

## **Supplemental Communications (2)**

(The following are communications received  
after noon on **December 14**- 4pm,  
**December 16.**)

**Communication**

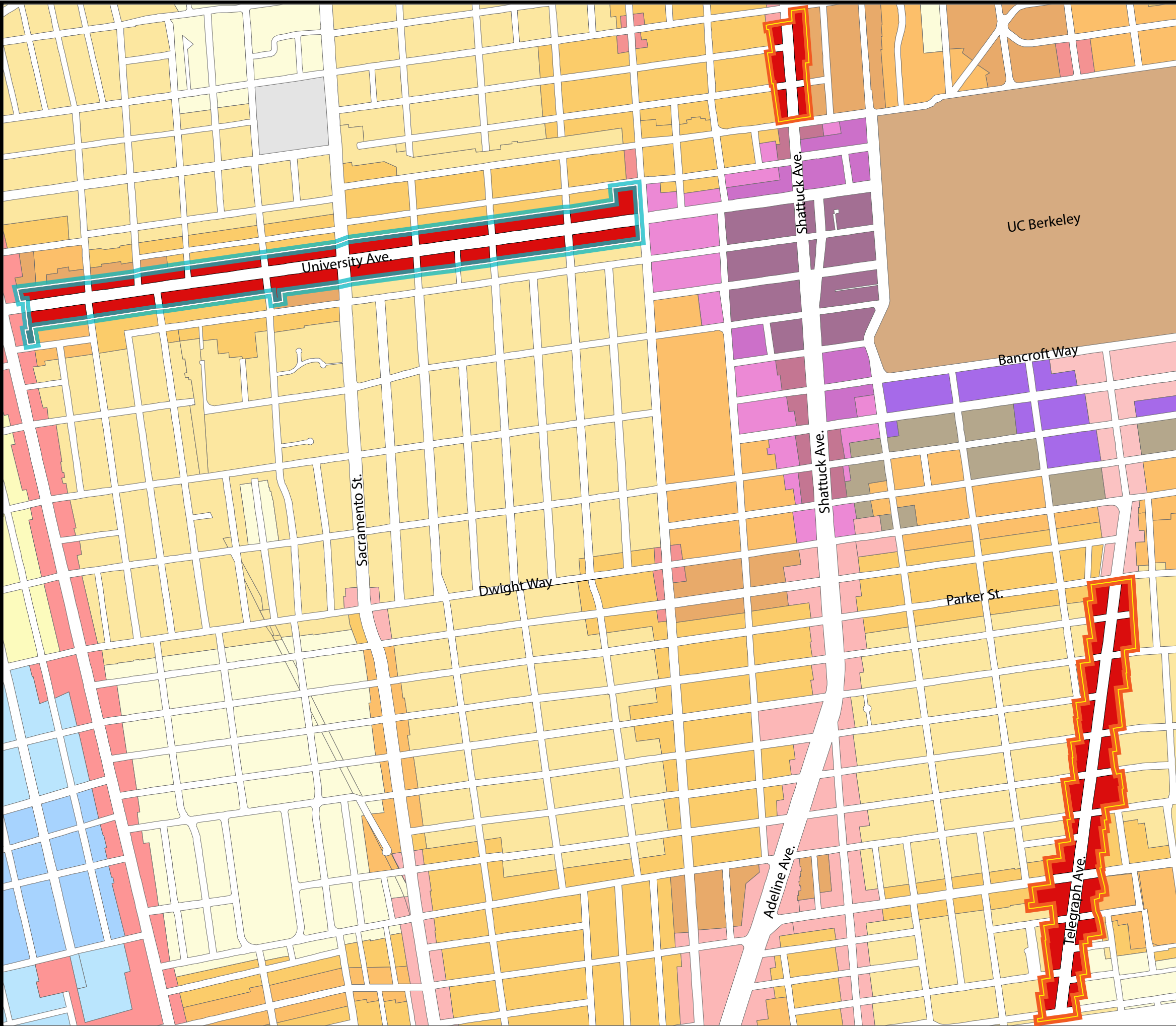
**From:** Staff

**Subject:** Item 9 ZORP

**BZO Revisions**

Page	Section	Change
Throughout Code	Throughout Code	Table and figure numbering system changed to include section number where they are found (e.g., Table 23.204.020-1)
102-1	Footer	Fixed pagination error
102-2	23.102.040.10.B	Added reference to Neighborhood Preservation Ordinance (“Ordinance 4641-NS, not codified”)
104-1	23.104.020	Added: <u>“Zoning Officer Interpretations are subject to review and modification by the ZAB and City Council.”</u>
106-3	Figure 23.106.050-1	Revised figure label to read <u>“Maximum Floor Area for a FAR of 0.2 on a 43,560 Sq. Ft. Lot = 0.2 x 43,560 Sq. Ft. = 8,712 Sq. Ft.”</u>
106-6	Figure 23.106.090-1	Added figure showing average building height on flat lot
106-7	Figure 23.106.090-2	Added maximum building height figure
202-1	23.202.020.A	Added <u>“Permit requirements are described in Chapter 23.406 (Specific Permit Requirements).”</u>
202-2	Table 23.202.020-1	Changed order of permit types in table header
202-4	23.202.30.A	Added reference to residential addition definition in glossary
202-4	23.202.030.A.1.a	Added parenthesis around defining phrase for residential additional and minor residential additions
202-5	23.202.30.B.2	Added reference to bedroom definition in glossary
202-5	23.202.30.C	Added reference to Nonconformities chapter for permits required to modify a nonconforming structure. Same note added to C and M chapters.
202-5	23.202.30.D	Added reference to sections in Chapter 23.304 for permits required for accessory structures
202-12	23.202.070.F.3,4,5	Added <u>“When required by 23.202.070.F.2 (Reports Required)”</u>
204-12	Table 23.204.030-2	Under C-W, “5000 sf” row moved above “7500 sf” row
204-44	Figure 23.204.100-2	Corrected description of Height Subarea Three location in legend
206-17	23.206.050.A.8	Added reports to City Council language from 23E.76.040.E
302-1	Sections List	Added list of specific uses included in Section 23.302.070
304-11	Table 23.304.060-2	Revised: “Maximum height of 19 feet for structures less than <del>4 5</del> from lot line”
304-13	23.304.070.B	<del>“Deleted: Unenclosed accessory structures, including but not limited to, solar energy equipment,</del>

Page	Section	Change
		ground or pole-mounted satellite dishes, play structures, skateboard ramps, tree houses and windmills, require an AUP if placed on the ground within a required setback." Added deleted text to definition of unenclosed accessory structure
304-13	23.304.070.C	Added: <u>"1. For unenclosed accessory structure within a required setback, allowed height shall be specified in the AUP. 2. No height limitations apply to unenclosed accessory structures outside of required setbacks."</u>
324-3	Table 23.324.040-1	Revised first row below heading: "Changes to a <u>new</u> use that is allowed by right ..."
324-5	23.324.D.2.a.iii	Clarified that an AUP is required alterations to windows and other openings on a building wall that is encroaching into a required setback
502-14	23.502.020.G.3	Added General Plan definition
502-32	23.502.020.U.1	Added definition of unenclosed accessory structure
502-36	23.502.030	Added <u>"For zoning district names that correspond to district symbols (e.g., R-1 for Single Family Residential), see Section 23.108.020 (Zoning Districts)."</u>



**ZONING DISTRICTS**

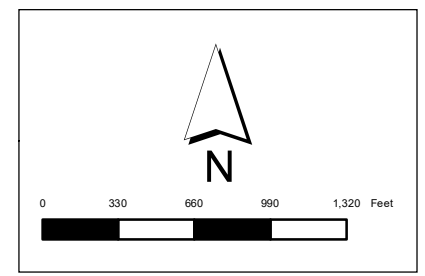
- R-1 Single Family Residential
- R-1A Limited Two-family Residential
- R-2 Restricted Two-family Residential
- R-2A Restricted Multiple-family Residential
- R-3 Multiple-family Residential
- R-4 Multi-family Residential
- R-5 High Density Residential
- ES-R Environmental Safety-Residential
- R-S Residential High Density Subarea
- R-SMU Residential Mixed Use Subarea

- C-DMU Core
- C-DMU Outer Core
- C-DMU Corridor
- C-DMU Buffer
- C-1 General Commercial
- C-E Elmwood Commercial
- C-N Neighborhood Commercial
- C-NS North Shattuck Commercial
- C-SA South Area Commercial
- C-SO Solano Avenue Commercial
- C-T Telegraph Avenue Commercial
- C-W West Berkeley Commercial

- M Manufacturing
- MM Mixed Manufacturing
- MULI Mixed Use-Light Industrial
- MUR Mixed Use-Residential

- SP Specific Plan
- U Unclassified

- C-U University Commercial
- C-C Corridor Commercial



## Communication

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**From:** Timothy Mason [mailto:timothy.mason@kidder.com]  
**Sent:** Wednesday, December 16, 2020 11:50 AM  
**To:** Pearson, Alene <apearson@cityofberkeley.info>  
**Subject:** City of Berkeley Planning Commission R&D Definition

**WARNING:** This email originated outside of City of Berkeley.  
**DO NOT CLICK ON** links or attachments unless you trust the sender and know the content is safe.

I am a commercial real estate broker specializing in the leasing of space to life science and research companies throughout the Bay Area.

The City of Berkeley is a focus of my business activities given the basic scientific research that is undertaken at the University of California Berkeley, the Lawrence Berkeley National Laboratory and the existing life science and research community that is established within the community. Nascent companies undertaking research within the campus of UCB and the Lawrence Berkeley National Laboratory initially look for space within the City so that they can maintain their close ties with their respective “research mother ships”. Those companies already established in the City have a need to grow and would prefer to do this in an immediately adjacent location.

The current lack of available space for those forming new ventures or looking to expand is forcing these entities to find alternate solutions to their space needs within adjacent communities, and in some instances, in other locations in the San Francisco Bay area.

The proposed amendments to the existing definitions will provide clarity and certainty as to those properties that can be considered by these newly hatched concerns and those companies that have a growing business. This will enable existing facilities to be adapted or developed to meet these needs so enabling the City to retain these cutting-edge industries together with the jobs and other economic benefits that they provide.

Thank you.

**Timothy I. Mason**  
Executive Vice President

**KIDDER MATHEWS**  
101 Mission Street, Suite 1800, San Francisco, CA 94105  
**T** 415.229.8918 | **F** 415.229.8987 | **C** 415.595.8918  
[Timothy.Mason@kidder.com](mailto:Timothy.Mason@kidder.com) | [kiddermathews.com](http://kiddermathews.com)



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## Communication

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**From:** Chris Barlow [mailto:CBarlow@warehamdevelopment.com]

**Sent:** Wednesday, December 16, 2020 1:49 PM

**To:** Pearson, Alene <apearson@cityofberkeley.info>

**Cc:** Klein, Jordan <JKlein@cityofberkeley.info>; Redman Cleveland, Elizabeth <ERCleveland@cityofberkeley.info>; Lisa Vogel <LVogel@warehamdevelopment.com>; gooding@quadricgroup.com

**Subject:** Business Support Zoning Amendment Referrals - Research and Development

**WARNING:** This email originated outside of City of Berkeley.

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Please forward this information to the Planning Commissioners with regard to the above agenda item for this evening's meeting.

Wareham Development is one of the largest developers and operators of Research & Development facilities in the Bay Area with significant campuses in Berkeley, Emeryville, Richmond and Palo Alto. Our portfolio in Berkeley consists of 18 buildings located in West Berkeley within the MU-LI District, totaling approximately 1,000,000 square feet. In partnership with the University of California QB3 initiative, we operate the East Bay Innovation Center incubator located at 820 Heinz Avenue. This incubator has successfully launched a number of companies, including Caribou Biosciences which now occupies 50,000 square feet of R&D space in our Aquatic Park, Campus.

We have the privilege of having long-term relationships with a range of R&D organizations from small start-ups in the QB3 incubator through to large multinationals such as Siemens. These relationships, combined with our experience working with staff in the cities noted above, convince us of the necessity of updating the City of Berkeley definition of R&D in order to reflect the requirements of companies in the 21st Century and to prevent companies seeking to locate elsewhere due to out-dated ordinances within Berkeley.

We appreciate the time and effort that staff have put into the re-draft of the definition and wholeheartedly agree with the stated rationale that the definition should focus on use and not on trying to define the type of space.

We have submitted a detailed set of comments on the report to staff, the key points of which are as follows:

We see that some definition language has been lifted directly from adjacent cities' codes but, in doing so, some important context has been lost.

"Scientific" research is typically understood to mean research into the natural world. The updated R&D definition needs to recognize and encourage broader research in fields such as engineering, and technology, that focus on the development of products, devices, processes etc. We believe that in the first sentence the word "scientific" should therefore be removed as should the word "for" because the definition needs to

recognize that these spaces will be used for both research and for development. The NAICS definitions quoted on the first page of the report appropriately differentiate sciences and technology.

Companies moving into R&D facilities need to know that they will not be prohibited from producing a product at a batch / scale-up level within the facility and that they will not be prohibited from shipping or selling that initial product from the facility.

We do not agree with the proposed definition of High Technology Electronics for two reasons:

Firstly, the concept of “traditional research conducted in laboratories” is in contrast with the stated goal of defining types of use not types of space. A key objective of this definition change is to allow flexibility so that facilities can meet the needs of future R&D requirements – those will be anything other than “traditional” and may be unknown at this time.

Secondly, the R&D for technology / software companies should most definitely be an allowed primary (not just accessory) use in R&D space, in line with Oakland, Richmond and San Leandro. We strongly disagree with the assertion in Table 2 that a company that develops technology / software should not be categorized as R&D. Nearly every innovative device that is created relies on proprietary software and hardware. That hardware and software also has to go through research and development which may be performed by a separate specialist company. Many companies in fields such as medical devices (Eko Devices being an excellent example) have products that rely on a combination of technology and software. Rigetti Computing is another Berkeley company that is developing software and computer chips to drive quantum computers.

The City of Berkeley needs to be attracting cutting-edge technology companies into its R&D facilities where they can congregate and collaborate with other organizations - not putting up barriers to them and forcing them into office space.

## **RESOLUTION OF UNDEFINED TERMS**

### **a. Laboratory**

The new proposed definition should be “Laboratory, Testing”, not “Laboratory” to avoid any confusion and be consistent with the tables in Section 23E of the Ordinance.

### **b. Pharmaceutical Activities**

As discussed above, R&D has two components – Research and Development. As part of the development of their drugs, it is essential that pharmaceutical companies are not precluded from having, within their R&D facilities, scale up / pilot-plant facilities and furthermore be allowed, if necessary, to sell the drugs produced in those facilities.

## **PROPOSED ADDITIONAL WORK**

We are supportive of staff’s suggestions to rationalize the permitting thresholds within the BMC and agree that it is time for a full review of “conversions” and “changes of use” of Protected Uses within West Berkeley.

Thank you for your consideration of these comments.

**Chris Barlow**  
**Wareham Development**