THIRD FLOOR PLAN
NOTE: EXISTING LOT IS VACANT OF BUILDINGS = NO EXISTING SHADOW STUDY
September 5, 2018

Matthew Wadlund
805 Jones Street
Berkeley, CA 94710-1826

RE: 1444 Fifth Street, Application #ZP2018-0172

Administrative Use Permit:

Four new SFRs on vacant lot in MU-R.

Dear Applicant:

On behalf of the City of Berkeley, I would like to introduce myself as the project planner for the above referenced application. Your application is currently being reviewed by City departments, including the Building and Safety and Planning departments, as well as other interested parties, for their comments and to ensure that the project is complete as submitted. If any questions arise, City staff will either contact you in writing or via the telephone at the phone number supplied on the application you submitted. It is also prudent to expect site visits by various staff members over the course of the City’s review of your project. These visits will be from the public right-of-way, unless an appointment is made with you in advance.

If you have any questions or concerns, please feel free to contact me at 510-981-7418 or asage@cityofberkeley.info. If I have any questions, I will contact you within 30 days of your application date to follow-up with the status of the project and to request any additional information needed to complete the application. Please note that due to staffing reductions and the level of permit activity, applicants should be prepared to expect longer processing times than in the past. Answers to frequently asked questions related to the process for Administrative Use Permits through the City of Berkeley including “what is the process” and “how long does it take” can be found on the City’s website at: http://www.ci.berkeley.ca.us/Planning_and_Development/Land_Use_Division/Administrative_Use_Permit.aspx

Please know that this application is subject to the Permits Streamlining Act, Government Code Section 65921, which (1) sets forth various time limits within which state and local government agencies must either approve or disapprove permits and (2) providing that these time limits may be extended once (and only once) by agreement between the parties.

I look forward to working with you.

Sincerely,

Aaron Sage
Senior Planner
September 28, 2018

Matthew Wadlund
1444 5th Street, LLC
805 Jones Street
Berkeley, CA 94710

RE: 1444 Fifth Street, Administrative Use Permit #ZP2018-0172 & Staff Level Design Review #DRSL2018-0013

Dear Mr. Wadlund:

On August 31, 2018, you submitted the above-referenced application to construct four detached single-family dwellings. I have reviewed your application and determined that it is incomplete due to the following items (use hyperlinks to access code sections):

1) The Zoning Officer has determined that this project has “special neighborhood or community significance” and will be referred to the Zoning Adjustments Board pursuant to BMC Section 23B.28.030. Please pay the public hearing fee included on the attached invoice.

2) Please provide a copy of the final recorded lot line adjustment map. If the map has not been approved, please provide an estimated date of approval.

3) Your vicinity map notes that there are houses at 770 Page Street and 1442 Fifth Street. Because your project will reduce the area available for usable open space (UOS) for these residential lots, please provide schematic diagrams illustrating the remaining UOS available and whether it complies with BMC Section 23E.84.070.G. If either building has been legally converted to a non-residential use, provide documentation of such conversion.

4) Provide a revised striping plan for the parking lot at 770 and 776 Page Street to ensure safe and adequate vehicular circulation. Traffic engineer review is required for this plan and the project site plan; see attached invoice for required review fee. The traffic engineer’s comments must be addressed prior to this application being deemed complete.

5) Per BMC Section 23E.28.080.E, a landscape strip at least two feet wide is required along the north side of the proposed driveway. The proposed driveway does not qualify for the exception in BMC Section 23E.28.080.G because it does not serve two adjacent lots. Please revise plans to show required landscaping. Please contact the traffic engineer to determine if a narrower driveway would be allowed, given the relatively low number of vehicles being served.
6) Please provide a diagram showing the areas that qualify as usable open space (UOS) for the project per BMC Section 23D.04.050, including their dimensions, any code-required walkways that pass through these areas, and the amount of landscaping (see BMC Section 23D.04.050.F). Please note that several areas on the south side of the project units cannot be counted as UOS because they do not have the minimum dimensions of 10 feet by 10 feet. In addition, please note that due to the nature of this project, and consistent with BMC Section 23D.04.050.C, each building must have its own allotment of at least 150 square feet of UOS reserved for each unit.

7) Please make the following corrections and clarifications on your plans:
   - The 4-foot north side setbacks shown on the second floor plan do not comply with BMC Section 23E.84.070.E.2. The minimum setback is 10 percent of the lot width, or 4.6 feet (0.10 x 46'). In addition, the decks and eaves on the third floor are not permitted to encroach into the required setback. Please revise plans to comply.
   - Eaves and awnings are not permitted to encroach into the required front setback. Please revise plans to comply.
   - Show parking lot adjoining 770 and 776 Page on your vicinity map.
   - On your vicinity map, the addresses of 1437, 1449 and 1453 Fourth Street are incorrect. Our records and company websites indicate these should be 1445, 1453 and 1455. Also, please verify the woodworking business is still in operation at 1455 Fourth St. (it appears this space and 1453 Fourth St. are both occupied by Tomas Sport Tuning).
   - On the first floor plan, a tree appears to be blocking the garage of House 4. Please revise as necessary.
   - On the first floor plan, the 6-foot fence on north side of the driveway is indicated as being “at property line”. This should read “at easement line”.
   - On the first floor plan, please label the dashed upper floor projections.
   - On the first floor plan, the word “landscape” is misspelled.
   - On the first floor plan, please indicate all landscape and hardscape materials that are proposed within the existing and future dripline of the oak tree.
   - On the north and south elevations, please indicate the average height of each building separately based on the definition of average height in the BMC. Please note that it appears house #2 and #3 will exceed the 35-foot height limit; please revise as necessary to comply.
   - Provide a rear (west) elevation.

8) Please submit two sets of revised plans (only one was provided with the AUP application), and ensure that plans are printed to scale and that scale is indicated on each sheet.

9) Please provide a certified arborist’s report with tree protection recommendations for the coast live oak, as required in our Zoning Project Submittal Requirements (ZPSR), page 11, item 2.1.A. Your arborist may resubmit the recommendations developed for the 1446 Fifth Street project, if he or she provides written verification that these are also applicable to the current project. Please ensure that arborist has reviewed and approved all landscape materials proposed within the future dripline of the oak tree. Peer review by the City Forester is required at a cost of $200 per hour; an initial charge of one hour has been included on the attached invoice.
10) The project will exceed the threshold of 2,500 square feet of new (or replaced) impervious coverage, which triggers stormwater requirements (see ZPSR, page 16, item 3.F). Please provide the required materials per the Stormwater Requirements Overview dated 6/30/16, and submit a revised application form to note that this requirement applies to this project.

11) Your Phase I and II reports have been routed to our Toxics Management Division for review. Any comments from that review must be addressed prior to this application being deemed exempt from CEQA.

12) Our consulting geologist has reviewed your geotechnical investigation and determined that certain updates are needed to comply with the Seismic Hazards Mapping Act (SHMA). Please see the e-mail Aaron Sage forwarded to you on September 17, 2018 for further details. Also, please pay $1,000 for our consulting geologist’s review of the updated report (see attached invoice).

13) Design Review Application. Please revise your plans to provide more complete information and detail for the following:
   - Landscape plan, including more tree canopy coverage over the driveway and other vehicular paving areas. Our city-wide design guidelines recommend 50% canopy coverage at tree maturity;
   - Windows, including glazing type, depth of windows in walls, and the proposed sill condition;
   - All proposed fences;
   - Colors and materials; and
   - All proposed material junctures.

In your resubmittal, please include a cover letter (or annotated version of this letter) stating how you have addressed the above items. Please submit both a paper and an electronic copy of the resubmittals (to include 2 sets of 11x17 and 2 sets of 8.5x11 plans) to the zoning counter during normal business hours (Monday, Wednesday, Thursday 8:30 AM – 4:00 PM and Tuesday 8:30 AM – 2:00 PM).

If you take no action to address the above items within 60 days, the application may be deemed withdrawn and returned to you. As you know, this project was initially assigned to Aaron Sage; his last day with the City of Berkeley was September 21, 2018. This project has been reassigned to Leslie Mendez, with support from Abe Lieder, Rincon Consultants. As you work to respond to the above comments, Leslie and Abe will be getting up to speed on this project. In the near term, please contact Leslie with any questions you may have (510) 981-7426.

Sincerely,

Shannon Allen
Principal Planner

Attachment: Invoice for additional fees
## INVOICE

**Date:** 9/17/2018 4:29:26 PM

**Bill to:**
Matthew Wadlund  
805 JONES ST  
BERKELEY CA 94710-1826

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<th>Date Assessed</th>
<th>Invoiced Fee Item</th>
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<td>9/17/2018</td>
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**Totals:**  
$2,545.00 | $0.00 | $2,545.00 |

Print Date: 9/17/2018
October 16, 2018

Planning and Development Department
Land Use Planning Division
City of Berkeley

Re: 1444 5th Street
    AUP #ZP2018-0172; #DRSL2018-0013

Please find below responses to Incomplete Letter dated September, 2018.

1) Acknowledged, fee amount included.

2) See attached copy of mylar recorded for LOLA 329.

3) See revised Vicinity Map with open space areas for 770 Page St and 1444 5th Street labeled.

4) Four (4) parking spaces for 770 Page Street per AUP #00-2000 0181 are shown on Vicinity Map. Parking for 776 Page is unaffected by this AUP or by LOLA 329 and remains unchanged from AUP #02-2000 0122.

5) Lots 1444 5th Street and 770 Page Street will share (with easements) the proposed driveway, as indicated on the Vicinity Map and Site Plan.

6) Every house exceeds the minimum M-UR open space requirements. There are no minimum dimensions in Section 23E.84.070.G.

7) House revised to not be in 4'-6" setback, no eaves in the setbacks.
   Parking spaces for 770 Page unchanged. Parking area for 770 Page proposed to be served by shared driveway. Parking area for 776 unaffected by this AUP.
   Adjacent Fourth Street building addresses and business type revised.
   Tree blocking driveway removed; fence label revised; projections labeled; typo fixed; landscape materials appropriate for use in drip line of oak tree, labels added to Landscape Plan; elevation noted, all houses do not exceed 35' height limit, see 35' line carried across elevations; Average height shown; West Elevation provided.

8) Two set of plans provided, printed to graphic scale on each sheet.

9) See revised Arborist report. This report is unchanged in content from the prior report for 1446 5th, except applicable addresses revised to 1446 and 1444 5th Street.
10) See Open Space & Impervious Coverage - project does not exceed 2,500 SF of impervious coverage. All areas other than build footprint are permeable. Total building footprint = 2,364 SF (House 1 = 576 SF; house 2 = 606 SF; house 3 = 606 SF; house 4 = 576 SF). See attached product information regarding DRIVABLE GRASS – this fire truck rated material will be used in the areas labeled “PERMEABLE DRIVEWAY”. Walkway pavers (1’ x 2’ stone) in landscape areas will be installed with 2” gaps all sides for permeability.

11) Project has a “clean” Phase I report, and no Phase II. Site History in Phase I documents that this lot was a residence from 1903 to 1980. The house was removed and the lot has been “vacant” (partially asphalt parking, partially garden with concrete from old house remaining). What is reason for Toxics Management Division review?

12) See letter from Peters and Ross Geotechnical Engineers.

13) See new Landscape Plan and new Materials Information sheets provided.
WINDOWS: DOUBLE PANE, LOW-E, INTERIOR SHADES

SIDING: INTEGRAL COLOR CEMENT BOARD PANELS COLORS: CREAM

SIDING: DEEP CORRUGATED METAL, COLOR: DARK GRAY

MATERIAL JUNCTURES CLEANLY DETAILED, SENSIBLY PROPORTIONED

RESIDENTIAL BUILDINGS: METAL GRATE ROOF DECK GUARDRAILS & SUNSCREENS

EXTERIOR LIGHTING: 5" LED WALL MOUNTED

ROOF: METAL GREY "COOL ROOF" STANDING SEAM

MATERIAL PALETTE

WADLUND+
Design Studio

1444 5TH STREET

OCTOBER 2018
OTHER APPLICATIONS INCLUDE:

DRIVABLE GRASS®
The perfect paving choice for a wide variety of applications.

- Parking Lots
- Driveways
- Golf Courses
- RV Parking
- Pathways
- Boat Ramps
- Fire Lanes
- Drainage Swales

Utility Easements
“Soil Retention’s DRIVABLE GRASS® product was just the solution we were looking for. Providing the strength and durability we require while at the same time solving our run off water issue.”

- Former Oceanside Fire Chief
  Oceanside, CA
Designed for daily use!

DRIVABLE GRASS® is the premier plantable paving system for daily parking. DRIVABLE GRASS® has bearing properties similar to concrete and asphalt while the void spaces are able to prohibit compaction within the root zone. DRIVABLE GRASS® is a wet cast concrete mat with an engineered grid cast inside. Individual pads are intended to flex at the joints and the grid is designed to allow for long term settlements.

As demand grows for alternative parking options to conventional asphalt and concrete surfaces, DRIVABLE GRASS® is an ideal paving choice for these parking areas. Using vegetated infills has an overwhelming effect on the environment and ecology of the project. Another advantage is that valuable space can now be considered multifunctional, creating a better aesthetic appeal and often a better neighbor without sacrificing buildable land. Additionally, a grassed driving surface reduces glare and absorbs noise, while adding to green open space.
If planting is not an option based on existing conditions, design considerations or regulatory constraints, **DRIVABLE GRASS®** can be used with non-planted infill choices. Installed with non-planted infills such as decomposed granite, angular rock up to 3/8” minus, or artificial turf, the system can provide the same durable solution as a planted application. Staggering of the mats and staking are considerations for non-planted infills. Visit our website at www.soilretention.com for detailed specifications and drawings.
DRIVABLE GRASS® enables storm water to infiltrate into the underlying permeable base and exfiltrate to the native subgrade. When using open graded aggregates with a void space of 30-40% as base material, significant amounts of water can be collected and stored for reuse as irrigation through rain water harvesting techniques. Storm water is filtered by the turf grass and the biosystem that naturally occurs within the root zone soil. By employing this type of bioretention in permeable parking stalls, permeable swales and other rain garden strategies, DRIVABLE GRASS® can eliminate the need for storm drains, plastic boxes and conventional detention basins, offering a real cost value to projects.

### Storm Water Properties

<table>
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<th>Property</th>
<th>Value</th>
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<tr>
<td>Aggregate Infill</td>
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<tr>
<td>Grass Infill</td>
<td>0-0.3 **</td>
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<tr>
<td>Infiltration Rate (K in/hr)</td>
<td>4-40 *</td>
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<tr>
<td>Grass Infill</td>
<td>2-4 **</td>
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**NOTES:** *Based on specifications **Based on amount and type of grass used

### Hydraulic Performance Testing per Colorado State University

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<tr>
<th>Property</th>
<th>Value</th>
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<tr>
<td>Velocity Limit without Stakes</td>
<td>6-7.4 ft/sec</td>
</tr>
<tr>
<td>Velocity Limits with Stakes</td>
<td>9.9 ft/sec</td>
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<tr>
<td>Maximum Stable Shear Stress</td>
<td>3.0 psf</td>
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<tr>
<td>Manning Roughness Factor (n)</td>
<td>0.025 – 0.039</td>
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All testing was performed without vegetation. Drivable Grass® can be planted or left un-vegetated. Selection of underlying fabric will be based on application, climate, and long-term performance requirements. Occasional staking and plant establishment will increase overall performance. See our website for complete testing report and design specifications.

Replace Coventional detention basins and gain more usable space!

![Diagram of DRIVABLE GRASS® system with various components like storage, filtration, and groundwater recharge.](image-url)
### Design Considerations

**DRIVABLE GRASS® INTENDED USE**

#### Structural Design
- Traffic Load
- Existing Soil Type

#### Stormwater Design
- Applicable Regulations
- Design Storm
- Percolation Rate of Native Soils

#### Vegetation Design
- Aesthetics
- Region
- Frequency of use
- Irrigation

### DRIVABLE GRASS® Structural Design Guidelines

<table>
<thead>
<tr>
<th>Subgrade</th>
<th>Gravels/Clean Sand</th>
<th>Sands</th>
<th>Clay/Silt</th>
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<tbody>
<tr>
<td>USCS Classification</td>
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<tr>
<td>GW - Well Graded Gravels</td>
<td>SM - Silty Sands</td>
<td>ML - Inorganic Silts of Low Plasticity</td>
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<tr>
<td>GP - Poorly Graded Gravels</td>
<td>SC - Clayey Sands</td>
<td>CL - Inorganic Clays of Low Plasticity</td>
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<tr>
<td>GM - Silty Gravels</td>
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<td>MH - Inorganic Silts of High Plasticity</td>
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<tr>
<td>GC - Clayey Gravels</td>
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<td>CH - Inorganic Clays of High Plasticity</td>
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<tr>
<td>SW - Well Graded Sands</td>
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<td>SP - Poorly Graded Sands</td>
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<table>
<thead>
<tr>
<th>Application</th>
<th>Base Thickness (in.)</th>
<th>Typical R-Value Range</th>
<th>Typical CBR Value Range</th>
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<tbody>
<tr>
<td>Firelane</td>
<td>6-8</td>
<td>30-70</td>
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<tr>
<td>Parking Lots Stalls</td>
<td>4-8</td>
<td>6-10</td>
<td>8-12</td>
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<td>Parking Lots Traveled Way</td>
<td>6-12</td>
<td>8-14</td>
<td>12-16</td>
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<td>Residential Driveways</td>
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<tr>
<td>Walkways</td>
<td>0</td>
<td>0</td>
<td>0-4</td>
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</table>

**NOTE:** These recommendations are to be used as a general guide. Refer to your Civil or Geotechnical engineer for actual base thickness design. Recommendations were generated using Crushed Miscellaneous Base (CMB) as the typical base material, other types of base material can be used, CMB has a gravel factor of GF=1.1. Actual base thickness will be dependent on the Traffic Index (TI) and the Gravel Factor (GF) generated by the Engineer of Record for the project based on site-specific conditions. Estimated Traffic Index (TI) values that were used for the generation of the recommended base thickness provided in the table are: Firelane TI=4.0, Parking stall TI=4.0, Traveled Way TI=5.5. Filter Fabric and subdrains may be required for soils with a low value of permeability and strength. Soils not recommended for use as subgrade material are the OL, OH, PT type soils. Storm water requirements may ultimately govern the design of the base thickness.

### Typical Cross Section for Planting

- **Nominal Area LxWxH:** 24" X 24" X 1.5"*
- **Gross Area of Each Mat:** 4 S.F.
- **Concrete Strength:** 5000 Psi
- **Weight of Each Mat:** 45 Lbs
- **Flexibility Min. Radius of Curvature:** 12 in
- **Plantable Area:** 60% / 100% for Sod
- **Concrete Surface Area:** 40%
- **Concrete Bearing Area:** 88%
- **Mats Per Pallet:** 60
- **Area Covered Per Pallet:** 240 S.F.
- **Color:** Buff/Tan, Grey, Terracotta

* Other Colors Available For Special Order
October 11, 2018  
Project No. 16183.001

Mr. Matthew Wadlund  
Wadlund Design Studio  
805 Jones Street  
Berkeley, CA 94710

Response to Geotechnical Peer Review Email dated September 17, 2018  
1444 5th Street, Berkeley, California  
Permit Application ZP2018-0172

Dear Mr. Wadlund:

In accordance with your authorization, Peters & Ross has reviewed the September 17, 2018, email from Mr. Ted Sayre of Cotton, Shires and Associates, Inc. (CSA), the City of Berkeley’s peer reviewer. The primary issues raised by CSA are 1) The seismic design values presented in our December 16, 2016 report. 2) Will these new seismic design values have any impact on our conclusions and recommendations regarding liquefaction, and 3) Is Peters & Ross aware of the new 4-unit development proposed for 1444 Fifth Street.

1) Seismic Design Values

In accordance with Section 1613 of the 2016 CBC, Peters & Ross classifies the site as Site Class D with a latitude of 37.876 degrees and a longitude of -122.301 degrees. The CBC parameters presented in the following table should be used for seismic design.

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<thead>
<tr>
<th>PERIOD (sec)</th>
<th>0.2</th>
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<tr>
<td>SPECTRAL RESPONSE Ss, SI</td>
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<tr>
<td>SITE COEFFICIENT Fa, Fv (SITE CLASS D)</td>
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<tr>
<td>MAXIMUM SPECTRAL RESPONSE Sms, Sml</td>
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<td>DESIGN SPECTRAL RESPONSE SDs, SDl</td>
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2) Liquefaction

The above values and the the MCE peak ground acceleration of 0.770g are the same values we computed for the 2013 CBC. Therefore our conclusions and recommendations regarding liquefaction are unchanged.
3) Development of 1444 Fifth Street

Our December 16, 2016 report was issued for both 1444 and 1446. We drilled borings on both lots and were aware that four units would be placed on each of them.

Peters & Ross services consist of professional opinions and recommendations that are made in accordance with generally accepted geotechnical engineering principles and practices.

We appreciate the opportunity to provide geotechnical engineering services to you. If you have any questions, please call.

Sincerely,

[Signature]

Peter K. Mundy, P.E., G.E.
Geotechnical Engineer 2217
To: Matthew Wadlund  October 10, 2018

Re: 1444 and 1446 5th Street
Berkeley, California

The California Live Oak of concern straddles the property lines of the above 2 addresses. The initial evaluation on this tree was performed on July 17, 2017.

Three other separate visits and evaluations took place in 2018.
The most recent evaluation was done on September 20, 2018.

Observations of 9-20-18:

- 6.25” diameter at breast height (24.25” circumference)
- Tree is growing in heavily compacted soil.
- There is a significant lower trunk injury.
- The poor care of the tree has seriously harmed the trees structure and health.
- Powdery mildew (in this case showing up as ‘witches broom’) is covering the top of the canopy.
- Leaves on tree are showing many signs of secondary pest and fungus activity along with being spotting, distorted, small, etc.
- Shape and condition of tree: **1.5 on a scale of 1-5.**
- Tree has been fenced in for protection at the drip line.

Discussion:

This is a young tree that has had a tough time of it. Playground trees are subjected to certain demands and some do better then others. This tree has a root system that is unable to perform capably to keep the tree healthy. **Compaction** is likely the biggest enemy in this case, although the general care of this tree has been so poor that the tree has never really had much of a chance to thrive. **The lower trunk injury** has likely led to heart-rot, which over the course of time will be a problem. The **fungus** issues on the trees foliage are masking the larger, overall health problems with the tree, which are more clearly demonstrated by the **small, minimal leaves** in the crown.
**Current Status:**

The City of Berkeley has a moratorium on the cutting of Live Oak trees. So, unless there is a change or an understanding within this moratorium to exempt sick, ailing trees with no future, this tree is protected. As a result, this tree has been fenced in with a protective barrier located at the drip line. The tree has also been aerated and vertically composted to help improve its health.

**Conclusion:**

Overall, I do not believe that this tree is worth the time and energy to turn its health around. It would be more prudent to remove the tree and roots and start fresh. The tree is not even close to maturity and has so many negative health issues already that it would never become the beautiful California Live Oak that is so cherished and valuable.

Please let me know if you need any more advice or have any concerns about the contents of this evaluation.

Thank you.

Peter K. Rudy  
Certified Arborist #WC3166  
California Contractor #740394
### TABULATION FORM

**Project Address:** 770 Page St., Berkeley, CA 94710  
**Date:** 10/13/2000  

**Applicant's Name:** Karen Josephs, D.C.  
**Zoning District:** MU-R

Please print in ink the following numerical information for Use Permit, Variance, and other Zoning Ordinance related permit applications:

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<th>Proposed</th>
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<td>1 (non-res.)</td>
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<tr>
<td>Side Yard Setbacks (facing property)</td>
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<td>Average* (ft.)</td>
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<td>Maximum* (ft.)</td>
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<td>Building Footprint* (SqFl)</td>
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<td>Total of All Structures (%)</td>
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<td>Floor Area Ratio* Non-Residential Projects only (except ES-R)</td>
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*See Definitions - Zoning Ordinance Title 23F.*

---

**2120 Milvia Street, Berkeley, CA 94704**  
Tel: 510.747.1111  
TDD: 510.981.6015  
Fax: 510.883.6564  
E-mail: planning@cityofberkeley.ca.us
5th STREET - EAST ELEVATION

1452 5TH STREET
EXISTING TWO STORY HOUSE

1446 5TH STREET
APPROVED PROJECT

1444 5TH STREET
PROPOSED PROJECT

1442 5TH STREET
EXISTING ONE STORY HOUSE

DRIVEWAY
EXISTING WAREHOUSE FACING 4TH STREET

770 PAGE STREET

1442 5th STREET

EXISTING ONE STORY HOUSE

HOUSE 4
TYPE A

HOUSE 3
TYPE B

HOUSE 2
TYPE B

HOUSE 1
TYPE A

ROOF PLAN

Proposed roof mounted PV system

Proposed roof mounted PV system

Proposed roof mounted PV system

Proposed roof mounted PV system

1446D 5th STREET
HOUSE

1446C 5th STREET
HOUSE

1446B 5th STREET
HOUSE

1446A 5th STREET
HOUSE

ATTACHMENT 4 - Administrative Record
Page 257 of 310
1452 5TH STREET
EXISTING TWO STORY HOUSE

1446 5TH STREET
APPROVED PROJECT

1444 5TH STREET
PROPOSED PROJECT

1442 5TH STREET
EXISTING ONE STORY HOUSE

5th STREET - EAST ELEVATION
THIRD FLOOR PLAN
EXISTING WAREHOUSE FACING 4TH STREET

770 PAGE STREET

1442 5th STREET

HOUSE 4
TYPE A

HOUSE 3
TYPE B

HOUSE 2
TYPE B

HOUSE 1
TYPE A

1446D 5th STREET
HOUSE

1446C 5th STREET
HOUSE

1446B 5th STREET
HOUSE

1446A 5th STREET
HOUSE

ROOF PLAN

Proposed roof mounted PV system

Proposed roof mounted PV system

Proposed roof mounted PV system

EXISTING ONE STORY HOUSE

EXISTING ONE STORY HOUSE

ROOF PLAN

WADLUND Design Studio
SITE UNDERGROUND UTILITY PLAN

770 PAGE STREET

1442 5th STREET

(N) WATER METERS

(N) JOINT TRENCH

(N) ELECT METERS

(N) GAS METERS

PROTECTED COAST LIVE OAK TREE

75'

50'

75'

50'

PROPERTY LINE

PROPERTY LINE

1444 5TH STREET -- AUP

REVISED DECEMBER 2018

ATTACHMENT 4 - Administrative Record

Page 274 of 310

WADLUND Design Studio
**ZONING ADJUSTMENTS BOARD**

**NOTICE OF PUBLIC HEARING**

| SUBJECT: 1444 Fifth Street  
| Administrative Use Permit #ZP2018-0172 |
| WHEN: Thursday, January 24, 2019.  
| Meeting starts at 7:00 pm. |
| WHERE: Berkeley Unified School District Board Room  
| 1231 Addison Street  
| Wheelchair accessible. |

«NAME1»  
«NAME2»  
«ADDRESS1», «ADDRESS2»
SUBJECT: 1444 Fifth Street
Administrative Use Permit #ZP2018-0172 to construct four detached, three-story, approximately 1,900 square-foot single-family dwellings, each with an average height of 33 feet, on a 5,744 square-foot vacant lot.

CEQA STATUS: Categorically exempt pursuant to Section 15332 of the CEQA Guidelines ("In-Fill Development").

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

Send written comments to: Zoning Adjustments Board, Permit Service Center, 1947 Center Street, 2nd Floor, Berkeley, CA 94704, or e-mail to: ZAB@CityofBerkeley.info. To ensure inclusion in the packet, submit correspondence seven (7) days before the hearing. For any correspondence submitted less than seven days before the meeting, submit 15 copies for staff to deliver to the Board at its meeting. For more information, call the Land Use Planning Division (510) 981-7410.

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

PLEASE NOTE: If your contact information is included in any communication to the Board, it will become part of the public record, and will be accessible on the City Website.

NOTICE CONCERNING YOUR LEGAL RIGHTS:
If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing or in written correspondence delivered to the Board at, or prior to, the public hearing.

ATTACHMENT 4 - Administrative Record
NAME1 NAME2 ADDRESS1 ADDRESS2
Citizens Opposing Polluted Environment 1908 TENTH ST BERKELEY CA 94710
Fifth-Camelia Neighborhood Group 807 PAGE ST BERKELEY CA 94710
Page Street Neighbors P.O. BOX 2296 BERKELEY CA 94702
Paul Cox 890 CAMELIA ST BERKELEY CA 94710
South Oceanview Neighborhood Association 1815 EIGHTH ST BERKELEY CA 94710
Schoolhouse-Lincoln Creeks Watershed Neighborhood Assoc. 1546 MILVIA ST BERKELEY CA 94710
University of California, Facilities Services A&E Building, Room 300 University of California Berkeley BERKELEY CA 94720-138
Urban Creeks Council 861 REGAL RD BERKELEY CA 94708
Bananas Inc. 5232 CLAREMONT AVE OAKLAND CA 94618
Heinz Avenue Arts Group 800 HEINZ AVE #3 BERKELEY CA 94710
West Berkeley Association of Industrial Companies PO BOX 2307 BERKELEY CA 94702
Berkeley Central Library 2090 KITTREDGE STREET BERKELEY CA 94704
Adams Broadwell Joseph & Cardoza 601 GATEWAY BLVD. Su 1000 SO SAN FRANCISCO CA 94080
Public Notice Journal PO Box 330356 San Francisco SAN FRANCISCO CA 94133
BP AZ HOLDINGS 1 LLC 1 SANSOME ST SAN FRANCISCO CA 94104
1454 FOURTH STREET LLC 1321 SEVENTH ST BERKELEY CA 94710
MITTONE FRANK R & SHERRILL D & G L & EVELYNE A TRS 1334 6TH ST BERKELEY CA 94710
HART JAMES E & GOLOMB ELITE TRS 1337 JOSEPHINE ST BERKELEY CA 94703
KEMNITZ PATRICIA TR 1345 DE LOACH CT SAN JOSE CA 95125
NILSSON ROB 1418 5TH ST BERKELEY CA 94710
LAW MARY M 1421 5TH ST BERKELEY CA 94710
BAERWALD JAN TR 1422 5TH STREET BERKELEY CA 94710
OWENS LEROY & ANNIE E 1425 STANAGGE AVE BERKELEY CA 94702
DILL VELMA 1438 6TH ST BERKELEY CA 94710
HECKMAN HARRY H & KATHLEEN M TRS 144 HILL RD BERKELEY CA 94708
ENDSIGHT 1440 LLC 1440 4TH ST BERKELEY CA 94710
CARLSON DIANE & ARROYO DAVID 1447 5TH ST BERKELEY CA 94710
YOON YON S & CHOE AMY TRS & CHOE AMY 1449 5TH ST BERKELEY CA 94710
MILLER JUDITH S TR 1450 4TH ST BERKELEY CA 94710
YOUNGER SUSAN H 1452 5TH ST BERKELEY CA 94710
RODRIGUEZ JESUS A & CARMEN 1458 6TH ST BERKELEY CA 94710
ROBIDOUX JEFFREY & BETH 1460 5TH BERKELEY CA 94710
YOON WILLIAM T & CHOI RENEE 1461 5TH ST BERKELEY CA 94710
BLACK SIMON 1463 5TH ST BERKELEY CA 94710
PANZENBOCK MARTINA 1465 5TH ST BERKELEY CA 94710
QUIRING DARO & TESTA BONNIE TRS 1467 5TH ST BERKELEY CA 94710
DOMICILIO CONOCIDO II INC 14800 SAN PEDRO SAN ANTONIO TX 78232
FARDIS ALIREZA & SHAIDA TRS 18 CLAREMONT CRESCENT BERKELEY CA 94705
MCLAREN MARY TR 1813 SONOMA AVE BERKELEY CA 94707
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January 15, 2019

Via Email

Zoning Adjustment Board
City of Berkeley
Land Use Planning Division

Re: 1444 Fifth Street, ZP2016-0247

Dear Members of the Zoning Adjustment Board;

I am writing on behalf of Trilogy Limited Properties, LLC ("Trilogy") in support of the proposed development on the property located at 1446 Fifth Street (the "Project"). Trilogy is the owner of 1435 – 1439 Fifth Street adjacent to the Project. We support the Project for the following reasons:

1. The addition of housing units such those designed by Matthew Wadlund on Fifth Street and Page Street have brought vitality to the neighborhood. The project at 1446 Fifth Street and the Project will add more vibrancy to the neighborhood.

2. The addition of additional residents provides more activity in the area and customers for the local businesses.

3. The buildings fit the eclectic feel of the mixed used district.

4. The City of Berkeley is facing a dire shortage of housing and needs to allow for a broad mix of housing types. The large projects being built in other areas of the city fulfil one aspect of the need and the Project fits a different need – higher density single family detached.

I urge the ZAB to approve this project, as proposed, as it clearly provides much needed housing and enhances the special nature of our neighborhood.

Trilogy Limited Properties, LLC

Stuart Knowles
PROOF OF SERVICE

DATE: January 29, 2019

TO: Whom It May Concern

FROM: Melinda Jacob, OSII

SUBJECT: USE PERMIT #ZP2018-0172 – 1444 FIFTH STREET

I, the undersigned, certify that I am employed in the City of Berkeley, County of Alameda, California; that I am over eighteen years of age; that I am not a party to the within action; and that my business address is 2120 Milvia Street, Berkeley, California 94704. On this date, I served the following documents:

DECISION OF ZONING ADJUSTMENTS BOARD FOR USE PERMIT #ZP2018-0172 – 1444 FIFTH STREET

On the parties stated below by placing true copies thereof in sealed envelope(s) addressed as shown below by the following means of service:

1444 5TH Street, LLC
805 Jones Street
Berkeley, CA 94710

☒ By First Class Mail - I am readily familiar with the City's practice for collecting and processing of correspondence for mailing. Under the practice, the correspondence is deposited with the U.S. Postal Service on the same day as collected, with First Class postage thereon fully prepaid, in Berkeley, California, for mailing to the addressee following ordinary business practices.

☐ By Personal Service - I caused each such envelope to be given to the City of Berkeley mail service person to personally deliver to the office of the addressee.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 29, 2019 at Berkeley, California.

Melinda Jacob, OSII
Notice of Decision

DATE OF BOARD DECISION: January 24, 2019
DATE NOTICE MAILED: January 29, 2019
APPEAL PERIOD EXPIRATION: February 12, 2019
EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): February 13, 2019

1444 Fifth Street

Administrative Use Permit #ZP2018-0172 to construct four detached, three-story, approximately 1,900 square-foot single-family dwellings, each with an average height of 33 feet, on a 5,744 square-foot vacant lot.

The Zoning Adjustments Board of the City of Berkeley, after having conducted a public hearing, APPROVED the following permits:

- Administrative Use Permit, under BMC Section 23E.84.030, to construct four new dwelling units.

APPLICANT: 1444 5th Street, LLC, 805 Jones Street, Berkeley

ZONING DISTRICT: MU-R – Mixed Use Residential District

ENVIRONMENTAL REVIEW STATUS: Categorically exempt pursuant to Section 15332 of the CEQA Guidelines (“In-Fill Development”).

The Zoning Application and application materials for this project is available online at:

1 Pursuant to BMC Section 23A.08.030, the appeal period begins on the first business day following the date the Notice of Decision is mailed. Pursuant to BMC Section 1.04.080, any deadline that falls on a non-business day is extended until the next business day.

2 Pursuant to BMC Section 23B.32.090, the City Council may certify any ZAB decision for review during the 14-day appeal period after the notice of the ZAB’s decision is issued. Certification has the same effect as an appeal. However, BMC Section 1.04.070 suspends or “tolls” the Council’s deadline to certify when the Council is on recess. Thus, in cases where the 14-day appeal period is scheduled to end during a Council recess, the certification deadline is extended past the end of the recess for the remainder of the appeal period. In cases where the appeal period begins during a Council recess, the certification deadline is extended until 14 days after the first Council meeting after the recess. Extension of the certification deadline has no effect on the appeal deadline.
FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

BOARD VOTE: 5-1-1-1

YES: CLARKE, KAHN, O'KEEFE, PINKSTON, SELAWSKY

NO: OLSON

ABSTAIN: SHEAHAN

ABSENT: TREGUB

TO APPEAL THIS DECISION (see Section 23B.32.050 of the Berkeley Municipal Code):

To appeal a decision of the Zoning Adjustments Board to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley; or by facsimile to (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.

2. Submit the required appeal fee (checks and money orders payable to "City of Berkeley"):
   a. The fee for persons other than the applicant is $500. This fee may be reduced to $100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
   b. The fee for all appeals by Applicants is $2500.

3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time.

NOTICE CONCERNING YOUR LEGAL RIGHTS:
If you object to this decision, the following requirements and restrictions apply:
1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Adjustments Board at, or prior to, the public hearing.

2. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.

3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.

4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.

5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a “taking” of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:

   A. That this belief is a basis of your appeal.

   B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.

   C. All evidence and argument in support of your belief that the decision or condition constitutes a “taking” as set forth above.

   If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.
PUBLIC COMMENT:
Communications to Berkeley boards, commissions or committees are public record and will become part of the City’s electronic records, which are accessible through the City’s website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

FURTHER INFORMATION:
Questions about the project should be directed to the project planner, Leslie Mendez, at (510) 981-7410 or ariemer@cityofberkeley.info. All project application materials, including full-size plans, may be viewed at the Land Use Planning Division, 1947 Center Street, 2nd floor, Monday through Friday from 8:30 a.m. to 4 p.m. (except on holidays and reduced service days; check City’s website for details).

ATTACHMENTS:
1. Findings and Conditions
2. Project Plans, received JANUARY 8, 2019

cc: City Clerk
Building and Safety Division
Central Library - Reference Desk
Public Works Engineering Division
ZAB Members
First Source
Amy Davidson, Housing Department
Applicant/Property Owner:
1444 5th Street, LLC
805 Jones Street
Berkeley, CA 94710
1444 Fifth Street

Administrative Use Permit #ZP2018-0172 to construct four detached, 3-story, approximately 1,900 square-foot single-family dwellings, each with an average height of 33 feet, on a 5,744 square-foot vacant lot.

PERMITS REQUIRED

- Administrative Use Permit, under BMC 23E.84.030, to construct four new dwelling units.

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15332 of the CEQA Guidelines (“In-Fill Development”).

2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. FINDINGS FOR APPROVAL

1. As required by Section 23B.32.040.A of the Zoning Ordinance, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

   - The proposed development on this parcel is equal to or below the Mixed-Use Residential (MU-R) standards set by BMC 23E.84.070 for maximum residential density, floor area, and height (four dwelling units on the 5,744 square-foot lot, where four dwelling units is the maximum allowed based on the size of this lot; floor area ratio of 1.3, where the maximum allowed is for residential development 1.5; average height of 33’, where the maximum allowed is 35’). The proposed project also meets or exceeds the requirements for setbacks, parking, and useable open space (1 parking space per dwelling unit, and 816 square feet of useable open space, where 600 square feet is required (150 square feet per unit));
   - The proposed project retains the mixed but primarily residential character of the surrounding street and is consistent with the overall scale of the one-, two-, and three-story residences and commercial and manufacturing spaces in the neighborhood. The proposed design references the industrial context of West Berkeley and its mix of uses and aesthetics;
   - No substantial land use conflicts are expected from the project due to the site’s location in a mixed area of commercial and residential development, because the project’s density will be within the range of the surrounding development, and because no substantial privacy or shadow impacts will occur;
• Sunlight: The Board finds that the project will not result in significant loss of direct sunlight on abutting residences for several reasons. No residences occur to the west and new shadows cast towards the east will occur primarily along Fifth Street, and not any dwellings. The project will cast shadows on the northern abutting dwelling at 1442 Fifth Street during the winter solstice and on the southern abutting dwellings (currently under construction) at 1446 Fifth Street during the summer solstice. However, in both cases, shadows will only affect some windows and occur during some morning hours. Because impacts to neighboring residences will be limited to certain hours a day and certain months of the year, these shading impacts are not deemed detrimental;

• Air: The Board finds that the proposal is consistent with the existing development and building-to-building separation patter – or air – in this MU-R neighborhood because the buildings will exceed minimum setback and useable open space requirements and will be three stories where the maximum allowed is three; and

• Views: The proposed project will not result in additional obstruction of significant views in the neighborhood because there are no significant views as defined in BMC Section 23F.04 (Definitions) available to residences in the area. The area is generally flat, developed with one-to three-story buildings, and includes mature vegetation which provides visual screening.

2. Pursuant to Berkeley Municipal Code Section 23E.84.090, the Zoning Adjustments Board finds that the proposed project is consistent with the purposes of the MU-R District for the following reasons:

• The project will strengthen the residential concentration in this neighborhood. The residential use of the project will protect neighboring residents from the unreasonably detrimental effects of nonresidential uses, such as noise, vibration, odors, smoke, fumes, gases, dust, heat and glare;

• The project is consistent with the West Berkeley Plan because the proposed massing and design is appropriate for the neighborhood and reflects the nature of the MU-R District;

• The project is not likely, under reasonably foreseeable circumstances, to either induce or contribute to a cumulative change of use in buildings away from residential, live/work, light industrial, or arts and crafts uses because the site location is in an area of West Berkeley known for a diverse mix of land uses and because the project will continue the residential pattern on the west side of Fifth Street at this block; and

• The proposed project is able to meet the applicable performance standards as described in BMC 23E.84.070.H because no additional performance standards are applicable to this project.
III. 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 (BMC 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 (BMC 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.

5. Plans and Representations Become Conditions (BMC 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 (BMC 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 (BMC 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 (BMC 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 harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney’s fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney’s fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant’s expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

IV. 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. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. Please designate the name of this individual below:

☐ Project Liaison

Name

Phone #

Prior to Issuance of Any Building Permit:
11. The applicant shall file an “Address Assignment Request Application” with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Administrative Use Permit. The new address(es) shall be assigned prior to issuance of a building permit.

12. The applicant shall provide the recorded driveway easements, as depicted on the Site Plan, to the Zoning Officer.
13. Geotechnical Plan Review. The applicant shall follow all conditions and recommendations outlined in the geotechnical report and response letters prepared by Peters and Ross (December 16, 2016, May 12, 2017, and October 2018) and the peer reviews prepared by Cotton, Shires and Associates, Inc. (February 6, 2017, May 24, 2017, and October 2018). In addition, the applicant’s geotechnical consultant shall review and approve all geotechnical aspects of the project building and grading plans (i.e., site preparation and grading, site drainage improvements and design parameters for foundations, retaining walls, and driveway) to ensure that their recommendations have been properly incorporated. In addition the consultant shall review project drainage and grading plans and verify that proposed site drainage discharge is acceptable from a geotechnical perspective. The results of the plan review shall be summarized by the geotechnical consultant in a letter and submitted to the City Engineer for review and approval prior to issuance of building permits.

14. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

A. Environmental Site Assessments:
   1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 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
   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 Administrative 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/

15. The Coast Live Oak tree on the site, near the south property line, and its roots shall be protected from all injuries that could endanger survival. The applicant shall consult with the City’s Arborist and, prior to excavation work or issuance of any building permit, provide a plan to protect and preserve the tree during and after construction for the City Arborist’s approval. The plan shall include the following conditions for construction work:

- The applicant shall provide an onsite sign that is visible from the street and includes the contact information of the person responsible for monitoring the site and ensuring tree protection measures are followed.
- The applicant shall install a 6’ fence, which shall remain for the duration of construction, to protect the area within the drip-line. No construction activity, including storage, may occur within the fenced area.
- If roots are damaged, construction shall cease until a certified arborist has been contacted and comes on site and provides direction to protect the trees as necessary.
- Failure to adequately protect the existing oak tree from damage such that one or more branch is removed through negligence or intentional action shall require corrective measures as determined by the Zoning Officer.
- Any pruning that involves the removal of more than one-fourth of the functioning leaf, stem, or root system of a Coast Live Oak tree in any 24 month period is prohibited.

16. Any proposed street tree removal shall be subject to the approval of a street tree removal permit by the City Forester.

17. Any proposed new trees, including planting, irrigation and maintenance methods, in the public right of way shall be approved by the City’s Arborist and the Public Works Department prior to issuance of a building permit.
During Construction:

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

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

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

19. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.

20. 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.

21. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.

22. 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 in thickness and secured to the ground.

23. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.

24. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.

25. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.

26. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
27. 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.

28. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

29. **Halt Work/Unanticipated Discovery of Tribal Cultural Resources.** In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.

30. **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.

31. **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 CEQA Guidelines Section 15064.5 (e)(1). If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to Health and
Safety Code Section 7050.5(c), 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.

32. 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.

Prior to Issuance of Occupancy Permit or Final Inspection:
33. All construction at the subject property shall substantially conform to the approved Administrative Use Permit drawings or to modifications approved by the Zoning Officer.

34. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated January 8, 2019.

At All Times (Operation):
35. 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.

36. 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.

37. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
SECOND FLOOR PLAN
PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

January 24, 2019

Findings and Conditions Attached

LANDSCAPE PLAN

CROWN OF EXISTING OAK TREE
EXISTING OAK TREE TRUNK
BARK MUTCH
SELECTED FOR OPTIMUM OAK TREE GROWTH

NEW TREE: LOMBARDY POPLAR OR SIMILAR VERTICAL SPECIES, 24" BOX
NEW TREE, SILVER OAK, LIQUID AMBER OR SIMILAR, 24" BOX
SHRUB: MEXICAN SAGE, NATIVE GRASS OR SIM, 5 GAL
FLOWERING SHRUB: KANGAROO PAW OR SIM, 5 GAL
VERTICAL SHRUB: PITTOSPORUM OR SIM, 5 GAL
STONE PAVER LANDSCAPED AREA WITH GROUND COVER, MULCH OR SIM
PATIO: PERMIABLE PAVER SURFACE

770 PAGE STREET (E) ASPHALT PARKING AREA.
HOUSE 1: 576 SF
HOUSE 2: 770 PAGE STREET
HOUSE 3: 1446A 5TH STREET
HOUSE 4: 1446B 5TH STREET
HOUSE 5: 1446C 5TH STREET
HOUSE 6: 1446D 5TH STREET

1442 5th STREET
EXISTING ONE STORY HOUSE

WADLUND Design Studio
SITE UNDERGROUND UTILITY PLAN

770 PAGE STREET

1442 5th STREET

(N) 6" SEWER LATERAL OUT TO PAGE STREET, INSTALLED WITH CONSTRUCTION OF 1446 5TH STREET, PER PUBLIC WORKS.

PROTECTED COAST LIVE OAK TREE

KEY

- 4" SANITARY SEWER
- GAS
- ELECTRIC CONDUIT
- 1 1/4" WATER
- DUAL SERVICE
- SEWER CLEAN OUT

GENERAL NOTES

1) PROPOSED GAS / ELECTRIC LOCATIONS TO BE CONFIRMED BY PG&E.
2) PROPOSED WATER METER LOCATIONS TO BE CONFIRMED BY EBMUD.
3) ALL TRENCHING TO BE DONE PER UTILITY AND / OR CITY STANDARDS
2/5/19  
Ocean View Neighborhood Council  
Jeffrey Spahn and Niels Traynor  
809 Page Street Berkeley, CA 94710

To The Mayor and Berkeley City Council

Appeal of 1444 5th Street

ZP-2018-0172

Before Lot Line Adjustment by Public Works was complete,

1446 5th Street  6,251sf  (size of lot can allow 5 units)
1444 5th Street  6,251sf
1442 5th Street  3,750sf
770 Page Street  5,126sf
776 Page Street  3,900sf

Total: 25,278sf Total Lot Development –

The developer disclosed that he plans to develop all 5 lots at the ZAB meeting, January 24th 2019.

Appeal Items:

1. Can Public Works override zoning laws? Should property sizes be reduced to avoid inclusionary housing requirement?
2. Lot Line Adjustments to reduce density is a violation of SB35. Lot Size reduction to reduce density is also a violation of the Housing Accountability Act. A city can not impose changes that reduce density or the percentage of a lot that may be occupied by a building or structure. If you allow one developer to do this then you allow anyone in the neighborhood to do this thereby eliminating the inclusionary housing. This is a major set back for affordable housing.
3. Piecemeal construction, with each project taking one year to complete means five years of construction in our neighborhood. This is a big negative impact on our neighborhood. It should be built all at one time.
4. Piecemeal development means no environmental impact study was needed.
5. Piecemeal development means no traffic Impact Analysis was needed, also a negative impact on our neighborhood. Unlike a very similar sized project at 739 Channing also in MUR zoning with a total combined square foot lot coverage of 16,300. This project provided a Traffic Impact Study. This project also provided/paid inclusionary housing fees. This project provided live work units which our neighborhood group requested. The developer Trachtenberg Architects worked with the neighbors to resolve conflicts. Finally this project is not being appealed.
6. The Driveway easement on 1442 5th and 770 Page is only needed because the developer reduced the lot size widths thereby making 1444 Fifth Street too narrow for a driveway.

7. We urge the city council to review, fix, and enforce 23C.12.020 inclusionary fees for ownership projects.

8. Add Conditional approval to Use Permit ZP-2018-0172. Approve but deny the lot line adjustments. Enforce inclusionary fees. If the fees are too high can these be negotiated with the city and paid in advance with a 20% reduction? Also please clarify if the developer does not pay the fee but they are included in the sale or escrow of the homes. Please Review this and add a piecemeal development ordinance in the future. When a developer owns contiguous lots in different LLC names they should be considered one.

9. Approve ZP-2018-0172 with the condition of a Traffic Impact Analysis to be done for all five projects.

10. Re-mit to Design Review Committee this project was never meant to be as twonever had public input. The Design has changed considerably since the 1st public DRC. and now that the developer has admitted to the larger Design impact of Re-platting the design repeatedly this has NEW Design Impacts for the entire street view and controls of 51st Street and Page Street. Thank you.