



Planning Commission

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

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Wednesday, January 19, 2022
7:00 PM

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 Planning Commission 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.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us06web.zoom.us/j/83013936336>. 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 6833** and enter Meeting ID: **830 1393 6336**. 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 video conference and teleconference will be recorded. All rules of procedure and decorum that apply for in-person Planning Commission meetings apply for Planning Commission meetings conducted by teleconference or videoconference.

See **"MEETING PROCEDURES"** below.

All written materials identified on this agenda are available on the Planning Commission webpage: https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planning_Commission_Homepage.aspx

PRELIMINARY MATTERS

- 1. Roll Call:** **Wiblin, Brad**, appointed by Councilmember Kesarwani, District 1
Vincent, Jeff, appointed by Councilmember Taplin, District 2
Moore III, John E. "Chip", appointed by Councilmember Bartlett, District 3
Oatfield, Christina, appointed by Councilmember Harrison, District 4
Mikiten, Elisa, appointed by Councilmember Hahn, District 5

Kapla, Robb, Chair, appointed by Councilmember Wengraf, District 6
Twu, Alfred, appointed by Councilmember Robinson, District 7
Hauser, Savlan, Vice Chair, appointed by Councilmember Droste, District 8
Ghosh, Barnali, appointed by Mayor Arreguin

2. **Order of Agenda:** The Commission may rearrange the agenda or place items on the Consent Calendar.
3. **Public Comment:** Comments on subjects not included on the agenda. Speakers may comment on agenda items when the Commission hears those items. (See “Public Testimony Guidelines” below):
4. **Planning Staff Report including Future Agenda Items:** In addition to the items below, additional matters may be reported at the meeting.
5. **Chairperson’s Report:** Report by Planning Commission Chair.
6. **Committee Reports:** Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.
7. **Approval of Minutes:** Approval of Draft Minutes from the meeting on **December 1, 2021**.
8. **Other Planning-Related Events:** Opportunity for Commissioners to make planning-related announcements.

AGENDA ITEMS: All agenda items are for discussion and possible action. Public Hearing items require hearing prior to Commission action.

9. **Action:** **Public Hearing: Tentative Tract Map #8626**
Recommendation: Hold a public hearing to consider Tentative Map #8626 pursuant to BMC Section 21.16.047.
Written Materials: Attached
Presentation: N/A
10. **Action:** **2022 Nominations for February Election**
Recommendation: Nominate Commissioners for Chair and Vice Chair
Written Materials: N/A
Presentation: N/A

ADDITIONAL AGENDA ITEMS: In compliance with Brown Act regulations, no action may be taken on these items. However, discussion may occur at this meeting upon Commissioner request.

Information Items:

- None.

Communications:

- BART Communications
- General Communications

Late Communications: (Received after the packet deadline):

- Supplemental Packet One – received by noon two days before the meeting
- Supplemental Packet Two
- Supplemental Packet Three

ADJOURNMENT

**** **MEETING PROCEDURES** ****

Public Testimony Guidelines:

All persons are welcome to attend the virtual meeting and will be given an opportunity to address the Commission. Speakers are customarily allotted up to three minutes each. The Commission Chair may limit the number of speakers and the length of time allowed to each speaker to ensure adequate time for all items on the Agenda. Customarily, speakers are asked to address agenda items when the items are before the Commission rather than during the general public comment period. Speakers are encouraged to submit comments in writing. See “Procedures for Correspondence to the Commissioners” below.

Procedures for Correspondence to the Commissioners:

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Commission. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Commission may limit the time granted to each speaker.

Written comments must be directed to the Planning Commission Secretary at the Land Use Planning Division (Attn: Planning Commission Secretary), 1947 Center Street, Second Floor, Berkeley CA 94704, or via e-mail to: apearson@cityofberkeley.info. All materials will be made available via the Planning Commission agenda page online at this address: <https://www.cityofberkeley.info/PC/>.

Correspondence received by **12 noon, nine days** before this public meeting, will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by **12 noon two days** before this public meeting, will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication and emailed to Commissioners one day before the public meeting.
- Correspondence received after the above deadline and before the meeting will be included in a second and/or third Supplemental Packet, as needed, which will be posted to the online agenda as a Late Communication and emailed to the Commissioners by 5pm on the day of the public meeting.

Note: It will not be possible to submit written comments at the meeting.

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

Communication Access: To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice), or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability.

Meeting Access: 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 (3) business days before the meeting date.

I hereby certify that the agenda for this regular meeting of the Planning Commission 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 **January 14, 2022.**

Alene Pearson
Planning Commission Secretary



Planning Commission

1 **DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**
2 **December 1, 2021**

3 The meeting was called to order at 7:04 p.m.

4 **Location:** Virtual meeting via Zoom

5 **1. ROLL CALL:**

6 **Commissioners Present:** Savlan Hauser, Robb Kapla, Elisa Mikiten, Chip Moore, Christina
7 Oatfield, Alfred Twu, and Jeff Vincent.

8 **Commissioners Absent:** Barnali Ghosh and Brad Wiblin.

9 **Staff Present:** Secretary Alene Pearson, Katrina Lapira, and Justin Horner.

10 **2. ORDER OF AGENDA:** No changes.

11 **3. PUBLIC COMMENT PERIOD:** 0

12 **4. PLANNING STAFF REPORT:**

- 13
- 14 • City Council
 - 15 ○ December 2 – Housing Element Work Session
 - 16 ○ December 14 – ADU Ordinance: Public Hearing on amended Ordinance
 - 17 ○ December 15 – Concurrent ZORP Subcommittee and ZAB Subcommittee
- 18 • Planning Commission
 - 19 ○ January 19
 - 20 ▪ Public Hearing: Tentative Tract Map: Kala Bagai way
 - 21 ▪ Public Hearing: Citywide Affordable Housing Requirements
 - 22 ○ February 2
 - 23 ▪ Scoping Session for Housing Element EIR
- 24 • Objective Standards
 - 25 ○ Self- guided tour and survey available for [West Berkeley](#) and [Downtown Berkeley](#)

26 **Information Items:**

- 27 • None.

29 **Communications:**

- 30 • BART Communications

31 **Late Communications:** *See agenda for links.*

- 32 • Supplemental Packet One
- 33 • Supplemental Packet Two
- 34 • Supplemental Packet Three

35 **5. CHAIR REPORT:**

- 36 • None.

37

38 **6. COMMITTEE REPORT:** Reports by Commission committees or liaisons. In addition to the
39 items below, additional matters may be reported at the meeting.

- 40
- 41 • None.

42 **7. APPROVAL OF MINUTES:**

43 Motion/Second/Carried (Twu/ Vincent) to approve the Planning Commission Meeting Minutes
44 from November 3, 2021.

45

46 Ayes: Hauser, Kapla, Mikiten, Moore, Oatfield, Twu, and Vincent. Noes: None. Abstain: None.
47 Absent: Ghosh and Wiblin. (7-0-0-2)

48

49 **8. OTHER PLANNING RELATED EVENTS:**

- 50 • None.

51 **AGENDA ITEMS**

52 **9. Public Hearing: Tentative Tract Map Application #8621: 1169-1173 Hearst Avenue**

53 Staff provided some background information on the Tentative Tract Map process for review,
54 the related, entitled development project, and the Tentative Tract Map application at 1169-
55 1173 Hearst Avenue. After staff's presentation, the Planning Commission held a public
56 hearing, received public comment, and made a recommendation to City Council.

57 Motion/Second/Carried (Vincent/Mikiten) to close public hearing on the Tentative Tract Map
58 Application #8621: 1169-1173 Hearst at 7:30pm.

59

60 Ayes: Hauser, Kapla, Mikiten, Moore, Oatfield, Twu, and Vincent. Noes: None. Abstain: None.
61 Absent: Ghosh and Wiblin. None. (7-0-0-2)

62

63 Motion/Second/Carried (Vincent/Mikiten) to recommend that the City Council approve
64 Tentative Tract Map #8621: 1169-1173 Hearst, subject to the conditions and findings in
65 Attachment 1 of the staff report.

66

67 Ayes: Hauser, Kapla, Mikiten, Moore, Oatfield, Twu, and Vincent. Noes: None. Abstain: None.
68 Absent: Ghosh and Wiblin. None. (7-0-0-2)
69

70 **Public Comments: 0**

71

72 **10. Zoning Ordinance Revision Project (ZORP) Update**

73 Staff provided an update on the ZORP project, describing Phase I and II of the project. As
74 part of Phase I, the new Zoning Ordinance went into effect on Wednesday, December 1,
75 2021. Phase II of ZORP will include substantive amendments to the new Zoning Ordinance.

76 **Public Comments: 0**

77

78 Motion/Second/Carried (Vincent/Twu) to adjourn the Planning Commission meeting at
79 7:49pm.

80
81 Ayes: Hauser, Kapla, Mikiten, Moore, Oatfield, Twu, and Vincent. Noes: None. Abstain: None.
82 Absent: Ghosh and Wiblin. None. (7-0-0-2)
83

84 **Members in the public in attendance: 2**

85 **Public Speakers: 0**

86 **Length of the meeting: 45 minutes**



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: January 19, 2022
TO: Members of the Planning Commission
FROM: Layal Nawfal, Associate Planner
SUBJECT: Public Hearing: Tentative Map #8626 for 2023-2025 Kala Bagai Way
(APN 057-2034-8)

RECOMMENDATION:

Hold a Public Hearing to approve Tentative Map #8626 pursuant to Berkeley Municipal Code (BMC) Section 21.16.047, subject to the attached Findings and Conditions (see *Attachment 1*) and consistent with Berkeley's Tentative Maps Ordinance BMC 21.16, the Subdivision Map Act, and Berkeley's General Plan.

BACKGROUND

Tentative Tract Map #8626 would subdivide 48 dwelling units (including 4 units available to very-low-income households) and 1 commercial unit, within a recently permitted development project. The development project will provide rooftop usable open space, a ground floor lobby, 1,250 square feet of ground floor commercial space, and secure storage for 34 bicycles. The development project -- which includes construction of a 24,178 square-foot, seven-story, 73'5" tall, mixed-use building -- was approved by the Zoning Adjustments Board (ZAB) on June 6, 2020.

I. Application Basics

A. Table 1: Chronology of Subdivision Application:

October 8, 2021	Map Application submitted
November 18, 2021	Map Application considered complete
January 19, 2022	Planning Commission Public Hearing

B. CEQA Determination:

Construction of the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15332 of the CEQA Guidelines ("In-fill Development Projects"). Approval of the Tentative Map is also categorically exempt pursuant to

Section 15331 of the CEQA Guidelines which involves the operations and permitting of existing facilities involving no expansion of use beyond prior approvals. 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 will not affect any historical resource.

C. Parties Involved:

Applicant: Moran Engineering, Inc.

Property Owner: Mevlanarumi LLC

II. Project Description

On June 6, 2020, ZAB found the project at 2023-2025 Kala Bagai Way (formally known as 2023-2025 Shattuck Avenue) consistent with the 2002 General Plan, the goals and policies of the Downtown Mixed-Use District (C-DMU) District, and State Density Bonus law. ZAB approved Use Permit #ZP2019-0041 to develop the parcel (APN 057-2034-8), including the construction of a 24,178 square-foot, seven-story, 73'5" tall, mixed-use building with 1 commercial unit 1,250 square feet in area and 48 dwelling units (including 4 units available to very-low-income households).

III. Analysis

A. Subdivision Map Act Consistency:

The Public Works Department has reviewed the form and content of the Tentative Tract Map, and has verified that it contains the content required by the Subdivision Map Act, including the subdivision number, the legal address of the legal owner or subdivider, sufficient legal description to define the boundary of the proposed subdivision, the location, right of way width, and name of existing streets or highways, the widths, location, and identity of all existing easements. The Public Works Department has determined that the Tentative Tract Map is suitable for review by the Planning Commission.

B. Tentative Maps Ordinance (BMC Chapter 21.16) Consistency:

The Planning Commission may approve, conditionally approve, or deny the tentative map in accordance with BMC Section 21.16.047. According to this section of the Code, the Planning Commission shall deny approval of the tentative map if it makes any of the following findings from BMC Section 21.16.047.A through 21.06.047.G.

A: That the proposed map is not consistent with the applicable general and specific plans.

B: That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

C. The site is not physically suitable for the proposed density of development.

Staff Analysis: The subject property and proposed improvements were evaluated and found to be consistent with the General Plan and Zoning Ordinance, and the density was found to be physically appropriate for the site and consistent with applicable zoning regulations, and State Density Bonus Law, in conjunction with the Zoning Permits issued by the Zoning Adjustments Board (ZAB) on June 6, 2020. Therefore, Staff does not believe that Findings A, B or C can be made.

- D. That the design of the subdivision or the type of the improvements is likely to cause environmental damage or substantially and avoidably injure fish, or wildlife, or their habitat.*
- E. That the design of the subdivision or the type improvements is likely to cause serious public health problems.*

Staff Analysis: The potential for substantial environmental damage, or harm to fish and wildlife, or their habitat, or the likelihood of public health problems was evaluated when the Use Permit for the project were approved by the ZAB on June 6, 2020. This included a review to determine whether any of the exceptions to the CEQA Exemption for in-fill development were present. No potential environmental or public health impacts were found. Staff does not believe that either Findings D or E can be made.

- F. That conflicts with existing public access easements, in accordance with Section 6674(g), of the Subdivision Map Act, which states: "That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision."*

Staff Analysis: The City of Berkeley Public Works department has verified that the proposed Subdivision will not conflict with any easements of record or with any easements established by judgment of a court.

- G. That the design of the subdivision does not provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.*

Staff Analysis: Subdivision of the project into condominiums will not alter passive or natural heating or cooling opportunities since it is limited to the subdivision of

previously entitled and permitted multiple family residences. Staff does not believe that Finding G can be made.

C. Inclusionary Housing and Affordable Housing Mitigation Fee

Use Permit #ZP2019-0041 utilized State Density Bonus Law, per Table 2 below:

Table 2: Base Project & Density Bonus Calculations

Floor	Base Project		Proposed Project	
	Residential Gross Floor Area (GFA)	Base Units	Residential GFA with Density Bonus Units (DBU)	Total Units (Base + DBU)
1 st	1,493	0	1,909	0
2 nd	2,988	7	3,439	8
3 rd	2,988	7	3,439	8
4 th	2,988	7	3,439	8
5 th	2,988	7	3,439	8
6 th	2,988	7	3,439	8
7 th	-	-	3,439	8
Totals:	16,433	35	22,543	48
Average Unit Size	Base Project: 470 sq. ft.		Proposed Project: 470 sq. ft.	
Qualifying Units	Density Bonus Desired	Required % of Very Low Income (VLI) for Density Bonus Desired	Raw # (11% of Base Units)	Rounded Up (per Density Bonus Law)
4	35%	11%	3.85	4
4 VLI Units Allows For:		Rounded Up (per Density Bonus Law)	Total (Base+DBU)	
12.25 Density Bonus Units (DBU)		13 DBU	48 Units	

The Use Permit includes the development of five or more units, and is also subject to BMC Section 22.20.065 (Affordable Housing Mitigation Fee (AHMF)). Table 3 (below) provides a breakdown of how the proposed Very Low-Income (VLI) units are considered in the calculation of the AHMF. BMC Section 22.20.065(D) states that projects that include VLI Units, including Qualifying Units, qualify to pay a proportional discounted fee if providing fewer than the number of units equal to 20% of the total units in the project per the following equation¹:

$$[A \times \text{Fee}] - [(B+C)/(A \times 20\%) \times (A \times \text{Fee})]$$

Where: A = Total number of units in the project, B = Number of VLI Units provided in the project, and C = Number of Low-Income Units provided in the project.

Table 3: Inclusionary Units and AHMF Calculations

¹ Please note that the adopted fee is subject Consumer Price Index (CPI) adjustments annually and any applicable future amendments to the Berkeley Municipal Code.

Description	Number of Units	Notes
Units in Project	Base units for Density Bonus: 35 Total number of units: 48	Per Use Permit #ZP2019-0041
Inclusionary Units required per BMC Chapter 22.20	9.6 (20% of total units)	Other options: <ul style="list-style-type: none"> • 9.6 x Fee; or • 9 units + (0.6 x Fee)
Below Market Rate units per Density Bonus Law	4 VLI (11% of base units)	Per Government Code 65915
Proportional Discount per BMC Section 22.20.065(D)	9.6 – 4 = 5.6	[A x Fee] – [(B+C)/(A x 20%) x (A x Fee)]

As a condition for approval of the Use Permit, the project will comply with the applicable Below Market Rate (BMR) affordable housing requirements for rental by:

1. Providing four (4) deed-restricted units as affordable rental housing units for VLI households to comply with the State Density Bonus Law (Government Code Section 65915); and
2. Payment of the AHMF into the Housing Trust Fund -- prorated to cover the project's 5.6 units that are not provided on-site to satisfy AHMF requirements.

Conditions of Approval for Use Permit #ZP2019-0041 required a Regulatory Agreement with the City that implements State Density Bonus Law (Government Code Section 65915) and the Use Permit. The Regulatory Agreement requires that the BMR units will be reasonably dispersed throughout the project, will be of the same size as the non-BMR units in the project, and will be comparable with the design of non-BMR units in terms of appearance, materials and finish quality.

Following discussions with the applicant team, the approved BMR units will remain as permanent rental units in perpetuity at the assumed VLI household price levels in accordance with BMC Chapter 22.20.065. This would result in the BMR units remaining as rental units while the remaining units may be sold to individual property owners.

If the applicant proposes to convert to approved VLI rental units to Moderate-Income for-sale units, the City will reassess the number of units required for Moderate-Income for-sale units as defined by BMC Section 23.328.060 (Inclusionary Unit Requirements for Ownership Properties), and State Density Bonus and require modification of the Use Permit or Regulatory Agreement.

IV. Public Notice/Comment

BMC Section 21.16.045 requires public notice in a local paper. Notice was provided

as follows:

- Published in the Berkeley Voice on January 7, 2022
- Posted at the subject property on January 6, 2022; and
- Mailed to the applicant and owner of the subject property, and to owners and occupants of properties abutting upon or confronting 2023-2025 Kala Bagai Way, on January 6, 2022.

At the time of the writing of this report, there has been no public comment received.

DISCUSSION AND NEXT STEPS

After reviewing report, Planning Commission will hold a public hearing, receive public comment, and vote to make a recommendation to City Council that includes the Findings and Conditions on Tentative Map #8626.

ATTACHMENTS

1. Findings and Conditions
2. Tentative Map #8626
3. Condominium Plans for Tentative Map #8626
4. Notice of Public Hearing

KEY LINKS

1. June 11, 2022. 2023-2025 Shattuck Avenue (now known as 2023-2025 Kala Bagai Way), Zoning Adjustments Board (ZAB)
https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/2023-25_Shattuck.aspx

ATTACHMENT 1

FINDINGS AND CONDITIONS

JANUARY 19, 2022

2023-2025 Kala Bagai Way

Tentative Tract Map #8626 to subdivide 48 dwelling units (including 4 units available to very-low-income households) and 1 commercial unit, within a recently permitted development project which includes construction of a 24,178 square-foot, seven-story, 73'5" tall, mixed-use building per Use Permit #ZP2019-0041 (formally known as 2023-2025 Shattuck Avenue approved by the Zoning Adjustments Board on June 6, 2020.

CEQA FINDINGS

1. Construction of the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15332 of the CEQA Guidelines ("In-Fill Development Projects") and the approval of the Tentative Map is also categorically exempt pursuant to Section 15331 of the CEQA Guidelines which involves the operations and permitting of existing facilities involving no expansion of use beyond prior approvals. 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 will not affect any historical resource.

TENTATIVE MAP FINDINGS

2. Pursuant to Berkeley Municipal Code Section 21.16.047, the Planning Commission cannot make any of the seven findings for denial of the tentative map for the following reasons:
 - A. The proposed Tentative Map #8626 is consistent with the applicable General Plan policies because:
 1. The proposed Tentative Map is consistent with Policy LU-3 (Infill Development). It exemplifies an appropriate infill, mixed-use development for its particular location in the Core sub-area of the Downtown Mixed-Use District (C-DMU) District.
 2. The proposed Tentative Map is consistent with Policy H-32 (Regional Housing Needs) because it would create 48 new ownership dwelling units including four deed-restricted affordable units.

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B. The design and development of the project proposed to be subdivided is consistent with the City of Berkeley's General Plan because:

1. The proposed Tentative Map is consistent with Action A of Policy LU-7 (Neighborhood Quality of Life) and Action A of Policy LU-27 (Avenue Commercial Areas) because it would feature street-facing commercial storefronts that improve the pedestrian experience along the street frontage.
2. The proposed Tentative Map is consistent with Policy LU-3 (Infill Development), UD-16 (Context) and UD-24 (Area Character). It will result in minimal shadow impacts for existing development (primarily mixed-use) in the project vicinity due to its solar orientation and characterization as in-fill within the Downtown Area.

C. The project site and proposed improvements were evaluated and found to be consistent with the General Plan and Zoning Ordinance. The density was found to be physically suitable for the site and consistent with applicable zoning regulations, in conjunction with the Zoning Permits issued by the Zoning Adjustments Board on June 6, 2020.

D. The project will not have adverse environmental effects or substantially and avoidably injure fish or wildlife in their habitat since it is limited to the subdivision of condominium units in a building that has been evaluated to determine whether any of the exceptions to the CEQA Exemption for in-fill development relating to environmental damage or harm to fish and wildlife or their habitat, and none were found.

E. The design of the subdivision and the proposed improvements will not likely cause serious health problems because it is a residential subdivision in a mixed-use area with compatible neighboring development.

F. The project will not conflict with any public access easements, as determined pursuant to a review by the Berkeley Public Works Department.

G. The project will not alter passive or natural heating or cooling opportunities because it is located in a dense commercial mixed-use district where there are many similar existing buildings adjacent to the property that are not reliant on solar energy.

STANDARD CONDITIONS

1. The Final Map shall be submitted for certification and shall be recorded in compliance with the *Berkeley Municipal Code*, Title 21, and with the *Subdivision Map Act* of the State of California.
2. Prior to approval of the Final Map, a copy of the Conditions, Covenants, and Restrictions (C, C & Rs) shall be filed with the Planning and Development Department.
3. Prior to approval of the Final Map, an Affordable Housing Regulatory Agreement shall be entered into with the City's Health, Housing and Community Services Department that specifies the number, location, and pricing of units that will be affordable in order to remain

2023-2025 KALA BAGAI WAY

compliant with State Density Bonus Law (California Government Code 65915-65918) and the City's Inclusionary Housing Ordinance (BMC Chapter 23.328) and Affordable Housing Mitigation Fee (BMC 22.20.065), as applicable. The Regulatory Agreement shall include the following language: "Pursuant to GCS 65915(c)(1)(A), all Qualifying Units shall be maintained as Very Low-Income rental units for the Density Bonus Period and shall not be sold separately to owner-occupants."

4. The *Standard conditions of approval for all subdivisions, new condominiums and commercial condominium conversions within the City of Berkeley*, dated January 1994, applies and shall be satisfied prior to approval of the Final Map. (Attachment 1, Exhibit A)

Exhibit A

STANDARD CONDITIONS OF APPROVAL FOR ALL LAND SUBDIVISIONS, NEW CONDOMINIUMS AND COMMERCIAL CONDOMINIUM CONVERSIONS WITHIN THE CITY OF BERKELEY

SECTION I: GENERAL

A. Sidewalk, Driveway, Curb and Gutter Repair:

Missing, damaged, deteriorated or non-standard sidewalk, driveway, curbing and/or gutter, adjacent to the subdivision, shall be replaced to the standards and approval of the Department of Public Works. In the event that such replacement causes any survey markers, either set under surveys performed in conjunction with this subdivision or by some other survey, to be moved or obliterated, such marks shall be replaced, after the installation of the new concrete, and such replacement shall be attested to in writing by the project engineer/surveyor.

B. Street Repair:

Missing, badly pot-holed, alligatored, or similarly substandard streets, adjacent to or contiguous with the subdivision shall be constructed or reconstructed to City standards and shall be subject to the approval of the Department of Public Works.

C. Drainage:

No drainage of surface or intercepted ground waters into the sanitary sewer system will be allowed. Existing non-conforming systems (including roof, yard, or interior drains) shall be disconnected, sealed, and the flow redirected into the existing storm water drainage system in accordance with the standards of the Department of Public Works (Ordinance No.: 5030 N.S.).

D. All drainage shall be designed to comply with the City's clean water ordinance (Ordinance No.: 6216 N.S.).

E. Drain Structures:

Existing drainage facilities (including catch basins, drain culvert inlets, storm drains, culverts, and sanitary sewers) altered by any work done in connection with this subdivision shall be restored in accordance with design and construction standards in use by the Department of Public Works at the time of such new construction.

F. Encroachments:

All encroachments into the public right-of-way shall be removed, unless an encroachment permit is obtained through the Department of Public Works (Ordinance No.: 5514 N.S.).

G. Underground Structures:

Underground fuel tanks or other private subsurface structures, within the public right-of-way, which are not in use, shall be removed. If the fuel tank currently is in use, the subdivider shall request the City of Berkeley Fire Department to test it. Such testing shall be at the expense of the subdivider. If the test results are found to be satisfactory, the subdivider shall apply for an underground fuel tank permit (if one does not exist). If the test results are unsatisfactory, the tank shall be promptly removed by the subdivider.

H. Utilities and Service Lines:

1. The subdivider shall be responsible for relocating all underground and/or overhead utilities or service lines which may serve adjacent properties and which cross over, under or through the ground or airspace of the proposed subdivision. In lieu of relocating such utilities or aerial service lines, the subdivider may provide appropriate easements. If existing utilities or service lines cross beneath a house or other structure (proposed or existing), such utilities or services must be relocated in accordance with the standards and approval of the Department of Public Works.
2. Applicant shall install all utilities requiring trenching in streets scheduled for repaving (list of such streets is attached) prior to the actual street paving. Applicant is directed to contact the various utilities several months in advance prior to trenching so that they can obtain all required permits. Failure to perform such trenching prior to paving may result in denial of an excavation permit by the Director of Public Works and will result in imposition of additional trenching and pavement restoration requirements.

I. Weeds, Debris, etc.:

Noxious weeds, shrubs, debris, etc., must be removed from the public right-of-way along the frontage of the subdivision.

J. Geological Report:

Subdivisions within the Seismic Special Study Zone must provide a geological report approving the new lots for their intended use.

K. City Monuments:

When there is no existing City monumentation in the immediate area of the subdivision, where required by state law or as directed by the Department of Public Works, the subdivider shall have such monuments constructed and established in conformance with the standards and approval of the Department of Public Works. Such work shall be done by the subdivider's appropriately licensed Engineer or Surveyor, and such monuments shall be verified by the Engineering Division of the City of Berkeley, at the sole expense of the subdivider.

L. Street Trees:

When, required by the Planning Commission or the City Council, all trees required to be planted within the public right-of-way along with their method of planting, shall be subject to the approval of the Department of Public Works, Parks/Marina Superintendent.

M. Additional Conditions:

In addition to the above standards, additional conditions of approval may be imposed by the Board of Adjustments, the Planning Commission, or the City Council to reflect circumstances associated with specific properties.

N. Final Map:

The final map shall be certified and recorded in compliance with the City of Berkeley Municipal Code Title 21, and with the Subdivision Map Act of the State of California.

General Note:

When any work is required to the "standards and approval of the Department of Public Works," such work must be inspected and/or verified by the Department of Public Works and a written release of such requirements obtained by the subdivider.

Section II: New Condominiums

In addition to the requirements of Section I above, if the subdivision is a new condominium, the following standards shall apply:

A. Smoke Detectors and RECO Requirements:

When new building are to be constructed, such buildings shall meet the City of Berkeley Residential Energy Conservation Ordinance (RECO) requirements, and each unit within the building shall be equipped with the smoke detectors.

B. New Sanitary Lateral:

When a new sanitary sewer lateral line is to be installed, any existing lateral lines shall be located and sealed at the sanitary sewer main in accordance with the standards and requirements of the Department of Public Works. New lateral(s) shall have a cleanout installed immediately at the back of the curb.

C. Existing Sewer Lateral:

If re-use of an existing sanitary lateral is desired, the lateral must satisfy an approved pressure test, as determined by the City Engineer.

D. Conditions, Covenants, and Restriction:

A copy of the Conditions, Covenants, and Restrictions (C.C. & R's) shall be filed with the Department of Public Works prior to approval of the Final Map.

E. Tentative and Final Parcel Maps:

A map of the interior division of the building showing both the horizontal and vertical boundaries of all units shall be provided so that deeds can be written without ambiguity as to location. The interior division map may be in the form of attachments to the C.C. & R's and recorded therewith. If they are in attachment form, a copy thereof is required to be filed with the Department of Public Works.

F. Final Map:

The final map shall show all common areas of usage of the building and grounds and shall conform to the provisions of the City of Berkeley Municipal Code, Title 21.

G. City Access to Common Areas:

The City reserves the right to enter common areas of the condominium to abate public nuisances and to charge the cost of such abatement to the condominium association.

Section III: COMMERCIAL OR INDUSTRIAL CONDOMINIUM CONVERSIONS

In addition to Section I, above, if the subdivision is a Condominium Conversion, the following standards shall apply:

A. Tenant Provisions

Commercial or industrial condominium conversions shall comply with the following tenant provisions:

1. A notice of intent to convert shall be delivered to each at least sixty (60) days prior to filing a tentative map. Evidence of receipt by each tenant shall be submitted with the tentative or parcel map. The form of the notice shall be developed and approved by the Planning Director. It shall inform the tenants of all rights provided under this chapter and the Subdivision Map Act.

2. Any present tenant or tenants of any unit shall be given a non-transferable right of first refusal to purchase the unit occupied at a price no greater than the price offered to the general public. The right of first refusal shall extend for at least ninety (90) days from the date of issuance of the subdivision public report or sixty (60) days from the commencement of sales, which date is later.
3. Each non-purchasing tenant not in default under the obligations of the rental agreement or lease under which he occupies his unit shall have not less than one hundred and twenty (120) days from the approval date of the final subdivision or parcel map to find substitute facilities and relocate. The subdivider shall notify each tenant immediately prior to the time of the final map or parcel map approval of the anticipated date required to vacate the unit and when the 120-day period will begin. Evidence of receipt by each tenant shall be submitted prior to approval of the final map.
4. After submittal of the tentative or parcel map, any prospective tenants shall be notified in writing of the intent to convert prior to leasing or renting any unit.

B. Code Conformance, Smoke Detectors, and RECO Requirements:

The buildings involved shall be brought into conformance with the Plumbing, Electrical, Housing, and Uniform Building Codes, including sound conformance standards, and with the Residential Energy Conservation Ordinance (RECO) requirements. Each unit shall also be equipped with a smoke detector. These requirements shall be satisfied prior to approval of the final map or a subdivision improvement agreement, which is satisfactory to the Department of Public Works, which guarantees that such conformance has been executed by the subdivider.

C. Conditions, Covenants, and Restrictions:

A copy of the Conditions, Covenants, and Restrictions (C.C. & R's) shall be filled with the Department of Public Works prior to approval of the final map.

D. Tentative and Final Parcel Maps:

A map of the interior division of the building(s) showing both the horizontal and vertical boundaries of all the units shall be provided so that deeds can be written without ambiguity as to location. The interior division map may be in the form of attachments to the C.C. & R's and recorded therewith. If the interior division maps are in attachment form, a copy thereof is required to be filled with the Department of Public Works.

E. Notice of Decision:

The subdivider shall furnish each prospective buyer with a copy of the Planning Commission's Notice of Decision approving the Tentative Map.

F. Final Map:

The Final Map shall show all common areas and usage of the building grounds and shall conform to the provisions of the Berkeley Municipal Code, Title 21.

G. Existing Lease:

Existing leases will be honored until expiration, with the subdivider or purchaser being responsible for owner association dues or for assessments imposed as a result of the conversion.

H. City Access to Common Areas:

The City reserves the right to enter common areas of the condominium to abate public nuisances and to charge the cost of abatement to the condominium association.

STORMWATER CONDITIONS OF APPROVAL

Discharges from the City of Berkeley's stormwater system are regulated under a National Pollutant Discharge Elimination System (NPDES) permit. The permit requires that the City emphasize source controls for all construction work within its jurisdiction. To comply with this requirement, the City requires all construction projects to employ appropriate best management practices (BMP's) during construction and throughout the life of the development, and incorporate permanent stormwater quality controls, as appropriate to minimize impacts on water quality. The water quality includes both pollutant and flow concerns. To comply with the NPDES permit, the City adopted its stormwater ordinance, as promulgated in Berkeley Municipal Code (BMC) Chapter 17.20. Following are items which must be implemented for your project, in order to meet the requirements of the NPDES permit and BMC Chapter 17.20.

The project plans shall identify and show site-specific BMP's 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.

The project plan shall include erosion control measures to prevent soil, dirt, and debris from entering the storm drain system, in accordance with BMC Chapter 17.20, examples of which are outlined in the *ABAG Erosion and Sediment Control Handbook*, *California Storm Water Best Management Practice Handbooks*, *Regional Water Quality Control Board's Erosion and Sediment Control Field Manual*. The applicant is responsible for ensuring that all contractors and subcontractors are aware of, and implement, all stormwater quality and pollution control measures. Failure to employ appropriate measures to prevent stormwater pollution and protect stormwater quality shall result in the issuance of correction notices, citations, or a project stop order.

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.

Landscaping shall be designed with efficient irrigation to reduce runoff and 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.

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.

All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.

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 such facilities are accepted by the City by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.

ALAMEDA COUNTYWIDE CLEAN WATER PROGRAM

Project Worksheet for Permanent Stormwater Quality Controls

Page 1 of 3

Project Name:	
Location:	
Description:	
Total Project Area:	Area Soil Disturbed:
Completed by: (include name, title, company)	Date:

Select one of the following that best describes your development project.

Low and Medium Density, Single-family Residential Complete Section A

High Density, Multi-family Residential Complete Section B and C

Residential Infill and Redevelopment Project Complete Section B and C

Commercial/Industrial Development and Redevelopment Complete Sections B, C, and G

Institutional Development and Redevelopment or Roadwork Complete Sections B, C, and G

Development projects must include site planning and design techniques to prevent and minimize impacts to water quality. If sufficient site planning measures are not implemented or not feasible, development projects must include permanent (post construction) stormwater quality controls.

A. Required or Alternative Controls for Low and Medium Density, Single-Family Residential – Check that you have incorporated the following site planning and design techniques into your project.

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Minimized directly connected impervious area. If yes, describe how: (check all that apply)
		<input type="checkbox"/> roof drains to pervious areas
		<input type="checkbox"/> vegetated filter strips, grassed swales and biofilters, or other infiltrative landscaping
		<input type="checkbox"/> porous pavement
		<input type="checkbox"/> modular pavement or other permeable materials
		<input type="checkbox"/> other: _____
<input type="checkbox"/>	<input type="checkbox"/>	Minimized disturbed area
<input type="checkbox"/>	<input type="checkbox"/>	Used clustering
<input type="checkbox"/>	<input type="checkbox"/>	Preserved quality open space
<input type="checkbox"/>	<input type="checkbox"/>	Maintained, restored if possible, riparian areas and wetlands

• If you responded "no" to any of the above, complete Section D. Otherwise, you are done.

B. Required or Alternative Controls for Other Types of Projects – Check that you have incorporated the following site planning and design technique into your project.

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Minimized directly connected impervious area. If "yes", describe how: (check all that apply)
		<input type="checkbox"/> roof drains to pervious areas
		<input type="checkbox"/> vegetated filter strips, grassed swales and biofilters, or other infiltrative landscaping
		<input type="checkbox"/> porous pavement
		<input type="checkbox"/> modular pavement or other permeable materials
		<input type="checkbox"/> other: _____

• If you responded "no", complete Sections C and D. If you responded "yes", complete Section C.

Project Worksheet for Permanent Stormwater Quality Controls

Project Name: _____

C. Controls Where Feasible – Check what site planning and design techniques you have incorporated into your project.

- | Yes | Not Feasible | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Minimized disturbed area |
| <input type="checkbox"/> | <input type="checkbox"/> | Used clustering |
| <input type="checkbox"/> | <input type="checkbox"/> | Preserved quality open space |
| <input type="checkbox"/> | <input type="checkbox"/> | Maintained, restored if possible, riparian areas and wetlands |
| <input type="checkbox"/> | <input type="checkbox"/> | Other: |

• If you responded "not feasible" to any of the above, complete Section D.

D. Constructed on-Site Treatment Controls

- | Yes | Not Feasible | | Attach | <input type="checkbox"/> | Maintenance plan |
|--------------------------|--------------------------|------------------------------------|--------------------------|--------------------------|------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Grass swales and biofilters | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Infiltrative landscaping | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Porous pavement and modular pavers | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Other: | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |

• If you responded "not feasible" to any of the above, complete Section E.

E. Constructed Downstream Treatment Controls

If none of the on-site drainage and treatment controls is feasible or sufficient, select the downstream treatment control your project will implement.

- | Yes | Not Feasible | | Attach | <input type="checkbox"/> | Maintenance plan |
|--------------------------|--------------------------|-------------------------|--------------------------|--------------------------|------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Extended dry detention | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Constructed wetlands | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Vegetated filter strips | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Bioretention systems | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Wet ponds | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Sand Filters | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | <input type="checkbox"/> | Other: | <input type="checkbox"/> | <input type="checkbox"/> | Maintenance plan |

• If you responded "not feasible" to all of the above, complete Section F.

F. Manufactured Treatment Controls

- | | | | | |
|--------------------------|----------------------------|--------|--------------------------|--|
| <input type="checkbox"/> | Storm drain inlet filters. | Attach | <input type="checkbox"/> | Explanation why this is the only feasible option and |
| | | | <input type="checkbox"/> | Maintenance plan |
| <input type="checkbox"/> | Oil/sediment separators. | Attach | <input type="checkbox"/> | Explanation why this is the only feasible option and |
| | | | <input type="checkbox"/> | Maintenance plan |

Other: _____

Explain how this control is appropriate for the pollutant load expected in stormwater runoff from this project:

- | | | |
|--------|--------------------------|--|
| Attach | <input type="checkbox"/> | Explanation why this is the only feasible option and |
| | <input type="checkbox"/> | Maintenance plan |

Project Worksheet for Permanent Stormwater Quality Controls

Project Name: _____

To the extent possible, pollution prevention controls for commercial/industrial development and redevelopment projects must also be considered during site planning and design. Outdoor activity areas must be designed so that no non-stormwater (e.g., washwaters, automotive and equipment fluids, garbage fluids, etc.) discharges to the storm drain. These outdoor activity areas must also be protected from run-on and run-off to minimize pollutant exposure to rain.

G. Pollution Prevention Controls for Commercial/Industrial Development and Redevelopment

Check that you have incorporated appropriate control measures to eliminate non-stormwater discharges from the following outdoor activity areas. Attach description.

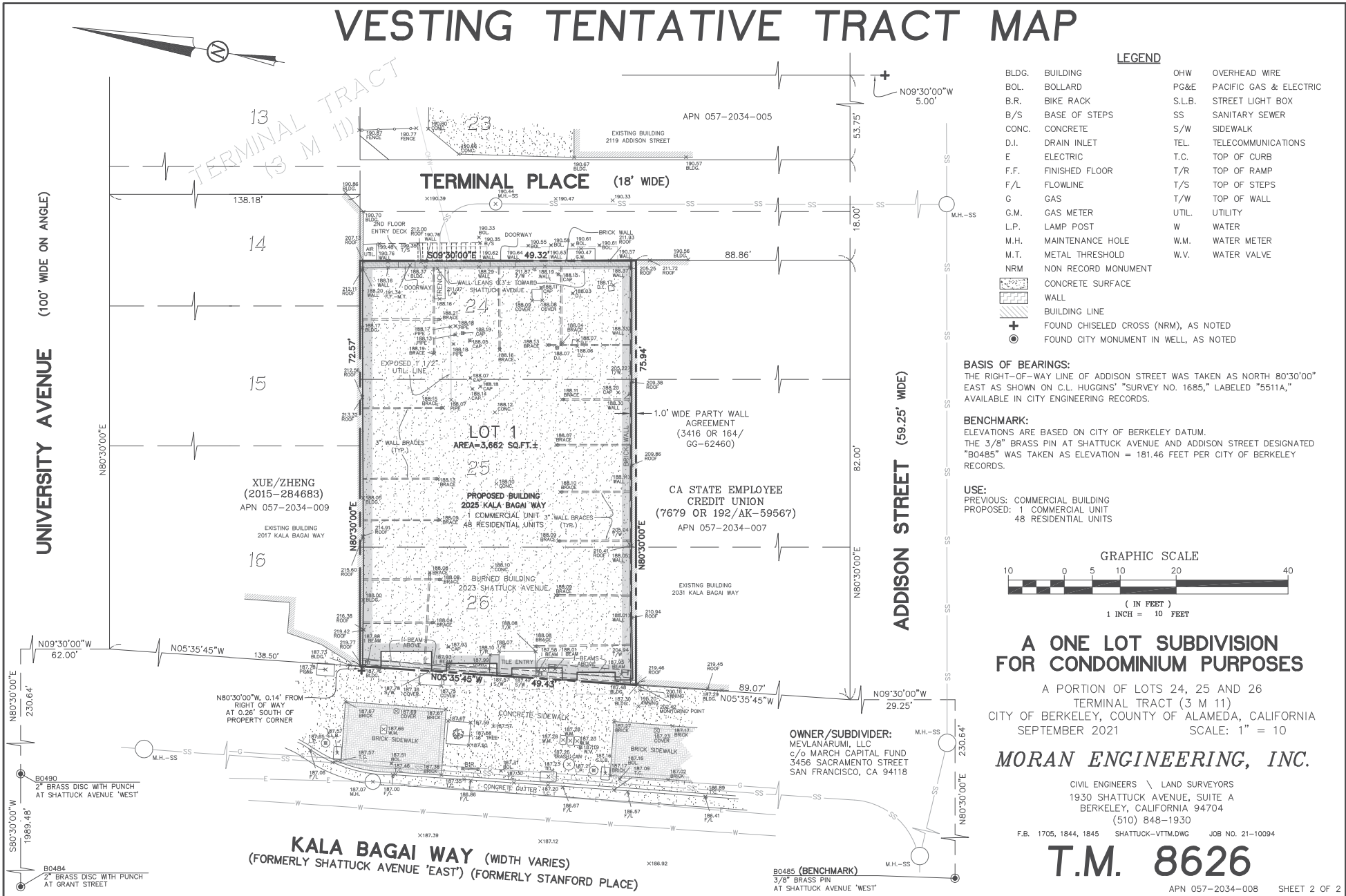
NOTE: If pollution prevention controls are not included with the project application, agency staff can require additional controls as Conditions for Approval.

Yes	No	NA	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Manufacturing and Process Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Material Storage and Transfer Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Waste Storage and Disposal Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Vehicle and Heavy Equipment Storage and Maintenance Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wash Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rooftop Equipment

Check that you have incorporated appropriate control measures to minimize pollutant exposure from the following outdoor activity areas. Attach description.

Yes	No	NA	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Manufacturing and Process Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Material Storage and Transfer Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Waste Storage and Disposal Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Vehicle and Heavy Equipment Storage and Maintenance Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wash Areas
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rooftop Equipment

VESTING TENTATIVE TRACT MAP



LEGEND

BLDG.	BUILDING	OHW	OVERHEAD WIRE
BOL.	BOLLARD	PG&E	PACIFIC GAS & ELECTRIC
B.R.	BIKE RACK	S.L.B.	STREET LIGHT BOX
B/S	BASE OF STEPS	SS	SANITARY SEWER
CONC.	CONCRETE	S/W	SIDEWALK
D.I.	DRAIN INLET	TEL.	TELECOMMUNICATIONS
E	ELECTRIC	T.C.	TOP OF CURB
F.F.	FINISHED FLOOR	T/R	TOP OF RAMP
F/L	FLOWLINE	T/S	TOP OF STEPS
G	GAS	T/W	TOP OF WALL
G.M.	GAS METER	UTIL.	UTILITY
L.P.	LAMP POST	W	WATER
M.H.	MAINTENANCE HOLE	W.M.	WATER METER
M.T.	METAL THRESHOLD	W.V.	WATER VALVE
NRM	NON RECORD MONUMENT		
	CONCRETE SURFACE		
	WALL		
	BUILDING LINE		
	FOUND CHISELED CROSS (NRM), AS NOTED		
	FOUND CITY MONUMENT IN WELL, AS NOTED		

BASIS OF BEARINGS:

THE RIGHT-OF-WAY LINE OF ADDISON STREET WAS TAKEN AS NORTH 80°30'00" EAST AS SHOWN ON C.L. HUGGINS' "SURVEY NO. 1685," LABELED "5511A," AVAILABLE IN CITY ENGINEERING RECORDS.

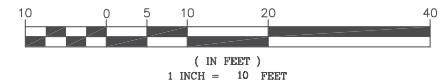
BENCHMARK:

ELEVATIONS ARE BASED ON CITY OF BERKELEY DATUM. THE 3/8" BRASS PIN AT SHATTUCK AVENUE AND ADDISON STREET DESIGNATED "B0485" WAS TAKEN AS ELEVATION = 181.46 FEET PER CITY OF BERKELEY RECORDS.

USE:

PREVIOUS: COMMERCIAL BUILDING
 PROPOSED: 1 COMMERCIAL UNIT
 48 RESIDENTIAL UNITS

GRAPHIC SCALE



A ONE LOT SUBDIVISION FOR CONDOMINIUM PURPOSES

A PORTION OF LOTS 24, 25 AND 26
 TERMINAL TRACT (3 M 11)
 CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA
 SEPTEMBER 2021 SCALE: 1" = 10'

MORAN ENGINEERING, INC.

CIVIL ENGINEERS \ LAND SURVEYORS
 1930 SHATTUCK AVENUE, SUITE A
 BERKELEY, CALIFORNIA 94704
 (510) 848-1930

F.B. 1705, 1844, 1845 SHATTUCK-VTM.DWG JOB NO. 21-10094

T.M. 8626

APN 057-2034-008 SHEET 2 OF 2

EXHIBIT "A"

NOTES AND DEFINITIONS:

1. THIS PROJECT IS LOCATED IN LOT 1 OF TRACT MAP 8626, IN THE CITY OF BERKELEY, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK _____, PAGES _____ OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER. THIS PROJECT IS COMPOSED OF ASSOCIATION PROPERTY (AP), COMMON AREA, 1 COMMERCIAL UNIT AND 48 RESIDENTIAL UNITS.
2. THE CONDOMINIUM DELINEATED HEREIN IS SUBJECT TO THE PROVISIONS OF THE DAVIS-STIRLING COMMON INTEREST DEVELOPMENT ACT, PART 5, DIVISION FOUR OF THE CIVIL CODE.
3. THIS PLAN AND THE DIMENSIONS SHOWN HEREIN ARE INTENDED TO CONFORM TO CIVIL CODE SECTIONS 4285(d) AND 4285(b), WHICH REQUIRES A THREE DIMENSIONAL DESCRIPTION OF THE PROJECT IN SUFFICIENT DETAIL TO IDENTIFY THE COMMON AREAS AND EACH SEPARATE INTEREST. THE DIMENSIONS SHOWN HEREIN ARE NOT INTENDED TO BE SUFFICIENTLY ACCURATE TO USE FOR THE COMPUTATION OF FLOOR AREA OR AIR SPACE VOLUME IN ANY OR ALL OF THE UNITS.
4. THE DIAGRAMMATIC PLANS INTENTIONALLY OMIT DETAILED INFORMATION OF INTERNAL PARTITIONING WITHIN INDIVIDUAL UNITS. LIKewise, SUCH DETAILS AS PROTRUSIONS OF VENTS, BEAMS, COLUMNS, WINDOW CASINGS, AND OTHER SUCH FEATURES ARE NOT INTENDED TO BE REFLECTED ON THIS PLAN.
5. THE ASSOCIATION PROPERTY IS ALL OF THE LAND AND REAL PROPERTY INCLUDED WITHIN THE BOUNDARY LINES OF SAID LOT 1, EXCEPT THOSE PORTIONS SHOWN AND DEFINED HEREIN AS COMMON AREA AND CONDOMINIUM UNITS.
6. FOR ALL OTHER DEFINITIONS REFER TO THE "DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF 2025 KALA BAGAI WAY."
7. IF THERE ARE ANY MATTERS OF CONFLICT OR INCONSISTENCIES BETWEEN THIS CONDOMINIUM PLAN AND THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, THEN THE PROVISIONS OF THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS SHALL PREVAIL.
8. ALL DIMENSIONS ARE IN FEET AND DECIMALS OF A FOOT.
9. BENCHMARK: ELEVATIONS ARE BASED ON CITY OF BERKELEY DATUM. THE 3/8" BRASS PIN IN MONUMENT WELL (B0485) AT THE INTERSECTION OF SHATTUCK STREET AND THE WEST SIDE OF SHATTUCK AVENUE WAS TAKEN AS ELEVATION=181.46 FEET PER CITY OF BERKELEY ENGINEERING RECORDS.

SURVEYOR'S STATEMENT

I HEREBY STATE THAT I AM A LICENSED LAND SURVEYOR OF THE STATE OF CALIFORNIA AND THAT THIS PLAN CONSISTING OF 10 SHEETS WAS PREPARED BY ME AND IS BASED UPON THE ARCHITECTURAL PLANS PREPARED BY TRACHTENBERG ARCHITECTURE, AND IS A DESCRIPTION OF A CONDOMINIUM PROJECT WHICH REFERS TO THE BUILDING PERIMETERS ON THE GROUND AND A THREE DIMENSIONAL DESCRIPTION OF THE PROJECT IN SUFFICIENT DETAIL TO IDENTIFY THE COMMON AREAS AND EACH SEPARATE INTEREST PURSUANT TO THE REQUIREMENTS OF CALIFORNIA CIVIL CODE SECTION 4285 (a)&(b).

M.J. GUARE, LS 8361

DATE

CONDOMINIUM PLAN FOR 2025 KALA BAGAI WAY

LOT 1, TRACT MAP 8626
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA

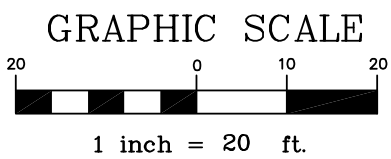
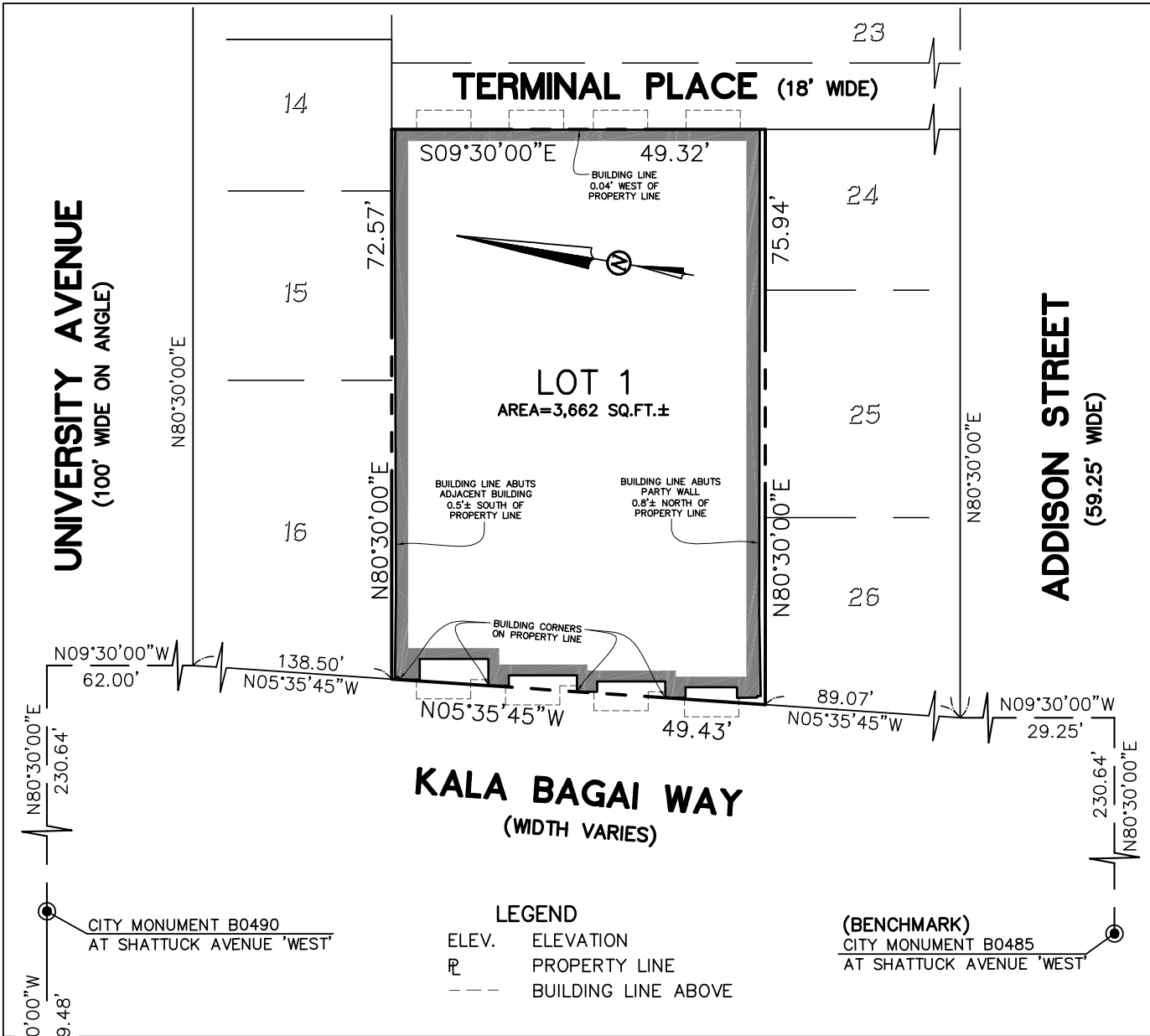
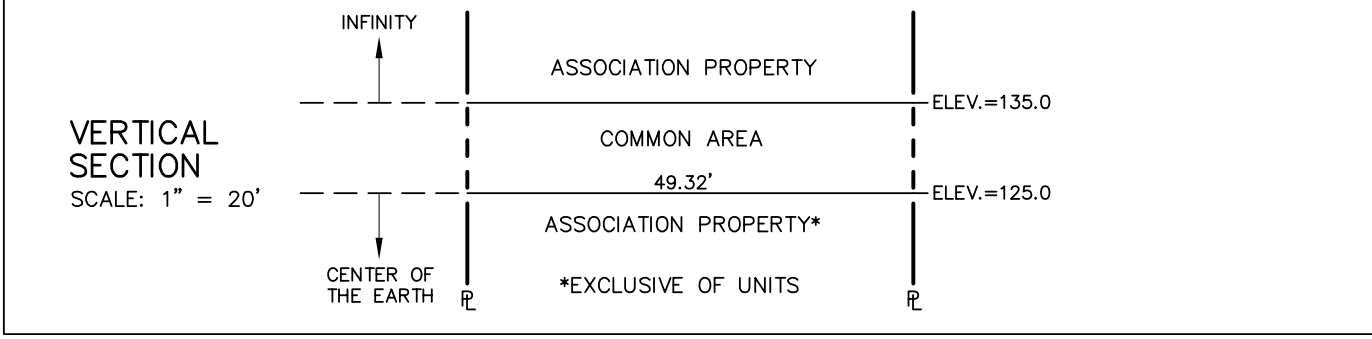
OWNER

MEVLANARUMI, LLC
c/o MARCH CAPITAL FUND
3456 SACRAMENTO STREET
SAN FRANCISCO, CA 94118

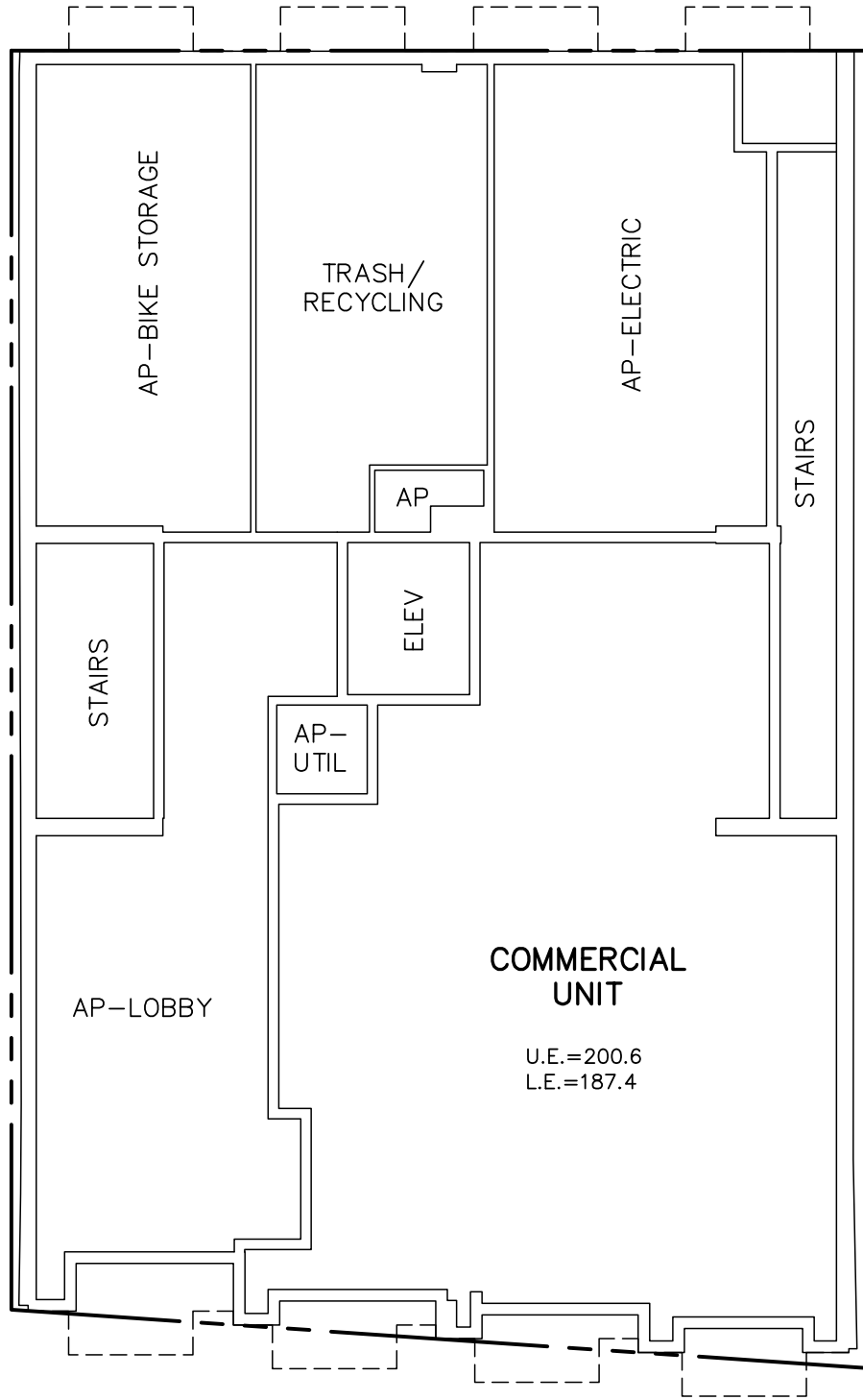
SEPTEMBER 2021

ENGINEER

MORAN ENGINEERING, INC.
1930 SHATTUCK AVENUE, SUITE A
BERKELEY, CA 94704
(510) 848-1930



PROJECT MAP
 SCALE: 1" = 20'

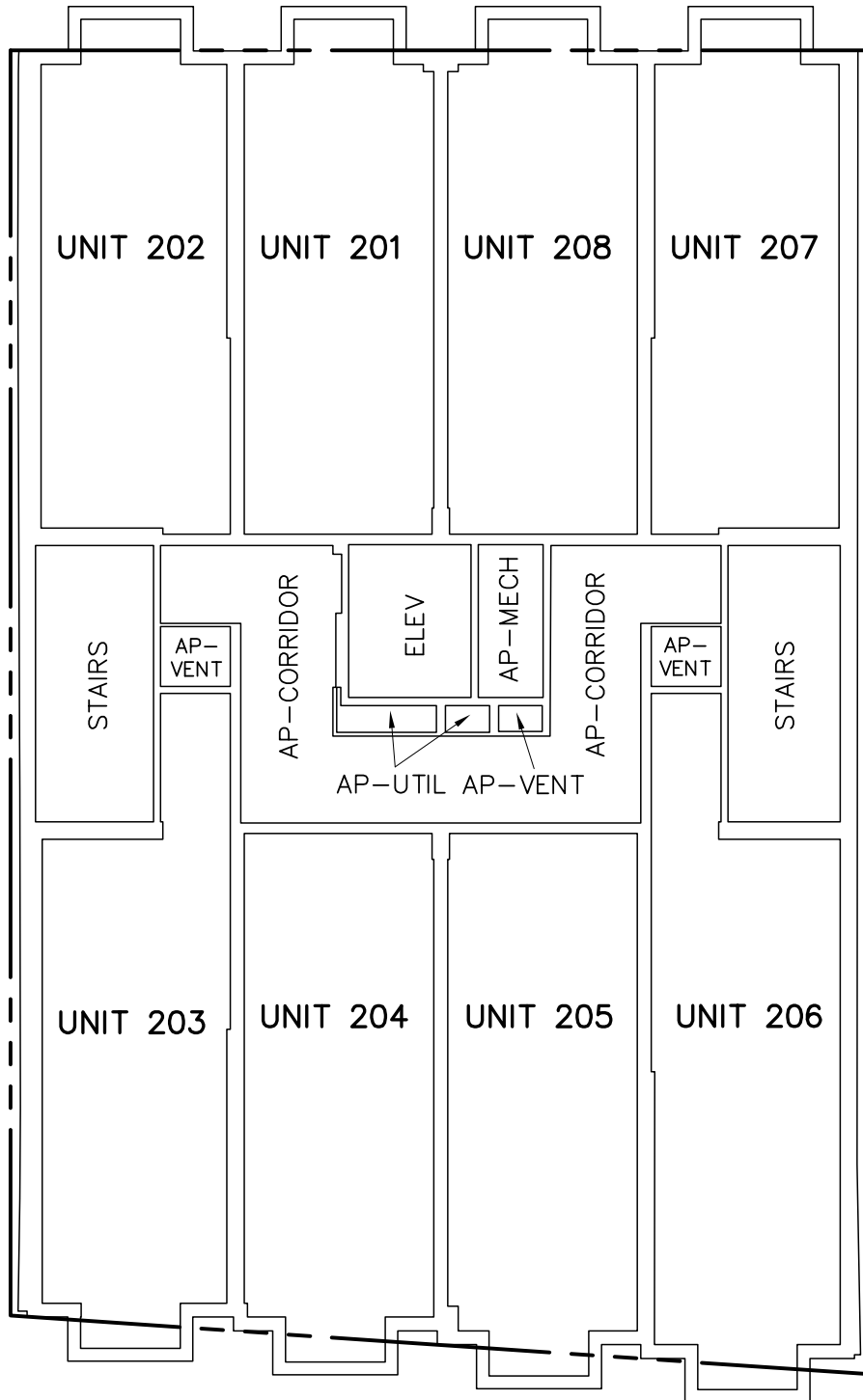


LEGEND

- AP ASSOCIATION PROPERTY
- ELEV ELEVATOR
- L.E. LOWER ELEVATION
- U.E. UPPER ELEVATION
- UTIL UTILITIES
- BUILDING LINE ABOVE

EXTERIOR WALL WIDTHS = EAST/WEST 0.7', NORTH/SOUTH VARIES
 INTERIOR UNIT WALL WIDTH = 0.6'

FIRST LEVEL
 SCALE: 1" = 10'



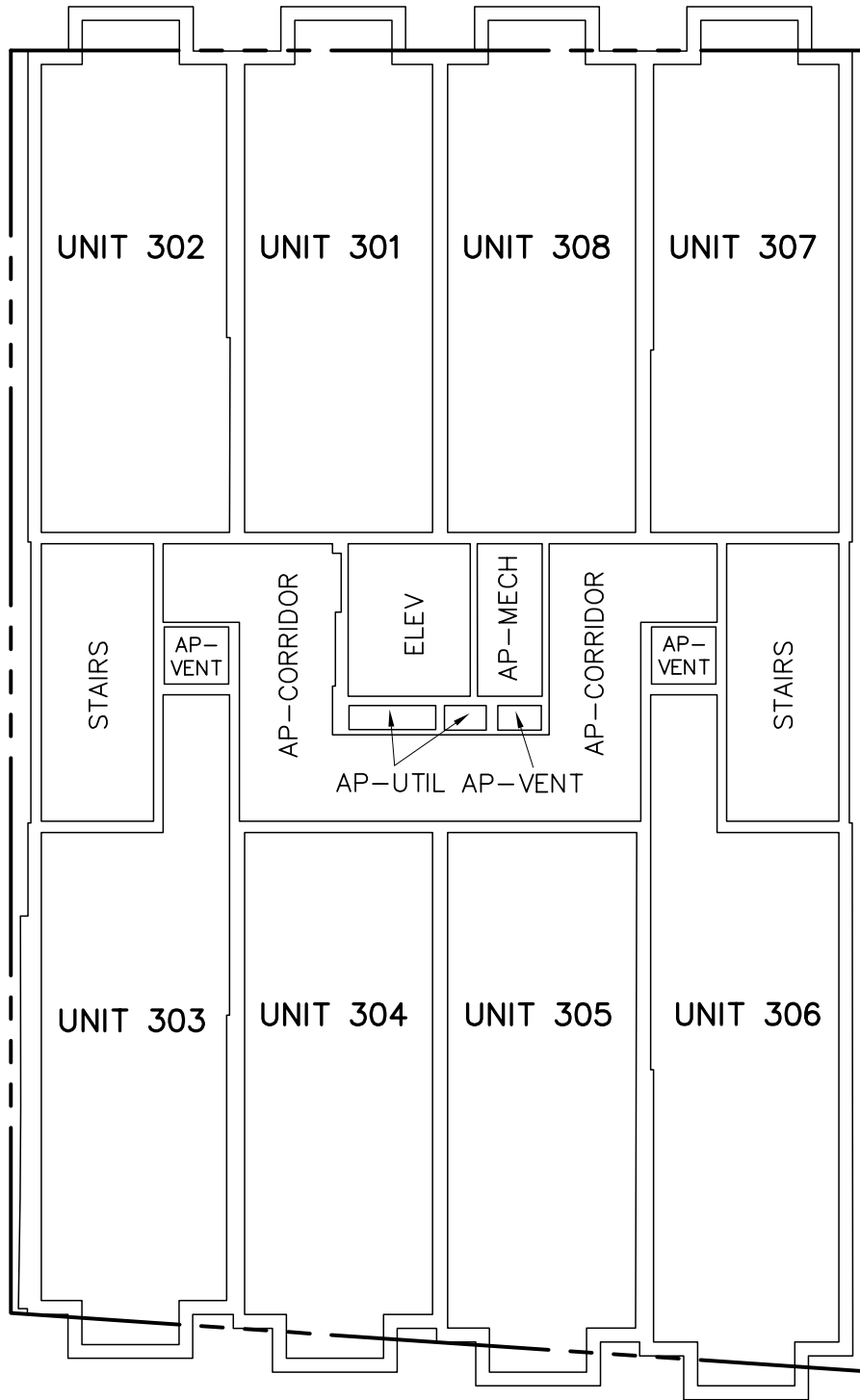
LEGEND

- AP ASSOCIATION PROPERTY
- ELEV ELEVATOR
- L.E. LOWER ELEVATION
- MECH MECHANICAL
- U.E. UPPER ELEVATION
- UTIL UTILITIES
- - - BUILDING LINE ABOVE

EXTERIOR WALL WIDTHS = EAST/WEST 0.75', NORTH/SOUTH VARIES
 WALL WIDTHS BETWEEN UNITS = 0.8'

U.E.=210.5
 L.E.=201.2

SECOND LEVEL
 SCALE: 1" = 10'



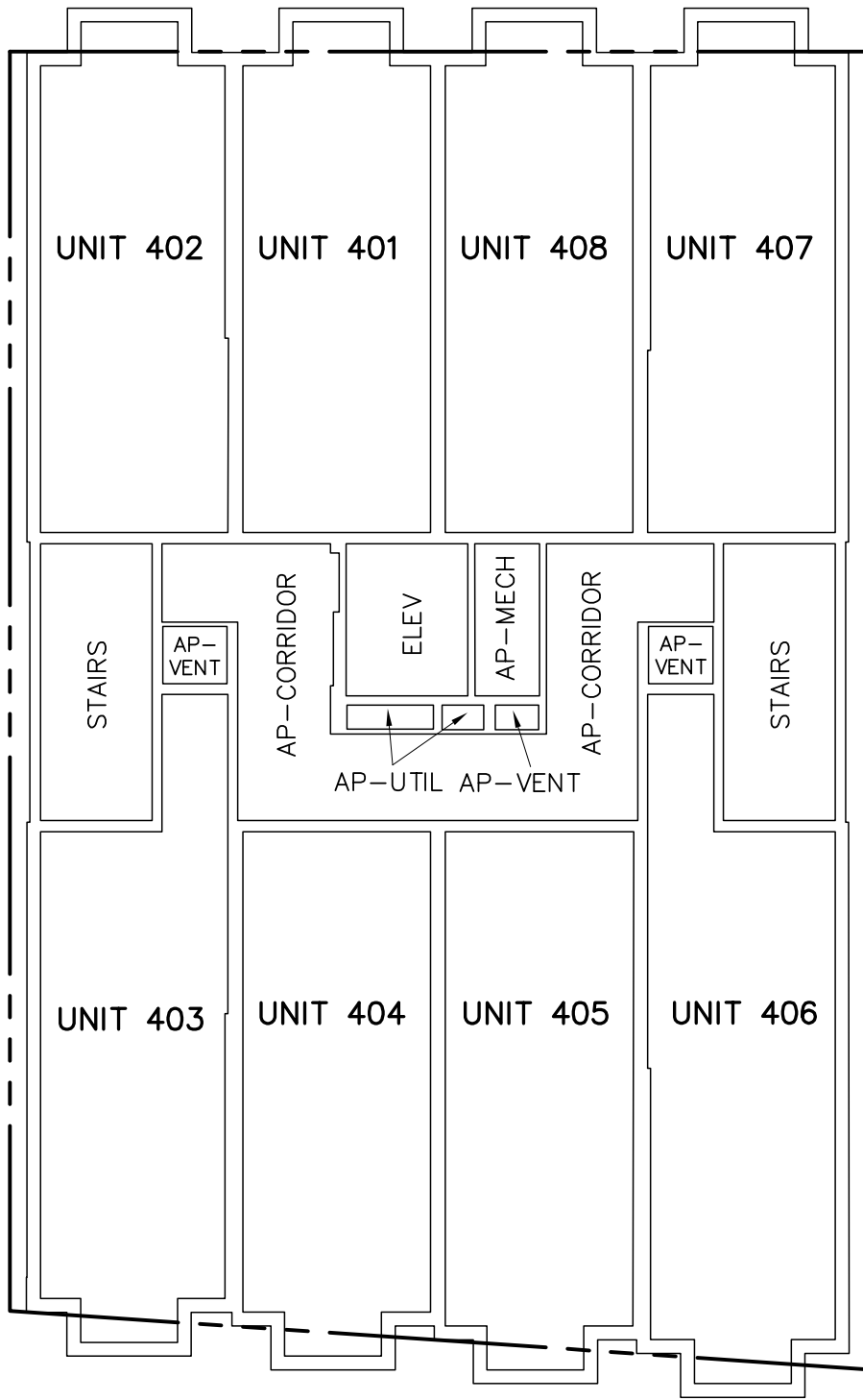
LEGEND

- AP ASSOCIATION PROPERTY
- ELEV ELEVATOR
- L.E. LOWER ELEVATION
- MECH MECHANICAL
- U.E. UPPER ELEVATION
- UTIL UTILITIES
- BUILDING LINE ABOVE

EXTERIOR WALL WIDTHS = EAST/WEST 0.75', NORTH/SOUTH VARIES
 WALL WIDTHS BETWEEN UNITS = 0.8'

U.E.=219.9
 L.E.=211.2

THIRD LEVEL
 SCALE: 1" = 10'



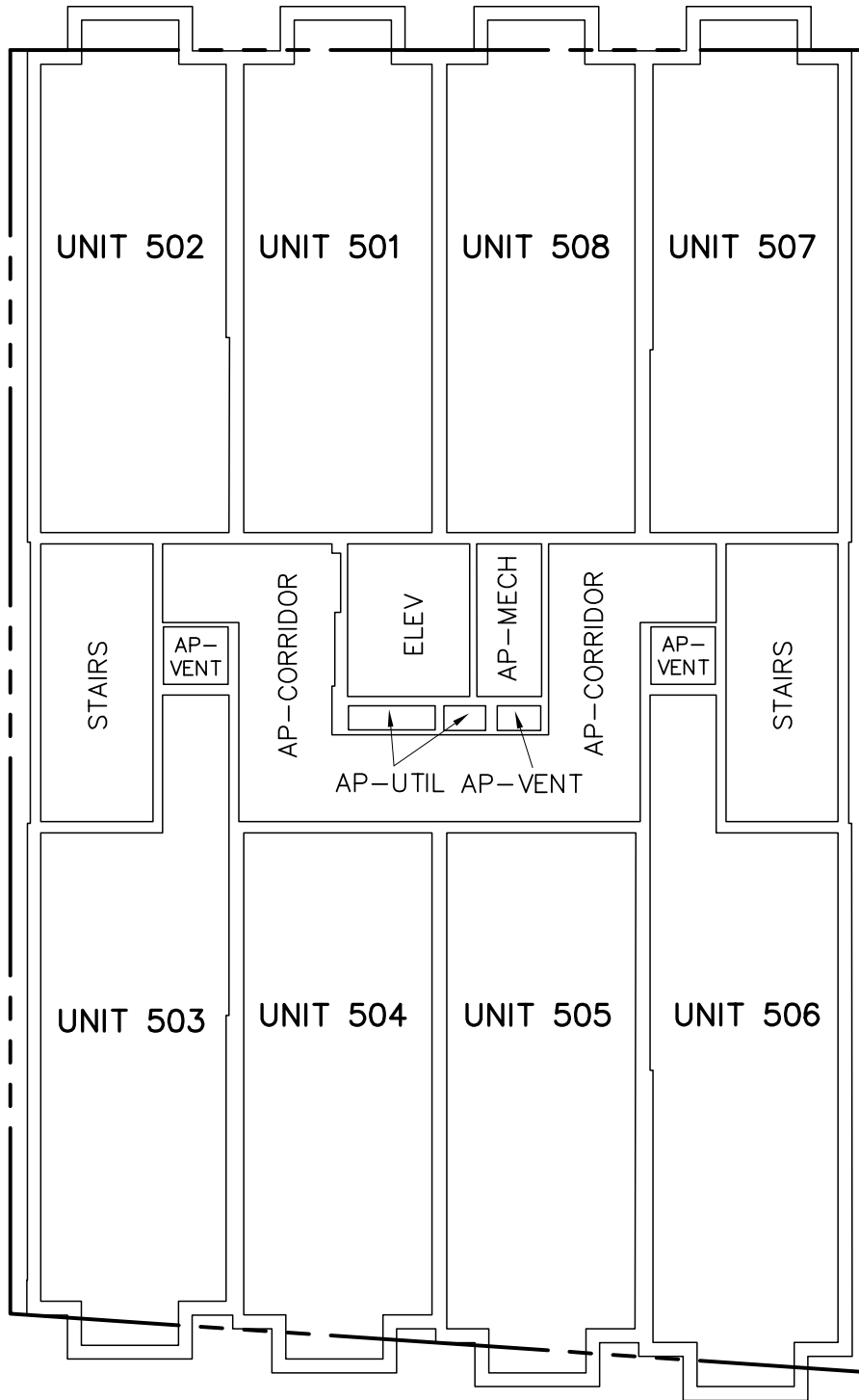
LEGEND

- AP ASSOCIATION PROPERTY
- ELEV ELEVATOR
- L.E. LOWER ELEVATION
- MECH MECHANICAL
- U.E. UPPER ELEVATION
- UTIL UTILITIES
- BUILDING LINE ABOVE

EXTERIOR WALL WIDTHS = 0.8'
 WALL WIDTHS BETWEEN UNITS = 0.8'

U.E.=229.9
 L.E.=221.2

FOURTH LEVEL
 SCALE: 1" = 10'



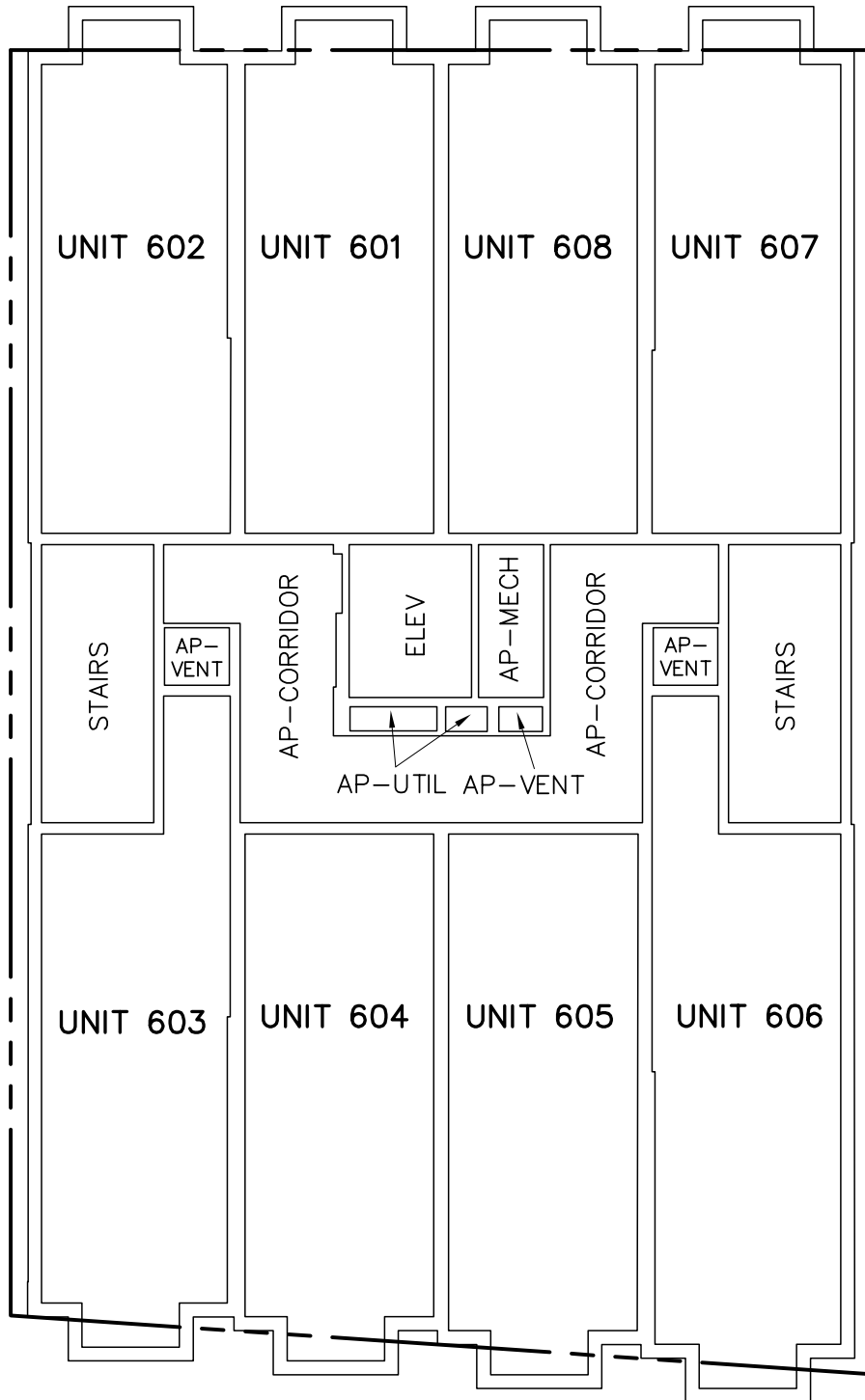
LEGEND

- AP ASSOCIATION PROPERTY
- ELEV ELEVATOR
- L.E. LOWER ELEVATION
- MECH MECHANICAL
- U.E. UPPER ELEVATION
- UTIL UTILITIES
- BUILDING LINE ABOVE

EXTERIOR WALL WIDTHS = 0.8'
 WALL WIDTHS BETWEEN UNITS = 0.8'

U.E.=239.9
 L.E.=231.2

FIFTH LEVEL
 SCALE: 1" = 10'



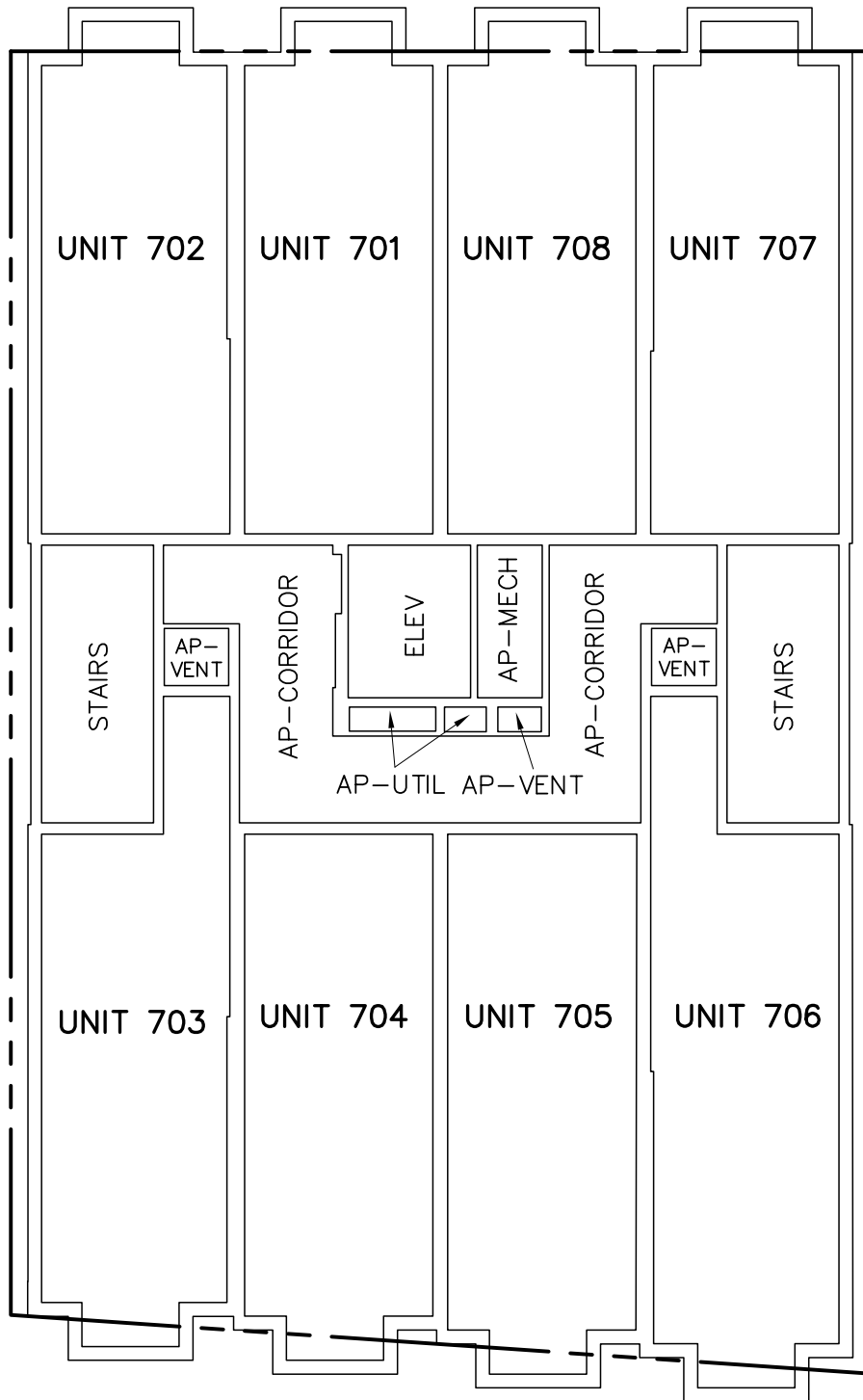
LEGEND

- AP ASSOCIATION PROPERTY
- ELEV ELEVATOR
- L.E. LOWER ELEVATION
- MECH MECHANICAL
- U.E. UPPER ELEVATION
- UTIL UTILITIES
- BUILDING LINE ABOVE

EXTERIOR WALL WIDTHS = 0.8'
 WALL WIDTHS BETWEEN UNITS = 0.8'

U.E.=249.6
 L.E.=240.9

SIXTH LEVEL
 SCALE: 1" = 10'



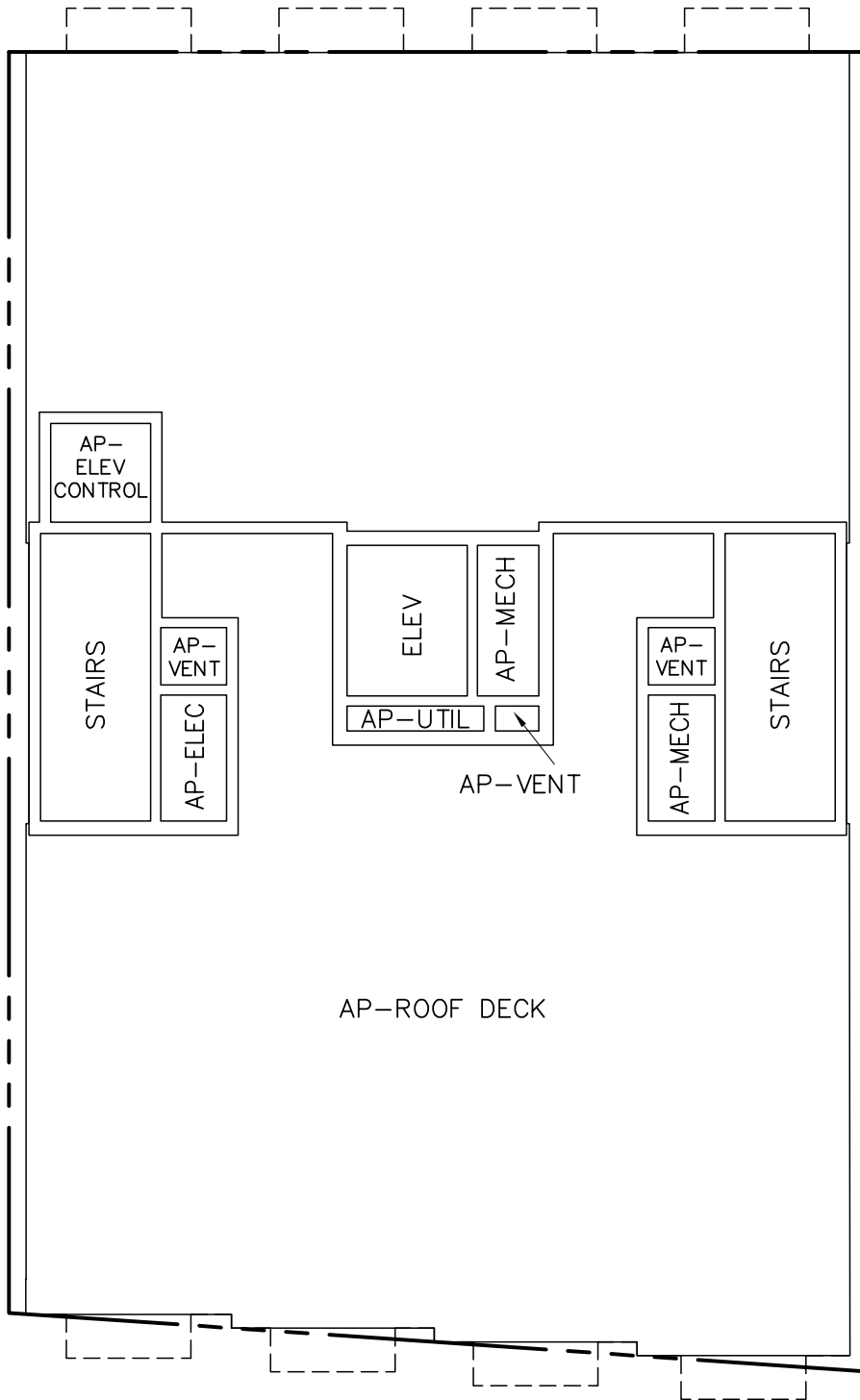
LEGEND

- AP ASSOCIATION PROPERTY
- ELEV ELEVATOR
- L.E. LOWER ELEVATION
- MECH MECHANICAL
- U.E. UPPER ELEVATION
- UTIL UTILITIES
- BUILDING LINE ABOVE

EXTERIOR WALL WIDTHS = 0.8'
 WALL WIDTHS BETWEEN UNITS = 0.8'

U.E.=259.9
 L.E.=251.2

SEVENTH LEVEL
 SCALE: 1" = 10'



LEGEND

- AP ASSOCIATION PROPERTY
- BUILDING LINE BELOW

ROOF
SCALE: 1" = 10'



PLANNING COMMISSION

Notice of Public Hearing

Wednesday, January 19, 2022

Tentative Tract Map #8626 – 2023-2025 Kala Bagai Way

The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 21.16.047, on **Wednesday, January 19, 2022 at 7:00 p.m.** **The hearing will be conducted via Zoom** – see the Agenda for meeting details. The agenda will be posted on the Planning Commission website (<https://www.cityofberkeley.info/PC>) no later than 5pm on January 14, 2022.

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 Planning Commission 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

PROJECT DESCRIPTION: Tentative Tract Map #8626 would subdivide 48 dwelling units (including 4 units available to very-low-income households) within a seven-story mixed-use building. The project would provide rooftop usable open space, ground floor lobby and commercial space, and secure storage for 34 bicycles. The development project was approved by the Zoning Adjustments Board (ZAB) on June 6, 2020.

PROJECT APPLICANT: Moran Engineering, Inc., 1930 Shattuck Ave. Suite A, Berkeley, CA 94704

LOCATION:
2023-2025 Kala Bagai Way, Berkeley CA, 94704



ENVIRONMENTAL REVIEW STATUS: Construction of the project is categorically exempt pursuant to Section 15332 of the CEQA Guidelines (“In-fill Development Projects”), and approval of the Tentative Map is also categorically exempt pursuant to Section 15331 of the CEQA Guidelines, which involves the operations and permitting of existing facilities involving no expansion of use beyond prior approvals.

PUBLIC COMMENT & FURTHER INFORMATION

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Commission. Comments may be made verbally at the public hearing and/or in writing before the hearing. Written comments must be directed to:

Alene Pearson
Planning Commission Secretary
Email: apearson@CityofBerkeley.info

City of Berkeley, Land Use Planning Division
1947 Center Street, 2nd Floor
Berkeley, CA 94704

Correspondence received by **12 pm on Wednesday, January 12, 2022**, will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by 12pm noon two days before this public hearing will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication one day before the public hearing.
- Correspondence received by 5pm one day before this public hearing, will be included in a second Supplemental Packet, which will be posted to the online agenda as a Late Communication by 5pm on the day of the public hearing.
- Correspondence received after 5pm one day before this public hearing will be saved as part of the public record.

Note: It will not be possible to submit written comments at the meeting.

COMMUNICATION ACCESS

To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice) or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability. All materials will be made available via the Planning Commission agenda page online at <https://www.cityofberkeley.info/PC/>.

FURTHER INFORMATION

Questions should be directed to Alene Pearson, at (510) 981-7489 or apearson@cityofberkeley.info. Current and past agendas are available on the City of Berkeley website at: <https://www.cityofberkeley.info/PC/>

From: Alfred Twu <alfredtwu@gmail.com>
Sent: Thursday, November 4, 2021 12:24 AM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: Comments on BART Zoning EIR

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hi Alene

Here are my comments on the BART zoning EIR

1. Add an Alternative 4, 20-30 story option

This would be similar to the buildings at MacArthur BART as well as the proposed buildings at West Oakland and Lake Merritt. The 12-story height proposed in Alternative 3 is one that most likely will not be economically feasible (12-story buildings are rare as they are just tall enough to require costly features, but don't add much density relative to 8 or 9 story buildings)

To reduce impacts on neighbors, this alternative should limit the tall buildings to the center of the site, or along Adeline St or Sacramento St. I would recommend an FAR of 7 for this alternative.

2. Allow Nursing Homes

Nursing homes are allowed in all the other apartment zones in Berkeley.

3. Keep the Density Requirements at 75 units minimum

With the proposed FAR of 4.2, 75 units/acre is more than 2,400 square feet per unit, which is a lot even after hallways and commercial space are subtracted. If density were capped at 75 units/acre max, that would encourage developers to build very large 6-bedroom units that are more like group housing than regular apartments.

4. Consider setting a specific distance for the setback requirement

While 15 feet is a very large and inflexible number for upper story setbacks, state law may require that some number be set for minimum setback requirements in order for it to be an objective standard. I would suggest 6 feet, this is small enough that unit plans can still stack (the lower floors will just have slightly larger bedrooms and living rooms), it is also large enough to provide private open space at the setback floor.

5. Include Open Space over the BART Tunnel in the lot area for the purpose of calculating FAR

While it makes sense to exclude the station building, residential open space can be provided over the tunnels.

6. Consider excluding retail space from FAR calculations

Since residential space is in higher demand right now, having an overall cap on FAR could lead to developers maximizing the housing by having very little retail space. Excluding retail from the FAR cap could avoid this problem.

7. Bird-safe glass should be part of the main city code, rather than limiting it to the R-BMU zone
Bird collisions occur at smaller buildings as well. This issue should be considered separately.

Thanks
Alfred

From: Chip Moore <chip@420bb.com>
Sent: Monday, November 8, 2021 9:14 AM
To: Pearson, Alene <apearson@cityofberkeley.info>
Cc: Bondi, James <JBondi@cityofberkeley.info>; Lapira, Katrina <KLapira@cityofberkeley.info>
Subject: Notes from Planning Commission Meeting

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Ms. Pearson,

In the body of this email you will find my notes from the November 3rd, 2021 Berkeley Planning Commission Meeting.

I do not believe the Draft EIR or the Joint Vision and Priorities are in a place where they are not ready shape these development projects and the community impact can be accurately calculated without providing information on some more unknowns that should be addressed in the earliest stages of this process.

As a South Berkeley resident who lives 3 blocks from Ashby Bart, it is my lived experience that parking for residence and commuters is difficult within the neighborhood. Our streets are packed bumper to bumper in correlation with BART rider participation during the week. I think the lack of parking will have even more implied repercussions for driver's who choose to forgo BART and commute all over the BAY AREA, not just the Bridge, the congestion to Berkeley's Interstate on and off ramps and the Interstates that surround Berkeley should be examined. This directly effects South Berkeley and the community's quality of life. It is irresponsible to not focus on the impact of this new density will have to street parking and interstate transportation for commuters and residents.

The Draft EIR also discusses the cultural resources of South Berkeley historical significance that could dissipate if this project comes into south Berkeley is beyond discouraging. The idea to set up this plaque to give recognition to this historical place, is almost as if it a Gravestone to the community that still resides there.

I DO not support a statement of overriding considerations by the City Council, to create a historical account of the black community and its activism in the form of a plaque is a disservice to the community. The city of Berkeley was 41% African American in 1968, we not hover around 6% of Berkeley.

I support the 35% affordable housing baseline but believe we can do better at least 50% and raise the funding to do so.

We should only use a Not for Profit developer on public land, this seems appropriate.

I do not support alternative 3, and believe that if you give a developer an opportunity to go as high as possible they will find ways to do that...and with an affordable unit bonus, what is 7 Or 8 stories not will be become 10 stories when ll said and done.

Sincerely,

Chip Moore

December 2, 2021

Dear Commissioners and Staff,

Just a note, before I begin, about where I'm coming from. I've spent 30 years on a mission to create housing in Berkeley, mainly affordable housing. When I began in 1991, almost no one turned out in support, even for 100% affordable, award-winning buildings. I'm glad Berkeley has changed its tune.

Building housing on this site is the right thing to do, so rest assured while I say some things in defense of the neighbors, and in response to the State law itself.

I. Fairness: Massing, Parking, and Construction Impacts

Berkeley, along with many other cities, failed to meet housing demand over the last fifty years. If we had met demand, we would have up-zoned our corridors, increasing density in a rational pattern. Instead, cities resisted until the pressure was so great that the State accumulated the political will to issue clunky directives. We are now responding to a State law that could put buildings of 7 to 12 stories next to single story homes. That means that a handful of homeowners will bear the brunt of a collective 50 year failure. That is poor urban design, and no one should be shaming neighbors for saying so.

It is a challenging situation, yet there are some moves we can make that would have a positive impact on housing goals and climate objectives while improving the situation for the neighborhood.

- A. Since AB 2923 requires us to zone for a minimum of 7 stories, we should consider establishing a mechanism to allow for a sensitive redistribution of this mass.** The mechanism could allow for additional height along major corridors (Sacramento, MLK, Adeline) and at the center of the site in exchange for lower heights at the residential edges. "Step back" is not the appropriate term because it implies wedding cake buildings, as opposed to a redistribution of building mass on the site. This is an opportunity to resolve the height discussion in a way addresses both the need for housing and the desire to have a coherent urban form.
- B.** If the goal is transit based housing, then let's commit thoroughly. No neighborhood parking permits should be issued. There will still be a parking impact on neighborhood streets, since parking placards override the restriction. (I am not speaking against parking placards. My husband is a wheelchair rider and he uses his placard to park in many places that I cannot. I am simply pointing out that there will be some increase in on-street parking demand.) Apologies if this issue was addressed before my recent appointment.
- C.** In consideration of the neighbors, it would be best if the construction happened at all once. The worst case scenario would be to construct 4 or 5 buildings in phases, each with a 2 year construction period. No one wants to live through a decade of construction noise, traffic and dust. Therefore, unless there is community-based reason for staggering the construction—such as a separate affordable housing development—the JVP document should encourage proposals that consolidate construction timelines.

II. Strategic Response to the State Law

- D. AB 2923 appears to confer rights¹ to the developer upon selection before BART negotiates the project with the developer. Therefore, the RFQ should require developers to commit to abide by the results of the negotiation and the public process. Without such a commitment, a failed negotiation could have a major public cost if the developer demands that BART buy back the development rights conferred by the ENA.
- E. In any other circumstance, I would be opposed to Objective Standards because of the potential to be misused to inhibit development, however, under AB 2923 Objective Standards are the only tool available to Berkeley, and so I would support a limited and judicious use of standards. Possible elements include unit mix requirements to meet the needs of families as well as singles in large developments; landscaping; on-site property management for large developments; visibility of public spaces from the ROW for public safety purposes; maintenance of outdoor space; bike paths; and ADA accessibility at main entrances and paths of travel, rather than via separate routes as BART tends to do. Generally speaking, I am not in favor of universal step backs and set backs because they can create odd priorities and wasted space.
- F. Recently, there have been some shocking proposals in the news regarding windowless spaces. Because there is no bottom to the market pressure on housing, Berkeley might want to consider some universal minimum standards for windows, and—given the smoke situation in California—mechanical ventilation.

III. Costs and Benefits to Berkeley (Affordability)

- A. There's a relationship between the land lease price and the subsidy required for affordable housing. The City of Berkeley needs to be sure that any subsidy provided for affordable housing goes to affordable housing, and not BART's land price. This might be a task for the Mayor's Office.
- B. Berkeley needs to understand how much affordability its investment would create, therefore developers should be required to disclose the relationship between public investment and affordability levels. I suggest requiring a chart showing the project with and without City of Berkeley subsidy, and the resulting number, type, and level of affordable units. Developers should also disclose their intentions re: use of State Density Bonus, which factors into this analysis.
- C. In certain cases, HUD requires developers to obtain third party verification of the need for public dollars. Because the massive scale of Berkeley's potential investment here, Berkeley should require the same.
- D. This discussion has focussed solely on percentage affordable, capital "A," and with the anticipated subsidy from the City of Berkeley. However, there are other measures BART can implement as property owner. BART can remove one of the most egregious tactics used by property management to escalate rents beyond market rate. BART could require property

¹ AB2923: 29010.10. (a) When the district enters into an exclusive negotiating agreement with a developer for the development of an eligible TOD project, that agreement shall confer a vested right to proceed with development in substantial compliance with the provisions of Sections 29010.6, 29010.7, 29010.8, and 29010.9.

managers to list vacant properties at the same rent level most recently offered to the current tenant. This eliminates the practice of escalating rents above market rate, with the expectation that some portion of tenants will pay it rather than move, and then resetting the rent back down to market rate for any unit that was vacated. If BART will not create this restriction, then I advise the City Council to refer this issue to the Planning Department and the City Attorney for the possible creation of a citywide ordinance. We should probably be considering that anyway.

- E. I was once told by a Berkeley Councilmember that there is a shortage of landlords who are willing to accept Section 8 vouchers, which are a critical affordability mechanism in this community. If that's true, we should require property management to accept Section 8 vouchers for 10% of the market rate units, as an additional affordability strategy.

IV. Density Minimum and Maximum

- A. Because of the mechanics of State Density Bonus Law, I believe we need to set a maximum height as well as a minimum. In absence of that, staff should provide a very clear position paper to the Planning Commission illustrating the application of the Density Bonus under several scenarios. Without that, the Commission and the community will not know what is being approved.

Summary:

Here is a summary of my points, along with suggested placement in the formal documents. If you haven't read the discussion above, then I ask you not to react to this list until you do. Thank you.

I. Fairness: Massing, Parking, and Construction Impacts

- A. Establish a mechanism to appropriately distribute mass on the sites. (Zoning Ordinance)
- B. Commit to transit-oriented housing by restricting neighborhood parking. (Council action, possibly citywide for large developments.)
- C. Consolidate construction except in cases of community benefit. (JVP and RFQ)

II. Strategic Response to AB 2923

- A. Commitment to Abide (JVP, MOU, and RFQ)
- B. Objective Standards (Planning Commission, Council)
- C. Minimum Standards (Planning Commission, Council)

III. Costs and Benefits to Berkeley

- A. Mayor's office should discuss land lease values with BART, and request disclosure.
- B. Developer Disclosure of relationship between affordability and subsidy. (MOU, RFQ)
- C. Third party verification of required subsidy. (MOU, RFQ)
- D. BART action to ban egregious tactics. (JVP, MOU, RFQ)
- E. Action on Section 8 vouchers. (JVP, MOU, RFQ)

If you've read this far, thank you! I'm looking forward to our next discussion. Your thoughts and comments are welcome.

Yours,

A handwritten signature in black ink, appearing to read "Elisa Mikiten". The signature is written in a cursive, flowing style.

Elisa Mikiten, M.C.P.
City of Berkeley Planning Commissioner

cc: Lars Skerping

From: Christina Oatfield <christinaoatfield@gmail.com>
Sent: Wednesday, December 15, 2021 9:07 PM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: Comments on BART development plans

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Alene,

Thank you staff for all your work on the BART developments and I'm sorry my comments are coming so late. I have been trying to do a lot of reading. I hope this goes without saying, but I want to underscore how enthusiastic I am about housing development at the two BART stations; housing at these sites clearly will be a big win for Berkeley if we plan well. The two locations represent a unique and important opportunity for housing development in Berkeley so my criticisms are coming from a place of wanting to ensure that we make the most of this opportunity.

1) Nonprofit master developer. The zoning ordinance should require the master developer be a nonprofit corporation with 501(c)(3) tax-exempt status or an LLC which is a wholly owned subsidiary of one or more such a nonprofit corporations. The master developer should not be a partnership comprised of for-profits and nonprofits. And, it should definitely not be a for-profit.

2) Percentage of Affordable Units. More than 35% of units should be reserved as affordable, and I believe it's possible, especially if we slightly broaden our meaning of "affordable housing." The materials developed by staff thus far seem to indicate that "affordable" in the context of this project is referring to affordable for households earning 60% of AMI or less. While we certainly desperately need housing affordable to those very low income households, we also need affordable housing for households earning above 60% AMI, and in fact many sources of funding for affordable housing (including the Low Income Housing Tax Credits "LIHTC" program) allows for some resident households in affordable housing projects to be at or below 80% of AMI. Even households earning 100% of AMI struggle to find housing affordable to them in Berkeley. Perhaps if we slightly broadened our understanding of what we mean by "affordable housing" we might feel more confident about aiming for a larger portion of the housing being affordable. I'd suggest using 80% or below of AMI as the general meaning of "low income" when we are talking about affordable housing at the two BART sites.

But, I thought the decision about the percentage of affordable units has already been made, at least for Ashby BART Station, so I'm perplexed as to why we are even discussing this question at this point.

The Adeline Corridor Plan prescribes that housing at the Ashby BART site should be 100% affordable. While the Plan sets a target for the entire corridor to have only 50% of new housing development be affordable, the BART station and a

local fire station were identified as sites where 100% of housing should be affordable because as publicly-owned sites, these are likely the most feasible sites for affordable housing compared to virtually all other potential housing sites in the neighborhoods covered by the Adeline Corridor Plan (save for a tiny number of nonprofit owned affordable housing development sites on the horizon). The Adeline Corridor Plan was adopted as a culmination of much fanfare, which included lots of solicitations for public input and countless public hearings, open houses, public comment opportunities in various formats, etc. These processes took place over 5 years and reportedly cost the city over \$850,000 in staff time and consulting fees. Community groups organized around this process. In sum, great amounts of time, monetary resources, and intellectual effort were put into this plan. The message was abundantly clear throughout the process about the need to prioritize affordable housing development and the plan reflects that notion. The Planning Commission and City Council adopted this plan, thus making strong housing affordability commitments to the community that was so engaged.

Two excerpts from Chapter 4-3 of the Plan are below:

"To the maximum extent practical, these sites should be reserved for development of 100% affordable buildings or mixed-income projects in which more than 50% of the units are affordable. While the availability of local or outside housing subsidies may limit the pace at which these sites can be developed, land is a scarce resource and committing these sites for future affordable housing will facilitate a clear multi-year strategy for growing the stock of affordable homes."

"The two BART parking lots provide the most immediate opportunities for significant affordable housing development. To a large degree, the City's ability to implement the ambitious affordable housing goals outlined in this plan rests on coordination with BART to build large numbers of affordable housing units on these two sites."

The Adeline Corridor Plan makes some points about how including some market rate units at the BART station (among other public land sites) could help offset some of the costs of affordable housing. Chair Kapla and some other commissioners made very good points about how allowing some market rate units and maximizing the number of housing units overall would lead to the maximum amount of affordable units, and I personally am very sympathetic to the notion of allowing a mix of market rate and affordable housing at this site simply because I think mixed income developments (compared to concentrating low-income housing into segregated buildings or neighborhoods) are best for a lot of social reasons. But at the same time there has been so much "market rate" development compared to affordable housing development in Berkeley, there's been a huge imbalance, which needs to be remedied and I don't trust the market to come up with this remedy on its own. A number of housing justice advocates would reasonably argue that we need to do everything we can to focus on affordable housing at this point, and further, accommodating too many affluent households in the area risks further exacerbating gentrification and displacement; we cannot ignore the social dynamics of affluent people moving into a neighborhood and the ripple effects it may have (e.g. attracting more affluent residents, patronizing businesses tailored to more affluent residents, further exacerbating gentrification). These issues of housing economics are way complex and I don't pretend to be an expert on this topic. But anyway I look at it, setting a minimal target of 35% affordable units is simply not enough considering that this will be a very prominent set of new developments on public land and that the Ashby BART station area has been a location experiencing so much gentrification and displacement.

Regardless of my personal preferences, it's important to me that we follow the Adeline Corridor Plan which went through an extremely thorough process and was adopted by the Planning Commission and City Council and I don't feel like the prior materials presented to the Planning Commission really follow the Plan.

My proposal on the affordable housing question: if the prevailing expert opinions are that it's just really not feasible to require 100% affordable housing at these two BART sites, then let's aim for more than 50% affordable units at each BART site. I'm proposing the zoning ordinance require either all affordable or a mixed income development provided that the master developer is a nonprofit with 501(c)(3) tax-exempt status and that each BART location should have to abide by the IRS "safe harbor" rule for nonprofit affordable housing organizations articulated in IRS Revenue Procedure 96-32, 1996-1 C.B. 717. This is the IRS standard for 501(c)(3) charitable organizations that provide low-income housing and there are multiple ways to meet the standard but a high level summary of it is that at least 75% of units to be occupied by low-income residents, allowing some market rate units in a project or in a collection of projects provided the market rate units are less than 25%.

3) Affordability Restrictions. Not all affordability restrictions are the same. This seems to be lacking in the discussion and materials thus far, but it's important to note that when it comes to affordability restrictions some last longer than others but they generally all expire after some number of years. LIHTC financed properties only need to be affordable for as little as 30 years. Other government funding programs for affordable housing require longer lasting affordability restrictions on a property. We should ensure that the affordability restrictions will be long lasting—such as in the form of 99 year deed restrictions in favor of the City, regardless of source of funds. I understand that part of the vision here is that the city would fund portions of the development but there may be developments within a BART site that may be entirely funded by LIHTC or another source that has restrictions different from city funding restrictions. So it's important we make this long term deed restriction part of the zoning ordinance and don't just rely on funders when it comes to the affordability restrictions.

This New Republic article offers a broad-sweeping critique of the LIHTC affordable housing model, especially with regards to the short-lived affordability restrictions. <https://newrepublic.com/article/161806/affordable-housing-public-housing-rent-los-angeles?fbclid=IwAR0yCDi1E6Y8saKkNQfBfgt4ZcxUhlIAL9ZBfDCTB5gpaukcwc4af4cOZo4>

4) Right to Return. Priority should be given to former Berkeley residents who have been displaced. This should be a requirement articulated in the zoning ordinance. The Adeline Corridor Plan also has some content about this.

5) Family Friendly units. We should require some portion of housing units be family friendly (eg units with 2 or more bedrooms). It seems we have an over-abundance of studios and 1-BR apartments available on the market now, but as I understand it, developers prefer to build and lease these units because they are more profitable so I think it's not safe to rely on the developers to

6) Stepbacks: the building should have setbacks to minimize shading of nearby residential buildings. City of Emeryville has a set of Design Guidelines which articulate these and other good design practices (like family friendly units, etc.). I found it very interesting to read the Emeryville design standards document.

<https://www.ci.emeryville.ca.us/DocumentCenter/View/9601/7-City-of-Emeryville-Design-Guidelines?bidId=>

These are my comments. I'd appreciate it if you would share these with the other commissioners and I'd be very keen to read any written comments from other commissioners, if they have some through since our last meeting.

Best,

-

-

Christina Oatfield

Attorney & Advocate

Mail: P.O. Box 5441, Berkeley, CA 94705

Phone: (415) 828-5627 (text and voice) Email:

christinaoatfield@gmail.com Website:

www.christinaoatfield.com

From: Pearson, Alene
Sent: Friday, December 17, 2021 9:02 AM
To: Pearson, Alene
Subject: February Planning Commission Meeting
Attachments: List of Significant Religious Holidays 2022.docx

Dear Commissioners,

Our February 2, 2022 Planning Commission meeting falls on Chinese New Year – one of the significant religious holidays identified in the attached document -- and needs to be rescheduled. February 16, 2022 has already been reserved to review Objective Standards with the ZORP Subcommittees of PC and ZAB – so we would like to hold the full Planning Commission meeting on February 9, 2022. At this meeting we will have a scoping session for the Housing Element EIR. Please let me know at your earliest convenience if you can make this meeting. If we can't get a quorum, we'll reach out with an alternate date.

Thank you!

Alene

Alene Pearson, AICP, Principal Planner
Land Use Planning Division
Planning and Development Department
City of Berkeley
apearson@cityofberkeley.info
510-981-7489

Have you recently received client services from the Planning & Development Department? Please complete [our customer satisfaction survey](#), open now through September 30, 2021.

City Policy Regarding the Scheduling of City Meetings on All Significant Religious Holidays

Pursuant to Resolution No. 70,066-N.S., it is the policy of the City to avoid scheduling meetings of City Legislative Bodies (City Council, Commissions and Boards, Council Policy Committees, Task Forces) on religious holidays that incorporate significant work restrictions.

City legislative bodies must avoid scheduling meetings on the religious holidays listed below.

Religion	Holiday	Date	2022 Date
Christian	Good Friday	Varies (March or April)	4/15/22
Christian	Easter Sunday	Varies (March or April)	4/17/22
Christian	Christmas	December 25	12/25/22
Jewish	Rosh Hashanah	Varies (Sept. or Oct.)	9/25/22-9/27/22
Jewish	Yom Kippur	Varies (Sept. or Oct.)	10/4/22-10/5/22
Jewish	Sukkot - first and last day	Varies (Sept. or Oct.)	10/9/22, 10/16/22
Jewish	Shmini Atzeret	Varies (Sept. or Oct.)	10/16/22-10/18/22
Jewish	Simchat Torah	Varies (Sept. or Oct.)	10/17/22-10/18/22
Jewish	Chanukah (1 st night)	Varies (Nov. or Dec.)	12/18/22
Jewish	Passover (Nights 1, 2, 7, 8)	Varies (March or April)	4/15,4/16,4/22,4/23
Jewish	Shavuot	Varies (May or June)	6/4/22-6/6/22
Jewish	Shabbat	Weekly	Friday sunset to Saturday sunset
Jewish*	Purim	Varies (February or March)	3/16/22-3/17/22
Jewish*	Tish'a B'Av	Varies (July or August)	8/5/22-8/6/22
Jewish*	Yom HaShoah	Varies (April or May)	4/27/22-4/28/22
Buddhist	Vesak	Varies (April or May)	5/6/22
Hindu	Diwali	Varies (Oct. or Nov.)	10/24/22
Hindu	Dussera	Varies (Oct.)	10/5/2022
Hindu	Holi	Varies (March)	3/17-3/18
Hindu	Makar Sankranti	Varies (January or February)	1/14/2022
Islam	Eve & First Night of Ramadan	Varies	4/222 – 4/3/22
Islam	Eid al-Fitr	Varies	5/2/22-5/3/22
Islam	Eid al-Adha	Varies	7/9/22-7/10/22
Shinto	New Year	January 1-3	1/1/22-1/3/22
Shinto	Obon Ceremony	August 13-15	8/13/22-8/15/22
Baha'i Faith	Birth of Baja' u'llah	Varies	10/26/22-10/27/22
Baha'i Faith	Birth of Bab	Varies	10/25/22-10/26/22
Cultural	Chinese New Year (Day 1-7)	Varies (Jan. 21 – Feb. 20)	2/1/22-2/7/22
Cultural	Kwanzaa	Dec. 26 – Dec. 31	12/26/22-1/1/23

* No work restriction, but avoid scheduling meetings if possible