technology has brought gaming opportunities to people’s households and fingertips through computers, gaming consoles, mobile phones, and other portable devices, and in that context the provision is no longer relevant.

2. Modify Regulations Allowing Amusement Devices Incidental to a Permitted Use

Amendments will allow incidental use of Amusement Devices in up to 25 percent of the net floor area of the primary use with a zoning certificate.

Rationale: Arcades are currently defined as having six or more Amusement Devices. Incidental Use is defined as not exceeding 25 percent of the primary use. Current regulations allow up to three Amusement Devices incidental to an established use with either an AUP or a UP(PH), depending on the district. Proposed amendments close the gap between Arcades, the incidental use of Amusement Devices, and the definition of incidental use by changing the definition of Amusement Devices incidental to an establish use to not exceeding 25 percent of the primary use. Amendments also reduce permit levels for incidental uses to align with CRCs and to maintain consistency across BMC regulations. Proposed amendments are listed below and summarized by **Figure 3**.

- Change the maximum number of Amusement Devices allowed as an incidental use from three devices to up to 25 percent of total net floor area of the primary use.
- Amend the definition of Arcade from CRC containing six or more Amusement Devices to CRC with Amusement Devices in more than 25 percent of net floor area of the primary use.
- Reduce the level of discretion for Amusement Devices as an incidental use from an Administrative Use Permit (AUP) to a Zoning Certificate (ZC) for Avenue Commercial and Manufacturing Districts.
- Remove permitting discretion for Amusement Devices as an incidental use from a Use Permit with a Public Hearing (UP(PH)) to a Zoning Certificate (ZC) for Neighborhood Commercial Districts.

Figure 3. Summary of Current and Proposed Regulations for Amusement Devices Incidental to and a Primary Use

	Current	Proposed
Districts	Up to 3 Amusement Devices allowed as an incidental Use	Up to 25 Percent of Primary Use Amusement Devices allowed as an incidental Use
Neighborhood Commercial		
C-N	UP(PH)	<u>ZC</u>
C-E	UP(PH)	<u>ZC</u>
C-NS	UP(PH)	<u>ZC</u>
C-SA	UP(PH)	<u>ZC</u>
C-SO	UP(PH)	<u>ZC</u>
Avenue Commercial		
C-1	AUP	<u>ZC</u>
C-T	AUP	<u>ZC</u>
C-W	AUP	<u>ZC</u>
C-DMU	AUP	<u>ZC</u>
Manufacturing Districts		
M	Prohibited	Prohibited
MM	Prohibited	Prohibited
MU-LI	AUP	<u>ZC</u>
MU-R*	AUP	<u>ZC</u>

* MU-R Allows Amusement Devices as incidental use only and prohibits arcades

BACKGROUND

The Berkeley Municipal Code (BMC) currently prohibits Arcades in the Elmwood Commercial (C-E) district. On June 25, 2019, the City Council adopted a referral authored by Councilmember Droste, seeking consideration of levels of discretion for Arcades in the C-E District, recommending that they be re-examined and relaxed (Attachment 4).

On October 7, 2020, Staff shared research and findings associated with the business support referral with the Planning Commission. The staff analysis of this referral identified issues with the existing permit requirements for Arcades throughout commercial and manufacturing districts in Berkeley. The Commission asked staff to proposed amendments based on the recommendations discussed. On February 3, 2021, Staff returned to the Planning Commission and presented Zoning Ordinance amendments concerning the regulation of Amusement Device Arcades and Amusement Devices.

Commissioner Wiblin motioned to recommend that City Council adopt staff's recommendation, and Commissioner Krpata seconded the motion. The Planning Commission unanimously voted to recommend that City Council adopt staff's recommendation (M/S: Wiblin/Krpata; Ayes: Commissioners Beach, Ghosh, Hauser, Kapla, Krpata, Lacey, Schildt, Vincent, and Wiblin; Noes: None; Abstain: None; Absent: None). Amendments presented here reflect a more comprehensive response to Council's referral.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are currently no Arcade businesses in the City of Berkeley. The proposed ordinance will reduce the zoning barriers for operators to locate within the City and can thereby reduce the travel distance and vehicle miles traveled of residents and community members to access Arcades.

RATIONALE FOR RECOMMENDATION

As retail continues to shift towards online platforms, business models are evolving to provide activity-based experiences that attract customers. Existing thresholds for CRCs were adopted by City Council as recently as 2019 to provide a clear permitting structure for such businesses. CRC regulations also provide the flexibility requested by Council's referral while also providing opportunities for the surrounding community to weigh in during the permitting process. Extending the same clear permitting path to Arcades, by defining them as CRCs, allowing incidental amusement devices and improving consistency throughout the BMC, improves opportunities for businesses to adapt and provide activity-based experiences.

ALTERNATIVE ACTIONS CONSIDERED

Council could take no action, in which case the Zoning Ordinance would retain existing regulations for Amusement Devices and Arcades.

CONTACT PERSON

Robert Rivera, Senior Planner, Land Use Planning Division, rrivera@CityofBerkeley.info
Steven Buckley, Land Use Planning Manager, Land Use Planning Division, (510) 981-7411

Attachments:

- 1: Draft Ordinance
- 2: Planning Commission Staff Report (without attachments) – Oct. 7, 2020
- 3: Planning Commission Meeting Minutes – Oct. 7, 2020
- 4: Zoning Ordinance Modification for Elmwood Commercial Districts (Councilmember Droste, 6/25/19)
- 5: Public Hearing Notice

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTIONS 23.302.070, 23.204.020, 23.206.020 AND 23.502.020 TO MODIFY THE DEFINITION OF AMUSEMENT DEVICE ARCADES AND MODIFY PERMIT REQUIREMENTS FOR AMUSEMENT ARCADES IN THE COMMERCIAL ZONING DISTRICT AND WHEN INCIDENTAL TO A PERMITTED USE

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

Section 1. That Berkeley Municipal Code Section 23.302.070 B. Amusement Devices Arcade is amended as follows:

Section 23.302.070 Use-Specific Regulations

B. Amusement Devices Arcade.

~~1. *Distance from Schools.* An Amusement device arcade may not be established within a radius of 600 feet of a primary or secondary school.~~

~~*Incidental Use.* Table 23.302-5 shows permits required and maximum number of amusement devices allowed as an incidental use in the non-residential districts. Amusement Devices up to 25 percent of total net floor area of the primary use are allowed as an incidental use with a Zoning Certificate. Amusement Devices are prohibited in the M Manufacturing District and MM Mixed Manufacturing District.~~

~~**Table 23.302-5. PERMIT REQUIREMENTS FOR AMUSTMENT DEVICES AS INDICIDENTIAL USES**~~

DISTRICT	PERMIT REQUIRED	MAXIMUM NUMBER
C-C, C-U, C-N, C-T, C-W	AUP	3
C-E, C-NS, C-SA, C-SO	UP(PH)	3
MU-LI	AUP	3
MU-R AUP3M,MM	Not Permitted	

Section 2. That the line named Amusement Device Arcade in Table 23.204-1, Allowed Uses in Commercial Districts, within Berkeley Municipal Code Section 23.204.020, Allowed Land Uses, is amended as follows:

Section 23.204.020 Allowed Land Uses - Table 23.204-1, Allowed Uses in Commercial Districts

Amusement Device Arcade	See Error! Reference source not found..A										Error! Reference source not found..B
	UP(PH)S	UP(PH)S	NP	NP	NP	UP(PH)S	NP	NP	UP(PH)S	UP(PH)S	

Section 3. That the line named Amusement Device Arcade in Table 23.206-1, Allowed Uses in the Manufacturing Districts, within Berkeley Municipal Code Section 23.206.020 Allowed Land Uses and Permit Requirements is amended as follows:

Chapter 23.206.020 Allowed Land Uses - Table 23.206-1, Allowed Uses in the Manufacturing Districts

Amusement Device Arcade	NP	NP	ZC AUP	ZC-AUP	Error! Reference source not found..B
-------------------------	----	----	--------	--------	--------------------------------------

Section 4. That Berkeley Municipal Code Section 23.502.020.A.17 definition of “Amusement Device Arcade” is amended as follows:

Chapter 23.502.020 Defined Terms

A. “A” Terms...

17. *Amusement Device Arcade.* A type of commercial recreation center which contains ~~six or more~~ amusement devices in more than 25 percent of the net floor area of the primary use. An amusement device arcade is a type of commercial recreation center irrespective of whether the amusement devices are the principal commercial activity of the establishment.

Section 5. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: October 7, 2020

TO: Members of the Planning Commission

FROM: Paola Boylan, Assistant Planner
Katrina Lapira, Assistant Planner

SUBJECT: Business Support Zoning Amendment Referrals – Amusement Device
Arcades and Arts District Overlay Expansion

RECOMMENDATION

Staff recommends that the Planning Commission discuss proposed modifications, provide feedback, and request staff draft Zoning Ordinance amendments for Planning Commission consideration.

BACKGROUND

City Council has referred to the Planning Commission five referrals that support Berkeley businesses and bolster Berkeley's commercial districts. These referrals range in scope from broad suggestions to targeted requests, but share the common goal of expediting service expansion for existing businesses and reducing barriers to entry for new businesses. This report analyzes and provides recommendations for two referrals:

1. **Zoning Ordinance Modification for Elmwood Commercial Districts (Councilmember Droste, 6/25/19)**
2. **Expanding the Downtown Arts District (Mayor Bates, 10/18/16)**

DISCUSSION

The overarching goal of these referrals is to provide the flexibility needed by businesses to adapt to a changing marketplace. This section provides an overview of each referral item addressed, existing conditions, staff's analysis, and proposed modifications and recommendations for discussion.

Amusement Device Arcades

The Berkeley Municipal Code (BMC) currently prohibits Amusement Device Arcades¹ (Arcades) in the Elmwood Commercial district (C-E district). In June of 2019, City Council referred to the Planning Commission consideration of levels of discretion for Arcades in the C-E district, recommending that they be re-examined and relaxed (See Link 1). **Table 1** shows the permit specifications and thresholds recommended for the C-E district by the referral.

Table 1: Permit Threshold Suggested for Arcades by the Referral for the Elmwood Commercial District

Size Threshold (square feet)	Permit Required ²
Under 3,000	ZC
Over 3,000	AUP

For a more comprehensive review of this referral, staff reviewed proposed thresholds and existing permit requirements for Arcades throughout all commercial and manufacturing districts in Berkeley. Findings, proposed modifications, and rationale are presented below.

1. Arcades as Commercial Recreation Centers³

- **Remove Arcades from Uses Permitted Tables and instead recognize and regulate the Use as a Commercial Recreation Center.** (*Modify Uses Permitted Tables in zones C-1, C-N, C-E, C-NS, C-SA, C-T, C-SO, C-W, C-DMU, and MU-R Districts*)

Rationale: As retail continues to shift towards online platforms, business models are evolving to provide activity-based experiences that attract customers. Commercial Recreation Centers (CRC) are non-theater establishments, where recreation facilities are offered or amusement devices are provided as a principal commercial activity. Providing clear guidance on establishing such businesses is one way the City has supported emerging

¹**Amusement Device:** Any machine or device which may be operated for use as a game, contest or amusement upon the insertion of a coin, slug or token in any slot or receptacle attached to such machine or connected therewith, which does not contain a payoff device for the return of slugs, money, coins, checks, tokens or merchandise.

Amusement Device Arcade: An establishment which contains six (6) or more Amusement Devices. An Amusement Device Arcade is a Commercial Recreation Center irrespective of whether such machines are the principal commercial activity of an establishment.

² **ZC** – Zoning Certificate | **AUP** – Administrative Use Permit | **UP(PH)** – Use Permit (Public Hearing)

³**Commercial Recreation Center:** Any establishment other than a theater at which recreation facilities are offered or amusement devices provided to the public as a principal commercial activity of such establishment. This may include, but is not limited to, bingo parlors, bowling alleys, skating rinks, billiard or pool halls, miniature golf courses and amusement device arcades.

business models. In 2018, City Council adopted updated regulations that set thoroughly researched and studied thresholds for CRCs. Updates provided a simpler permitting process to CRCs by establishing a tiered permitting structure that requires lower levels of discretion for smaller businesses, thereby reducing start-up costs and shortening permitting timelines. **Tables 2 and 3** show the distinct thresholds established per General Plan designation, which coincide with various zoning districts according to purpose and intensity.

Table 2: Avenue Commercial Permit Threshold for CRCs

Size Threshold (square feet)	Permit Required
Under 5,000	ZC
5,000 - 10,000	AUP
Over 10,000	UP(PH)

*Outdoor uses require UP(PH)

Table 3: Neighborhood Commercial Permit Threshold for CRCs

Size Threshold (square feet)	Permit Required
Under 3,000	AUP
Over 3,000	UP(PH)

*Outdoor uses require UP(PH)

In contrast to the rational permitting delineated for CRCs in the tables above, Arcades are defined by the BMC as a type of CRC, yet they are regulated separately—in some districts they are prohibited, in others they require a UP(PH) regardless of the proposed establishment's square footage. The defined terms for these two categories overlap significantly and reference each other. CRC regulations provide the flexibility requested in this referral, while continuing to provide safeguards for the surrounding community. In addition, CRC regulations provide a clear path to establishing businesses that offer activity based experiences. Staff's proposed modifications would extend the same path to Arcades. Therefore, staff recommends recognizing and regulating Arcades as CRCs.

- **Remove Special Provisions preventing Amusement Device Arcades from locating within a radius of 600 feet of any primary or secondary school. (BMC Section 23E.16.050)**

Rationale: Special Provisions⁴ were set in place in the 1990s to prevent Amusement Device Arcades from establishing too close to primary and

⁴**Special Provisions** - No Amusement Device Arcade shall be established within a radius of six hundred (600) feet of any primary or secondary school. This applies to all districts and permits.

secondary schools. However, in the 21st century, the advancement of technology has brought gaming opportunities to people’s households and fingertips through computers, gaming consoles, and cell phones among other devices. The City of Berkeley is among one of two cities with this restriction, and of the two, it is twice as strict by requiring a 600 ft. radius versus 300 ft. (City of San Diego) (See Attachment 3). Removing this requirement is not of concern to the Berkeley Police Department and will provide a smooth transition to recognizing Arcades as CRCs.

2. Amusement Devices Incidental to a Permitted Use

- **Change the maximum number of Amusement Devices allowed as an incidental use to a permitted use from three to five.** *(Modify Uses Permitted Tables in zones C-1, C-N, C-E, C-NS, C-SA, C-T, C-SO, C-W, C-DMU, MU-LI, and MU-R Districts)*

Rationale: Current regulations allow up-to three Amusement Devices incidental to an established use with either an AUP or a UP(PH), depending on the district. At the same time, Arcades are defined as establishments with six or more Amusement Devices - creating an arbitrary gap between the two use types. Therefore, staff recommends allowing up to five Amusement Devices as an incidental use to a permitted use, which would provide consistency throughout the Zoning Ordinance and set a threshold similar to our neighboring City of Albany (See Attachment 3).

- **Revise the level of discretion for Amusement Devices as an incidental use to a permitted use from an Administrative Use Permit (AUP) to a Zoning Certificate (ZC).** *(Modify Uses Permitted Tables in zones C-1, C-T, C-W, C-DMU, MU-LI, and MU-R Districts)*

(See discussion below)

- **Revise the level of discretion for Amusement Devices as an incidental use to a permitted use from a Use Permit Public Hearing (UP(PH)) to a Zoning Certificate (ZC).** *(Modify Uses Permitted Tables in zones C-N, C-E, C-NS, C-SA, and C-SO Districts)*

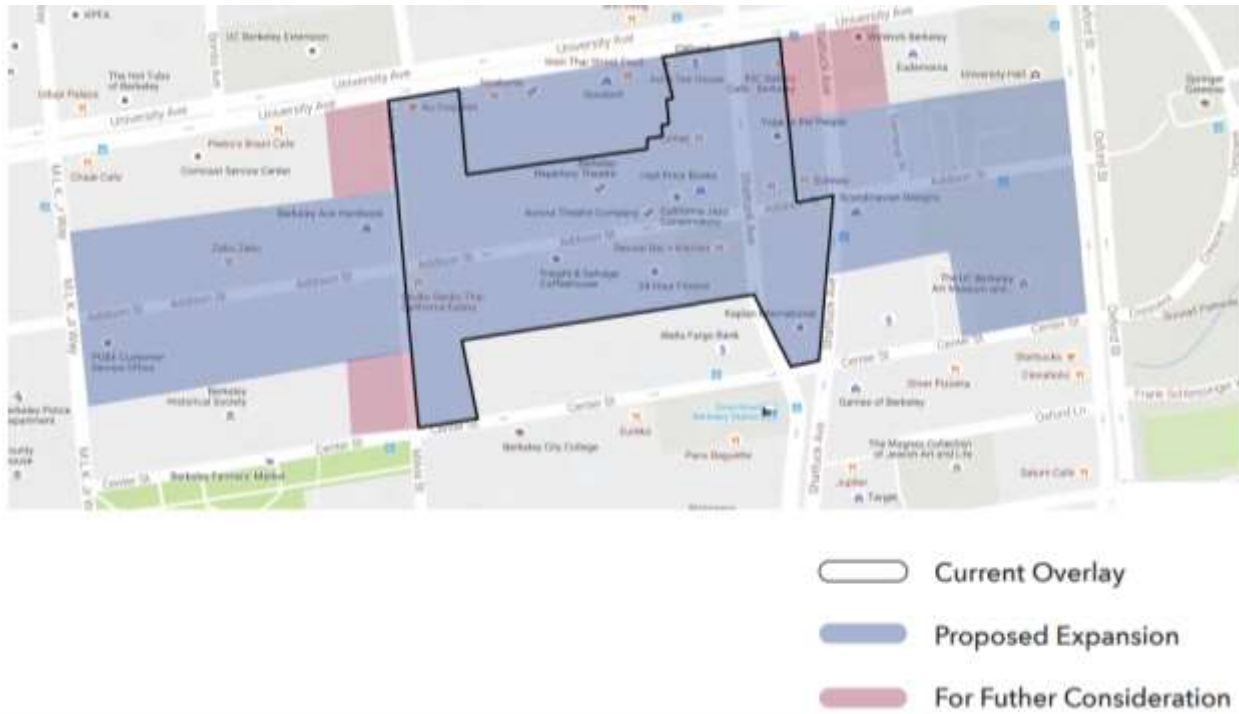
Rationale: Current regulations require businesses in Berkeley to obtain an AUP or UP(PH), depending on the district, to add a limited number of Amusement Devices as an incidental use. In a time when emerging business models focus on creating activity-based experiences for customers, Amusement Devices can provide an attractive service to patrons. The proposed modification would lower levels of discretion for up to five devices to a ZC, bringing Berkeley into alignment with other cities in order to retain and attract existing and new businesses (See Attachment 3).

Downtown Arts District Overlay

Established in 2000, the purpose of the Downtown Arts District Overlay (ADO) is to create a core of cultural activities, retail, and other commercial uses that generate pedestrian

vitality in the downtown to encourage a broader economic revitalization of the area. Since that time, several theater arts, fine dining, and related uses have become established or expanded in the area. In 2016, City Council asked the Planning Commission to explore expanding the existing physical boundaries of the ADO to include all buildings with street frontage along Addison Street from Martin Luther King (MLK) Way through Oxford Street and portions along University Avenue, Shattuck Avenue, and Center Street (See Link 2 and **Figure 1**).

Figure 1. Arts District Overlay



Source: *Expanding the Downtown Arts District (Mayor Bates, 10/18/16)*

Staff reviewed the overlay boundaries and allowable uses to propose recommendations that meet the purposes of the ADO and the underlying zoning districts. Findings, recommendations, and rationale are presented below.

1. Maintain the existing boundaries of the ADO.

Rationale: Staff’s proposal to maintain the existing boundaries takes into consideration the role of the ADO as a development tool, the pattern of existing uses, and development constraints in the areas within the referral’s proposed expanded boundary.

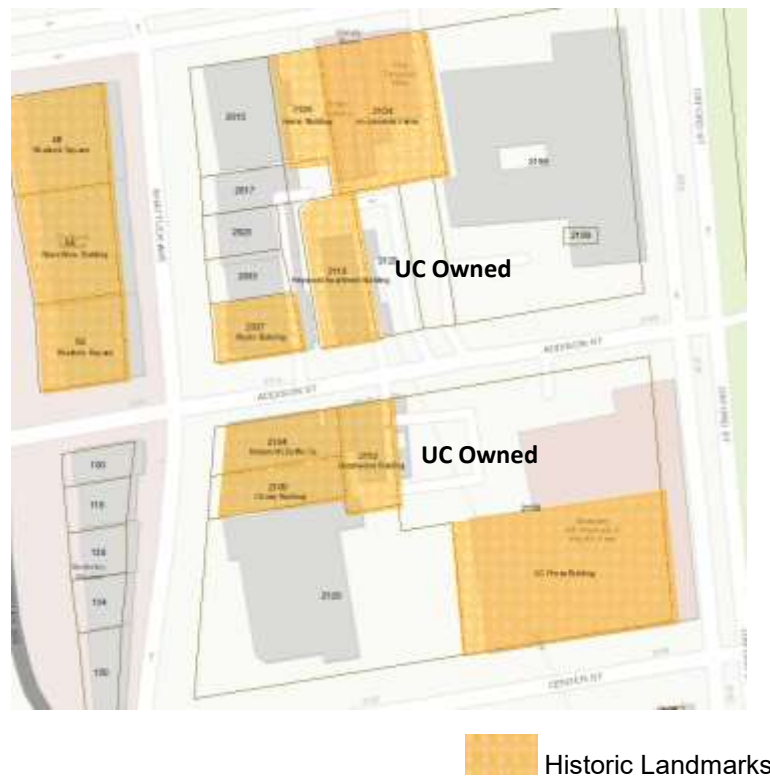
The Downtown Mixed-Use (C-DMU) District underlies the ADO. The primary zoning distinction between the C-DMU and the ADO is the regulation placed on ground floor uses. Currently, the ADO requires an AUP for ground floor office uses and Food Service Establishments focused on offsite consumption. The C-DMU requires a ZC for these same uses. The proposed expansion would incorporate more of the C-DMU, and given the existing provisions, would create legally non-

conforming uses in existing ground floor spaces with office uses and take-out only Food Service Establishments.

Expansion from Milvia Street to MLK Way - The area along Addison Street, from Milvia Street to MLK Way, is primarily built out, with new mixed-use developments and existing office buildings that support small residential and food service uses. Along this stretch, about 50% of the ground floor street frontage is dedicated office space. Under the ground floor restrictions of the ADO, these office spaces would be subject to AUP requirements if a new tenant were to require a change in use to the previously described food service or office use. Given the limitations of existing spaces, this proposal may create an unnecessary burden.

Expansion from Shattuck to Oxford and along University Avenue - The referral's proposed boundary expansion includes new cultural institutions like the UC Theatre Music Hall and the Berkeley Arts Museum and Pacific Film Archive (BAMPFA). However, a number of parcels along Addison Street, from Shattuck to Oxford Street, are owned by the University of California (UC) and are thus not subject to the City's zoning regulations. In addition, the referral's proposed expanded area includes several historic landmarks that already require additional review as part of the development process, shown in the figure below in orange. Added ground floor requirements imposed by the ADO could further complicate and deter the redevelopment of these historical lots. For these reasons, expanding the ADO to include this stretch of University Avenue and Addison Street would be ineffective in guiding development in this area.

Figure 2. Addison Street - UC Owned Parcels and Historic Landmarks



- 2. Remove the provision requiring an Administrative Use Permit (AUP) for Food Service Establishments that primarily provide food for offsite consumption in the Downtown Arts District Overlay (Modify BMC Sections 23E.68.030 and 23E.68.040)**

Rationale: Food Service Establishments in the C-DMU are regulated by a tiered permitting system based on gross square footage. As previously mentioned, the ADO places additional restrictions on Food Service Establishments. These restrictions could create barriers to prospective businesses and are also incompatible with the model under which current businesses are operating, as a result of the COVID-19 pandemic. Restaurants have shifted towards take-away models to keep afloat during the public health crisis, regardless of whether their previous primary focus was to be a sit-down or take-away establishment. Removing the additional restriction and treating all Food Service Establishments consistently throughout the C-DMU accommodates the ever-changing nature of the food service industry and simplifies the review process for prospective businesses.⁵

- 3. Explore programmatic incentives adopted by other cities to encourage more art- and culture-focused establishments to locate within the existing ADO.**

Rationale: There is little distinction between provisions in the ADO and the C-DMU in the Zoning Ordinance. To encourage the location of cultural institutions and supportive services within the ADO, a variety of programmatic incentives could be explored for adoption in the future. The City of Oakland published a report that outlines strategies used by other jurisdictions across the country to strengthen arts and cultural districts. Land Use Planning staff will share this report with Berkeley’s Office of Economic Development and will support efforts to bolster the ADO through these types of strategies in the future (See Link 3).

NEXT STEPS

Based on the Planning Commission’s feedback, staff will draft Zoning Ordinance amendments for Planning Commission’s consideration.

ATTACHMENTS

1. Planning Commission Staff Report (without attachments) - July 1, 2020
2. Planning Commission Meeting Minutes - July 1, 2020
3. Matrix of Arcade Regulations

LINKS

⁵ In 2018, the zoning ordinance was amended and largely removed the distinction among food service uses. This regulation is anomalous.

1. Zoning Ordinance Modification for Elmwood Commercial Districts (Councilmember Droste, 6/25/19) - https://www.cityofberkeley.info/Clerk/City_Council/2019/06_June/Documents/2019-06-25_Item_37_Zoning_Ordinance_Modification.aspx
2. Expanding the Downtown Arts District (Mayor Bates, 10/18/16) - https://www.cityofberkeley.info/Clerk/City_Council/2016/10_Oct/Documents/2016-10-18_Item_24_Expanding_the_Downtown_Arts.aspx
3. City of Oakland - Arts and Culture Research Compilation (2017) - <https://cao-94612.s3.amazonaws.com/documents/Art-Culture-Best-Practices-and-Case-Studies-March-2017.pdf>



Planning Commission

**FINAL MINUTES OF THE REGULAR PLANNING COMMISSION MEETING
October 7, 2020**

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

Location: Virtual meeting via Zoom

1. ROLL CALL:

Commissioners Present: Benjamin Beach, Robb Kapla, Shane Krpata, Steve Martinot, Christine Schildt, Jeff Vincent, Brad Wiblin, and Rob Wrenn.

Commissioners Absent: Mary Kay Lacey (excused absence).

Staff Present: Secretary Alene Pearson, Katrina Lapira, and Paola Boylan.

2. ORDER OF AGENDA: No changes.

3. PUBLIC COMMENT PERIOD: 1

4. PLANNING STAFF REPORT:

- None

Information Items:

- None

Communications:

- None

Late Communications: *See agenda for links.*

- Supplemental Packet One
- Supplemental Packet Two
- Supplemental Packet Three

5. CHAIR REPORT:

- None

6. COMMITTEE REPORT: Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.

- None

7. APPROVAL OF MINUTES:

Motion/Second/Carried (Wrenn/Beach) to approve the Planning Commission Meeting Minutes from September 30, 2020 with amendments to lines 60 and 68.

Ayes: Beach, Kapla, Krpata, Schildt, Vincent, Wrenn, and Wiblin. Noes: None. Abstain: Martinot. Absent: Lacey. (8-0-0-1)

FUTURE AGENDA ITEMS AND OTHER PLANNING-RELATED EVENTS:

- None

AGENDA ITEMS

9. Discussion: ***Business Support Zoning Amendment Referrals – Amusement Device Arcades and Arts District Overlay***

Staff shared research and findings associated with the two businesses support referrals described above with the Planning Commission. After staff's presentation, the Commission asked staff to propose amendments based on the recommendations discussed.

Public Comments: 0

Members in the public in attendance: 2

Public Speakers: 1 speakers

Length of the meeting: 1 hours and 13 minutes



Lori Droste
Councilmember, District 8

CONSENT CALENDAR

June 25, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Droste, Mayor Arreguin, Councilmember Harrison, and Councilmember Wengraf
Item Description: Zoning Ordinance Modification for Elmwood Commercial District

RECOMMENDATION

Refer to the Planning Commission to amend Chapter 23E.44, C-E Elmwood Commercial District Provisions to allow for amusement device arcades with a Tier 2 Administrative Use Permit (for spaces >3,000 Sq. Ft.) and a Zoning Certificate (for spaces < 3,000 Sq. Ft.). Proposed ordinance language for changes to Table 23E.44.030 are attached.

FISCAL IMPACTS OF THE RECOMMENDATION

Potential tax revenue from newly permitted commercial uses.

CURRENT SITUATION AND ITS EFFECTS

This zoning modification is a Strategic Plan Priority Project, advancing our goal to foster a dynamic, sustainable, and locally-based economy. Currently, amusement device arcades” are prohibited uses in the Elmwood Commercial District.

BACKGROUND

Under current City codes, no amusement device arcades are permitted in the Elmwood Commercial Corridor. As the nature of retail and commercial uses changes and adapts to present day consumer habits and environments, so too should City code. Given recent commercial vacancies in the Elmwood Commercial District, now is an opportune time to re-examine commercial uses.

Recently, an established, local, family-owned business has expressed interest in opening a ‘vintage’ inspired arcade in the Elmwood. Upon review of our zoning code, the interested party saw that such use is currently prohibited. The proposed changes would allow for inventive businesses such as this one to open. The proposed changes take the size of the business storefront into consideration - arcades operating under 3,000 square feet would be allowed a

zoning certificate. Occupants of larger spaces (over 3,000 square feet) would need a Tier 2 Administrative Use Permit, which allows for public notice and feedback.

This ordinance change would only apply to the Elmwood Commercial District. C-1 and CDMU commercial districts, per Table 23E.36.030 and Table 23E.68.030 require a UP (PH) for an amusement device arcade (unless they are within 600 ft. of a primary or secondary school, in which case they are prohibited). For all other Commercial Districts, the use is, and will remain, prohibited.

ENVIRONMENTAL SUSTAINABILITY

RATIONALE FOR RECOMMENDATION

ALTERNATIVE ACTIONS CONSIDERED

CONTACT PERSON

Councilmember Lori Droste 510-981-7180

Chapter 23E.44

C-E Elmwood Commercial District Provisions

Sections:

23E.44.010	Applicability of Regulations
23E.44.020	Purposes
23E.44.030	Uses Permitted
23E.44.040	Special Provisions -- Numerical Limitations
23E.44.050	Construction of New Floor Area, Conversions of Existing Buildings -- Requirements for Use Permits
23E.44.060	Use Limitations*
23E.44.070	Development Standards
23E.44.080	Parking -- Number of Spaces
23E.44.090	Findings

23E.44.010 Applicability of Regulations

The regulations in this chapter shall apply in all C-E Districts. In addition, general provisions in Sub-title [23C](#) shall apply. (Ord. 6478-NS § 4 (part), 1999)

23E.44.020 Purposes

The purposes of the Elmwood Commercial (C-E) Districts are to:

- A. Implement the Master Plan's designation for a community commercial district in this area.
- B. To maintain a scale and balance of retail goods and services in the district to compatibly serve the everyday needs of surrounding neighborhoods by:
 1. Providing locations for retail goods and service establishments to serve surrounding neighborhoods;
 2. Preventing development which exceeds the amount and intensity of use that is compatible with adjacent residential neighborhoods;
 3. Limiting the space occupied by businesses that generate high traffic and/or parking demands;

- 4. Controlling the proliferation of establishments which, if not limited, might expand to displace establishments needed to serve surrounding neighborhoods; and
- 5. Permitting other uses which serve this objective.

C. To ensure that new buildings, alterations and additions to existing buildings harmonize with their surroundings. (Ord. 6478-NS § 4 (part), 1999)

23E.44.030 Uses Permitted

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

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Retail Sales		
All Retail Sales Uses, except those listed below	ZC*	As defined in Sub-title F, except otherwise listed (does not include Video Rental Stores).
Alcoholic Beverage Retail Sales, including liquor stores and wine shops	UP(PH)	Includes sale for off-site consumption at restaurants
Department Stores	ZC*	
Over 3,000 s.f.	Prohibited	

Drugstores	ZC*	A new or expanded Drugstore is prohibited if it is over 5000 square feet in Gross Floor Area, and within 1000 feet of any property containing an existing Drugstore, as measured by a straight line from the nearest point of the property line of the parcel on which the Drugstore is proposed to the nearest point of the property line of the parcel on which the nearest Drugstore is located.
Firearm/Munitions Businesses	UP(PH)	Prohibited on any property devoted to residential use
Pawn Shops, including Auction Houses	Prohibited	
Pet Stores, including Sales and Grooming of Animals	UP(PH)	Does not include boarding of animals
Smoke Shops	UP(PH)	Prohibited if within 1,400 feet of a school or public park
Personal and Household Services		
All Personal/Household Services, except those listed below	ZC*	As defined in Sub-title F, except those otherwise listed (does not include Massage).
Laundromats	UP(PH)	
Veterinary Clinics, including Pet Hospitals	UP(PH)	
Video Tape/Disk Rental Stores	AUP	
Offices		

Financial Services, Retail (Banks)	UP(PH)	
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC*	When located on the ground floor adjacent to a street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Medical Practitioners	Prohibited	Including Holistic Health and Mental Health Practitioners
Non-Chartered Financial Institutions	Prohibited	
Other Professionals and Government, Institutions, Utilities	AUP	When located on the ground floor adjacent to a street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Food and Alcohol Service, Lodging, Entertainment and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service	UP(PH)	Service of alcoholic beverages allowed only as incidental to food service in Food Service Establishments
Alcoholic Beverage Service of beer and wine incidental to seated food service	ZC	For on-site consumption only
Amusement Device Arcades <u>Under 3,000 s.f.</u> <u>Over 3,000 s.f.</u>	Prohibited <u>ZC</u> <u>AUP - tier</u> <u>2</u>	

Commercial Recreation Center		Outdoor use requires UP(PH)
Under 3,000 s.f.	AUP	
Over 3,000 s.f.	UP(PH)	
Dance, Exercise, Martial Arts and Music Studios	AUP	
Entertainment Establishments, including Nightclubs	Prohibited	
Food Service Establishments	AUP	Food Service Establishments must provide public notification of decision (NOD) within a 300-foot radius of the subject property.
Group Class Instruction for Business, Vocational or Other Purposes	AUP	
Gyms and Health Clubs	AUP	
Hotels, Tourist, including Inns, Bed and Breakfasts and Hostels	UP(PH)	
Motels, Tourist	Prohibited	
Theaters	UP(PH)	Including Motion Pictures and Stage Performance
Automobile and Other Vehicle Oriented Uses		
Automobile Parts Stores	ZC*	Excluding service of auto parts
Automobile Repair and Service, including Parts Service	Prohibited	

Automobile Sales and Rentals	Prohibited	
Automobile Washes, Mechanical or Self-Service	Prohibited	
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	Prohibited	
Motorcycle Stores, including Sales and/or Service	Prohibited	
Recreational Vehicle and Trailers Sales and Rental, including Boats	Prohibited	
Tire Sales/Service Stores	Prohibited	
Parking, Outdoor and Exterior Service Window Uses		
Activities or Storage Outside of a building Not abutting R-District When abutting R-District	AUP UP(PH)	
Automatic Teller Machines (exterior and when part of a Retail Financial Service)	UP(PH)	
Drive-in Uses	Prohibited	Providing service to customers in their cars. See definition in Sub-title F
Parking Lots	UP(PH)	
Recycling Redemption Centers	AUP	

Outdoor Cafe Seating		
When seating not abutting R-District	ZC	
When seating abutting R-District	AUP	
Combination Commercial/Residential Uses		
Live/Work Units		
Not requiring a UP under Chapter 23E.20	ZC	
Requiring a UP under Chapter 23E.20	UP(PH)	
Mixed Use Developments (Residential/Commercial)	UP(PH)	Subject to the standards under Section 23E.44.070.E
Uses Incidental to a Permitted Use		
Amusement Devices (up to three)	UP(PH)	
Food or Beverage for Immediate Consumption	UP(PH)	Treated as Food Service Establishment and subject to numerical limitations in Table 23E.44.040 . Incidental Food and Beverage for Immediate Consumption off the premises is permitted as an Accessory Use of a Food Product Store.
Live Entertainment		
Unamplified	ZC	
Amplified	Prohibited	
Manufacturing Uses	UP(PH)	

Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	UP(PH)	
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.44.070.F
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.44.070.F

Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements under Section 23E.44.080
Nursing Homes	UP(PH)	Subject to parking requirements under Section 23E.44.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	
Miscellaneous Uses		
Automatic Teller Machines	Prohibited	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	

Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	
Emergency Shelter Up to 25 beds More than 25 beds	ZC UP(PH)	See Chapter 23C.10 .
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	Prohibited	
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage including Mini-storage Warehouses	Prohibited	
Wireless Telecommunications Facilities		

Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements and findings of Section 23C.17.100
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
Urban Agriculture		23C.26
Low-Impact Urban Agriculture (LIUA)	ZC	
High-Impact Urban Agriculture (HIUA)	AUP	
Legend:		
ZC – Zoning Certificate AUP – Administrative Use Permit UP(PH) – Use Permit, public hearing required Prohibited – Use not permitted	*Change of Use of floor area over 2,000 sq. ft. shall require an AUP.	

B. Any Use not listed that is compatible with the purposes of the C-E District shall be permitted subject to securing an Administrative Use Permit. Any Use that is not compatible with the purposes of the C-E District shall be prohibited.

C. The initial establishment, or change, of use of floor area of an existing non-residential building, or portion of building, shall be subject to the following permit requirements as listed in the legend of Table [23E.44.030](#). (Ord. 7635-NS § 7, 2019; Ord. 7620-NS § 13, 2018; Ord. 7599-NS § 22, 2018; Ord. 7513-NS § 1, 2016; Ord. 7425-NS § 8, 2015; Ord. 7354-NS § 4, 2014; Ord. 7322-NS § 7, 2013; Ord. 7204-NS § 5, 2011; Ord. 7191-NS § 5, 2011; Ord. 7155-NS § 11, 2010; Ord. 7129-NS § 11, 2010; Ord. 6671-NS § 7, 2002; Ord. 6669-NS § 1, 2001; Ord. 6644-NS § 2, 2001; Ord. 6478-NS § 4 (part), 1999)

23E.44.040 Special Provisions -- Numerical Limitations

A. Uses subject to numerical limitations as set forth in Table [23E.44.040](#) shall also be subject to the requirements of Section [23E.44.030](#). No such limitation may be exceeded unless the Board issues an Administrative Use Permit and makes the findings under Section [23E.44.090.C](#).

Table 23E.44.040			
Numerical Limitations			
Use	Number Limit	Size (sq. ft.)	Type of Permit
Art/Craft Shops, Gift/Novelty Shops, Jewelry/Watch Shops	No limit	1,500	Zoning Certificate
Bookstores, Periodical Stands	No limit	2,000	Zoning Certificate
Food Service Establishments:	25		
Photocopy Stores, Printing, Fax, Magnetic Disk Reproduction Services	No limit	1,000	Zoning Certificate

(Ord. 7635-NS § 8, 2019; Ord. 7513-NS § 2, 2016; Ord. 7191-NS § 6, 2011; Ord. 6478-NS § 4 (part), 1999)

23E.44.050 Construction of New Floor Area, Conversions of Existing Buildings --

Requirements for Use Permits

A. No new gross floor area shall be created unless a Use Permit is obtained. Creation of new floor area includes construction of new buildings or Accessory Buildings; additions to existing buildings; or the installation of new floor or Mezzanine levels within or onto existing buildings.

B. Existing buildings used for commercial activities shall not be converted, unless an Administrative Use Permit is obtained. (Ord. 6478-NS § 4 (part), 1999)

23E.44.060 Use Limitations*

A. No Commercial Use shall operate except between the hours of 7:00 a.m. and 11:00 p.m., unless a Use Permit is obtained and is in accordance with Section [23E.16.010](#).

B. Any Use which is incidental to the primary use of a building or property shall be subject to the permit requirements identified in the Uses Incidental to a Permitted Use heading, in Table [23E.44.030](#), except as below:

1. Any food service use shall be subject to the limitations in Table [23E.44.040](#) and shall not be considered as an Incidental Use for this District except when an accessory use to a Food Product Store.

C. Any activity or Use which occurs outside of a building shall be subject to the permit requirements identified in the Parking, Outdoor and Exterior Window Uses heading in Table [23E.44.030](#).

D. Adult-oriented Businesses, Amusement Device Arcades, and Non-Chartered Financial Institutions are not permitted in this District. Alcoholic Beverage Sales or Service Uses and Live/Work Uses shall be subject to the requirements of Chapters [23E.16](#) and [23E.20](#), in addition to the requirements of this District and below:

1. On-premises service or consumption of alcoholic beverages shall be permitted only as incidental consumption with meals in food service establishments. (Ord. 7513-NS § 3, 2016; Ord. 7425-NS § 9, 2015; Ord. 7191-NS § 7, 2011; Ord. 6478-NS § 4 (part), 1999)

*Specific text which previously amended this section on September 26, 2006 was repealed November 2006 as stated in the sunset provision (§ 22) of Ordinance 6,948-N.S.

23E.44.070 Development Standards

A. The FAR shall not exceed eight-tenths (.8) for an Interior or Through Lot and the FAR shall not exceed one for a Corner Lot.

B. The height for a Main Building shall not exceed the following limits and shall satisfy the following requirements:

Use Type	Height (ft.)	Stories (number)
All	28	2*

*Except that basement level devoted exclusively to parking shall not be counted as a story

C. No yards for Main Buildings, Accessory Buildings, or Accessory Structures shall be required, except as set forth below:

1. Subject to obtaining a revocable encroachment permit from the City Council, bay windows and balconies 11 feet or more above the sidewalk grade may extend three feet into a street right-of-way, provided, that, not more than 60% of the length of a building elevation shall extend beyond the property line.

D. When the subject lot is adjacent to an abutting or confronting lot in a residential zone, the requirements of Section [23E.04.050](#) and [23E.04.060](#) shall apply, for additional yard and building feature requirements, respectively and as below:

1. No food service establishment shall have any openings other than fixed windows and required fire exits within 50 feet of a residential zone. In addition, no food service establishments shall have any live entertainment other than unamplified background music.

E. Any Mixed Use building (residential and commercial) shall satisfy all of the standards and requirements of this District, except that the off-street parking and Usable Open Space requirements for the Residential Use portion shall be as set forth in the R-3 District requirements; provided, however, that the Board in its discretion may issue a Use Permit to modify the off-street parking and Usable Open Space requirements where it finds such modification promotes any of the general purposes set forth in Section [23E.44.090.B](#).

F. Exclusive Residential Uses shall be subject to the building site area, yard, coverage and parking requirements of the R-3 District standards and the height limit set forth in Section [23D.36.070.B](#). Other requirements are set forth below:

1. Each Dwelling Unit shall have Usable Open Space of at least 40 square feet with no dimension less than six feet;

2. No Residential Use shall be located on the ground floor within 20 feet of a property line along College or Ashby Avenue. (Ord. 6478-NS § 4 (part), 1999)

23E.44.080 Parking -- Number of Spaces

A. All parking shall be provided in accordance with the requirements of this section and Chapter [23E.28](#), except as set forth in this section.

B. The district minimum standard parking requirement for commercial floor area is two spaces per 1,000 square feet of gross floor area. This standard shall not apply to spaces less than 6,000 square feet, where no parking standard exists.

C. Construction which results in the creation of 6,000 or more square feet of commercial gross floor space shall be required to provide Off-street Parking Spaces at the minimum ratio of two spaces per 1,000 square feet of gross floor area of commercial space and in accordance with the requirements of Chapter [23E.28](#).

D. Any construction which results in the creation of 10,000 square feet of new or additional commercial gross floor space shall satisfy the loading space requirements of Chapter [23E.32](#). (Ord. 6856-NS § 13 (part), 2005: Ord. 6478-NS § 4 (part), 1999)

23E.44.090 Findings

A. In order to approve any Use Permit under this chapter, the Zoning Officer or Board must make the finding required by Section [23B.32.040](#). The Zoning Officer or Board must also make the findings required by the following paragraphs of this section to the extent applicable:

B. A proposed use or structure must do all of the following:

1. Encourage and maintain the present street frontage and pedestrian orientation of the District;
2. Be compatible in design and character with the commercial District and the adjacent residential neighborhoods;
3. Be compatible with the purposes set forth in Section [23E.44.020](#) and the existing character of the District.

In addition, a finding also shall be made that such action and its effects will not:

4. Interfere with the continuity of retail or compatible service facilities at the ground level;
5. Interrupt a continuous wall of building facades;
6. Generate traffic and parking demand beyond the capacity of the commercial District or significantly increase impacts on adjacent residential neighborhoods;
7. Result in domination of this District by one type of use;
8. Generate objectionable odors nor excessive levels of noise.

C. In order for a Use Permit under Section [23E.44.040](#).A, for an exception to exceed a numerical limitation for a use, to be granted the following finding must be made: The exception shall result in the positive enhancement

of the purposes of the District, as evidenced by neighborhood resident and merchant support and marketing surveys or other information indicating probable substantial patronage by surrounding residents. (Ord. 6478-NS § 4 (part), 1999)

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

**Zoning Ordinance Amendments modifying the definition of
Amusement Device Arcades and modifying permit
requirements for Amusement Device Arcades in the
Commercial Zoning District and as an incidental use to
maintain consistency throughout the BMC.**

The Department of Planning and Development is proposing to amend the Zoning Ordinance to regulate Amusement Device Arcades as Commercial Recreation Centers in the Commercial Zoning District, as well as modify regulations for Amusement Device Arcades when incidental to a permitted use for consistency throughout the Berkeley Municipal Code.

The hearing will be held on, October 11, 2022 at 6:00 p.m. 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 Robert Rivera, Senior Planner, Department of Planning and Development at rrivera@CityofBerkeley.info.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@cityofberkeley.info 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. 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.

Published: September 30, 2022 – The Berkeley Voice
Per California Government Code Sections 65856(a) and 65090.



I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on September 29, 2022.

Mark Numainville, City Clerk



Office of the City Manager

PUBLIC HEARING
October 11, 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.
-

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 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 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

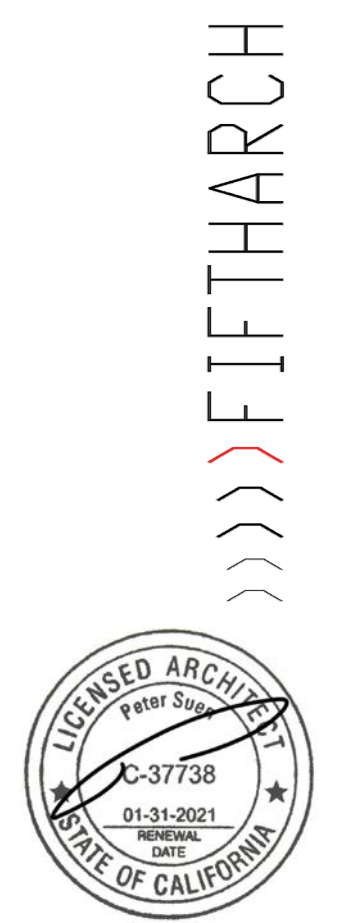
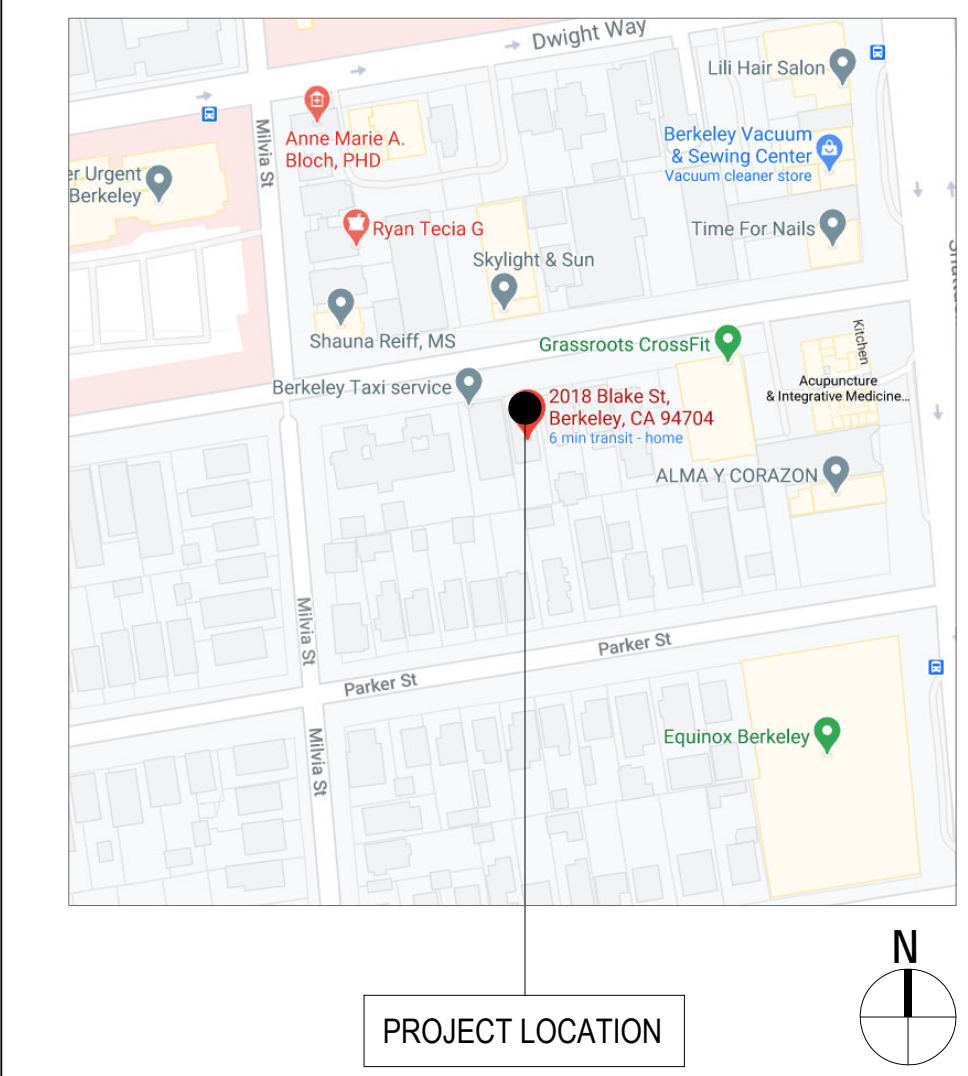
LEGAL
LOCATION: 2018 BLAKE STREET, BERKELEY, CA 94704
APN: 055182102100
ZONING: R-4
GENERAL PLAN AREA: HDR
FIRE ZONE: 1
FLOOD ZONE: NO

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



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

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

TITLE SHEET

A0.1

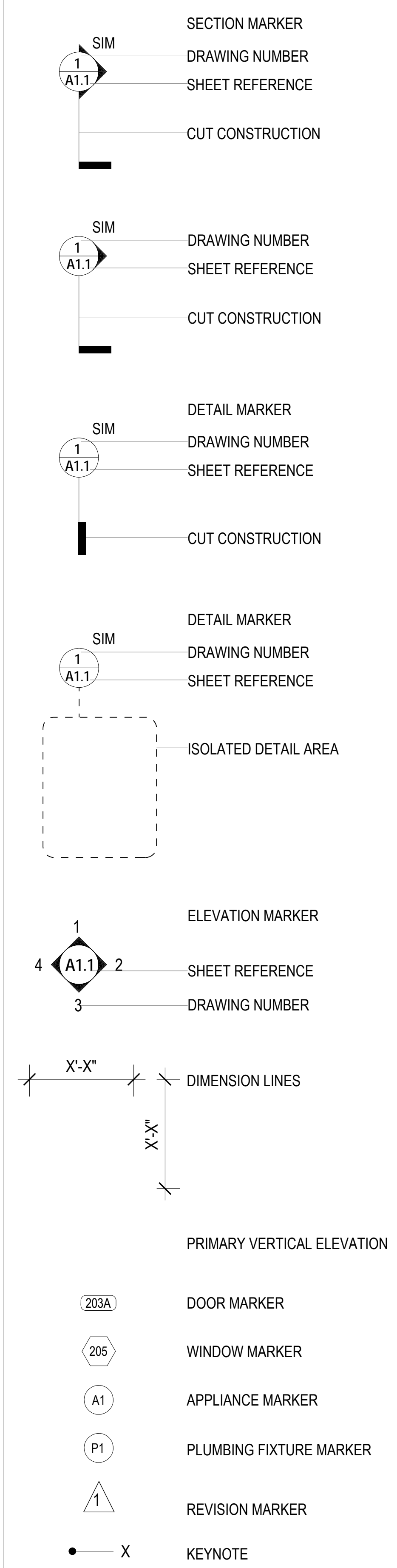
GENERAL NOTES & CONDITIONS

- NOTIFY ARCHITECT PROMPTLY IF ANY CONDITIONS CONFLICT WITH CONSTRUCTION DOCUMENTS.
 - FIELD VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS PRIOR TO FABRICATION/ CONSTRUCTION.
 - NOTIFY ARCHITECT OF ANY DISCREPANCIES BETWEEN DOCUMENTS, INCLUDING DISCREPANCIES BETWEEN ENGINEERING DOCUMENTS AND CONSTRUCTION DOCUMENTS.
 - 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.
 - 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.
 - 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**
- DIMENSIONS AS NOTED IN THE PLANS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS.
 - 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.
 - 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.
 - ALL DIMENSIONS ON ELEVATIONS ARE INDICATED FROM FINISH FLOOR ELEVATION TO FIXTURE AND/OR FINISH WALL UNLESS OTHERWISE NOTED.
 - ALL HEIGHTS ARE DIMENSIONED FROM THE TOP OF PLYWOOD OR SLAB, UNLESS NOTED "A.F.F."
 - DIMENSIONS ARE NOT ADJUSTABLE, UNLESS NOTED (+/-), WITHOUT ARCHITECT'S WRITTEN APPROVAL.
 - 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
 - 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	OFS 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

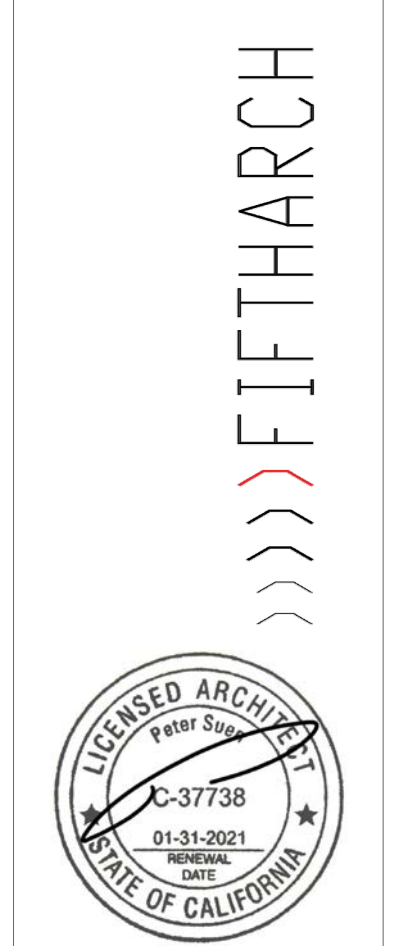
NATURAL GAS PROHIBITION, BERKELEY ENERGY & GREEN CODE
THE BUILDING WILL NOT INCLUDE ANY NATURAL GAS INFRASTRUCTURE IN COMPLIANCE WITH BMC CHAPTER 12.80.

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	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

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

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%	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
1. SIDE SETBACKS
2. REAR SETBACKS
3. LOT COVERAGE

PROJECT
2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

ISSUES & REVISIONS

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

DENSITY BONUS STATEMENT

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

A0.3

FIFTHARCH
LICENSED ARCHITECT
No. 37738
01-31-2021
ARCHITECT
STATE OF CALIFORNIA



1



2



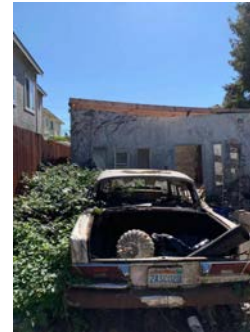
3



4



5



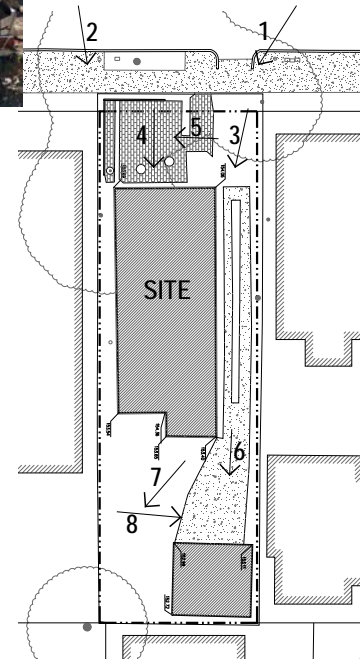
6





7



8







PROJECT
2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

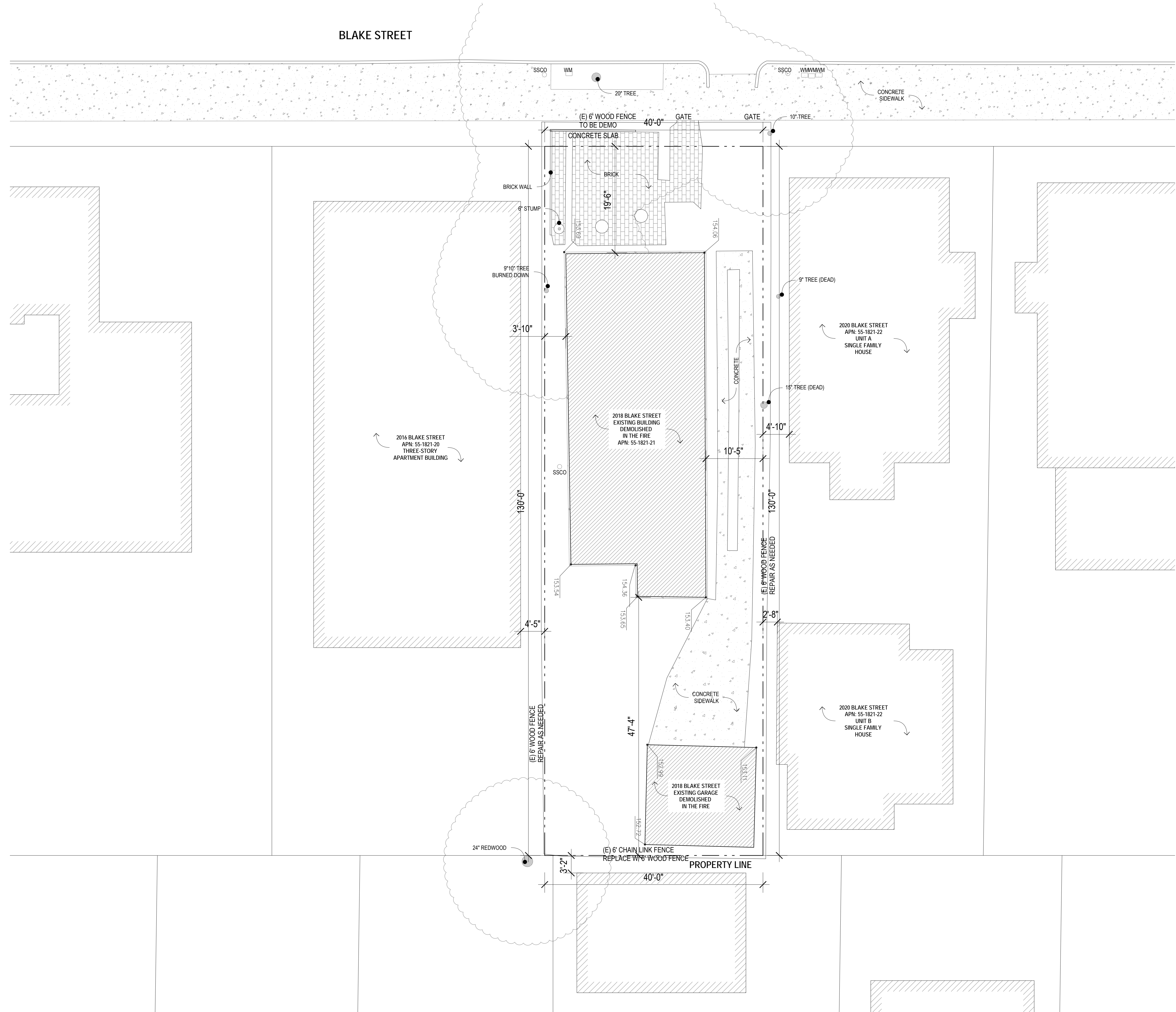
ISSUES & REVISIONS	
NO.	DATE

DESCRIPTION	PLANNING APPROVAL SUBMITTAL
	1ST PLANNING COMMENTS

DATE	8/11/2021
SCALE	CHECKED BY PS

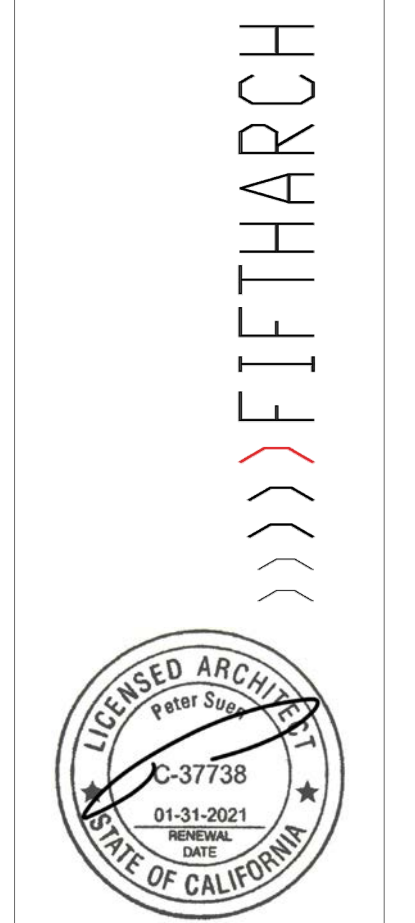
SITE PHOTO

A0.9



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

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

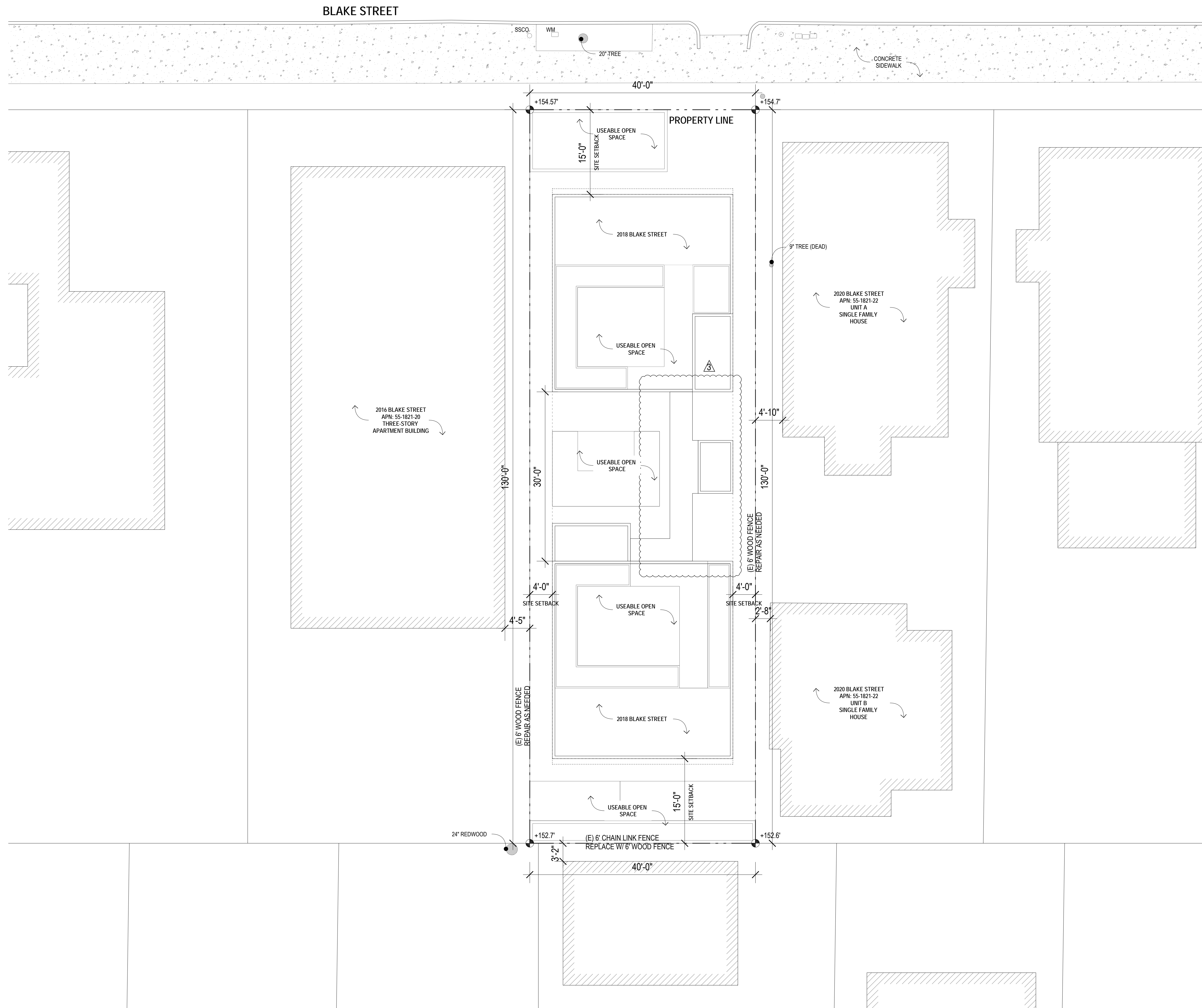


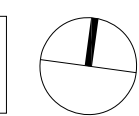
PROJECT
 2018 BLAKE STREET
 2018 BLAKE STREET
 BERKELEY, CA 94704

ISSUES & REVISIONS	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

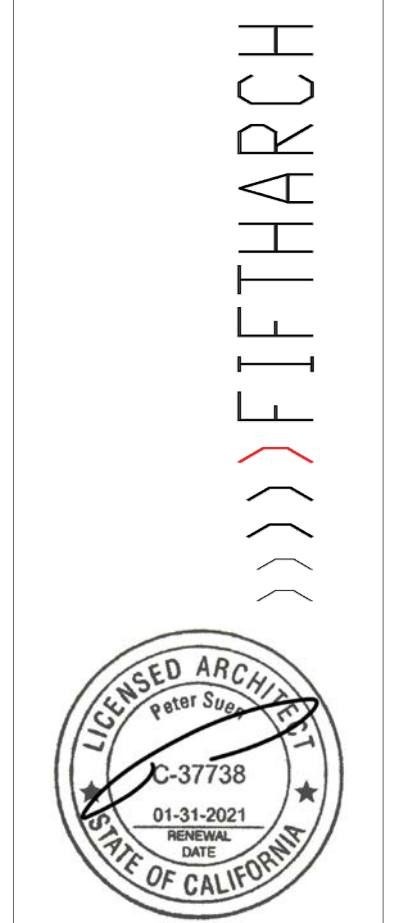
EXISTING SITE PLAN
 DATE: 11/15/2022
 SCALE: 1/8" = 1'-0"
 DRAWING BY: YZ
 CHECKED BY: PS

A1.1



PROPOSED SITE PLAN **1** 

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



PROJECT
2018 BLAKE STREET
 2018 BLAKE STREET
 BERKELEY, CA 94704

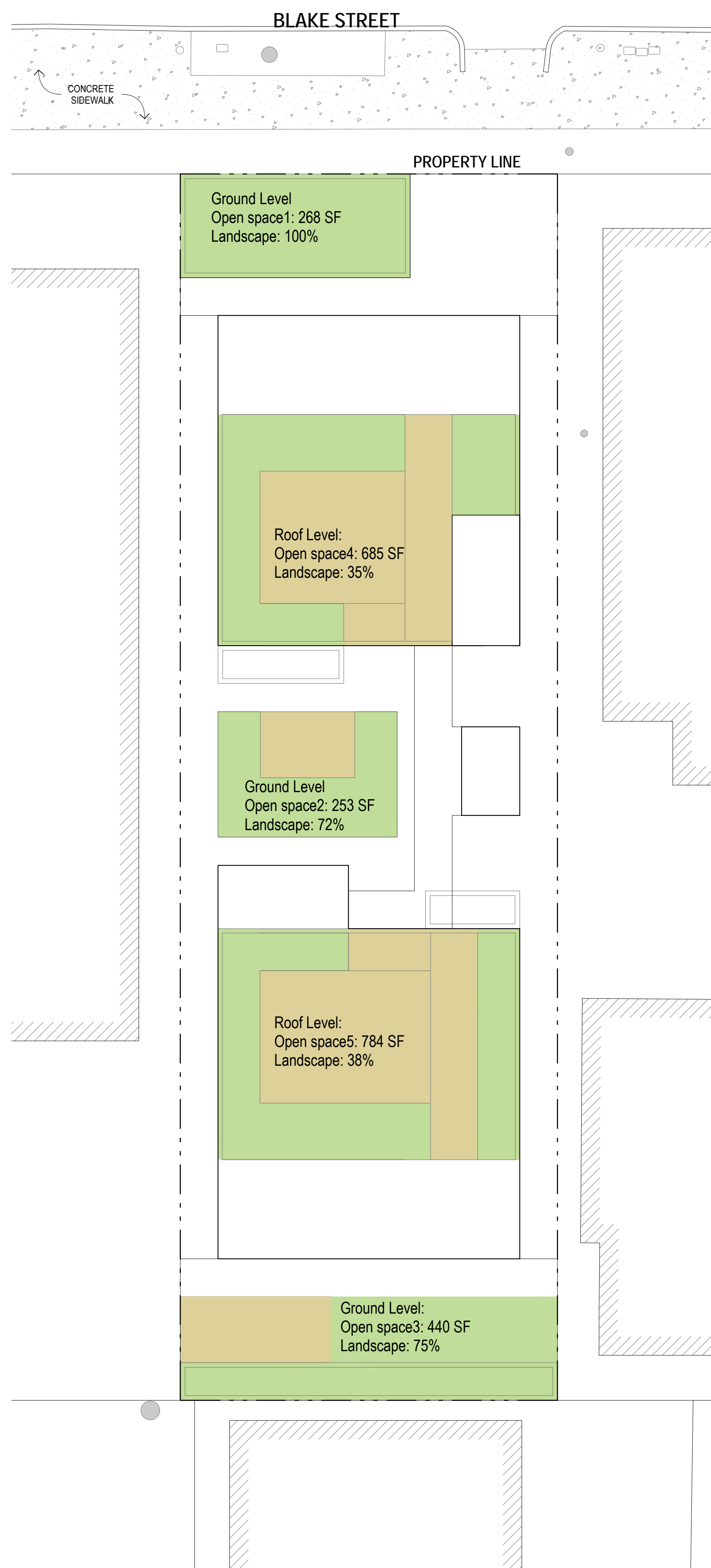
ISSUES & REVISIONS	NO.	DATE	DESCRIPTION
		04/28/2021	PLANNING APPROVAL SUBMITTAL
	△	07/05/2021	PLANNING APPROVAL 1ST COMMENTS
	△	09/25/2021	PLANNING APPROVAL 2ND COMMENTS
	△	12/20/2021	PLANNING APPROVAL 3RD COMMENTS

PROPOSED SITE PLAN

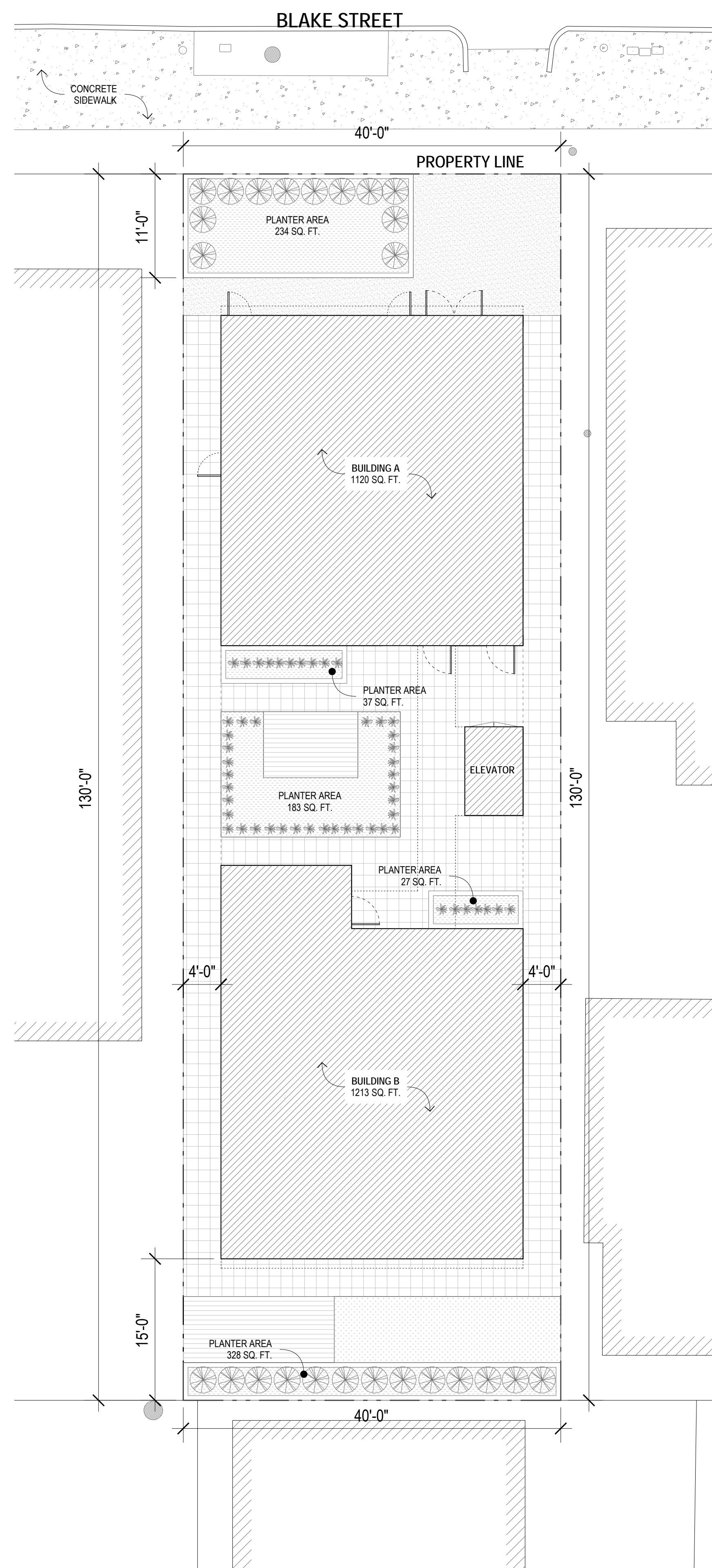
DATE: 1/15/2022
 SCALE: 1/8" = 1'-0"

DRAWING BY: YZ
 CHECKED BY: PS

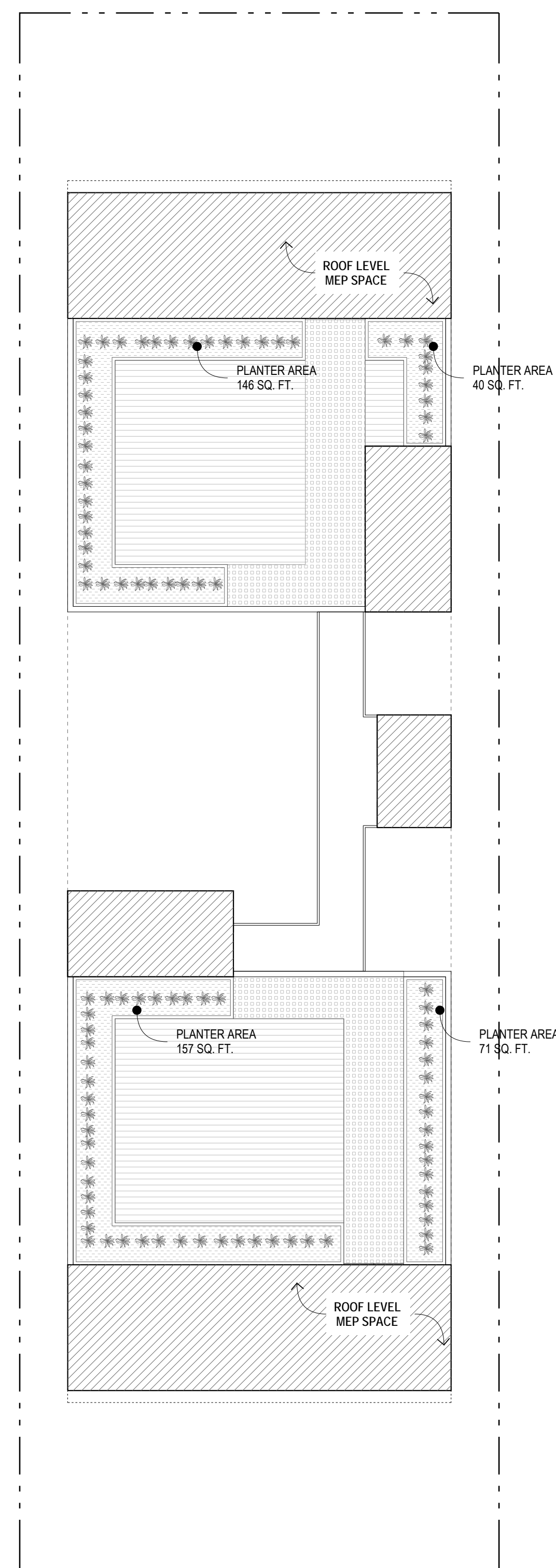
A1.2



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:

- 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.
- ALL TREES TO HAVE SUFFICIENT CENTRAL LEADERS TO ASSURE GROWTH AND SURVIVABILITY.
- (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.
- 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:

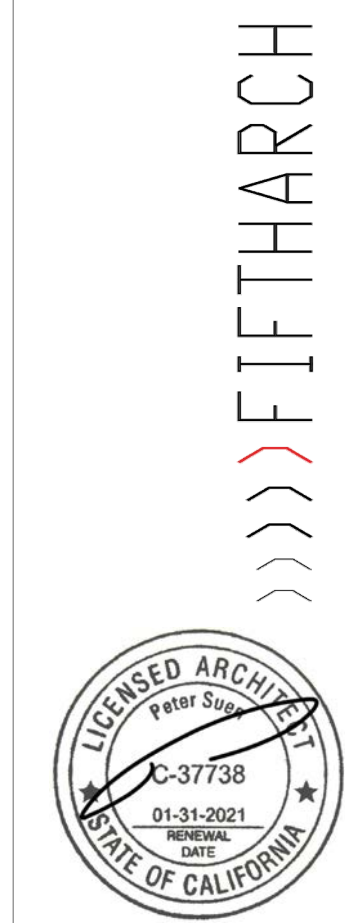
FRONT YARD PLANTER:	234 SQ. FT.
CENTRAL YARD PLANTER 1:	37 SQ. FT.
CENTRAL YARD PLANTER 2:	183 SQ. FT.
CENTRAL YARD PLANTER 3:	27 SQ. FT.
REAR YARD PLANTER:	328 SQ. FT.
ROOF PLANTER 1:	146 SQ. FT.
ROOF PLANTER 2:	40 SQ. FT.
ROOF PLANTER 3:	157 SQ. FT.
ROOF PLANTER 4:	71 SQ. FT.
TOTAL AREA:	1223 SQ. FT.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



PROJECT
2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

ISSUES & REVISIONS

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

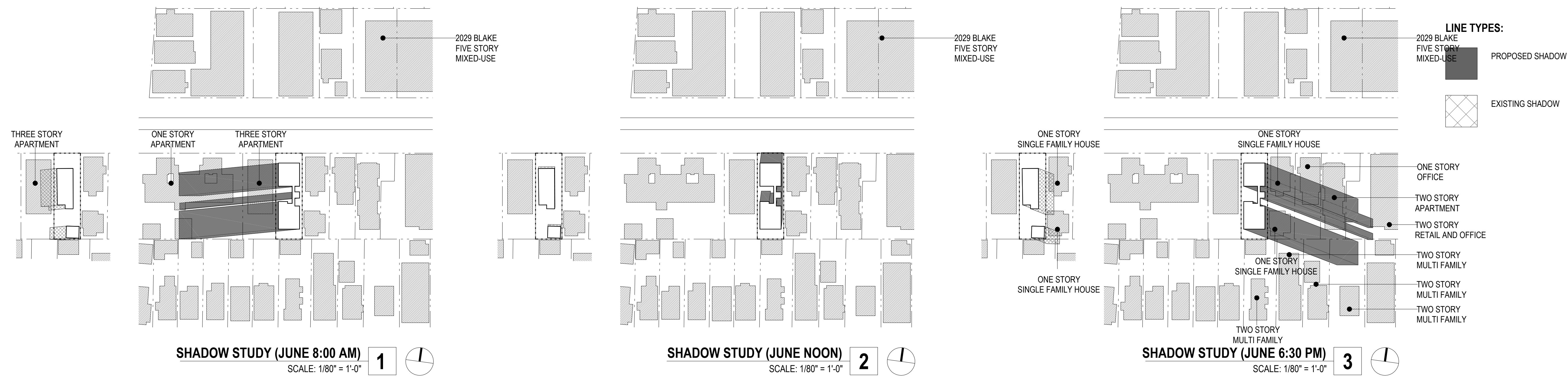
LANDSCAPE AREA DIAGRAM

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

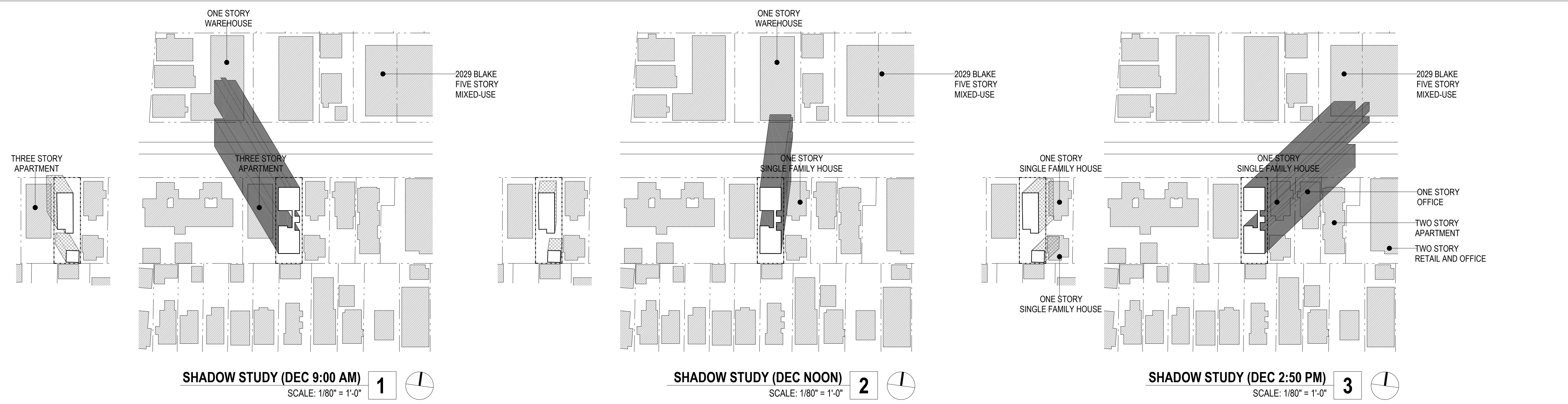
DRAWING BY: YZ
CHECKED BY: PS

A1.3

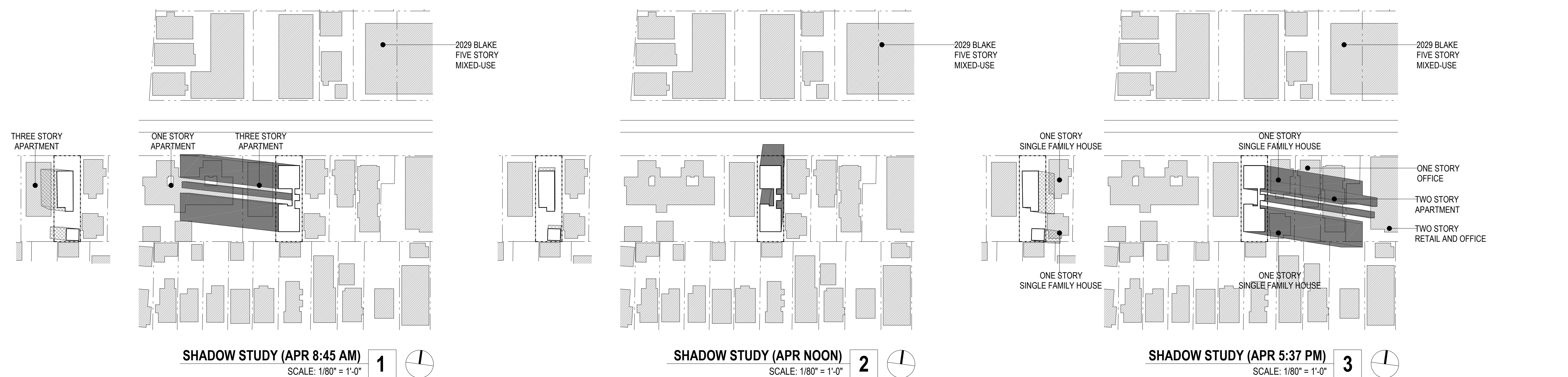
JUNE



DECEMBER



APRIL
(SUBMITTED MONTH)



ISSUES & REVISIONS

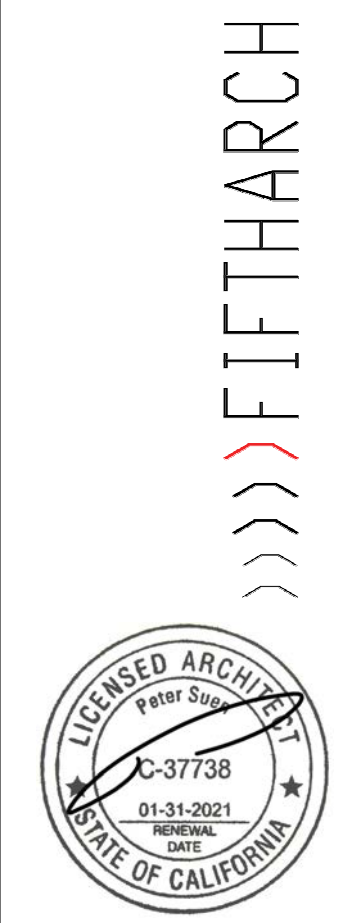
NO.	DATE	DESCRIPTION
1	04/28/2021	PLANNING APPROVAL SUBMITTAL
2	07/05/2021	PLANNING APPROVAL 1ST COMMENTS
3	09/25/2021	PLANNING APPROVAL 2ND COMMENTS
4	12/20/2021	PLANNING APPROVAL 3RD COMMENTS

PROJECT
2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

SHADOW STUDIES

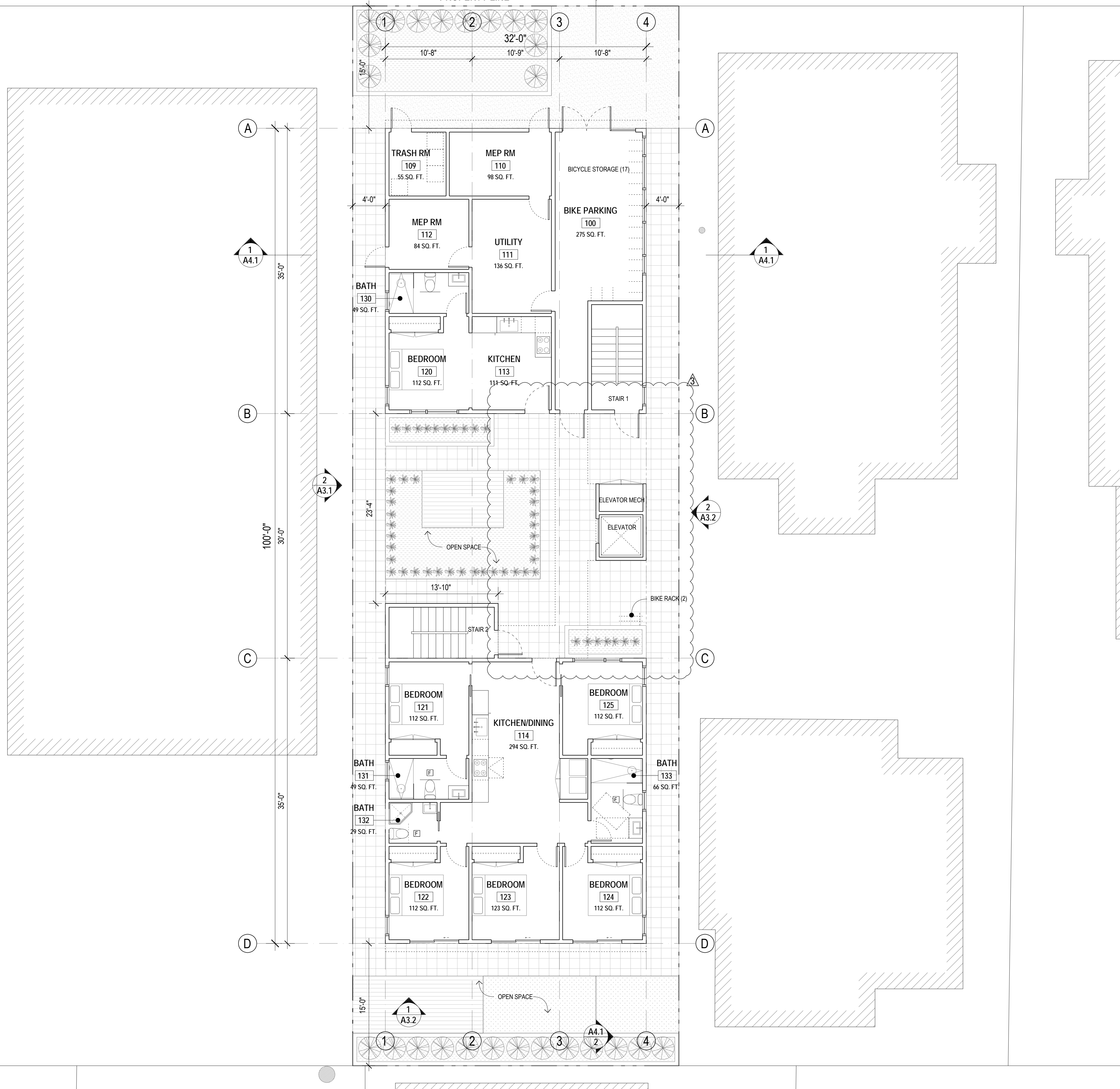
DATE: 3/6/2022
SCALE: 1/80"=1'-0"
DRAWING BY: YZ
CHECKED BY: PS

A1.4



BLAKE STREET

PROPERTY LINE

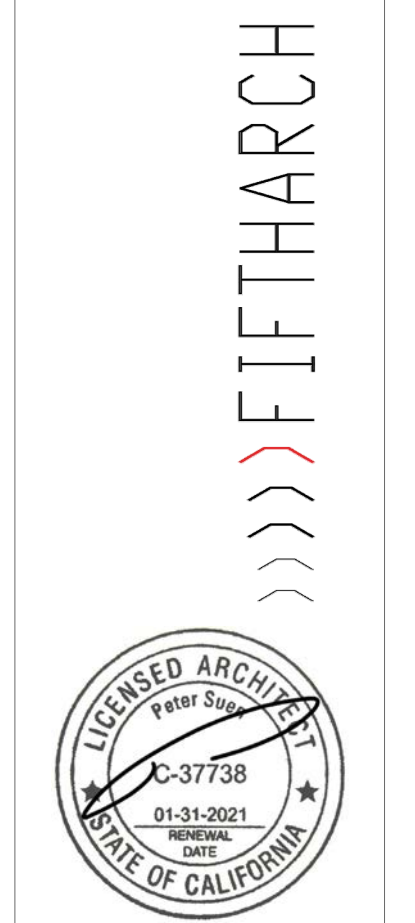


SHEET NOTES:

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. 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
- ☐ FAN (PER 2013 CGC §4.506)



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

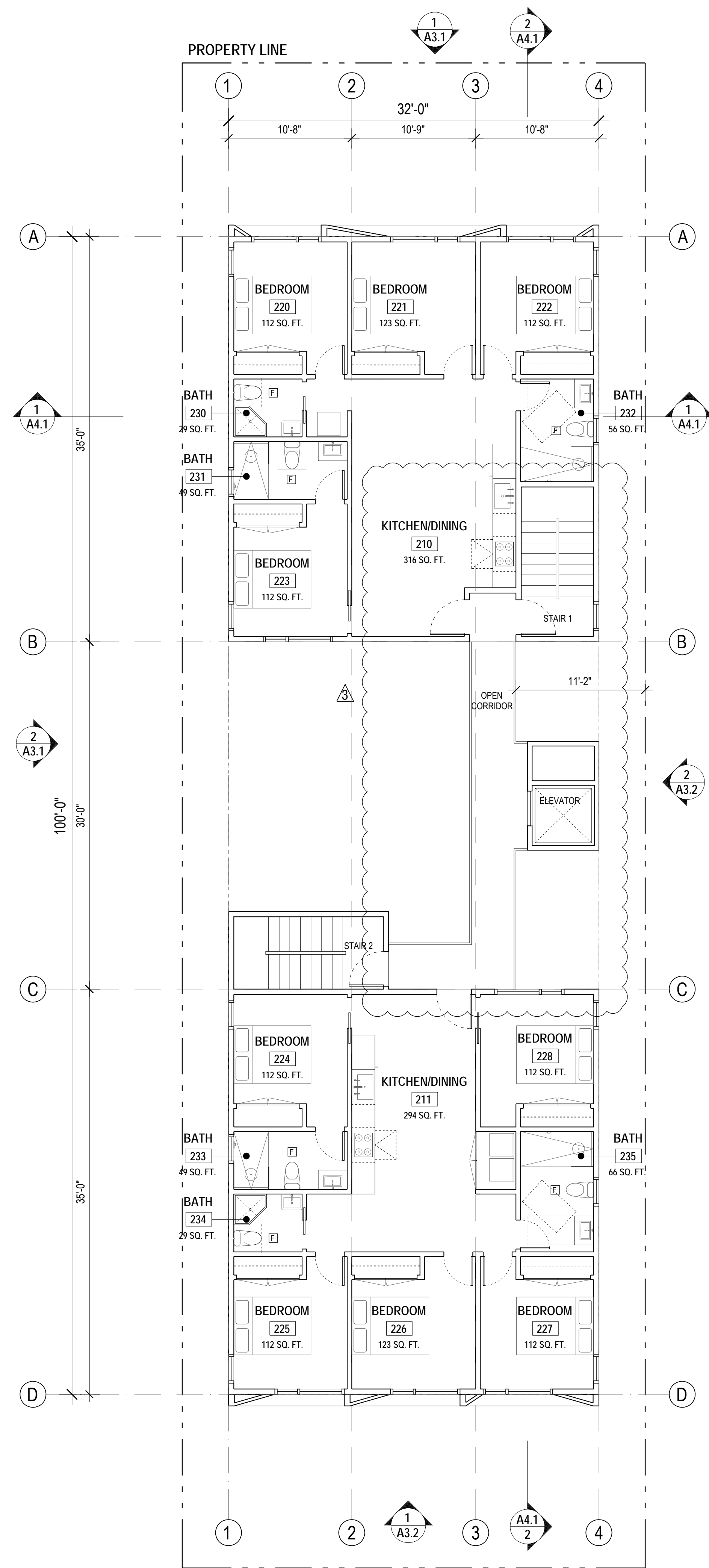
ISSUES & REVISIONS	
NO.	DATE
1	04/28/2021
2	07/05/2021
3	09/25/2021
4	12/20/2021

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

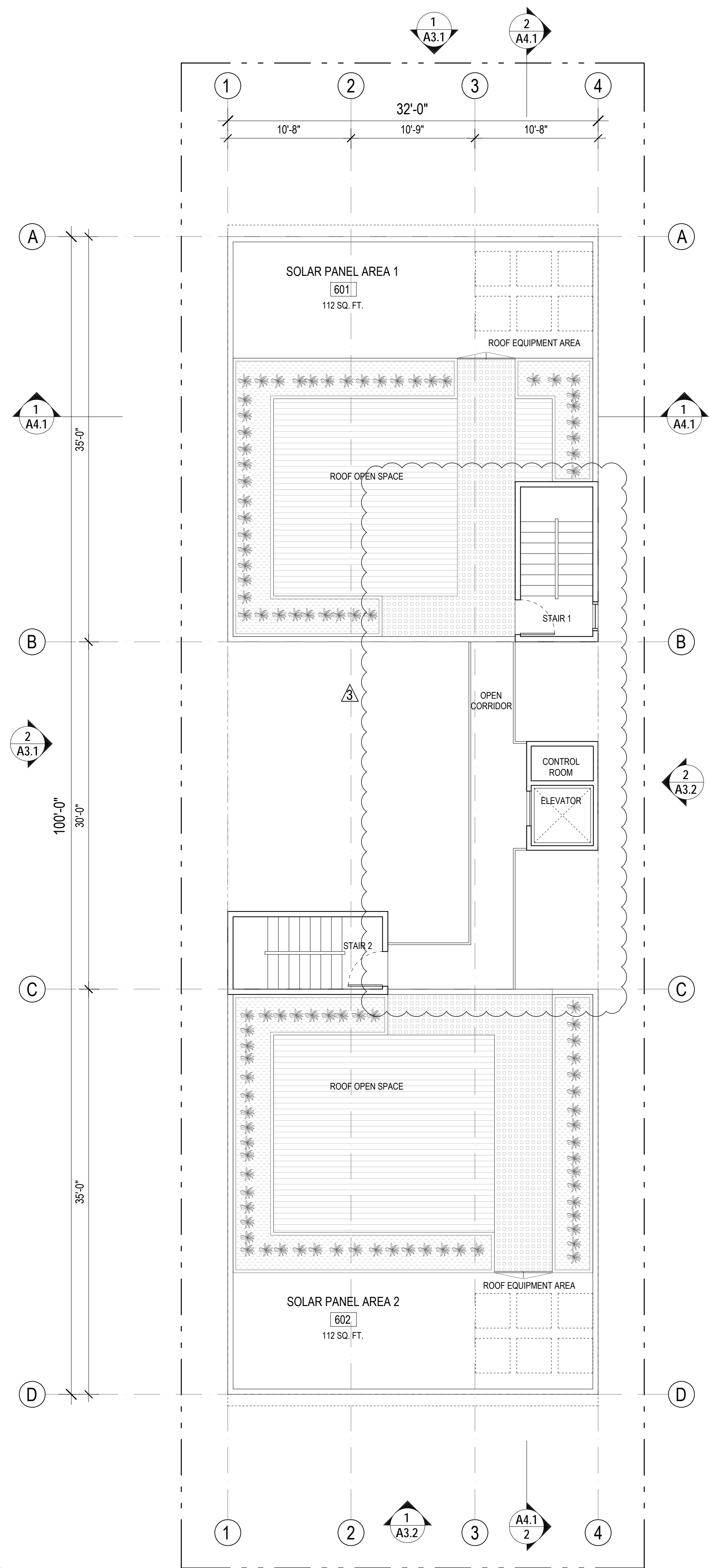
GROUND FLOOR PLAN
SCALE: 1/8" = 1'-0"

1

A2.1



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



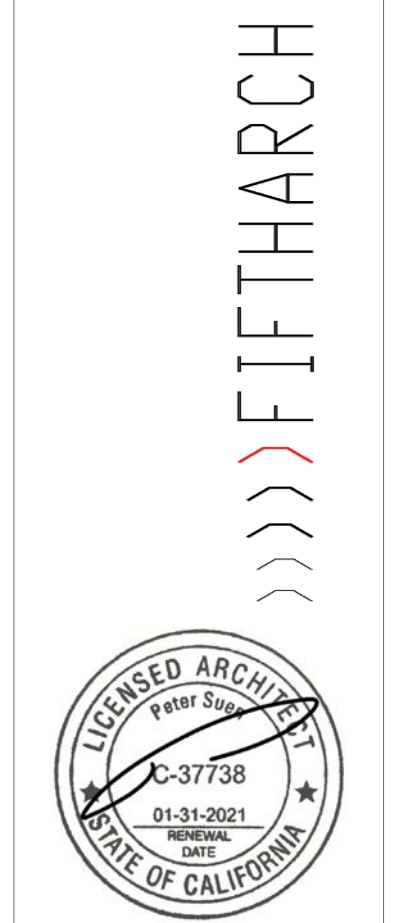
ROOF PLAN
SCALE: 1/8" = 1'-0" 2

SHEET NOTES:

- 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.
- 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)



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





LEVEL 2 - 6 FLOOR PLAN & ROOF PLAN

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

DRAWING BY: YZ
CHECKED BY: PS

A2.2


MATERIAL

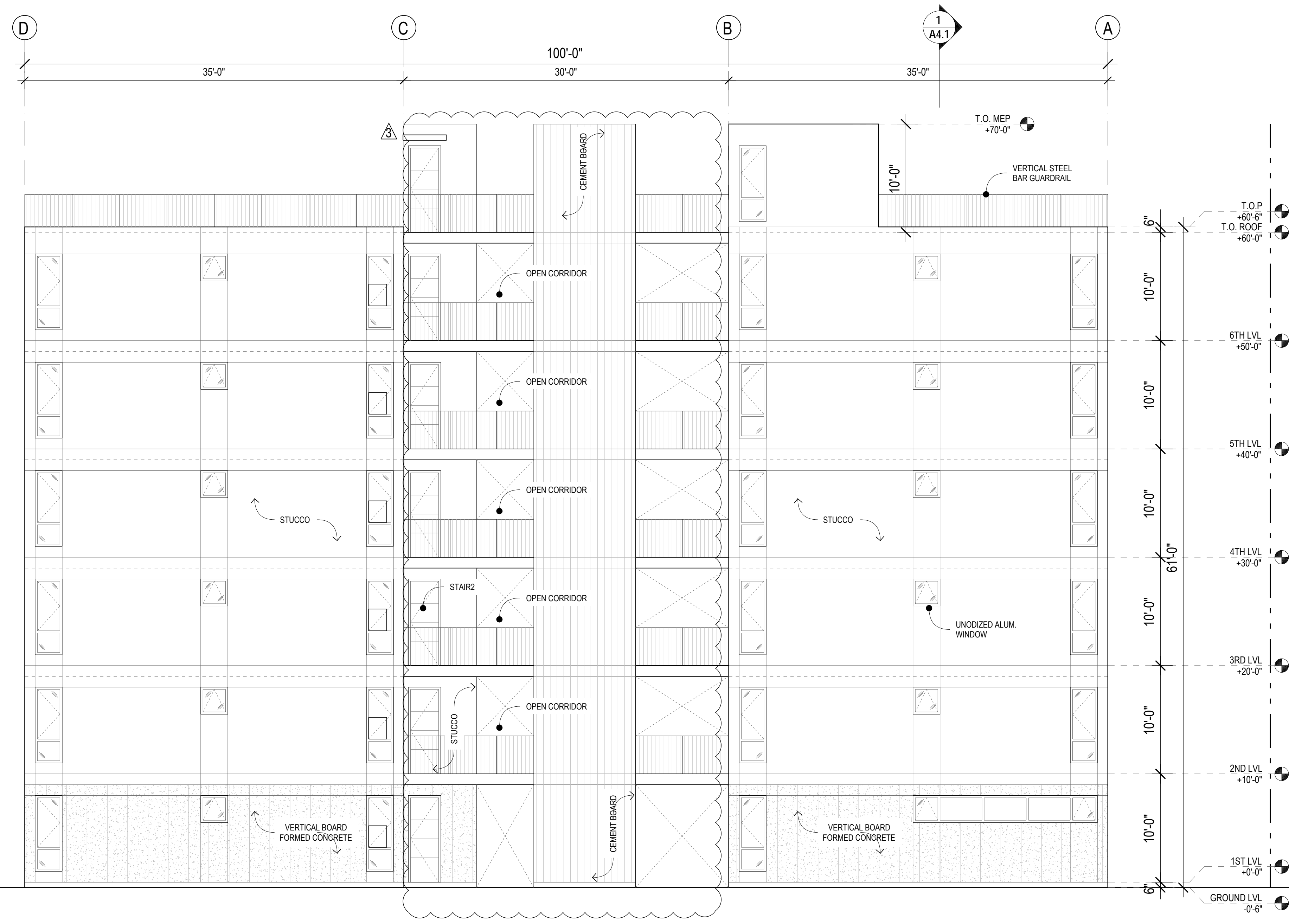
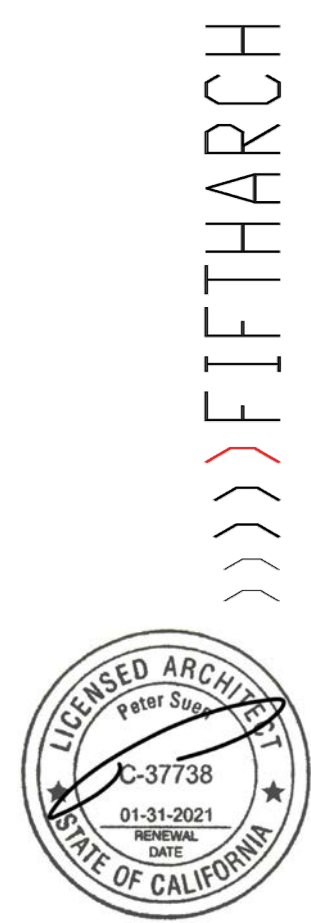
-  STUCCO
-  CEMENT BOARD
-  VERTICAL STEEL BAR GUARDRAIL
-  VERTICAL BOARD FORMED CONCRETE

SHEET NOTES:

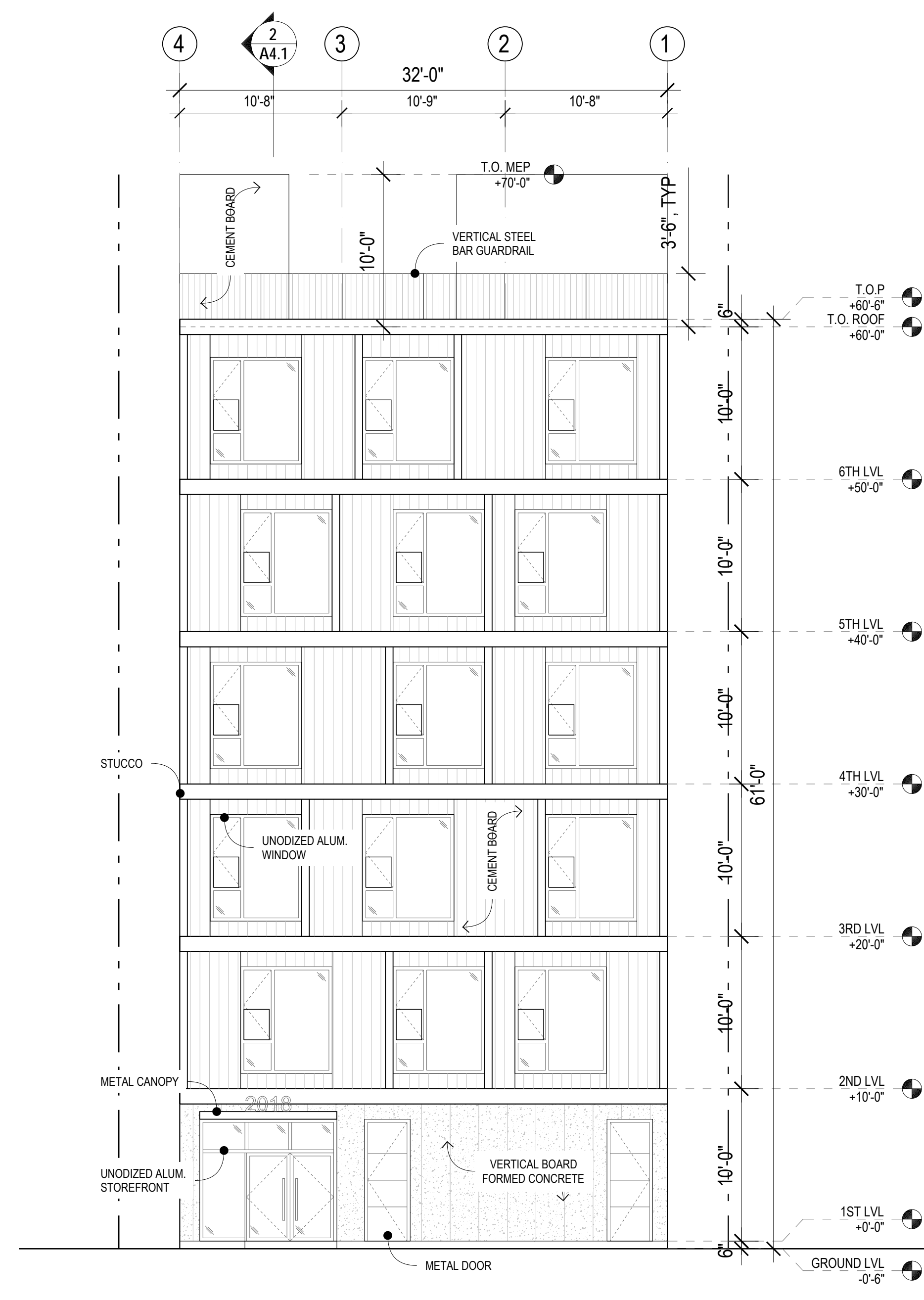
1. ALL NEW WINDOWS AND GLASS DOORS SHALL BE DOUBLE PANED, INSULATED W/ MAX U-VALUES AS STATED ON THE CALIFORNIA TITLE-24 REPORT. TEMP. MFGR LABELS SHOWING NEW GLAZING U-VALUES SHALL NOT BE REMOVED UNTIL BLDG. INSPECTOR AUTHORIZES TO DO SO.

LEGEND

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



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







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

PROJECT		2018 BLAKE STREET 2018 BLAKE STREET BERKELEY, CA 94704	
ISSUES & REVISIONS	NO.	DESCRIPTION	
	DATE	PLANNING APPROVAL SUBMITTAL	
	DATE	PLANNING APPROVAL 1ST COMMENTS	
	DATE	PLANNING APPROVAL 2ND COMMENTS	
DATE	PLANNING APPROVAL 3RD COMMENTS		
PROPOSED BUILDING ELEVATIONS		DRAWING BY: YZ	CHECKED BY: PS
DATE: 11/15/2022	SCALE: AS NOTED		

A3.1

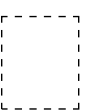
MATERIAL

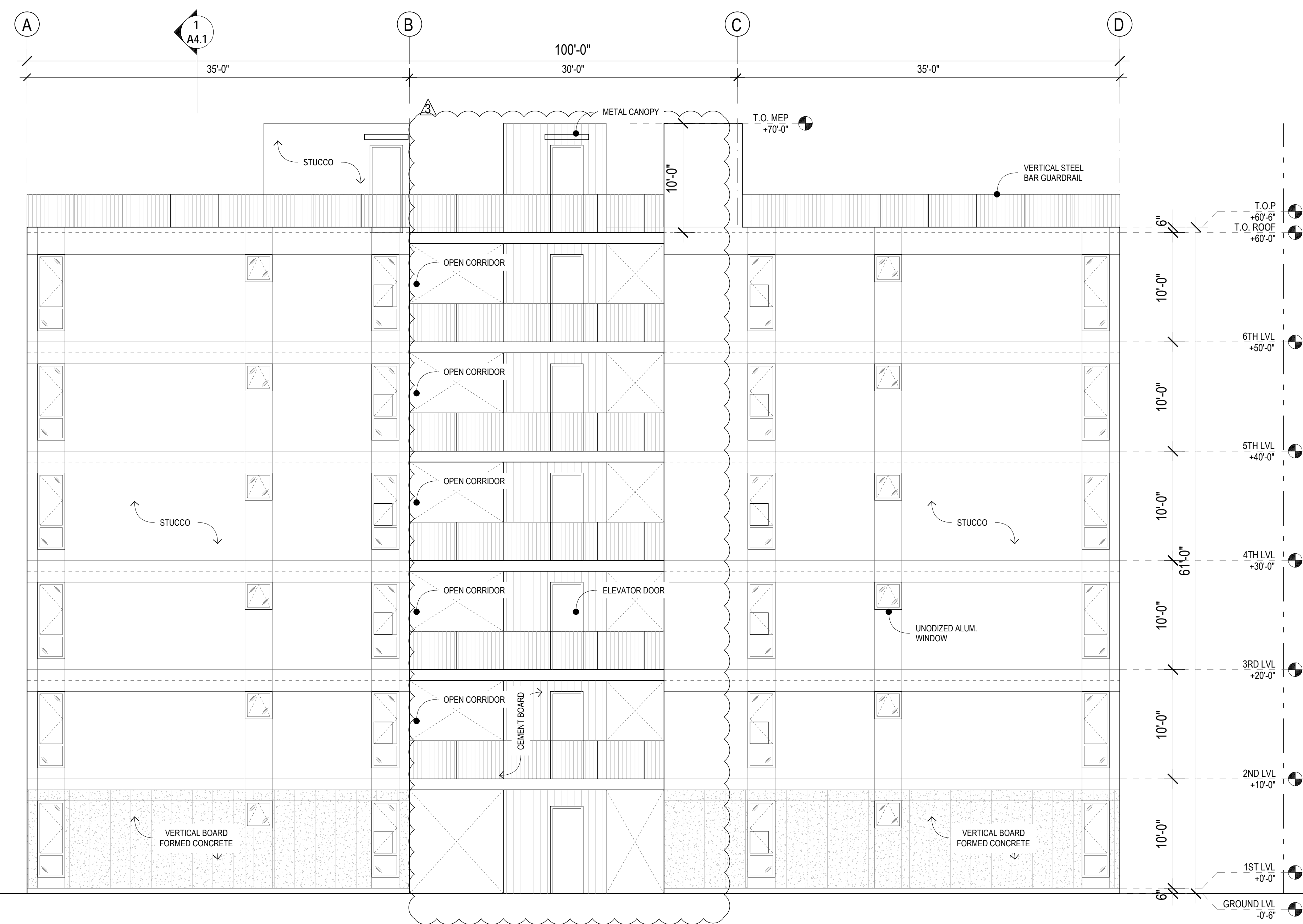
-  STUCCO
-  CEMENT BOARD
-  VERTICAL STEEL BAR GUARDRAIL
-  VERTICAL BOARD FORMED CONCRETE

SHEET NOTES:

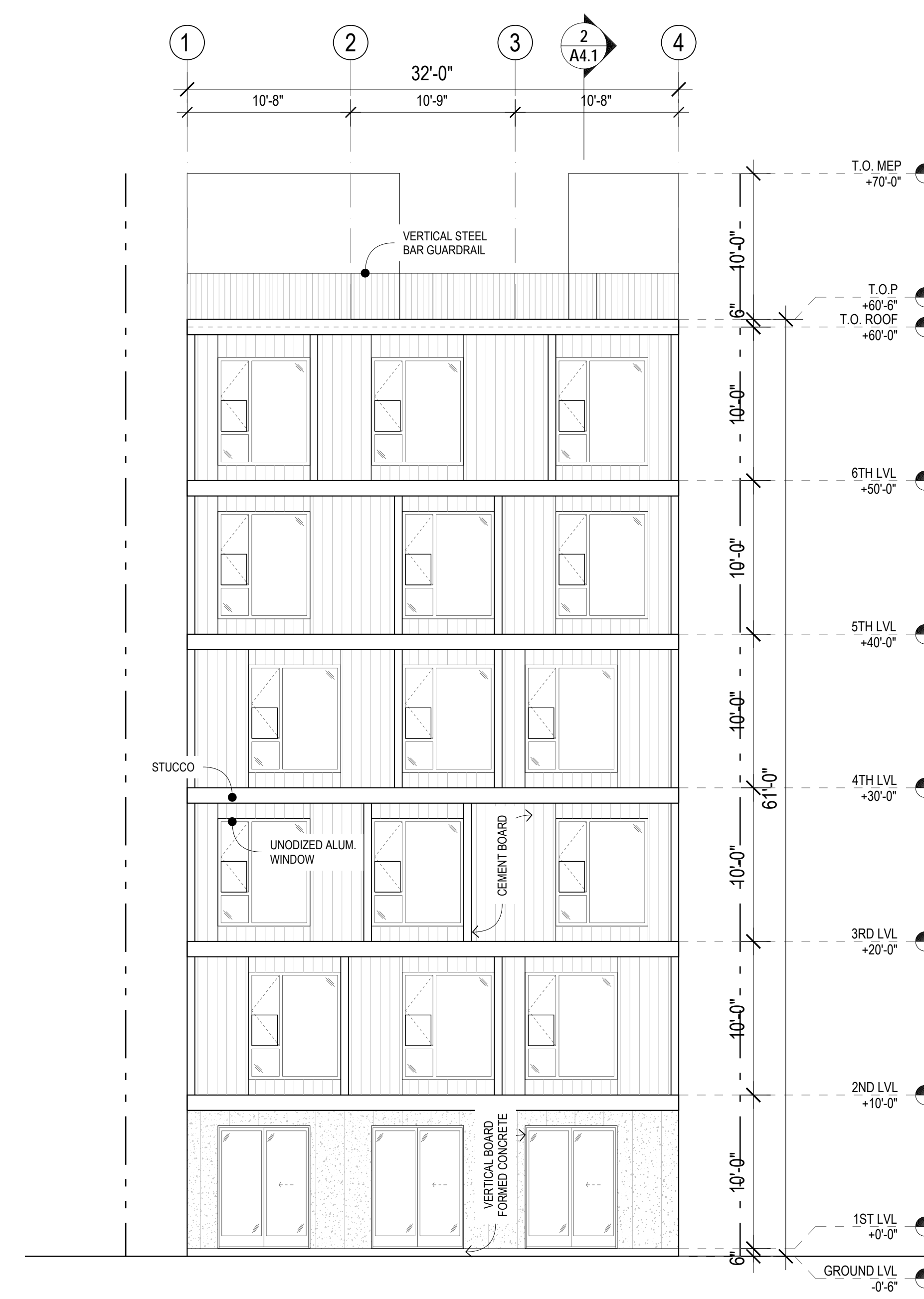
1. ALL NEW WINDOWS AND GLASS DOORS SHALL BE DOUBLE PANED, INSULATED W/ MAX U-VALUES AS STATED ON THE CALIFORNIA TITLE-24 REPORT. TEMP. MFG. LABELS SHOWING NEW GLAZING U-VALUES SHALL NOT BE REMOVED UNTIL BLDG. INSPECTOR AUTHORIZES TO DO SO.

LEGEND

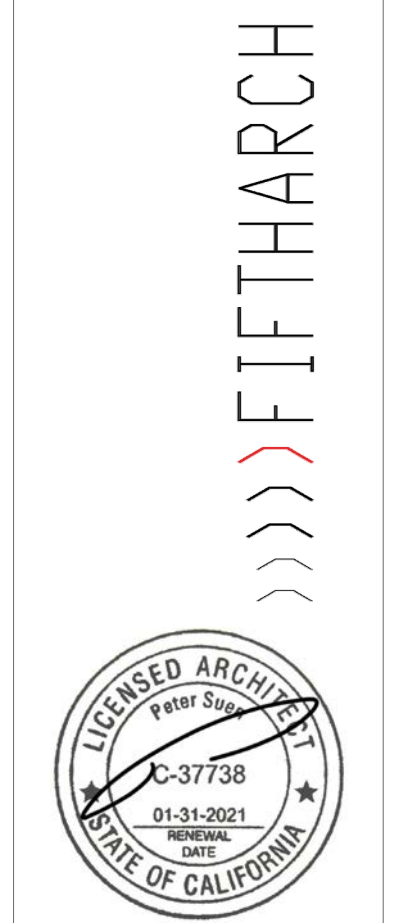
 EGRESS WINDOW, MAX 44" ABV. F.F., 20" MIN. CLEAR WIDTH & 24" MIN. NET CLEAR OPENING HEIGHT



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



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



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	DRAWING BY: YZ
SCALE: AS NOTED	CHECKED BY: PS

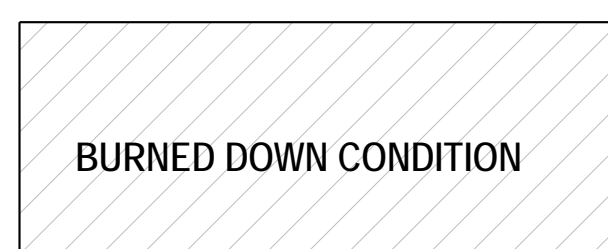
A3.2



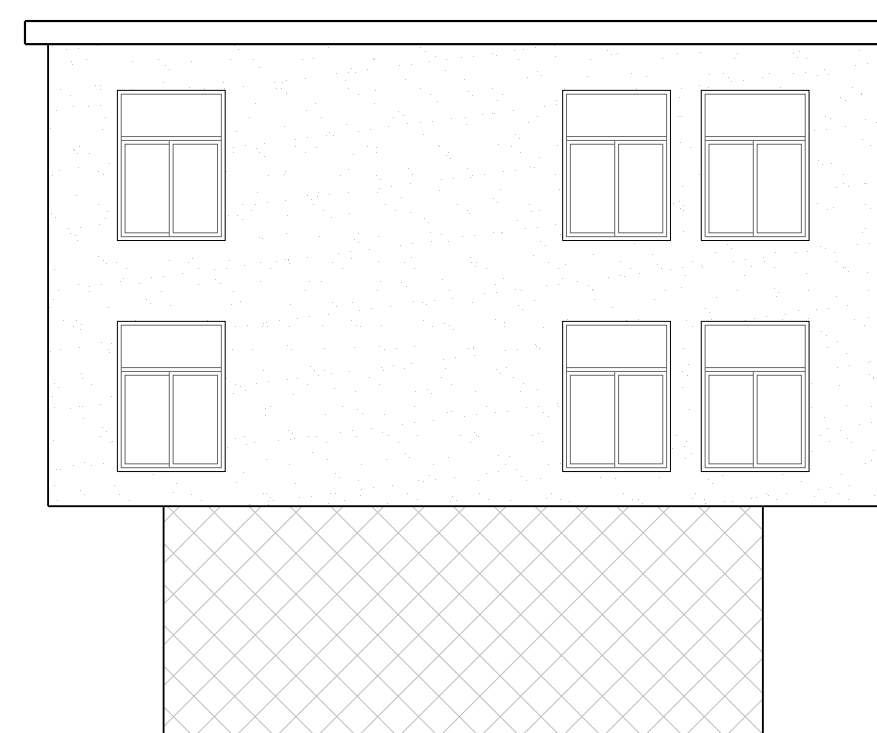
2022 BLAKE STREET



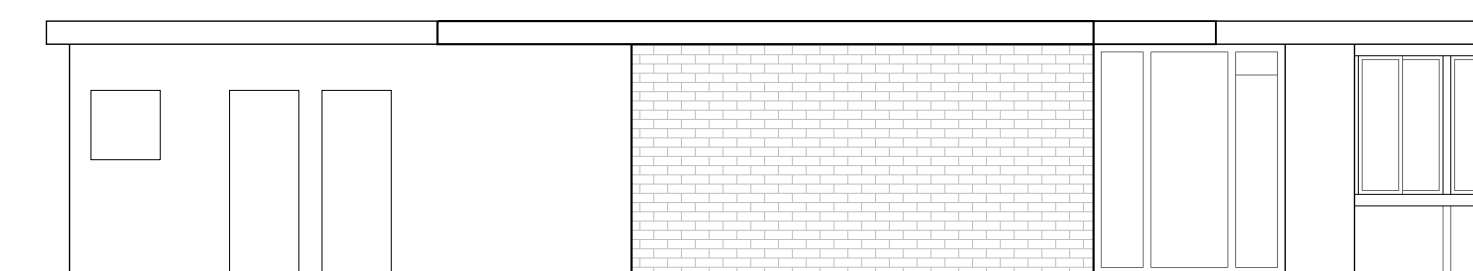
2020 BLAKE STREET



2018 BLAKE STREET



2016 BLAKE STREET



2006 BLAKE STREET

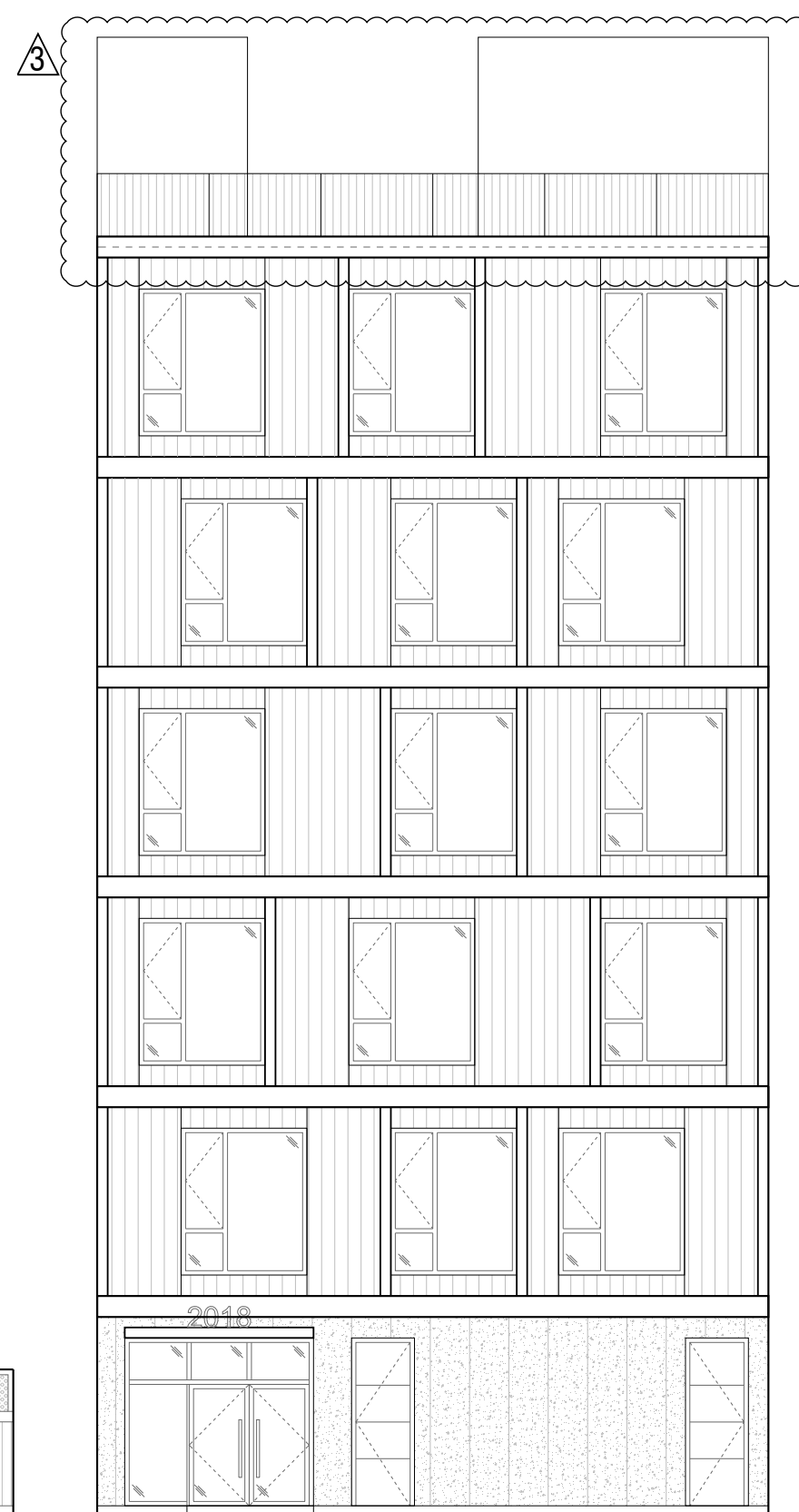
EXISTING STREET ELEVATION **1**
SCALE: 1/8" = 1'-0"



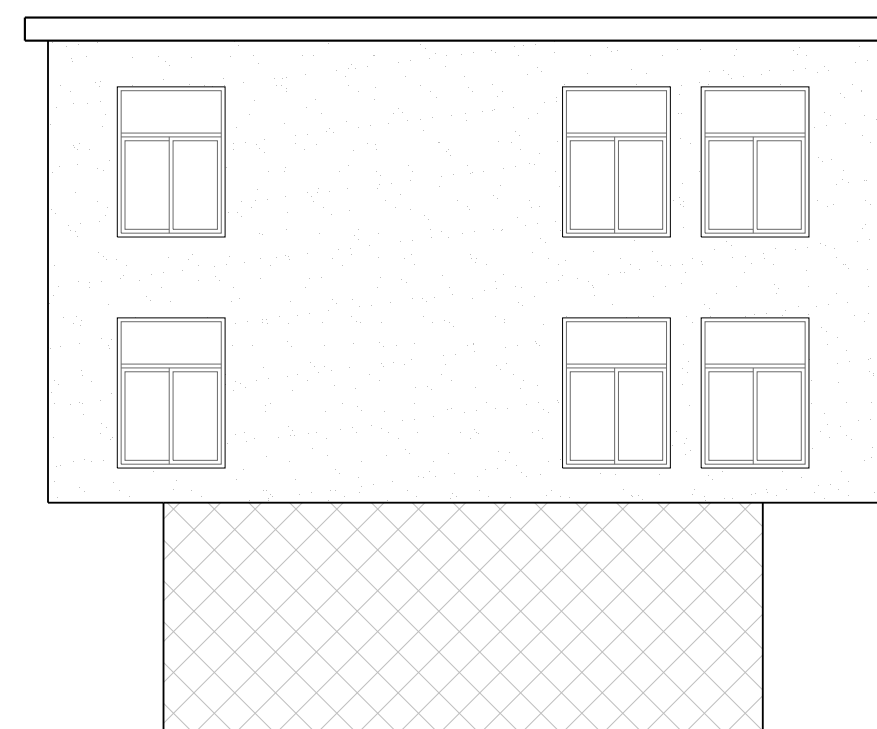
2022 BLAKE STREET



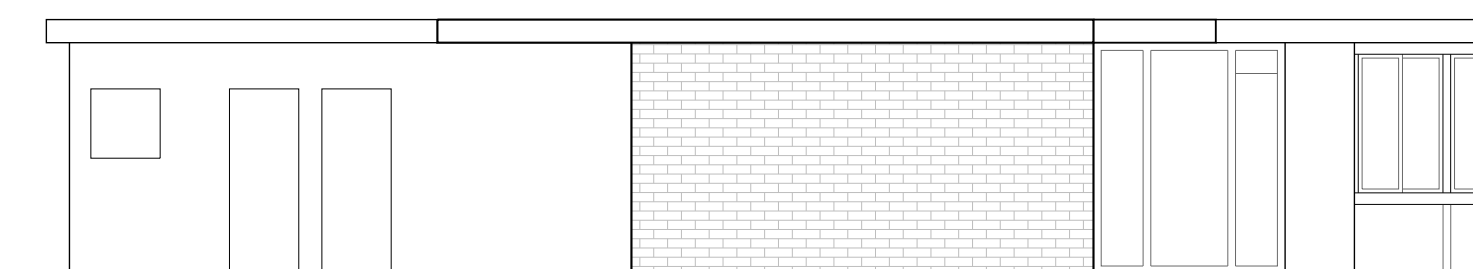
2020 BLAKE STREET



2018 BLAKE STREET



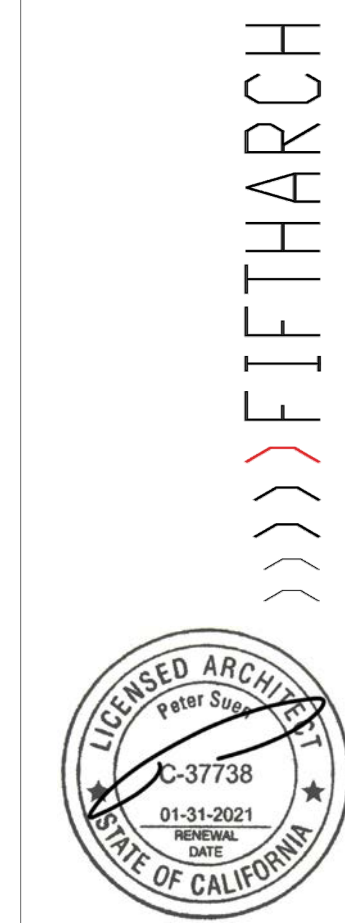
2016 BLAKE STREET



2006 BLAKE STREET

BLAKE STREET

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

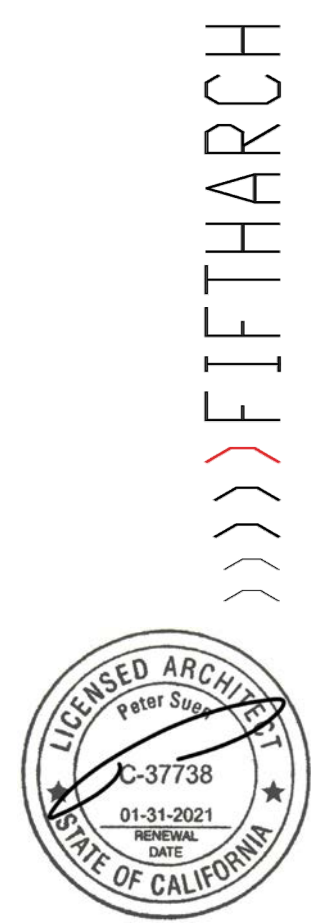


PROJECT
2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

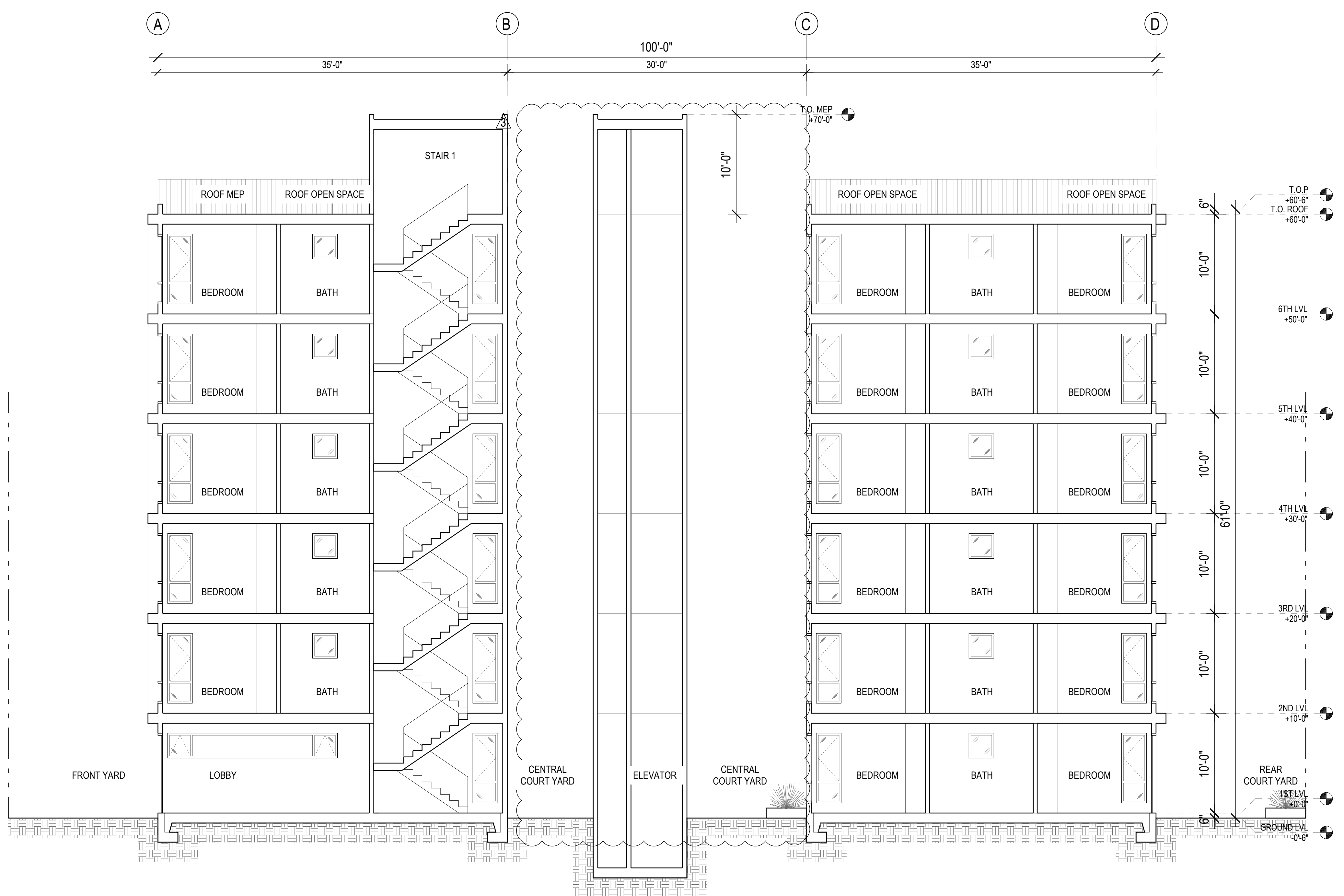
ISSUES & REVISIONS	NO.	DATE	DESCRIPTION
	A	04/28/2021	PLANNING APPROVAL SUBMITTAL
	A	07/05/2021	PLANNING APPROVAL 1ST COMMENTS
	A	09/25/2021	PLANNING APPROVAL 2ND COMMENTS
	A	12/20/2021	PLANNING APPROVAL 3RD COMMENTS

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

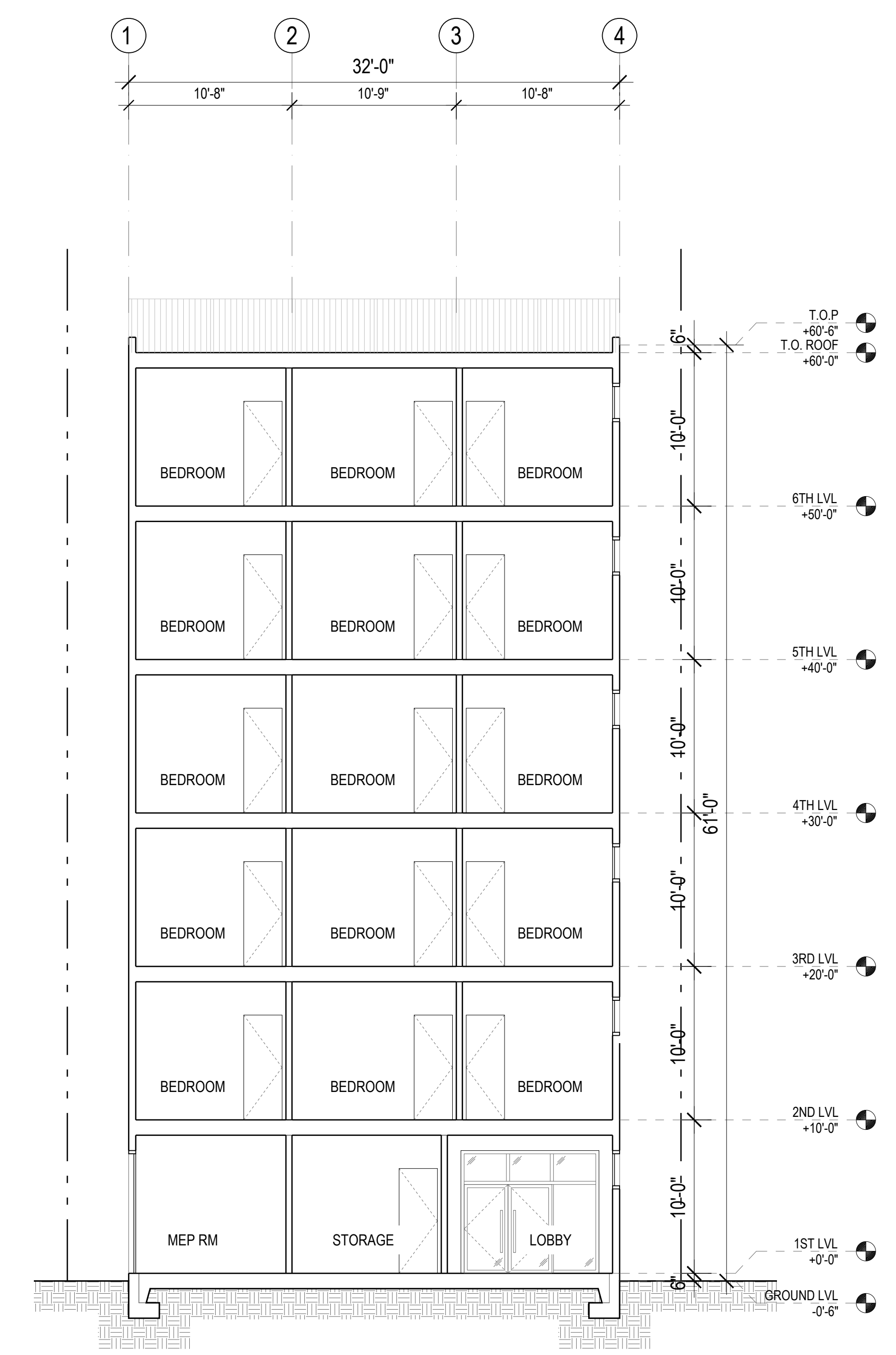
A3.3



FIFTHARCH



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



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

PROJECT
2018 BLAKE STREET
2018 BLAKE STREET
BERKELEY, CA 94704

ISSUES & REVISIONS	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

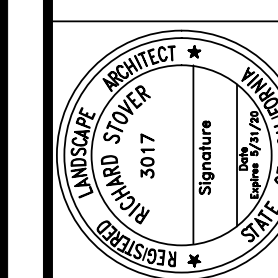
BUILDING SECTIONS

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

A4.1

REVISIONS	

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

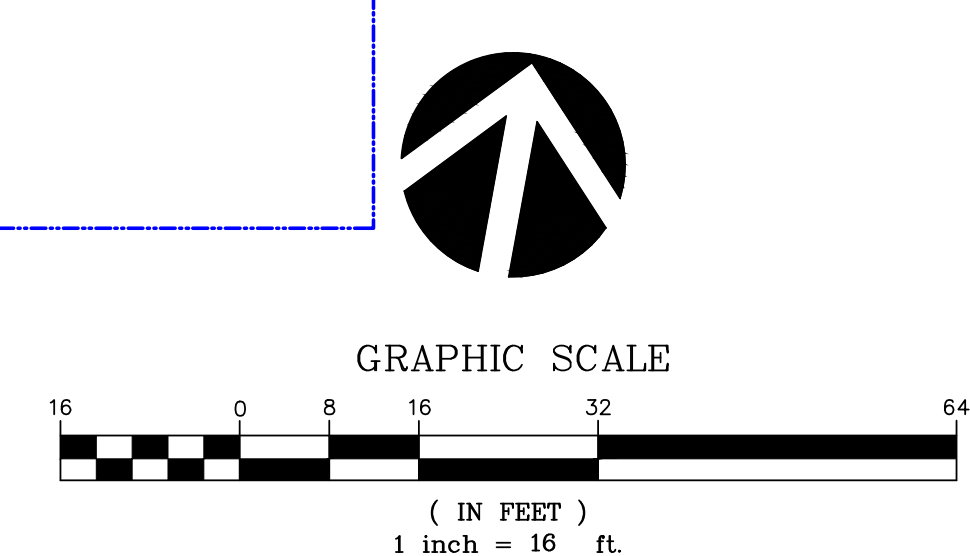
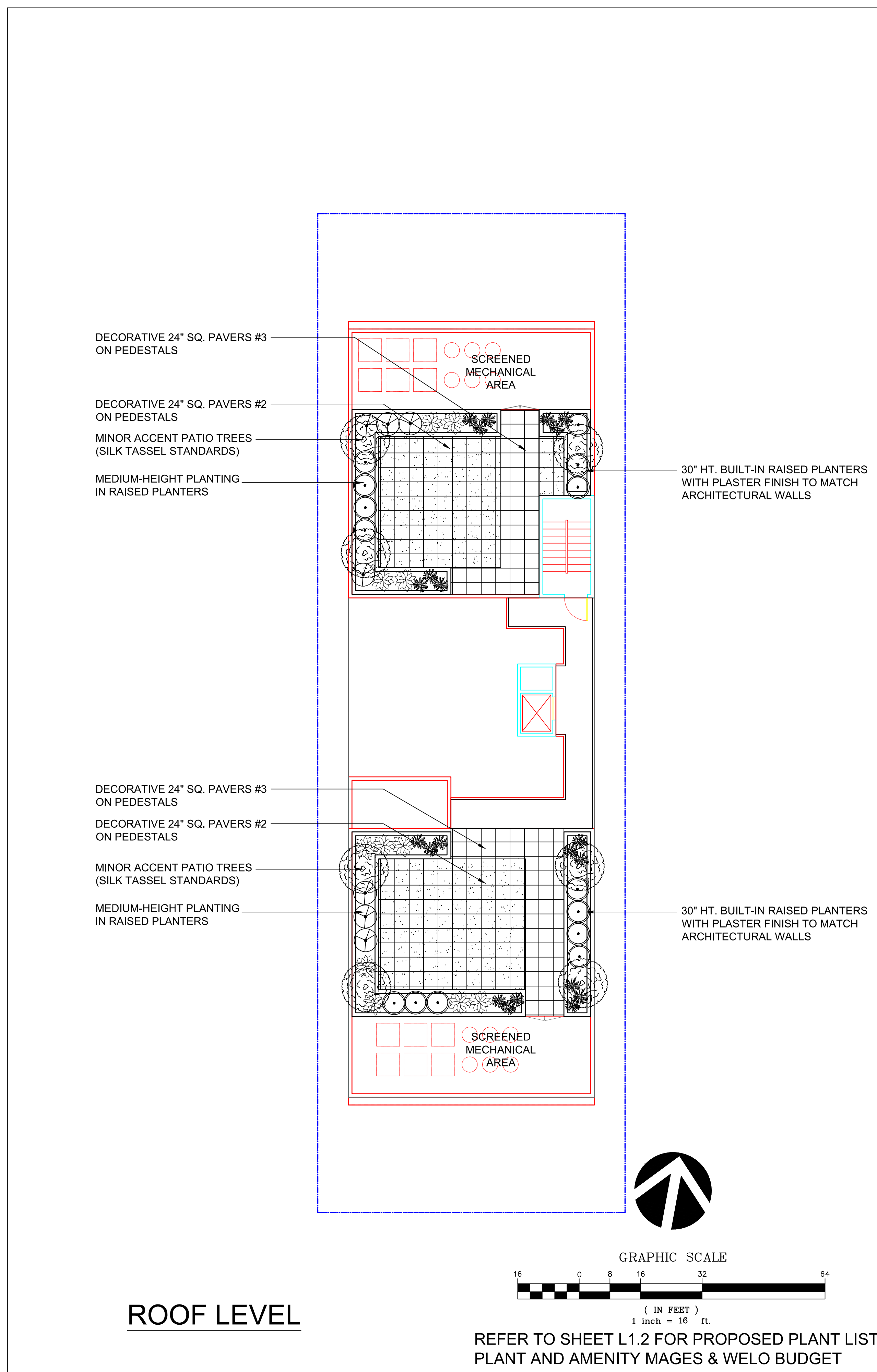
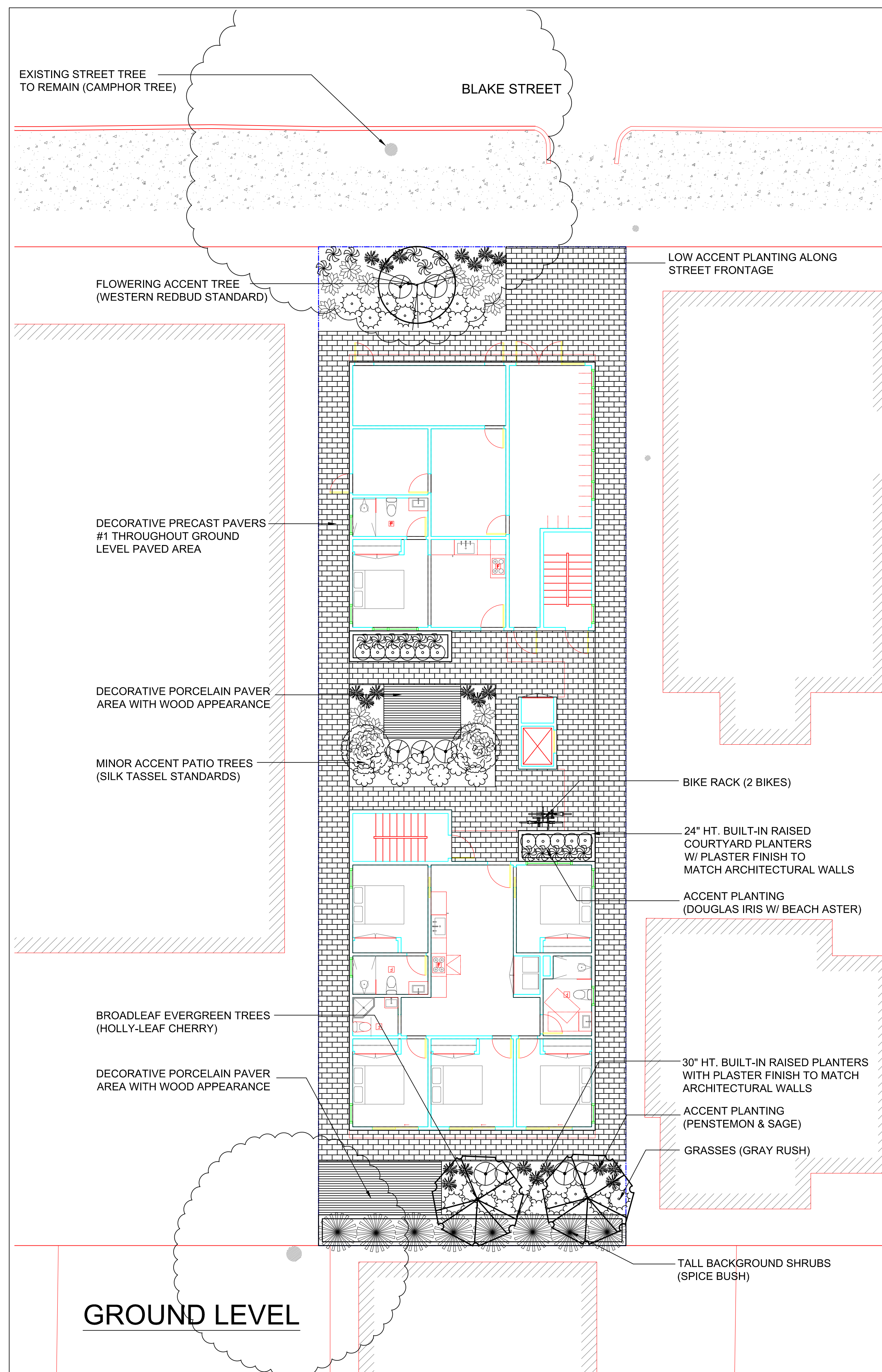


2018 BLAKE STREET
BERKELEY, CALIFORNIA

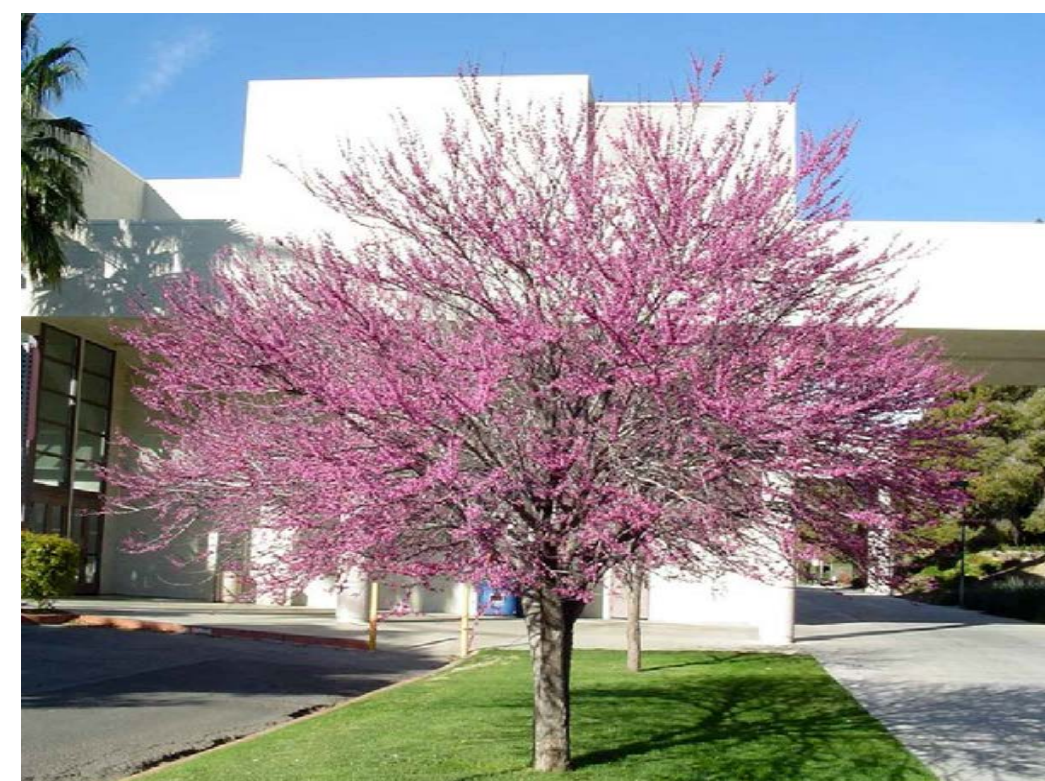
PRELIMINARY
LANDSCAPE PLANS

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 (ET_o): 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 AREAS:										
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		

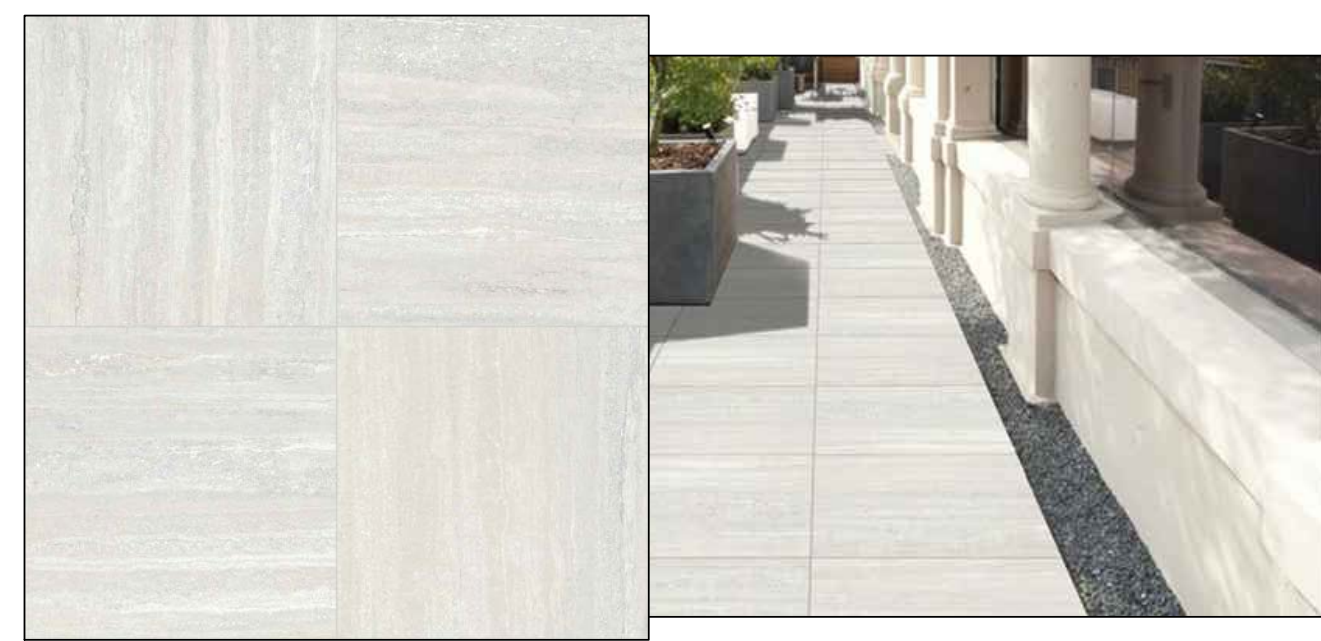
NOTE: AVERAGE ETAF FOR REGULAR LANDSCAPE AREAS MUST BE 0.55 OR BELOW FOR RESIDENTIAL AREAS, AND 0.45 OR BELOW FOR NON-RESIDENTIAL AREAS.



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)



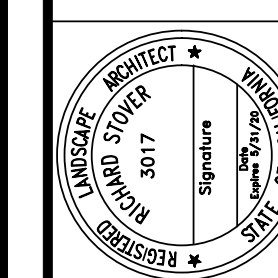
2 ACCENT PAVERS #2
PORCELAIN PAVERS ON PEDESTALS (ROOF)
TILE TECH QUARTZITE SERIES
'QUARTZITE PEARL' 24" SQ.



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

REVISIONS

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

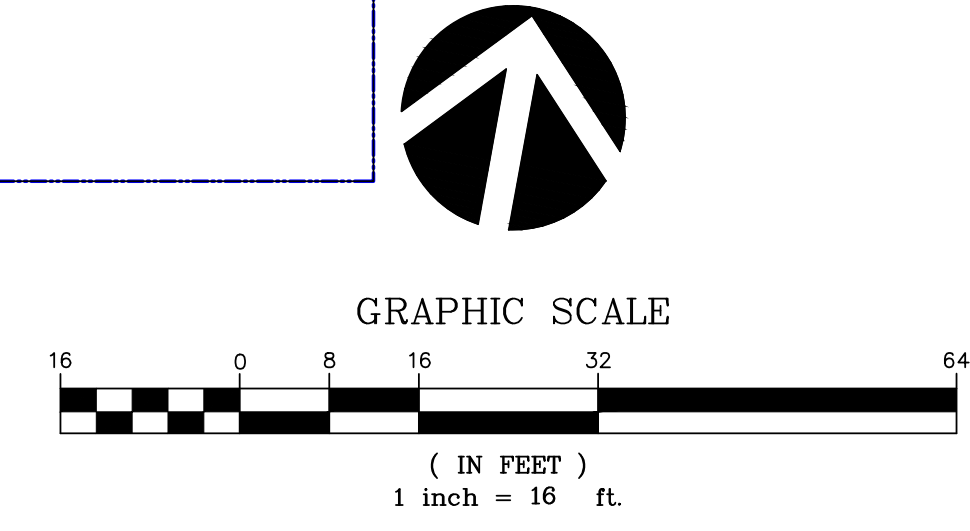
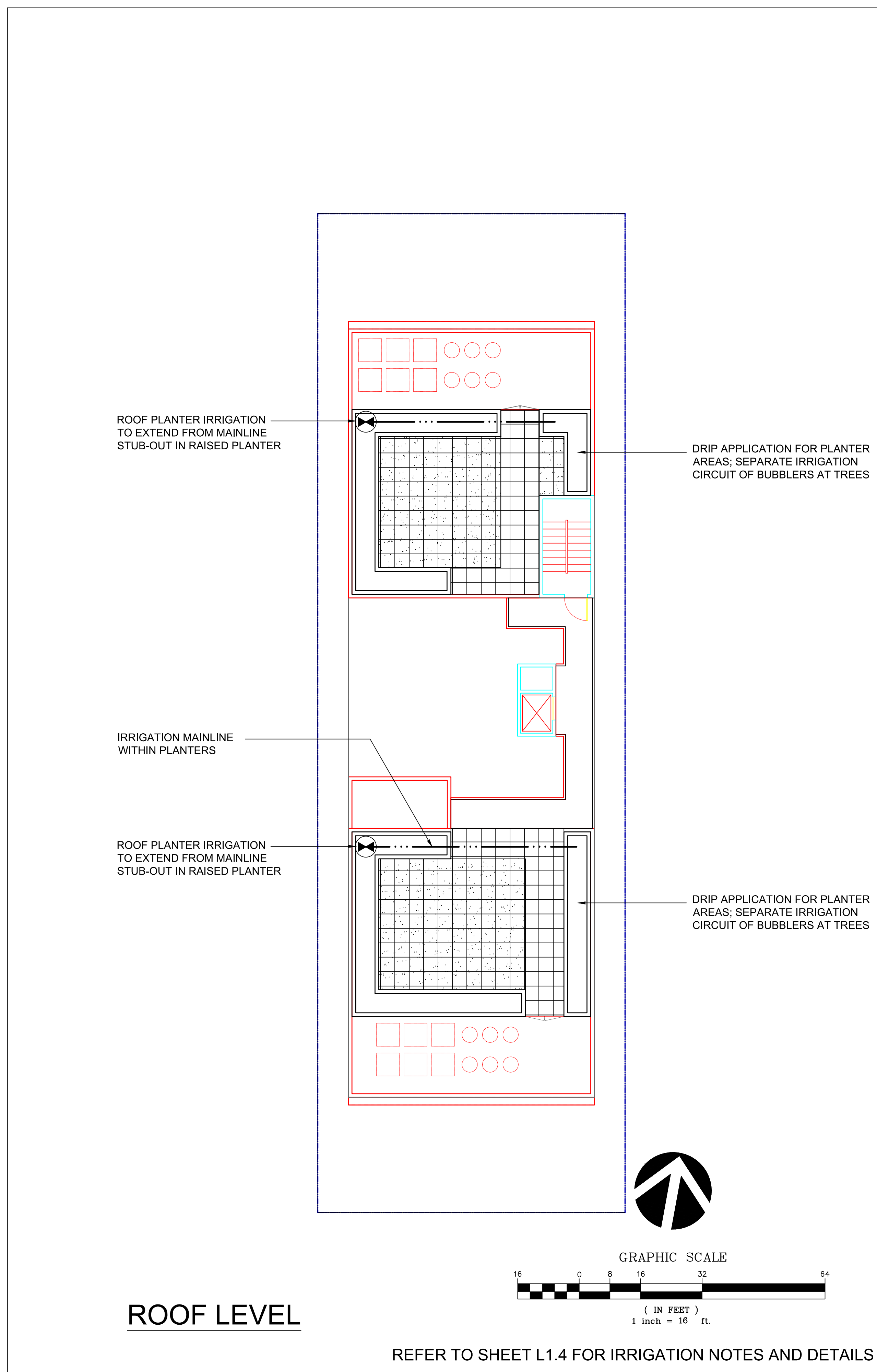
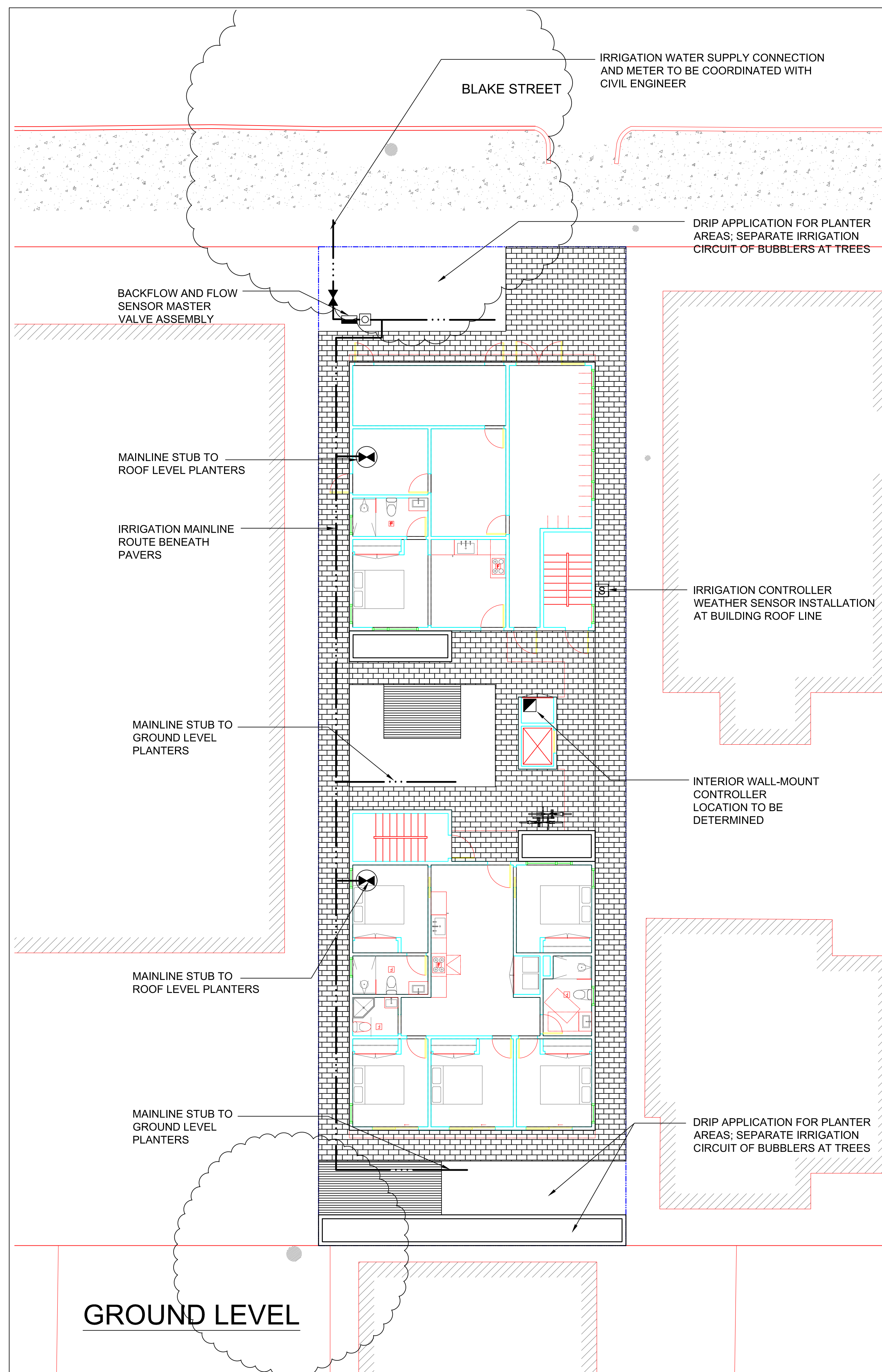


2018 BLAKE STREET
BERKELEY, CALIFORNIA

PLANT LIST,
IMAGES AND WELO

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

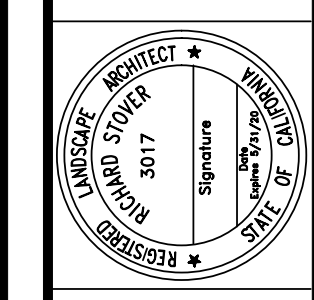
SHEET
L1.2
OF SHEETS



REFER TO SHEET L1.4 FOR IRRIGATION NOTES AND DETAILS

REVISIONS	

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

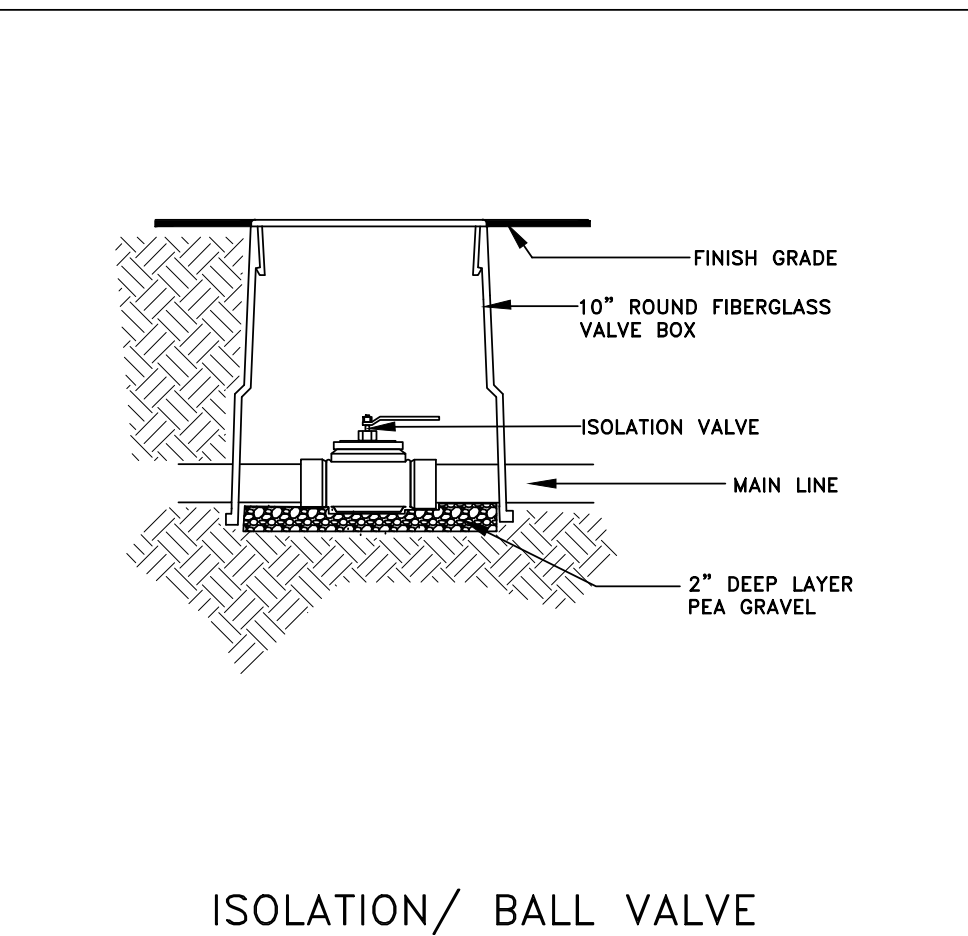
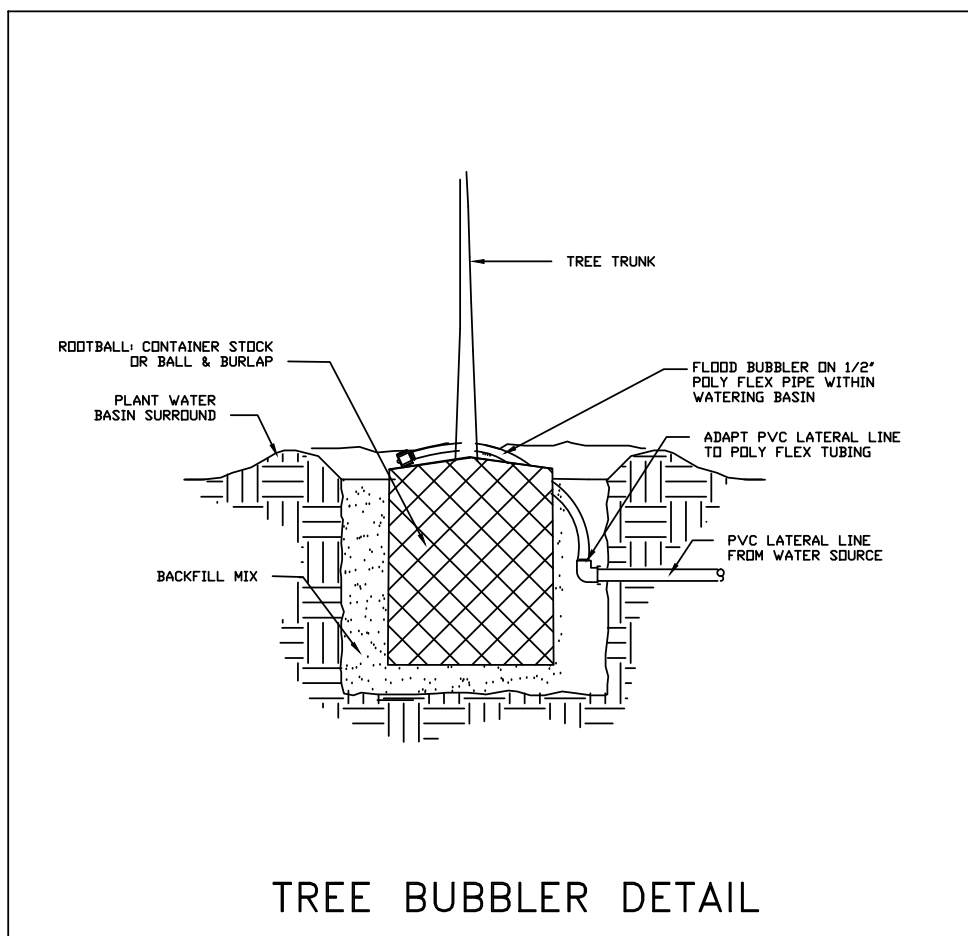
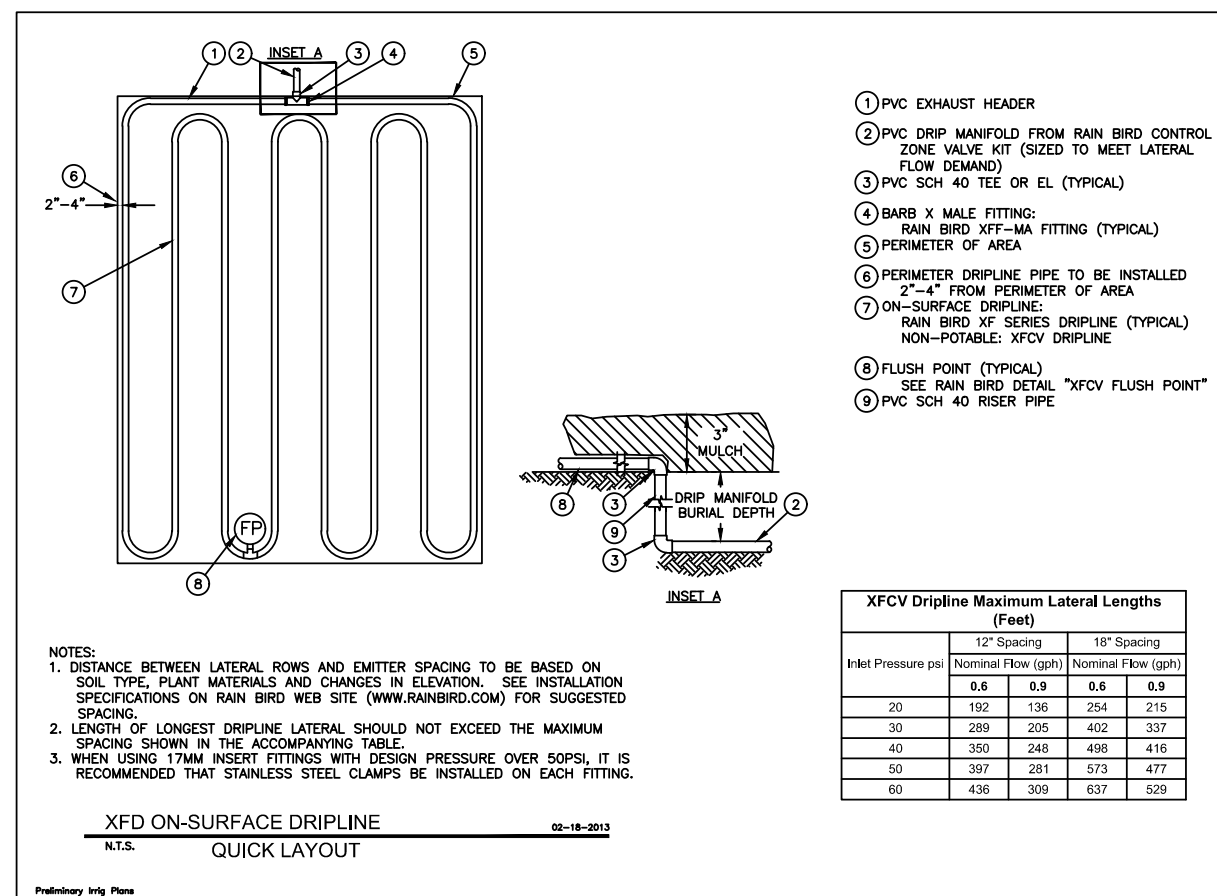


2018 BLAKE STREET
BERKELEY, CALIFORNIA

PRELIMINARY IRRIGATION PLANS

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

SHEET
L1.3
OF SHEETS



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.

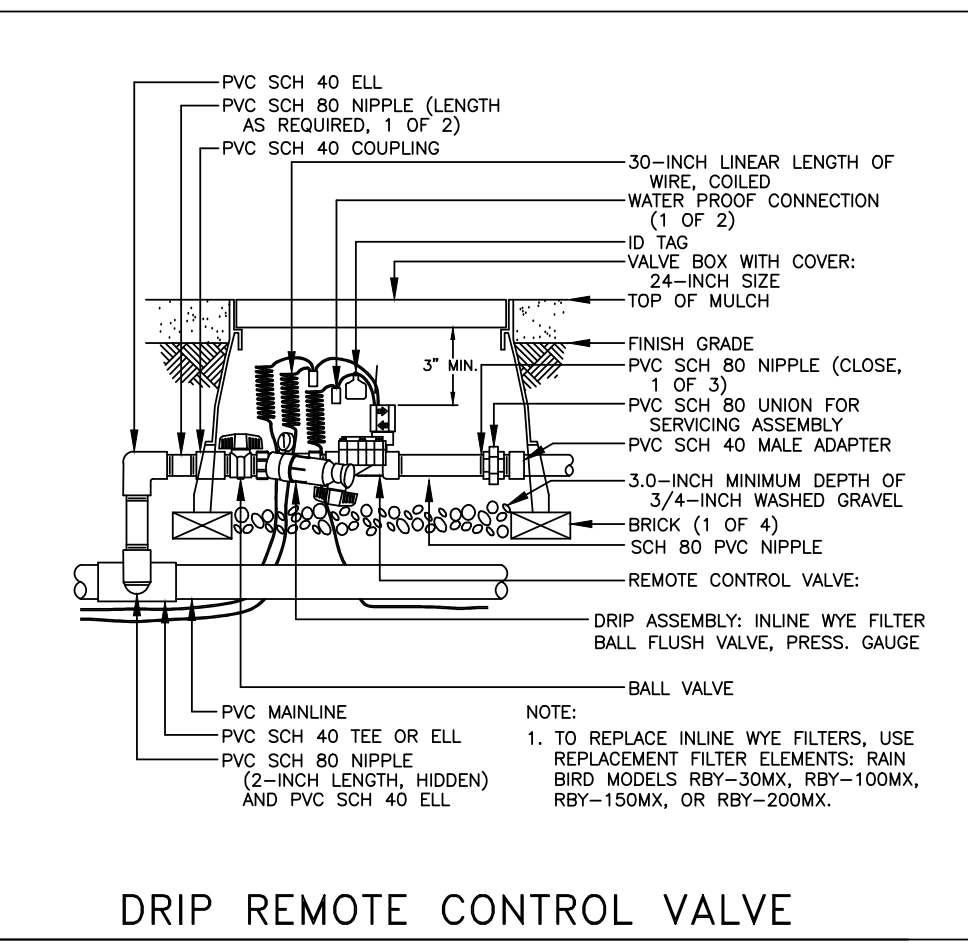
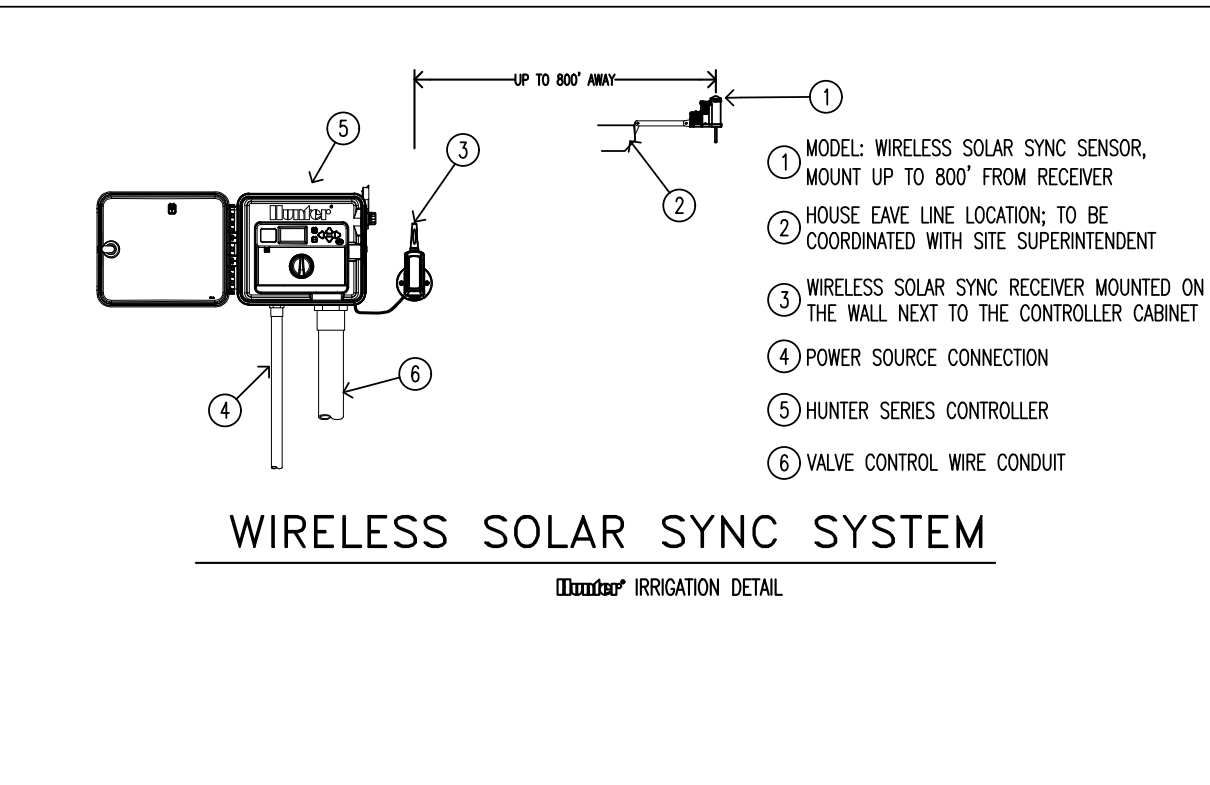
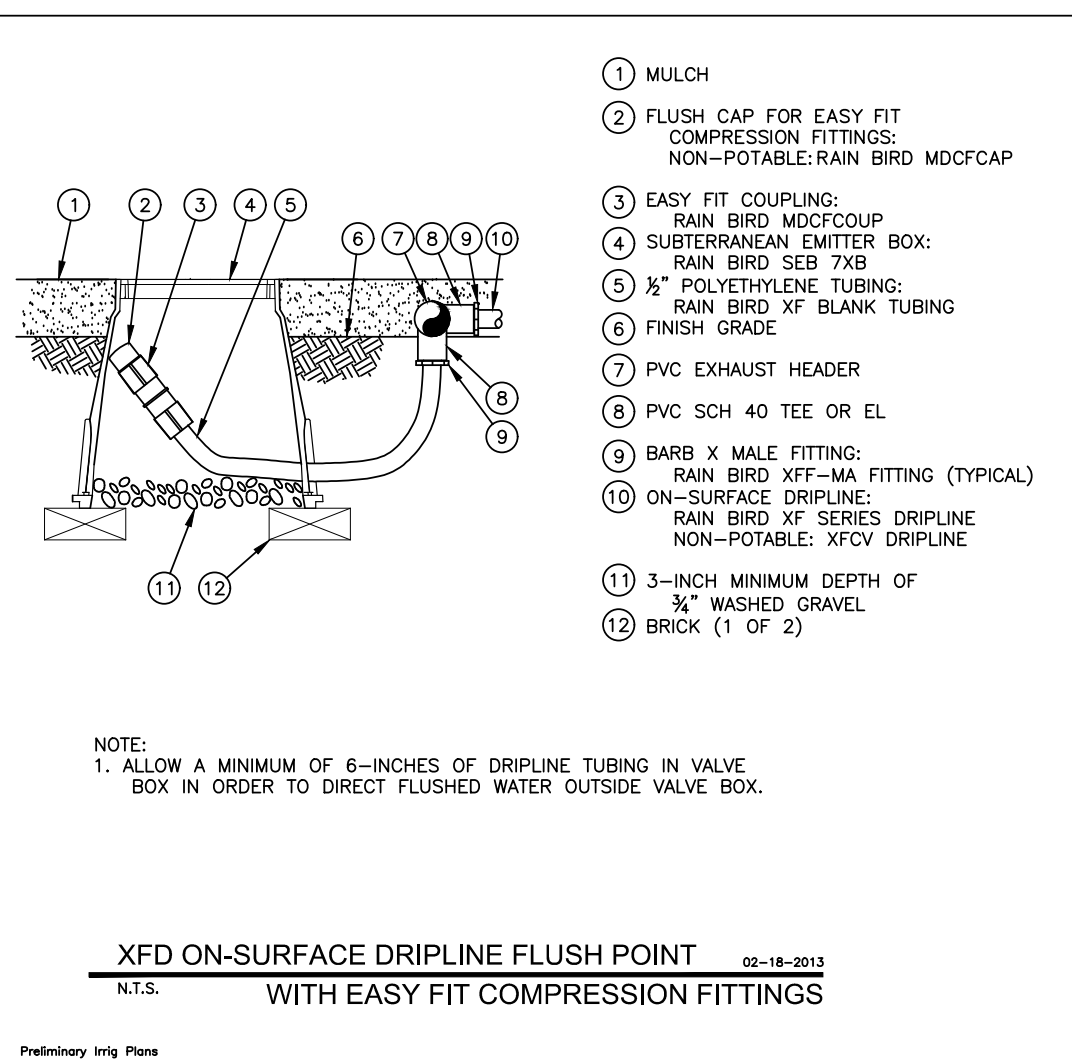
DRAWINGS: DUE TO THE SCALE OF DRAWINGS, IT IS NOT POSSIBLE TO INDICATE ALL OFFSETS, FITTINGS, SLEEVES, ETC., WHICH MAY BE REQUIRED. THE CONTRACTOR SHALL ALSO CAREFULLY INVESTIGATE THE STRUCTURAL AND FINISHED CONDITIONS AFFECTING ALL OF HIS WORK, PLAN HIS WORK ACCORDINGLY AND FURNISH SUCH FITTINGS, ETC. 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 DURACELL 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.



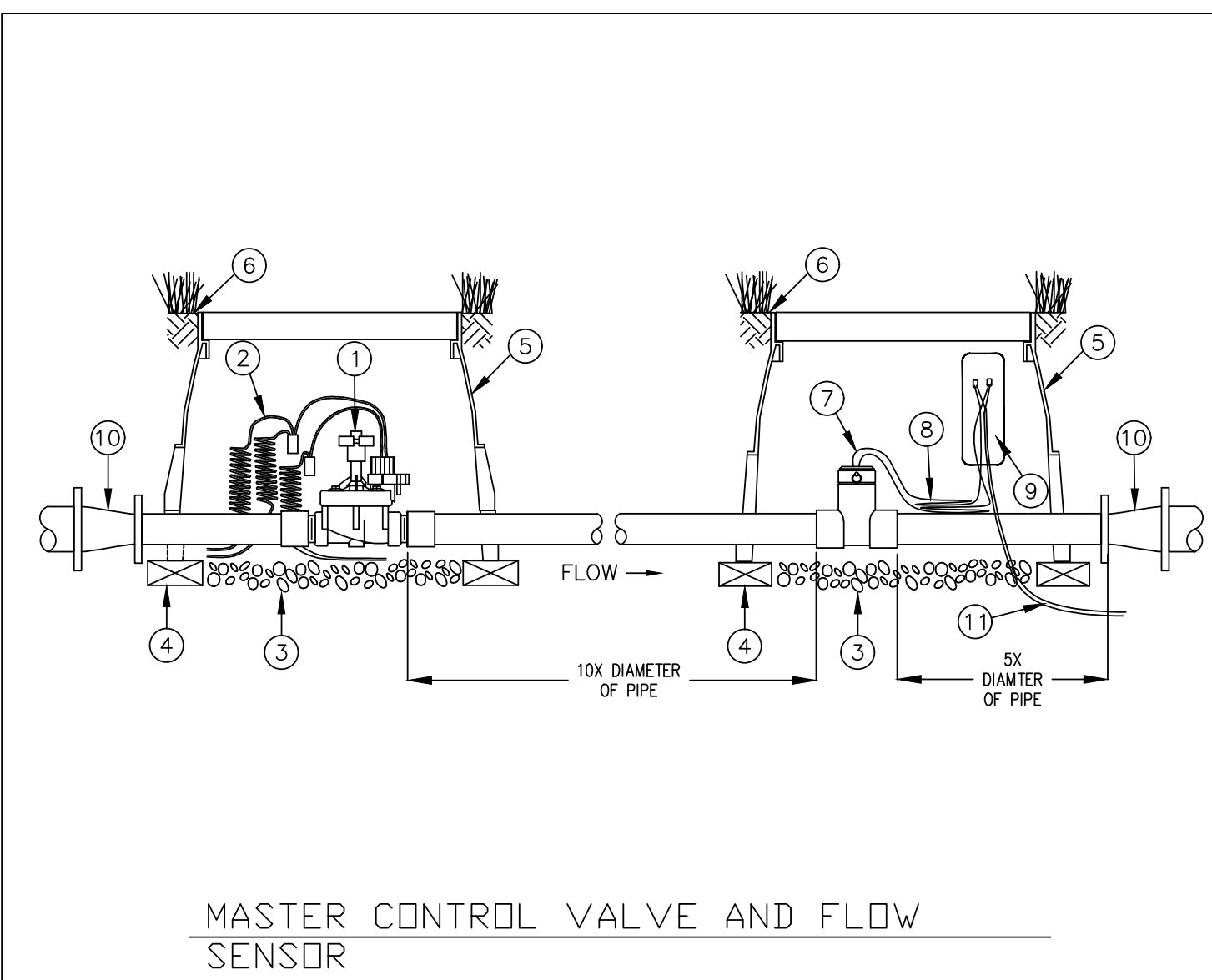
PIPING/TRENCHING: INSTALL MAIN LINE PIPING WITH CONCRETE THRUST BLOCKS AS PER MANUFACTURER'S RECOMMENDATION. MAIN AND LATERAL LINES SHALL BE SURROUNDING WITH A MINIMUM OF 2" OF SAND OR ROCK FREE SOIL. PIPE SEALANT COMPOUND SHALL BE RECTOR SEAL T-2, PERIMATEX 51 OR LASCO #905305. PRESSURE THE MAIN LINE @ 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.

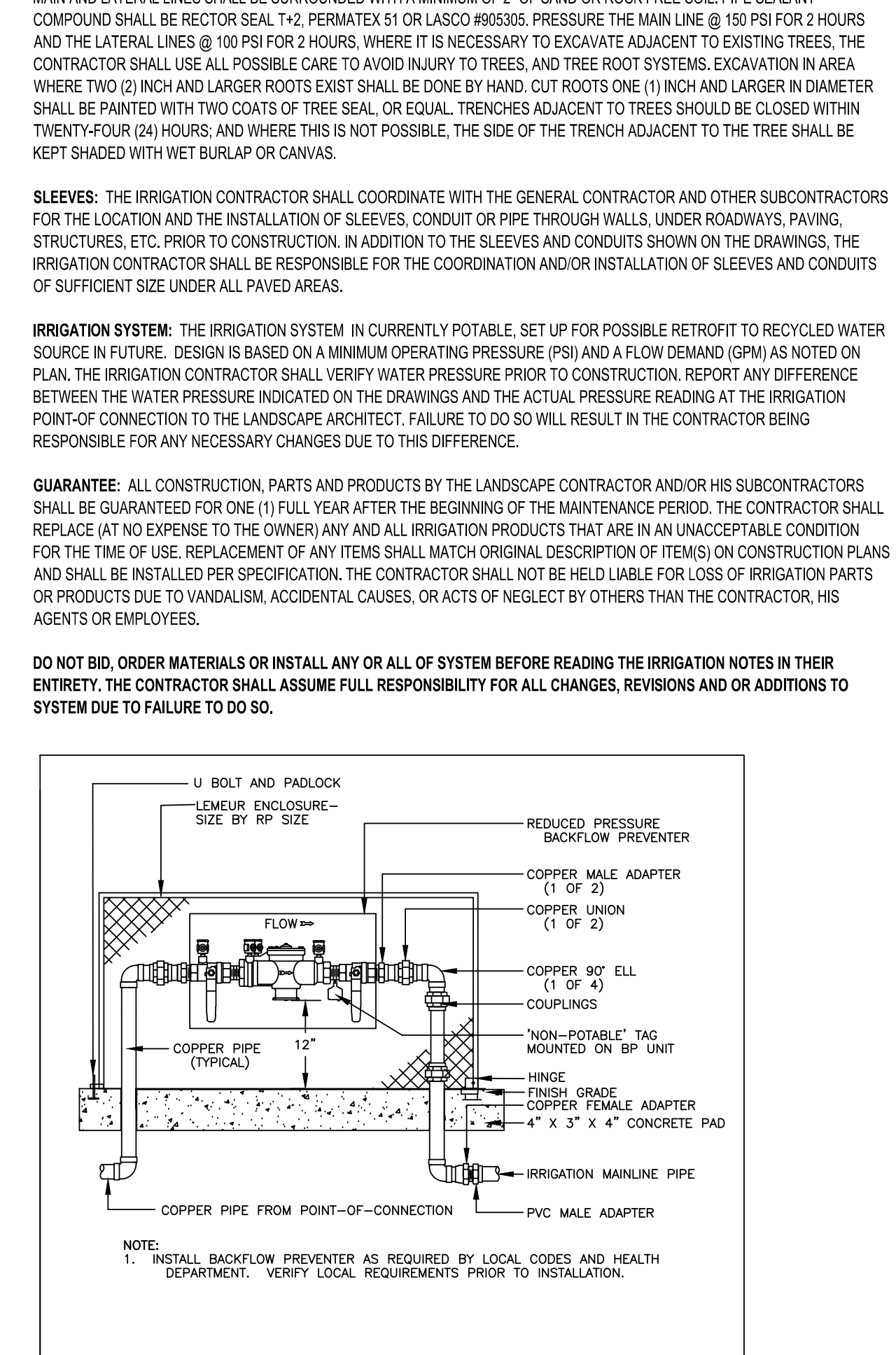
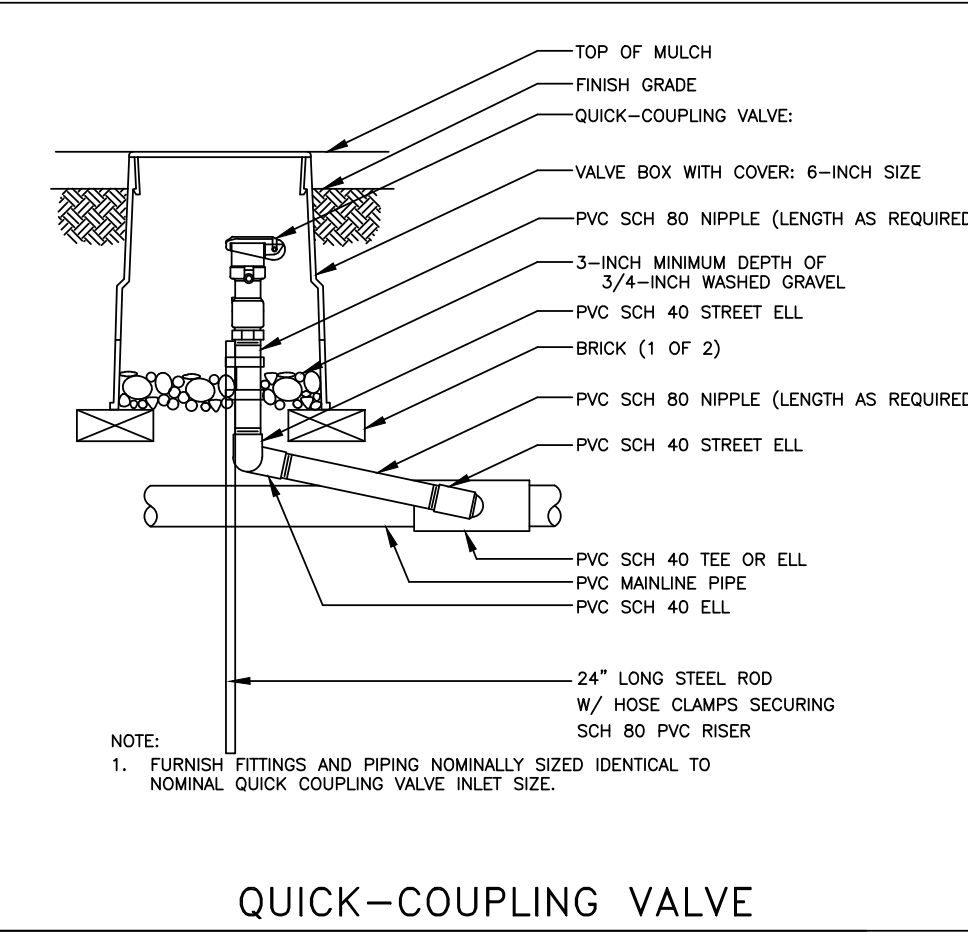
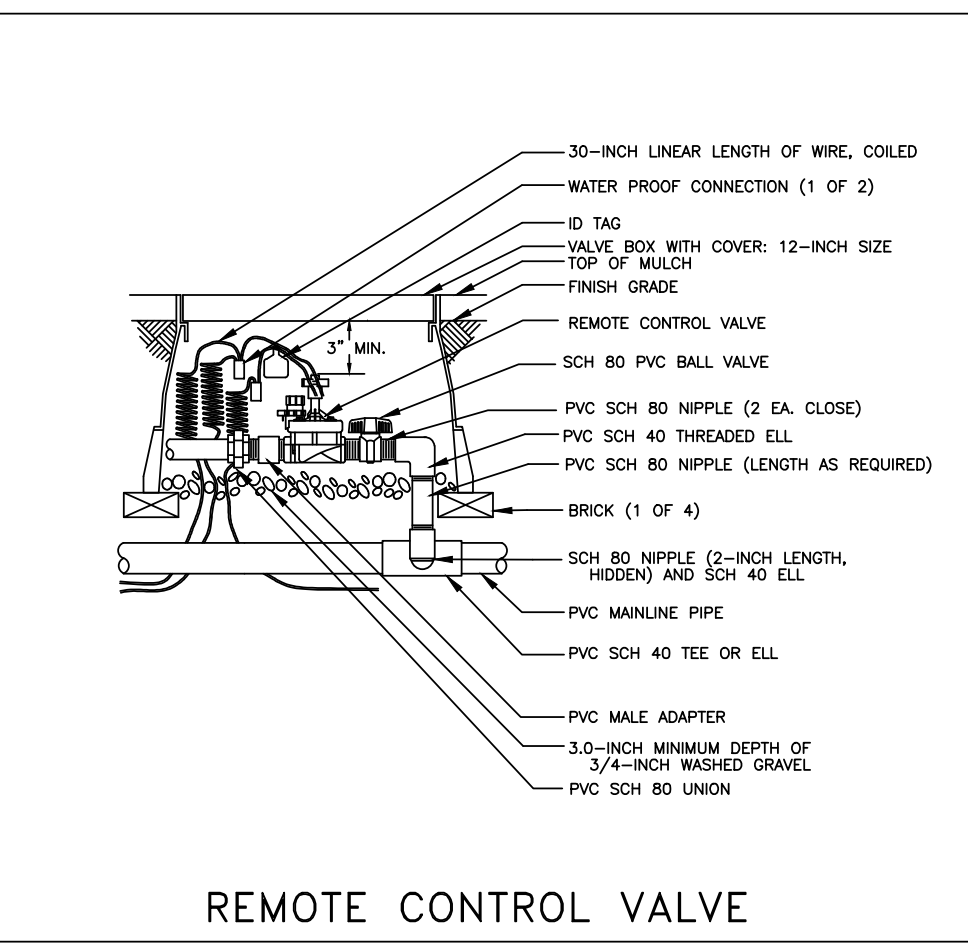
IRRIGATION SYSTEM: THE IRRIGATION SYSTEM IN CURRENTLY POTABLE. SET UP FOR POSSIBLE RETROFIT TO RECYCLED WATER SOURCE IN FUTURE. DESIGN IS BASED ON A MINIMUM OPERATING PRESSURE (PSI) AND A FLOW DEMAND (GPM) AS NOTED ON PLAN. THE IRRIGATION CONTRACTOR SHALL VERIFY WATER PRESSURE PRIOR TO CONSTRUCTION. 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 ITEM(S) 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.

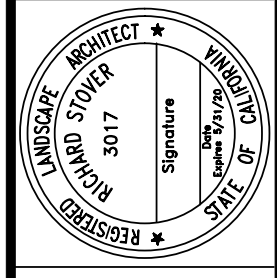


- MASTER CONTROL VALVE
- WIRE TO SATELLITE CONTROLLER SPARE STATION (36-INCH LOOP)
- 3.0-INCH MINIMUM DEPTH OF 3/4-INCH WASHED GRAVEL
- BRICK (1 OF 4)
- VALVE BOX WITH COVER - 12-INCH SIZE
- FINISH GRADE
- FLOW SENSOR
- FLOW SENSOR WIRES; LEAVE 36-INCHES OF WIRE IN VALVE BOX
- PREFORMED SUPER SERVICEAL WATERPROOF WIRE SPLICE KIT
- CONCENTRIC REDUCER
- PE-CABLE TO CONTROLLER ASSEMBLY



REVISIONS

RW Stover & Associates, Inc.
Landscape Architecture
1620 North Main Street, Suite 4
Walnut Creek, CA 94596
PH: 925.951.2383



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 "John" or "John Doe", written over a horizontal line.

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

2026 BLAKE ST., BERKELEY, CA 94704

[Handwritten signature]

Grassroots House 2022 Blake St, 94704

Russ Bates

John DeDomenico 2020 1/2 Blake St 94704

2020 1/2 Blake St 94704

[Handwritten signature]
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 *[Handwritten initials]*

Ely Amador 2594 Milvia St 94704 *[Handwritten signature]*

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.

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 city 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

Cornelia St John
2005 A Parker Street

Steve Edmunds
2005 A Parker St.

Marian St. John
2005 B Parker St.

Eydie Adams
2005 B Parker St.

June 15, 2022
We the owners of 2020 Beta Street,
Berkeley, oppose the 2018 Beta
Street project.
Raman Thangiah
Walter Myungilho

chenlingante@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:

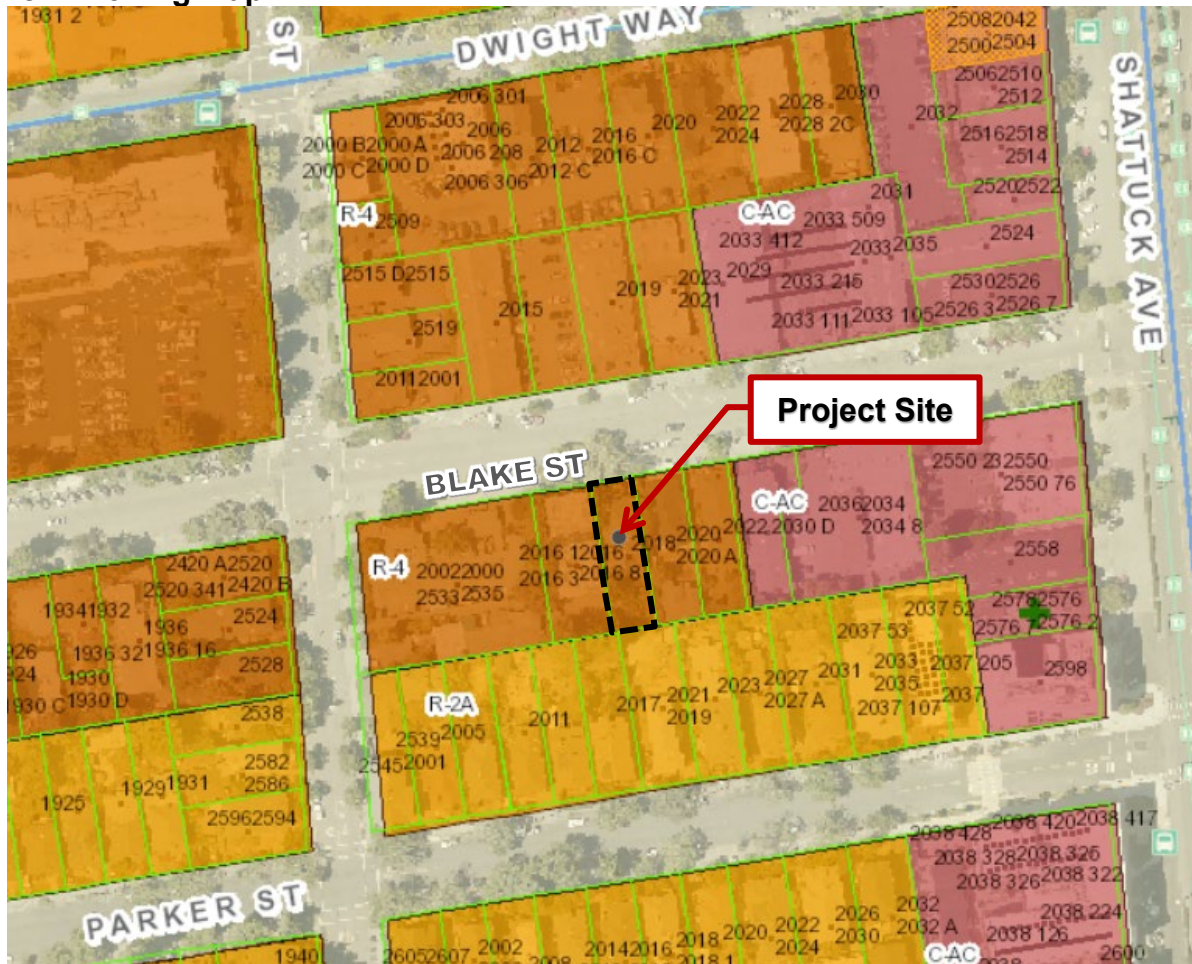
- Applicant Huan Fang, FIFTH ARCH, 200 Brannan Street, Apt 222, San Francisco CA 94107
- Property Owner 2018 Blake Street LLC, 2905 South Vermont Avenue, Ste 204, Los Angeles, CA 90007

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

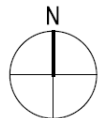


Figure 2: Site Plan

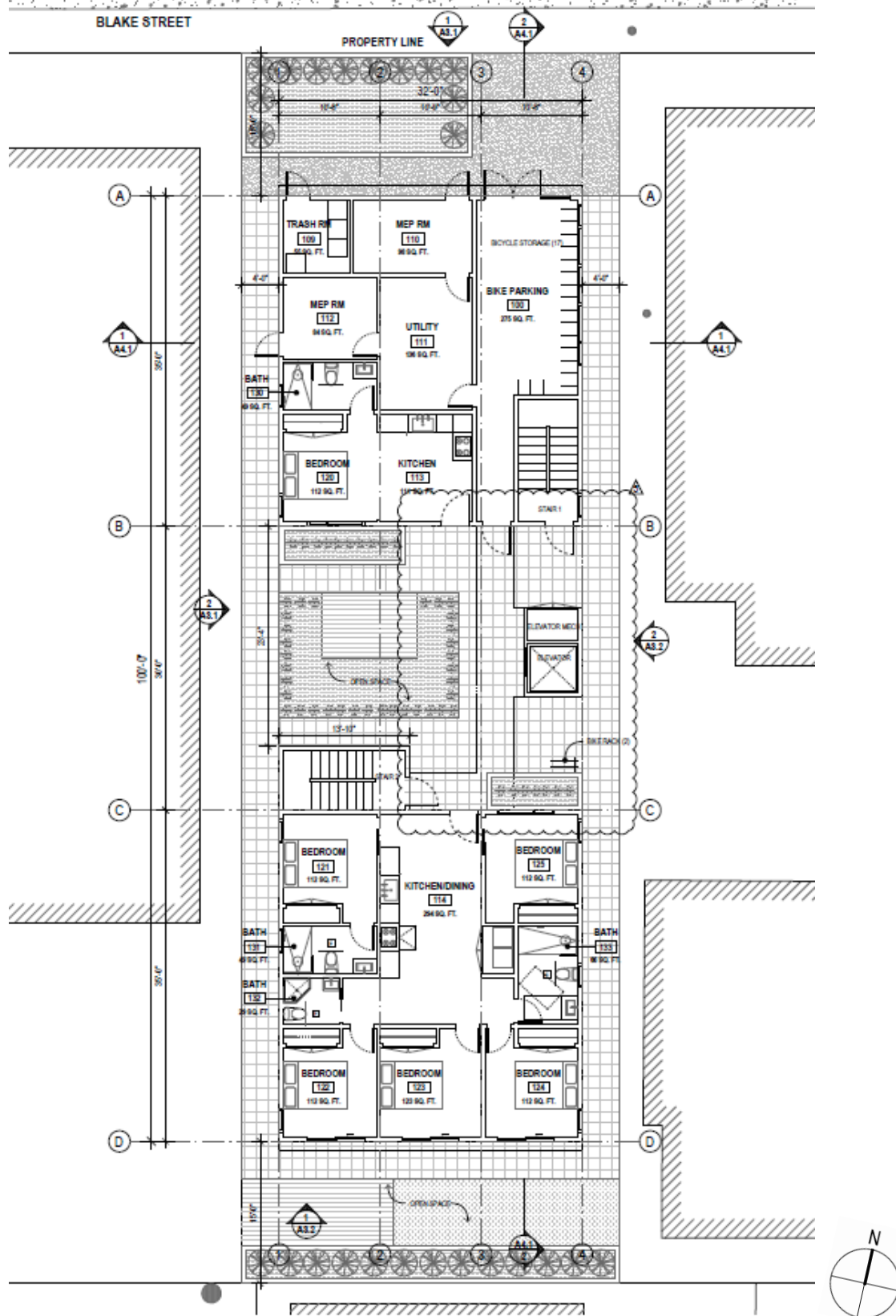


Table 1: Land Use Information

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



Index &
Administrative Record
ZAB Appeal:
2421 Fifth Street

These attachments are 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
<http://www.cityofberkeley.info/citycouncil/>

**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.

ORDINANCE NO. -N.S.

FAIR WORKWEEK EMPLOYMENT STANDARDS

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

Section 1. That Berkeley Municipal Code Chapter 13.110 is added to read as follows:

**CHAPTER 13.110
FAIR WORKWEEK EMPLOYMENT STANDARDS**

Sections:

- 13.110.010 Purpose and Intent**
- 13.110.020 Definitions.**
- 13.110.030 Applicability.**
- 13.110.040 Waiver through Collective Bargaining**
- 13.110.050 Advance Notice of Work Schedules.**
- 13.110.060 Notice, Right to Decline, and Compensation for Schedule Changes.**
- 13.110.070 Offer of Work to Existing Employees.**
- 13.110.080 Right to Rest.**
- 13.110.090 Right to Request a Flexible Working Arrangement.**
- 13.110.100 Notice and Posting.**
- 13.110.110 Implementation.**
- 13.110.120 Enforcement.**
- 13.110.130 Retaliation Prohibited**
- 13.110.140 Retention of Records.**
- 13.110.150 City Access.**
- 13.110.160 No Preemption of Higher Standards.**
- 13.110.170 Severability.**

13.110.010 Purpose and Intent

This chapter shall be known and may be cited as the “Berkeley Fair Workweek Ordinance”. It is the purpose of this chapter and the policy of the City: (i) to enact and enforce fair and equitable employment scheduling practices in the City of Berkeley; (ii) to provide the working people of Berkeley with protections that ensure employer scheduling practices do not unreasonably prevent workers from attending to their families, health, education, and other obligations; and (iii) to require Employers needing additional hours, whether temporary or permanent, to first offer those hours to current part-time Employees.

13.110.020 Definitions

As used in this chapter, the following terms shall have the following meanings:

- (a) "Building services" means the care and maintenance of property, including, but not limited to, janitorial services, building and grounds maintenance services, and security services.
- (b) "Calendar week" shall mean a period of seven consecutive days starting on Sunday.
- (c) "City" shall mean the City of Berkeley.
- (d) "Covered employer" shall mean an employer subject to the provisions of this chapter, as specified in Section 13.110.030.
- (e) "Department" shall mean the City Manager's Department, as specified in Chapter 2.36, or another department or agency as the City Manager shall designate.
- (f) "Employee" shall mean any person who:
 - (1) In a calendar week performs at least two hours of work within the geographic boundaries of the City of Berkeley for an employer;
 - (2) Qualifies as an employee entitled to payment of a minimum wage from any employer under the California minimum wage law, as provided under Labor Code Section 1197 and wage orders published by the California Industrial Welfare Commission. Employees shall include learners, as defined by the California Industrial Welfare Commission; and
 - (3) Is (i) not exempt from payment of an overtime rate of compensation pursuant to Labor Code Section 510; and (ii) is not paid a monthly salary equivalent to at least forty hours per week at a rate of pay of twice the minimum wage required by Berkeley Municipal Code Section 13.99.040.
- (g) "Employer" shall mean any person, as defined in Labor Code Section 18, who directly or indirectly through any other person or employer, , employs or exercises control over the wages, hours or working conditions of any Employee, or any person receiving or holding a business license through Title 9 of the Berkeley Municipal Code.
- (h) "Franchise" shall have the meaning in California Business and Professions Code Section 20001.
- (i) "Franchisee" shall have the meaning in California Business and Professions Code Section 20002.
- (j) "Franchisor" shall have the meaning in California Business and Professions Code Section 20003.
- (k) "Good faith" shall mean a sincere intention to deal fairly with others.
- (l) "Healthcare" shall mean either a Hospital, Medical Practitioner Office, Nursing Home, or Supportive Housing as defined in BMC Section 23F.04.10, or a facility that provides outpatient maintenance dialysis.
- (m) "Hotel" shall mean Tourist Hotel as defined in BMC Section 23F.04.10.
- (n) "Manufacturing" shall mean a Manufacturing Use as defined in BMC Section 23F.04.10.

- (o) "Predictability pay" shall mean wages paid to an employee, calculated on an hourly basis at the employee's regular rate of pay as that term is used in 29 U.S.C. Section 207 (e), as compensation for schedule changes made by a covered employer to an employee's schedule pursuant to Section 13.110.060, in addition to any wages earned for work performed by that employee.
- (p) "Restaurant" shall mean a Food Service Establishment as defined in BMC Section 23F.04.10.
- (q) "Retail" shall mean a Retail Products Store as defined in BMC Section 23F.04.10.
- (r) "Shift" shall mean the consecutive hours an employer requires an employee to work including employer-approved meal periods and rest periods.
- (s) "Warehouse services" shall mean Warehouse Based Non-Store Retail as defined in BMC Section 23F.04.10.
- (t) "Work schedule" shall mean all of an employee's shifts, including specific start and end times for each shift, during a calendar week.

13.110.030 Applicability

- (a) This chapter shall apply to: the City of Berkeley as an employer, and any employer in the City of Berkeley that is:
- (1) primarily engaged in the building services, healthcare, hotel, manufacturing, retail, or warehouse services industries, and employs 56 or more employees globally; or
 - (2) primarily engaged in the restaurant industry, and employs 10 or more employees in the city of Berkeley and employs 100 or more globally; or
 - (3) is a franchisee primarily engaged in the retail or restaurant industries employing 10 or more employees in the city of Berkeley and is associated with a network of franchises with franchisees employing in the aggregate 100 or more employees globally.
- (b) This chapter does not apply to a not-for-profit corporation organized under Section 501 of the United States Internal Revenue Code unless it employs 100 or more employees globally.
- (c) In determining the number of employees performing work for an covered employer during a given week, all employees performing work for the covered employer for compensation on a full-time, part-time, or temporary basis, at any location, shall be counted, including employees made available to work through the services of a temporary services or staffing agency or similar entity.
- (d) For the purposes of determining whether a nonfranchisee entity is a covered employer as defined by this chapter, separate entities that form an integrated enterprise shall be considered a single employer. Within one year of the effective date of the ordinance, the City Manager shall promulgate rules pursuant to the authority provided in

Section 13.110.110 to implement this subsection clarifying factors to be considered in determining what constitutes an integrated enterprise. .

(e) For the City of Berkeley as an employer, this chapter shall become operative with respect to non-represented employees one year after the effective date of the ordinance. Subject to a waiver under Section 13.110.040, with respect to employees subject to a collective bargaining agreement, this chapter shall become operative upon the commencement of a bona fide successor collective bargaining agreement or one year after the effective date of the ordinance, whichever is earlier.

(f) For all other employers, with respect to employees subject to a collective bargaining agreement, this chapter shall become operative on the commencement of a bona fide successor collective bargaining agreement, subject to a waiver pursuant to Section 13.110.040.

(g) For all other employers not subject to a collective bargaining agreement, this chapter shall become operative one year after the effective date of the ordinance.

13.110.040 Waiver through Collective Bargaining

The requirements of all or of specific portions of this chapter may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms.

13.110.050 Advance Notice of Work Schedules.

(a) **Initial Estimate of Minimum Hours.** An employer shall provide each employee with a good faith estimate in writing of the employee's work schedule. The employee may submit a written request to modify the estimated work schedule, and the covered employer in its sole discretion may accept or reject the request and shall notify the employee of covered employer's determination in writing prior to or on commencement of employment.

(b) **Two Weeks' Advance Notice of Work Schedule.** A covered employer shall provide its employees with at least two weeks' notice of their work schedules by doing one of the following:

(1) posting the work schedule in a conspicuous place at the workplace that is readily accessible and visible to all employees; or

(2) transmitting the work schedule by electronic means, so long as all employees are given access to the electronic schedule at the workplace. For new employees, a covered employer shall provide the new employee prior to or on their first day of employment with an initial work schedule. Thereafter, the covered employer shall include the new employee in an existing schedule with other employees.

(c) An Employee who is a victim of domestic violence or sexual violence may request that the Employee's Work Schedule not be posted or transmitted to other employees. An oral or written request shall be sufficient and implemented immediately and is

sufficient until the Employee gives written permission to post the Employee's schedule. An Employer may request a written statement from the Employee that states that the Employee is a victim of domestic violence or sexual violence. The written statement shall constitute the documentation needed for the Employer to implement the request. The Employer may not require a written statement more than once in a calendar year from any Covered Employee for this purpose.

13.110.060 Schedule Changes.

(a) Notice. A covered employer shall provide an employee written notice of any change to the employee's posted or transmitted work schedule within 24 hours of a schedule change. This notice requirement shall not apply to any schedule changes the employee initiates.

(b) Right to Decline. Subject to the exceptions in subsections (d) and (e) of this section, an employee has the right to decline any previously unscheduled hours that the covered employer adds to the employee's schedule, and for which the employee has been provided advance notice of less than 14 days before the first day of any new schedule.

(c) Predictability Pay for Schedule Changes. Subject to the exceptions in subsections (d) and (e) of this section, a covered employer shall provide an employee with the following compensation per shift for each previously scheduled shift that the covered employer adds or subtracts hours, moves to another date or time, cancels, or each previously unscheduled shift that the covered employer adds to the employee's schedule:

(1) with less than 14 days notice, but 24 hours or more notice to the employee: one hour of predictability pay;

(2) with less than 24 hours to the employee,

(i) When hours are cancelled or reduced, four hours or the number of cancelled or reduced hours in the employee's scheduled shift, whichever is less;

(ii) For additions and all other changes, one hour of predictability pay. The compensation required by this subsection shall be in addition to the employee's regular pay for working such shift.

(c) Scheduling Exceptions. The requirements of this section shall not apply under any of the following circumstances:

(1) Mutually agreed-upon work shift swaps or coverage arrangements among employees;

(2) Employee initiated voluntary shift modifications, such as voluntary requests to leave a scheduled shift prior to the end of the shift or to use sick leave, vacation leave, or other policies offered by the Employer. This paragraph shall apply only to the employee initiating the voluntary shift modification; or

(3) To accommodate the following transitions in shifts:

- (i) If an employee works no more than thirty minutes past the end of a scheduled shift to complete service to a customer, provided the employee is compensated at their regular rate of pay for the additional work performed by the employee.
 - (ii) An employee begins or ends their scheduled shift no more than ten minutes prior to or after the scheduled shift, provided the employee is compensated at their regular rate of pay for the additional work performed by the employee.
- (d) Operational Exceptions. The requirements of this section shall not apply under any of the following circumstances:
- (1) Operations cannot begin or continue due to threats to covered employers, employees or property, or when civil authorities recommend that work not begin or continue;
 - (2) Operations cannot begin or continue because public utilities fail to supply electricity, water, or gas, or there is a failure in the public utilities or sewer system;
 - (3) Operations cannot begin or continue due to: acts of nature (including but not limited to flood, fire, explosion, earthquake, tidal wave, drought), pandemic, war, civil unrest, strikes, or other cause not within the covered employer's control;
 - (4) When, in manufacturing, events outside of the control of the manufacturer result in a reduction in the need for Covered Employees, including, but not limited to, when a customer requests the manufacturer to delay production or there is a delay in the receipt of raw materials or component parts needed for production; or
 - (5) With regard to healthcare employers, in (i) any declared national, State, or municipal disaster or other catastrophic event, or any implementation of an Employer's disaster plan, or incident causing a hospital to activate its Emergency Operations Plan, that will substantially affect or increase the need for healthcare services; (ii) any circumstance in which patient care needs require specialized skills through the completion of a procedure; or (iii) any unexpected substantial increase in demand for healthcare due to large public events, severe weather, violence, or other circumstances beyond the Employer's control.
- (e) Nothing in this section shall be construed to prohibit a covered employer from providing greater advance notice of employee's work schedules and/or changes in schedules than that required by this section.

13.110.070 Offer of Work to Existing Employees.

(a) Subject to the limitations in this chapter, before hiring new employees, including hiring through the use of temporary services or staffing agencies, a covered employer shall first offer additional hours of work to existing part-time employee(s) who have worked on behalf of the employer for more than two weeks, if the part-time employee(s) are qualified to do the additional work, as reasonably and in good faith determined by the covered employer. This section shall not be construed to require any employer to offer employees work hours paid at a premium rate under Labor Code Section 510 nor to prohibit any employer from offering such work hours. .

(b) A covered employer has discretion to distribute the additional work hours among part-time employees consistent with this section; provided, that: (1) the employer's system for distribution of hours must not discriminate on the basis of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity or expression, disability, age, marital or familial status, nor on the basis of family caregiving responsibilities; and (2) the employer may not distribute hours in a manner intended to avoid an increase in the number of employees working 30 or more hours per week, or with regard to the City of Berkeley, to avoid a granting of any benefits that an employee earns based on hours worked.

(c) A part-time employee may, but is not required to, accept the covered employer's offer of additional work under this section.

(1) A part-time employee shall have 24 hours to accept an offer of additional hours of work under this section, after which time the covered employer may hire new employees to work the additional hours.

(2) The 24 hour period referred to in this subsection begins either when the employee receives the written offer of additional hours, or when the covered employer posts the offer of additional hours as described in subsection (d) of this section, whichever is sooner. A part-time employee who wishes to accept the additional hours must do so in writing.

(d) When this section requires a covered employer to offer additional hours to existing part-time employees, the covered employer shall make the offer either in writing or by posting the offer in a conspicuous location in the workplace or electronically where notices to employees are customarily posted.

13.110.080 Right to Rest.

(a) An employee has the right to decline work hours that occur:

(1) Less than 11 hours after the end of the previous day's shift; or

(2) During the 11 hours following the end of a shift that spanned two days.

(b) An employee who agrees in writing to work hours described in this section shall be compensated at one and one-half times the employee's regular rate of pay for any hours worked less than 11 hours following the end of a previous shift.

13.110.090 Right to Request a Flexible Working Arrangement.

An employee has the right to request a modified work schedule, including but not limited to additional shifts or hours; changes in days of work or start and/or end times for the shift; permission to exchange shifts with other employees; limitations on availability; part-time employment; job sharing arrangements; reduction or change in work duties; or part-year employment. Notwithstanding any obligations under Section 13.110.060, an employer may accept, modify, or decline the employee's request. A covered employer shall not retaliate against an employee for exercising their rights under this section or the rights outlined in the Berkeley Family Friendly and Environment Friendly Workplace Ordinance, Berkeley Municipal Code Chapter 13.101.

13.110.100 Notice and Posting.

(a) The Department shall publish and make available to covered employers, in English and other languages as provided in any implementing regulations, a notice suitable for posting by covered employers in the workplace informing employees of their rights under this chapter.

(b) Each covered employer shall give written notification to each current employee and to each new employee at time of hire of their rights under this chapter. The notification shall be in English and other languages as provided in any implementing regulations, and shall also be posted prominently in areas at the work site where it will be seen by all employees. Every covered employer shall also provide each employee at the time of hire with the covered employer's name, address, and telephone number in writing. Failure to post such notice shall render the covered employer subject to administrative citation, pursuant to the provisions of this chapter. The Department is authorized to prepare sample notices and covered employer use of such notices shall constitute compliance with this subsection.

13.110.110 Implementation.

(a) The Department shall be authorized to coordinate implementation and enforcement of this chapter and may promulgate appropriate guidelines or rules for such purposes. Any guidelines or rules promulgated by the City shall have the force and effect of law and may be relied on by covered employers, employees and other parties to determine their rights and responsibilities under this chapter. Any guidelines or rules may establish procedures for ensuring fair, efficient and cost-effective implementation of this chapter, including supplementary procedures for helping to inform employees of their rights under this chapter, for monitoring covered employer compliance with this chapter, and for providing administrative hearings to determine whether a covered employer has violated the requirements of this chapter.

(b) Reporting Violations. An aggrieved employee may report to the Department in writing any suspected violation of this chapter. The Department shall keep confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee reporting the violation; provided, however, that with the authorization of such employee, the Department may disclose their name and identifying information as necessary to enforce this chapter or other employee protection laws.

(c) Investigation. The Department may investigate any possible violations of this chapter by a covered employer. The Department shall have the authority to inspect workplaces, interview persons and subpoena records or other items relevant to the enforcement of this chapter.

(d) Informal Resolution. If the Department elects to investigate a complaint, the City shall make every effort to resolve complaints informally and in a timely manner. The City's investigation and pursuit of informal resolution does not limit or act as a prerequisite for an employee's right to bring a private action against a covered employer as provided in this chapter.

13.110.120 Enforcement.

(a) Enforcement by City. Where prompt compliance with the provisions of this chapter is not forthcoming, the Department may take any appropriate enforcement action to ensure compliance, including but not limited to the following:

The Department may issue an administrative citation pursuant to Chapter 1.28 of the Berkeley Municipal Code. The amount of this fine shall vary based on the provision of this chapter violated, as specified below:

(1) A fine may be assessed for retaliation by a covered employer against an employee for exercising rights protected under this chapter. The fine shall be \$1,000 for each employee retaliated against.

(2) A fine of \$500 may be assessed for any of the following violations of this chapter:

(i) Failure to provide notice of employees' rights under this chapter.

(ii) Failure to timely provide an initial work schedule or to timely update work schedules following changes.

(iii) Failure to provide predictability pay for schedule changes with less than 24 hours advance notice.

(iv) Failure to offer work to existing employees before hiring new employees or temporary staff or to award work to a qualified employee.

(v) Failure to maintain payroll records for the minimum period of time as provided in this chapter.

(vi) Failure to allow the Department access to payroll records.

(3) A fine equal to the total amount of appropriate remedies, pursuant to subsection (c) of this section. Any and all money collected in this way that is the rightful property of an employee, such as back wages, interest, and civil penalty payments, shall be disbursed by the Department in a prompt manner.

(f) City Access. Each covered employer shall permit access to work sites and relevant records for authorized City representatives for the purpose of monitoring compliance with this chapter and investigating employee complaints of noncompliance, including production for inspection and copying of its employment records, but without allowing Social Security numbers to become a matter of public record.

(g) Any person aggrieved by a violation of this Chapter, any entity a member of which is aggrieved by a violation of this Chapter, or any other person or entity acting on behalf of the public as provided for under applicable state law, may bring a civil action in a court of competent jurisdiction against the Employer or other person violating this Chapter and, upon prevailing, shall be awarded reasonable attorneys' fees and costs and shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any back wages unlawfully withheld, the payment of an additional sum as a civil penalty in the amount of \$50 to each Employee or person whose rights under this Chapter were violated for each day that the violation occurred or continued, reinstatement in employment and/or injunctive relief. Provided, however, that any person or entity enforcing this Chapter on behalf of the public as provided for under applicable state law shall, upon prevailing, be entitled only to equitable, injunctive or restitutionary relief to Employees, and reasonable attorneys' fees and costs.

(i) This Section shall not be construed to limit an Employee's right to bring legal action for a violation of any other laws concerning wages, hours, or other standards or rights nor shall exhaustion of remedies under this Chapter be a prerequisite to the assertion of any right.

(j) The remedies for violation of this chapter include but are not limited to:

1. Reinstatement, the payment of predictability pay unlawfully withheld, and the payment of an additional sum as a civil penalty in the amount of \$50 to each employee whose rights under this chapter were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this chapter or State law.
2. Interest on all due and unpaid wages at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code, which shall accrue from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date the wages are paid in full.
3. Reimbursement of the City's administrative costs of enforcement and reasonable attorney's fees.
4. If a repeated violation of this chapter has been finally determined in a period from July 1 to June 30 of the following year, the Department may require the employer to pay an additional sum as a civil penalty in the amount of \$50 to the City for each employee or person whose rights under this chapter were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this Code or State law.

(k) The remedies, penalties and procedures provided under this chapter are cumulative and are not intended to be exclusive of any other available remedies, penalties and procedures established by law which may be pursued to address violations of this chapter. Actions taken pursuant to this chapter shall not prejudice or adversely affect

any other action, administrative or judicial, that may be brought to abate a violation or to seek compensation for damages suffered.

(l) No criminal penalties shall attach for any violation of this chapter, nor shall this chapter give rise to any cause of action for damages against the City.

13.110.130 Retaliation Prohibited.

An employer shall not discharge, reduce the compensation of, discriminate against, or take any adverse employment action against an employee, including discipline, suspension, transfer or assignment to a lesser position in terms of job classification, job security, or other condition of employment, reduction of hours or denial of additional hours, informing another employer that the person has engaged in activities protected by this chapter, or reporting or threatening to report the actual or suspected citizenship or immigration status of an employee, former employee or family member of an employee to a Federal, State or local agency, for making a complaint to the Department, participating in any of the Department's proceedings, using any civil remedies to enforce their rights, or otherwise asserting their rights under this chapter. Within 120 days of an employer being notified of such activity, it shall be unlawful for the employer to discharge any employee who engaged in such activity unless the employer has clear and convincing evidence of just cause for such discharge.

13.110.140 Retention of Records.

Each employer shall maintain for at least three years for each employee a record of their name, hours worked, pay rate, initial posted schedule and all subsequent changes to that schedule, consent to work hours where such consent is required by this chapter, and documentation of the time and method of offering additional hours of work to existing staff. Each employer shall provide each employee a copy of the records relating to such employee upon the employee's reasonable request.

13.110.150 City Access.

Each employer shall permit access to work sites and relevant records for authorized Department representatives for the purpose of monitoring compliance with this chapter and investigating employee complaints of noncompliance, including production for inspection and copying of its employment records, but without allowing Social Security numbers to become a matter of public record.

13.110.160 No Preemption of Higher Standards.

The purpose of this chapter is to ensure minimum labor standards. This chapter does not preempt or prevent the establishment of superior employment standards (including higher wages) or the expansion of coverage by ordinance, resolution, contract, or any other action of the City. This chapter shall not be construed to limit a discharged employee's right to bring a common law cause of action for wrongful termination.

13.110.170 Severability.

If any part or provision of this Chapter, or the application of this Chapter to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

DRAFT

NBER WORKING PAPER SERIES

THE EFFECTS OF THE EMERYVILLE FAIR WORKWEEK ORDINANCE ON
THE DAILY LIVES OF LOW-WAGE WORKERS AND THEIR FAMILIES

Elizabeth Ananat
Anna Gassman-Pines
John Fitz-Henley II

Working Paper 29792
<http://www.nber.org/papers/w29792>

NATIONAL BUREAU OF ECONOMIC RESEARCH
1050 Massachusetts Avenue
Cambridge, MA 02138
February 2022

This research received support from the California Wellness Foundation, the Duke Sanford School of Public Policy Pilot Fund, and the Population Dynamics Research Infrastructure Program award to the Duke Population Research Center (P2C HD065563) at Duke University by the Eunice Kennedy Shriver National Institute of Child Health and Human Development. Outstanding research assistance was provided by Laura Bellows, Sarah Harris and Ade Olayinka. Excellent project coordination was provided by Jennifer Copeland. Giovanna Merli and Candice Odgers provided helpful advice and support. Prior versions of this paper were presented at the Russell Sage Foundation, the Association for Public Policy Analysis and Management Fall Research Conference, and the Society for Research in Child Development Biennial Meeting. The views expressed herein are those of the authors and do not necessarily reflect the views of the National Bureau of Economic Research.

NBER working papers are circulated for discussion and comment purposes. They have not been peer-reviewed or been subject to the review by the NBER Board of Directors that accompanies official NBER publications.

© 2022 by Elizabeth Ananat, Anna Gassman-Pines, and John Fitz-Henley II. All rights reserved. Short sections of text, not to exceed two paragraphs, may be quoted without explicit permission provided that full credit, including © notice, is given to the source.

The Effects of the Emeryville Fair Workweek Ordinance on the Daily Lives of Low-Wage Workers and their Families

Elizabeth Ananat, Anna Gassman-Pines, and John Fitz-Henley II

NBER Working Paper No. 29792

February 2022

JEL No. I18,J08

ABSTRACT

Emeryville, CA's Fair Workweek Ordinance (FWO) aimed to reduce service workers' schedule unpredictability by requiring large retail and food service employers to provide advanced notice of schedules and to compensate workers for last-minute schedule changes. From a 1-in-6 sample of Emeryville retail and food service workers with young children (58 percent working in regulated businesses at baseline, the rest in the same industries in firms below the size cutoff for regulation), this study gathered daily reports of work schedule unpredictability and worker and family well-being over three waves before and after FWO implementation (N=6,059 observations). The FWO decreased working parents' schedule unpredictability relative to those in similar jobs at unregulated establishments. The FWO also decreased parents' days worked while increasing hours per work day, leaving total hours roughly unchanged. Finally, parent well-being improved, with significant declines in sleep difficulty.

Elizabeth Ananat
Barnard College
Columbia University
3009 Broadway
Office 1019 Milstein Building
New York, NY 10027
and NBER
eananat@barnard.edu

John Fitz-Henley II
Sanford School of Public Policy
Duke University
Durham, NC 27510
john.fitz.henley@duke.edu

Anna Gassman-Pines
Sanford School of Public Policy
Duke University
Box 90245
Durham, NC 27708
agassman.pines@duke.edu

Even prior to the COVID-19 pandemic, low-income families were grappling with a work landscape that had changed dramatically over the last half century. Pressures of globalization and trade, and automation, led to job destruction in many industries, particularly those such as manufacturing that in the past led to stability for less-educated workers. In their place came service work, with lower wages and more unstable employment and hours (Autor, Dorn et al. 2013). At the same time, earnings volatility increased across socio-economic levels, most markedly among lower-income people (Gottschalk and Moffitt 2009, Dynan, Elmendorf et al. 2012, Morduch and Schneider 2017). These features of work left families with high and increasing levels of instability and unpredictability in work and earnings.

Even among stably employed service-sector workers, working parents faced additional forms of uncertainty. Managerial innovations have changed the daily operations of retail and food service firms such that service workers experience great daily uncertainty in both pay and hours. For example, the managerial tactic of “on-call scheduling,” in which employers facing variable customer demand minimize labor costs by requiring workers to be available for work but not compensating them for their availability if they are not needed, introduces significant unpredictability into workers’ days. By increasing uncertainty, on-call scheduling practices, in addition to last-minute schedule changes and shift cancellations, may increase parents’ difficulties in balancing work and family demands. That type of schedule unpredictability has been shown to be very common among low-wage workers (Lambert, Fugiel et al. 2014, Schneider and Harknett 2019, Ananat and Gassman-Pines 2021). Previous work has also established that, conditional on family fixed effects, days with schedule unpredictability lead to worse worker health than days in which work schedules go as expected (Ananat and Gassman-Pines 2021).

Partially in response to concerns about the harms to workers and families from schedule unpredictability, in the last 10 years governments at various levels across the United States have begun considering new regulations to limit unpredictability and compensate workers when it occurs. This paper, based on data collected prior to the pandemic, builds on the emerging research on the effects of such policy changes by examining the effects of the 2017 Fair Workweek Ordinance (FWO) in Emeryville,

CA, on working parents' work schedules, and worker and family well-being. While the context of low-wage work has shifted in the wake of the pandemic, understanding the challenges families were facing prior to its onset can help us understand how to restructure employment policies going forward.

We focus on a highly policy relevant group of workers: parents with young children. In so doing, this study is the first to provide evidence of the effects of a local policy aimed at deterring work schedule unpredictability on working parents' schedules and on worker and family well-being. To do so, this study used a novel sample recruitment strategy with an innovative survey data collection protocol, daily surveys using short message service (SMS) text messages, over three waves of data collection. This study is also the first to investigate this type of policy change in Emeryville, adding to ongoing work in Seattle and Oregon to build the base of knowledge about how schedule stability laws affect working families.

We recruited nearly 100 Emeryville hourly service workers with young children, a 1-in-6 sample of the universe of affected workers, using venue-time sampling, and surveyed them daily for 30 days over each of three study waves, all prior to the onset of the pandemic (2017-2018). This approach allowed us to identify how the work and family experiences of affected workers changed after the FWO, relative both to their experiences at baseline and to the experiences of workers who were otherwise similar but worked for Emeryville businesses that fell below the FWO's size thresholds.

Work Schedule Unpredictability

Recent surveys of U.S. workers underscore the ubiquity of a variety of different types of schedule precarity, including schedule instability and unpredictability, among low-wage workers. For example, using the NLSY, researchers found that 41 percent of workers receive notice of their schedules only one week ahead of time or less (Lambert, Fugiel et al. 2014). Fluctuations in work hours are also substantial, with almost 75 percent reporting fluctuations in the number of hours they worked per week over the last month. Similarly, a survey of hourly workers in large retailers found that 60 percent of workers have variable hours and that 60 percent of workers have less than two weeks' notice of their work schedules (Schneider and Harknett 2019). In Emeryville, the vast majority, 87 percent, of a representative sample of

parents with young children reported some unanticipated work schedule change during a one-month period, with 58 percent of parents reporting at least one canceled shift (Ananat and Gassman-Pines 2021).

Estimates suggest that about one in six hourly workers has a young child (Schwartz, Wasser et al. 2015), and prior research has established that schedule unpredictability is associated with worse worker and family well-being. Surveys of low-wage workers at a single point in time have shown that those with more unstable schedules report more psychological distress, worse sleep quality, and more parenting stress (Schneider and Harknett 2019). Unstable and unpredictable work schedules are also correlated with lower-quality parent-child interactions (Henly, Shaefer et al. 2006) and increased work-life conflict (Luhr, Schneider et al. this volume, Henly and Lambert 2014).

Research focusing on day-to-day variation in work schedules underscores the negative effects on workers and their families from unanticipated work schedule changes. In Emeryville, instances of work schedule unpredictability on any given day were related to worse daily mood and sleep quality for working parents (Ananat and Gassman-Pines 2021). Similarly, research has shown that on days when parents are “on-call” for work hours, they reported increased daily negative mood (Bamberg, Dettmers et al. 2012, Dettmers, Vahle-Hinz et al. 2016) and worse daily sleep quality (Härmä, Karhula et al. 2018, Sprajcer, Jay et al. 2018) than days when they are not “on-call.”

Fewer prior studies focused on day-to-day variability in work schedules have examined the effects of work schedule unpredictability on other aspects of daily family wellbeing beyond parent mood and sleep quality. However, a related literature shows that daily parenting behaviors and child well-being were affected by daily nighttime work hours, with nighttime hours related to less daily parent time spent together with adolescent children, and harsher interactions between parents and children in early childhood (Gassman-Pines 2011, Lee, Davis et al. 2017). Increased parental nighttime work also led to less positive daily child behavior among preschool-aged children (Gassman-Pines 2011).

The findings from studies examining daily variation in work schedules are consistent with those from cross-sectional studies. Those examining daily variation, however, are able to use family fixed effects to control for all measured and unmeasured stable differences between families that might be

related to both work schedule unpredictability and family wellbeing. The research focused on within-family variation from day to day cannot be biased by between-family differences, such as parental personality or motivation. Thus, taken together, the evidence suggests that schedule unpredictability is not only correlated with worse outcomes for workers and their families, but actually causes worse well-being.

Policies to Regulate Service Workers' Schedules

Regulation and legal standards played a large role in shaping today's workplaces, e.g. through minimum wages and workplace safety requirements, and led to current U.S. norms around schedules, such as the 8-hour workday. But in recent years, labor-market regulation has paid little attention to schedules, despite dramatic shifts in the nature of scheduling practices. While earlier schedule regulations focused on preventing employers from extracting too much labor from workers, many workers today instead fear unpredictability in work and the instability in earnings that results. In response to research demonstrating links between unpredictable work schedules and harm to workers, and due to concerted labor organizing efforts (Ananat, Gassman-Pines et al. 2020), policymakers in localities and states have passed new regulations related to service workers' schedules. These policies represent an innovational shift for local labor regulation and have been passed in Emeryville, CA, Chicago, New York City, Philadelphia, San Francisco, Seattle, and the state of Oregon. Each of the policies are unique but largely share the same general features. In particular, they require large employers to provide advanced notice of work schedules to their hourly workers and to compensate workers if schedules subsequently change.

Emeryville, CA's Fair Workweek Ordinance

Passed in early 2017, the Emeryville Fair Workweek Ordinance (FWO) aims to stabilize schedules of hourly retail and food-service workers with several provisions. First, hourly workers must receive two weeks' advanced notice of their schedules. Second, workers have the right to decline previously unscheduled hours without retaliation if they are given less than two weeks' notice of hours. Third, workers are eligible for compensation for schedule changes that occur within two weeks and, in particular, for "stability pay" of up to 4 hours or half of a shift paid when a shift is cancelled, with the amount of pay increasing the closer to the shift the cancellation is made. Fourth, the FWO gives workers

the right to decline hours if they are within 11 hours of the previous shift, and workers are to be paid time and a half for shifts that fall within 11 hours of each other (so-called “clopings”).

The provisions of the Emeryville FWO apply to “large” retail and food service employers, defined as more than 55 employees globally for retail employers and both more than 55 employees globally and 20 or more employees in Emeryville for food service employers. These cutoffs mean there is some arbitrariness to which firms are treated: the large international sandwich chain Subway, for example, has fewer than 20 Emeryville employees and is untreated, while some local, single-location stores and restaurants have more than total 55 employees and are treated.

The Emeryville FWO was implemented in two phases. Beginning on July 1, 2017, the ordinance officially became effective and the city initiated a so-called “soft roll-out.” During the soft roll-out, the city investigated complaints but did not impose fines against employers who were not compliant. They also held employer- and employee-focused forums to educate stakeholders on the ordinance’s provisions and created and disseminated written educational materials. Beginning on January 1, 2018, the city began the full enforcement of the ordinance, including fines for non-compliance. Enforcement of the ordinance is primarily conducted via an employee-driven complaint system. If employers are found to have violated the ordinance, they can be fined up to \$500 per violation and \$1,000 for each employee retaliated against.

Preliminary Evidence on Effects of Scheduling Policies

Emerging research from Seattle and Oregon sheds light on the effects of such policies on workers, as well as the role of managers in policy implementation. In terms of effects on workers, an evaluation of workers with a range of family statuses showed significant changes in workers’ schedules after the implementation of the Seattle policy. In particular, in the first year of implementation, the Seattle policy increased the share of workers receiving advanced notice of their work schedule and the share of workers receiving predictability pay when their hours were changed (Harknett, Schneider et al. 2019). In the second year of implementation, additional benefits were observed, including a reduction in last-minute schedule changes and improved worker well-being as measured by increases in overall happiness and self-reported sleep quality (Harknett, Schneider et al. 2021). Consistent with the Seattle findings, an

evaluation of the early implementation of Oregon’s statewide policy also revealed that the majority of workers received advance notice of their schedule (Loustaunau, Petrucci et al. 2020).

These results generally align with studies that have focused on front-line managers as the conduits for policy implementation on behalf of employers. One year after policy implementation, managers in Seattle, for example, largely reported giving workers the required 14 days advanced notice of their shifts and following rules around shift cancellations, suggesting that implementing some of the Seattle law’s provisions were relatively straightforward (Haley and Lambert 2021). Employers struggled, however, with implementing other aspects of the law: Managers reported lower levels of compliance with rules around extending shifts and offering additional hours to current employees before hiring new ones. Similar patterns of results were reported by managers in Oregon (Loustaunau, Petrucci et al. 2020). In Oregon, an additional provision enabling managers to maintain voluntary waitlists facilitated frequent last-minute changes, making implementation easier for the employer but reducing the law’s reach from employees’ perspectives. Although the full set of costs and benefits to employers of these types of scheduling regulations is not yet known, related research suggest that employers could expect to see improvements in worker productivity and sales. A randomized experiment of a schedule stability intervention in retail stores showed such improvements in productivity and sales (Williams, Lambert et al. 2018, Kesavan, Lambert et al. 2020). Other research also suggest that improved work hours predictability leads to increased productivity (Hashemian, Ton et al. 2020).

The Current Study

With only a limited set of localities passing scheduling regulations, evaluations of policy change in each locality are crucial to building the base of knowledge about how such regulations affect workers and families. This study addresses this need by providing evidence on the effects of the scheduling regulations implemented in Emeryville, CA and by focusing on a highly policy-relevant population that has not been the focus of work investigating the effects of scheduling regulations in other jurisdictions, parents of young children.

Identification

Our main identification strategy is a difference-in-difference approach that compares over-time changes in outcomes for workers in “treatment” jobs—i.e. jobs at businesses that meet the size requirements to be regulated under Emeryville’s Fair Workweek Ordinance—to changes in outcomes for workers employed at similar jobs in businesses that fall short of the size requirements. Difference-in-difference designs rely on the assumption of parallel trends: the identifying assumption of our approach is that in the absence of the FWO’s implementation, the over-time changes in outcomes of workers in treatment and control jobs would have moved in parallel, and therefore any deviation in treated workers’ outcome trends from trends for workers in control jobs can be attributed to the effects of the FWO. Workers can and do hold multiple jobs; for outcomes that are defined at the worker-day level, such as sleep quality and interactions with the focal child, we define a worker as “treated” if they held at least one “treatment” job, even if they also held one or more control jobs. In robustness checks, we have defined treatment continuously, based on the share of hours worked at baseline in a treatment job; results are substantially similar (results available upon request).

A threat to the parallel trends assumption would occur if workers endogenously switch jobs in response to the FWO—that is, if treated jobs become more (or less) desirable due to the regulation, then workers with more advantages, e.g. those with better mental health, might switch sectors in response. Under those circumstances a simple difference-in-differences strategy, such as the type conducted using repeated cross-sectional surveys to evaluate policy changes, would inaccurately conflate compositional changes in the treated workforce due to the FWO with changes in individual worker outcomes due to the FWO. However, our panel structure avoids this problem by allowing us to combine the strengths of a difference-in-differences identification strategy with the complementary strengths of an individual fixed-effects approach: because we follow the same workers over time, we are able to include worker fixed effects and identify only changes in individual worker outcomes over time.

Another potential threat to the parallel trends assumption would occur if regulated versus unregulated businesses faced different shocks during the evaluation period, beyond those induced by the

FWO. The somewhat arbitrary and complex size cutoff for regulation—which does not coincide with thresholds for other regulations in Emeryville or with other meaningful market distinctions—makes it relatively unlikely, however, that treated and untreated firms will face different shocks (for example, to consumer demand or to credit access) on other dimensions over the implementation period.

METHOD

Sample recruitment

Individuals were eligible for this study if they worked in an hourly position in Emeryville and had a child between ages 2 and 7. Recruitment occurred in May 2017, after the passage of FWO but prior to its enactment. We used a venue-based sampling approach to recruitment. For this purpose, we secured from the City of Emeryville a complete list of retail and food service businesses in the city. Using this list, we constructed a sampling frame of venue (business) day-time units (VDTs), randomly selected VDTs, and identified and recruited eligible individuals present in those VDTs (Muhib, Lin et al. 2001). We approached workers at each business, determined their eligibility, and asked those workers to direct us to any other currently present employee with a young child. Across VDTs, we entered each business in the area at least once, talking with over 600 workers, including at least one from each retail or food establishment in the city. We estimated, based on recent surveys of hourly retail and food service workers (Schwartz, Wasser et al. 2015), that about 15 percent of the 3,743 Emeryville hourly retail and food service workers have a young child, suggesting an eligible population of 561 workers. Of these, we talked with 170, an estimated 30 percent of eligible workers. We successfully recruited 96, or 56 percent, of the eligible workers we contacted. Our sample, although small in absolute size, reflects a substantial 1-in-6 sample of the universe of Emeryville retail and food workers with a young child. Importantly, the initial sample was balanced across: 1) retail and food firms that meet threshold local and global employment levels and are subject to regulation from the FWO and 2) otherwise similar control firms below those thresholds, which are exempt from the FWO.

Procedure and analysis sample

At the beginning of the study, respondents were asked about their demographics, health and well-being, work history, each job's hourly wage and whether it is tipped, and reports on children. Then, every day for 30 consecutive days, respondents reported on that day's work and family experiences via SMS text message. Daily survey completion rates among participants in the initial wave were very high: 61 percent of participants completed 100 percent of the daily surveys and 89 percent completed the majority (i.e. more than 15), providing substantial within-person variation for analysis.

We contacted the sample again two times: in the Fall of 2017 during the "soft roll-out" enforcement phase of FWO implementation (wave 2) and in the spring of 2018 during the full enforcement phase of FWO implementation (wave 3). Of the initial 96 participants, 76 participated in wave 2; 71 participated in wave 3. At each wave, we gathered information about changes in workers' jobs and job characteristics and then again collected reports on the day's work and family experiences via SMS text message for 30 consecutive days. In wave 2, daily participation was higher than in wave 1: 74 percent of participants completed 100 percent of the 30 daily surveys and 98 percent completed the majority of the daily surveys. In wave 3, daily participation was higher than in wave 1 or wave 2: 80 percent of participants completed 100 percent of the daily surveys and 99 percent completed the majority.

Participant compensation was structured to incentivize completion of all 30 daily surveys within each wave. In waves 1 and 2, participants received \$1.00 for each survey completed, with bonuses of \$7 and \$10 offered for each week with 7 completed surveys, respectively. In wave 3, participants received \$1.20 for each survey completed with a bonus of \$12 for each week with 7 completed surveys. An additional completion bonus for those who answered all 30 daily surveys was also offered: \$20 in wave 1, \$25 in wave 2 and \$30 in wave 3.

Our analysis sample for this study included all individuals who participated in at least one of the post-FWO implementation follow-up waves ($N = 78$ parents; $N = \sim 6,000$ person-days for analysis). On average, our analysis sample provided 86 days of survey responses across the waves of data collection.

All survey materials used for this study were available in both English and Spanish. All aspects of this study were approved by the Duke University Institutional Review Board (protocol #2017-0053).

Measures

Daily schedule unpredictability was characterized along a number of dimensions. We asked a series of questions about up to three jobs per respondent, based on the number of jobs reported at the initial interview for each wave. For each job, respondents were asked whether they worked that day, and if so: when they started and stopped working and whether their hours worked were their originally scheduled hours. If not, they provided their originally scheduled hours. Thus, for each day that a respondent worked at a given job, we measure whether their hours worked deviated from their originally scheduled hours at that job. Further, if respondents did not work at a given job on a given day, they were asked if they were originally scheduled to work. Thus, for each day we measure whether a respondent had a shift cancelled at that job. For both changes in work hours and shift cancellations, respondents were asked when they found out about the change: *less than one hour before the shift start time; more than one hour before the shift start time, on the day of the shift; the night before; or earlier*. Those who gave any response other than *earlier* about either a change in hours or a shift cancellation were coded as having a last-minute work schedule change at that job on that day.

To find surprise shifts, we looked at responses to the question about originally scheduled hours. In that space, many respondents offered context, stating that they were off, weren't scheduled for that day, or offering hours on the next day (e.g. on Monday saying that they were scheduled to work Tuesday). In any of these cases, we classified this as a surprise shift, rather than a change in hours. Finally, surprise shifts, along with changes in hours and canceled shifts, were combined to create an additional measure that indicates whether the respondent had any kind of schedule change at that job on any given day.

Because information was provided about each job on each day, it was possible to examine work schedule unpredictability both by job and by day. For all outcomes discussed above, the unit of analysis was the person-job-day.

Daily family and child well-being outcomes were measured as described below. Daily mood was measured with an item that asked respondents how much of the time they felt fretful, angry, irritable, anxious, or depressed on a three-point scale from *all of the time* to *none of the time*. This question was modified from a question with a four-week recall period from the Health Utilities Index (HUI) (Furlong, Feeny et al. 2001, Horsman, Furlong et al. 2003). The single item has been validated as a daily measure of negative mood as it is positively correlated with daily stressors, including daily food insecurity (Gassman-Pines and Schenck-Fontaine 2019) and daily work schedule disruptions (Ananat and Gassman-Pines 2021); it increased substantially when COVID-19 restrictions were put into place (Gassman-Pines, Ananat et al. 2020). A dichotomous indicator was created equal to 1 for those who answered *Some of the time* or *All of the time* and 0 for those who answered *None of the time*.

Daily perceived negative sleep quality was measured with a single item used in other daily survey studies (George, Rivenbark et al. 2019), asking: “How well did you sleep last night?” Answers were on a 10-point scale from *really badly* to *really well*. We treat self-reported sleep quality as a measure of daily well-being, as perceived sleep quality is associated with daily affect (Bower, Bylsma et al. 2010). The sleep quality measure was reverse-coded so that higher numbers indicated worse perceived sleep quality. This measure has been validated, as it is correlated in expected directions with negative and positive daily mood, daily self-esteem (George, Rivenbark et al. 2019) and daily work schedule disruptions, a daily stressor (Ananat and Gassman-Pines 2021).

Daily parent-child interactions was measured with two questions: “Did you punish your child today?” and “Did you lose your temper with your child today?” Dichotomous indicator variables were set equal to 1 if the parent responded *Yes* and 0 if the parent responded *No*. Both of these measures have been validated as they were both positively correlated with daily disruptions to school and care during the COVID-19 pandemic (Gassman-Pines, Ananat et al. 2021).

Finally, daily child behavior was measured with two items. Daily child uncooperative behavior was measured with a single item asking: “How much was your child uncooperative today?” Answers on a four-point scale included: *Not at all*, *Just a little*, *Some*, and *A lot*. This question was modified from an

item in the Inattention/Overactivity with Aggression Conners Rating Scale (Loney and Milich 1982), which asks parents to rate how much the adjective describes their child “at this time.” Daily child worry was measured with a single item asking: “How much did your child appear to be sad or worried today?” Answer choices on a four-point scale included: *Not at all*, *Just a little*, *Some*, and *A lot*. This question was modified from an item in the Preschool Behavior Questionnaire (Behar and Stringfield 1974), which asks parents to rate how much the child exhibits each behavior.

For both child behaviors, prior research has demonstrated the reliability and validity of multi-item scale versions adapted for measuring daily externalizing and internalizing behavior problems (Gassman-Pines 2015). In the current study, single items were used to reduce respondent burden and attrition. Dichotomous indicator variables were set equal to 1 if the parent responded *Some* or *A lot* and 0 if the parent responded *Not at all* or *Just a little*. These single-item measures have been validated as they were both positively correlated with daily disruptions to school and care during the COVID-19 pandemic (Gassman-Pines, Ananat et al. 2021).

Job type (e.g., treatment vs. control) was categorized as follows: for each of up to 3 jobs reported by a respondent, a job was coded as a “treatment” job if it was an hourly position at a venue listed by the City of Emeryville as regulated under the FWO. A job was coded as a “control” job if it was at a retail or food establishment in Emeryville that was listed by the City as not covered under the FWO, or if it was outside of Emeryville or outside of retail and food. Workers were categorized as in the treatment group if they had at least one treatment job; otherwise, they were classified as in the control group. All respondents had at least one hourly position in food service or retail in Emeryville, but respondents could also have additional jobs outside of Emeryville, outside of food or retail, and/or paid other than hourly.

Analytic strategy

To evaluate the job-experience relationships of interest, i.e. effects on schedule unpredictability, the following equation was used:

$$Y_{ijt} = \beta_0 + \beta_1 * Treat_{ij} * After_t + \beta_2 * After_t + \beta_3 * Treat_{ij} + \psi_{ij} + \tau_t + \epsilon_{ijt}$$

for outcome Y for person i in job j on day t , where ψ represents a vector of individual-by-job fixed effects and τ is an indicator for whether day t falls on a weekend. Previous research shows that both work and home experiences differ dramatically between weekends and weekdays for workers in these types of jobs (Ryan, Bernstein et al. 2010, Shrout, Bolger et al. 2010, Gassman-Pines 2011, Gassman-Pines, Ananat et al. 2020, Ananat and Gassman-Pines 2021). Because of idiosyncratic variation in individual start days, respondents experience different numbers of weekend days, which would, if we simply averaged across days within person and wave, lead to greatly increased noise in our estimates.

$Treat_{ij}$ is an indicator variable equal to one if job j was at a treated firm subject to FWO regulations, and zero otherwise. We measure job-experience outcomes (hours changes, surprise shifts, and cancelled shift) at the person-job-day, rather than person-day, level because the variation in those outcomes exists at the person-job-day level. For example, we measure canceled shifts at the person-job-day level because a worker with two jobs might have had a shift canceled at one job on a given day, while on the same day their shift at another job was not canceled. As we are interested in whether the policy affects scheduling practices such as this, and as the policy can, in some cases, affect one of a respondent's jobs but not the other, examining job outcomes separately is scientifically appropriate. Note, however, that most respondents have only one job (Table 1), so this has only a minor effect on our sample size.

$After_t$ is an indicator variable equal to one if day t falls during the post-implementation period, and zero otherwise. The definition of the post-implementation period is somewhat ambiguous because Emeryville began implementation with a “soft roll-out,” as discussed above. To accommodate this ambiguity, our main results include three separate approaches to defining pre- and post: (1) base estimates only on pre-implementation (Wave 1) and full enforcement (Wave 3) data, with full enforcement Wave 3 observations defined as post-implementation; (2) include all observations and define both soft roll-out and full-enforcement observations as post-implementation; and (3) include all observations, and estimate:

$$Y_{ijt} = \beta_0 + \beta_1 * Treat_{ij} * Wave2_t + \beta_2 * Wave2_t + \beta_3 * Treat_{ij} * Wave3_t \\ + \beta_4 * Wave3_t + \beta_5 * Treat_{ij} + \psi_i + \tau_t + \epsilon_{ijt}$$

This specification allows us to estimate the effect of the FWO during the soft roll-out (represented by the estimated value of the coefficient β_1) separately from the effect of the FWO during full enforcement (represented by the estimated value of the coefficient β_3), and we report the estimates for both effects in our main results.

Worker and family well-being (worker sleep quality and mood, parenting behaviors, and child behavior) exist only at the person-day level, evaluated using the following equation:

$$Y_{it} = \beta_0 + \beta_1 * Treat_i * After_t + \beta_2 * After_t + \beta_3 * Treat_i + \psi_i + \tau_t + \epsilon_{it}$$

for outcome Y for person i on day t . $Treat_i$ is equal to one if person i had at least one treatment job, and equal to zero otherwise. All other variables are as defined above, and a parallel specification shift was made to estimate our third approach to modeling soft roll-out and full enforcement effects.

In addition to fixed effects for each respondent, we cluster our standard errors at the person level, to reflect the fact that observations for a given respondent across jobs, days, and waves are not independent of one another. Clustering of standard errors relaxes the assumption that errors are independent and identically distributed and allows for errors within a cluster (in this case, a person) to instead be arbitrarily correlated. With 78 respondents in our analytical sample, we have a large enough sample to estimate person-fixed effects, use our average of 86 observations per respondent to estimate standard errors clustered on person, and then to estimate effects of the policy.¹

RESULTS

Descriptive Results

Table 1 reports descriptive results at baseline for the analysis sample, overall and separately for the treatment and control groups (defined at Wave 1). Respondents were, on average, 30 years old, with

¹ Our highly racially diverse sample means, however, that we have a small number of respondents of each race-ethnic identity. Estimates with fixed effects and clustering, regardless of how large their total N , do not exhibit large-sample properties when they include only a small set of clusters (Angrist & Pischke 2009), meaning our sample is unfortunately not adequate to estimate such models.

11.7 years of education, and had their first child at age 24. The majority, 86 percent, of the sample identified as female. Just under 30 percent had ever been married. They were racially and ethnically diverse: 31 percent were Hispanic (of any race); 45 percent were non-Hispanic Black; 8 percent were non-Hispanic White; 8 percent were non-Hispanic Asian-American; 1.2 percent were non-Hispanic Native American; and 7.1 percent were non-Hispanic multiracial. On average, they held 1.13 jobs. Respondents' household income averaged \$2,795 per month. The majority of respondents lived with at least one other adult: 58 percent lived with a romantic partner, and 21 percent lived with a parent. On average respondents had 1.8 children. Fifty-eight percent held at least one treatment job.

Financial strain was common among respondents. Over one in five reported generally not having enough money to make ends meet, with another half reporting generally having just enough. Nearly two-thirds of respondents doubted they could access funds to pay for a \$1000 emergency. About the same number had to borrow from friends or family in the past year to make ends meet, while 37 percent had applied for government assistance.

Not surprisingly given all these stressors, respondents reported mental health challenges as well. More than one in four reported finding it “often or always” difficult to relax, and one in ten “often or always” felt downhearted or blue. Similarly, 21 percent of respondents reported that their focal child was often “somewhat or very” worried, and 10 percent that their focal child was often “somewhat or very” unhappy, depressed, or tearful.

Across most characteristics, baseline characteristics were well-balanced across treatment and control. Among 24 characteristics, two were significantly different between the groups at the 10 percent level, consistent with chance. This balance suggests that, among hourly service workers with young children, there is little selection on observables into treatment (larger firm) versus control (smaller firm) jobs.

The exception to this balance was differences in child care arrangements, with those in treatment jobs less likely to access formal childcare and more likely to instead rely on relative care, and for more hours per week. We interpret these differences as a reflections of the jobs themselves rather than selection

into them; as shown in Figure 1, at baseline treatment jobs were more unpredictable, which, as documented in other work (Luhr et al., this volume) makes use of formal childcare more challenging. Note, however, that even if the difference in childcare suggested imbalance on unobservables between the treatment and control groups, difference-in-difference designs do not require baseline equality between treatment and control; rather, we instead rely on the much weaker assumption of parallel trends.

Table 2 summarizes all daily work and well-being outcomes across people, jobs, and waves. Because there were significant differences in these measures across race, we report both overall means and means for non-Hispanic Blacks, non-Hispanic Whites, non-Hispanic Asian-Americans, and Hispanics (of any race). Overall, some type of schedule change was made on nearly 11 percent of job-days, with a significantly greater share of days with a change among Asian-American respondents (17 percent) and a significantly lower share among White respondents (8 percent). The majority of schedule changes were last-minute, with less than 24 hours' notice; White respondents were less likely to experience changes at the last minute (4.7 percent of days versus 7.0 percent for the sample overall).

Among the types of schedule changes, a change in work hours was the most common, occurring on 5.4 percent of days on average but at almost twice that frequency, 10.3 percent of days, among Asian-Americans. Surprise shifts were the least common type of schedule change, occurring on less than 1 percent of days, with no differences across groups. Across all waves, respondents worked on about 55 percent of job-days; Asian-Americans and Hispanic respondents were more likely than average to work on a given day. The average shift length on any given work day was 7.1 hours, but was higher for Whites, at 7.4 hours, and lower for Asian-Americans, at 6.7 hours.

Finally, in terms of family well-being outcomes, negative mood was fairly common, with respondents overall reporting negative mood on 42 percent of days. White respondents reported significantly more days with negative mood (60 percent of days), while Hispanic respondents reported fewer (32 percent). Sleep difficulties were greater among Whites and lower among Asian-Americans; harsh parenting behaviors were higher among Whites and Asian-Americans than among the population

overall. Black and Asian-American parents reported more days with child uncooperativeness and child worry than did the sample overall. Child behavior problems were relatively infrequent across all groups.

Impacts of the Emeryville FWO

Table 3 reports effects of the FWO on schedule disruption outcomes; given small sample sizes, we were not able to separately estimate effects of the FWO by race and ethnicity, as discussed above. Across all models, results showed that the FWO led to a decrease in any schedule change overall, with point estimates ranging from 2.5 percentage points to 5.5 percentage points, though not all point estimates reached conventional levels of statistical significance. Results from model three suggest that decreases in schedule changes occurred right away, in the soft-roll out phase of enforcement. The estimates from our third model are also presented in Figure 1, which shows that treatment jobs had more frequent schedule changes than control jobs in the pre-period, but that rates of schedule changes for the treatment jobs declined to the same level as the control jobs once the FWO was implemented. As shown in Table 3 and Figure 1, the same pattern of results was found for last-minute changes: the FWO reduced last-minute schedule changes. Again, although not all estimates reached conventional levels of statistical significance, the pattern of findings is consistent with a decline in last-minute changes following FWO implementation for the treatment jobs relative to the control jobs.

Among the types of schedule disruptions considered, we found that surprise shifts were most strongly affected by the FWO, while point estimates for changes in work hours follow a similar, but not statistically significant, pattern (Table 3). Shift cancellations were not affected by the FWO. As shown in Figure 1, treatment jobs had more frequent surprise shifts in the pre-period but rates of surprise shifts for the treatment jobs declined once the FWO was implemented, and were lower than rates in control jobs by the full-enforcement phase.

Table 4 reports effects of the FWO on daily work and hours outcomes. Results show that the FWO decreased the likelihood of working in a treatment job on any given day. The effect size was substantial, with decreases in wave three of about 12 percentage points. As shown in Figure 1, the likelihood of working in a treatment or control job on any given day were very similar prior to the

implementation of the FWO. During the post-period, the likelihood of working in a control job on any given day increased slightly while the likelihood of working in a treatment job decreased.

At the same time, however, results also showed that the FWO increased the length of shifts on work days. By the full enforcement phase, the increase in work hours was about .4 hours, on average. When combining the two effects by considering average work hours including zeroes for non-work days, the FWO did not significantly affect hours worked within a job. Workers do not appear to have increased work in non-regulated firms in response to changes in their treatment jobs, given that average work hours across all jobs were also not significantly affected by the FWO.

Finally, Table 5 reports effects of the FWO on parent and child outcomes. Considering parental well-being, the FWO decreased sleep difficulty (defined by reverse-coding and then normalizing the sleep quality responses that had been gathered using a 1-10 scale), though not all estimates reach conventional levels of statistical significance. In wave 3, sleep difficulty decreased by nearly .28 *SD* for those in treatment jobs, relative to those in control jobs. As show in Figure 1, those in treatment jobs experienced more sleep difficulty than those in control jobs prior to the implementation of the FWO, with sleep difficulty decreasing substantially during the full enforcement phase. Effects on daily parental negative mood were also in the negative direction, but did not reach statistical significance. We did not find any effects of the FWO on either parenting behaviors or child behavior.

Robustness Checks

We conducted a variety of robustness checks (all results available on request). First, we ran all models on a balanced panel of participants who participated in all waves, rather than only in at least one post-implementation wave. Results were substantially similar to those reported here. Second, we ran all models using initial treatment status at the person-level only. Results were in the same direction and of similar magnitude to those described here but were less precisely estimated. Third, we ran all models using a continuous definition of treatment status defined by the share of total work hours worked at a treatment job at baseline; results were substantially similar. Fourth, we ran models of hours worked dropping observations for which hours information was incomplete and had to be imputed; results were

substantially similar. Fifth, we estimated all models for demographic subgroups defined by race, ethnicity, gender, and education; unfortunately, sample sizes became too small for interpretation.

DISCUSSION

Low-income families in the 21st century, especially those working in the service sector, faced high levels of unpredictability in work hours and pay, even prior to the onset of the COVID-19 pandemic and its disruptions to the labor market. Anecdotally, there seems to be little possibility that the pandemic and its related economic dislocations have improved predictability. Local regulations aimed at reducing unpredictability in work schedules are a new innovation in labor policy that were gaining traction in many localities, and one state, in the United States prior to the pandemic, but little is known about such policies' effects and, therefore, whether predictability for low-income families will be improved by encouraging more localities to adopt such policies going forward. Emeryville, CA is one of only a handful of localities that has passed such an ordinance. This paper, thus, addresses a gap in the literature by being the first to examine the effect of Emeryville's Fair Workweek Ordinance on working parents and their families.

We find that the Fair Workweek Ordinance (FWO) succeeded in reducing schedule unpredictability for workers with young children, particularly changes in start and end times of shifts and surprise shifts. The FWO also decreased the number of workdays significantly for treated workers in our sample, while increasing the hours worked on workdays and leaving total work hours insignificantly affected. It is possible that these changes were concentrated among those, like our sample, with caregiving responsibilities, and represent a re-assignment by employers of short, unpredictable, or otherwise difficult shifts from such workers to workers without caregiving responsibilities, for whom such marginal shifts are less costly. Future work should examine effects of schedule predictability legislation on different populations of workers.

The regulatory success of the FWO translated into some health benefits for workers in regulated jobs, in particular, improved sleep quality. Thus, even with a relatively small sample size, this paper thus presents important initial evidence that this type of policy change can affect work schedule

unpredictability among working parents, and can do so by impacting individual workers rather than merely by shifting sector composition.

These findings are notable in the context of the remarkable changes in work in the last half century, with increasing instability and unpredictability in employment, hours, and pay, especially for workers with less access to formal higher education. Historically, regulations played a large role in shaping today's workplaces, for example through minimum wages and anti-discrimination policy, and also created the current U.S. norms around scheduling, including the 8-hour workday and the weekend. But in recent years, regulation of the labor market has focused little attention on scheduling, despite the fact that the nature of work schedules has been shifting dramatically. In particular, while the earlier generation of scheduling regulation concentrated on preventing employers from extracting *too much labor* from workers, many of today's workers fear instead *too much variability and unpredictability* in work and pay. That is, recent concerns focus on employers shifting the risk of variable customer demand from themselves to their employees, by giving workers neither hours nor pay when demand is unexpectedly low. Indeed, the Emeryville ordinance studied in this paper was passed in response to such concerns.

Our results show that the Emeryville FWO decreased schedule changes and, in particular, last-minute schedule changes. These impacts are notable because these are the dimensions of schedule changes that our own prior research has shown to be particularly costly for working parents and their families, in terms of reduced parental well-being (Ananat and Gassman-Pines 2021). These findings are also consistent with those from an evaluation of Seattle's secure scheduling law that examined all workers (rather than focusing on parents) and found that Seattle's law also decreased last-minute schedule changes (Harknett, Schneider et al. 2021). This convergent evidence suggests that local schedule regulations can be a fruitful path for addressing unpredictability in work schedules for low-income families. Importantly, we observe these changes immediately after the law was passed, during the "soft roll-out" phase of enforcement. Although the City only began fining non-compliant businesses during full enforcement, our results suggest that simply having a law go into effect is a powerful change that leads at least some firms to comply, even if they are not at risk of being fined or penalized.

We also find that changing scheduling practices through this local ordinance leads employers in covered firms to reduce the number of shifts that employees work. However, the FWO leads to increased hours for parents on the days when they do work, leaving no significant changes in average hours worked. Given the fixed costs of working on a given day, including making child care arrangements and commuting, it is plausible that on net these scheduling changes made workers better off. Consistent with this possibility, the net effect of the Emeryville FWO was to improve workers' well-being as proxied by subjective sleep quality. Working parents, in particular, are likely to place a high value on the stability of work schedules, as stable work schedules make balancing the demands of work and family easier (Henly 2004, Henly and Lambert 2014).

The evidence related to the effects of scheduling regulation on worker sleep quality is notable for several reasons. First, these results are highly similar to those found in the Seattle evaluation; Seattle's ordinance also improved subjective sleep quality (Harknett, Schneider et al. 2021). This converging evidence underscores the role for scheduling regulation in improving workers' sleep quality. Second, service sector workers emphasize sleep disruptions and poor-quality sleep as consequences of schedule unpredictability (Human Impact Partners and Center for Popular Democracy 2016), and our own prior work in Emeryville showed these effects on a daily level (Ananat and Gassman-Pines 2021). Reductions in work schedule unpredictability may improve sleep quality for a number of reasons, including: by helping to stabilize daily routines; by facilitating circadian rhythms, which can be disrupted by unstable and unpredictable work schedules; and by reducing job strain, each of which has been linked to sleep quality (Eriksen, Bjorvatn et al. 2008, Moss, Carney et al. 2015, Kecklund and Axelsson 2016). Other aspects of work life, such as commute time, may also play a role in exacerbating links between unpredictable work schedules and worse sleep quality, as longer commutes themselves are associated with worse sleep (Petrov, Weng et al. 2018); the shift to longer work hours on fewer days may have thus contributed to better sleep by reducing total commute time.

Finally, subjective sleep quality is also a marker of well-being and an important input into both physical and mental health (Brewster, Billy et al. 1993, Bower, Bylsma et al. 2010). Worse sleep quality,

for example, is related to both heart disease in the adult population (Cappuccio, Cooper et al. 2011) and depression among parents (Park, Meltzer-Brody et al. 2013). Poor sleep quality is associated with more harsh parenting behavior (Kelly, Erath et al. 2021), and worse daily sleep quality has been found to exacerbate the effects of chronic and daily stressors on daily negative parental mood (da Estrela, Barker et al. 2018, Lillis, Hamilton et al. 2018, Mihaila and Hartley 2018). Thus, improvements in sleep quality may have the potential to lead to longer-term improvements in family functioning and child wellbeing, such as more positive parent-child interactions, reduced parental stress, and improved child behavior. Future research should investigate the mechanisms connecting unpredictable work schedules to worse sleep quality, the family well-being consequences of improved sleep quality, and moderation by other aspects of work, such as commute time. While the small population of Emeryville means we were underpowered to detect downstream effects on children's well-being even in a 1-in-6 probability sample, the implications are conceptually clear, as children are influenced and constrained by their parents' lived experiences in the labor market (Ananat, Gassman-Pines et al. 2017). Links between parental well-being and child adjustment are well established (Cummings and Davies 1994, Cummings, Keller et al. 2005, Cummings, Davies et al. 2020). Parents who are experiencing psychological distress tend to have more difficulty acting as sensitive caregivers, which can lead to increased behavior problems and other difficulties for children (Dix, Gershoff et al. 2004).

We note that our sample included only working parents with young children, a group that is particularly strongly affected by work schedule unpredictability but is not representative of all workers in the treatment firms. It is possible, for example, that workers without young children (the majority of workers) may have experienced an increase in work shifts due to the Emeryville FWO, if they were willing to add shifts on short notice. Our results are not meant to generalize to all Emeryville retail and fast food employees, but only to employees with young children, a group of *a priori* concern due to both their vulnerability and their relevance to public policy.

Our methodological approach, pioneered in this study, has several strengths that enhance the contribution of this work. First, although small, our use of a venue-time sampling strategy resulted in a

sample that is representative of Emeryville workers in retail or food service with a child between the ages of two and seven. Given that such a population is unrostered and difficult to enumerate, implementing a representative sampling strategy was a major innovation. Second, we followed our sample longitudinally, which avoids bias from compositional changes in the workforces of firms after they become regulated. Therefore, our results cannot be explained by, for example, covered businesses becoming more attractive to workers with better mental health after FWO implementation. Finally, work schedule disruptions were measured via daily surveys, which avoids recall bias, a problem we have shown in previous work to be sizeable in reporting the frequency of schedule changes (Ananat & Gassman-Pines, 2021).

We do note, however, that despite our ability to follow the same representative sample longitudinally, it is still possible that endogenous sector-switching in response to time-varying worker characteristics could be driving some of our results. For example, if employment in covered businesses became more attractive post-FWO implementation, and therefore workers who experienced changes (such as becoming newly partnered and therefore better able to manage child care) that made them more desirable employees became more likely to switch into the covered sector than they would have been in the absence of the FWO, that could threaten the validity of our findings if these same changes also had direct impacts on worker well-being. The waves, however, were fielded only a few months apart, so any changes in employee characteristics, subsequent changes in employee desirability, and resulting changes in employment would have had to unfold quite quickly.

Additionally, our small overall sample size prevented us from examining subgroup effects. Understanding the heterogeneity in effects of schedule regulations for workers with different characteristics is important for future study, and will be facilitated by research with larger sample sizes. Finally, examining effects on employers was outside the scope of this study. Emerging literature would suggest that employers likely faced some challenges in implementing the law's provisions, but also that they may have benefited in terms of enhanced worker productivity and sales. Additional research should investigate effects on employers to understand the comprehensive impacts of scheduling regulations.

SUMMARY AND CONCLUSION

To summarize, our results show that the Emeryville Fair Workweek Ordinance (FWO) reduced schedule unpredictability for working parents of young children, a group that has particular difficulty balancing work and family and is of policy concern. The FWO also decreased the number of work shifts, but increased shift length, leaving total work hours unchanged. The FWO also improved one measure of well-being: sleep quality. This is important initial evidence that secure scheduling policy changes can affect work schedule unpredictability among working parents, and, ultimately, these parents' well-being.

Parents working in the service sector face a myriad of challenges in balancing their work and family demands, which have plausibly only worsened in the wake of the COVID-19 pandemic. Work schedule unpredictability is a particularly salient and ongoing challenge that has been highlighted by workers, labor organizers, and social science scholars. Emeryville's law improved schedule predictability and well-being for working parents, suggesting that such laws could provide a pathway towards increasing predictability for low-income families.

REFERENCES

- Ananat, Elizabeth O., and Anna Gassman-Pines. 2021. "Work schedule unpredictability: daily occurrence and effects on working parents' well-being." *Journal of Marriage and Family* 81(1): 10-26.
- Ananat, Elizabeth O., Anna Gassman-Pines, Dania V. Francis, and Christina M. Gibson-Davis. 2017. "Linking job loss, inequality, mental health, and education." *Science* 356(6343): 1127-1128.
- Ananat, Elizabeth O., Anna Gassman-Pines, and Yulya Truskinovsky (forthcoming). "Increasing instability and uncertainty among low-wage workers: Implications for inequality and potential policy solutions." *The Politics of Distribution*. F. Rosenbluth and M. Weir. New York, Cambridge University Press.
- Angrist, Joshua D. and Jörn-Steffen Pischke (2009). *Mostly Harmless Econometrics*. Princeton, NJ, Princeton University Press.
- Autor, David H., David Dorn, and Gordon H. Hanson. 2013. "The Geography of Trade and Technology Shocks in the United States." *The American Economic Review* 103(3): 220-225.
- Bamberg, Eva, Jan Dettmers, Hannah Funck, Birgit Krähe, and Tim Vahle-Hinz. 2012. "Effects of On-Call Work on Well-Being: Results of a Daily Survey 1." *Applied Psychology: Health and Well-Being* 4(3): 299-320.
- Behar, Lenore, and Samuel Stringfield. 1974. "A behavior rating scale for the preschool child." *Developmental Psychology* 10: 601-610.
- Bower, Bethanne, Lauren M. Bylsma, Bethany H. Morris, and Jonathan Rottenberg. 2010. "Poor reported sleep quality predicts low positive affect in daily life among healthy and mood-disordered persons." *Journal of Sleep Research* 19(2): 323-332.
- Cummings, E. Mark, and Patrick T. Davies. 1994. "Maternal depression and child development." *Journal of Child Psychology and Psychiatry* 35(1): 73-122.
- Cummings, E. Mark, Patrick T. Davies, and Susan B. Campbell. 2020. *Developmental Psychopathology and Family Process: Theory, Research, and Clinical Implications*. Guilford Publications.
- Cummings, E. Mark, Peggy S. Keller, and Patrick T. Davies. 2005. "Towards a family process model of maternal and paternal depressive symptoms: Exploring multiple relations with child and family functioning." *Journal of Child Psychology and Psychiatry* 46(5): 479-489.
- da Estrela, Chelsea, Erin T. Barker, Sarah Lantagne, and Jean-Phillippe Guoin. 2018. "Chronic parenting stress and mood reactivity: The role of sleep quality." *Stress and Health* 34(2): 296-305.
- Dettmers, Jan, Tim Vahle-Hinz, Eva Bamberg, Niklas Friedrich, and Monika Keller. 2016. "Extended work availability and its relation with start-of-day mood and cortisol." *Journal of Occupational Health Psychology* 21(1): 105.
- Dix, Theodore, Elizabeth T. Gershoff, Leah N. Meunier, and Pamela C. Miller. 2004. "The affective structure of supportive parenting: depressive symptoms, immediate emotions, and child-oriented motivation." *Developmental Psychology* 40(6): 1212.
- Dynan, Karen, Douglas Elmendorf, and Daniel Sichel. 2012. "The evolution of household income volatility." *The BE Journal of Economic Analysis & Policy* 12(2).
- Furlong, William J., David H. Feeny, George W. Torrance, and Ronald D. Barr. 2001. "The Health Utilities Index (HUI®) system for assessing health-related quality of life in clinical studies." *Annals of Medicine* 33(5): 375-384.
- Gassman-Pines, Anna. 2011. "Low-income mothers' nighttime and weekend work: Daily associations with child behavior, mother-child interactions and mood." *Family Relations* 60: 15-29.
- Gassman-Pines, Anna. 2015. "Effects of Mexican immigrant parents' daily workplace discrimination on child behavior and family functioning." *Child Development* 18: 1175-1190.
- Gassman-Pines, Anna, Elizabeth O. Ananat, John Fitz-Henley II, and Jane Leer. 2021. "Effect of daily school and care disruptions during the COVID-19 pandemic on child behavior problems."
- Gassman-Pines, Anna, Elizabeth O. Ananat and John Fitz-Henley. 2020. "COVID-19 and parent-child psychological well-being." *Pediatrics* 146(4).

- Gassman-Pines, Anna, and Anika Schenck-Fontaine. 2019. "Daily Food Insufficiency and Worry among Economically Disadvantaged Families with Young Children." *Journal of Marriage and Family*.
- George, Madeleine J., Joshua G. Rivenbark, Michael A. Russell, Leonard Ng'eno, Rick H. Hoyle, and Candice L. Odgers. 2019. "Evaluating the Use of Commercially Available Wearable Wristbands to Capture Adolescents' Daily Sleep Duration." *Journal of Research on Adolescence* 29(3): 613-626.
- Gottschalk, Peter, and Robert Moffitt. 2009. "The rising instability of US earnings." *Journal of Economic Perspectives* 23(4): 3-24.
- Haley, Anna, and Susan Lambert. 2021. Implementing Work Scheduling Laws: Unpacking Frontline Policymaking by Retail & Food Service Managers. *Work Family Research Network Conference*. Virtual.
- Harknett, Kristen, Daniel Schneider and Véronique Irwin (2019). Worker impact study. *Evaluation of Seattle's Secure Scheduling Ordinance: Year 1 findings*. West Coast Poverty Center. Seattle, WA, West Coast Poverty Center.
- Harknett, Kristen, Daniel Schneider and Véronique Irwin (2021). *Seattle's Secure Scheduling Ordinance Year 2 Worker Impact Report*. Cambridge, MA, The Shift Project.
- Härmä, Mikko, Kati Karhula, Annina Ropponen, Sampsa Puttonen, Aki Koskinen, Anneli Ojajärvi, Tarja Hakola, Jaana Pentti, Tuula Oksanen and Jussi Vahtera (2018). "Association of changes in work shifts and shift intensity with change in fatigue and disturbed sleep: a within-subject study." *Scandinavian Journal of Work, Environment and Health* 44(4): 394-402.
- Hashemian, Mahdi, Zeynep Ton and Hazhir Rahmandad (2020). "The Effect of Unstable Schedules on Unit and Employee Productivity." Social Science Research Network. <https://ssrn.com/abstract=3839673>
- Henly, Julia R. (2004). "Non-standard Work and Family Life: Themes from a Qualitative Study of Low-income Mothers Employed in the Retail Sector." Association of Public Policy Analysis and Management Fall Conference. Georgia (October 2004).
- Henly, Julia R. and Susan J. Lambert (2014). "Unpredictable work timing in retail jobs: Implications for employee work-life conflict." *ILR Review* 67(3): 986-1016.
- Henly, Julia R., H. Luke Shaefer and Elaine Waxman (2006). "Nonstandard work schedules: Employer- and employee-driven flexibility in retail jobs." *Social Service Review* 80(4): 609-634.
- Horsman, John, William Furlong, David Feeny and George Torrance (2003). "The Health Utilities Index (HUI®): concepts, measurement properties and applications." *Health and quality of life outcomes* 1(1): 54.
- Human Impact Partners and Center for Popular Democracy (2016). *Scheduling away our health: how unpredictable work hours affect health and well-being*. The Center for Popular Democracy.
- Kelly, Ryan J., Stephen A. Erath, Olivia Martin-Piñón and Mona El-Sheikh (2021). "Longitudinal relations between parents' sleep problems and harsh parenting." *Journal of Family Psychology*.
- Kesavan, S., S. Lambert, Joan Williams and Pradeep Pendem (2020). "Doing Well By Doing Good: Improving Store Performance with Employee-friendly Scheduling Practices at the Gap, Inc." Social Science Research Network. <https://ssrn.com/abstract=3731670>
- Lambert, Susan J., Peter J. Fugiel and Julia R. Henly (2014). "Precarious work schedules among early-career employees in the US: A national snapshot." *Research brief. Chicago: University of Chicago, Employment Instability, Family Well-Being, and Social Policy Network (EINet)*.
- Lee, Soomi, Kelly D. Davis, Susan M. McHale, Erin L. Kelly, Ellen E. Kossek and Ann C. Crouter (2017). "When mothers' work matters for youths' daily time use: Implications of evening and weekend shifts." *Journal of child and family studies* 26(8): 2077-2089.
- Lillis, Teresa A., Nancy A. Hamilton, Sarah D. Pressman, Maisa S. Ziadni, Christina S. Khou, Lauren E. Boddy and Linzy M. Wagner (2018). "Sleep quality buffers the effects of negative social interactions on maternal mood in the 3–6 month postpartum period: a daily diary study." *Journal of behavioral medicine* 41(5): 733-746.
- Loney, Jan and Richard Milich (1982). "Hyperactivity, inattention, and aggression in clinical practice." *Advances in development and behavioral pediatrics*. M. Wolraich and D. K. Rough. Greenwich, CT, JAI Press. 3: 113-147.

- Loustaunau, Lola, Larissa Petrucci, Amelia Coffey, Eleanor Lauderback, H. Elizabeth Peters, Ellen Scott and Lina Stepick (2020). *Combating Unstable Schedules for Low-wage Workers in Oregon*. Urban Institute.
- Sigrud Luhr, Daniel Schneider, and Kristen Harknett. "Parenting without Predictability: Precarious Schedules, Parental Strain, and Work-Life Conflict." *RSF: The Russell Sage Foundation Journal of the Social Sciences*. Volume number (Issue number): Page range. DOI:
- Mihaila, Iulia and Sigan L. Hartley (2018). "Parental sleep quality and behavior problems of children with autism." *Autism* 22(3): 236-244.
- Morduch, Jonathan and Rachel Schneider (2017). *The financial diaries: How American families cope in a world of uncertainty*. Princeton, NJ, Princeton University Press.
- Muhib, Farazana B., Lillian S. Lin, Ann Stueve, Robin L. Miller, Wesley L. Ford, Wayne D. Johnson, Philip J. Smith and Community Intervention Trial for Youth Study Team (2001). "A venue-based method for sampling hard-to-reach populations." *Public health reports* 116(1 suppl): 216-222.
- Park, Eliza M., Samantha Meltzer-Brody and Robert Stickgold (2013). "Poor sleep maintenance and subjective sleep quality are associated with postpartum maternal depression symptom severity." *Archives of women's mental health* 16(6): 539-547.
- Ryan, Richard M., Jessey H. Bernstein and Kirk W. Brown (2010). "Weekends, Work, and Well-Being: Psychological Need Satisfactions and Day of the Week Effects on Mood, Vitality, and Physical Symptoms." *Journal of Social and Clinical Psychology* 29(1): 95-122.
- Schneider, Daniel and Kristen Harknett (2019). "Consequences of Routine Work-Schedule Instability for Worker Health and Well-Being." *American Sociological Review* 84(1): 82-114.
- Schwartz, Ari, Michael Wasser, Merritt Gillard and Michael Paarlberg (2015). *Unpredictable, unsustainable: The impact of employers' scheduling practices in D.C.* D.C. Jobs with Justice.
- Shrout, Patrick E., Niall Bolger, Masumi Iida, Christopher Burke, Marci E. J. Gleason and Sean P. Lane (2010). "Acute stress: results from a diary study of bar exam preparation." *Support Processes in Intimate Relationships*. Kieran T. Sullivan and Joanne Davila. New York, Oxford University Press: 175-199.
- Sprajcer, Madeline, Sarah M. Jay, Grace E. Vincent, Andrew Vakulin, Leon Lack and Sally A. Ferguson (2018). "Uncertain call likelihood negatively affects sleep and next-day cognitive performance while on-call in a laboratory environment." *Chronobiology international* 35(6): 838-848.
- Williams, Joan C., Susan J. Lambert, Saravanan Kesavan, Peter J. Fugiel, Lori A. Ospina, Erin D. Rapoport, Meghan Jarpe, Dylan Bellisle, Pradeep Pandem, Lisa McCorkell and Sarah Adler-Milstein (2018). *Stable Scheduling Increases Productivity and Sales*. The Kenan Institute of Private Enterprise.

Table 1. Sample characteristics at baseline

	Overall	No treatment job (C)	1+ treatment job (T)	Significant difference between T and C
Respondent Characteristics				
Age (mean)	29.6	30.9	28.45	+
Female	86.2%	86.7%	85.4%	
Education (mean years)	11.7	12.2	11.4	
Has 12 or more years of education	73.4%	76.9%	71.8%	
Age at First Birth (mean)	23.5	23.8	23.1	
Ever married	28.2%	36.4%	20.0%	+
Race/Ethnicity:				
Hispanic (of any race)	30.6%	31.8%	30.0%	
African-American (non-Hispanic)	44.7%	43.2%	45.0%	
Caucasian (non-Hispanic)	8.2%	4.5%	12.5%	
Asian (non-Hispanic)	8.2%	11.4%	5.0%	
Native American (non-Hispanic)	1.2%	0.0%	2.5%	
Multi-racial (non-Hispanic)	7.1%	9.1%	5.0%	
Household Characteristics				
Number of children (mean)	1.80	1.84	1.77	
Respondent currently married or living w/ partner	58.3%	61.4%	56.4%	
Respondent lives with a parent	21.4%	23.3%	17.5%	
Focal Child Characteristics				
Age (mean)	3.6	4.0	3.2	
Female	54.4%	61.4%	44.1%	
Care arrangements:				
enrolled in Head Start	35.4%	52.3%	11.8%	**
enrolled in daycare	50.0%	62.8%	32.4%	**
enrolled in afterschool	17.9%	20.9%	14.7%	
receives care from non-respondent parent	46.8%	39.5%	55.9%	
receives care from other relative	40.0%	26.2%	59.4%	**
Total hours of non-respondent care per week (mean)	38.2	30.0	47.8	**
Work situation				
at least one treatment job covered by FWO	57.7%	0.0%	100.0%	
# of jobs held by respondent (mean)	1.13	1.10	1.19	
Monthly household income (mean)	\$2,795	\$2,945	\$2,633	
Respondent Mental Health				
Often or always found it difficult to relax	26.3%	23.3%	31.3%	
Often or always felt down-hearted or blue	10.5%	7.0%	15.6%	
Focal Child Mental Health				
Often somewhat or very worried	21.5%	15.9%	29.4%	
Often somewhat or very unhappy, depressed, or tearful	10.1%	9.1%	11.8%	

N = 78; + *p* < .10

Table 2. Daily Outcomes Across Waves

	<u>Overall</u>	<u>Non- Hispanic Black</u>	<u>Non- Hispanic White</u>	<u>Non- Hispanic Asian- American</u>	<u>Hispanic (any race)</u>
<u>Person-job-days</u>					
Share with any schedule change	0.106 (0.004)	0.105 (0.006)	0.078 (0.011)	0.173 (0.015)	0.100 (0.007)
Share with last minute change	0.700 (0.003)	0.073 (0.005)	0.047 (0.009)	0.086 (0.011)	0.076 (0.006)
Share with a change in work hours	0.055 (0.003)	0.051 (0.004)	0.054 (0.009)	0.103 (0.012)	0.051 (0.005)
Share with a cancelled shift	0.041 (0.002)	0.043 (0.004)	0.017 (0.005)	0.064 (0.009)	0.040 (0.005)
Share with a surprise shift	0.010 (0.001)	0.012 (0.002)	0.007 (0.003)	0.006 (0.003)	0.010 (0.002)
Share worked today	0.547 (0.006)	0.509 (0.009)	0.503 (0.021)	0.613 (0.019)	0.603 (0.011)
Mean hours worked on work days	7.12	7.15	7.39	6.73	7.17
standard deviation	2.01 (0.03)	2.02 (0.05)	1.62 (0.10)	2.00 (0.10)	1.99 (0.06)
Mean hours worked including non-work days	3.83	3.49	3.70	4.08	4.11
standard deviation	3.84 (0.05)	3.84 (0.07)	3.87 (0.16)	3.64 (0.14)	3.85 (0.09)
<i>N</i>	6,945	3,107	575	671	1,875
<u>Person-days</u>					
Share parent had negative mood	0.422 (0.006)	0.423 (0.010)	0.598 (0.020)	0.447 (0.020)	0.361 (0.012)
Raw Sleep Difficulty (1-10 scale) (mean)	2.9	2.8	3.8	2.6	2.8
standard deviation	2.21 (0.03)	2.2 (0.04)	1.92 (0.08)	1.45 (0.06)	2.48 (0.06)
Share lost temper	0.092 (0.004)	0.097 (0.006)	0.078 (0.011)	0.113 (0.013)	0.093 (0.007)
Share punished child	0.084 (0.004)	0.071 (0.005)	0.134 (0.014)	0.108 (0.013)	0.077 (0.007)
Share child was uncooperative most/all of the day	0.139 (0.004)	0.159 (0.007)	0.137 (0.014)	0.187 (0.016)	0.099 (0.007)
Share child was worried most/all of the day	0.054 (0.003)	0.063 (0.005)	0.045 (0.009)	0.087 (0.011)	0.032 (0.004)
<i>N</i>	6,059	2,610	575	611	1,653

Standard errors in parentheses.

Table 3. Effect of Emeryville Fair Workweek Ordinance on daily work schedule disruptions

	Wave 3 only as Post	Waves 2 and 3 as Post	Waves 2 and 3 unique effects
<u>Outcome: Any schedule change</u>			
Policy impact ^{a b}	-0.037 (0.029)	-.042+ (0.024)	-0.025 (0.028)
Wave 2 policy impact			-.055* (0.025)
<u>Outcome: Last-minute schedule change</u>			
Policy impact ^{a b}	-0.032 (0.022)	-.034+ (0.019)	-0.029 (0.021)
Wave 2 policy impact			-.039+ (0.020)
<u>Outcome: Change in work hours</u>			
Policy impact ^{a b}	-0.031 (.022)	-0.027 (.021)	-0.021 (.024)
Wave 2 policy impact			-0.031 (.022)
<u>Outcome: Canceled shift</u>			
Policy impact ^{a b}	0.012 (.015)	0.002 (.011)	0.014 (.014)
Wave 2 policy impact			-0.008 (.012)
<u>Outcome: Surprise shift</u>			
Policy impact ^{a b}	-.019* (.007)	-.017* (.007)	-.019* (.007)
Wave 2 policy impact			-.016* (.008)

^a Treatment x Wave 3 for Models 1 and 3

^b Treatment x post (Wave 2 and 3) for Model 2

+ $p < .10$; * $p < .05$

Table 4. Effect of Emeryville Fair Workweek Ordinance on daily work and work hours

	Model 1: Wave 3 only as Post	Model 2: Waves 2 and 3 as Post	Model 3: Waves 2 and 3 unique effects
<u>Outcome: Worked today</u>			
Policy impact ^{a b}	-.128* (.064)	-.098* (.048)	-.118+ (.058)
Wave 2 policy impact			-0.082 (.052)
<u>Outcome: Hours worked on work days</u>			
Policy impact ^{a b}	.509* (.250)	0.185 (.254)	.393+ (.233)
Wave 2 policy impact			0.009 (.316)
<u>Outcome: Hours worked including non-workdays</u>			
Policy impact ^{a b}	-0.474 (.515)	-0.433 (.401)	-0.381 (.479)
Wave 2 policy impact			-0.475 (.437)
<u>Outcome: Hours worked across all jobs (including non-work days)</u>			
Policy impact ^{a b}	-0.698 (.743)	0.441 (.666)	-0.623 (.734)
Wave 2 policy impact			1.372+ (.818)

^a Treatment x Wave 3 for Models 1 and 3

^b Treatment x post (Wave 2 and 3) for Model 2

+ $p < .10$; * $p < .05$

Table 5. Effect of Emeryville Fair Workweek Ordinance on daily family well-being

	Wave 3 only as Post	Waves 2 and 3 as Post	Waves 2 and 3 unique effects	Wave 3 only as Post	Waves 2 and 3 as Post	Waves 2 and 3 unique effects
Parental well-being	Outcome: Parent negative mood			Outcome: Parent sleep difficulty		
Policy impact ^{a,b}	-3.740 (5.397)	-0.869 (4.172)	-3.839 (5.228)	-.281* (0.137)	-0.196 (0.124)	-.282* (0.136)
Wave 2 policy impact			1.738 (3.991)			-0.118 (0.142)
Parenting behaviors	Outcome: Lost temper			Outcome: Punished child		
Policy impact ^{a,b}	-2.306 (1.976)	-1.693 (1.684)	-2.564 (1.886)	2.507 (2.319)	1.820 (1.846)	1.864 (2.269)
Wave 2 policy impact			-1.031 (2.216)			1.699 (1.999)
Child well-being	Outcome: Child uncooperative			Outcome: Child worried		
Policy impact ^{a,b}	-1.328 (4.319)	-2.168 (3.242)	-2.014 (4.161)	0.893 (2.383)	0.087 (1.878)	0.211 (2.355)
Wave 2 policy impact			-2.539 (3.166)			-0.147 (1.811)

^a Treatment x Wave 3 for Models 1 and 3

^b Treatment x post (Wave 2 and 3) for Model 2

+ $p < .10$; * $p < .05$

Table 6. Intent-to-Treat Analysis of Effect of Emeryville Fair Workweek Ordinance on daily work schedule disruptions

	Wave 3 only as Post	Waves 2 and 3 as Post	Waves 2 and 3 unique effects
<u>Outcome: Any schedule change</u>			
Policy impact ^{a b}	-0.129*	-.042+	-0.025
	(0.064)	(0.024)	(0.028)
Wave 2 policy impact			-.055*
			(0.025)
<u>Outcome: Last-minute schedule change</u>			
Policy impact ^{a b}	-0.032	-.034+	-0.029
	(0.022)	(0.019)	(0.021)
Wave 2 policy impact			-.039+
			(0.020)
<u>Outcome: Change in work hours</u>			
Policy impact ^{a b}	-0.031	-0.027	-0.021
	(.022)	(.021)	(.024)
Wave 2 policy impact			-0.031
			(.022)
<u>Outcome: Canceled shift</u>			
Policy impact ^{a b}	0.012	0.002	0.014
	(.015)	(.011)	(.014)
Wave 2 policy impact			-0.008
			(.012)
<u>Outcome: Surprise shift</u>			
Policy impact ^{a b}	-.019*	-.017*	-.019*
	(.007)	(.007)	(.007)
Wave 2 policy impact			-.016*
			(.008)

^a Treatment x Wave 3 for Models 1 and 3

^b Treatment x post (Wave 2 and 3) for Model 2

+ $p < .10$; * $p < .05$

Table 7. Intent-to-Treat Analysis of Effect of Emeryville Fair Workweek Ordinance on daily work and work hours

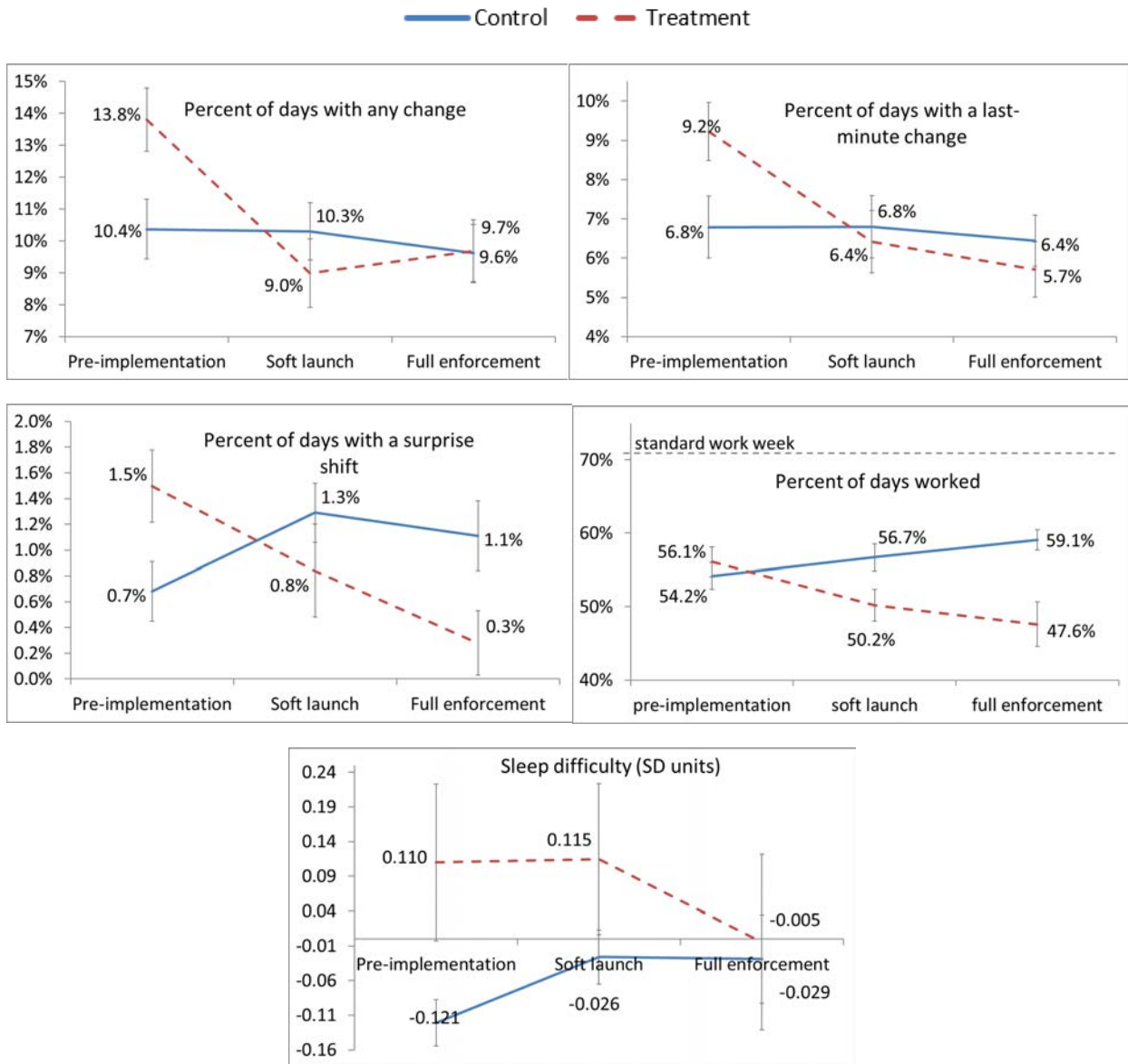
	Model 1: Wave 3 only as Post	Model 2: Waves 2 and 3 as Post	Model 3: Waves 2 and 3 unique effects
<u>Outcome: Worked today</u>			
Policy impact ^{a,b}	-.129* (.064)	-.098* (.048)	-.118+ (.058)
Wave 2 policy impact			-0.082 (.052)
<u>Outcome: Hours worked on work days</u>			
Policy impact ^{a,b}	.509* (.250)	0.185 (.254)	.393+ (.233)
Wave 2 policy impact			0.009 (.316)
<u>Outcome: Hours worked including non-workdays</u>			
Policy impact ^{a,b}	-0.474 (.515)	-0.433 (.401)	-0.381 (.479)
Wave 2 policy impact			-0.475 (.437)
<u>Outcome: Hours worked across all jobs (including non-work days)</u>			
Policy impact ^{a,b}	-0.698 (.743)	0.441 (.666)	-0.623 (.734)
Wave 2 policy impact			1.372+ (.818)

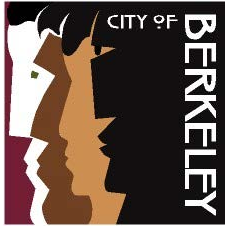
^a Treatment x Wave 3 for Models 1 and 3

^b Treatment x post (Wave 2 and 3) for Model 2

+ $p < .10$; * $p < .05$

Figure 1.





Kate Harrison
Vice Mayor, District 4

SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 1

Meeting Date: April 12, 2022

Item #: 40a.

Item Description: Fair Workweek Ordinance; Adding Berkeley Municipal Code Chapter 13.110

Submitted by: Vice Mayor Harrison

Recommendation:

1. Delay Council consideration of the Fair Workweek Ordinance to a date certain: the May 24, 2022 Council meeting, to provide HHCS staff with additional time to consider staffing needs with regard to enforcement.
2. Submit to the June 2022 Budget Process of approximately \$104,863 in General Funds with additional benefits to hire another Community Development Project Coordinator to assist with enforcement of this ordinance and other labor laws and regulations.

Background:

Vice Mayor Harrison originally submitted this ordinance to the Labor Commission in 2018. Due Council consideration and enactment of this ordinance continues to be a top priority for workers within across the city, including within the City Departments.

While the pandemic has been extremely challenging for businesses, workers have also suffered greatly. Indeed, the fight for worker rights has received renewed attention during the pandemic and following high profile unionization efforts at Starbucks and Amazon. It is in the public interest for the City of Berkeley to finish the work its started in 2018 and finally stand in solidarity with part-time workers whose schedules are precarious and uncertain. The proposed Fair Work Week Ordinance, modelled on ordinances in neighboring cities and those across the nation, would bring predictability and added compensation to part-time workers.

Vice Mayor Harrison's office respectfully disagrees that this ordinance should be referred to a Council Policy Committee for up to another 120 days. This ordinance was already duly considered by the Ad Hoc Subcommittee on Paid Family Leave and Fair Work Week in 2018. In addition, the Labor Commission considered the ordinance

closely for nearly four years and submitted its updated version of the ordinance for Council action.

In consulting with the Deputy City Manager and the Director of the Health, Housing & Community Services Department, it is prudent to delay consideration of the ordinance for one month to the May 24, 2022 Council meeting to provide staff with additional time to consider enforcement and staffing needs to effectively implement the ordinance. This compromise avoids further and unnecessary delays and provides workers and the community with timely consideration and possible action.

This supplemental also includes an initial budget referral to hire an additional Community Development Project Coordinator to assist with enforcement of this ordinance and other labor laws and regulations.



Commission on Labor

ACTION CALENDAR
October 11, 2022

To: Honorable Mayor and Members of the City Council

From: Commission on Labor

Submitted by: Michael Berne, Chairperson, Commission on Labor

Subject: Fair Workweek Ordinance; Adding Berkeley Municipal Code Chapter 13.110

RECOMMENDATION

Adopt first reading of the proposed Fair Workweek Ordinance, adding Berkeley Municipal Code Chapter 13.110.

POLICY COMMITTEE RECOMMENDATION

On September 22, 2022, the Health, Life Enrichment, Equity & Community Committee adopted the following action: M/S/C (Hahn/Taplin) to forward the Commission on Labor's item to Council with a positive recommendation to adopt the version of the ordinance dated "7/7/22" that was presented to the Committee at the July 11, 2022 meeting. Vote: All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

This ordinance provides for both private enforcement and enforcement by the City. Comparable jurisdictions report a small number of complaints annually, but additional staffing may be required to investigate complaints and hold enforcement hearings. Temporary staffing and one-time mailing costs will be required to conduct outreach to covered employers. The Commission anticipates that these cost projections will be quantified in a companion staff report.

SUMMARY

Key features of the proposed ordinance include:

Scheduling Notification and Requests

- Schedules must be given 14 days in advance
- Employees must be provided with an initial estimate of hours
- Employees have the right to decline hours they are given with less than 14 days notice
- Employees shall have the right to request flexible and predictable schedules to accommodate childcare, education, second jobs etc.
- Employees have the right to decline any shift that either occurs less than 11

hours after the end of their previous shift; if accepting such a shift, will be compensated at 1½ times their regular rate of pay.

Predictability Pay

- Employees will receive predictability pay equal to a specified number of hours at their hourly rate of pay as compensation for schedule changes, ranging from 1 hour of pay for a shift scheduled less than 14 days in advance but at least 24 hours up to 4 hours of pay or hours equal to the amount of hours lost when a shift is canceled or reduced

Offer of Work to Existing Employees

- Before hiring new employees, employers must offer additional hours to existing part-time employees for any new hours available
- Employees shall have 24 hours to accept additional hours

Applicability

- In general, employers in Berkeley with 50 or more employees globally engaged in the following industry sectors: building services, healthcare, hotel, manufacturing, retail, or warehouse services;
- Restaurant employers with at least 100 employees globally and 10 or more in Berkeley;
- Franchisees associated with a network of franchises employing 100 or more employees globally and 10 or more; and
- The City of Berkeley as an employer.
- Specifically **excluded** are nonprofit organizations with fewer than 100 employees globally (which includes most arts organizations).

BACKGROUND

The City Council referred to the Commission on Labor in 2018 to draft an Ordinance to establish regulations governing the scheduling and hiring practices of qualifying businesses in Berkeley.

The City Council's referral observed that:

Even with sick pay and strong minimum wage laws, workers in Berkeley, particularly shift workers, still face unfair and exploitative work practices. Since the passage of the Affordable Care Act, a frequent issue that has arisen is the practice of businesses keeping their employees below 30 hours a week to avoid having to provide them health care. Workers may be forced to take "clopening" shifts, where an employee covers the closing shift one day and the opening shift the next day, giving them little time for rest. Shift workers frequently have shifts added or removed hours before they are set to begin, making scheduling impossible and creating financial difficulties for those with children who need child care.

At the time of the City Council's referral, multiple jurisdictions had introduced or enacted measures to address these inequitable conditions, including the Cities of Emeryville, San Jose, San Francisco, and New York, and the State of Oregon, with the strongest at the time being the City of Emeryville. The referral directed the ordinance to be based on the City of Emeryville, strengthened with the following principles:

- The right to refuse "clopening" shifts, the right to request a flexible work arrangement, and a prohibition on refusing hours to prevent the application of benefits should apply to all employers and employees
- The right to at least two weeks notice of work schedule, to decline additional hours, and to "predictability pay" if changes are made to the schedule after the two week deadline should apply to all businesses of at least 25 employees
- The requirement that new shifts first be offered to all qualified existing employees until they have at least 35 hours of work per week on average should apply to all Retail, Hotel, and Restaurant firms with at least 25 employees
- All requirements of the ordinance apply to the City of Berkeley and the Berkeley Rent Stabilization Board.

Since the referral, several of the above-mentioned jurisdictions passed the introduced ordinances, in addition to the City of Chicago. Sectoral coverage in the proposed ordinance is generally modeled after Chicago, while firm size is generally modeled after Emeryville.

After many deliberative meetings before the full Commission and a dedicated subcommittee, and considering input from stakeholders including affected employers and workers, the Commission developed a proposed ordinance taking into account the Council's direction. At its November 17, 2021 meeting, the Commission on Labor voted to appoint Commissioners Katz and Botello to draft the Fair Workweek Council report recommending adoption of the draft ordinance and to send to Council without further action from the commission. (M/S/C: Katz/Osborne. Yes: Scantlebury, Harlow, Botello, Jones, Berne. Noes: None. Absent: Medak, Schriener.) By passing this ordinance, Berkeley has the opportunity to be at the forefront of worker protections and to support the essential workers that have gotten us through this pandemic.

The Commission found many of the workers employed in the retail, restaurant, and hospitality industries suffer from low wages and unpredictable schedules, while needing to work multiple jobs just to get by. Volatile scheduling leads to difficulty in managing multiple jobs, school work, and childcare. Following the model adopted by the City of Chicago, the proposed ordinance would cover building services (including janitorial and security), healthcare, manufacturing, and warehouse services.

In response to input received by stakeholders, the proposed ordinance applies only to employers employing fifty or more employees globally (similar to Emeryville), but for restaurants or franchises would apply if the employer employed at least ten employees

in the City of Berkeley and at least one hundred globally. This attempts to balance an interest in achieving the broadest coverage of any ordinance or law in the United States, while avoiding coverage of locally owned businesses that do not have the human resources support of a franchisor.

The strengthening elements requested by the City Council are mostly incorporated, except for the applicability thresholds based on our deliberative process, compliance with federal laws as applicable, the requirement for new shift offers reflects a forty-hour workweek, and the Rent Stabilization Board employees are presumed incorporated within City of Berkeley employees.

The City Council may wish to consider a delayed effectiveness date, such as until the beginning of the following calendar year, for private sector employers to allow for the time necessary for staff to provide outreach and education to affected businesses. While private sector employers should be provided a reasonable amount of time to set up systems to ensure compliance with the ordinance, the subcommittee recommends that the City of Berkeley as an employer can and should implement the new procedures promptly.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

This action is not expected to have any impact on the environment and is exempt from CEQA.

RATIONALE FOR RECOMMENDATION

Enactment of workplace protections. See background discussion.

ALTERNATIVE ACTIONS CONSIDERED

The Commission recognizes the labor standards benefits of applying the right to refuse “clopening” shifts, and refusal of hours to prevent employees from attaining thirty hours per week to all employers, and applying the two week notice and predictability pay to all sectors of the economy. The right to request a flexible working arrangement remains applicable to all employers that employ ten or more employees under the Berkeley Family Friendly and Environment Friendly Workplace Ordinance, adopted in 2017. The proposed ordinance’s focus on uniform application to the seven sectors covered in Chicago’s model reflects (a) the expected education and outreach required for compliance, (b) the sectors where working conditions require intervention the most, and (c) that the employers covered by the proposed ordinance are in the best position to comply with its provisions in the near term, and does not preclude broadening coverage in the future.

Fair Workweek Ordinance

CITY MANAGER

See companion report.

CONTACT PERSON

Margot Ernst, Commission Secretary, 510-981-5427

Attachments:

1: Ordinance

Exhibit A: Fair Workweek Ordinance

ORDINANCE NO. -N.S.

FAIR WORKWEEK EMPLOYMENT STANDARDS; ADDING BERKELEY MUNICIPAL CODE CHAPTER 13.110

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

Section 1. That Berkeley Municipal Code Chapter 13.110 is added to read as follows:

**CHAPTER 13.110
FAIR WORKWEEK EMPLOYMENT STANDARDS**

Sections:

- 13.110.010 Purpose and Intent**
- 13.110.020 Definitions.**
- 13.110.030 Applicability.**
- 13.110.040 Waiver through Collective Bargaining**
- 13.110.050 Advance Notice of Work Schedules.**
- 13.110.060 Notice, Right to Decline, and Compensation for Schedule Changes.**
- 13.110.070 Offer of Work to Existing Employees.**
- 13.110.080 Right to Rest.**
- 13.110.090 Right to Request a Flexible Working Arrangement.**
- 13.110.100 Notice and Posting.**
- 13.110.110 Implementation.**
- 13.110.120 Enforcement.**
- 13.110.130 Retaliation Prohibited**
- 13.110.140 Retention of Records.**
- 13.110.150 City Access.**
- 13.110.160 No Preemption of Higher Standards.**
- 13.110.170 Severability.**

13.110.010 Purpose and Intent

This chapter shall be known and may be cited as the “Berkeley Fair Workweek Ordinance”. It is the purpose of this chapter and the policy of the City: (i) to enact and enforce fair and equitable employment scheduling practices in the City of Berkeley; (ii) to provide the working people of Berkeley with protections that ensure employer scheduling practices do not unreasonably prevent workers from attending to their families, health, education, and other obligations; and (iii) to require Employers needing additional hours, whether temporary or permanent, to first offer those hours to current part-time Employees.

13.110.020 Definitions

As used in this chapter, the following terms shall have the following meanings:

- (a) "Calendar week" shall mean a period of seven (7) consecutive days starting on Sunday.
- (b) "City" shall mean the City of Berkeley.
- (c) "Covered employer" shall mean an employer subject to the provisions of this chapter, as specified in Section 13.110.030.
- (d) "Department" shall mean the Department of Finance or other City department or agency as the City shall by resolution designate.
- (e) "Employee" shall mean any person who:
 - (1) In a calendar week performs at least two (2) hours of work within the geographic boundaries of the City of Berkeley for an employer;
 - (2) Qualifies as an employee entitled to payment of a minimum wage from any employer under the California minimum wage law, as provided under Labor Code Section [1197](#) and wage orders published by the California Industrial Welfare Commission. Employees shall include learners, as defined by the California Industrial Welfare Commission; and
 - (3) Is (i) not exempt from payment of an overtime rate of compensation pursuant to Labor Code Section 510; and (ii) is not paid a monthly salary equivalent to at least forty hours per week at a rate of pay of twice the minimum wage required by Berkeley Municipal Code Section 13.99.040.
- (f) "Employer" shall mean any person, including corporate officers or executives, as defined in Section [18](#) of the California Labor Code, who directly or indirectly through any other person, including through the services of a temporary employment agency, staffing agency, subcontractor or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee, or any person receiving or holding a business license through Title [9](#) of the Berkeley Municipal Code.
- (g) "Firm" shall mean a business organization or entity consisting of one (1) or more establishments under common ownership or control. In the case of a franchise, the franchisor shall be considered the firm.
- (h) "Franchise" shall have the meaning in California Business and Professions Code Section [20001](#).
- (i) "Franchisee" shall have the meaning in California Business and Professions Code Section [20002](#).
- (j) "Franchisor" shall have the meaning in California Business and Professions Code Section [20003](#).
- (k) "Good faith" shall mean a sincere intention to deal fairly with others.

(l) "Predictability pay" shall mean wages paid to an employee, calculated on an hourly basis at the employee's regular rate of pay as that term is used in [29 U.S.C. Section 207\(e\)](#), as compensation for schedule changes made by a covered employer to an employee's schedule pursuant to Section 13.110.060, in addition to any wages earned for work performed by that employee.

(m) "Shift" shall mean the consecutive hours an employer requires an employee to work including employer-approved meal periods and rest periods.

(n) "Work schedule" shall mean all of an employee's shifts, including specific start and end times for each shift, during a calendar week.

(o) "Building services" means the care and maintenance of property, including, but not limited to, janitorial services, building maintenance services, and security services.

(p) "Healthcare" shall mean either a Hospital, Medical Practitioner Office, Nursing Home, or Supportive Housing as defined in BMC Section 23F.04.10, or a facility that provides outpatient maintenance dialysis.

(q) "Hotel" shall mean Tourist Hotel as defined in BMC Section 23F.04.10.

(r) "Manufacturing" shall mean a Manufacturing Use as defined in BMC Section 23F.04.10.

(s) "Restaurant" shall mean a Food Service Establishment as defined in BMC Section 23F.04.10.

(t) "Retail" shall mean a Retail Products Store as defined in BMC Section 23F.04.10.

(u) "Warehouse services" shall mean Warehouse Based Non-Store Retail as defined in BMC Section 23F.04.10.

13.110.030 Applicability

(a) All sections of this chapter shall apply to: the City of Berkeley as an employer, and all employers in the City of Berkeley who are primarily engaged in any of the following industries:

- (1) building services;
- (2) healthcare;
- (3) hotel;
- (4) manufacturing;
- (5) restaurant;
- (6) retail; or
- (7) warehouse services.

(b) Notwithstanding subdivision (a), this chapter shall apply only to an employer that

- (1) is not a restaurant and employs fifty (50) or more employees globally;

- (2) is a restaurant operator employing ten (10) or more employees in the city of Berkeley and employs one hundred (100) or more globally; or
- (3) is a franchisee employing ten (10) or more employees in the city of Berkeley and is associated with a network of franchises employing one hundred (100) or more employees globally.

(c) This chapter does not apply to a not-for-profit corporation organized under Section 501 of the United States Internal Revenue Code unless it employs one hundred (100) or more employees globally.

(d) In determining the number of employees performing work for a covered employer during a given week, all employees performing work for the covered employer for compensation on a full-time, part-time, or temporary basis, at any location, shall be counted, including employees made available to work through the services of a temporary services or staffing agency or similar entity.

(e) For the purposes of determining whether a nonfranchisee entity is a covered employer as defined by this chapter, separate entities that form an integrated enterprise shall be considered a single employer under this chapter. Separate entities will be considered an integrated enterprise and a single employer under this chapter where a separate entity controls the operation of another entity. The factors to consider in making this assessment include, but are not limited to:

- (1) Degree of interrelation between the operations of multiple entities;
- (2) Degree to which the entities share common management;
- (3) Centralized control of labor relations; and
- (4) Degree of common ownership or financial control over the entities.

There shall be a presumption that separate legal entities, which may share some degree of interrelated operations and common management with one another, shall be considered separate employers for purposes of this chapter as long as (i) the separate legal entities operate substantially in separate physical locations from one another, and (ii) each separate legal entity has partially different ultimate ownership.

13.110.040 Waiver through Collective Bargaining

To the extent permitted by law, all or any portion of the applicable requirements of this chapter may be waived in a bona fide collective bargaining agreement; provided, that such waiver is explicitly set forth in such agreement in clear and unambiguous terms that the parties thereto intend to and do thereby waive all of or a specific portion(s) of this chapter.

13.110.050 Advance Notice of Work Schedules.

(a) Initial Estimate of Minimum Hours.

(1) Prior to or on commencement of employment, a covered employer shall provide each employee with a good faith estimate in writing of the employee's work schedule.

(2) Prior to or on commencement of employment, the employee may request that the covered employer modify the estimated work schedule provided under subsection (a)(1) of this section. The covered employer shall consider any such request, and in its sole discretion may accept or reject the request; provided, that the covered employer shall notify the employee of covered employer's determination in writing prior to or on commencement of employment.

(b) Two (2) Weeks' Advance Notice of Work Schedule. A covered employer shall provide its employees with at least two (2) weeks' notice of their work schedules by doing one (1) of the following: (1) posting the work schedule in a conspicuous place at the workplace that is readily accessible and visible to all employees; or (2) transmitting the work schedule by electronic means, so long as all employees are given access to the electronic schedule at the workplace. For new employees, a covered employer shall provide the new employee prior to or on their first day of employment with an initial work schedule. Thereafter, the covered employer shall include the new employee in an existing schedule with other employees. If the covered employer changes an employee's work schedule after it is posted and/or transmitted, such changes shall be subject to the notice and compensation requirements set forth in this chapter.

(c) An Employee who is a victim of domestic violence or sexual violence may request that the Employee's Work Schedule not be posted or transmitted to other employees. An oral or written request shall be sufficient and implemented immediately and is sufficient until the Employee gives written permission to post the Employee's schedule. An Employer may request a written statement from the Employee that states that the Employee is a victim of domestic violence or sexual violence. The written statement shall constitute the documentation needed for the Employer to implement the request. The Employer may not require a written statement more than once in a calendar year from any Covered Employee for this purpose.

13.110.060 Notice, Right to Decline, and Compensation for Schedule Changes.

(a) A covered employer shall provide an employee notice of any change to the employee's posted or transmitted work schedule. The covered employer shall provide such notice by in-person conversation, telephone call, email, text message, or other electronic communication. If the Employee accepts the additional shift via a verbal conversation, the Employer shall immediately follow up with written confirmation to document the agreement and when it was accepted. This notice requirement shall not

apply to any schedule changes the employee initiates, such as employee requested sick leave, time off, shift trades, or additional shifts.

(b) Subject to the exceptions in subsection (d) of this section, an employee has the right to decline any previously unscheduled hours that the covered employer adds to the employee's schedule, and for which the employee has been provided advance notice of less than fourteen (14) days.

(c) Subject to the exceptions in subsection (d) of this section, a covered employer shall provide an employee with the following compensation per shift for each previously scheduled shift that the covered employer adds or subtracts hours, moves to another date or time, cancels, or each previously unscheduled shift that the covered employer adds to the employee's schedule: (1) with less than fourteen (14) days' notice, but twenty-four (24) hours or more notice to the employee: one (1) hour of predictability pay; (2) with less than twenty-four (24) hours to the employee, (i) four (4) hours or the number of hours in the employee's scheduled shift, whichever is less, when hours are canceled or reduced; (ii) one (1) hour of predictability pay for all other changes. The compensation required by this subsection shall be in addition to the employee's regular pay for working that shift.

(d) Exceptions. The requirements of this section shall not apply under any of the following circumstances:

- (1) Operations cannot begin or continue due to threats to covered employers, employees or property, or when civil authorities recommend that work not begin or continue;
- (2) Operations cannot begin or continue because public utilities fail to supply electricity, water, or gas, or there is a failure in the public utilities or sewer system;
- (3) Operations cannot begin or continue due to: acts of nature (including but not limited to flood, fire, explosion, earthquake, tidal wave, drought), war, civil unrest, strikes, or other cause not within the covered employer's control;
- (4) Mutually agreed-upon work shift swaps or coverage arrangements among employees.
- (5) Employee initiated voluntary shift modifications, such as voluntary requests to leave a scheduled shift prior to the end of the shift or to use sick leave, vacation leave, or other policies offered by the Employer. This paragraph shall apply only to the employee initiating the voluntary shift modification.
- (6) To accommodate the following transitions in shifts:
 - (i) If an employee works past the end of a scheduled shift to complete service to a customer, which service would entitle the employee to receive a commission, tip, or other incentive pay based on the completion of that service, provided the employee is compensated at their regular rate of pay for the additional work performed by the employee.

(ii) An employee begins or ends their scheduled shift no more than ten minutes prior to or after the scheduled shift, provided the employee is compensated at their regular rate of pay for the additional work performed by the employee.

(7) When, in manufacturing, events outside of the control of the manufacturer result in a reduction in the need for Covered Employees, including, but not limited to, when a customer requests the manufacturer to delay production or there is a delay in the receipt of raw materials or component parts needed for production.

(8) With regard to healthcare employers, in (i) any declared national, State, or municipal disaster or other catastrophic event, or any implementation of an Employer's disaster plan, or incident causing a hospital to activate its Emergency Operations Plan, that will substantially affect or increase the need for healthcare services; (ii) any circumstance in which patient care needs require specialized skills through the completion of a procedure; or (iii) any unexpected substantial increase in demand for healthcare due to large public events, severe weather, violence, or other circumstances beyond the Employer's control.

(e) Nothing in this section shall be construed to prohibit a covered employer from providing greater advance notice of employee's work schedules and/or changes in schedules than that required by this section.

13.110.070 Offer of Work to Existing Employees.

(a) Subject to the limitations herein, before hiring new employees or contract employees, including hiring through the use of temporary services or staffing agencies, a covered employer shall first offer additional hours of work to existing part-time employee(s) who have worked on behalf of the employer for more than two weeks, and if the part-time employee(s) are qualified to do the additional work, as reasonably and in good faith determined by the covered employer. This section requires covered employers to offer to part-time employees only up to the number of hours required to schedule a part-time employee forty (40) hours of work in a calendar week. In order to facilitate communication with current employees who may be interested in additional work, an Employer may specify how employees may in advance communicate their interest of additional work and which positions and hours of work employees would be interested in covering.

(b) A covered employer has discretion to divide the additional work hours among part-time employees consistent with this section; provided, that: (1) the employer's system for distribution of hours must not discriminate on the basis of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity or expression, disability, age, marital or familial status, nor on the basis of family caregiving responsibilities or status as a student; and (2) the employer may not distribute hours in a manner intended to avoid an increase in the number of employees working 30 or

more hours per week, or with regard to the City of Berkeley, to avoid a the granting of any benefits that an employee earns based on hours worked.

(c) A part-time employee may, but is not required to, accept the covered employer's offer of additional work under this section.

(1) A part-time employee shall have twenty-four (24) hours to accept an offer of additional hours of work under this section, after which time the covered employer may hire new employees to work the additional hours.

(2) The twenty-four (24) hour period referred to in this subsection begins either when the employee receives the written offer of additional hours, or when the covered employer posts the offer of additional hours as described in subsection (d) of this section, whichever is sooner. A part-time employee who wishes to accept the additional hours must do so in writing.

(d) When this section requires a covered employer to offer additional hours to existing part-time employees, the covered employer shall make the offer either in writing or by posting the offer in a conspicuous location in the workplace where notices to employees are customarily posted. Covered employers may post the notice electronically on an internal website in a conspicuous location and which website is readily accessible to all employees. The notice shall include the total hours of work being offered, the schedule of available shifts, whether those shifts will occur at the same time each week, and the length of time the covered employer anticipates requiring coverage of the additional hours, and the process by which part-time employees may notify the covered employer of their desire to work the offered hours.

(e) The covered employer shall retain each written offer no less than three (3) years as required under Section [13.110.140](#).

(f) This section shall not be construed to require any covered employer to offer employees work hours paid at a premium rate under California Labor Code Section [510](#) nor to prohibit any covered employer from offering such work hours.

13.110.080 Right to Rest.

(a) An employee has the right to decline work hours that occur:

- (1) Less than eleven (11) hours after the end of the previous day's shift; or
- (2) During the eleven (11) hours following the end of a shift that spanned two (2) days.

(b) An employee who agrees in writing to work hours described in this section shall be compensated at one and one-half (1-1/2) times the employee's regular rate of pay for any hours worked less than eleven (11) hours following the end of a previous shift.

13.110.090 Right to Request a Flexible Working Arrangement.

An employee has the right to request a modified work schedule, including but not limited to additional shifts or hours; changes in days of work or start and/or end times for the

shift; permission to exchange shifts with other employees; limitations on availability; part-time employment; job sharing arrangements; reduction or change in work duties; or part-year employment. A covered employer shall not retaliate against an employee for exercising their rights under this section or the rights outlined in the Berkeley Family Friendly and Environment Friendly Workplace Ordinance, Berkeley Municipal Code Chapter 13.101.

13.110.100 Notice and Posting.

(a) The Department shall publish and make available to covered employers, in English and other languages as provided in any implementing regulations, a notice suitable for posting by covered employers in the workplace informing employees of their rights under this chapter.

(b) Each covered employer shall give written notification to each current employee and to each new employee at time of hire of their rights under this chapter. The notification shall be in English and other languages as provided in any implementing regulations, and shall also be posted prominently in areas at the work site where it will be seen by all employees. Every covered employer shall also provide each employee at the time of hire with the covered employer's name, address, and telephone number in writing. Failure to post such notice shall render the covered employer subject to administrative citation, pursuant to the provisions of this chapter. The Department is authorized to prepare sample notices and covered employer use of such notices shall constitute compliance with this subsection.

13.110.110 Implementation.

(a) The Department shall be authorized to coordinate implementation and enforcement of this chapter and may promulgate appropriate guidelines or rules for such purposes. Any guidelines or rules promulgated by the City shall have the force and effect of law and may be relied on by covered employers, employees and other parties to determine their rights and responsibilities under this chapter. Any guidelines or rules may establish procedures for ensuring fair, efficient and cost-effective implementation of this chapter, including supplementary procedures for helping to inform employees of their rights under this chapter, for monitoring covered employer compliance with this chapter, and for providing administrative hearings to determine whether a covered employer has violated the requirements of this chapter.

(b) Reporting Violations. An aggrieved employee may report to the Department in writing any suspected violation of this chapter. The Department shall keep confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee reporting the violation; provided, however, that with the authorization of such employee, the Department may disclose their name and identifying information as necessary to enforce this chapter or other employee protection laws.

(c) Investigation. The Department may investigate any possible violations of this chapter by a covered employer. The Department shall have the authority to inspect workplaces, interview persons and subpoena records or other items relevant to the enforcement of this chapter.

(d) Informal Resolution. If the Department elects to investigate a complaint, the City shall make every effort to resolve complaints informally and in a timely manner. The City's investigation and pursuit of informal resolution does not limit or act as a prerequisite for an employee's right to bring a private action against a covered employer as provided in this chapter.

13.110.120 Enforcement.

(a) Enforcement by City. Where prompt compliance with the provisions of this chapter is not forthcoming, the Department may take any appropriate enforcement action to ensure compliance, including but not limited to the following:

The Department may issue an administrative citation pursuant to Chapter 1.28 of the Berkeley Municipal Code. The amount of this fine shall vary based on the provision of this chapter violated, as specified below:

(1) A fine may be assessed for retaliation by a covered employer against an employee for exercising rights protected under this chapter. The fine shall be one thousand dollars (\$1,000.00) for each employee retaliated against.

(2) A fine of five hundred dollars (\$500.00) may be assessed for any of the following violations of this chapter:

(i) Failure to provide notice of employees' rights under this chapter.

(ii) Failure to timely provide an initial work schedule or to timely update work schedules following changes.

(iii) Failure to provide predictability pay for schedule changes with less than twenty-four (24) hours' advance notice.

(iv) Failure to offer work to existing employees before hiring new employees or temporary staff or to award work to a qualified employee.

(v) Failure to maintain payroll records for the minimum period of time as provided in this chapter.

(vi) Failure to allow the Department access to payroll records.

(3) A fine equal to the total amount of appropriate remedies, pursuant to subsection (c) of this section. Any and all money collected in this way that is the rightful property of an employee, such as back wages, interest, and civil penalty payments, shall be disbursed by the Department in a prompt manner.

(f) City Access. Each covered employer shall permit access to work sites and relevant records for authorized City representatives for the purpose of monitoring compliance with this chapter and investigating employee complaints of noncompliance,

including production for inspection and copying of its employment records, but without allowing Social Security numbers to become a matter of public record.

(g) Any person aggrieved by a violation of this Chapter, any entity a member of which is aggrieved by a violation of this Chapter, or any other person or entity acting on behalf of the public as provided for under applicable state law, may bring a civil action in a court of competent jurisdiction against the Employer or other person violating this Chapter and, upon prevailing, shall be awarded reasonable attorneys' fees and costs and shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any back wages unlawfully withheld, the payment of an additional sum as a civil penalty in the amount of \$50 to each Employee or person whose rights under this Chapter were violated for each day that the violation occurred or continued, reinstatement in employment and/or injunctive relief. Provided, however, that any person or entity enforcing this Chapter on behalf of the public as provided for under applicable state law shall, upon prevailing, be entitled only to equitable, injunctive or restitutionary relief to Employees, and reasonable attorneys' fees and costs.

(i) This Section shall not be construed to limit an Employee's right to bring legal action for a violation of any other laws concerning wages, hours, or other standards or rights nor shall exhaustion of remedies under this Chapter be a prerequisite to the assertion of any right.

(j) The remedies for violation of this chapter include but are not limited to:

1. Reinstatement, the payment of predictability pay unlawfully withheld, and the payment of an additional sum as a civil penalty in the amount of fifty dollars (\$50.00) to each employee whose rights under this chapter were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this chapter or State law.
2. Interest on all due and unpaid wages at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code, which shall accrue from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date the wages are paid in full.
3. Reimbursement of the City's administrative costs of enforcement and reasonable attorney's fees.
4. If a repeated violation of this chapter has been finally determined in a period from July 1 to June 30 of the following year, the Department may require the employer to pay an additional sum as a civil penalty in the amount of fifty dollars (\$50.00) to the City for each employee or person whose rights under this chapter were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this Code or State law.

(k) The remedies, penalties and procedures provided under this chapter are cumulative and are not intended to be exclusive of any other available remedies, penalties and procedures established by law which may be pursued to address violations of this chapter. Actions taken pursuant to this chapter shall not prejudice or adversely affect any other action, administrative or judicial, that may be brought to abate a violation or to seek compensation for damages suffered.

(l) No criminal penalties shall attach for any violation of this chapter, nor shall this chapter give rise to any cause of action for damages against the City.

13.110.130 Retaliation Prohibited.

An employer shall not discharge, reduce the compensation of, discriminate against, or take any adverse employment action against an employee, including discipline, suspension, transfer or assignment to a lesser position in terms of job classification, job security, or other condition of employment, reduction of hours or denial of additional hours, informing another employer that the person has engaged in activities protected by this chapter, or reporting or threatening to report the actual or suspected citizenship or immigration status of an employee, former employee or family member of an employee to a Federal, State or local agency, for making a complaint to the Department, participating in any of the Department's proceedings, using any civil remedies to enforce their rights, or otherwise asserting their rights under this chapter. Within one hundred twenty (120) days of an employer being notified of such activity, it shall be unlawful for the employer to discharge any employee who engaged in such activity unless the employer has clear and convincing evidence of just cause for such discharge.

13.110.140 Retention of Records.

Each employer shall maintain for at least three (3) years for each employee a record of their name, hours worked, pay rate, initial posted schedule and all subsequent changes to that schedule, consent to work hours where such consent is required by this chapter, and documentation of the time and method of offering additional hours of work to existing staff. Each employer shall provide each employee a copy of the records relating to such employee upon the employee's reasonable request.

13.110.150 City Access.

Each employer shall permit access to work sites and relevant records for authorized Department representatives for the purpose of monitoring compliance with this chapter and investigating employee complaints of noncompliance, including production for inspection and copying of its employment records, but without allowing Social Security numbers to become a matter of public record.

13.110.160 No Preemption of Higher Standards.

The purpose of this chapter is to ensure minimum labor standards. This chapter does not preempt or prevent the establishment of superior employment standards (including higher wages) or the expansion of coverage by ordinance, resolution, contract, or any other action of the City. This chapter shall not be construed to limit a discharged employee's right to bring a common law cause of action for wrongful termination.

13.110.170 Severability.

If any part or provision of this Chapter, or the application of this Chapter to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Office of the City Manager

ACTION CALENDAR
October 11, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services

Subject: Companion Report: Fair Workweek Ordinance; Adding Berkeley Municipal Code Chapter 13.110

RECOMMENDATION

Direct this item to the Health, Life Enrichment, Equity, and Community Policy Committee for the following:

- Review and evaluate the proposed policy; and
- Evaluate resources needed to conduct the necessary analysis of impacts and costs associated with implementing the proposed policy.

POLICY COMMITTEE RECOMMENDATION

On September 22, 2022, the Health, Life Enrichment, Equity & Community Committee adopted the following action: M/S/C (Hahn/Taplin) to forward the Commission on Labor's item to Council with a positive recommendation to adopt the version of the ordinance dated "7/7/22" that was presented to the Committee at the July 11, 2022 meeting. Vote: All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

The costs of implementing the proposed Fair Workweek policy are currently unknown but are expected to be significant. If implemented correctly, and with an equitable approach, this important policy is expected to positively impact many low-income workers in Berkeley. The City currently does not have a full understanding of the impacted businesses, employees, and how to implement this policy for the unique needs of the Berkeley community.

A comprehensive impact analysis of this proposed policy is required to fully determine the upfront and future costs and ongoing staffing needs associated with effectively administering and enforcing the ordinance. Impacted City departments will include Health, Housing, and Community Services, Finance, Neighborhood Services, the City Attorney's Office, and the Office of Economic Development. Resources are also needed to conduct a comprehensive impact analysis.

The cost of ongoing implementation and administration of a Fair Workweek policy depends on many factors including, but not limited to:

- The final determination and consideration for which industry sectors shall be covered;
- The size of employers (based on the number of global and local employees);
- The total number of employers covered by the policy;
- The success of proactive efforts to educate affected employers; and
- A clear expectation of the level of technical assistance provided by City staff to employers and employees covered under the policy.

These factors will inform the breadth of the policy's impact on City employers (how many total employers will be covered) and are necessary to determine how much staff time will be needed to effectively setup and administer the program.

Neighboring jurisdictions that have passed similar policies, including San Francisco and Emeryville, have dedicated additional funds for outreach and education to impacted employers. For the policy to be successful, these proactive efforts are essential in that they aim to reduce the number of enforcement complaints by proactively working with affected employers to build business practices that conform to the noticing and documentation standards required by the ordinance.

Further, significant staff time will be required to accurately identify which employers would be covered by this policy. This is anticipated to be a time-intensive process due to the complexity of screening local employers against the applicable criteria used to determine employer eligibility. It is also expected that the Finance Department would need to make substantial changes to the business license application to help properly identify businesses subject to the regulations; including information about an employer's status as a franchise, their total employee counts worldwide, and employee counts within Berkeley.

CURRENT SITUATION AND ITS EFFECTS

Adding a Fair Workweek policy to Berkeley's labor standards is an important consideration for the community. This policy has been contemplated for many years by Council, the Commission on Labor, and the City's labor standards staff. Many thoughtful hours of work have already gone into drafting the proposed ordinance. Experts on the commission took public comment multiple times and discussed at length the potential impacts to local employers, given the ongoing financial, staffing, and operational struggles some businesses have faced throughout the pandemic. With that in mind, the commission moved this policy forward in consideration of the urgent need for equitable and fair treatment of Berkeley workers, and in support of the essential service workers

who have gotten us through the pandemic, many of whom are lower-income and persons of color.

City staff have a similar approach. If adopted, the City first needs to better understand the probable impacts to the business community, employees, and City staff. This includes understanding what is really needed in order to effectively and equitably implement an important and wide-reaching policy such as this. The current economic circumstances also warrant especially careful analysis of the impacts to local employers as they continue to face ongoing challenges related to the pandemic, including compounding supply chain and inflation issues.

Additionally, adding this policy to the current labor standards and enforcement portfolio will require additional staff resources for initial outreach and education as well as ongoing administration and enforcement. However, even prior that, in order to fully understand the staffing needs and cost associated with administering and enforcing this policy, a comprehensive impact analysis of this proposed policy is required to fully determine the upfront and future costs and ongoing staffing needs associated with effectively administering and enforcing the ordinance. This approach aims to ensure the policy is implemented in the best way for Berkeley, its businesses, and local low-income workers.

The current portfolio of local labor standards and enforcement policies in Berkeley includes: 1) The Minimum Wage Ordinance, 2) The Living Wage Ordinance, 3) The Berkeley Paid Sick Leave Ordinance, and 4) The Berkeley Family Friendly and Environment Friendly Workplace Ordinance. The work to administer these policies, including providing general information as well as conducting formal investigations and enforcement of the policies is considerable. Adding the Fair Workweek Policy to this portfolio significantly expands this body of work and should be considered alongside a cost analysis.

It should be noted that Berkeley Municipal Code Chapter 13.110 is currently dedicated to the COVID-19 Emergency Response Ordinance. If the Fair Workweek Ordinance is to proceed to a first reading, it would need a different Chapter number in Title 13. If adopted as-is, the Fair Workweek Ordinance would supersede the existing Chapter 13.110 and replace the existing language regarding COVID-19 Response.

BACKGROUND

In 2018, the City Council referred this item to the Commission on Labor and directed them to “draft an Ordinance to establish regulations governing the scheduling and hiring practices of qualifying businesses in Berkeley...” The referral included a copy of the Emeryville Fair Workweek Ordinance as a template for consideration.

The Commission appointed a subcommittee to work on the draft ordinance and held several public meetings which were attended by dozens of participants from the public, representing both workers and employers with interest in the policy. The Subcommittee

ultimately presented a draft policy that took elements from both the City of Emeryville Fair Workweek Ordinance and the Fair Workweek Ordinance from the City of Chicago that covered more business industries than the Emeryville Ordinance does.

At the November 17, 2021 Commission on Labor Meeting, The Commission approved a motion to recommend the draft policy to the City Council with the motion and vote below:

Recommend approval of draft Fair Workweek Ordinance to the Berkeley City Council.

(M/S/C: Scantlebury/Katz. Yes: Botello, Harlow, Osborne, Jones. Noes: Schriener, Berne. Abstentions: None. Absent: Medak).

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

RATIONALE FOR RECOMMENDATION

Staff is recommending that the Council direct the draft Fair Workweek Ordinance to the Health, Life Enrichment, Equity, and Community Policy Committee to evaluate the Commission's recommendations and also evaluate the availability of existing resources to conduct a more thorough analysis of the policy's impacts.

ALTERNATIVE ACTIONS CONSIDERED

The Council could adopt the ordinance now as written, but without an evaluation of the resources needed to enforce the ordinance and commitment of those resources, the ordinance is unlikely to achieve the desired impact. Outreach, education and consistent responses will be key to achieving the goal of a fair workweek for Berkeley workers.

CONTACT PERSON

Margot Ernst, Manager of Housing and Community Services, HHCS, (510) 981-7410



Sophie Hahn
District 5 Councilmember

To: Honorable Mayor and Members of the City Council

From: Councilmember Sophie Hahn (Author), Councilmember Susan Wengraf (Co-Sponsor)

Subject: Reconsideration of Hopkins Corridor Plan in Light of Newly Available Material Information

RECOMMENDATION

1. Proceed with Paving of Hopkins Street from Sutter Street to San Pablo Avenue as currently scheduled for 2023.¹
2. Proceed with implementation of the approved facilities from Sutter to McGee Avenue² (including the four-way stop sign at McGee) in accordance with the Supplemental 3 recommendations approved by the City Council on May 10, 2022, including but not limited to the requirement that Community Building/Placemaking elements be developed and implemented simultaneously with Complete Streets/Traffic elements, to the greatest extent feasible.
3. Apply up to the full \$300,000 allocated between the FY 23 and FY 24 budgets towards the Community Building/Placemaking elements on the nine-block segment of Hopkins from Sutter to McGee to support their full and simultaneous implementation, as designed by a Landscape Architect.
4. Place on hold work towards implementing the changes for the three blocks of Hopkins from McGee to Gilman Street approved on May 10, 2022 pending further study of the alternatives, consideration of the specifications listed below under *Alternatives to be Considered and Independent Study Specifications* and additional City Council action, after the required study and community input, to either affirm the Council's actions of May 10, 2022 or to implement a substitute or modified program.

¹ City of Berkeley Paving Plan: <https://berkeleyca.gov/sites/default/files/2022-04/Street-Repair-Plan.pdf>

² Should staff prefer to transition from the two-way cycle track East of McGee, they may do so, but should implement approved pedestrian safety measures all the way to McGee, including the four-way stop sign.

5. Refer \$400,000 to the FY 2024 budget process to fund a comprehensive, independent study of the McGee to Gilman portion of Hopkins Street, as specified below under *Alternatives to be Considered and Independent Study Specifications*.

BACKGROUND

On May 10, 2022, (hereinafter referred to as “May 10”) after several years of public process and deliberations, with many different points of view, constructive ideas, and important concerns raised by the community, the City Council approved a conceptual plan for the Hopkins Corridor from Sutter Street to Gilman Avenue, and referred to the City Manager to consider options to extend pedestrian and bike improvements to the Gilman to San Pablo segment.³

In addition to strong interest in safer bike routes and improved pedestrian access, central to concerns raised by the community and merchants was the question of access by cars and transit to the commercial area at Hopkins/Monterey/California streets. This small commercial area is an iconic destination for many people in Berkeley and throughout the region. They come for access to some of the freshest, most varied, and low cost produce available at the Monterey Market, and frequent the many other specialty shops. including Monterey Fish Market, the Hopkins Street Bakery, Magnani Poultry, Northbrae Bottle Shop, Raxakoul Coffee and Cheese, Espresso Roma Cafe, Gioia Pizzeria, Berkeley Horticultural Nursery, Elixir Salon, Hopkins Launderette, and the newly opened Asuka Sushi & Bar, among others.

Many of these longtime small and locally owned businesses are minority or woman owned.⁴ All have worked hard to keep their businesses afloat and continue serving the community during the difficult pandemic years. All depend on both a local and regional clientele. Concern for the needs of these local businesses was also important to the City Council, as was articulated clearly in the original January 23, 2018 referral, which included the following as key considerations (among others) for the study:

- The busy neighborhood commercial area centered around the intersection of Hopkins Street and Monterey Ave., which attracts significant car, bicycle and pedestrian traffic on a daily basis, constant ingress and egress from parking lots and spaces, and associated delivery and other trucks;
- The area, in particular the commercial district at Hopkins and Monterey, serving as an important community gathering space; and
- Treasured local businesses along Hopkins that draw a neighborhood and regional clientele and benefit from pedestrian activity and lively café-seating and street-life.

The 2018 referral further specified for the commercial area:

³ [May 10, 2022 Berkeley City Council Meeting Minutes](#)

⁴ [As defined by the US Small Business Administration.](#)

- Explore ways to create additional community gathering spaces and increase greenery and other placemaking amenities that harmonize with existing features in the Corridor, with full access for all ages and abilities; [and]
- Ensure design and style of improvements add to the charm and character of this highly valued and historic neighborhood commercial district.⁵

In public forums as well as in a series of internal meetings held over the course of more than three years with staff from Public Works and the City Manager's office, the district representative asked repeatedly about customer, delivery truck, and other vehicle access to the commercial area, in addition to a focus on pedestrian, bicycle, and transit access.

The following summarized parking-loss responses were shared at various times during the course of the internal and public process:

- There are no marked spaces on most parts of Hopkins so useful parking loss counts can't be done.
- Because there is no selected or recommended plan, there is no way to count parking loss - every small change would mean another count would have to be done.
- Actual counts, if any, can only be done after the conceptual plan has been approved.
- Total parking loss for the entire study area from Sutter to Gilman is estimated to be around 30-35 spaces.
- Parking loss around the shopping area can be mitigated with parking management of remaining spaces.

Members of the public and City Council relied on these representations. These assertions were repeated in community meetings and forums and in emails with constituents. Importantly, any conclusion that parking impacts in the shopping district could be successfully mitigated with parking management strategies is directly tied to an understanding of the quantity and impact of parking spaces lost, extrapolated from estimates and representations.

Subsequent to action taken by the City Council on May 10 to approve a conceptual plan for the study area, new information regarding loss of parking has come to light and been confirmed by City staff.⁶ According to a chart that was prepared as early as Mid-April but not shared with the public, the district representative, or the City Council prior to May 10, the actual number of spaces estimated to be lost across the study area from Sutter to Gilman is not 30 to 35 but 60 - almost double estimates provided. Of these, 39 of the spaces projected to be lost are concentrated in just the three-block area below McGee Avenue - *more than estimated previously for the entire Corridor.*⁷

⁵ [January 23, 2018 Hopkins Street Corridor Traffic and Placemaking Study referral.](#)

⁶ See Attachment A

⁷ See Attachment A

Late discovery of this materially different parking data raises broader questions about other information that was provided to the public and the City Council, information critical to determining tradeoffs. While numerous public meetings were held by staff and the consultants with accompanying presentations, no written study was presented quantifying impacts of different options on stakeholders including streets/intersections/neighbors on and in proximity to the Corridor; business; pre-school, middle-school, and high-school bound youths; individuals with limited mobility; recreational facility users; transit riders; cyclists; and people traveling to and through the Corridor, in particular for the sensitive commercial area.

Members of the public and the City Council were left to rely on verbal representations, introducing many opportunities for misunderstandings and requiring a high level of trust that has been brought into question with the discovery of critically important information not shared with the public or Council.

Statements by several Councilmembers and the Mayor at the May 10 meeting evidence their direct and indirect reliance on estimates of parking loss around the shopping area and the potential to mitigate impacts with parking management. At one point during the May 10 meeting, a Councilmember asked explicitly about the number of parking spaces to be lost and was told by staff “We can do a count. I don’t have the exact number.”

At the time this statement was made a count already existed with reliable estimates: actual expected parking loss was 200% of previous estimates. As parking was one of the key tradeoffs being considered by the Council, elements of the decision that were made in reliance on materially incorrect information must be reexamined.

This item asks that elements of the City Council’s decision that rested on incomplete information be placed on hold, and a full and independent study be undertaken to review and evaluate a variety of options for commercial vitality, pedestrian safety, vehicle access, and safe bike facilities on Hopkins below McGee.

Decisions for segments of Hopkins where actual information is not materially different from the information Council relied on when the May 10 decision was made are not submitted for reconsideration. While the actual number of spaces projected to be lost on portions of Hopkins above McGee is a bit higher (by three to six spaces) than previously implied,⁸ this segment spans eight to nine blocks of mostly residential and some institutional uses, while the McGee to Gilman segment spans just three-and-a-half blocks, two with a concentration of commercial uses. This is not a difference of the same magnitude or impact.

⁸ Loss of 15-18 spaces was reasonably inferred from previously available information, while current estimates are 21 spaces will be lost.

This item also directs the City Manager to proceed with the scheduled repaving of Hopkins Street from Sutter to San Pablo during the summer of 2023. *Residents and cyclists have waited long enough for these simple improvements*, which have been held back year after year on the premise that a broader plan needed to be in place. We can pave all of Hopkins, implement the approved changes to upper segments, add basic safety elements to lower segments this year, and consider other changes when more complete information is made available.

Implementing the approved direction for the Sutter to McGee segment likely will not preclude implementation of any of the options for lower segments of Hopkins being submitted for a more complete evaluation. If Council were to adopt a version of the Ada Bypass option, the McGee-to-Sutter two-way cycle track would be able to feed in directly. Were Council to adopt a Rose/Hopkins combined option, the two-way cycle track on the South side of Hopkins could become a one-way track with bikes traveling East only. Should Council decide to reaffirm a version of the May 10 decision, the two-way track would feed into a continuation. Additional options which may be brought forward should be able to transition from, or integrate, changes to the Sutter-to-McGee portion.

If Staff believes implementation of the Sutter-to-McGee portion alone is infeasible or problematic, pedestrian, signaling, and other standard improvements should be implemented along with the scheduled repaving, existing bike lanes and/or sharrows re-painted, and the current configuration of the Hopkins/Alameda intersection restored to more traditional bulb-outs and pavement markings.

Assuming the approved changes to the upper segments of Hopkins are implemented at the same time as paving, the requirement that high quality permanent features, including but not limited to landscaping, trees, and street furniture, be implemented simultaneously with any new bike facilities remains in place. The City Council already allocated \$300,000 for these elements, to be designed by a Landscape Architect, and these funds are available to be applied to the upper portions. When further action is taken on plans for Hopkins west of McGee, additional funds likely will be required to cover costs of landscaping and community-supporting elements.

ALTERNATIVES TO BE CONSIDERED & INDEPENDENT STUDY SPECIFICATIONS

A major impetus for the Hopkins Corridor study and improvements is to significantly improve pedestrian and bike safety, but business and community-supporting elements were always intended to have equal and simultaneous consideration.⁹ Required consultation with businesses and institutions on the Corridor was only undertaken after the development and first public presentation of initial bike-lane configuration options - and pressure from the district representative to follow the direction of the original referral, which included a list of the many stakeholders whose input and concerns needed to be solicited and addressed.

⁹ [Budget Referral: Hopkins Corridor Traffic and Placemaking Study](#).

To ensure a full, complete, and independent study of alternatives for Hopkins from McGee to Gilman, a Landscape Architecture and/or Urban Design firm with in-house or subcontracted expertise in traffic engineering, preservation, and commercial district vitality shall be engaged to study and evaluate the alternatives listed below, and to design at least two proposed options. Due to the centrality of the commercial district to this portion of Hopkins, it is suggested that the Study be managed/overseen by Economic Development or other City Manager department staff, with support from Public Works, and a new outside firm selected to carry out the Independent Study, with the appropriate expertise.

Recommended options for the complex McGee to Gilman segment must *first and foremost* be focused on support for local businesses and community-building spaces that invite and amplify “social infrastructure,”¹⁰ and must respond to the needs of residents as well as pedestrians, bicyclists and vehicles traveling to or through the Corridor. As stated in the original referral and demonstrated throughout the process to date, the Hopkins/Monterey/California shopping area is an important “third space” for our community, and has to be considered in this light. Designing the means to access the sensitive commercial and social area should enhance and not diminish the area itself.

Proposals should present a fully landscaped and harmonious boulevard with a further enlivened commercial node that compliments and supports the current businesses, the Corridor’s remarkable alléy of mature trees, and the existing scale and features of the neighborhood. Landscaping and/or permeable surfaces should be used in place of concrete expanses to the greatest extent possible and plastic elements, if any, used only temporarily while permanent elements are installed. The original referral and the approved May 10 supplemental includes additional information about the quality of desired outcomes that remain applicable.

Alternatives to be Considered

In addition to providing community and commerce-supporting designs, the following bike-lane options and their impacts on a wide variety of variables must be evaluated for the McGee to Gilman segment.

1. **Baseline** - current conditions with addition of standard pedestrian and bike safety upgrades.
2. **May 10 Option** - two-way cycle track on the south side of Hopkins.

¹⁰ Klinenberg, Eric. *Places for the People*. New York, Broadway Books, 2018.

“Epidemiologists have firmly established the relationship between social connections, health, and longevity.” (P.5); “Social infrastructure is . . . the physical conditions that determine whether social capital develops. . . . People forge bonds in places that have healthy social infrastructures - not because they set out to build community, but because when people engage in sustained, recurrent interaction, particularly while doing things they enjoy, relationships inevitably grow.” (P.5); “the built environment . . . influences the breadth and depth of our associations.” (P.16); “What counts as social infrastructure? . . . sidewalks, courtyards, community gardens, and other green spaces that invite people into the public realm.” (P.16); “Commercial establishments can also be important parts of social infrastructure, particularly when they operate as . . . ‘third spaces,’ places . . . where people are welcome to congregate and linger regardless of what they’ve purchased.” (P.16)

3. **Ada Bypass** - bikes traveling in both (or potentially one) directions routed behind the shopping district via McGee, Ada, and Ordoway (or similar), connecting with both Hopkins and Gilman below the Hopkins/Gilman intersection.
4. **Hopkins/Rose Combo** - protected bike lanes on the south side of Hopkins for east-bound bikes, with west-bound bikes traveling in a protected bike lane on the north side of Rose St.
5. **One-Way Uphill** - a one-way uphill protected bike lane on Hopkins with downhill bikes in sharrows.
6. **Other Options** - hybrid or new recommendations that may emerge over the course of gathering public input and reviewing these alternatives.

Independent Study Specifications

The study requested likely does not fit into a standard study format. Study leads are requested to carefully review the original study referral, the March 10, 2022 approved Supplemental, and this referral. These all make clear that while studying configurations to enhance safety for cyclists is necessary and desired, bike lanes are not the only goal. The goal is to enhance the commercial district, support and expand social infrastructure, and provide a balanced suite of solutions for safe access to and passage through the Corridor, taking into account all mobility needs and transit modes - including, very importantly, safe bike facilities. Hopkins is an evacuation route as well, so emergency evacuation capacity is an important element. All of this, and more, is referenced clearly in the original referral.

Because safe bike facilities likely require some redistribution of street and curb space on Hopkins and/or on nearby streets, understanding the options available and quantifying and assessing their relative impacts to a wide variety of stakeholders is a necessary precondition to complete the study's broader vision and goals.

In addition to studying ways to enhance commerce, community, landscaping and enjoyment of this portion of the Corridor, the study should include a formal Curb Management study¹¹ and study of the bike lane configurations proposed above. Data to inform the study should be collected via surveys, counts, measurements, and all other objective means possible and be included in the written report along with the two or more recommended proposals. Options that were studied but are not being recommended should be addressed so the public and City Council can understand why those options were deemed less desirable or feasible.

The curb management elements of the study should assess, among other things, parking demand for customers, deliveries, and employees as well as residential parking, transit, passenger loading, blue zone, and other needs. If a written survey of businesses has not yet been completed, a Loading Study should be undertaken similar to SFMTA's 13th Street survey.¹²

¹¹ See [SFMTA Curb Management Strategy](#) for an example of what a curb management study might include.

¹² https://www.sfmta.com/sites/default/files/reports-and-documents/2021/11/loading_survey_20211101.pdf

Recommendations should include sketches, drawings, schematics, elevations, and other representations so the public has a meaningful opportunity to understand and visualize what the finished improvements will provide from a user's perspective, not just technical or engineering drawings. They should also include a full suite of anticipated pedestrian safety improvements; facilities for AC Transit; blue, white, green, loading, and other special parking; as well as opportunities for creation or enhancement of landscaping and social infrastructure, and all other relevant elements as described in the original referral and in the approved May 10 Supplemental.

RATIONALE FOR RECOMMENDATION:

Our Council can make difficult decisions; we do it all the time. And with the breadth and strength of opinions expressed by an engaged public, we know that many of the decisions we make will delight some while frustrating others. The City Council and district representative strongly support safe bike facilities, as was evidenced by the remarks made and votes taken at the May 10 meeting.

Whether excited by the decisions made on May 10, 2022 or dismayed, everyone should support the concept that decisions our Council makes must be based on complete and accurate facts and information. In the case of the May 10 Hopkins Corridor decision, the City Council and public lacked full and accurate information on a material element impacting the decision, and incorrect information was being circulated - including during Council deliberations.

It is incumbent on us to hold our own decision-making processes to the highest possible standards.

FINANCIAL IMPLICATIONS

Independent study will require allocation of funds, as referred by this item to the 2024 Budget Process. The City Manager should request appropriate amounts in her proposed budget should additional (or less) funding be necessary to complete the required study.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

A major impetus for the Hopkins Corridor study and improvements is to significantly improve pedestrian and bike safety and create more lively and inviting streetscapes for community gathering. Alternatives considered may have varying impacts, which can be described in the Independent Study.

CONTACT PERSON

Councilmember Sophie Hahn

Council District 5

510-981-7150

Attachments:

- A. Parking Count Spreadsheet
- B. 2018 Hopkins Corridor Traffic and Placemaking Study referral
- C. May 10, 2022 Council Action on the Hopkins Corridor
- D. Budget Referral 4/26/22: Hopkins Corridor Bike, Pedestrian, and Placemaking Improvements

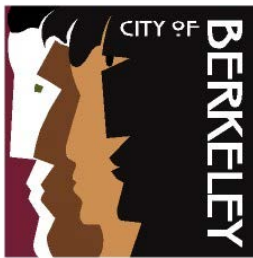
From: **To:**
 The Alameda Milvia
 Milvia Napa
 Napa Sutter

Existing			Proposed		
N	S	Total	N	S	Total
19	16	35	19	12	31
21	11	32	19	7	26
8	11	19	8	4	12
48	38	86	46	23	69

Difference
-4
-6
-7
-17

		Existing			Proposed			Difference
		N	S	Total	N	S	Total	
From:	To:							
McGee	Carlotta	7	8	15	6	6	12	-3
Carlotta	Colusa	6	8	14	6	9	15	1
Colusa	Beverly	24	36	60	24	37	61	1
Beverly	Josephine	8	10	18	7	10	17	-1
Josephine	The Alameda	1	6	7	1	4	5	-2
		46	68	114	44	66	110	-4

From:	To:	Existing			Proposed			Difference
		N	S	Total	N	S	Total	
Gilman	Albina	3	6	9	0	0	0	-9
Albina	Sacramento	5	6	11	0	0	0	-11
Sacramento	Hopkins Ct	0	5	5	0	0	0	-5
Hopkins Ct	Monterey	4	6	10	0	0	0	-10
Monterey	McGee	3	7	10	0	6	6	-4
		15	30	45	0	6	6	-39



SOPHIE HAHN

Berkeley City Council, District 5
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
Phone: (510) 981-7150
Email: shahn@cityofberkeley.info

CONSENT CALENDAR

January 23, 2018

To: Honorable Mayor and Members of the City Council
From: Councilmember Sophie Hahn
Subject: Budget Referral: Hopkins Street Corridor Traffic and Placemaking Study

RECOMMENDATION

Refer to the Budget Process the funds necessary to undertake a traffic and placemaking study of the Hopkins/Monterey/Sacramento corridor; specifically, Sacramento Street from the southern approach of Rose Street to Hopkins, Hopkins from Gilman Avenue to Sutter/Henry, and the Monterey Avenue approach to Hopkins from the North. The study should include all intersections and use a “complete streets” approach to identify improvements to be integrated into the paving and bicycle infrastructure work already scheduled for this area, and to identify additional projects to be undertaken over time, with an emphasis on pedestrian safety, bike and vehicle safety and flow, community-building and placemaking, parking, support for local businesses, green infrastructure and aesthetics. Include cost estimates, potential sources of funding and a proposed timeline for implementation of recommended improvements.

FINANCIAL IMPLICATIONS

\$200,000 to supplement existing funds for planning in the corridor, and staff time to complete the studies.

BACKGROUND

In 2017, the City of Berkeley experienced two fatalities as a result of car accidents involving pedestrians or cyclists. Both occurred in the heavily trafficked Hopkins /Sacramento/Monterey corridor (the “Hopkins Street Corridor”), one at the intersection of Hopkins and Monterey involving a pedestrian¹, and the other on Sacramento Avenue near Hopkins, involving a cyclist². These tragedies are just two of the most recent and deadly incidents in this busy area, and highlight the need for a comprehensive traffic study of the Hopkins Street Corridor. Specifically, the area of study should include Sacramento Street from the southern approach of Rose Street to Hopkins Street, Hopkins from Gilman Street to Sutter Street, and the Monterey Avenue approach to Hopkins from the North, plus all major and minor intersections.

In addition to the recent deaths in this area, there are numerous impactful conditions in the Hopkins/Monterey corridor that support the need for comprehensive study of traffic conditions

¹ <http://www.berkeleyside.com/2017/05/01/longtime-activist-69-dies-north-berkeley-crash-police-say-driver-failed-yield/>

² <http://www.berkeleyside.com/2017/02/08/cyclist-dies-north-berkeley-crash/>

and placemaking including, but not limited to:

- The busy neighborhood commercial area centered around the intersection of Hopkins Street and Monterey Ave, which attracts significant car, bicycle and pedestrian traffic on a daily basis, constant ingress and egress from parking lots and spaces, and associated delivery and other trucks;
- Numerous educational and recreational facilities in the area that involve drop-off and pick-up of youth, and/or youth pedestrians and bike riders, including at least four preschools (Mustard Seed at 1640 Hopkins St, Hopkins Pre-school at 1810 Hopkins, Sprouts at 1910 Hopkins, and Gay Austin School at 1611 Hopkins), King Middle School, King's playing fields and the adjacent park, pool, and tennis courts, St. Mary's High School and the North Branch Library;
- Two active churches;
- A high concentration of families and Senior Citizens living in the area, regularly crossing streets to access shops, recreational and ecumenical facilities and the North Branch public library;
- Hopkins and Monterey serving as major East/West access corridors with significant vehicular traffic to and from freeways and cross-town destinations (via Sacramento, San Pablo, The Alameda/MLK and Sutter/Henry/Shattuck);
- Hopkins and Sacramento serving as designated Emergency Access and Evacuation Routes³;
- California Street as a bicycle boulevard, and both Hopkins and Monterey scheduled for new bike infrastructure as part of the 2017 Berkeley Bicycle Plan;
- Several AC Transit bus lines travelling through the corridor;
- One of only two gas stations in North Berkeley located at Hopkins and MLK/Alameda, with vehicles regularly stacked in the street and intersection awaiting ingress;
- The area, in particular the commercial district at Hopkins and Monterey, serving as an important community gathering space; and
- Treasured local businesses along Hopkins that draw a neighborhood and regional clientele and benefit from pedestrian activity and lively café-seating and street-life.

In light of all of these conditions, a comprehensive planning process is warranted - if not overdue - to improve the safety and enjoyment of the corridor for all citizens and all uses.

The study should include robust community outreach and input, and address the following considerations, as well as others deemed advisable by staff or the public:

Complete Streets/Traffic:

- Pedestrian safety at all intersections along the corridor, in particular at Monterey and Hopkins, the site of a fatality in April of 2017;
- Bicycle lanes, parking and infrastructure, including elements anticipated as part of the 2017 Berkeley Bicycle Plan;

³ https://www.cityofberkeley.info/uploadedImages/Fire/Level_3_-_General/Wildfire%20Evacuation%20Map%202011.JPG?n=8697

- Traffic flow into and out of the corridor, with special attention to the Gilman/Hopkins, Sacramento/Hopkins, Hopkins/Monterey and Hopkins/MLK/Alameda intersections;
- Ingress and egress from the Monterey Market and the Hopkins/MLK/Alameda gas station;
- Parking, pick-up and drop-off for schools, the public library, churches and recreational facilities, including consideration of traffic management at peak times;
- AC Transit and school busses, both public and private;
- Green Infrastructure
- Addition of signalized intersections and/or adjustment of timing, turning and other features of signalized intersections; and
- Parking for employees and customers and loading for commercial vehicles.

Community Building/Placemaking

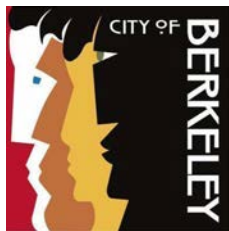
- Study to include the entire neighborhood commercial area of Hopkins Street from McGee Avenue to Hopkins Court;
- Exploration of means to create additional spaces for community gathering and to increase greenery and other placemaking amenities that harmonize with existing features in the corridor, with full access for all ages and abilities;
- Ensure design and style of improvements add to the charm and character of this highly valued and historic neighborhood commercial district; and
- Any other considerations that may further enhance placemaking and the safe and vibrant use of public spaces, including improvements to hardscape and greenery and enhancement of community-building and placemaking.

ENVIRONMENTAL SUSTAINABILITY

This recommendation supports Berkeley's environmental sustainability and resilience goals by encouraging biking and walking, enhancing a neighborhood shopping district with locally owned businesses that source responsibly and locally, incorporating green infrastructure, and strengthening community.

CONTACT PERSON

Councilmember Sophie Hahn, Council District 5, (510) 981-7150



Councilmember Sophie Hahn
City of Berkeley, District 5

SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2

Meeting Date: May 10, 2022

Item Number: 33

Item Description: Hopkins

Submitted by: Councilmember Hahn, Mayor Arreguin



Artistic Rendering Upper Hopkins courtesy of Alfred Twu

This submittal creates an “omnibus” motion combining Staff’s proposal, Councilmember Kesarwani’s Supplemental 1 proposal, and additional changes reflective of community input to:

- Adopt the Staff Recommendation with amendments to the conceptual design
- Adopt CM Kesarwani’s Supplemental 1 proposal as a referral
- Ensure Community Building/Placemaking elements are developed and implemented simultaneous with Complete Streets/Traffic elements¹
- Restate elements already under consideration and refer additional community suggestions for the Engineering Phase
- Consider funding sources

The Resolution shall be amended to reflect adopted recommendations.

** “TC” indicates suggestions from the Transportation Commission*

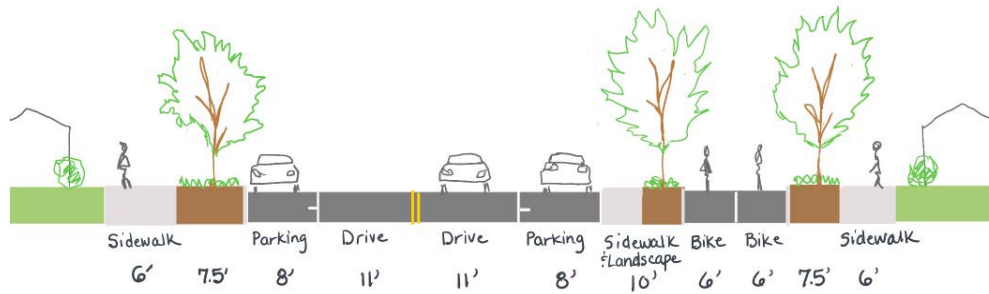
¹ Community Building/Placemaking and Complete Streets/Traffic elements are listed in the [Hopkins Corridor Traffic and Placemaking Study](#)

Adopt the Staff Recommendation with Amendments to the Conceptual Design:

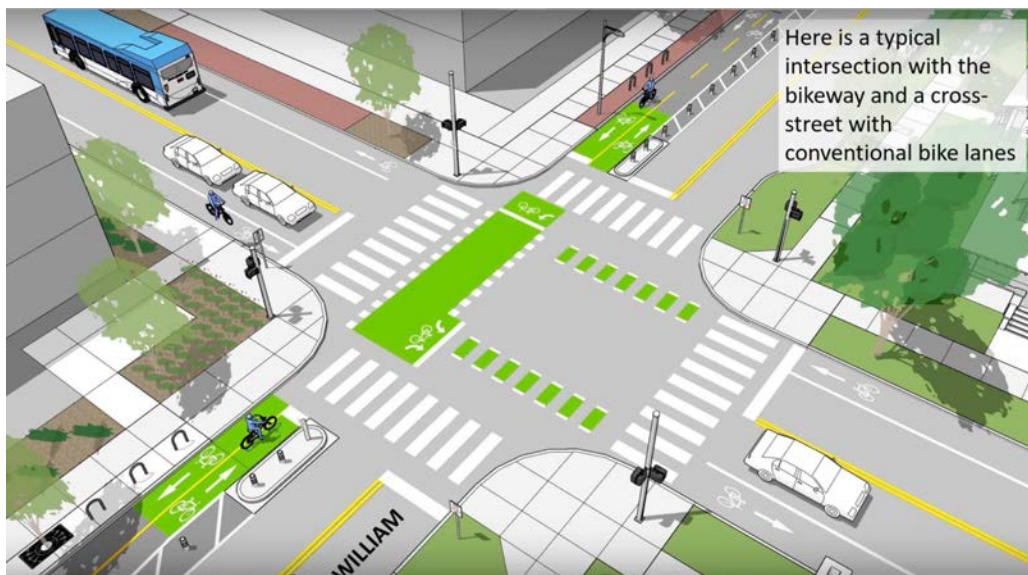
- **Replace the proposed design for Segment 1: Sutter to the Alameda (Pages 8, 9, and 10 of 20) with extension of two-way parking-protected bike lanes (cycletracks) along the entire south side of Hopkins and increase the width of parking buffers to provide approximately 10 foot islands composed of sidewalks with wheelchair access adjacent to vehicle parking and planting strips, as sketched below (TC):**

Concept to extend the 2-way protected cycle track from The Alameda to Sutter

Looking east up Hopkins just east of The Alameda



- **Redesign the “Alameda Intersection” (Page 11 of 20) to implement appropriate elements for the extended two-way protected bike path/cycletrack in lieu of the existing and proposed four-sided bike slip lane design and provide pedestrian safety elements using traditional bulbouts, curb extensions and pedestrian islands, with landscaping and/or green infrastructure and placemaking elements respectful of historic features of the intersection and North Branch Library, based on the concept below (TC):**



- **End the approved Design Concept at Sacramento Street** and join the segment from Sacramento to Gilman Streets to the Kesarwani referral to allow for integrated consideration of areas of Hopkins within District 1.

Adopt CM Kesarwani's proposal as a referral

- Refer to the City Manager consideration of extending bicycle and pedestrian safety improvements west of Sacramento to San Pablo Avenue, including two community engagement meetings to discuss benefits and impacts. (TC)

Direct the City Manager to develop and implement Community Building/Placemaking elements simultaneous with Complete Streets/Traffic elements²

- Engage the project Landscape Architecture firm to design the Community Building/Placemaking elements as specified in the original study referral and as stated in the 3rd, 5th, 6th, and 7th bullet points of staff's restated Project Goals; and to specify high quality treatments and materials for crosswalks, sidewalks, islands, bulb-outs, and other elements of Complete Streets/Traffic design, to achieve a unified, landscaped, aesthetically pleasing, business- and community-supporting project throughout.
- To the greatest extent possible build/install Community Building/Placemaking elements simultaneously with implementation of Complete Streets/Traffic elements through use of concrete curbs and islands, metal bollards, landscaping, and other quality durable, well-designed elements, as specified by the Landscape Architect. Plastic bollards and other plastic elements, if any, shall be used only on a temporary basis to achieve safety while project is in progress.

Restate elements already under consideration and refer additional community suggestions for the Engineering Phase

The following elements important to the community are already under consideration for the Engineering Phase or are suggestions referred for consideration.

- **Establish Residential Preferred Parking (RPP):** Designate areas both on and/or surrounding Hopkins Street to implement RPP as needed to manage existing parking overflow and ensure preferential parking access for residents, and consider providing permits at no cost to residents for the first year of implementation. Include consideration of Hopkins Court, Albina Street, and other side-streets and work with neighbors to establish appropriate boundaries and time limitations.
- **Widen Bike Lanes** to a minimum of 4.5 or 5 feet each (for a total of 9-10 feet) wherever possible by narrowing traffic lanes, in consultation with the Fire Department to ensure access for public safety vehicles, without eliminating additional parking.

² **Community Building/Placemaking** and **Complete Streets/Traffic** elements are listed in the [Hopkins Corridor Traffic and Placemaking Study](#)

- **At the Hopkins/Monterey/California intersection and on the California to McGee block-face directly in front of shops, direct the City Manager to:**
 - **Improve Pedestrian Safety:** Consider raising the entire intersection (or at least one Hopkins crosswalk) to pedestrian level and/or the possibility of including flashing pedestrian crossing indicator lights, and/or providing a stamped concrete or other distinctive treatment to the entire intersection/raised crosswalks, to emphasize primacy of pedestrians, and to enhance aesthetics (TC)
 - **Add Dedicated Handicapped Parking and Truck Delivery Zones** near shops.
 - **Increase Parking Availability:** Implement enforced time-restricted parking, with or without meters, around the perimeter of the “Berkeley Horticulture” block, including along the Hopkins Street commercial block-face, and consider implementing in other adjacent commercial areas, to encourage turnover of spaces for customers.
 - Ensure a variety of time limits to accommodate quick deliveries and errands as well as longer shopping and services, including hair salon customers.
 - Provide designated handicapped and delivery spaces to support full access for the community and manage the commercial deliveries.
 - Explore the potential to add parking west of the Monterey/Hopkins intersection by cutting into parking-strip areas.
 - **Address Employee Transit and Parking Needs:** Work with business to support transit passes and other alternative modes of commuting to work and consider employee parking needs in designing RPP and other parking treatments.
 - **Add Community Space** including curb extensions/bulbouts and other features to the greatest extent possible to provide additional landscaping, seating and community gathering spaces.
 - **Improve the Retail and Community Environment:** Replace concrete sidewalks and potentially provide raised bike lanes along the shop block-face and provide a concentration of benches, café tables, trash receptacles, landscaping, and similar elements, with bike parking east of the Liquor store/driveway only, to maximize the shopping, community-building, and pedestrian experience in front of shops.
 - **Increase Bike Parking and Amenities:** Provide ample bike parking in a variety of locations (except as noted above), with a concentration in parking strips and other areas around or, with permission, in the Monterey Market parking lot, and

also consider a Bike Parking station with benches, a Bicycle Fix It station, and other amenities for bicyclists near the California Street back entrance to Berkeley Horticulture, and/or in another feasible nearby location.

- **Create Dedicated Preschool and Religious Institution Drop-Off and Handicapped Facilities:** Throughout the corridor, provide dedicated safe drop-off areas for preschools, churches, and other institutions if needed, and handicapped spaces serving all facilities.
- **Add Crosswalks and Strengthen Pedestrian Safety Elements Throughout:** Near the King Track entrance revisit possibility of a raised crosswalk mid-block as close as feasible to the entrance to enhance safety for youth and other pedestrians accessing recreation facilities, and review all intersections for potential pedestrian enhancements, including where crosswalks are currently proposed for only selected crossing including the possibility of flashing pedestrian crossing lights. (TC)
- **Enhance Areas Adjacent to King Park, Tennis Courts and Track:** Provide landscaping and/or benches and other community enhancements at the track entrance areas and adjacent to the pool access road and tennis courts.
- **Add Landscaping at Hopkins/Josephine Intersection:** provide landscaping harmonious with the existing triangle island to the west of the North Branch Library in new median, curb extension, and island elements (4 areas currently shown) and consider possible benches and/or other community enhancements.
- **Improve Ingress and Egress to Major Uses:** Continue consultation with the Gas Station at the Alameda Intersection to improve flow and safety of vehicles and manage fuel deliveries as well as potential conflicts with bikes and pedestrians. Continue consultation with the Monterey Market to improve flow and capacity of parking lot.
- **Regulate Speeds and Safety and Manage Potential Pedestrian Conflicts within Bike Lanes:** Consider a variety of means to ensure speeds are limited within dedicated bike lanes and stop signs and other signals are respected, including but not limited to posting or painting signage and raising crosswalks to slow bikes and emphasize primacy of pedestrians.

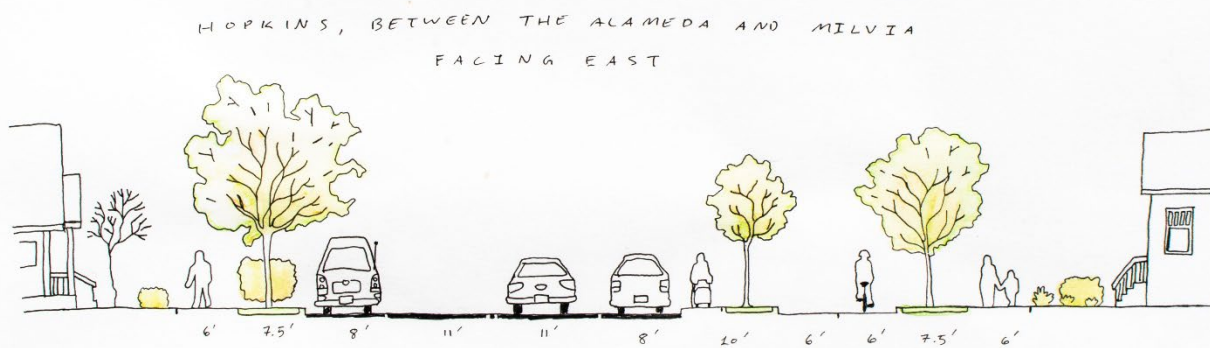
Refer Funding Considerations:

The recommendation as proposed by staff has no fiscal impacts. Modifications introduce both savings and potential costs. To the extent amendments to the staff recommendation introduce new fiscal impacts, identify a full suite of existing and potential funding sources for implementation of the entire project, including Community Building/Placemaking and other elements to be designed/specified by the Landscape Architect. In addition, explore means to maintain landscaping, placemaking, and other elements over time. Refer to appropriate Budget processes consideration of additional funding as needed, with Vision 2050 monies as a potential source if approved by voters.

Additional Images - for visual reference:



Top view: artistic rendering by Brandon James Yung and Angela Clearwater.



Cross section: artistic rendering by Brandon James Yung and Angela Clearwater.

This is a two-way bike path/cycletrack along one side of a street with planted strips on either side. This image lacks parking and driveways but provides a sense of how the two-way cycletrack can look/feel on the Sutter to Alameda segment.



This is an example of a landscaped strip with a loading sidewalk for parked vehicles, punctuated by walkways, and is evocative of how the landscaping and parking sidewalk beyond the two-way bike path/cycletrack can look/feel on the Sutter-to-Alameda segment.



Image of an intersection where a two-way bike path/cycletrack crosses a street with bike lanes on either side of the street, like the Alameda Intersection. The “box” where the bike is waiting in the intersection to make a turn would be much deeper; protected by a 10 foot wide buffer zone:

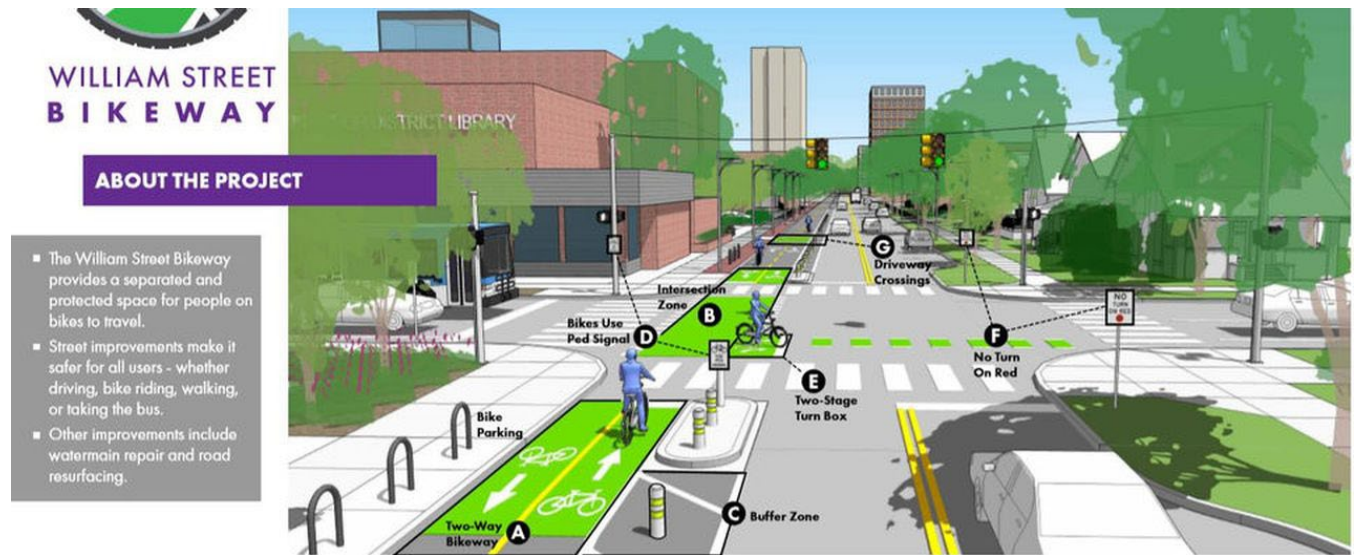


Image demonstrating the significant pedestrian (and aesthetic) benefits of a wide landscaped island/buffer between a bike lane and parked vehicles. In the case of Hopkins from Alameda to Sutter, the safe area for the pedestrian would be a full ten feet wide with the crossing shortened from 60 feet to 48 feet or less, depending on bulbouts on the opposite side of the street.





Rendering Upper Hopkins courtesy of Alfred Twu demonstrating green buffer zone concept. Driveways would punctuate the island for access.



Office of the City Manager

ACTION CALENDAR

May 10, 2022

(Continued from April 26, 2022)

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Liam Garland, Director, Department of Public Works
 Subject: Hopkins Corridor Project Conceptual Design

RECOMMENDATION

Adopt a Resolution approving the conceptual design for the Hopkins Corridor Project on Hopkins Street between Sutter Street and Gilman Street, and directing the City Manager to proceed with the detailed engineering design of the project.

SUMMARY

The Hopkins Corridor design concept addresses pedestrian and bicyclist safety on Hopkins Street between Sutter and Gilman Streets. Features include a physically protected bikeway, a segment of Class II bicycle lane, bus boarding islands, and intersection safety treatments such as corner sidewalk extensions, a raised crosswalk, and high-visibility pavement markings. Another key design feature is increased public space through the provision of sidewalk bulbouts at the Hopkins/ California Street/ Monterey Avenue intersection. The proposed design concept was developed through a robust public and stakeholder engagement process that included four rounds of public meetings over a period of one and a half years.

FISCAL IMPACTS OF RECOMMENDATION

The recommendation has no fiscal impacts.

CURRENT SITUATION AND ITS EFFECTS

The proposed design concept was developed through the Hopkins Corridor Traffic and Placemaking Study which was initiated as the result of a budget referral by Councilmember Sophie Hahn, dated January 23, 2018. The budget referral allocated funding for a traffic and placemaking study including Hopkins Street from Sutter Street to Gilman Street. It called for the study to use “a ‘complete streets’ approach to identify improvements to be integrated into the paving and bicycle infrastructure work already scheduled for this area...with an emphasis on pedestrian safety, bike and vehicle safety and flow.” Complete Streets are streets that are designed and operated to accommodate the needs of all road users. Preceding this referral, the Berkeley Bicycle Plan, adopted by City Council in 2017, calls for evaluation of two-way cycle tracks (protected bike lanes) on Hopkins Street as low-stress biking facilities. More recently,

Hopkins Street was identified as a high-injury street for severe and fatal traffic crashes in the Berkeley Vision Zero Action Plan adopted by City Council in 2020.

Project Goals

The goals developed through and for the Hopkins Corridor Traffic and Placemaking Study are as follows:

- Improving the safety of walking along and crossing Hopkins Street,
- Improving bicycle and vehicular transportation safety and flow along and crossing Hopkins Street,
- Transforming Hopkins Street between Sacramento Street and McGee Avenue into a community gathering place,
- Managing parking to meet the needs of residents and local businesses,
- Supporting local businesses by creating a streetscape that attracts customers,
- Installing green infrastructure to protect the Bay while also providing visual enjoyment, and
- Improving aesthetics all along Hopkins Street, employing a design palette consistent with its historic character.

Recommended Design Concept

An iterative design process was implemented due to extensive input from community members and institutions along the corridor. The resulting near-term design recommendations are compromises intended to meet the project's goals while also minimizing trade-offs and accommodating needs such as on-street parking, curbside access, and bicycle and pedestrian safety.

Broadly, the project would allow for the implementation of the following features.

- Dedicated bicycle facilities along the corridor, ranging from a two-way protected bikeway to Class II bicycle lanes
- Bus boarding islands to facilitate public transportation along the corridor
- Intersection treatments to improve pedestrian safety and comfort, such as sidewalk extensions (bulbouts), center median islands, pavement markings, and a raised crosswalk. Sidewalk extensions provide additional public space and opportunities for landscaping.

Sutter Street to The Alameda

The south side of the street would feature a parking-protected bicycle lane with a striped buffer zone between the bicycle lane and parked vehicles. On the north side, a Class II bicycle lane (between on-street parking and the traffic lane) would be installed with a striped buffer on each side – one next to parked vehicles and the other separating cyclists from moving vehicles. On-street parking would be retained on both sides of the street.

Modifications at the intersection with The Alameda would be made to address community input, including adjustments to north- and southbound vehicle alignment and the provision of more clearly defined aprons around the existing raised islands in the intersection, which would have beveled curbs in order to be more forgiving of driver error. Proposed modifications would be designed to aesthetically complement the surrounding area. The intersection islands would have rose coloring and landscaping that harmonize with the existing rose colored sidewalk and vegetation in front of the North Branch Library.

The Alameda to McGee Avenue

A two-way protected bikeway would be constructed on the south side of the street. A buffer zone would provide separation from parked vehicles as well as loading space. Most on-street parking would be retained on both sides of the street.

At the Hopkins Street intersection with Josephine Street, two sidewalk corner bulbouts are proposed for the southern leg of the intersection to shorten the crossing distance for pedestrians. The bulbouts would realign Josephine to intersect with Hopkins at an angle closer to 90 degrees, reducing vehicle turning speeds. A new raised crosswalk would be placed across Hopkins Street, perpendicular to the roadway, to meet the new bulbout on the southwest corner of the intersection, increasing the visibility of pedestrians while shortening the crossing distance and reducing vehicular speeds.

McGee Avenue to Gilman Street

The bi-directional protected bikeway would continue from McGee Avenue to Gilman Street. From McGee to Monterey Avenue, the bikeway would be protected by parked vehicles separating it from the vehicle travel lanes. All on-street parking with the exception of one stall would be retained along the south side of the street in this commercial block. Between Monterey Avenue and Gilman Street, the bi-directional bikeway along the south side of the street would be protected from the travel lanes with a raised concrete median. All parking would be removed on both sides of the street on these blocks in order to provide enough space for the protected bike lanes.

The project would result in safety improvements at the Hopkins Street / Monterey Avenue / California Street Intersection. A bulbout into California Street on the southwest corner would shorten the pedestrian crossing distance while expanding the sidewalk space at this currently very constrained corner. The crosswalk on the north side of the intersection across Monterey Avenue, which was the location of a pedestrian fatality, will be raised to slow vehicle speeds to and from this street onto Hopkins. Further, a

raised median would be constructed on the northeast corner to narrow this wide crossing and reduce pedestrian exposure to traffic.

The proposed modifications to the roadway would necessitate changes to the Hopkins Street / Sacramento Street intersection. Specifically, the space for the protected bike lanes would be provided by converting the existing westbound informal left turn / through lane configuration into a single lane that accommodates both through-movements and left turns. These movements would be made more efficient than existing conditions by having a dedicated signal phase for both movements, freeing up time in the signal cycle for a dedicated pedestrian and bicyclist crossing phase on the south side of the intersection.

BACKGROUND

Public Engagement

A total of four sets of virtual workshops were held to get public feedback throughout the project. Each of the four workshops included over 100 attendees. The first workshop was held on October 22, 2020. The purpose of this workshop was to introduce the project as well as the concept of “complete streets” and to present an overview of existing conditions along the corridor. The workshop also included small group discussions where participants provided feedback on the draft project goals and completed a prioritization exercise for improvements that may be considered along the corridor.

Workshop #2, held on March 20, 2021, shared initial proposed corridor-wide design improvements; reviewed options for placemaking opportunities; and solicited feedback from the public on proposed measures through facilitated break-out room exercises. About 800 comments were received during the public comment period following this meeting.

Workshop #3 was held on October 28, 2021. During this workshop, options for placemaking were reviewed and specific near- and long-term complete street corridor design options were presented. This workshop included a facilitated discussion in virtual break-out rooms where participants could provide their feedback on both the placemaking and complete streets options. A virtual crowd-sourcing platform, called Social Pinpoint, was used to solicit specific public comment on the proposed near- and long-term design options and placemaking opportunities. The public was invited to participate in the Social Pinpoint exercise for approximately five weeks after the workshop. Over 700 individual comments were recorded from the Social Pinpoint exercise over the 5-week period.

Finally, a series of three webinars was held on March 1, 7, and 14, 2022. Each of the webinars included a presentation of the City’s recommended short-term design concepts that would be implemented as part of the 2023 paving project for each of the three segments of the corridor. Participants had the opportunity to ask questions about these designs during the webinar that were addressed by staff after the presentation.

This public engagement was supplemented by direct conversations held between staff and key stakeholders in the community, including business-owners, residents, and representatives of the numerous institutions along the corridor, such as the schools, pre-schools, churches and the library, among others. This engagement resulted in a greater understanding of the needs of these stakeholders and resulted in adjustments to the design plans to accommodate these needs.

Options Previously Considered

During the course of the study, a range of options were considered, including the following.

- Retain existing on-street parking along both sides of Hopkins Street for the entire length from Sutter to Gilman. This option required that bicyclists ride in the general purpose vehicular traffic lanes between McGee and Gilman, not meeting the project goal of improving bicycle transportation safety and flow.
- Retain existing on-street parking along both sides of Hopkins Street from Sutter to Josephine, and on the south side of Hopkins between Josephine and McGee, but eliminate all on-street parking along both sides of Hopkins from Josephine to Gilman. This option provided space for either a protected bicycle lane or Class II bicycle lane on each side of Hopkins Street for the entire length, but impacted public access to the recreational facilities between Josephine and McGee and to the shops between McGee and California Street.

After much public engagement and analysis, a hybrid design was developed that retained nearly all of the on-street parking as far west as the California/Monterey intersection. This was accomplished by providing a two-way cycle track on one side of Hopkins Street (the south side), requiring space for only one buffer or median between the bikeway and parking lane or vehicular traffic lane.

Project Timeline

- Conceptual Design, Preliminary Engineering, Public Outreach, and Environmental Review August 2020 to April 2022
- Detailed Engineering Design April-December 2022
- Advertise project & award construction contract December 2022
- Construction Summer-Fall 2023

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Installation of protected bikeways and improved pedestrian crossings is anticipated to increase walking and biking, which is consistent with the 2009 Berkeley Climate Action Plan Policy that calls for expanding and improving Berkeley’s bicycle and pedestrian infrastructure. The 2009 Berkeley Climate Action Plan sets targets of reducing

transportation emissions 33% below year 2000 levels by 2020, and 80% below year 2000 levels by 2050. The Plan further states that transportation modes such as public transit, walking, and bicycling must become the primary means of fulfilling the City's mobility needs in order to meet these targets.

RATIONALE FOR RECOMMENDATION

Approval of the conceptual designs will keep the project on schedule for detailed engineering design in 2022, allowing the City to award the construction contract in time to receive responsive bids and start construction in 2023.

ALTERNATIVE ACTIONS CONSIDERED

Council could opt not to approve the conceptual designs for the project or could opt to approve the proposed design concept for only a subset of project segments.

CONTACT PERSON

Farid Javandel, Deputy Director of Public Works for Transportation (510) 981-7061
Beth Thomas, Principal Planner, Public Works (510) 981-7068
Ryan P. Murray, Associate Planner, Public Works (510) 981-7056

Attachments:

- 1: Resolution
 Exhibit A: Hopkins Corridor Design Concept

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

HOPKINS CORRIDOR PROJECT CONCEPTUAL DESIGN

WHEREAS, the project corridor includes Hopkins Street from Sutter Street to Gilman Street; and

WHEREAS, the Berkeley Vision Zero Action Plan has documented severe and fatal crashes on Hopkins Street; gaps in the low-stress protected bikeway network on Hopkins Street result in connectivity problems that discourage bicycling for transportation; and the Berkeley Bicycle Plan has recommended evaluating cycle tracks for providing a low-stress bikeway on Hopkins Street; and

WHEREAS, to address these needs, the project delivers on the City's Vision Zero, Complete Streets, and Climate Action Plan policies; and

WHEREAS, with the support of an engineering and design consultant team, City staff have identified conceptual design options for the Project corridor; sought public input on and analyzed those conceptual design options; and have selected a recommended conceptual design for consideration by the Berkeley City Council; and

WHEREAS, the recommended design includes physically protected bicycle lanes on the south side of Hopkins Street between Sutter and Gilman and a Class II bicycle lane on the north side of Hopkins Street between Sutter and The Alameda, in addition to pedestrian safety features, as shown in Exhibit A to this Resolution; and

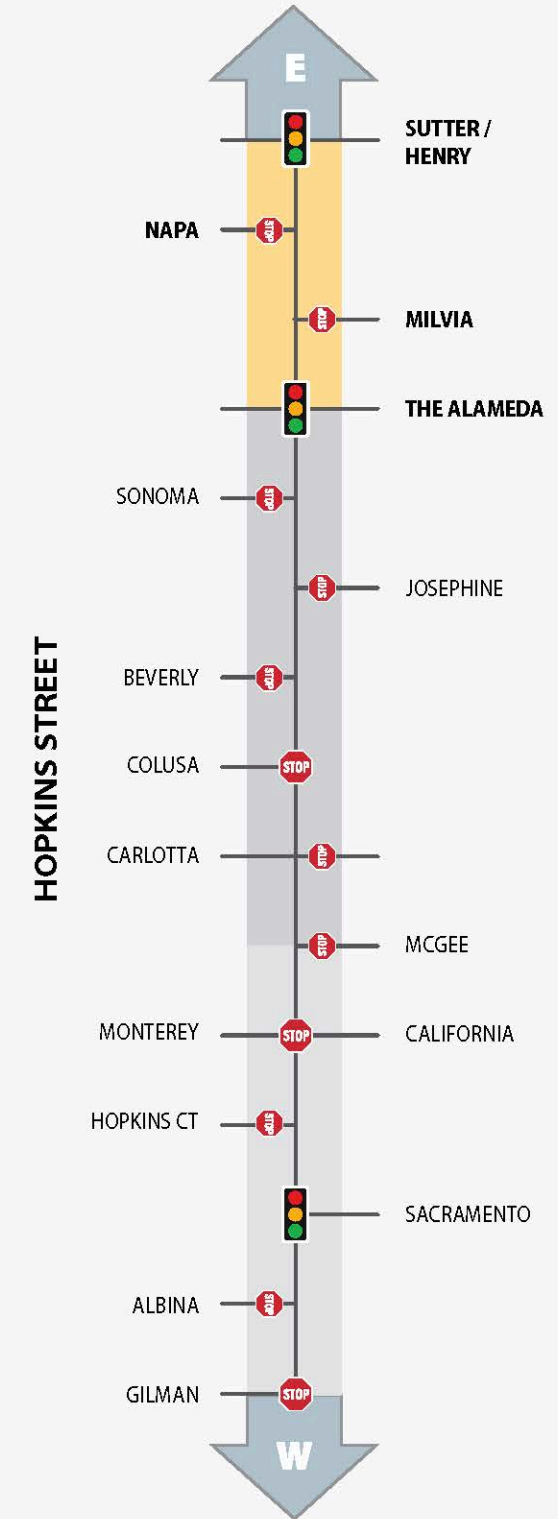
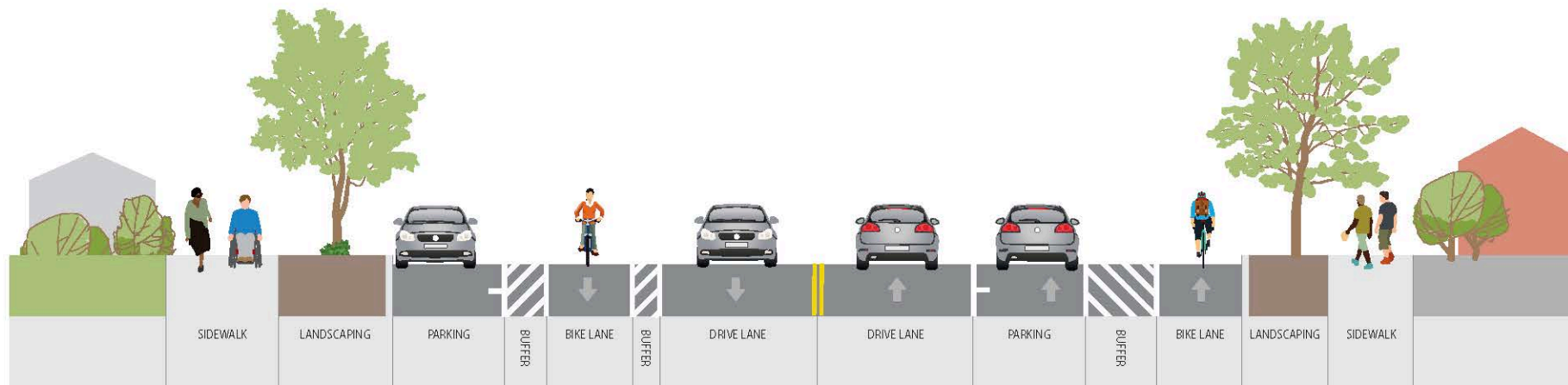
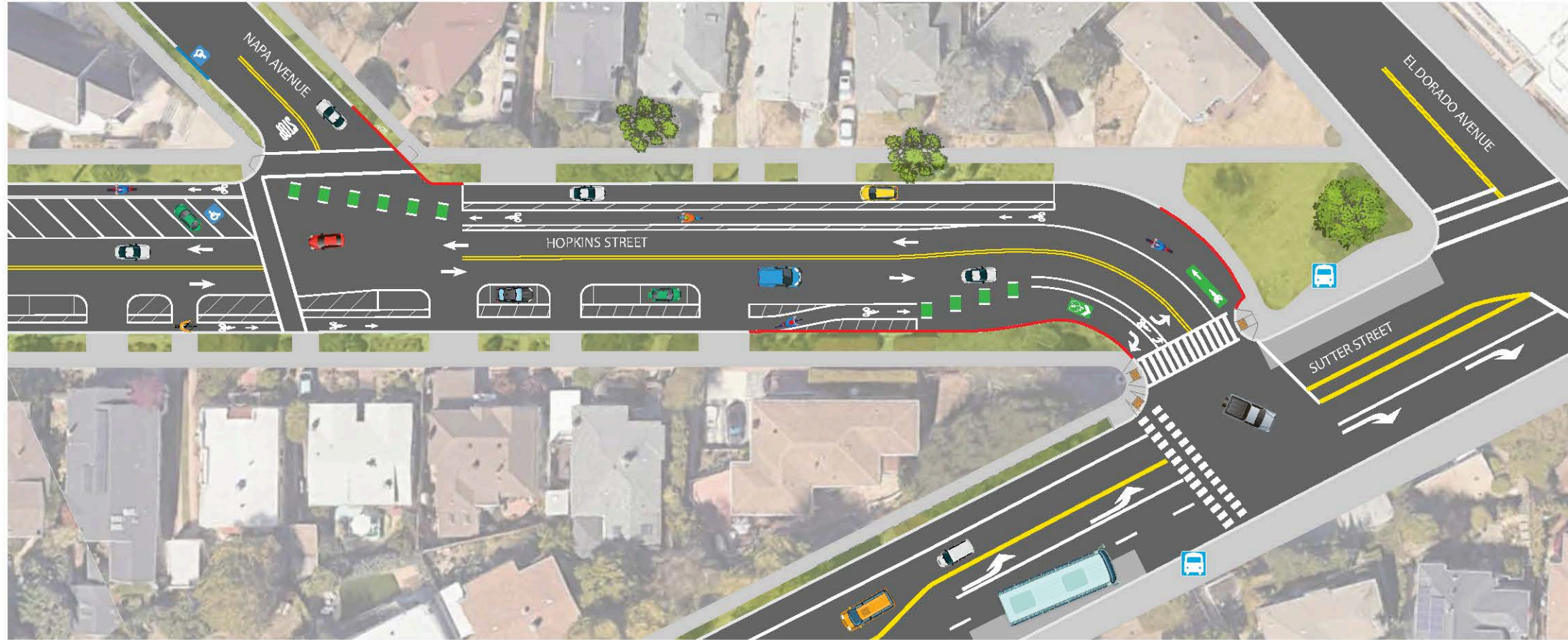
WHEREAS, approval of the Hopkins Corridor Project recommended conceptual design will keep the project on schedule for detailed engineering design in 2022.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to proceed with the detailed engineering design of the Hopkins Corridor Project, based on the preliminary engineering of the recommended conceptual design.

EXHIBIT 1

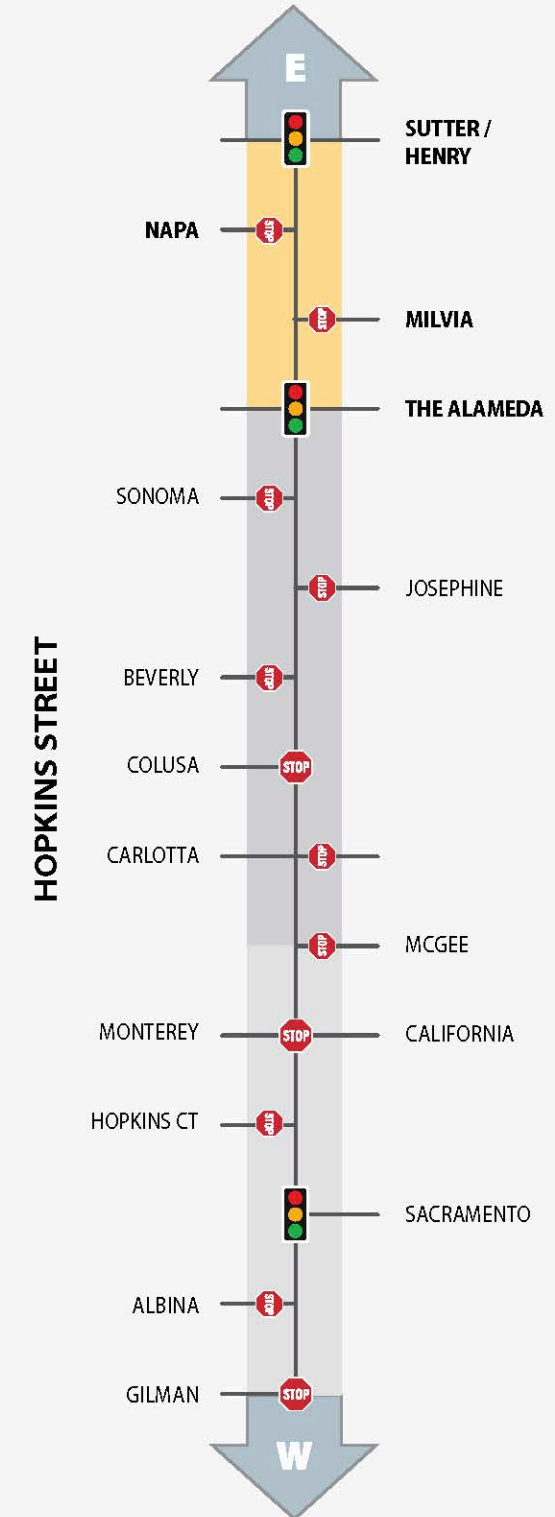
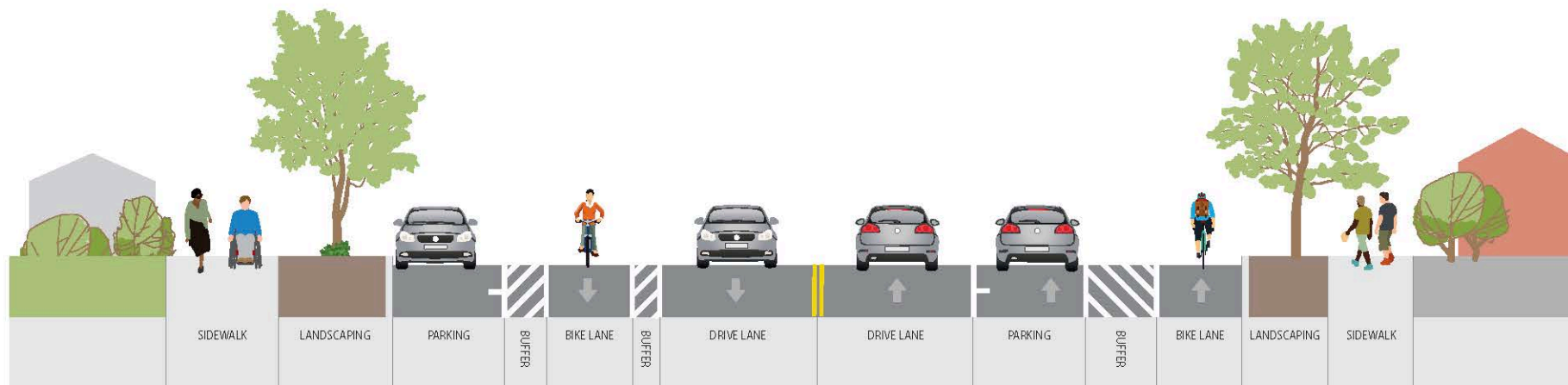
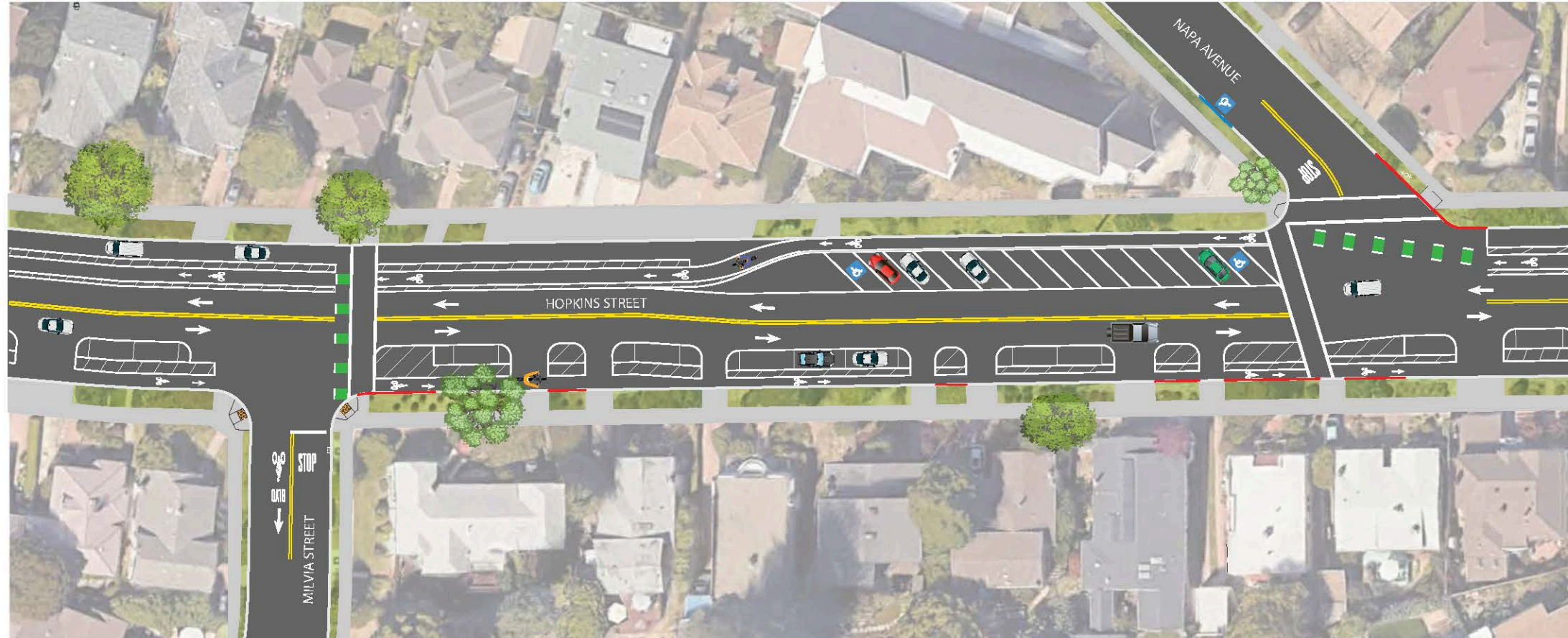
Hopkins Corridor Traffic and Placemaking Study Near-Term Design Alternative

Segment 1: Sutter Street to The Alameda



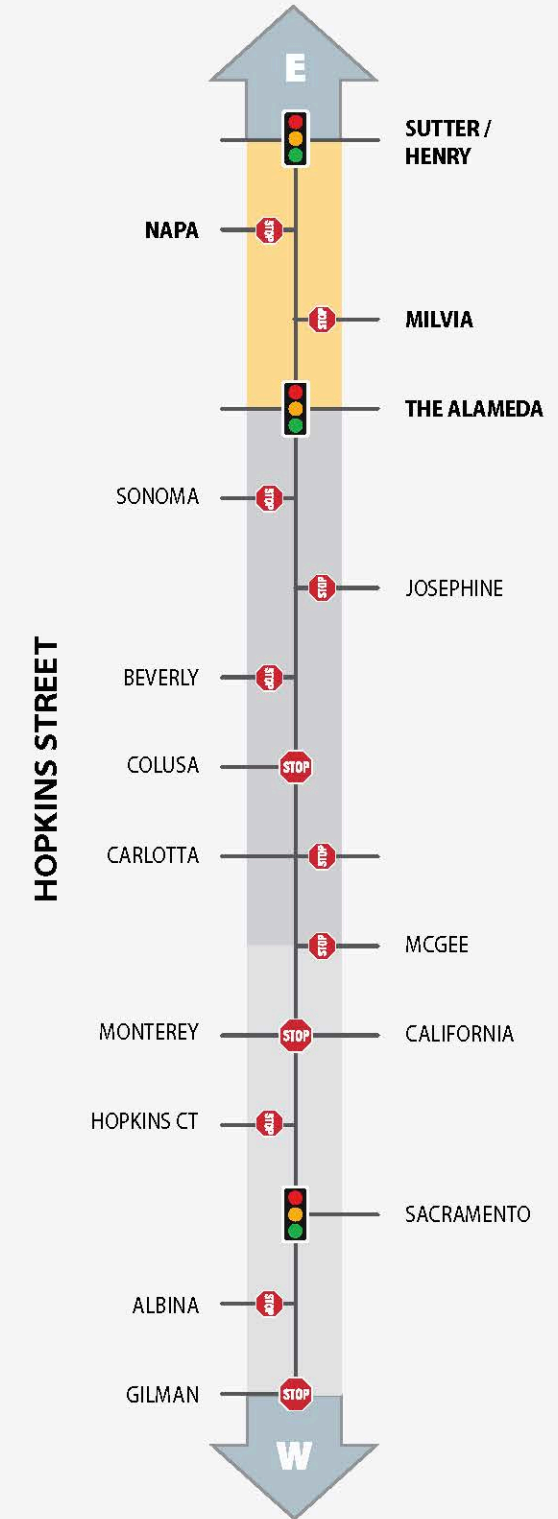
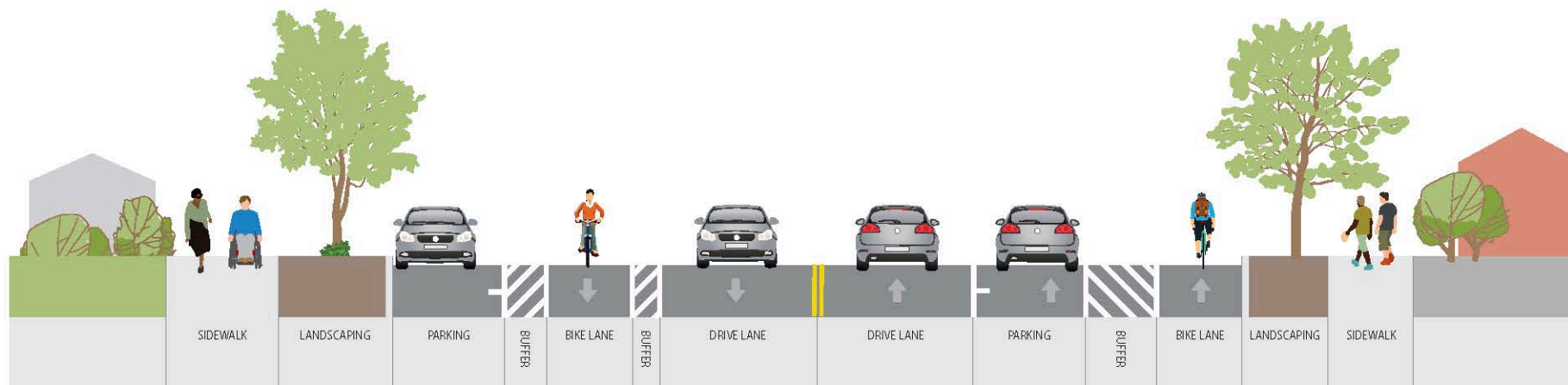
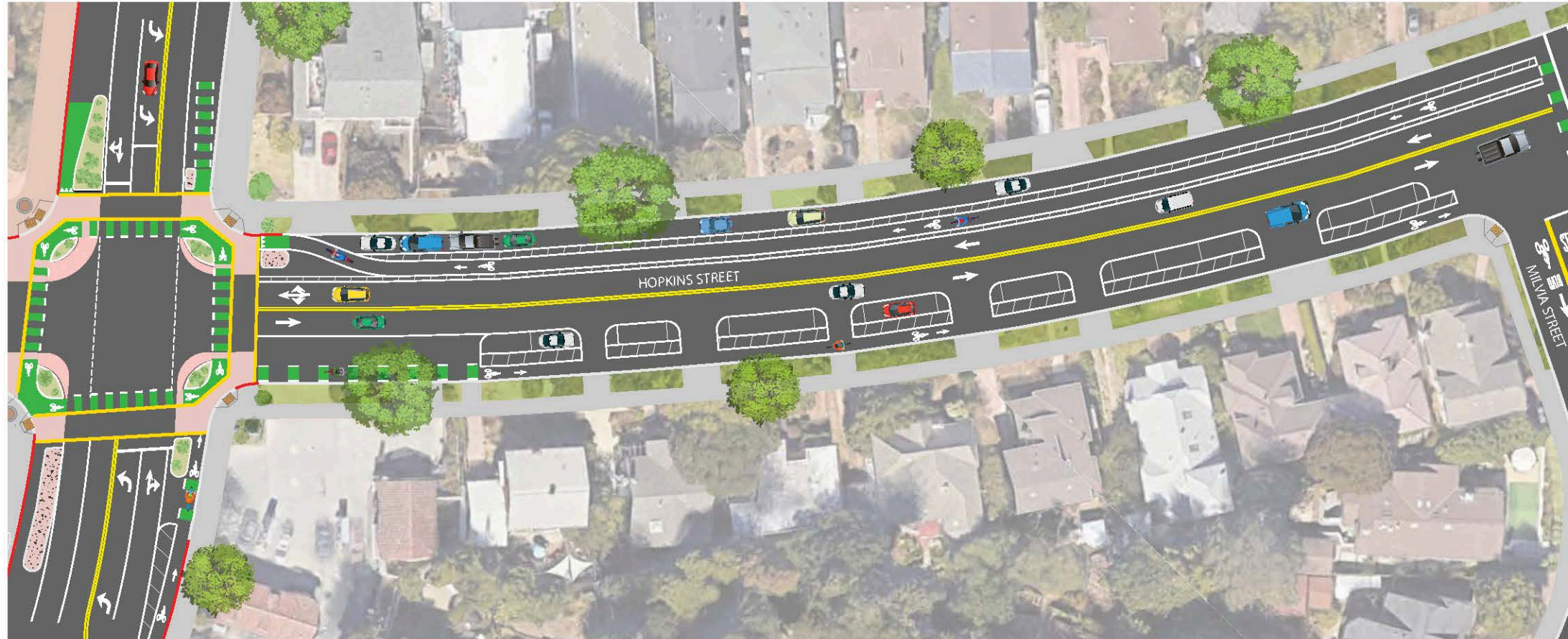
Hopkins Corridor Traffic and Placemaking Study Near-Term Design Alternative

Segment 1: Sutter Street to The Alameda



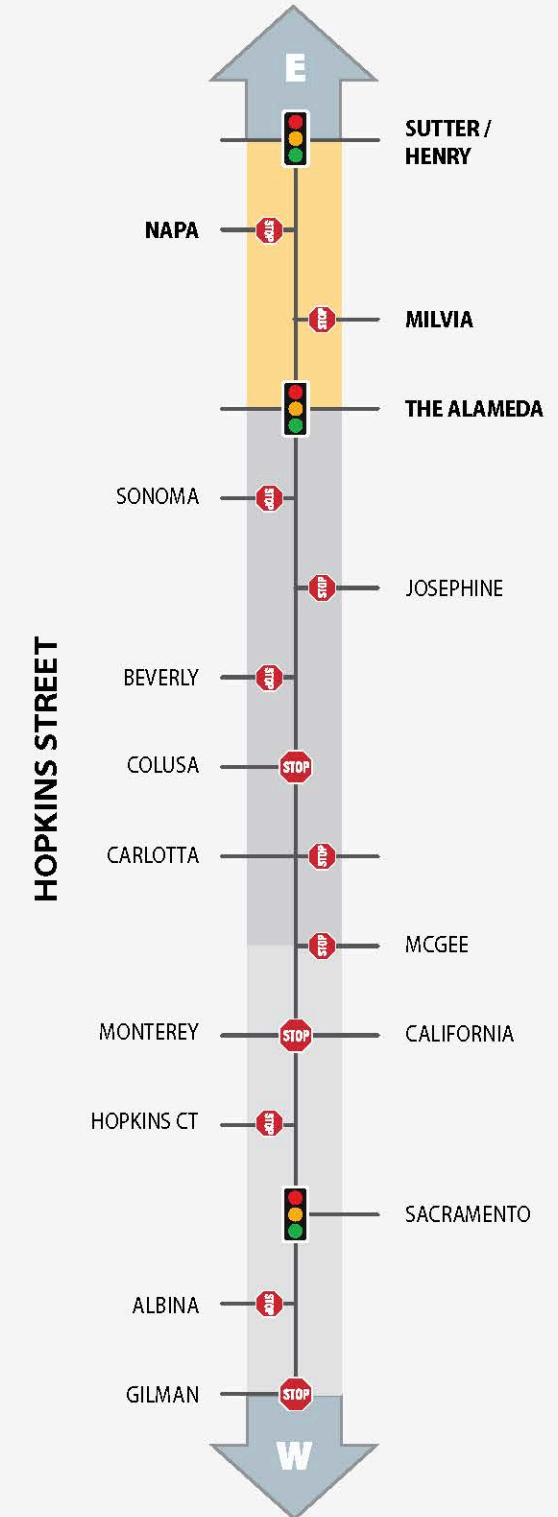
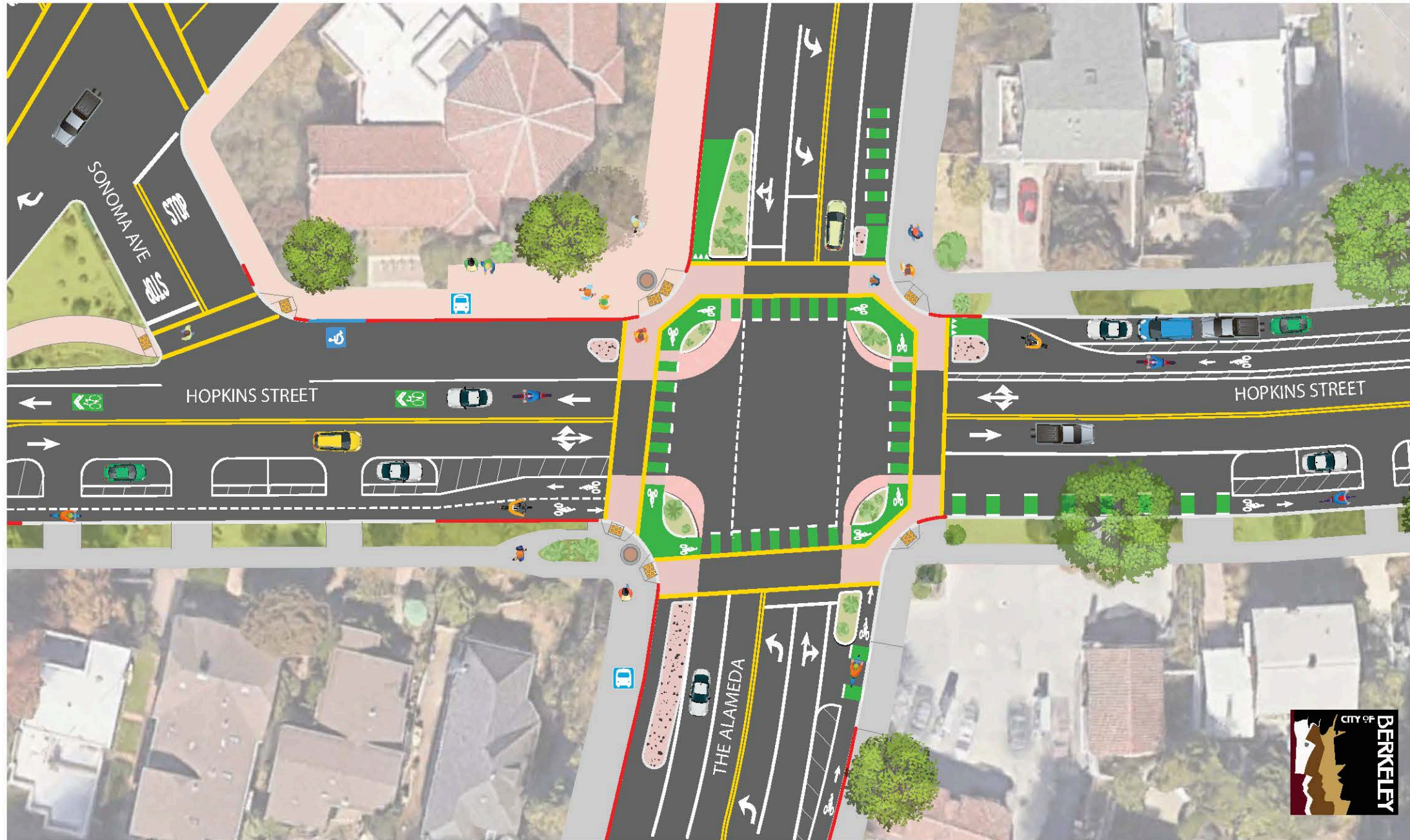
Hopkins Corridor Traffic and Placemaking Study Near-Term Design Alternative

Segment 1: Sutter Street to The Alameda



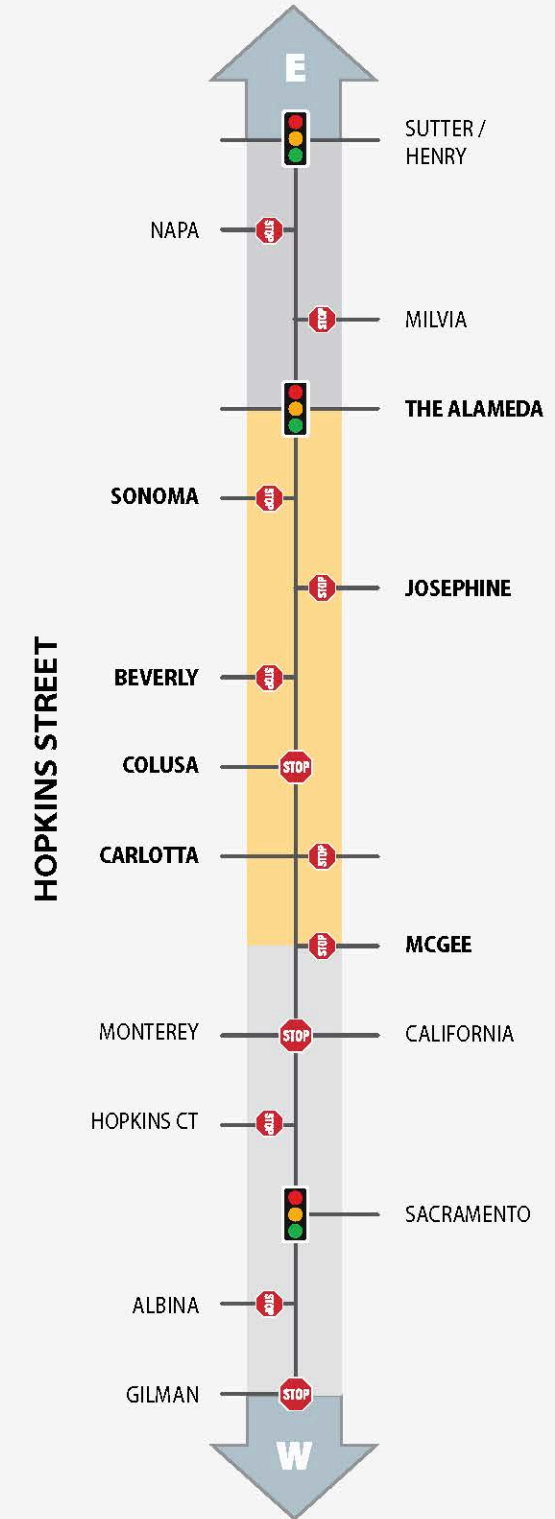
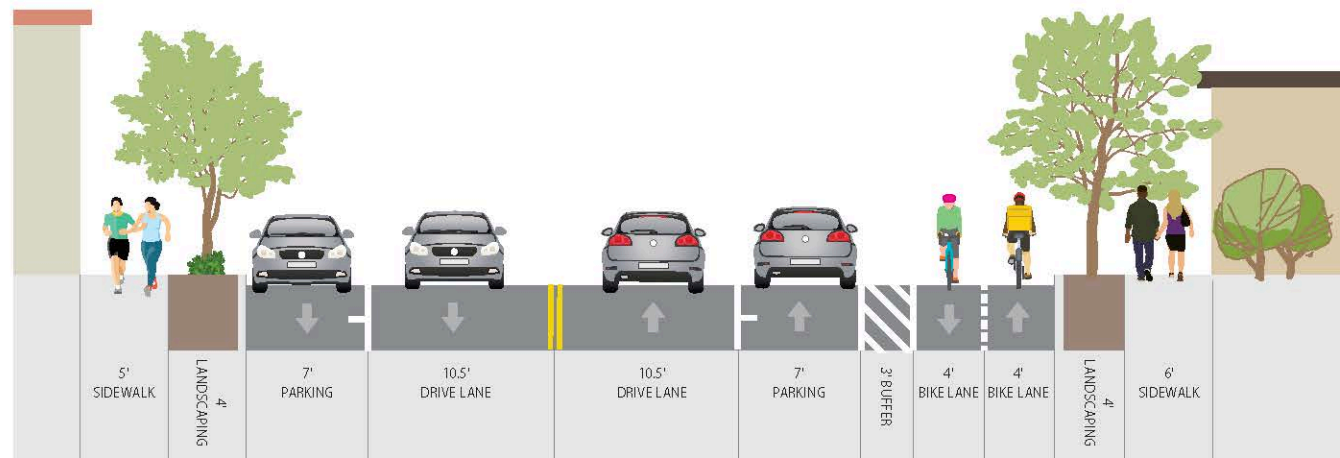
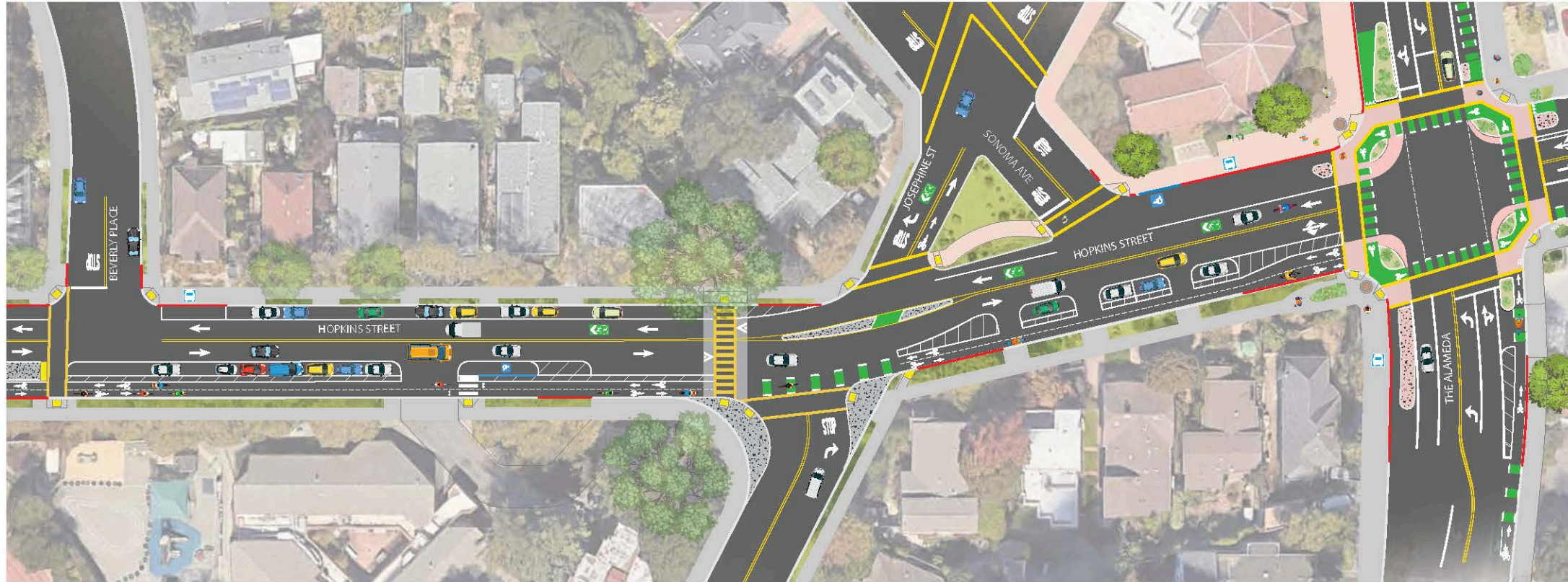
Hopkins Corridor Traffic and Placemaking Study Near-Term Design Alternative

The Alameda Intersection



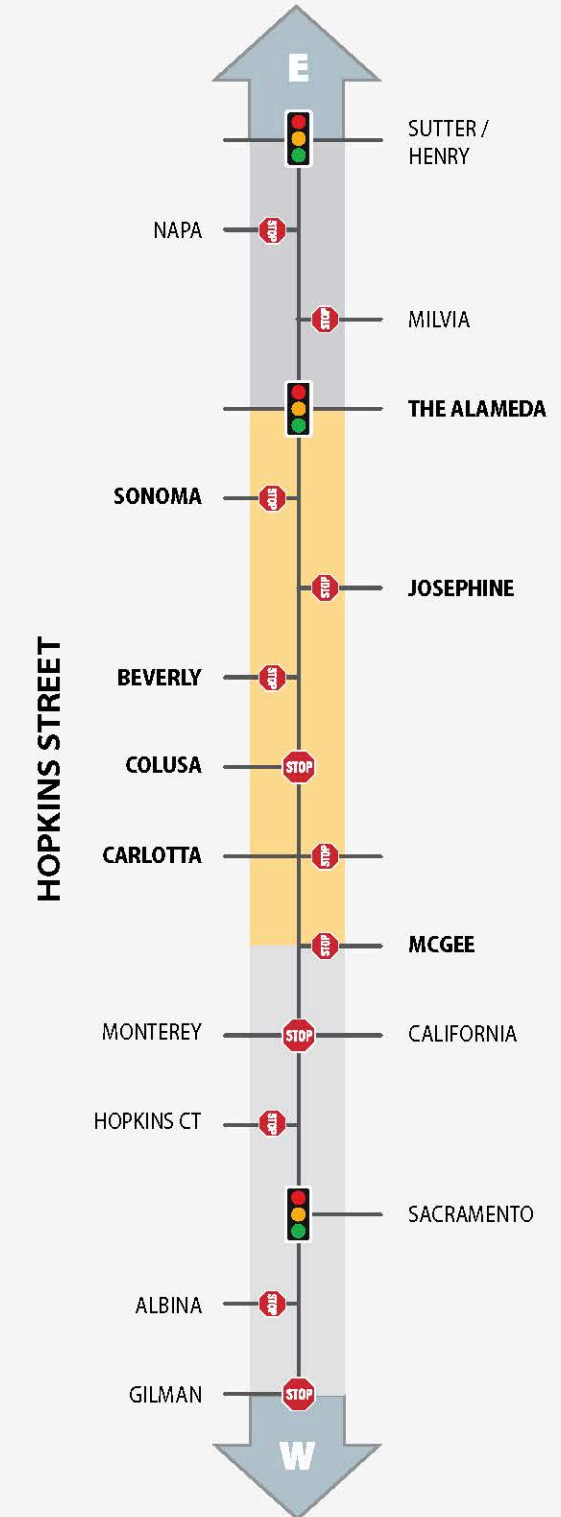
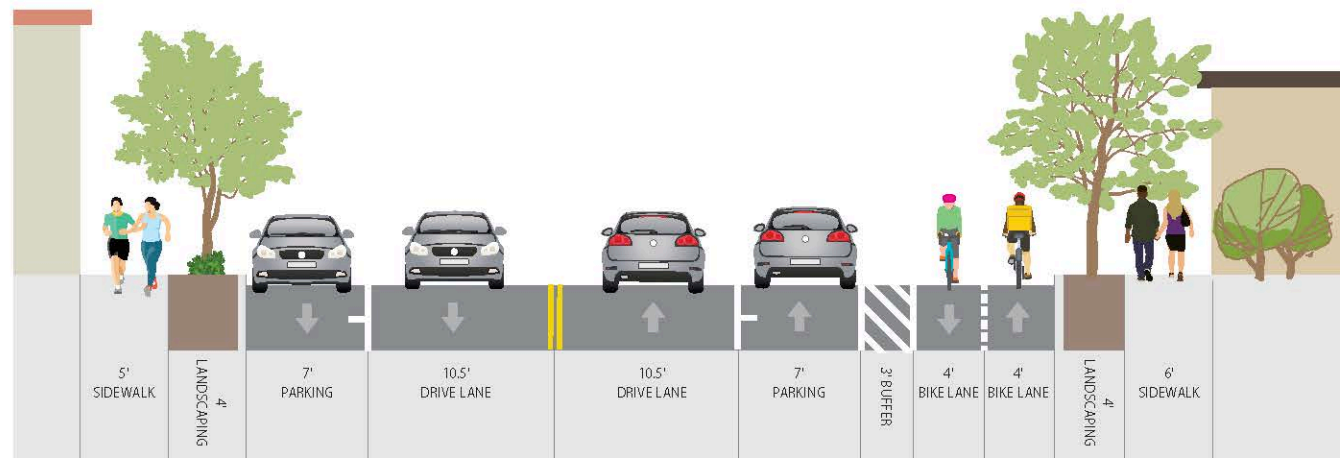
Hopkins Corridor Traffic and Placemaking Study Near-Term Design Alternative

Segment 2: The Alameda to McGee Avenue



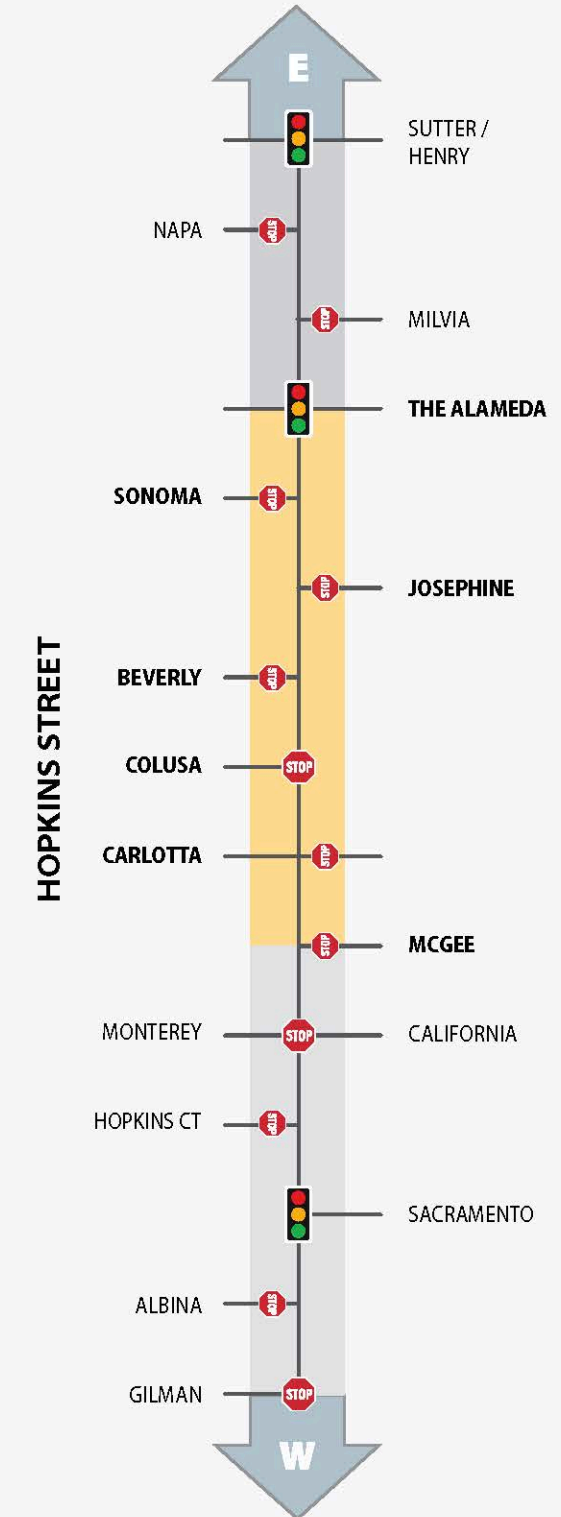
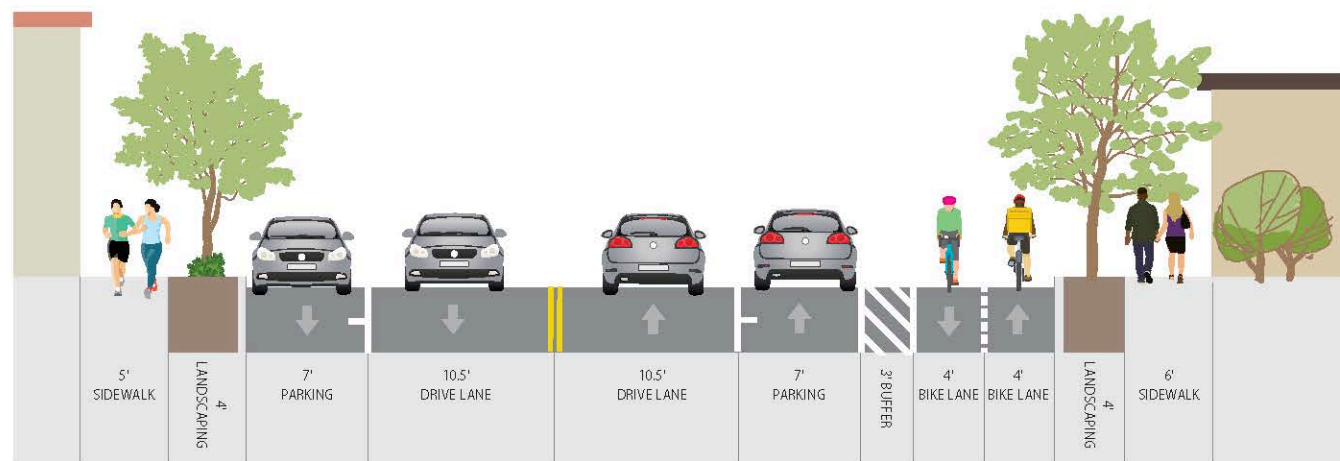
Hopkins Corridor Traffic and Placemaking Study Near-Term Design Alternative

Segment 2: The Alameda to McGee Avenue



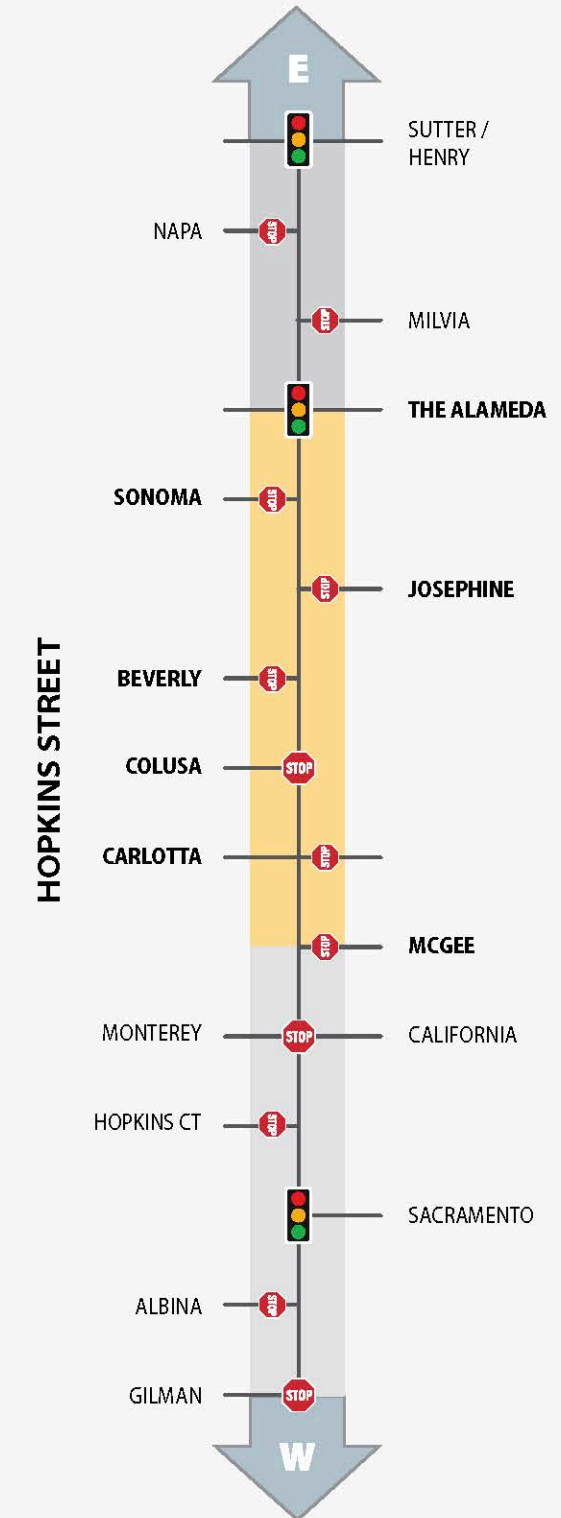
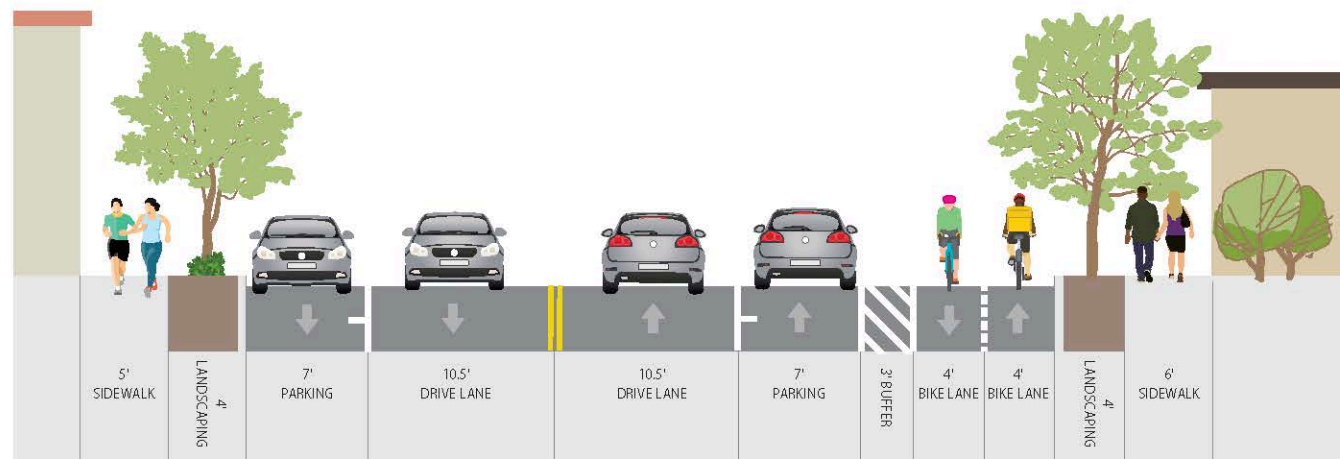
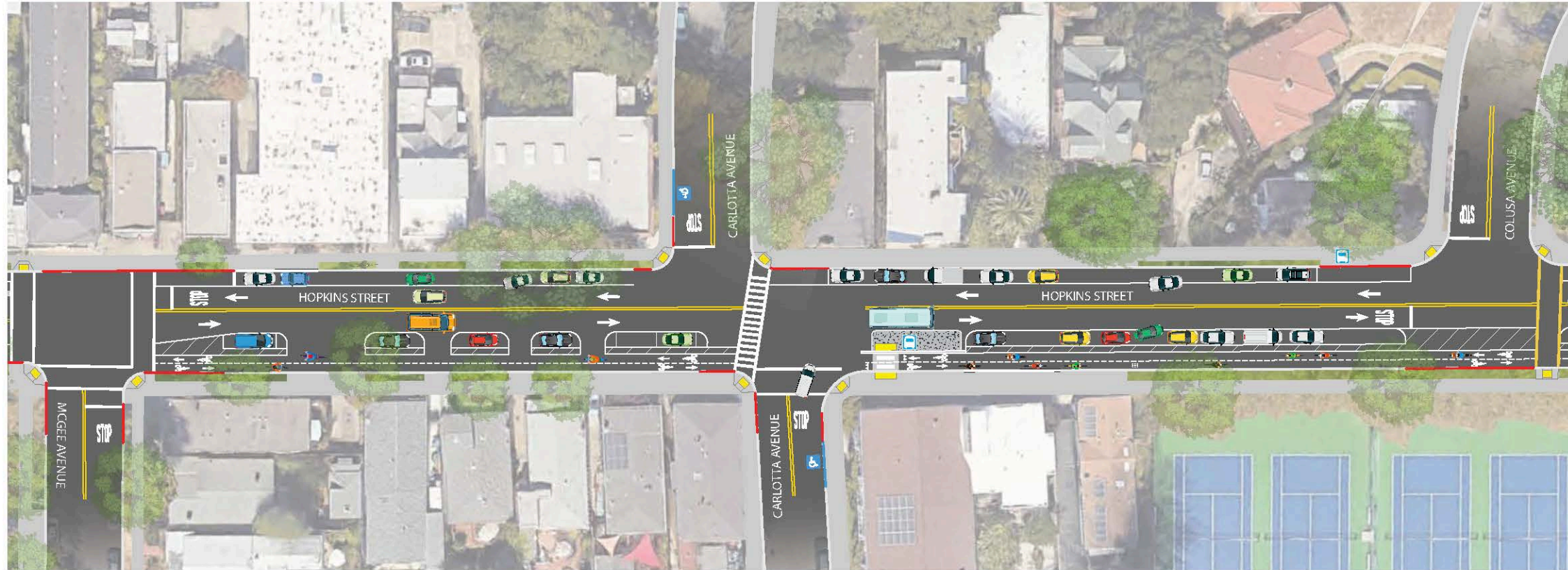
Hopkins Corridor Traffic and Placemaking Study Near-Term Design Alternative

Segment 2: The Alameda to McGee Avenue



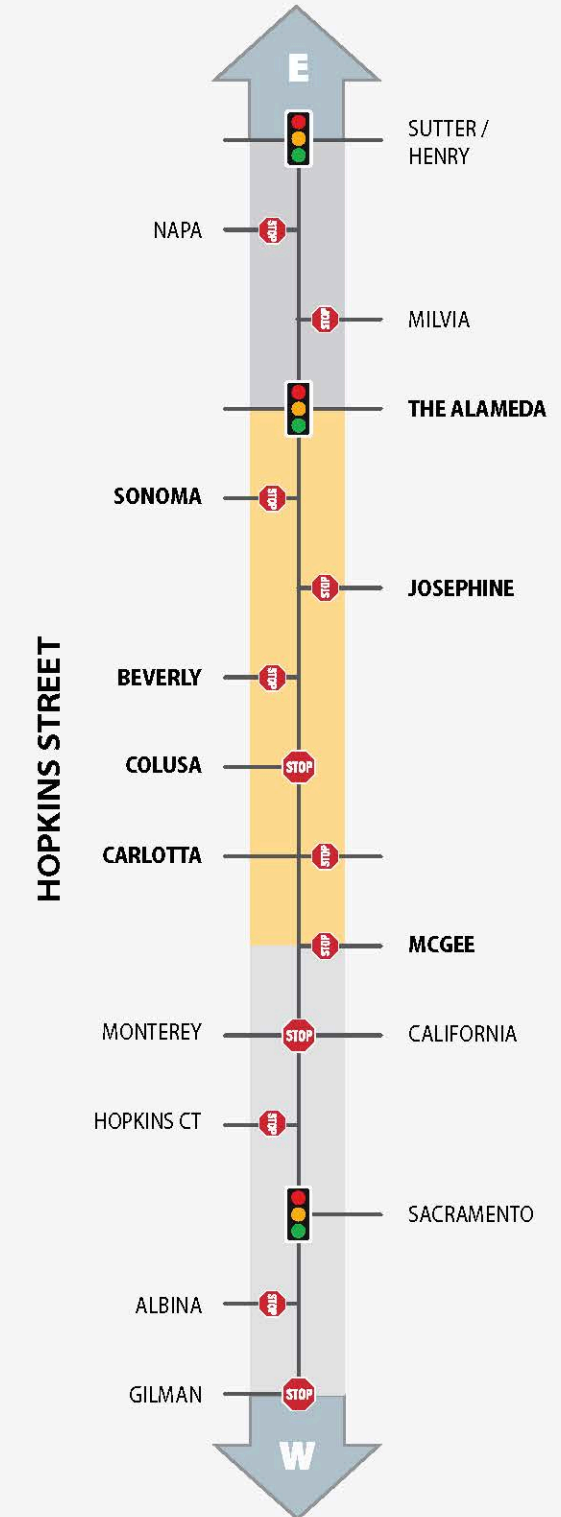
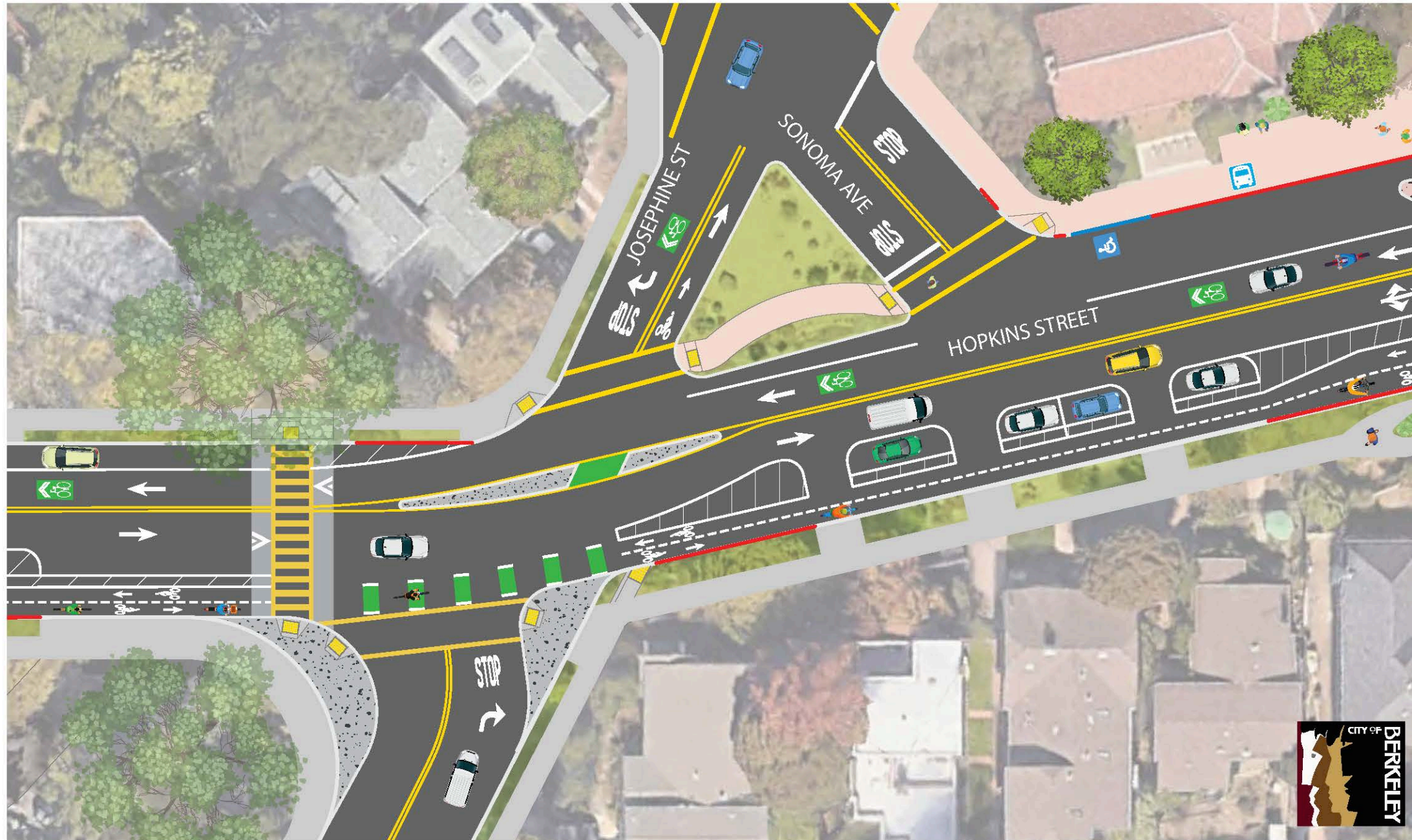
Hopkins Corridor Traffic and Placemaking Study Near-Term Design Alternative

Segment 2: The Alameda to McGee Avenue



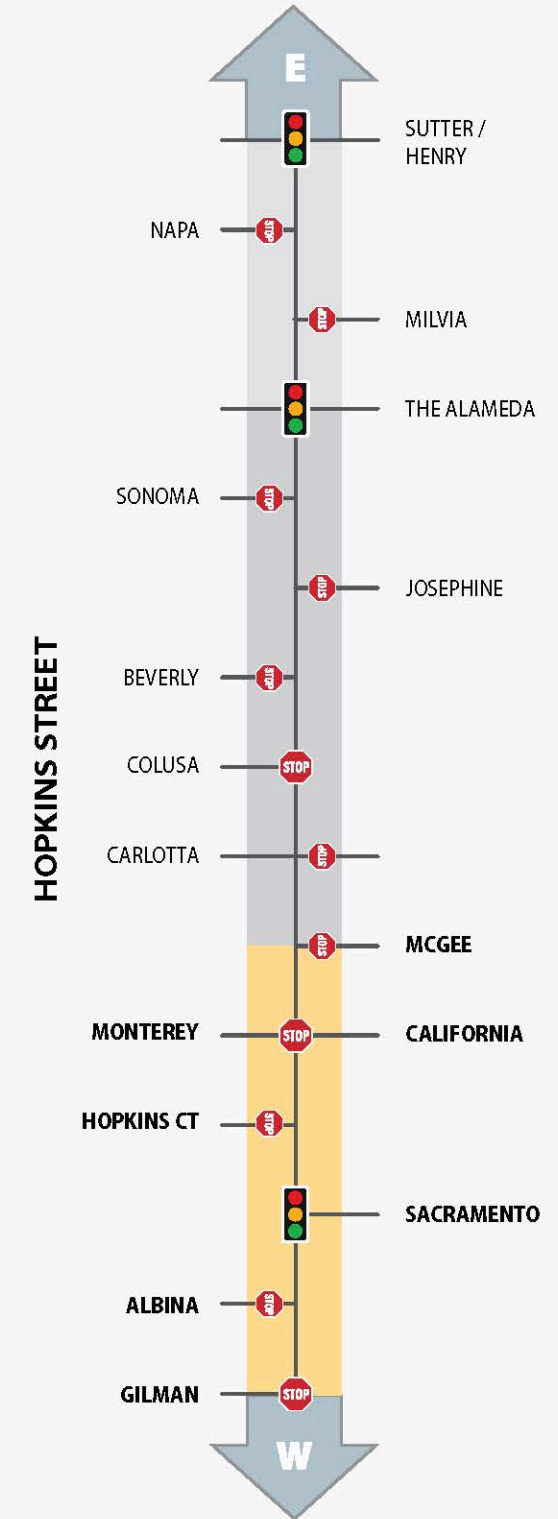
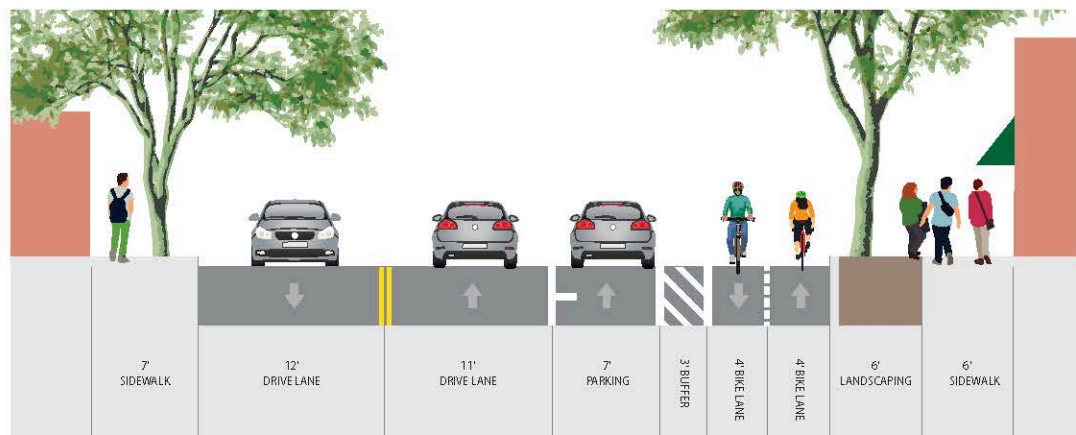
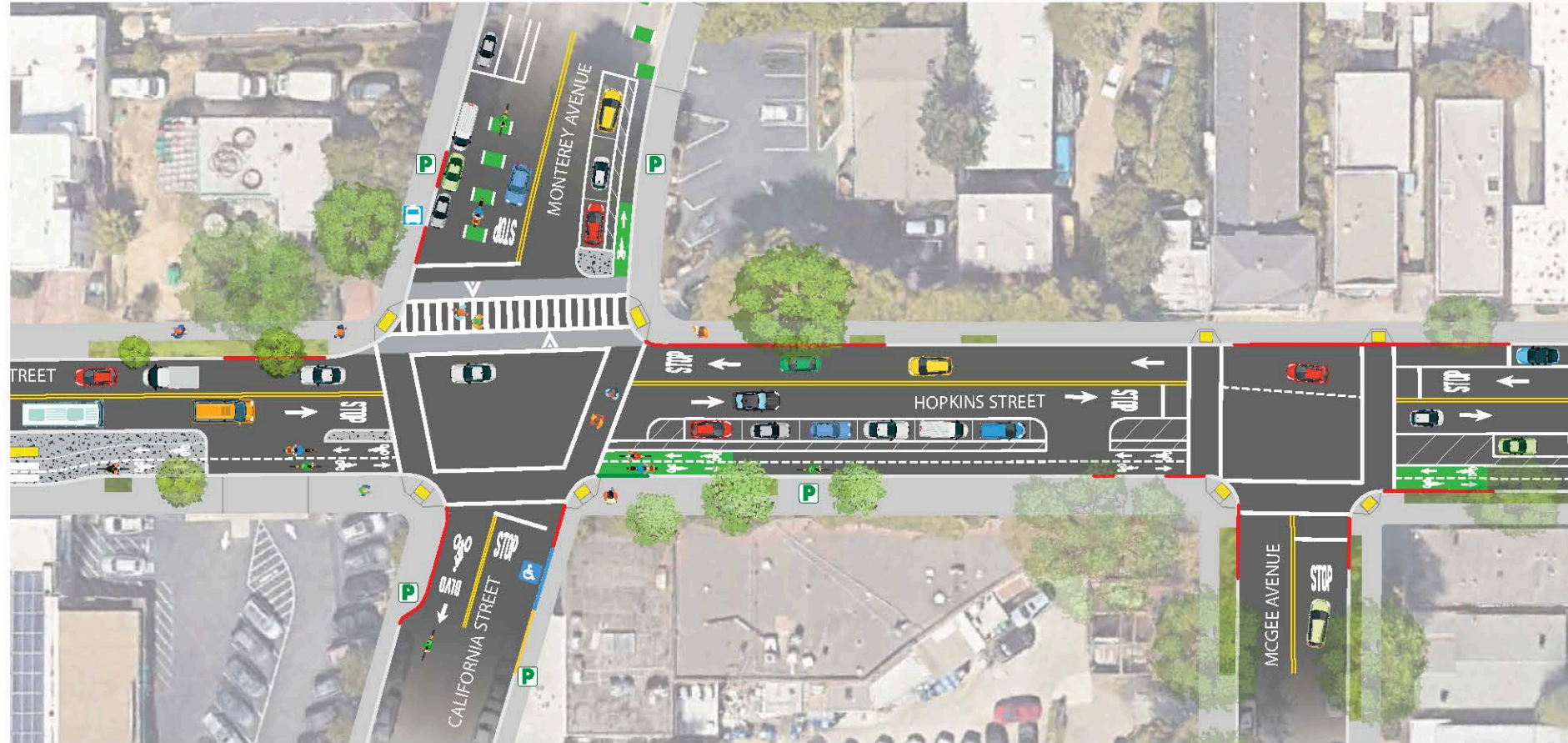
Hopkins Corridor Traffic and Placemaking Study Near-Term Design Alternative

Segment 2: Josephine Street and Hopkins Street Intersection



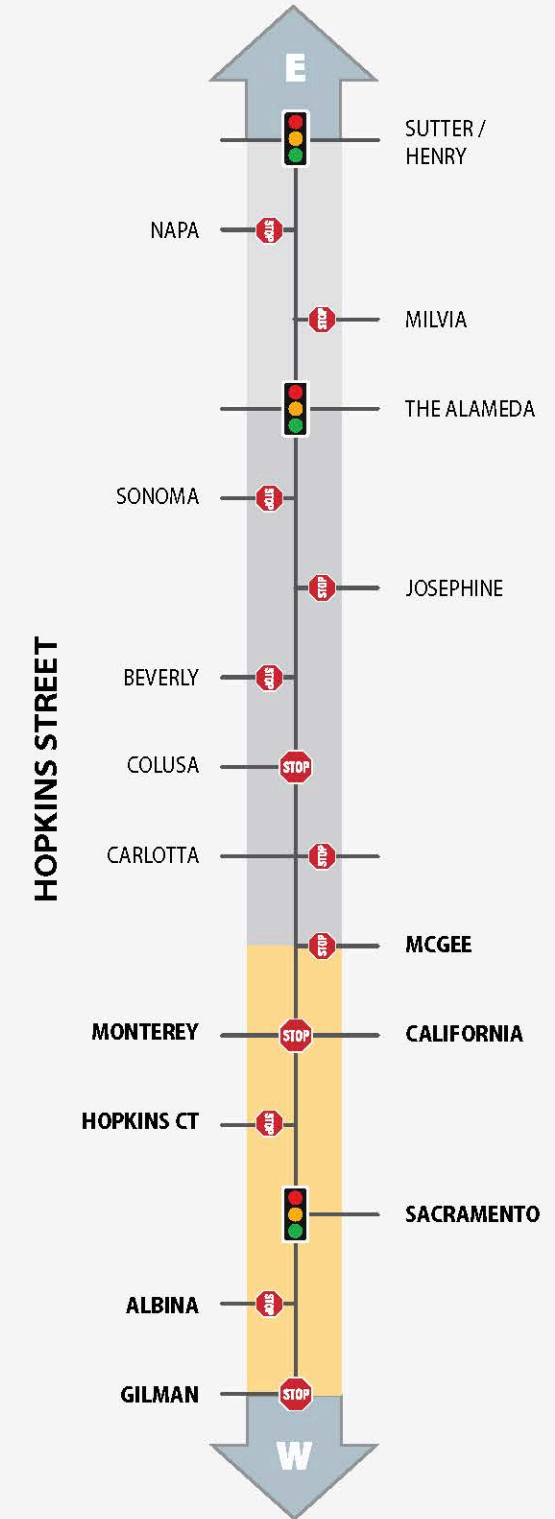
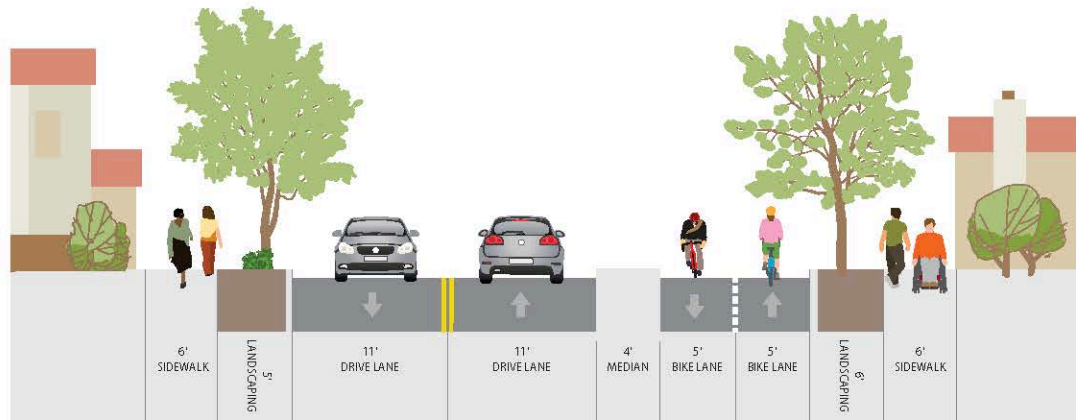
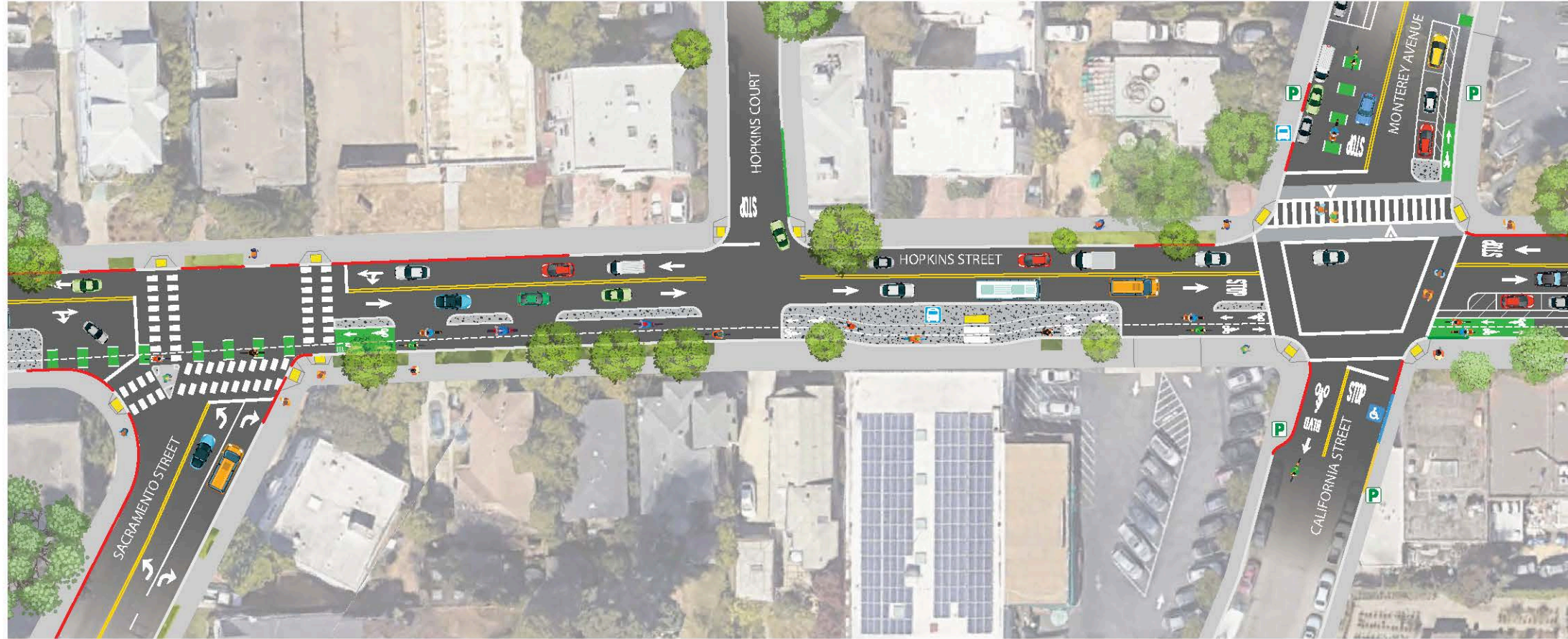
Hopkins Corridor Traffic and Placemaking Study Near-Term Design Alternative

Segment 3: McGee Avenue to Gilman Street



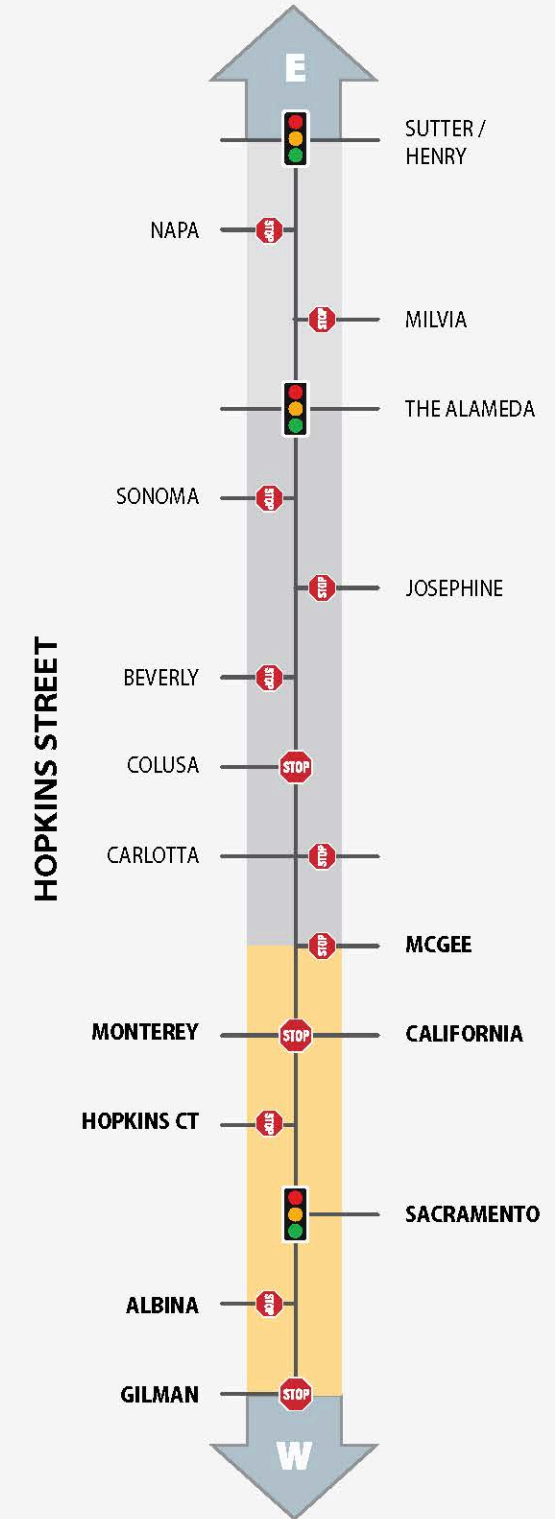
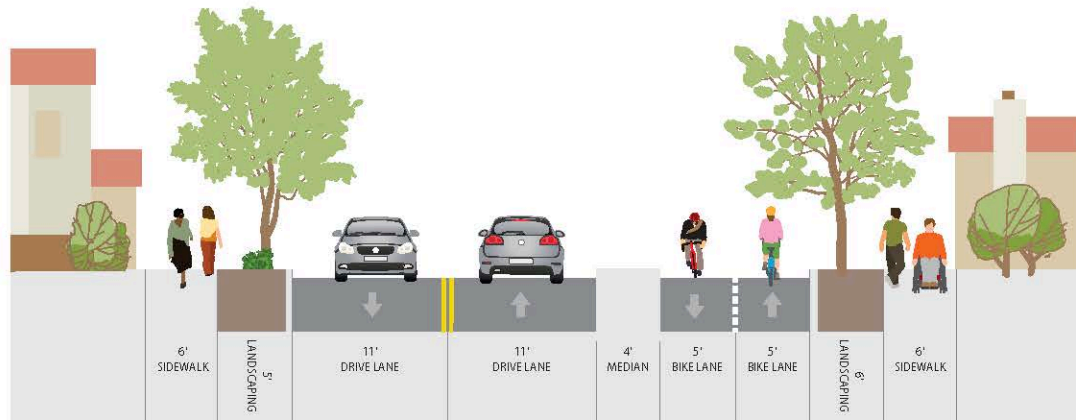
Hopkins Corridor Traffic and Placemaking Study Near-Term Design Alternative

Segment 3: McGee Avenue to Gilman Street



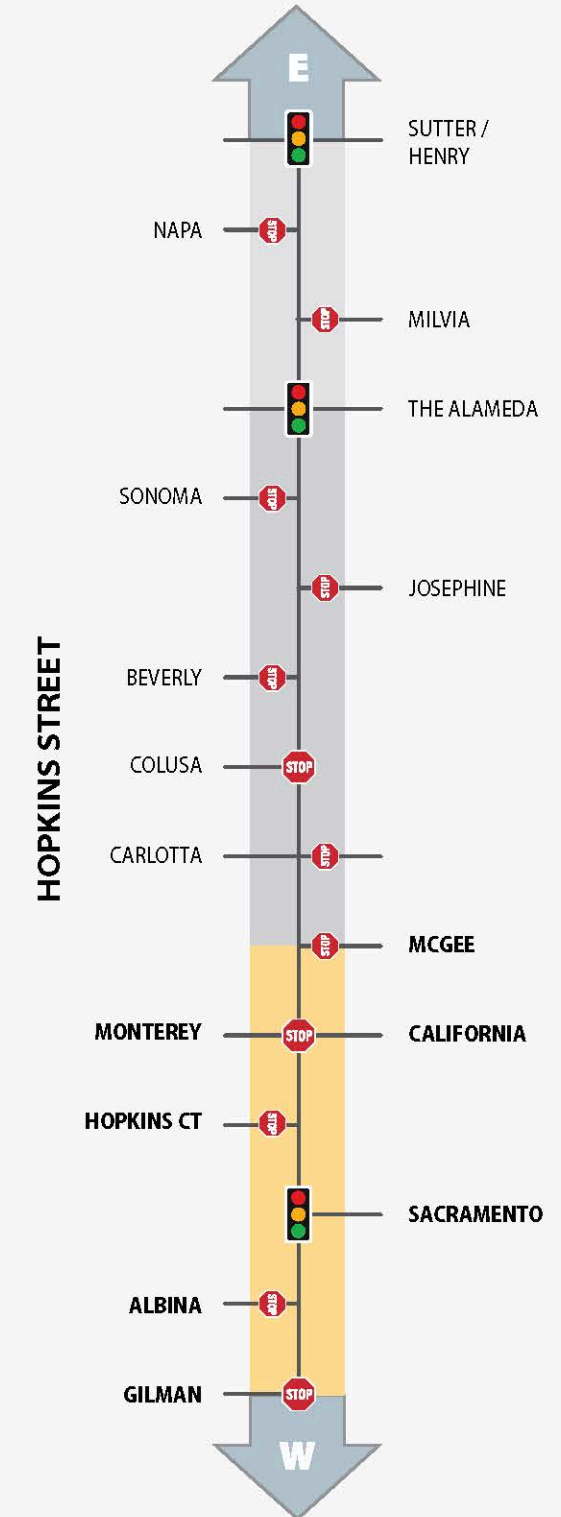
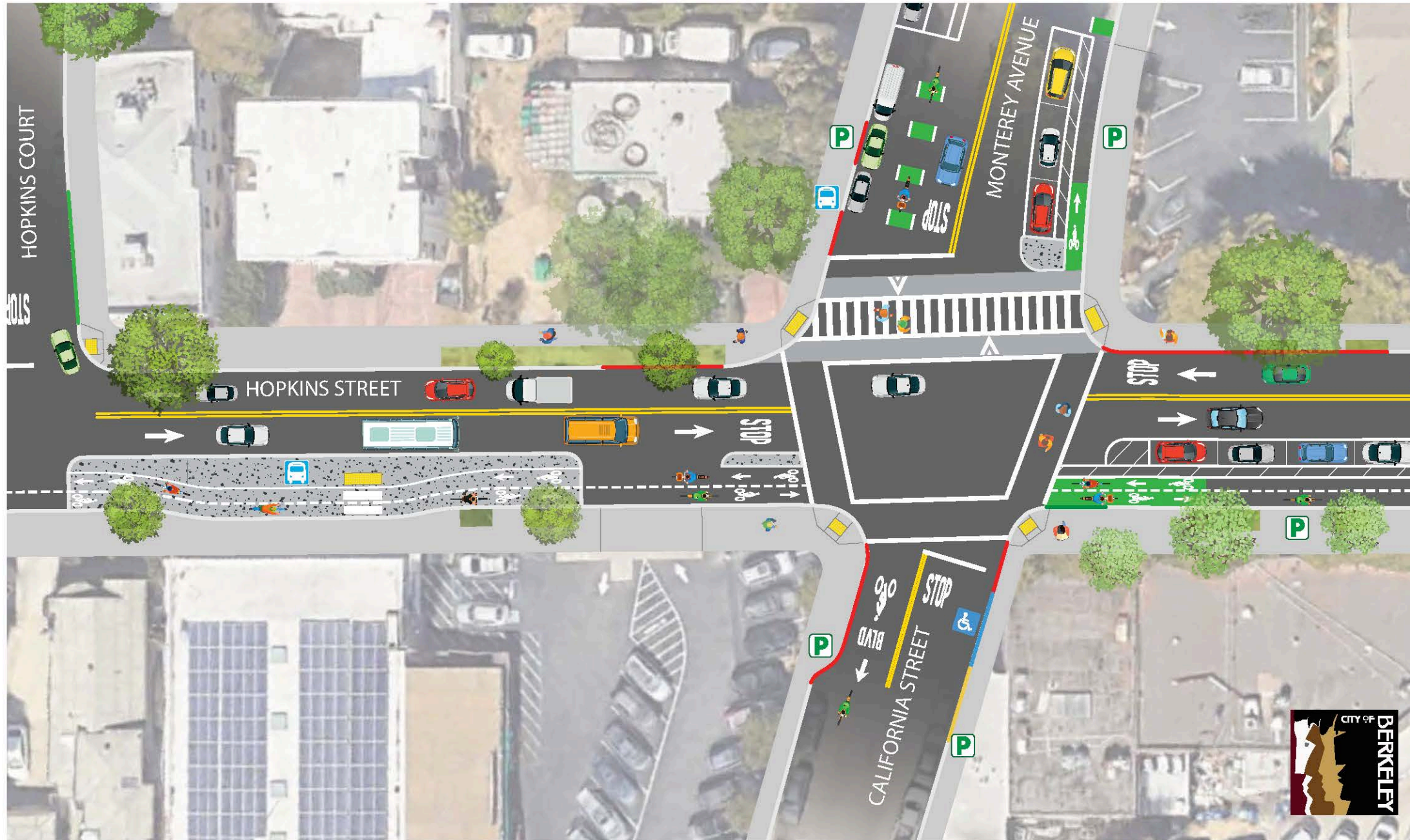
Hopkins Corridor Traffic and Placemaking Study Near-Term Design Alternative

Segment 3: McGee Avenue to Gilman Street



Hopkins Corridor Traffic and Placemaking Study Near-Term Design Alternative

Hopkins Street and Monterey Avenue Intersection





Sophie Hahn
District 5 Councilmember

To: Honorable Mayor and Members of the City Council

From: Councilmember Sophie Hahn (Author), Councilmember Susan Wengraf (Co-Sponsor), Councilmember Rigel Robinson (Co-Sponsor)

Subject: Budget Referral: Hopkins Corridor Bike, Pedestrian, and Placemaking Improvements

RECOMMENDATION

Refer \$300,000 to the FY 2023-2024 budget process, with \$150,000 in FY 2023 and \$150,000 in FY 2024, for bike, pedestrian, and streetscape improvements to be implemented in coordination with protected bike lanes, pedestrian safety features, and re-paving of the Hopkins Corridor.

CURRENT SITUATION

City staff and their on-call consultants are currently working on a study of the Hopkins Corridor area, in response to the [Hopkins Corridor Traffic and Placemaking study referral](#) unanimously passed by the City Council in 2017, and the 2017 Berkeley Bike Plan recommending Hopkins Street for a complete streets corridor and cycle track study.

[Plans for pedestrian and bike improvements, as well as a first phase of landscaping, seating, bollards, bike parking, and related amenities for the area are in the final stages of development.](#) Work related to these plans, including repaving, raising crosswalks, and pouring of new curbs, bulb-outs, islands, and other features, is scheduled to take place in 2023. The imminent build-out of these hardscape elements provides a unique opportunity to refresh and expand bike parking, benches, bollards, and trash receptacles, plant trees, install drought tolerant landscaping in medians and bulb-outs,

and provide other amenities for safety, utility, and community gathering – to accomplish the letter and spirit of the Hopkins Corridor referral.

While some funds already exist for these purposes, it is anticipated that additional funds will be needed to support installation of features across the corridor that harmonize with the existing neighborhood.

The purpose of this budget referral is to provide complimentary funding to allow for simultaneous implementation of streetscape improvements not otherwise funded, including but not limited to benches, bike racks, trash receptacles, street trees, drought tolerant landscaping, bollards, and protected pedestrian crossing features, and related community and placemaking elements.

BACKGROUND



The Hopkins Corridor, defined in a 2017 referral for the Hopkins Corridor Traffic and Placemaking Study, encompasses Hopkins from Gilman Street to Sutter Street, Sacramento Street from the southern approach of Rose Street to Hopkins Street, and the Monterey Avenue approach to Hopkins, plus all major and minor intersections. In addition, the City's 2017 Bike Plan recommended Hopkins Street for a "complete street corridor and cycle track study." The studies are currently being conducted by the Public Works department and on-call consultants, to coincide with the planned repavement of Hopkins Street in 2023.

In addition to being the site of several tragic pedestrian and bike injuries and fatalities, the Hopkins Corridor encompasses a variety of impactful conditions including:

- The busy neighborhood commercial area centered around the intersection of Hopkins Street and Monterey Ave, which attracts significant car, bicycle and pedestrian traffic on a daily basis, constant ingress and egress from parking lots and spaces, and associated delivery and other trucks;

- Treasured local businesses that draw a neighborhood and regional clientele and benefit from pedestrian activity and lively café-seating and street-life.
- Numerous educational and recreational facilities in the area that involve drop-off and pick-up of youth, and/or youth pedestrians and bike riders, including at least four preschools (Mustard Seed at 1640 Hopkins St, Hopkins Pre-school at 1810 Hopkins, Sprouts at 1910 Hopkins, and Berkeley Little School at 1611 Hopkins), King Middle School; King’s playing fields and the adjacent park, pool, and tennis courts, St. Mary’s High School and the North Branch Library;
- Two active churches;
- A high concentration of families and Senior Citizens living in the area, regularly crossing streets to access shops, recreational and ecumenical facilities and the North Branch public library;
- Hopkins and Monterey serving as major East/West access corridors with significant vehicular traffic to and from freeways and cross-town destinations (via Sacramento, San Pablo, The Alameda/MLK and Sutter/Henry/Shattuck);
- Hopkins and Sacramento serving as designated Emergency Access and Evacuation Routes;
- California Street serving as a bicycle boulevard and AC Transit bus lines traveling through the corridor; and
- One of only two gas stations in North Berkeley at Hopkins and MLK/Alameda, with vehicles regularly stacked in the street and intersection awaiting ingress.

The Hopkins Corridor Traffic and Placemaking Study articulated the following Complete Streets/Traffic elements to be considered in the course of the study:

- Pedestrian safety at all intersections along the corridor, in particular at Monterey and Hopkins, the site of a fatality in April of 2017;
- Bicycle lanes, parking and infrastructure, including elements anticipated as part of the 2017 Berkeley Bicycle Plan;
- Traffic flow into and out of the corridor, with special attention to the Gilman/Hopkins, Sacramento/Hopkins, Hopkins/Monterey and

Hopkins/MLK/Alameda intersections;

- Ingress and egress from the Monterey Market and the Hopkins/MLK/Alameda gas station;
- Parking, pick-up and drop-off for schools, the public library, churches and recreational facilities, including consideration of traffic management at peak times;
- AC Transit and school busses, both public and private;
- Green Infrastructure;
- Addition of signalized intersections and/or adjustment of timing, turning and other features of signalized intersections; and
- Parking for employees and customers and loading for commercial vehicles.

In addition, the Study is required to address the following Community Building/Placemaking elements:

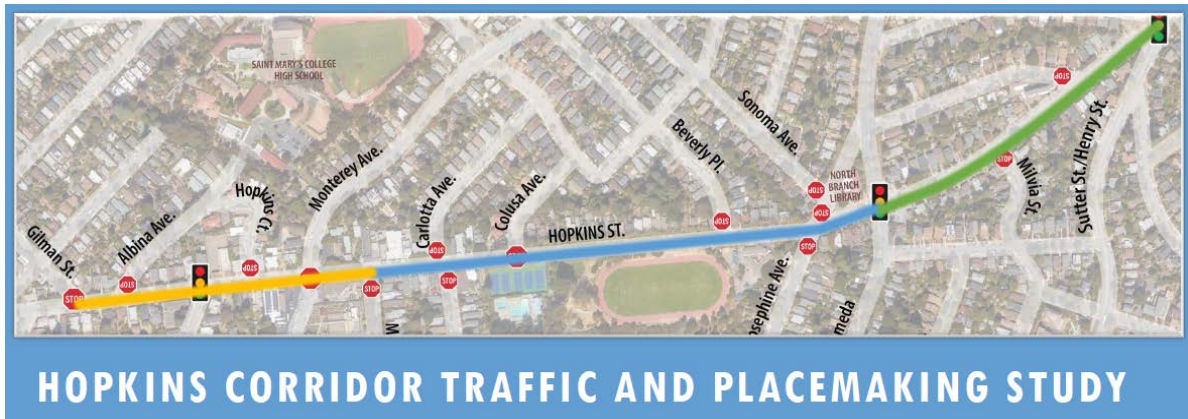
- Exploration of means to create additional spaces for community gathering and to increase greenery and other placemaking amenities that harmonize with existing features in the corridor, with full access for all ages and abilities;
- Ensure design and style of improvements add to the charm and character of this highly valued and historic neighborhood commercial district; and
- Any other considerations that may further enhance placemaking and the safe and vibrant use of public spaces, including improvements to hardscape and greenery and enhancement of community-building and placemaking.

In response to the 2017 Referral and the Bike Plan study requirements, the Public Works department is in the final stages of conducting the first phase of the required studies.

As reformatted by staff, key project study goals are:

- Improve the safety of walking along and crossing Hopkins Street, achieving zero pedestrian severe injuries by 2028;

- Improve bicycle and vehicular transportation safety and flow along and crossing Hopkins Street, achieving zero severe injuries by 2028;
- Transform Hopkins Street between Sacramento Street and McGee Avenue into a community gathering place with an attractive visual identity and inviting public spaces;
- Manage parking in order to meet the needs of residents and local businesses;
- Support local businesses by creating a streetscape that attracts customers:
- Install green infrastructure to protect the Bay while providing visual enjoyment wherever opportunities arise;
- Improve aesthetics along Hopkins Street, employing a design palette consistent with its historic character.



Plans for pedestrian and bike improvements, as well as a first phase of landscaping, seating, bollards, bike parking, and related amenities for the area are in the final stages of development. Work related to these plans, including repaving, raising crosswalks, and pouring of new curbs, bulb-outs, islands, and other features, is scheduled to take place in 2023. The imminent build-out of these hardscape elements provides a unique opportunity to refresh and expand bike parking, benches, bollards, and trash receptacles, plant trees, install drought tolerant landscaping in medians and bulb-outs, and provide other amenities for safety, utility, and community gathering – to accomplish the letter and spirit of the Hopkins Corridor referral.

While some funds already exist for streetscape features that support the community/placemaking elements of the Hopkins Corridor referral and staff’s project study goals relating to community gathering, attractive visual identity, inviting public

spaces, customer-friendly streetscape, green infrastructure and improved aesthetics consistent with historical character, it is anticipated that additional funds will be needed to support installation of features across the corridor that harmonize with the existing neighborhood.

The purpose of this budget referral is to provide complimentary funding to allow for simultaneous implementation of streetscape improvements not otherwise funded, including but not limited to benches, bike racks, trash receptacles, street trees, drought tolerant landscaping, bollards, and protected pedestrian crossing features, and related community and placemaking elements.

In addition to funds sought directly from the City of Berkeley to more fully accomplish Hopkins Corridor project goals, several community-based efforts are either underway or anticipated to support and maintain new community and place-making elements.

- Merchants have approached the City about the possibility of creating a merchant's association, either via a formal Business Improvement District or another form of association, that could generate funds for supplemental upkeep of street furniture, sidewalks, and landscaping in the commercial areas of the Hopkins Corridor.
- Local volunteers have long maintained the triangular island behind the North Branch Library. Additional landscaping at the Hopkins/Alameda intersection and throughout the Corridor may be able to be maintained through a broader community effort such as an "adopt a spot" or other neighborhood group. Councilmember Hahn's office will be organizing outreach to existing community volunteers and associations - including the Friends of the Fountain and Walk, who help maintain the nearby Marin/Arlington Circle area, and Thousand Oaks Neighborhood Association - to discuss potential partnerships. Alternatively, a new, single-purpose organization may be established to supplement City maintenance of Hopkins Corridor streetscape and landscaping elements.
- Grant opportunities and other community fundraising could be another means to supplement City of Berkeley Funds, and will be explored in full once this phase of planning for the Hopkins Corridor has been completed.

FINANCIAL IMPLICATIONS

Budget request for \$300,000 total, \$150,000 in FY2023 and \$150,000 in FY2024, to realize the first phase of community/placemaking elements of the Hopkins Corridor goals relating to community gathering, attractive visual identity, inviting public spaces,

customer-friendly streetscape, green infrastructure, and improved aesthetics consistent with historical character.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

A major impetus for the Hopkins Corridor study and improvements is to significantly improve pedestrian and bike safety and create a more lively and inviting streetscape for community gathering. With these improvements, it is anticipated that many more people will choose to bike or walk to and from the Corridor's many destinations - schools, churches, a library, a track, pool and other sports facilities, popular shops and service providers, and more.

One of the main features of the proposed plan, in its final stages of development, is a two-way cycletrack on the South side of Hopkins, designed to provide safe bike access for King Middle School students and other users of King school and park recreation facilities, including seniors and families with young children. AC Transit stops are also being reconfigured for greater access and visibility. All of the bike, pedestrian, and transit features are designed to invite a broader segment of the community to bike, walk, and take public transit on the Hopkins Corridor, significantly advancing the City's climate action and GHG reduction goals.

CONTACT PERSON

Councilmember Sophie Hahn Council District 5 510-981-7150



Housing Advisory Commission

ACTION CALENDAR

October 11, 2022

To: Honorable Mayor and Members of the City Council
 From: Housing Advisory Commission
 Submitted by: Libby Lee-Egan, Chairperson, Housing Advisory Commission
 Subject: Harriet Tubman Terrace Tenant Support

RECOMMENDATION

Recommend City Council take the following actions:

- Review the video created by tenants about conditions at Harriet Tubman Terrace that was shown at the July 7, 2022 Housing Advisory Commission meeting;
- Direct the City Manager to investigate health and safety violations and other grievances identified by tenants at Harriet Tubman Terrace; and
- City Council request Harriet Tubman Terrace provide tenants with a dedicated tenant advocate to assist with relocation and other needs.

FISCAL IMPACTS OF RECOMMENDATION

Staff time to research, investigate, report and enforce with ongoing follow up, making sure that tenants experience continued safety, protections, reparations and compliance from the contractors, vendors, management and all responsible parties.

CURRENT SITUATION AND ITS EFFECTS

At the Housing Advisory Commission (HAC) meeting on July 7, 2022 the Commission heard and took 2 actions on an item regarding an ongoing situation at Harriet Tubman Terrace (HTT) affecting the low income seniors and disabled tenants residing there. At the meeting the Commission heard testimony and watched video evidence that showed appalling treatment and neglect of HTT's tenants by staff and subcontractors. Residents and community members created a video of the conditions at HTT that was presented at the July 7, 2022 HAC meeting. The video is available at the following link: bit.ly/HTT-Renewal. A Dropbox account is not required to view the video (if prompted).

At the July 7, 2022 meeting, the HAC took the following actions:

Action: M/S/C (Potter/Mendonca) to send a letter to the City Council requesting the following:

- City Council review the video created by tenants about conditions at Harriet Tubman Terrace that was shown at the July 7, 2022 Housing Advisory Commission meeting;
- City Council directs the City Manager to investigate health and safety violations and other grievances identified by tenants at Harriet Tubman Terrace;
- City Council request Harriet Tubman Terrace provide tenants with a dedicated tenant advocate to assist with relocation and other needs; and
- Council request Harriet Tubman Terrace owners/management and tenants report back to the Housing Advisory Commission in September to report progress with addressing the grievances identified by tenants.

Vote: Ayes: Lee-Egan, Mendonca, Potter, Rodriguez, and Sanidad, and Noes: None. Abstain: None. Absent: Calavita (excused), Fain (excused), Johnson (unexcused), and Simon-Weisberg (unexcused).

Action: M/S/C (Mendonca/Potter) to recommend City Council take the following actions:

- Review the video created by tenants about conditions at Harriet Tubman Terrace that was shown at the July 7, 2022 Housing Advisory Commission meeting;
- Direct the City Manager to investigate health and safety violations and other grievances identified by tenants at Harriet Tubman Terrace; and
- City Council request Harriet Tubman Terrace provide tenants with a dedicated tenant advocate to assist with relocation and other needs.

Vote: Ayes: Lee-Egan, Mendonca, Potter, Rodriguez, and Sanidad, and Noes: None. Abstain: None. Absent: Calavita (excused), Fain (excused), Johnson (unexcused), and Simon-Weisberg (unexcused).

BACKGROUND

Staff and contractors associated with Harriet Tubman Terrace (HTT) have been relocating residents and remodeling individual units since September 2021. The residents at HTT are low income, elderly, and many are disabled. The construction work requires residents to move out of their unit with their possessions, move to another unit in the building while their original unit is under construction. Once construction is complete they are then ideally moved back into their original move-in ready unit. Relocation professionals have been hired to complete this work but accounts from residents have revealed that almost every step of this process has been handled poorly, which has caused undue stress on these elderly residents, many of whom are also disabled.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The residents of Harriet Tubman Terrace represent multiple constituencies who need protection: all are low income and elderly but many are also disabled and people of color. People in these groups can become disenfranchised and exploited by those with more power. The hope is that the investigation recommended in this report will correct and repair all violations and act as a force that will put an end to these types of abuses in our community and a disgrace to our humanity and our society's legal structures.

ALTERNATIVE ACTIONS CONSIDERED

Commission discussion included other avenues HTT's tenants have to address these issues. Supplemental communication from HTT management referred to a grievance process but tenants' testimony implied multiple barriers for disenfranchised residents to use that effectively.

CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

Staff recognize the importance of ensuring the residents of Harriet Tubman Terrace are well-supported and maintain a high-quality of living. Staff also appreciate the Commission's work to understand and take action regarding the tenant concerns identified in an effort to improve the living conditions for vulnerable seniors. The following information is intended to provide additional context for Council's consideration of this matter.

Harriett Tubman Terrace is an affordable development subject to requirements from the U.S. Department of Housing and Urban Development and California's tax exempt bond program. However, it is not funded by the City through the Housing Trust Fund or other affordable housing funding and regulatory program. This means that the property is not in the Department of Health, Housing, and Community Services' Housing and Community Services Division (HHCS/HCS) monitoring portfolio and HHCS has no oversight authority.

Following notification to the HAC of the building's condition, HHCS/HCS immediately contacted the City's Building Services' Housing Code Enforcement Program, and the property ownership, Foundation Housing, to receive an update. Building Services reported that Foundation Housing complied with all of the designated City inspections and permits for the scope of rehabilitation work taking place at the property.

The Housing Code Enforcement program also indicated they conducted inspections on 17 units and the common area at this property since 2019 (Foundation Housing acquired the property in 2021 from a housing investment group that purchased the property in 2019). At the time of writing this report, there are two open cases and the remainder are closed, meaning Housing Code Enforcement found the property to be in compliance with code requirements and /or building permits related to the complaints filed. The latest request for service was received on March 2022 for Unit 401. No housing violations were observed during the inspection and the case was closed.

The two open cases are for Units 503 and 603 (both opened on July 2020) and have been assigned to a Housing Inspector. For both units, the Housing Inspector has directed the owner to correct an inoperable exhaust fan and the required building permit has been issued.

HHCS/HCS coordinated Foundation Housing representatives attendance at the July 7, 2022 to provide the HAC, Harriet Tubman Terrace residents, and public with direct updates on their work and the responses to tenant claims. Following the July meeting, Foundation Housing representatives (based in Washington, DC) flew out to visit the site and meet directly with tenants, advocates, and HAC commissioners. At the time of writing this report in August 2022, Foundation Housing representatives indicated they will attend the September 1, 2022 HAC meeting to provide additional updates on their rehabilitation work and efforts to support residents. A statement from Foundation Housing is included as Attachment 3.

All investigations into health and safety violations fall under the purview of the City's Planning and Building Services Department. Council may endorse the HAC's recommendation for HTT to provide tenants with an advocate but this is not an action HHCS/HCS has the authority to implement or enforce. Staff are encouraged by the actions taken by property ownership to correct the tenant complaints. Tenants may also seek out mediation and other services from the Rent Board if they feel their rights are not honored or treatment is discriminatory. At the time of writing this report in August 2022, HHCS/HCS is coordinating with HHCS/Aging Services to conduct outreach to HTT residents to connect them with City services and opportunities for support.

CONTACT PERSON

Mike Uberti, Secretary, Health, Housing and Community Services, (510) 981-5114

Attachments:

- 1: HAC Supplemental Communication 2022.07.07.pdf
- 2: HAC Letter to council July 2022.pdf
- 3: Statement from Foundation Housing

Date: July 6, 2022
To: Housing Advisory Commission
Submitted By: Cassandra Palanza, Foundation Housing on Behalf of Harriet Tubman Renewal LP (the "Owner") of Harriet Tubman Apartments (the "Property")

To Whom It May Concern:

We submit this for the Housing Advisory Commission ("HAC") to have in its record in response to the recommendations made by Ms. Mendonca of District 8. We welcome open communication with any organization but ask the specifics are provided in order for us to respond appropriately. Many of the responses below are being done based on speculation of specific things we have resolved in the last few months with acknowledgement of some unresolved matters since much of the memo supplied, only intimates at things with no specificity. We hope that resources that can be spent on serving our residents are not mired in "investigations", that we strongly believe will be unfounded based on the amount of time doing our own investigation and research in response to any previously raised issues. We recognize that sometimes, resident populations go to their local officials whom they have a relationship with and they trust. We encourage that. All we ask is that information is immediately reported to us so we may address it with as specific as possible details to ensure full resolution. Management cannot respond in generalities. We strongly feel we have a team in place that is responding to a myriad of circumstances at the Property and working with the residents is and will remain to be one of our top priorities. Our hope is over the next several weeks with additional resources being added, the residents will begin to feel more at ease with all the improvements and management of the Property.

Regarding many of the allegations, first and foremost, we take allegations of violating health and safety seriously. Any tenant that lives at Harriet Tubman that feels their life is in danger should report such danger to the police. Any tenant that experiences a grievance or is displeased with something, may submit a grievance in accordance with the Properties grievance policy attached hereto for reference. Any intimation that our residents are having crimes committed against them, specifically elder abuse, by anyone in Management or Ownership is categorically false and if a perceived crime is believed to be committed it should be reported immediately for a full investigation. Allegations of elder abuse are not taken lightly and deemed a serious matter.

Residents should feel safe in reporting anything they are displeased with and if they feel strongly about these allegations then they should be written up and provided to a trusted person who can work with Ownership on any allegations. Again, to date, we have no reported cases of elder abuse that are being investigated by any channel of authority over such matter and our hope is with continued communication the relationship between management and the residents will continue to improve, which we feel has in the last several weeks.

Violations that may exist are from the Planning and Development Department (the “PDD”). As violations are received, they are addressed. There are currently two open violations that we are aware of. We have confirmed that these matters are being repaired during the construction work and completion will be submitted to the PDD. All tenants are encouraged to report all matters to management. In order for things to be addressed timely, management should be the first point of contact. Absent substantive violations to which we can respond, which we are happy to do so, we are not aware of the allegations alleged by Ms. Mendonca in the first paragraph of her memo.

Additionally, we are in receipt of a video produced and submitted to HAC regarding the ongoing construction work at Harriet Tubman Apartments. The scope of work for the accessibility units meet the federal standard for accessibility and have been signed off on by local and state officials through our application process for Bonds and LIHTC’s. We are happy to provide the City Inspection Log wherein these units were inspected ,passed, and deemed suitable for occupancy. If a resident has a mobility impairment or need for something outside the scope of their apartment or an accessible designed apartment, they should submit a Section 504 reasonable accommodation (“RA”) request to management for management to carry out. Reasonable accommodations can be made at any time and if a resident cannot fill out the paperwork or does not want to, management will assist them. Please be aware, since this video was submitted to Management and some of the residents intimate in the video that they may or may not need accommodation, Management will reach out to them to see if we can assist in any RA request they may need. This is not a retaliatory action but required by management when a resident asserts a need for an accommodation.

Rodent, roaches and filth should absolutely be reported to management immediately. We have pest control services that can mitigate these issues. Pest control is the second Friday of the month and as needed or requested by management. We are going to schedule a 100% walk with pest control and some residents have requested frequent pest control in their units. We will continue to monitor the pest situation and if additional services are warranted we will provide them. If residents follow the grievance policy on reporting things for habitability matters and they are not resolved to the resident's satisfaction, the regulators of our property will ensure oversight so that matters are responded to. We cannot stress enough the importance of reporting all things to management first. They are our first line of defense for fixing and maintaining habitability. In addition to the Grievance Policy, if residents feel they are not being heard, at the end of this response is a communications tree for residents to work with which includes all of the contact information of management up to an owner's representative throughout the duration of construction. This does not circumvent the Grievance Policy but rather provides additional points of contact for residents to try and expedite their requests. It should be noted, while Owner is committed to rectifying all issues, if residents do not go to management first, then there could be continued delay of resolving their concerns.

To date, we have received inquiries from CAHI regarding asbestos abatement and security matters. Below is our official response to CAHI regarding asbestos concern:

“With respect to your inquiry – asbestos testing was completed prior to the work commencing. During the rehab work that is ongoing, whenever the scope of work being performed includes disturbing asbestos containing materials the work is only performed after the resident has been temporarily relocated to another unit. While the asbestos abatement work is being performed, the unit is closed and sealed off – please see attached photos. In situations in which the asbestos containing materials or suspected asbestos containing materials (“ACMs”) being disturbed are classified as “friable” ACMs, the units have air clearance testing completed by a licensed 3rd party environmental services provider prior to the containment being removed and the unit reoccupied. All ACM abatement work is being performed by contractor licensed to do this work

in CA. The abatement contractor posted all of the required notices with the state, local jurisdiction and residents prior to the abatement work at the property. Attached for your reference is the notice that was posted prior to the asbestos work beginning (please note that in this word document the date is set to automatically update to the current date on the day the document is opened).”



With respect to security in the building, Owner does not provide a security company. The building is controlled by controlled fob access and there are plans to improve the camera system within the building. Simultaneously with the issuance of this response, we are working on response to CAHI regarding security.

We empathize with the disruption that construction can cause. It can be very taxing for residents and we understand that, truly we do. We have, for the duration of construction, funded a relocation coordinator and moving company. Residents should feel that, while an inconvenience, they are only temporarily relocating to another apartment for the duration of their in-unit work. We did this plan because this property in particular has many residents with extreme quantities of contents in their apartments and it would have been challenging for our construction team to work in the units with all the belongings in there. We have consistently evaluated our relocation plan and if it makes sense to adjust it, we do. We have evaluated in recent weeks and recognize there were some hiccups and construction delays. Our accessible units, which were the most complicated to construct, were renovated first and we incurred numerous delays that we should not have going forward. Additionally, there were cosmetic issues that were not satisfactorily completed (ie. Toilet paper holder, mirror, blinds, etc) prior to returning a resident to their unit. We acknowledge and apologize for this. We have high standards for our community and strive to meet them every day. While I thought we were moving on from some of the displeasure we recognize some of the residents may still be upset or unhappy and we will work to foster that trust with more communication to them and in person meetings over the following weeks to discuss.

While we cannot address every item in the video in a written response to the Commission, at this time, we can highlight a few items that we know residents were upset with and work on a list of responses if the Commission would like additional matters answered. The electrical chord noted in the video is a cosmetic issue and not a safety issue. We are working with our construction team on a solution that limits the visibility of any chord. There is no electrical or fire hazard with respect to the chord mentioned in the video. We will communicate to residents that a solution to the chord in the kitchen light is still being figured out to provide for the best cosmetic solution this week via an FAQ that we are putting together for our residents. Management also maintains a binder of all notices sent to residents during construction and we are happy to show anyone all of the notices communicated to residents.

Blinds and screens – everyone will return to their unit with blinds. Due to shipping delays, a resident may return to their unit with their existing blinds. We have been working to have all materials stored and available at each unit being constructed but may have to return to install the blinds. Screens have been ordered and arrived damaged and are being reproduced. Again, we know this is frustrating and going forward, while not ideal, no resident will return to their unit without blinds installed. While many of these are inconvenient and hassles residents should not have to deal with, we have put processes in place with management and relocation actively communicating with our residents. We are walking units prior to each resident moving back and creating a pre-inspection report to address any concerns prior to a resident moving back as well as managing expectations. Our relocation coordinator and management agent have been empowered to push back and not accept units if they are not acceptable as well as work with our contractor to determine if there are items residents are not happy with are in the scope or routine maintenance items that should be added to the scope of work.

Additionally, we have weekly meetings with the following positions relevant to Harriet Tubman where we discuss all things construction and relocation:

Foundation Housing:	Asset Manager, Director of Asset Management, Project Manager (Cassandra Palanza)
Development Partner:	Pennant Housing Group (2-3 individuals)
Precision Construction:	Superintendent, General Contractor, Project Manager
FPI Management:	Community Director, Portfolio Manager, Senior Director and Relocation Coordinator

Our hope is the amount of staff committed to the completion of this project and its future preservation is not lost in a residents pursuit of “justice” for their concerns. Below is the contact information of personnel here to serve and respond to our residents through the duration of construction. The below team will reach out to the residents in the video supplied and confirm that all of their issues highlighted in the video are resolved. Cosmetic issue or things that a reasonable person who saw them should think to fix them (under the bathroom holes, backboard of the sink) will be addressed.

LaTonya Glover, Property Management, FPI Management
harriettubmanterrace.cd@fpimgt.com, 510-843-0134

Brandon Heezen, Portfolio Manager, FPI Management
Brandon.heezen@fpimgt.com

Brandi Hutchinson, Senior Director, FPI Management
brandi.hutchinson@fpimgt.com

Tamara Couto, Relocation Specialist, Advanced Relocation Services
advancedrelo11@gmail.com / 559-903-3800

Jordan Bobb, Asset Manager, Foundation Housing
jordanb@foundationhousing.com

Cassandra Palanza, Project Manager and Landlords Representative, Foundation Housing
Cassandra@foundationhousing.com /

Lastly, we are beginning to implement some things to try and assist our residents further with communication and supportive services during the rehab and after conclusion of the rehab. We have approved a TV monitor for updates and important information for residents. We are putting our resident services under review to see how many additional hours of resident services we can add to the property to give our residents additional support. We are ordering computers for a computer center for the residents to utilize. We are trying to see if we can add the layout to our scope but the approval to order these computers was granted and we look forward to giving residents access to these as soon as possible. In addition to moving assistance during the rehab, we are offering appointments with assistance for residents to go through their things and eliminate/donate unwanted items. See attached flyer. This service is completely voluntary but we recognize that there are many of our residents who lack the capability or physical strength to resolve the building amount of contents in their homes. To date, we have had three residents utilize the services and will look to establish this as an annual or semi-annual event. Rounding out all of the things we continue to work on, Management is sending out a survey to residents asking for feedback. It is voluntary and vital that we hear from everyone. Despite some of the challenges we also have many residents who are pleased with the progress this community is making and as we move forward we feel it is important to share all the information so that those stake holders involved can make informed decisions.

We recognize that in elderly populations, packing, moving, moving, unpacking is stressful. We are working to find additional resources for additional packing assistance and unpacking. No resident is asked to move anything except for their things they consider extremely valuable (jewelry, passport, documents and any other valuables that they do not want touched). If a resident feels they are not getting the assistance they need, then they should immediately notify the relocation coordinator. If the responsiveness is not there then Management should be notified followed by the Owners Representative.

To date we have completed 22 units. As of July 6, we have 5 tenants who have been temporarily relocated to other units. These residents are scheduled to return to their homes Friday, July 8, subject to management inspection and approval.

Thank you for your time. We look forward to completing this project and the residents being able to enjoy their improved community in a peaceful manner.

Management Relations

Grievance Procedures

Our goal at this apartment community is to provide outstanding customer service, responsive management and build good resident/management relations.

On occasion a dispute or problem may arise between a resident(s) and management. If there is a dispute, a discussion is encouraged on a one-to-one basis. If discussion does not provide a resolution, a resident may use the Grievance Procedure outlined in an effort to provide resolution.

The Grievance Procedure is designed to ensure that there is a fair and equitable process for addressing resident concerns and to ensure fair treatment of residents in the event that an action or inaction by a management representative adversely affects the resident of this apartment community.

Individuals, who feel they have been treated unfairly, may submit a grievance to management. Management will respond to valid requests involving concerns about conditions or quality of life at the apartment community. An informal review of issues and concerns will be conducted.

In order to clearly understand the issues, management will request a written statement of the issue for all parties to review. Management may need to obtain written statements from witness or other outside parties to fully review the concerns. An informal meeting will then be scheduled to review the concerns in an attempt to resolve the conflict. If this process does not resolve the matter, the resident may seek resolution through the process outlined below.

Example of Complaint Process

<p>Step 1. Resident notifies Community Director/Manager to discuss complaint, provides complaint in writing (Form available), (Reasonable Accommodations may be made for persons with disabilities) and discusses possible solutions.</p>	<p>Step 2. Community Director/Manager discusses matter with resident and replies in writing to complaint within 10 working days. If dispute is not resolved, proceed to the next step.</p>	<p>Step 3. Resident appeals to Portfolio Manager in writing within 5 working days of the receipt of the written response. (Reasonable Accommodations may be made for persons with disabilities). Portfolio Manager will contact parties within 10 working days of receiving appeal. If dispute is not resolved, proceed to the next step.</p>
<p>Step 4. Portfolio Manager will discuss grievance with resident and within 10 working days, provides decision and written statement on the grievance and take any necessary action. If dispute is not resolved, proceed to the next step.</p>	<p>Step 5. Resident appeals to the Contract Administrator within 10 days. Contract Administrator responds to the Resident. If dispute is not resolved, proceed to the next step.</p>	<p>Step 6. Resident appeals to the HUD office within 10 days. HUD responds to the Resident</p>

Contact Information

<p><u>Step One & Two</u> Community Director/Manager:</p>	<p><u>Step Three & Four</u> Management Agent:</p> <p>FPI Management, Inc. Regional Portfolio Manager 800 Iron Point Road Folsom, CA 95630</p>	<p><u>Step Five</u> Contract Administrator:</p>	<p><u>Step Six</u> HUD</p>
---	---	--	---------------------------------------

I hereby acknowledge that I have received a copy of the Grievance Procedure and understand the process described above. I also understand that a Complaint Form is available in the Rental Office and Community Bulletin Board.

Resident Name

Resident Signature

Date

Resident Name

Resident Signature

Date

Management Representative

Date



Libby Lee-Egan (Chairperson) & Mari Mendonca (Vice Chairperson)
Berkeley Housing Advisory Commission

July 15, 2022

Mayor Arreguín and Berkeley City Councilmembers,

We write to you today to express deep concern and inspire urgent action on an issue affecting some of Berkeley's most vulnerable residents. At the Housing Advisory Commission (HAC) meeting on July 7, 2022 we heard and took action on an item regarding an ongoing situation at Harriet Tubman Terrace (HTT) affecting the low income seniors and disabled tenants residing there. For reference, see item #5 on the [agenda](#) and supplemental communication [here](#). At the meeting the Commission heard testimony and watched [video evidence](#) that showed appalling treatment and neglect of HTT's tenants by staff and subcontractors.

Most of the grievances were related to relocation to/from and construction in individual units. Commissioners and members of the public expressed distress at what these seniors were being subjected to, including:

- Inadequate relocation services. The video shows the home of a disabled tenant whose possessions were not unpacked from their boxes and equipment necessary to help him move about his home was not installed.
- Shoddy construction and poorly-planned improvements ill-suited to each home's resident. The video shows a tenant whose newly-remodeled bathroom has a hole in the wall where a toilet paper holder should be and a bathtub that is not usable for her as someone who has had a hip replacement.
- Overall lack of trust between staff and tenants. It was clear from testimony and video that tenants do not feel comfortable submitting complaints or requests. There are many reasons for this discomfort, including fear of retaliation. This is the primary reason for our 3rd recommendation below for a tenant advocate to assist the HTT residents.

Members of the HAC also received supplemental communication and heard public comment from HTT's project manager/landlord representative which insufficiently addressed some of these concerns.

During the meeting on July 7, the Commission voted unanimously to send this letter, requesting the mayor and City Councilmembers take action:

1. [Review the video](#) created by tenants about conditions at Harriet Tubman Terrace that was shown at the July 7, 2022 Housing Advisory Commission meeting;
2. Direct the City Manager to investigate health and safety violations and other grievances identified by tenants at Harriet Tubman Terrace;

3. Request Harriet Tubman Terrace provide tenants with a dedicated tenant advocate to assist with relocation and other needs; and
4. Request Harriet Tubman Terrace owners/management and tenants report back to the Housing Advisory Commission at our regular meeting in September to report progress with addressing the grievances identified by tenants.

At the same meeting, the Commission also unanimously approved a motion to put together an official recommendation on this matter. This report is under development right now and is forthcoming. Staff advised that this could take time for this to get on the council's calendar and because these Berkeley residents need help *now*, the HAC opted to send this letter before the report is finished.

If you have any follow up questions or require any additional information, please do not hesitate to reach out to the submitter of the item and Vice Chair Mari Mendonca (marimendonca71@gmail.com) and Chair Libby Lee-Egan (libbyco@gmail.com).

Sincerely,

Libby Lee-Egan

Housing Advisory Commission Chairperson

Mari Mendonca

Housing Advisory Commission Vice Chairperson

Links:

Agenda: bit.ly/HAC7722-Agenda

Supplemental Communication: bit.ly/HAC7722-SuppComm

Video: bit.ly/HTT-Renewal

The following update from Foundation Housing was provided by to HHCS staff via email on August 24, 2022.

The Landlord [Foundation Housing] continues with the renovations in accordance with local, state and federal guidelines and does not have open code violations as it pertains to any of the renovations.

Landlord, in response to tenant input has addressed, in landlords opinion, most items. Where landlord and tenant(s) differ we continue to work through those matters on an individual basis with each tenant. Landlord has added services including but not limited to more than doubling the resident services contract that will begin in September, changed the cleaning contract of the building and had the building deep cleaned twice with daily cleaning occurring in all common areas and public spaces, done a 100% unit pest inspection and begun regular pest control of units identified with housekeeping issues, offered residents 2 hours of cleaning of their apartments by a cleaning company at landlords expense, offered decluttering and unloading of residents items they do not want or want to dispose of (at landlords expense), paused relocation with the exception of deemed necessity in August, hired a new relocation coordinator (AutoTemps) set to resume tenant relocation in September and continued to focus on the completion of the much needed renovations of the building.

An open item that we acknowledge and realize is not resolved is the matter pertaining to the stoves in the one bedrooms and resolution is still pending on that item. Construction continues to experience supply chain issues and we continue to accommodate as necessary to make sure units are delivered completed with little to no disruption upon returning home. The screens to the windows arrived in early August and began installation on all newly installed windows. Approximately 40% of the apartment homes are completed. Landlord and management will be available on the next Housing Advisory Council call [September 1, 2022] to take questions and give additional updates on the status of things at Harriet Tubman Apartments.



Commission on Disability

INFORMATION CALENDAR

October 11, 2022

To: Honorable Mayor and Members of the City Council
 From: Commission on Disability
 Submitted by: Michai Freeman Chairperson, Commission on Disability
 Subject: Commission on Disability Fiscal Year 2022-2023 Work Plan

INTRODUCTION

The Commission on Disability is submitting the fiscal year 2022-2023 Work Plan.

CURRENT SITUATION AND ITS EFFECTS

Commission on Disability ▪ Fiscal Year 2022 Annual Workplan

1. COVID Management and Recovery

Track developments and impacts from the Covid-19 pandemic, including but not limited to: disproportionate health impacts for people disabilities; consequences for health care providers; disruptions in disability supports (e.g. reduction in small businesses providing necessary products and services); increase in Berkeley residents with long-term disabilities due to post-Covid complications; and reduction in city budgets for services and infrastructure improvements (e.g. sidewalk repair efforts). Engage relevant city departments, request presentations and gather community feedback. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

2. Improved Transportation and Mobility

Continue efforts related to the “navigable cities” framework for safe, accessible pedestrian pathways and other transportation infrastructure, including appropriate street layouts in redesigned transportation corridors. Also ensure universal accessibility of relevant applications, kiosks, ride-sharing services, Transportation Network Companies (TNCs), bikes and scooters (including shared mobility), and “emerging technology” such as automated vehicles (ATVs). Address public transportation concerns and safety, including budgets and onboard safety related to the Covid-19 pandemic. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

3. Public Input and Public Outreach for COD

Implement communication channels with other city Commissions; pursue “cross-membership” with other commissions, where COD members request to be appointed to other commissions with vacancies; prioritize commissions whose coverage affects

people with disabilities (e.g. peace & justice, zero waste, planning, homelessness, etc.). Raise awareness of COD within the disability community and relevant stakeholders (e.g. neighborhood and business associations) and invite community members and stakeholders to attend COD meetings. Outreach should include opportunities for community members to request accessibility modifications, including for remote meetings (e.g. captioning on Zoom). Develop a consistent process and timeframe for community engagement. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

4. Engagement and Advisory Role for City Processes

Increase outreach and requests for timely presentations and information from City of Berkeley staff and other relevant officials (e.g. at the county or regional levels). Utilize the Commission on Disability as a public forum and oversight body, especially in the face of unprecedented challenges during the continuing Covid-19 pandemic and recovery therefrom. Utilize COD as an advisory & monitoring body to increase accessibility & accountability in city efforts and other areas of influence. Partner with other commissions; advocate for new sub-committees and cross-membership for relevant goals. Commissioners commit to actively and regularly engage with appointing Council members. Ensure that COD review city policies to avoid direct decisions by Council, City Manager, and other city entities without disability input. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

5. Accessible and Affordable Housing

Explore the expansion and improved availability of accessible housing for people with disabilities, including going beyond baseline ADA access requirements in new construction (e.g. adding automatic door openers, units with roll-in showers and other universal access features, etc.). Recognize a likely slowdown in new construction and increase efforts at encouraging accessibility retrofits of existing buildings, whether single-family homes or multi-unit apartments/condominiums. Address affordability as a key factor for housing, especially given the disconnect between affordability and accessibility (given newer buildings are more accessible but also tend to have higher rents). Partner with senior community and advocates for mutual areas of interest. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

6. Homeless people with Disabilities

Support Berkeley's population of homeless residents with disabilities. Collaborate with local service providers to address disability-related needs, such as access to healthcare or repairs of medical equipment (wheelchairs, scooters, walkers, etc.). Address timely issues, such as pandemic safety, extreme heat events and air quality (including wildfire smoke). Access to electricity and energy resources. Advocate for permanent accessible housing, including creative solutions (e.g. tiny homes). Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

7. Emergency/Disaster Preparedness

Receive information and ongoing updates, participate and make recommendations as appropriate about Berkeley's BEACON and CERT programs. Address increasing frequency of Red Flag Warning events, wildfire danger, Public Safety Power Shutoffs, poor air quality days, and extreme heat vents. Maintain oversight and efforts around earthquake safety. Increase training opportunities for disability awareness & management, including FAST trainings. Advertise disaster resources for PWDs (e.g. information, backup supplies, organizations and designated accessible shelters), including lists of trained staff and volunteers. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

8. Student Life and Disability Awareness

Improve communication and collaboration with Berkeley's many students with disabilities, providing community engagement and leadership opportunities and supports for independent living. Address all populations including students with disabilities in elementary through high school, Berkeley City College, UC Berkeley, and private entities. Advocate for city-supported services and resources for youth, young adults and other students w/ disabilities. Increase affordability of and access to education, training, recreation and life resources (e.g. housing and transportation) for students. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

9. Accessibility in City Events, Meetings, Communications & Information Technology

Work with city staff, commissions, and other relevant partners to guarantee inclusion and accessibility of events, meetings and communications. Guarantee access to multiple media, taking into account a diversity of disabilities and the overall digital divide (i.e. disproportionate access to Information Technology and related services); this can include printed (paper) communications and information items, as well as those items in accessible (e.g. Braille or large-print) format. Ensure that all meetings and events are accessible through the Internet for those who cannot attend; this is especially important considering health and wellness in light of the Covid-19 pandemic and its ongoing effects. Emphasize plain language and multiple media in city resources and initiatives to reach the widest audience possible. Utilize free media (i.e. city websites, newspapers, PSAs, Berkeley TV, social media, etc.) and partnerships (e.g. with nonprofits, community organizations, and faith-based organizations) to engage as many people as possible. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

The Commission on Disability Fiscal Year 2022-2023 Work Plan supports the Strategic Plan goal to champion and demonstrate social and racial equity.

BACKGROUND

The Work Plan was approved by the Commission on August 3, 2022 (Vote: Ayes: Freeman, Walsh. Noes: None. Abstain: None. Absent: Singer. Motion/Second: Freeman/Walsh)

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

POSSIBLE FUTURE ACTION

Unknown.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Unknown.

CONTACT PERSON

Andrew Brozyna, Deputy Director of Public Works, (510) 981-6396



Communications

All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

City Clerk Department

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

Records Online

<https://records.cityofberkeley.info/>

To search for communications associated with a particular City Council meeting using Records Online:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF