

# The Hillside School Rehabilitation & Conversion to Residential Use

1581 Le Roy Avenue

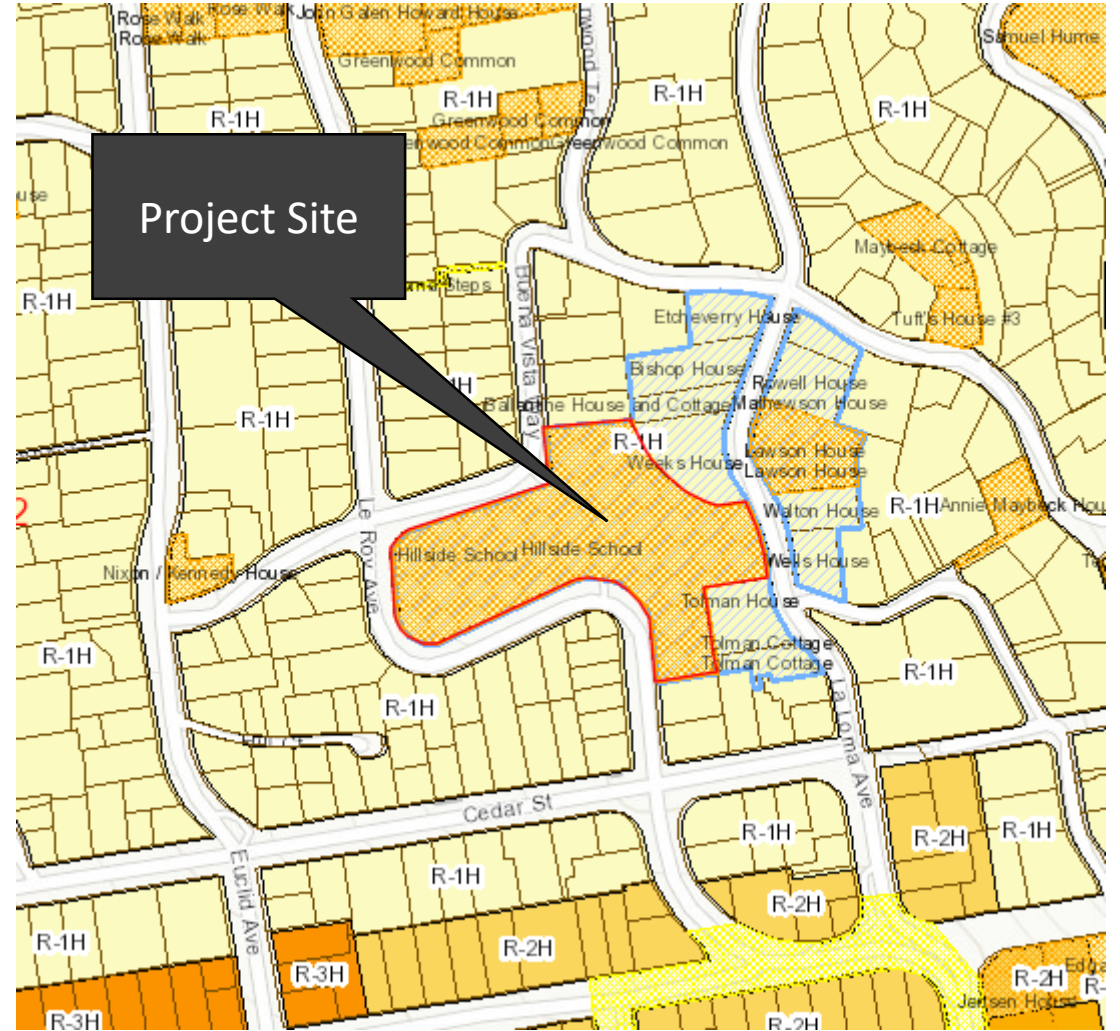
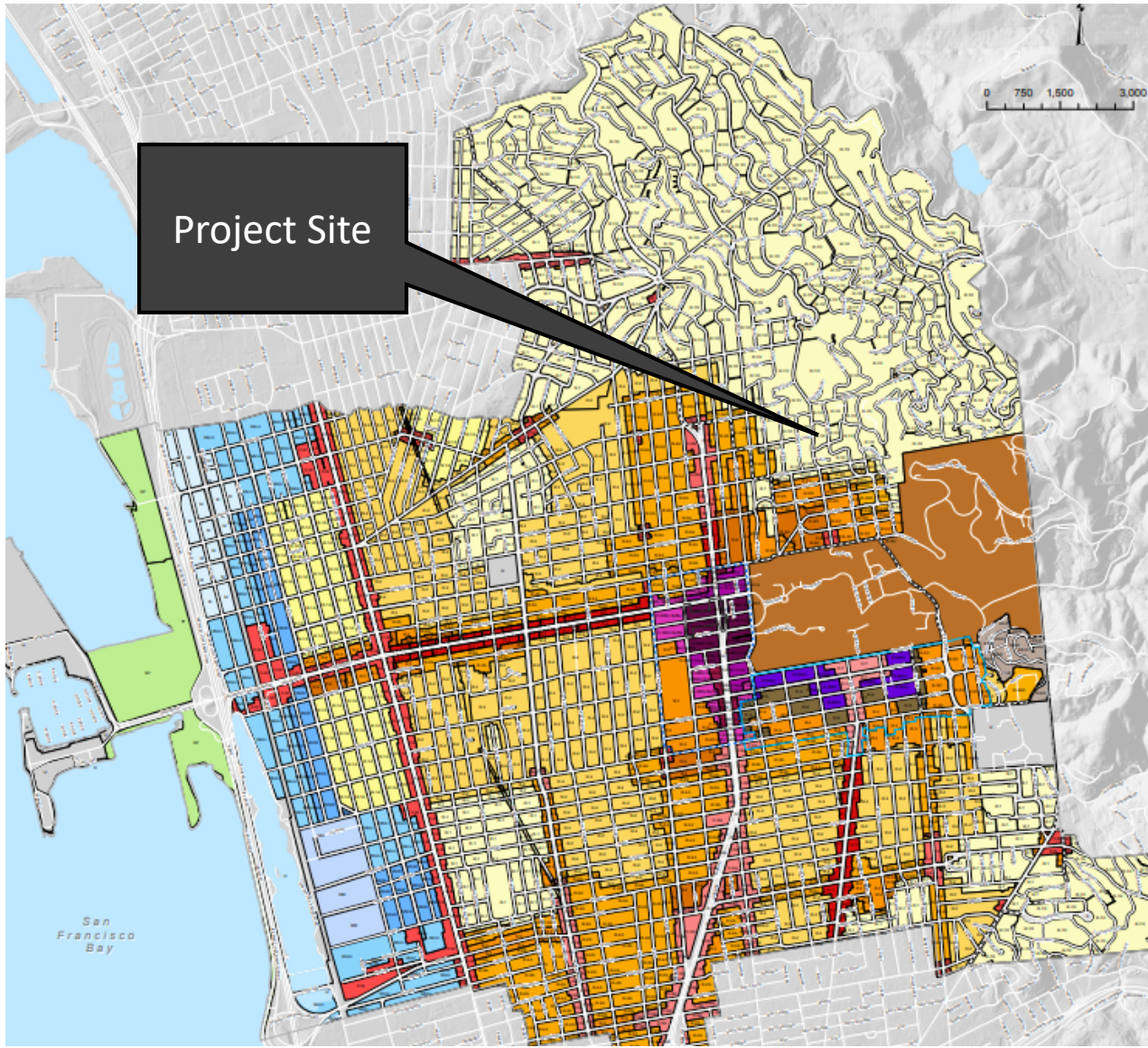
APPEAL HEARING

Use Permit #ZP2019-0061

Structural Alteration Permit #LMSAP2019-0004

Prepared by Fatema Crane, Senior Planner/LPC Secretary

Presented to City Council February 25, 2020



# Hillside School



# Background

| Date          | Events   |
|---------------|--|
| 1923-1938     | Hillside School was designed by Walter Ratcliff Jr., constructed and refurbished.  |
| 1983          | Berkeley Unified School District closed Hillside School and sold the property.   |
| 1985-2017*    | Various private K-12 schools occupied the site.  |
| 2017          | German International School withdrew a Use Permit application to expand the school use, finding requisite engineering improvements cost-prohibitive. |
| 2018          | Samuli Seppälä, a private individual, purchased the property.  |
| April 2019    | SAP and UP Applications to rehabilitate and convert site to residential use submitted.   |
| August 2019   | LPC held a public hearing and approved SAP to rehabilitate the Hillside School.  |
| October 2019  | ZAB held a public hearing and approved Use Permit to convert the Hillside School building and property to residential use.                           |
| November 2019 | Notices of LPC and ZAB Decisions posted.   |
| December 2019 | Hillside Path & Playground Preservation Association submitted Appeals of the ZAB and LPC decisions.  |

\*2002 – City Landmark designation

# Scope of Applications

## Use Permit #ZP2019-0061

Convert school site to residential use, including:

- Former classrooms re-designed into a SFR, ADU and art studios for private practice
- New rooftop swimming pool, hot tub & deck railing
- New 35-sq. ft. elevator penthouse
- New interior garage w/i former multi-purpose room
- Overflow parking lot & storage sheds w/i portion of playground
- Landscape improvements, no change to walkway

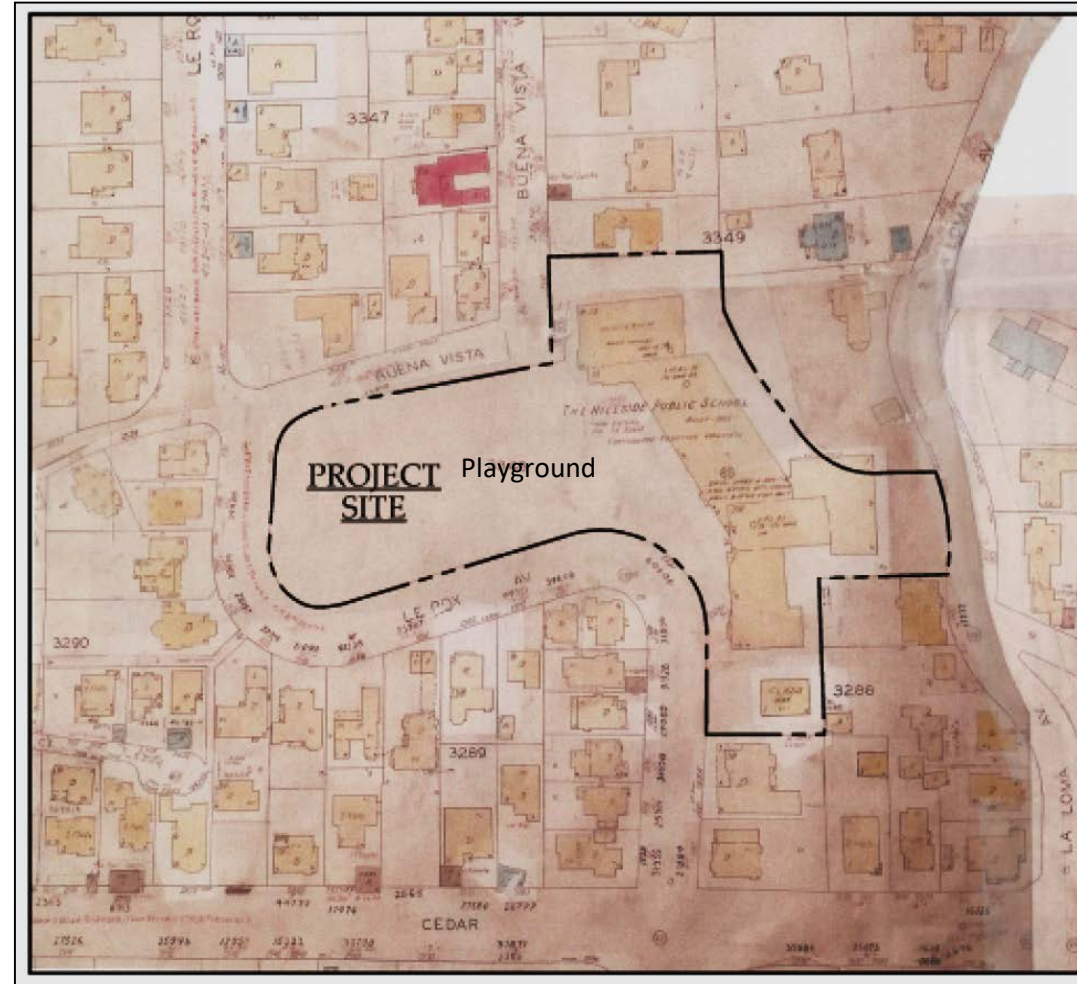
## Structural Alteration Permit #LMSAP2019-0004

Alter exterior of building & site, including:

- New garage door
- New windows
- New rooftop swimming pool, hot tub & deck railing
- Overflow parking lot & storage sheds w/i portion of playground
- Landscape improvements, no change to walkway

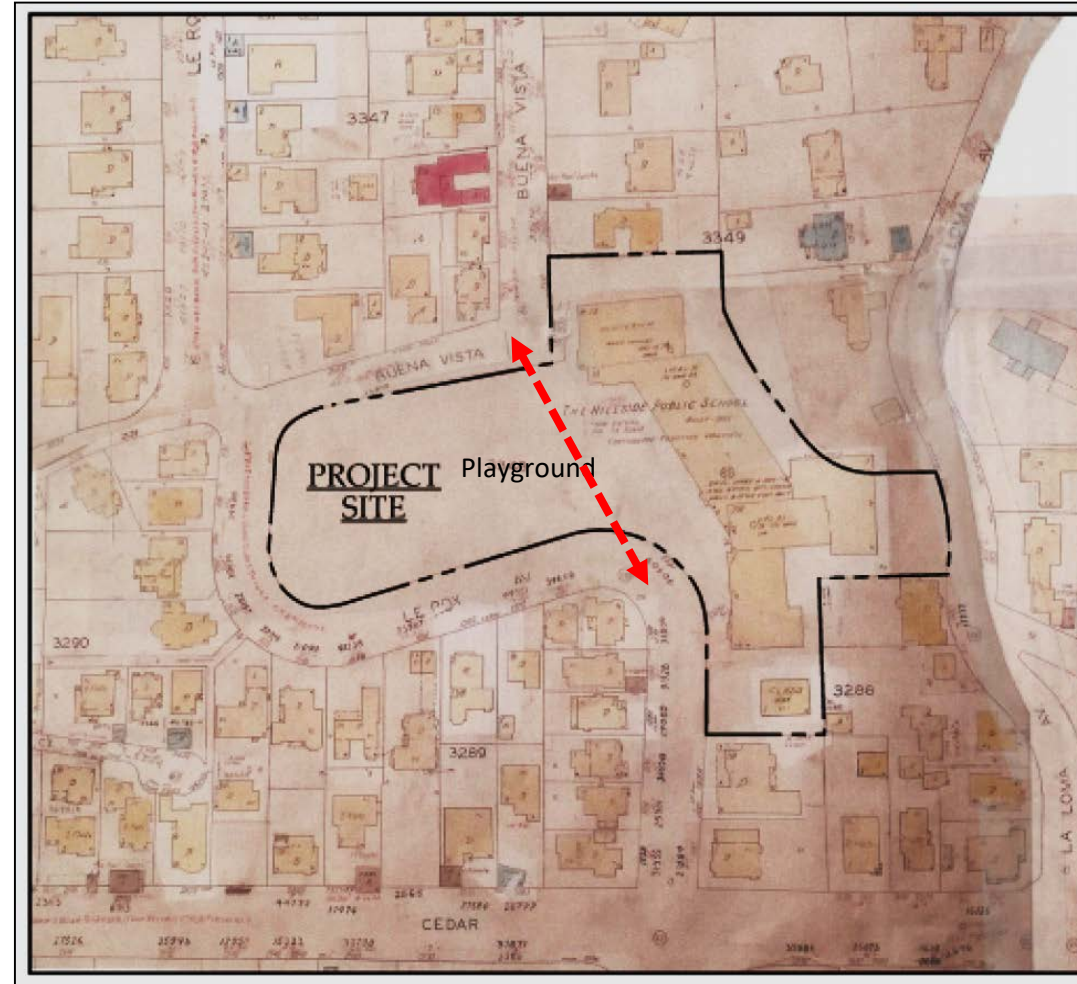
# Background – Issues during hearings

## Pathway Access



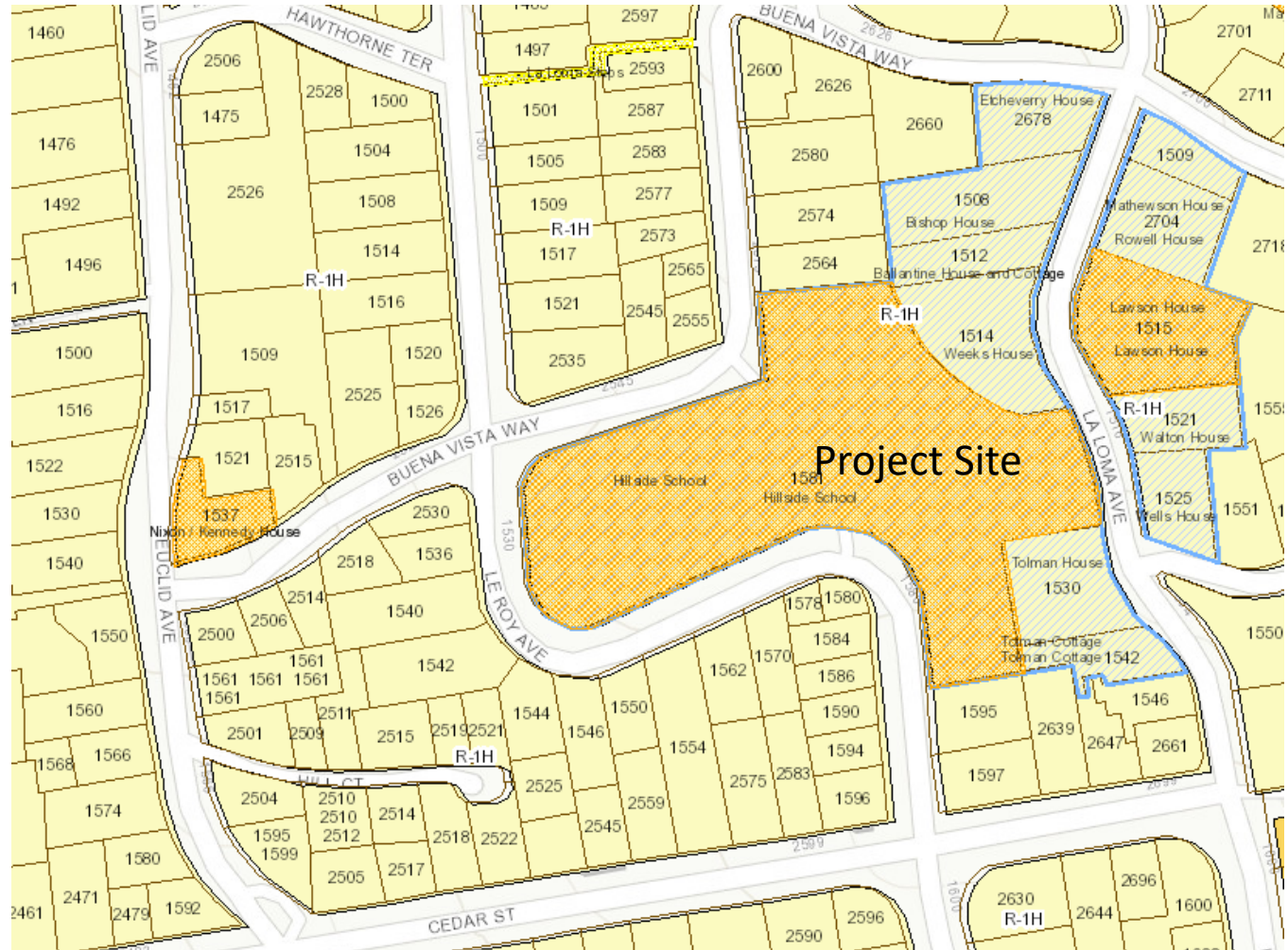
# Background – Issues during hearings

Pathway Access



# Background – Issues during hearings

## Pathway Access







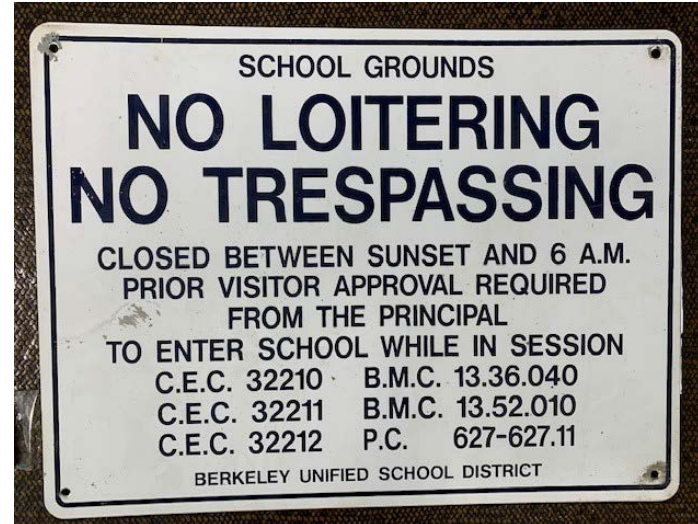
# Background – Issues during hearings

Pathway  
Access



# Background – Issues during hearings

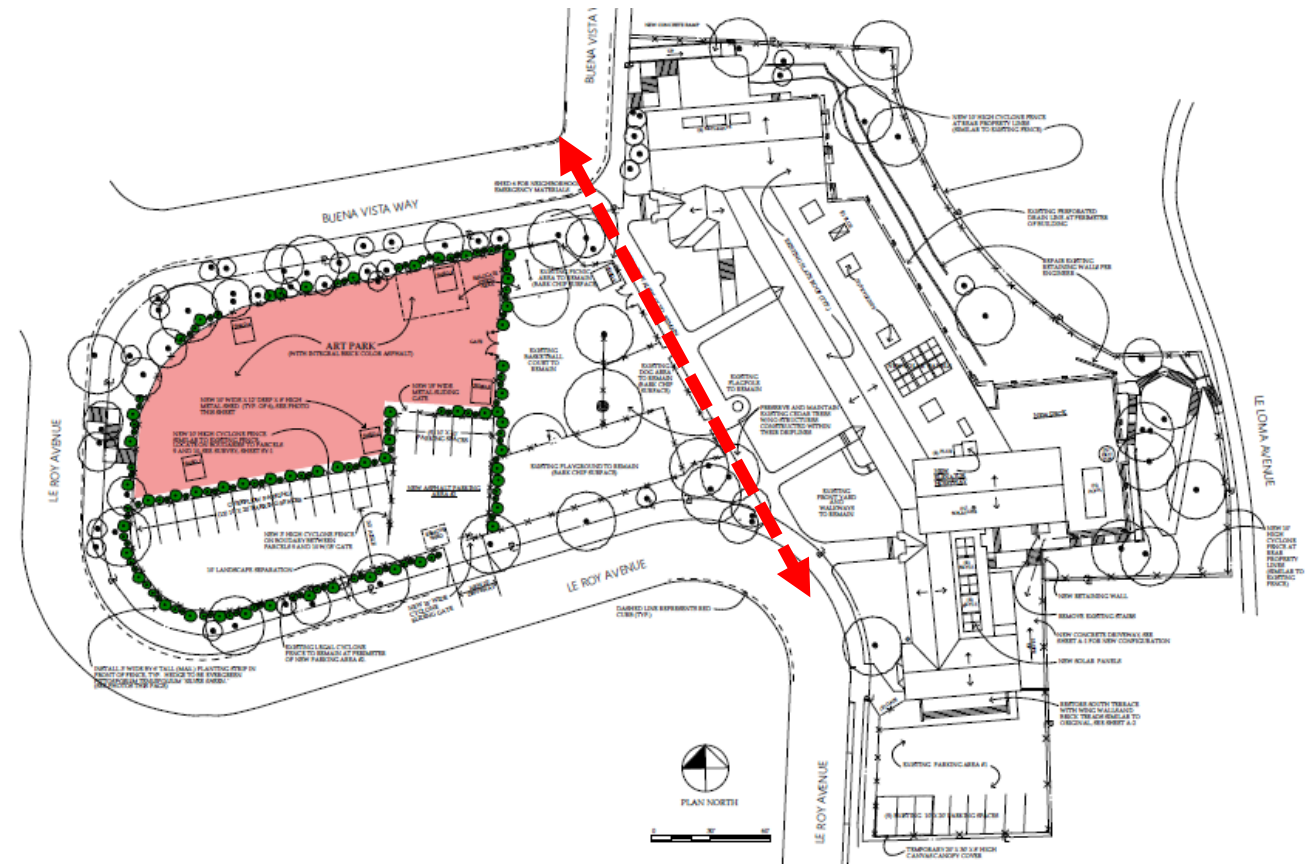
## Pathway Access



*“Right to pass by permission and subject to control by owner. –Section 1008 of Civil Code”*

# Background – Issues during hearings

## Pathway Access



Approved Site Plan – pathway unchanged

# Background – Issues during hearing

## Pathway Access

Both LPC and ZAB declined neighbors' requests to require an access easement as a Condition of Approval for the project explaining that:

- The walkway is not a City pathway.
- The property is not publicly-owned.
- Granting these entitlements will not change the current private status of this property or any City-sponsored evocations plans.
- Easements are private matters and not requirements under the BMC.
- Neither LPC nor ZAB have the authority to prescribe such an easement.

# Appeal Points Summarized as Themes

The appellant contends that the approved project is not categorically exempt from environmental review pursuant to CEQA because it:

- Will significantly impact public safety.
- Will obstruct a public path in a fire/seismic safety zone, which is an unusual condition that precludes exemption.
- Does not comply with the City's General Plan or Zoning Ordinance, or CEQA historic resource exemption.
- Will expand the existing use of the property.
- Includes Conditions of Approval, which mitigate environmental impacts and, thereby, disqualify the project from exempt.

# Appeal Theme:

## Project will significantly impact public safety.

The appellant contends that:

- City's approval of this project has privatized the property and empowered the owner to preclude public access to the site, specifically the pathway and playground.
- Preclusion of access is a threat to public safety and is contrary to the Zoning Ordinance requirements related to non-detriment.

# Appeal Theme:

## Project will significantly impact public safety.

This notion is incorrect because:

- The property is already privately owned, so the entitlement has not changed or affected this status.
- The City's emergency service preparations for this area of the Berkeley Hills do not rely on access to Hillside School in order to execute its rescue and evacuation plans.



## Appeal Theme:

The approved project will significantly impact public safety *and* the project site is located in fire and seismic safety zones; this combination is an unusual condition that precludes categorical exemption under CEQA.

# Appeal Theme: An unusual condition

Several hundred hillside properties are located in the fire and seismic zones, so this condition is not unusual for properties in this area of Berkeley.

This site has no unusual condition.

## Appeal Theme:

Project does not comply with the Zoning Ordinance requirement for “Art/Craft Studio” uses.

The Appellant’s contention that the approved Hillside School conversion is an “Art/Craft Studio” use is incorrect.

The *private* practice and creation of art is distinct from establishing a “Art/Craft Studio,” which would be subject to the BMC Zoning ordinance regulation.

Within the approved residential use of the project site, the occupants’ art practice is not subject to Zoning Ordinance regulation.

# Appeal Theme:

Project does not comply with the Zoning Ordinance requirement for “Art/Craft Studio” uses.

| <b><i>“Art/Craft Studio”</i></b> | <b>Private Art Practice</b> |
|----------------------------------|-----------------------------|
| <b>Sawtooth Building</b>         | <b>Samuli Seppälä</b>       |
| Commercial Tenant Spaces         | Residence                   |
| Business Enterprise              | Personal                    |
| \$\$\$                           | No \$\$                     |
| Transactional                    | No obligation               |
| Financial benefit                | Pleasure/Hobby              |

Appeal Theme:  
Project does not qualify as a rehabilitation of a  
historic resource.

**Rehabilitation** under CEQA is defined by the Secretary of the Interior (SOI) incorporated into standard practices for historic preservation.

*“... the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.” -SOI*

## Appeal Theme:

Project includes Conditions of Approval in order to mitigate environmental impacts, thereby disqualifying a CEQA categorical exempt.

This assertion is incorrect.

Conditions of Approval are a standard practice for discretionary projects and facilitate the entitlement process by deferring certain practical aspects of the land use approval.

Conditions of Approval are not intended to serve as mitigations.

# Appeal Theme:

## Project will expand the existing school use.

The approved conversion to low-density residential use represents a decrease in the intensification of the (former) K-12 use of the site because it will reduce...

- Occupancy
- Activity
- Frequency of events
- Vehicles trips
- Noise

The approved project will change and not expand the use of the subject property.

# Recommendation

1. Conduct a hearing on the Appeals.
2. Hear testimony from the public.
3. Review the LPC and ZAB decisions and consider the Administrative Record.