To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Interim Director, Department of Planning & Development

Subject: ZAB Appeal: 2527 San Pablo Avenue

RECOMMENDATION
Conduct a public hearing and upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision, with revisions, to approve Use Permit No. ZP2016-0207 to demolish an existing vacant service station building and construct a six-story, mixed use building with 63 dwelling units, including 12 below market rate units for qualified persons with intellectual and developmental disabilities (I/DD); 3,179 square feet of combined ground floor commercial space for restaurant use including incidental service of beer and wine; and ground level parking for 49 vehicles; and dismissing the appeal.

FISCAL IMPACTS OF RECOMMENDATION
None.

CURRENT SITUATION AND ITS EFFECTS
On July 27, 2017, the Zoning Adjustments Board (ZAB) held a public hearing and approved the application by a 6-2-0-0 vote (Yes: Clarke, Claiborne, Hauser, Olson, Selawasky, Tregub; No: Clark, Sheahan; Abstain: None; Absent: None. On August 2, 2017, staff issued the notice of the ZAB decision. On August 16, 2017, Susan Henderson, Toni Mester, Frances Ann Haselsteiner, Melissa Rallis, Ben Seidl, and Cynthia Merriman filed an appeal with the City Clerk. The Clerk set the matter for review by the Council on January 23, 2018.

BACKGROUND
The ZAB-approved project would demolish the existing building and construct a new six-story, mixed-use building on the existing 13,720 square-foot project site located on the northeast corner of San Pablo Avenue and Blake Street. The project has the following main components:

- 63 dwelling units consisting of: Nine studios, 12 junior one-bedroom units, eight one-bedroom units, 33 two-bedroom units, and one three-bedroom unit;
- 12 Below Market Rate (BMR) units on site, including six for Very Low Income (VLI) households and six for Low Income (LI) households, reserved for with persons living with Intellectual and Developmental disabilities;
- 3,179 square feet of ground level commercial space;
- 3,240 square feet of useable open space consisting of 18 private decks and rooftop common open space;
- Rooftop community multi-purpose room and common laundry room;
- Ground level parking for 49 vehicles, including 44 in stacked lifts, two ADA compliant spaces, and one van-accessible surface space via a relocated curb cut off of Blake Street; and
- 60 secure bicycle parking spaces.

Based on the applicant’s commitment to provide 11% of the 48 dwelling unit base project, or six dwelling units, affordable to Very Low Income families (≤ 50% AMI), the project qualifies for a 35 percent density bonus, or 17 units, for a total of 65 dwelling units. The applicant is proposing 63 units. In order to accommodate the density bonus units, the project proposes to increase the height of the building from 50 feet and four stories to 65 feet and six stories, and to increase the maximum Floor Area Ratio (FAR) from 3 to 3.99. These waivers of development standards are permissible pursuant to Government Code Section 65915(e)(1).

The project applicant’s stated mission is to provide a privately-financed and financially sustainable opportunity for people living with Intellectual and Developmental disabilities (I/DD) to live in an integrated, safe, supportive housing community. The project applicant is promoting the possibility of housing for persons with I/DD along with housing for families and parents of persons with I/DD, integrated within housing for the general population in the same building, as well as to provide opportunities for integration into the immediate neighborhood and the supportive accessible community of Berkeley. Part of the project proposal, therefore, is to allocate the Below Market Units (BMR) to qualified VLI and LI persons with I/DD under the project Use Permit conditions. In order to ensure that all BMR units are reserved to members of the I/DD community, the project applicant has requested a Reasonable Accommodation pursuant to BMC Section 23B.52 to waive the requirement of BMC 22.20.065.C.2, which requires 40% of the Very Low-Income units to be reserved for holders of Berkeley Housing Authority Section 8 vouchers, and 40% to be reserved for holders of City of Berkeley Shelter + Care certificates, unless those certificate holders are also members of the I/DD community.

Since the date of the ZAB approval, the City Council modified the Affordable Housing Mitigation Fee (AHMF) Ordinance, BMC 22.20.065, increasing the fee and changing the formula. The applicant is now also requesting one of the two concessions to which the

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1 Council adopted the second reading of Ordinance No. 7,562-N.S. amending BMC Section 22.20.065 on July 11, 2017. The revised ordinance became effective on August 10, 2017 and applies to all projects.
The project is entitled under Government Code Section 65915(d). In return for including one additional low income unit within the project, for a total of 12 below market rate units (six at Very Low Income and six at Low Income), the applicant is requesting a concession of the 0.6 remainder fee of $111,000.

The City may only deny a concession if it finds that the concession does not result in identifiable and actual cost reductions to provide for affordable housing costs or for rents for the targeted units; the concession would have a specific, adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources; or the concession is contrary to state law.

The concession of $111,000 will result in an identifiable and actual cost reduction for the project, which would include 19% of units on site as below market rate. The waiver would not have a specific, adverse impact on public health and safety or the physical environment or historic resource, nor is it contrary to state law; therefore, staff believes the findings for denial cannot be made.²

ENVIRONMENTAL SUSTAINABILITY
The project approved by ZAB is in compliance with all state and local environmental requirements.

RATIONALE FOR RECOMMENDATION
The issues raised in the appellant’s letter, and staff’s responses, are as follows. For the sake of brevity, the appeal issues are not re-stated in their entirety; refer to the attached appeal letter for full text.

Issue 1: “Housing Access for I/DD Residents Need Not Come at the Expense of Access for People with Other Disabilities” [p. 2 of attached appeal letter]

Response 1: The ZAB granted a Reasonable Accommodation request to waive the requirement of BMC 22.20.065.C.2, which requires 40% of the Very Low-Income units be reserved for holders of Berkeley Housing Authority Section 8 vouchers and 40% be reserved for holders of City of Berkeley Shelter + Care certificates — a requirement introduced into the Code after staff deemed the application for the project complete. The waiver allows all twelve BMR units to be available to persons or households with persons with I/DD, as defined the Lanterman Developmental Disabilities Services Act (Welfare and Institutions Code Section 44000 et. seq. and Title 17, Section 54000 of the California Code of Regulations), and who are receiving services from the East Bay Regional Center or another regional center. The request was made, and granted by ZAB, that have not yet received final approval upon the effective date of the ordinance.

² Government Code Section 65915(d)(4) states that, "The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive."
not as a means to exclude future residents that are holders of BHA Section 8 vouchers or Shelter + Care certificates, but to ensure that all BMR residents are members of the I/DD community, whether or not they are also holders of those vouchers and certificates or other government funding sources (e.g. Section 811 Supportive Housing for Persons with Disabilities). This issue was raised during the ZAB hearing, clarified by staff, and discussed by ZAB members (pp. 438, 498-501 of the Administrative Record). At the direction of ZAB, staff modified the project Findings and Conditions to specifically state that holders of Section 8 vouchers and Berkeley Shelter + Care certificates are in no way precluded from being accepted as residents of the development. (See Reasonable Accommodation Request, Finding V and Condition 13.)

**Issue 2:** “The Project Waiver Must Be Reconsidered Given Federal, State and Local Fair Housing and Disability Rights Mandates” [p. 2-3]

**Response 2:** Rafael Yaquiàn, of Goldfarb Lipman Attorneys, has provided the following response to the legal issues raised by the appellants:

“As a privately funded development, the Project is subject to the Fair Housing Act, the California Fair Employment and Housing Act ("FEHA"), and local fair housing laws. The Federal Housing Act and FEHA prohibit discrimination in the renting, selling, and advertising of dwelling units on the basis of race, color, religion, sex, familial status, or national origin, or handicap (under the Fair Housing Act) and disability (under FEHA). The applicability of some of the fair housing laws identified in the appeal letter are triggered if funding is provided for a housing project. Because the Project is 100% privately funded and is not receiving any federal or state funding, Section 504 of the Rehabilitation Act of 1973 and California Government Code Section 11135 are inapplicable.

“Contrary to the appellant’s assertions, the Owner can reserve housing for people with one particular disability; without violating the applicable federal, state and local fair housing laws and regulations.

“The Federal Fair Housing Act, expressly states that a housing provider ‘may lawfully restrict occupancy to persons with handicaps.’ The Fair Housing Act prohibits discrimination against disabled persons separate from other anti-discrimination provisions and emphasizes that with respect to disability-based discrimination, the action that is prohibited are discriminatory acts against persons with disabilities. Implementing

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3 Goldfarb Lipman Attorneys are contract attorneys for the City Attorney’s office. The applicant received a "Conflict of Interest Waiver Agreement" from the City Attorney’s office to retain this firm.
5 Chapter 3, Section B, Between the Lines: A Question & Answer Guide on Legal Issues in Supportive
regulations imply that designating units for people with particular types of disabilities is permissible.

“California’s Fair Employment and Housing Act (FEHA), unlike the Fair Housing Act, does not segregate the prohibition on discrimination against people with disabilities from the prohibition on other types of discrimination. Rather, discrimination on the basis of disability is prohibited. The broad prohibition could be used to argue that housing that excludes non-disabled people is illegal. However, a court is unlikely to find such a practice illegal because in Government Code Section 12955.6, FEHA expressly states that FEHA should not be construed to afford fewer rights or remedies than the Fair Housing Act.

“The appellants do not argue that the City and the Developer cannot restrict the below market rate units at the Project to persons with disabilities – rather they argue that limiting the units to persons with one particular type of disability is not allowable. Contrary to the appellant's claims, the Developer is allowed to reserve the housing units for persons with one particular disability, so long as the restrictions are reasonable, not arbitrary, and the housing provider provides adequate justification for the restriction.

The granting of the reasonable accommodation grants the City the ability and opportunity to meet the housing needs of the I/DD community without any form of public subsidy. The ZAB’s decision to grant the reasonable accommodation is reasonable, not arbitrary, and based on an adequate justification to provide access to equal housing to a population that is critically underserved.”

For further detail and information, see the full Response, dated December 13, 2017 in Attachment 3.

Issue 3: The density bonus calculation is not fully compliant with section 65915 (a)(1) of the State Density Bonus Law:

"When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.” [p. 3-6]
Response 3: The City has a density bonus ordinance (BMC Section 23C.12.050) and administrative procedures have been adopted to calculate maximum residential density in the zoning districts that do not have density standards for dwelling units: R-3, R-4, R-5, R-2, R-SMU, and all commercially zoned (C) districts. Updated over the years to reflect changes to State law, practices, and court decisions, staff presented the most recent written procedures to the Zoning Adjustments Board on November 13, 2014:

The appellants object to the City’s calculation methodology, and recommend instead a straight dwelling units per acre calculation. Although the appeal letter may be correct that dwelling units per acre is a more common approach to calculating base density, Berkeley’s methodology to calculate base density has been litigated and upheld by the California Court of Appeals. (Wollmer v. City of Berkeley (2011) 193 Cal. App. 4th 1329.)

Since 2000, the Planning Department has processed, and the City has approved, 40 development projects that have requested a State Density Bonus; another 15 Density Bonus projects are currently pending. Each of these 55 development projects used the City’s adopted procedures to calculate the maximum residential density (“base project”) and resulting qualifying density bonus. The City is, therefore, complying with the implementation of State Density Bonus Law.

Issue 4: The density bonus calculation is not fully compliant with Section 65915 (o)(2) of the State Density Bonus Law:

“Maximum allowable residential density” means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.” [p. 6-7]

Response 4: As stated in the General Plan and relayed by the appellants, the General Plan indicates that the population density for the Avenue Commercial land use designation “will generally range from 44 to 88 persons per acre.” Because the General Plan land use classifications describe a range of land uses and development intensities in a relatively large area,
they are not intended to be used as standards to determine the maximum allowable density on a specific parcel. Allowable densities and uses in each zoning district are established in the more detailed and specific Zoning Ordinance [2002 General Plan p. LU-22-23].

Furthermore, State law provides that a project that receives a density bonus shall not be considered out of compliance with the underlying zoning or General Plan.

Although the appeal letter provides a list of previously approved projects in the area that were proposed at lower densities, the project documents demonstrate that the zoning standards and State Density Bonus Law were applied correctly to accurately calculate the density for this project. The project as reviewed and approved by ZAB allows for six stories in order to accomplish the 35% State Density Bonus allowed by law. Accordingly, and contrary to the appeal letter’s claim, the project is consistent with the existing zoning and the State Density Bonus Law, and it is these existing applicable laws and regulations that enabled the City to approve the project as proposed.

Issue 5: The City’s calculation method intentionally increases the density of this and other projects.” [p. 7-10]

Response 5: The appellants’ final issue is that the development standards of the C-W District along San Pablo Avenue allow too much massing and density and that San Pablo Avenue should have a specific corridor plan. Planning staff currently has Council referrals related to this issue but no available funding to prepare a scope of work, hire consultants, and conduct such a planning effort. The San Pablo Avenue corridor is still subject to the current zoning ordinance until such time as a new specific plan and any related zoning ordinance modifications are adopted by City Council.

HOUSING ACCOUNTABILITY ACT ANALYSIS
The Housing Accountability Act §65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

1. The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.
However, as a project employing State Density Bonus law, the City may not preclude the construction of the base project with density bonus units, which is a six-story, 63 unit project, with six dwelling units affordable to Very Low Income households. The City retains discretion over AUP approval to allow architectural projections to exceed the height limit, and for the incidental sale of beer and wine.

ALTERNATIVE ACTIONS CONSIDERED
Pursuant to BMC Section 23B.32.060.D, the Council may (1) continue the public hearing, (2) reverse, affirm, or modify the ZAB’s decision, or (3) remand the matter to the ZAB.

Action Deadline:
Pursuant to BMC Section 23B.32.060.G if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council (not including Council recess), then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

CONTACT PERSONS
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Leslie Mendez, Senior Planner, Planning & Development Department, (510) 981-7426

Attachments:
1: Resolution
   Exhibit A: Findings and Conditions
   Exhibit B: Project Plans dated July 27, 2017
2: Appeal Letter dated August 16, 2017
3: Response to Appeal Letter, prepared by Rafael Yaquian, Goldfarb Lipman Attorneys, dated December 13, 2017
4: ZAB Staff Report, dated July 27, 2017
5: Index to Administrative Record
6: Administrative Record
7: Public Correspondence received post-ZAB hearing
8: Public Hearing notice
RESOLUTION NO. ##,###-N.S.

APPROVING USE PERMIT NO. ZP2016-0207 TO DEMOLISH AN EXISTING VACANT SERVICE STATION BUILDING AND CONSTRUCT A SIX-STORY, MIXED USE BUILDING WITH 63 DWELLING UNITS, INCLUDING 12 BELOW MARKET RATE UNITS FOR QUALIFIED PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES (I/DD); 3,179 SQUARE FEET OF COMBINED GROUND FLOOR COMMERCIAL SPACE FOR RESTAURANT USE INCLUDING INCIDENTAL SERVICE OF BEER AND WINE; AND GROUND LEVEL PARKING FOR 49 VEHICLES IN THE WEST BERKELEY COMMERCIAL (C-W) ZONING DISTRICT.

WHEREAS, on January 22, 2016, Rony Rolnizky (“applicant”) filed an pre-application to determine the base density calculation for a Use Permit to construct a mixed-use building at 2527 San Pablo Avenue (“project”); and

WHEREAS, on October 21, 2016, the applicant filed a Use Permit application construct the project; and

WHEREAS, on December 16, 2017, staff deemed this application complete; and

WHEREAS, on February 16, 2017, at a duly noticed meeting, the Design Review Committee (DRC) held a public meeting, heard public testimony, discussed the project, and continued the project with design recommendations; and

WHEREAS, on March 2, 2017, at a duly noticed meeting, the demolition referral was brought before the Landmarks Preservation Commission (LPC), the LPC took no action to initiate a Landmark or Structure of Merit designation; and

WHEREAS, on March 16, 2017, at a duly noticed meeting, the Design Review Committee held a public meeting, heard public testimony, discussed the revised project, and gave it a favorable recommendation; and

WHEREAS, on June 15, 2017, staff mailed and recorded with the County Clerk a Notice of Intent to adopt a Negative Declaration pursuant to Section 15072 of the CEQA Guidelines; and

WHEREAS, on June 29, 2017, at a duly noticed meeting, the Design Review Committee held a public meeting, heard public testimony, discussed the revised project, and confirmed a favorable recommendation with revised CEQA determination; and

WHEREAS, on July 12, 2017, staff mailed and posted a Notice of Public Hearing for the project in accordance with BMC Section 23B.32.020; and

WHEREAS, on July 17, 2017, the ZAB held a public hearing in accordance with BMC Section 23B.32.030, and approved the project; and
WHEREAS, on August 2, 2017, staff issued the notice of the ZAB decision; and

WHEREAS, on August 16, 2017, Susan Henderson, Toni Mester, Frances Ann Haselsteiner, Melissa Rallis, Ben Seidl, and Cynthia Merriman filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on January 23, 2018, the Council held a public hearing to consider the ZAB’s decision, the revised concession and accommodation requests, and, in the opinion of this Council, the facts stated in, or ascertainable from the public record, including comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby adopts the findings made by the ZAB in Exhibit A, affirms the decision of the ZAB to approve Use Permit No. 2016-0207 with the inclusion of the requested concession and reasonable accommodation, adopts the conditions in Exhibit A and the project plans in Exhibit B, and dismisses the appeal.

Exhibits
A: Findings and Conditions
B: Project Plans dated July 27, 2017
2527 San Pablo Avenue

Use Permit #ZP2016-0207 to demolish an existing vacant service station building and construct a 6-story, mixed use building with 3,179 square feet of combined ground floor commercial space for restaurant use including incidental service of beer and wine; ground level parking for 49 vehicles; and 63 dwelling units, including 12 below market rate units to qualified persons with intellectual and developmental disabilities (I/DD).

PERMITS REQUIRED

- Use Permit for construction of a new dwelling unit(s), per BMC 23E.64.030
- Use Permit for demolition of a non-residential building, per BMC 23C.08.050
- Use Permit for construction greater than 5,000 square feet, per BMC 23E.64.050
- Administrative Use Permit to establish a quick or full service restaurant greater than 1,500 square feet, per BMC 23E.64.050
- Administrative Use Permit to establish incidental service of beer and wine at a quick or full service restaurant, per BMC 23E.64.050
- Administrative Use Permit to allow architectural projections to exceed the height limit, per BMC 23E.04.020.C

WAIVER/MODIFICATIONS PURSUANT TO STATE DENSITY BONUS LAW

- Waiver from 23E.64.070.A to increase the maximum Floor Area Ratio (FAR) from 3 to 3.99
- Waiver from 23E.65.070.B to increase the maximum average height from 50 feet and four stories, to 65 feet and six stories

INCENTIVES/CONCESSIONS PURSUANT TO STATE DENSITY BONUS LAW

- Waiver from 0.6 remainder Affordable Housing Mitigation Fee per BMC 22.20.065

REASONABLE ACCOMMODATION REQUEST

- Waiver from the requirement of BMC 22.20.065.C.2, which requires 40% of the Very Low-Income units be reserved for holders of Berkeley Housing Authority Section 8 vouchers, and 40% shall be reserved for holders of City of Berkeley Shelter + Care certificates to allow units to be available to households with persons with disabilities. This request in no way precludes holders of Berkeley Housing Authority Section 8 vouchers or Berkeley Shelter + Care certificates from being accepted as residents of this development.

I. CEQA FINDINGS

The Zoning Adjustments Board has considered the proposed negative declaration together with any comments received during the public review process, and finds, on the basis of the whole
record before it, that: (1) no potentially significant effects were identified that could not be addressed by the City’s standard conditions of approval which will avoid or reduce the effects to a point where clearly no significant effects will occur, (2) there is no substantial evidence the project will have a significant effect on the environment, and (3) the negative declaration reflects the lead agency’s independent judgment and analysis. The record of proceedings upon which this decision is based is located at the Permit Service Center, 1947 Center Street, 2nd Floor, Berkeley, CA 94704.

II. FINDINGS FOR APPROVAL
As required by Section 23B.28.050.A of the Zoning Ordinance, the project, under the circumstances of this particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

A. HEIGHT/MASSING/NEIGHBORHOOD COMPATIBILITY -- The City finds the height and massing is compatible with the surrounding neighborhood for the following reasons:

- Within Berkeley, the majority of San Pablo Avenue, including the subject site area, is developed with one- to two-story flat-roof buildings, interspersed with surface parking lots. The subject site abuts the Single-Family Residential (R-1) district directly to the east and southeast, and the Restricted Two-Family Residential (R-2) district to the northeast; an area characterized by smaller, one- to two-story single- and multi-family dwellings. The proposed six-story, 52,675-square-foot building will, therefore, be markedly greater in height and volume than surrounding development. More recent construction, however, contributes greater heights (4 and 5 stories) along the length of the avenue, including the four- and five-story buildings located at 1800, 2577, 2700 and 3015 San Pablo Avenue. Additional submitted and entitled projects that have not yet been constructed, will further contribute to this more intense development pattern. These projects include the four- and five-story buildings at 1201, 1500, 2100, 2720, 2747, 2748, and 3020 San Pablo Avenue. The project’s proposed massing, therefore, is consistent with recent development and contributes to the continued evolution of the corridor.

- To activate the commercial node while simultaneously respecting the abutting residential district, the building is designed with a zero setbacks along the rear (north) and street frontages; and proposes a tiered setback along the east property line abutting the residential district: the ground floor has a five-foot setback; levels two through five have a 12-foot setback along the first half of the building, and a 21.8-foot setback along the rear half; and the sixth floor has a 21.8-foot setback along the first half of the building and 59.5-foot setback along the rear half. The increased setbacks towards the back half of the further respects the siting of the abutting fourplex at 1111 Blake Street that is sited towards the rear of the lot. The result is a compatible juxtaposition of massing between the proposed project and the adjacent residentially zoned neighborhood.

- Along the Blake Street frontage, the applicant proposes to incorporate the 1% for Public Art in an art/mural display with a disability theme, as well as to incorporate community boards affixed to the façade. At the pedestrian level along the San Pablo Avenue frontage, instead of a uniform static setback, the massing is mitigated through angled setback articulation, ranging from zero to five feet, as well as ample fenestration, softened by
awnings. Additionally, the frontage will be activated by the commercial tenant spaces, creating a degree of fluidity between the private and public realm and meeting the purposes of the designated node by help defining the urban form of San Pablo Avenue by developing identifiable area of concentrated development (BMC 23E.64.040.4).

B. PARKING -- Based on the project attributes and conclusions in the Transportation Impact Analysis, the City finds the proposed parking and traffic impacts of the project will not be detrimental for the following reasons:

- Census data for the area indicates the project residents will generate a peak parking demand of about 44 vehicles. Combining this with the City requirement for 8 parking spaces for the commercial area indicates a project parking demand of 52 spaces, which will be accommodated by the proposed on-site parking for 49 vehicles and the creation of five new on-street parking spaces.

- The project is proposing to exceed the requirements for bicycle parking. To ensure the bicycle parking is effective and utilized (and to meet the requirements of the Berkeley Municipal Code) it has been provided in an easily accessible bike storage room that will be accessed directly from the lobby of the building.

- There are numerous shopping and employment centers in the area.

- There are numerous existing car sharing locations in the area. Please note that within 1/2 mile of the project site there are six City Carshare locations and four Zipcar locations.

- There is extensive bus transit service provided by Alameda-Contra Costa County (AC) Transit along San Pablo Avenue. Routes 72, 72M, 72R and all-nighter Route 802 all operate directly adjacent to the project site.

- The project will create a total of up to five new on street parking spaces. Three new parking spaces on San Pablo Avenue and two new parking spaces on Blake Street could be added by closing three of the four existing driveway curb cuts.

- Eleven of the units will be set aside for persons with intellectual and developmental disabilities, a population that relies heavily on para transit as a mode of travel.

C. SHADOWS -- The shadow studies submitted as part of the application illustrate studies illustrate that the abutting property to the north (2521 San Pablo Avenue), will be the most heavily impacted by new shadows. The southern façade, which includes windows for one dwelling unit on the second floor, will be shaded throughout the winter months, as well as during midday of the summer months. The southern façade of the building further to the north (2511 San Pablo Avenue), will receive new shadows from morning through midday during the winter months affecting a second floor balcony area that serves the triplex.

The abutting fourplex to the east (111 Blake Street) will receive new shadows on the west façade in the afternoon hours of both the winter and summer months. Windows on the dwelling just further to the east (1113 Blake Street) will also receive new shading on the southernmost window on the west façade during summer afternoons.

Although shadow impacts from the project are expected to affect direct sunlight on certain residential windows, these areas will still experience indirect lighting during these hours, as well as have direct light from other windows. At no time of year will the proposed project cause
adjacent properties to lose access to direct sunlight from all the windows at any time of the year. Such shading impacts are to be expected in an urbanized area along a major corridor.

D. MISCELLANEOUS

- The project will provide 63 housing units, including six units that are available for households of Very Low Income (at 50% of the AMI) and five units available for households of Low Income (at 80% of the AMI), which will help the City to meet its housing goals and provide housing for an economically diverse population.

- The below market rate units will be set aside for households with people that have severe intellectual and developmental disabilities, thereby promoting the City’s goal to encourage the provision of an adequate supply of suitable housing to meet the needs of people with disabilities.

- The project will promote environmental sustainability by proposing to achieve a gold level for new multi-family developments by GreenPoint Rated, administered by Build It Green.

- The project helps encourage transit use and reduce greenhouse gas emissions from motor vehicles by constructing additional housing in close proximity to transit, jobs, basic goods and services.

III. REQUIRED C-W FINDINGS FOR APPROVAL

A. Pursuant to Berkeley Municipal Code Section 23E.64.090.B.1, the City finds that the Zoning Adjustments Board finds that the project will be compatible with the purposes of the of the C-W West Berkeley Zoning District, as follows:

- The project is consistent with C-W Purpose A because it is a mixed-use project that will provide variety commercial use on the ground floor and in a location planned for mixed-use development. The project will replace a vacant automobile service station lot with new retail space on Pablo Avenue, bringing more activity to the street and sidewalk along this node corridor.

- The project is consistent with Purpose G because it is a mixed-use project that will support local retailing by adding 63 new dwellings to a site that is well served by public transit. The project will also provide 11 units of housing for lower income households. As a mixed-use project fronting San Pablo Avenue, the project will realize the City’s plans for redeveloping underutilized sites in a way that will increase the quality of the built-in environment and provide new housing and commercial opportunities. The increased population, new street level retail and increased street activity will assist to extend the attractiveness and vitality of San Pablo Avenue.

- The project is consistent with Purpose H of the C-W Zoning District, which calls for appropriately intense development in underutilized portions of commercial streets, in that it will replace a vacant automobile service station lot with a 6-story mixed use building providing 63 dwellings and 3,179 square feet of commercial space.
B. Pursuant to Berkeley Municipal Code Section 23E.64.090.B.2, the City finds that the project is compatible with surrounding uses and buildings, because the project will not conflict with the operations in adjoining commercial buildings, and will provide potential customers for some of these uses and for other commercial operation in the area. In addition, the project has been designed to minimize potential conflicts with the adjoining residential lots as discussed in Finding II.A.

C. Pursuant to Berkeley Municipal Code Section 23E.64.090.B.3, the City finds that the project is consistent with the adopted West Berkeley Plan because it will enhance the San Pablo Avenue commercial corridor by providing commercial storefronts along San Pablo Avenue. Furthermore, with intensification through mixed-use development, the project is responsive to the West Berkeley Plan’s creation of a more intensive Node at the project site. The project will also visually improve this stretch of San Pablo Avenue by replacing a low-rise auto oriented commercial structure and associated surface parking with a new mixed-use building of six stories along the San Pablo Avenue frontage, strengthening the “streetwall” of buildings along the corridor.

D. Pursuant to Berkeley Municipal Code Section 23E.64.090.B.4, the City finds that the project will be supportive of an increase in the continuity of retail and service facilities at the ground level because the project will provide storefront spaces for retail or service uses replacing a vacant automobile service station with large surface parking lot, thereby enhancing the existing and evolving urban fabric of San Pablo Avenue.

E. Pursuant to Berkeley Municipal Code Section 23E.64.090.B.5, the City finds that the project will be of an intensity of development that does not underutilize the property. With the density bonus, the proposed design is larger than the base development allowed by the C-W development standards.

F. Pursuant to Berkeley Municipal Code Section 23E.64.090.B.6, the City finds that the project will meet applicable performance standards for off-site impacts in that its occupancy and use will not generate noise, glare, dust, vibration, or hazardous materials, etc. because, as a mixed-use development, it will not involve any manufacturing or industrial activities with the potential to generate off-site impacts typically involving regulation through performance standards. Potential construction period impacts, including noise and dust control, are subject to standard conditions of approval as set forth below.

G. Pursuant to Berkeley Municipal Code Section 23E.64.090.B.7, and based on the Traffic Impact Analysis submitted as part of the application, the City finds that the project will not exceed the amount and intensity of use that can be served by available traffic capacity and potential parking supply. There will be no significant transportation impacts according to established traffic engineering standards and no off-site traffic or transportation mitigations are required. Parking is further discussed in Finding II.B.

H. Pursuant to Berkeley Municipal Code Section 23E.64.090.C, the City finds that the proposed project will support the development of a strong retail commercial, pedestrian oriented environment at this node location. Future commercial space is designed with full window displays and prominent entrance ways facing the sidewalk. The new residents will provide customers for this new retail and other nearby commercial businesses.
IV. DEMOLITION OF EXISTING BUILDING

Pursuant to BMC Section 23C.08.050.D, the City finds that the proposed demolition of the existing buildings will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City because the buildings are not architecturally or historically significant and do not provide any substantial benefits to the neighborhood or the City that will equal the benefits of the proposed project. The City also finds that this demolition is necessary to allow construction of the proposed mixed-use, multi-family building.

V. REASONABLE ACCOMMODATION REQUEST

Pursuant to BMC Section 23B.52.050.B, the City finds that the request to waive the requirement of BMC 22.20.065.C.2, which requires 40% of the Very Low-Income units be reserved for holders of Berkeley Housing Authority Section 8 vouchers, and 40% shall be reserved for holders of City of Berkeley Shelter + Care certificates to allow units to be available to households with persons with disabilities, is supportable as the requested modification:

- Will allow for all below market rate units to be made available to individuals and/or households with persons that have developmental and intellectual disabilities;
- Qualifying households will be in the same lower income categories, but may participate in funded programs not listed in BMC 22.20.065.C.2, such as Section 811 Supportive Housing for Persons with Disabilities;
- The request will not impose an undue financial or administrative burden on the City, constitute a fundamental alteration of the City’s zoning or subdivision program, nor result in a concentration of uses otherwise not allowed in a residential neighborhood.
- This request in no way precludes holders of Berkeley Housing Authority Section 8 vouchers or Berkeley Shelter + Care certificates from being accepted as residents of this development.
VI. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. **Conditions Shall be Printed on Plans**
   The conditions of this Permit shall be printed on the second sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title ‘Use Permit Conditions. Additional sheets may also be used if the second sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. **Applicant Responsible for Compliance with Conditions**
   The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

3. **Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)**
   A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
   B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

4. **Modification of Permits (Section 23B.56.020)**
   No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Officer, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

5. **Plans and Representations Become Conditions (Section 23B.56.030)**
   Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

6. **Subject to All Applicable Laws and Regulations (Section 23B.56.040)**
   The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

7. **Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)**
   Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.
8. Exercise and Lapse of Permits (Section 23B.56.100)
   A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
   B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
   C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

9. Indemnification Agreement
   The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorney’s fees that may result.

VII. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23B.32.040.D, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

10. Final Design Review. The Project requires approval of a Final Design Review application by the Design Review Committee. Color scheme on the north elevation shall be further reviewed to create a more attractive place.

Prior to Submittal of Any Building Permit:

11. Project Liaison. The applicant shall provide the project planner with the name and telephone number of the individual empowered to manage complaints generated from the project. The individual’s name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis.

☐ Project Liaison ________________________________
   Name ________________________________________
   Phone # _________________________________

Affordability Requirements (12-15)

12. Number of Below Market Rate Units. The project shall provide eleven (11) below market rate rental dwelling units (“BMR Units”) six (6) of which will be restricted to Very Low Income (VLI) Households, and five (5) of which shall be restricted to Low Income Households (LI) or lower; and which satisfy BMC Section 22.20.065, with the exception of the Reasonable Accommodation Waiver from BMC Section 22.20.065.C.2 40% set aside for holders of Berkeley Housing Authority Section 8 vouchers and Berkeley Shelter + Care certificates, to
allow all the BMR units to be reserved for qualifying individuals with intellectual and developmental disabilities (I/DD). The initial location of the BMR Units shall be designated in the Regulatory Agreement and shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR units shall conform to the addresses assigned to the building by the City.

13. **Regulatory Agreement.** Prior to the issuance of a building permit, the applicant shall enter into a Regulatory Agreement that implements BMC Section 22.20.065 as modified by the Reasonable Accommodation requirement, and this Use Permit. The Regulatory Agreement shall stipulate that the BMR units are reserved for qualified households with members in the I/DD community. **Holders of Berkeley Housing Authority Section 8 vouchers or Berkeley Shelter + Care certificates are in no way precluded from being accepted as residents of this development.**

The Regulatory Agreement may include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The maximum qualifying household income for the VLI BMR Units shall be 50 percent of area median income (AMI), and the maximum housing payment shall be 30 percent of 50 percent of AMI, as set forth in the following paragraphs of this condition. The maximum qualifying household income for the LI BMR Units shall be 80 percent of the AMI, and the maximum housing payment shall be 30 percent of 80 percent of AMI.

If the BMR units are occupied by very low or low income tenants receiving a rental subsidy through a government I/DD program (e.g. Section 811), the rent received by the project sponsor may exceed the restricted rent to the payment standards allowed under those programs so long as the rent allowed under the payment standards is not greater than the market rents charged for comparable units in the development.

In addition, the following provisions shall apply:

Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5 (h).

Rent shall include a reasonable allowance for utilities, as published and updated by the Berkeley Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.

BMR units will be provided for the life of the project under Section 22.20.065.

14. **Determination of Area Median Income (AMI).**

The “AMI” (Area Median Income) shall be based on the income standards for the Oakland Primary Metropolitan Statistical Area reported by the United States Department of Housing and Urban Development (HUD). In the event HUD discontinues establishing such income standards, AMI shall be based on income standards determined by the California State Department of Housing and Community Development (HCD). If such income standards are no longer in existence, the City will designate another appropriate source or method for determining the median household income.
The applicable AMI for the purpose of determining the allowable rent for each unit (but not for the purpose of determining eligibility for occupancy of an inclusionary unit) shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Unit Size</th>
<th>AMI Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio unit</td>
<td>AMI for a one person household</td>
</tr>
<tr>
<td>One-bedroom unit</td>
<td>AMI for a two person household</td>
</tr>
<tr>
<td>Two-bedroom unit</td>
<td>AMI for a three person household</td>
</tr>
<tr>
<td>Three-bedroom unit</td>
<td>AMI for a four person household</td>
</tr>
</tbody>
</table>

15. Nothing in these conditions shall be interpreted to prohibit, or to require modification of the Use Permit or Regulatory Agreement to allow, the provision of additional BMR units, or additional affordability, than are required in the foregoing provisions.

16. Address Assignment. The applicant shall file an “Address Assignment Request Application” with the Permit Service Center (2120 Milvia Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City’s database prior to the applicant’s submittal of a building permit application.

17. One Percent for Art: Consistent with BMC §23C.23, prior to issuance of a building permit the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.

18. Affordable Housing Mitigation Fee: Consistent with BMC §22.20.065, the applicant provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF if applicable.

19. Construction Noise Management - Public Notice Required. At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within 500 feet of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, (5) commitment to notify neighbors at least four days in advance of authorized extended work hours and the reason for extended hours, and (6) that construction work is about to commence. The liaison will determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.

20. Construction Noise Reduction Program. The applicant shall develop a site specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:
Construction equipment should be well maintained and used judiciously to be as quiet as practical.
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- Utilize “quiet” models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
- Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
- Prohibit unnecessary idling of internal combustion engines.
- If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
- Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier will be effective at reducing noise.
- Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation will only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
- Route construction related traffic along major roadways and away from sensitive receptors where feasible.

21. **Interior Noise Levels.** Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.

22. **Construction Phases.** The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an on-site meeting with these individuals as necessary to ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.

23. **Geotechnical Investigation.** All recommendations (pages 9-13) of the Alan Kropp and Associates Geotechnical Investigation, dated October 13, 2016, shall be printed on the third sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title ‘Use Permit Conditions.’ Additional sheets may also be used if the one sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2” by 11” sheets are not acceptable.

24. **Geotechnical Investigation.** The project geotechnical consultant shall advance a standard exploratory boring (to a minimum depth of 30 feet) adjacent to one of the previous CPTs. Both blow count data and samples should be collected to allow completion of sieve and
Atterberg Limit testing and correlation with $I_c$ values from the CPTs. Supplemental evaluations should be completed of site liquefaction-induced settlements utilizing the supplemental collected data.

25. **Geotechnical Investigation.** The applicant shall submit the plans to Alan Kropp & Associates for a general review of the geotechnical aspects of the final plans and specifications for this project in order that the geotechnical recommendations may be properly interpreted and implemented. The applicant shall submit a letter from Kropp & Associates verifying the review occurred.

26. **Demolition.** Demolition of the existing building cannot commence until a complete application is submitted for the replacement building. In addition, all plans presented to the City to obtain a permit to allow the demolition are subject to these conditions.

27. **Electric Vehicle (EV) Charging.** At least 10% of the project parking spaces for residential parking and 3% of the parking spaces for non-residential parking shall be pre-wired to allow for future Level 2 (240 Volt/40 amp) plug-in electric vehicle (EV) charging system installation, as specified by the Office of Energy and Sustainable Development. Any Level 2 EV charging systems installed at parking spaces will be counted toward the applicable pre-wiring requirement. Pre-wiring for EV charging and EV charging station installations shall be noted on site plans.

28. **Recycling and Organics Collection.** Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).

29. **Water Efficient Landscaping.** Applicant shall provide an updated Bay-Friendly Basics Landscape Checklist that includes detailed notes of any measures that will not be fully met at the project. Landscape improvements shall be consistent with the current versions of the State’s Water Efficient Landscape Ordinance (WELO) and the East Bay Municipal Utility District’s Section 31: Water Efficiency Requirements.

30. **Construction and Demolition.** Applicant shall submit a Waste Diversion Form and Waste Diversion Plan that meet the diversion requirements of BMC Chapters 19.24 and 19.37.

31. **Public Works ADA.** Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

32. **Parking for Disabled Persons.** Per BMC Section 23E.28.040.D of the Zoning Ordinance, “Notwithstanding any reduction in off-street parking spaces that may be granted for mixed-use projects in non-residential districts listed in Sub-title 23E, the requirement for off-street parking spaces for disabled persons in the project shall be calculated as if there had been no reduction in total parking spaces.”
33. **First Source Agreement.** The applicant and/or end user(s) shall enter into a First Source Agreement with the City of Berkeley. First Source promotes the hiring of local residents on local projects. The agreement requires contractors/employers to engage in good faith efforts to hire locally, including utilizing graduates of local job training programs. Please call (510) 981-4970 for further information, or visit the City’s Employment Programs office at 2180 Milvia, 1st Floor.

34. **Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 2120 Milvia, 3rd Floor or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

   A. **Environmental Site Assessments:**
      1) **Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13).** A recent Phase I ESA (less than 6 months old*) shall be submitted to TMD for developments for:
         - All new commercial, industrial and mixed use developments and all large improvement projects.
         - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
         - EMA is available online at: 
         - [http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf](http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf)
      2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
      3) If the Phase I is over 6 months old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

   B. **Soil and Groundwater Management Plan:**
      1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
      2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
      3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

   C. **Building Materials Survey:**
      1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey
shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:
1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at http://cers.calepa.ca.gov/ within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at http://ci.berkeley.ca.us/hmr/

Prior to Construction:
35. Construction Meeting. The applicant shall request of the Zoning Officer an on-site meeting with City staff and key parties involved in the early phases of construction (e.g., applicant, general contractor, foundation subcontractors) to review these conditions and the construction schedule. The general contractor or applicant shall ensure that all subcontractors involved in subsequent phases of construction aware of the conditions of approval.

During Construction:
36. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction). Pursuant to CEQA Guidelines section 15064.5(f), “provisions for historical or unique archaeological resources accidentally discovered during construction” should be instituted. Therefore:

A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.

B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.

C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.

E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

37. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

38. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

39. Construction Hours. Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.

40. Construction Hours- Exceptions. It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The project shall not be allowed more than 15 extended working days.

41. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
   - Alterations, closures, or blockages to sidewalks or pedestrian paths
• Alterations, closures, or blockages to vehicle travel lanes (including bicycle lanes)
• Storage of building materials, dumpsters, debris anywhere in the public ROW
• Provision of exclusive contractor parking on-street relevant
• Significant truck activity.

The applicant shall secure the City Traffic Engineer’s approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, 3rd floor, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 2120 Milvia Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

42. Project Construction Website. The applicant shall establish a project construction website with the following information clearly accessible and updated monthly or more frequently as changes warrant:
• Contact information (i.e. “hotline” phone number, and email address) for the project construction manager
• Calendar and schedule of daily/weekly/monthly construction activities
• The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.

43. Geotechnical Recommendations. The applicant and all persons associated with the project shall implement the geotechnical recommendations of the Alan Kropp & Associates report (see condition number 23).

44. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City’s National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
   A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City’s storm drainage system, regardless of season or weather conditions.
   B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.

D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.

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

F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.

G. All private or public projects that create and/or replace 10,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological).

H. All on-site storm drain inlets must be labeled “No Dumping – Drains to Bay” or equivalent using methods approved by the City.

I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

J. All loading areas must be designated to minimize “run-on” or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.

K. Restaurants, where deemed appropriate, must be designed with a contained area for cleaning mats, equipment and containers. This contained wash area shall be covered or designed to prevent run-on or run-off from the area. The area shall not discharge to
the storm drains; wash waters should drain to the sanitary sewer, or collected for ultimate disposal to the sanitary sewer. Employees shall be instructed and signs posted indicating that all washing activities shall be conducted in this area. Sanitary connections are subject to the review, approval and conditions of the waste water treatment plant receiving the discharge.

L. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

M. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.

45. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

46. Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
47. **Public Works.** The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

48. **Public Works.** The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.

49. **Public Works.** Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

50. **Public Works.** The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.

51. **Public Works.** If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

52. **Public Works.** The applicant shall inform the contractor of the potential for high groundwater and that a temporary de-watering method during construction may become necessary. Temporary construction dewatering methods may include sumps and pumps placed in a low spot within the excavations. Several sumps and pumps may be required depending on the magnitude of water encountered. The design and implementation of temporary construction de-watering is considered the responsibility of the contractor. Caution should be exercised to prevent softening of the subgrade soils exposed within the excavations. Equipment operated upon saturated subgrade soils tends to cause rutting and weakening, which will require over-excavation of the weakened subgrade. Standing water within the excavation can also cause weakening of the subgrade soils. A temporary mud slab or gravel pad may needed at the base of the garage and/or parking lifts excavations to provide a clean, dry working area.

**Prior to Final Inspection or Issuance of Occupancy Permit:**

53. **Compliance with Conditions.** The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.

54. **Compliance with Approved Plan.** The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated July 27, 2017, except as modified by conditions of approval.
55. **Affordable Housing Mitigation Fee**: Consistent with BMC §22.20.065, the applicant shall pay the affordable housing impact fee prior to issuance of a certificate of occupancy, consistent with a schedule approved by the City Manager or her designee, if applicable.

56. **Construction and Demolition Diversion.** A Waste Diversion Report, with receipts or weigh slips documenting debris disposal or recycling during all phases of the project, must be completed and submitted for approval to the City's Building and Safety Division. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement. A copy of the Waste Diversion Plan shall be available at all times at the construction site for review by City Staff.

57. **Savings By Design.** The applicant shall provide the project planner with an updated GreenPoint Rated checklist for multi-family development.

58. **Traffic Safety.** The applicant shall contact Caltrans and inquire about implementation of pedestrian safety measures at the intersection of San Pablo Avenue and Blake Street.

**At All Times:**

59. **Exterior Lighting.** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

60. **Rooftop Projections.** No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.

61. **Design Review.** Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review and Landmarks Preservation Commission approval.

62. **Drainage Patterns.** The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

63. **Electrical Meter.** Only one electrical meter fixture may be installed per dwelling unit.

64. **Loading.** All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.

65. **Residential Permit Parking.** No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The project planner shall notify the Finance Department, Customer Service Center, to add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of an occupancy permit or final inspection.
66. **Bike Parking.** Secure and on-site bike parking for 60 bicycles shall be provided for the life of the building.

67. **Tenant Notification.** The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service and/or entertainment uses, and that each occupant shall not seek to impede their lawful operation.

68. **Subject to Review.** This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

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**FOOD SERVICE CONDITIONS**

(These requirements are in addition to any other requirements under the City's Building, Health or Fire Codes or by agencies such as the Alcoholic Beverage Control Department of the State of California. The applicant is responsible for contacting these and other departments and agencies to identify and secure all applicable permits and licenses).

1. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

2. Changes in the nature of the operation including, but not limited to, the addition of seating, changes in hours (except decreased hours in compliance with applicable ABC regulations), and the addition of live entertainment, shall require modification of this permit subject to approval by the Zoning Adjustments Board.

3. The approved floor plan, including the number of seats, shall be followed and the operation shall be conducted as presented to the Board. The maximum occupancy shall be as specified in the application unless otherwise required by applicable regulations.

4. Changes to the building's facade, including doors or windows, site plans, landscaping, signage, and awnings are subject to Design Review and approval prior to issuance of a building permit.

5. The hours of operation of the restaurant portion of the business shall be limited to the District hours. Hours of operation refer to arrival of the first patron and departure of the last patron. Any change in the hours of operation (except decreased hours in compliance with applicable ABC regulations) shall be approved by the Zoning Adjustments Board. Hours of operation are subject to review and amendment by the Zoning Adjustments Board as necessary to avoid detriment to the neighborhood or to achieve conformance with revised City standards or policies.
6. Cooking odors, noise, exterior lighting and operation of any parking area shall be controlled so as to prevent verified complaints from the surrounding neighborhood. This shall include noise created by employees working on the premises before or after patrons arrive.

7. Smoke and odor control equipment approved by the City Environmental Health Division and providing adequate protection to residential uses near the restaurant shall be installed (or prior installation verified) prior to issuance of an Occupancy Permit.

8. Garbage and trash containers that are suitably enclosed and screened from view shall be provided subject to approval of the Zoning Officer, the Health Department and, where applicable, the Design Review Planner. Any establishment selling beverages in cans or bottles that are subject to the State of California Container Deposit Law shall provide separate bins or cans for the placement of such cans or bottles to ensure recycling of such containers.

9. Containers used for the dispensing of prepared food shall identify the establishment. Polystyrene foam food packing is prohibited by Section 11.60.030 of the Berkeley Municipal Code.

10. Any establishment selling beverages in cans or bottles that are subject to the State of California Container Deposit Law shall recycle such containers.

11. The operator of the restaurant shall place a waste receptacle near the entry way and shall insure that garbage on the sidewalk in front of the establishment and within 50 feet thereof will be picked up periodically during each day, so that the sidewalk remains clean.

**ALCOHOLIC BEVERAGE SERVICE CONDITIONS (on-site)**

12. Alcoholic beverage service shall be “incidental” to the primary food service use, as defined in Zoning Ordinance 23F.04.010. An incidental use shall not exceed twenty-five percent (25%) of the floor area of the primary use, and if it consists of the commercial sales of a different line of products or services than the primary use, such incidental use may not generate gross receipts in excess of thirty-three percent (33%) of the gross receipts generated by the primary use. In addition, the California Department of Alcohol Beverage Control (ABC) allows this alcohol use only as part of a “bona fide eating place” making “actual and substantial sales of meals,” and stringently enforces this requirement.

13. The establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control.

14. The applicant shall comply with ABC regulations for License Type 41, which requires that the food establishment operate as a bona fide eating place, make actual and substantial sales of meals during normal meal hours, and that the establishment operate at least five days a week. In addition, the applicant shall request that the ABC place the following conditions on the ABC permit for this site, and this Use Permit shall only be operative for as long as these conditions are placed on the associated ABC license:

   a. The sale of alcoholic beverages for consumption off the premises is strictly prohibited;
b. There shall be no bar or lounge area upon the licensed premises maintained for the sole purpose of sales, service or consumption of alcoholic beverages directly to patrons for consumption;

c. During operating hours, 100% of the service area shall be designed and used for and must possess the necessary utensils, and condiment dispensers with which to serve meals to the public;

d. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.

15. A Berkeley Police Department Crime Prevention Through Environmental Design (CPTED) survey shall be completed prior to commencing alcohol service.

16. All employees selling and/or serving alcohol, or directly supervising such sales and/or service, shall complete the Licensee Education on Alcohol and Drugs (LEAD) program, or another equivalent program offered or certified by the California Department of Alcoholic Beverage Control within 6 months of employment at the establishment. Employees who have completed the course within the last five (5) years shall be exempt from this requirement.

17. Employees shall not serve alcohol to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol.

18. Any operator of the licensed establishment shall not have had a prior licensed establishment that was the subject of verified complaints or violations regarding alcohol, public safety or nuisance statutes or regulations to be confirmed by the Zoning Officer prior to issuance or transfer of a business license at this location.

19. The service of alcohol shall be limited to restaurant service hours; patrons may only purchase food or finish drinks already purchased within the approved service hours. The Zoning Adjustments Board shall approve any change in the hours of restaurant operations and/or alcohol service (except decreased hours in compliance with applicable ABC regulations). Hours of operation are subject to review and amendment by the Zoning Adjustments Board as necessary to avoid detriment to the neighborhood or to achieve conformance with revised City standards or policies.

20. Fortified alcohol products (e.g., malt liquor), shall not be sold on the premises.

21. Neither alcohol-dispensing facilities nor sign(s) advertising alcoholic beverages shall be visible from the public right-of-way.

22. All alcohol served to patrons must be served in durable restaurant tableware – i.e. either cups or glasses. No alcohol may be distributed in its original bottle or can, or in any other potentially disposable container.

23. There shall be no service or consumption of alcohol on the public right-of-way unless prior approval of Sidewalk Seating has been approved through a Public Works encroachment permit.
24. No alcohol may be transported off-site from the establishment to any other establishment.

25. The owner or operator of the establishment shall take reasonable measures to prevent disturbances by patrons in the immediate vicinity. Such measures shall include signs reminding patrons of nearby residences and requests not to congregate or loiter near such residences nor operate vehicles in a noisy manner on residential streets. The operator shall give surveillance to public areas near the establishment, keep such areas free of trash and litter, provide lighting, and otherwise attempt to prevent conduct that might disturb the peace and quiet of residences in the vicinity. Furthermore, the operator shall assume reasonable responsibility for ensuring that patrons do not block the entrance or interfere with pedestrian activity on the adjacent public sidewalk.

26. The applicant shall establish cash handling procedures to reduce the likelihood of robberies and theft.

27. At no time shall the operator rent the restaurant space to a third-party promoter.

28. This Use Permit, including these and all other required conditions, shall be posted in conspicuous location, available for viewing by any interested party.

29. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
South _Blake Street Elevation- Proposed design with SDB

**Building Exterior Materials Legend:**
1. Limestone - light color to match treads;
2. Integral color cement plaster finish building, see elevation for color.
3. Sheathing: particle board
4. Siding: Metal siding (sheet metal, see A10)
5. Roof - Metal roof, see A10
6. Windows - Metal frame windows with glazing (see A11)
7. Doors - Steel frame doors with glazing (see A11)
8. Exterior finishes: aluminum trim
9. Elevator shaft and mechanical penthouse allowed under use permit

**Colors:**
2. Color B - Matte Black 000000 (有何颜料: 2019), 000000
3. Color C - Matte Black 000000 (有何颜料: 2019), 000000
5. Color E - Matte Black 000000 (有何颜料: 2019), 000000

**Proposed wall for public art:**
- 4th level of North building
- 5th level of South building
- 6th level of North building

**Building Elevations:**
- Level 0 (Basement)
- Level 1 (Ground)
- Level 2 (67th)
- Level 3 (Residential)
- Level 4 (Residential)
- Level 5 (Residential)
- Level 6 (Residential)

**Elevations:**
- East Elevation
- South Elevation
- West Elevation
- North Elevation

**Notes:**
- Proposed design with SDB
- Architectural design
- Structural design
- Mechanical design

**Dimensions:**
- 122'6" (37.34 m)
- 70' (21.34 m)
- 90' (27.43 m)
- 45' (13.72 m)
- 30' (9.14 m)
- 21' (6.40 m)

**Additional Details:**
- Utility roof level
- Fire escape
- Handicapped access
- Security system
- Elevator plan
- Structural analysis
- Construction specifications

**Drawings:**
- Architectural drawings
- Structural drawings
- Mechanical drawings

**Drawn by:**
- [Name]

**Reviewed by:**
- [Name]

**Date:**
- 11/29/2011

**Scale:**
- 1" = 20'

**Note:**
- Rev. 03/12/2012
- Rev. 03/12/2012
- Rev. 03/12/2012
- Rev. 03/12/2012
Building Section B Cut looking south
The GreenPoint Rated checklist tracks green features incorporated into the home. GreenPoint Rated is administered by Build It Green, a non-profit whose mission is to promote healthy, energy and resource efficient buildings in California. The minimum requirements of GreenPoint Rated are: verification of 50 or more points; Earn the following minimum points per category: Commuity (2), Energy (25), Indoor Air Quality/Health (6), Resources (6), and Water (6); and meet the prerequisites CALGreen Mandatory, E5.2, H6.1, J5.1, O1, O7.

The criteria for the green building practices listed below are described in the GreenPoint Rated Single Family Rating Manual. For more information please visit [www.builditgreen.org/greenpointrated](http://www.builditgreen.org/greenpointrated)

Build It Green is not a code enforcement agency. A home is only GreenPoint Rated if all features are verified by a Certified GreenPoint Rater through Build It Green.

### 2527 San Pablo

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<th>Measures</th>
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<tr>
<td>Yes</td>
<td>C4.1 No Turf on Slopes Exceeding 10% and No Overhead Sprinklers Installed in Areas Less Than Eight Feet Wide</td>
<td>1</td>
<td>1</td>
<td>1</td>
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<td>≤25%</td>
<td>C4.2 Turf on a Small Percentage of Landscaped Area</td>
<td>1</td>
<td>1</td>
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<td>No</td>
<td>C5. Trees to Moderate Building Temperature</td>
<td>0</td>
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## Project Information

<table>
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## Resources

<table>
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<th>Resource Type</th>
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<tr>
<td>Targeted</td>
<td>Community</td>
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<tr>
<td>Energy/IAQ/Health</td>
<td>Resources</td>
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<tr>
<td>Water</td>
<td>Resources</td>
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## Community

<table>
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<tbody>
<tr>
<td>Affordable</td>
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<tr>
<td>Environmentally</td>
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<td>Sustainable</td>
<td>Sustainable Environmentally</td>
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<tr>
<td>Health</td>
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<td>Resources</td>
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## Energy

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<tr>
<td>Efficiency</td>
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<td>Resources</td>
<td>Resources Information</td>
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</table>

## Draft Greenpoint Rated New Home Multi-Family Version 6.0

<table>
<thead>
<tr>
<th>Feature Type</th>
<th>Details</th>
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<tbody>
<tr>
<td>D. STRUCTURAL FRAME AND BUILDING ENVELOPE</td>
<td>Details</td>
</tr>
<tr>
<td>E. EXTERIOR</td>
<td>Details</td>
</tr>
<tr>
<td>F. INSULATION</td>
<td>Details</td>
</tr>
</tbody>
</table>

---

Note: The table continues with more details regarding the project's features, including high-efficiency irrigation systems, one-inch of compost in the top six to twelve inches of soil, rainwater harvesting systems, and more. Each feature is rated with a Yes or No, along with additional details such as the percentage of non-turf areas, the average recycled content, or the type of materials used. The table also notes the number of trees, the construction of stucco, and the quality of construction, among other factors.
<table>
<thead>
<tr>
<th>Points</th>
<th>Targeted</th>
<th>Community</th>
<th>Energy</th>
<th>IAQ/Health</th>
<th>Resources</th>
<th>Water</th>
</tr>
</thead>
<tbody>
<tr>
<td>2527 San Pablo F3. Insulation That Does Not Contain Fire Retardants</td>
<td>Yes</td>
<td>F3.1 Cavity Walls and Floors</td>
<td>Yes</td>
<td>1</td>
<td>1</td>
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<td>F3.2 Ceilings</td>
<td>Yes</td>
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<td>F3.3 Interior and Exterior Insulation</td>
<td>Yes</td>
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<tr>
<td>G. PLUMBING</td>
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<td>G1. Efficient Distribution of Domestic Hot Water</td>
<td>No</td>
<td>2</td>
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<td>G1.1 Insulated Hot Water Distribution</td>
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<td>G1.2 WaterSense Volume Limit for Hot Water Distribution</td>
<td>No</td>
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<td>G2. ENERGY STAR® Bathroom Fans with Air Flow Verified</td>
<td>Yes</td>
<td>1</td>
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<td>G3. Pre-Plumbing for Graywater System</td>
<td>No</td>
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<td>G4. Operational Graywater System</td>
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<td>G5. Submersible Water for Tenants</td>
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<td>G6. ENERGY STAR® Water Heaters with Heat Pump</td>
<td>No</td>
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<td>G7. ENERGY STAR® Water Heaters with Power Vent</td>
<td>No</td>
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<td>G8. ENERGY STAR® Water Heaters with Condensing</td>
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<td>H. HEATING, VENTILATION, AND AIR CONDITIONING</td>
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<td>H1. Sealed Combustion Units</td>
<td>No</td>
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<td>H1.1 Sealed Combustion Furnace</td>
<td>Yes</td>
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<td>H1.2 Sealed Combustion Water Heater</td>
<td>No</td>
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<td>H1.3 Pressure Balanced System</td>
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<td>H3. Effective Ductwork</td>
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<td>H3.1 Duct Mastic on Duct Joints and Seams</td>
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<td>I4. Net Zero Energy Home</td>
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<td>J. BUILDING PERFORMANCE AND TESTING</td>
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<td>J1. Third Party Verification of Quality of Insulation Installation</td>
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<td>J2. Supply and Return Air Flow Testing</td>
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<td>J6. Title 24 Prepared and Signed by a CABEC Certified Energy Analyst</td>
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<td>J7. Participation in Utility Program with Third-Party Plan Review</td>
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<td>K. FINISHES</td>
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<td>K1. Entryways Designed to Reduce Tracked-In Contaminants</td>
<td>Yes</td>
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<td>K3. Entryways to Garages</td>
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TBD = To Be Determined
### 2527 San Pablo

#### Points

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<tr>
<th>Targeted</th>
<th>Community</th>
<th>Energy</th>
<th>IAQ/Health</th>
<th>Resources</th>
<th>Water</th>
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<tr>
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<td>K4. Environmentally Preferable Materials for Interior Finish</td>
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<tr>
<td>≥80%</td>
<td>K4.2 Interior Trim</td>
<td>2</td>
<td>2</td>
<td>Finger jointed pine qualifies</td>
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<td>No</td>
<td>K4.3 Shelving</td>
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<td>No</td>
<td>K4.4 Doors</td>
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<td>K4.5 Countertops</td>
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<td>K5. Formaldehyde Emissions in Interior Finish Exceed CARB</td>
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<td>No</td>
<td>K5.1 Doors</td>
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<td>Yes</td>
<td>K5.2 Cabinets and Countertops</td>
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<td>2</td>
<td>CARB NAF standard</td>
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<td>No</td>
<td>K7. Indoor Air Formaldehyde Level Less Than 27 Parts Per Billion</td>
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<td>K9. Durable Cabinets</td>
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<td>No</td>
<td>K10. At Least 25% of Interior Furniture Has Environmentally Preferable Attributes</td>
<td>0</td>
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</tbody>
</table>

#### L. FLOORING

| ≥25% | Environmentally Preferable Flooring | 1 | 3 | if carpet is 25% of floor area and has recycled content |
| ≥75% | Low-Emitting Flooring Meets CDPH 2010 Standard Method—Residential | 3 | 3 | |
| No | Durable Flooring | 0 | 1 | |
| No | Thermal Mass Flooring | 0 | 1 | |

#### M. APPLIANCES AND LIGHTING

| TBD | ENERGY STAR® Dishwasher | 1 | 1 | |
| TBD | CEE-Rated Clothes Washer | 0 | 2 | needs to meet MEF and WF |
| TBD | Size-Efficient ENERGY STAR Refrigerator | | 2 | |
| No | Permanent Centers for Waste Reduction Strategies | | | |
| No | Built-In Recycling Center | 0 | 1 | 2 bins within unit |
| No | Built-In Composting Center | 0 | 1 | |
| M5. Lighting Efficiency | High-Efficiency Lighting | 0 | 2 | no screw in lamps |
| No | Lighting System Designed to IESNA Footcandle Standards or Designed by Lighting Consultant | 0 | 2 | |
| Yes | Central Laundry | 1 | 1 | |
| Yes | Gearless Elevator | 1 | 1 | gearless or traction = ok; geared or hydraulic = NO |

#### N. COMMUNITY

| Yes | Infill Site | 2 | 1 | 1 |
| No | Designated Brownfield Site | 0 | 1 | 1 |
| No | Conserve Resources by Increasing Density | 0 | 2 | 2 |
| No | Cluster Homes for Land Preservation | 0 | 1 | |
| No | Home Size Efficiency | 0 | 1 | 1 |
| Yes | Enter the area of the home, in square feet | 9 | 9 | 1 bedroom projects don't qualify |
| Yes | Pedestrian Access to Services Within 1/2 Mile of Community Services | 2 | 2 | |
| No | Number of Tier 1 services | 0 | 1 | 1 |
| No | Number of Tier 2 services | 0 | 2 | |
| No | Connection to Pedestrian Pathways | 0 | 1 | 15% of total occupants (2 pp/1 bedroom) |
| No | Bicycle Storage for Non-Residents | 0 | 1 | 1 |
| No | Reduced Parking Capacity | 0 | 1 | |
| No | Public or Semi-Public Outdoor Gathering Places for Residents | 1 | 1 | Need either 25 or 50 sq ft depending on if density is < 50 units/ acres or greater |
| No | Public Outdoor Gathering Places with Direct Access to Tier 1 Community Services | 0 | 1 | double peep holes or sidelights qualify |
| No | Residence Entries with Views to Callers | 1 | 1 | |
| Yes | Entrances Visible from Street and/or Other Front Doors | 1 | 1 | |
| No | Porches Oriented to Street and Public Space | 0 | 1 | |
| No | Social Gathering Space | | | Draft GreenPoint Rated New Home Multi Family Version 6.0 |

(50 sq ft/unit of outdoor gathering space)
### Energy

- **N1. Passive Solar Design**
  - Yes
- **N2. Dedicated Units for Households Making 80% of AMI or Less**
  - No
- **N3. Universal Design Principles in Units**
  - Yes
- **N4. At Least 2% of Development Floor Space Supports Mixed Use**
  - Yes
- **N5. Half of the Non-Residential Floor Space Is Dedicated to Community Service**
  - No

### Water

- **N6. Passive Solar Design**
  - Yes
- **N7. Dedicated Units for Households Making 80% of AMI or Less**
  - No
- **N8. At Least 2% of Development Floor Space Is Dedicated to Community Service**
  - Yes

### Resources

- **N9. Passive Solar Design**
  - Yes
- **N10. Dedicated Units for Households Making 80% of AMI or Less**
  - No
- **N11. At Least 2% of Development Floor Space Is Dedicated to Community Service**
  - Yes

### Community

- **N12. Passive Solar Design**
  - Yes
- **N13. Dedicated Units for Households Making 80% of AMI or Less**
  - No
- **N14. At Least 2% of Development Floor Space Is Dedicated to Community Service**
  - Yes

### Summary

- **Total Available Points in Specific Categories**
  - Community: 110.0
  - Energy: 11.0
  - IAQ/Health: 37.0
  - Resources: 21.0
  - Water: 29.0
- **Total Points Targeted**
  - 120.0
Decorative rail: Cast steel leaf  Large flower = $6\frac{1}{2} \times 4\frac{3}{4}$"  Small flower = $4'' \times 3\frac{1}{2}''$
Cast Steel Gecko all by Texas Metals.
Rail: $1\frac{1}{2}'' \times 2''$ top rail, $1\frac{1}{2}''$ sq. tubing 1 1/2'' x 1 1/2'' metal L bottom.
Decorative Screen $3\frac{1}{4}'' \times 3\frac{1}{4}''$ holes at 1'' O.C. McNicholes.
All galv Powder coat matt black

Section Window A
42'' recessed window @ level 6

Elevation & Plan Window A
2'' recessed window @ level 6

Section Window B
2'' recessed window

Elevation & Plan Window B
2'' recessed window

2527 San Pablo Avenue
Decorative metal flower window element
Revised 6.29.2017

Rony Rolnizky Architect
Tel 415.370.3141 Ronyrolarchitect2@pacbell.net
121 Devonshire Way SF. CA. 94131

Scale @ 11'' x 17''
3/4 '' = 1'-0''
Drawing A 7.01
Rev. DRC 6.29.2017
2527 San Pablo Avenue
Decorative metal flower window element
Revised 6.29.2017
Rony Rolnizky Architect
Tel 415.370.3141 Ronyrolarchitect2@pacbell.net
121 Devonshire Way SF. CA. 94131

Scale @ 11" x 17"
1 1/2" = 1'-0"
Drawing A 7.02
Guard Rail: Rail: 1\(\frac{1}{2}\)" x 2" top rail, 1 1/2" sq. tubing 1 1/2" x 1 1/2" metal L bottom.
All galv Powder coat At roof level Color to match building for transparency

2527 San Pablo Avenue
Decorative metal flower window element
Revised 6.29.2017

Rony Rolnizky Architect
Tel 415.370.3141 Ronyrolarchitect2@pacbell.net
121 Devonshire Way SF. CA. 94131

Scale @ 11" x 17"
3/4" = 1'-0"
Drawing A 7.02A
Rev. DRC 6.29.2017
Planter drain
Zurn Z158-85 (or equally) w/ stainless steel perforated casing & removable cover, wrapped with drainage mat. Drain to Storm drain.

Water proofing membrane extended 8" up surrounding walls.

18" landscaping soil mix typical

Drainage mat separation

12" (measured from drain base) Class 2 permeable drain rock material.

2527 San Pablo Avenue
Flow through Planter
3.16.2017

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Drawing A 7.06
Rev. DRC 3.16.2017

Rear yard flow through planter

Section @ Flow through planter Rear yard
TYPICAL GUARDRAIL AT EAST PROPERTY LINE WALL & PODIUM LEVEL. THERE ARE 9 SUCH SECTIONS EACH 12'-6" LONG ALONG THE EAST P.L.

TYPICAL GUARDRAIL AT EAST PROPERTY LINE WALL.

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Scale @ 11" x 17"
3/4" = 1'-0"
Drawing A 7.07
Rev. DRC 3.16.2017