

SOUTHSIDE PLAN - PLANNING COMMISSION SUBCOMMITTEE DRAFT

Changes in italics – updates to explain changes to the Southside since 2003.

Other changes – revisions to correct or clarify the Plan

ZONING

Zoning for the Southside Plan area: Introduction

2009 Update

When the Southside Plan was first developed, density bonuses were written into the proposed zoning language for the R-S and R-SMU districts to allow additional height for affordable housing projects. This language was specifically worded to match the State density bonus in place at the time. With the overhaul of the State density bonus guidelines in 2004, the proposed zoning language was no longer relevant and would be superceded by the new State guidelines. It is recommended that, rather than amending the density bonus references to match the current density bonus law, references to density bonuses should simply be deleted. This will keep the Southside zoning districts consist with the rest of the City's districts in terms of density bonus (the State guidelines apply whether mentioned or not), and will also prevent the Plan from becoming outdated as the density bonus guidelines are changed over the years. It is also recommended that the maximum heights proposed for affordable housing be kept, as they, along with other incentives, appear to accommodate the maximum 35% density bonus, and give the community more certainty in terms of the building heights that can be expected in their neighborhood.

Introduction

While working on revisions to the initial staff draft of the Southside Plan, the Planning Commission decided that it would be desirable to also develop zoning provisions to implement the plan.

The Plan calls for substantial revisions to the Telegraph Area Commercial District zoning provisions and some minor revisions to R-3 (Multiple Family Residential) zoning to be applied to portions of the Southside Plan area that the Plan proposes to re-zone as R-3. R-3 districts outside of the Southside Plan would not be changed.

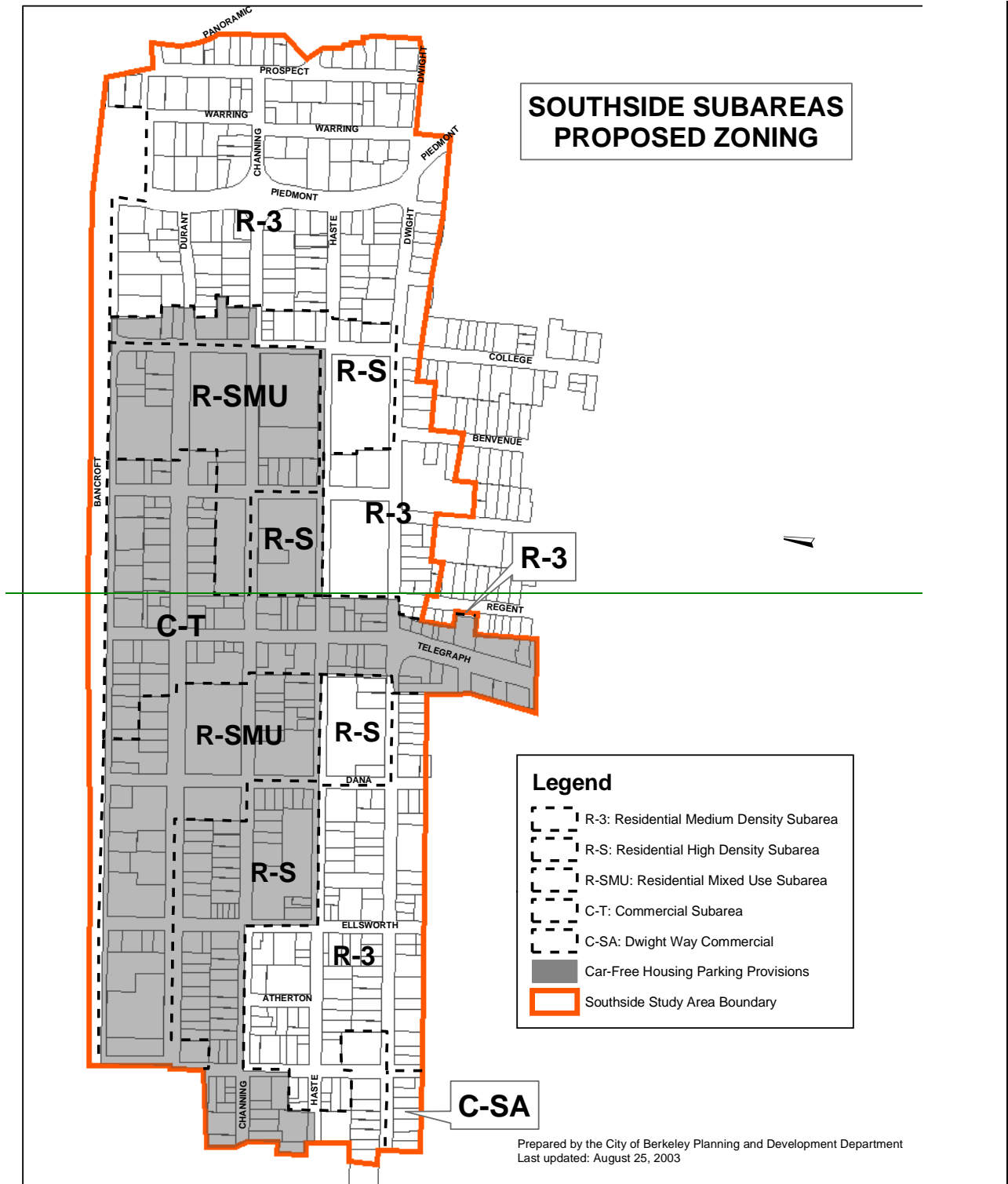
In addition, the Plan calls for the creation of two new higher density residential zoning districts to cover parts of the Southside that are currently zoned R-4, Multi-Family Residential:

The Residential-Southside District (R-S) and

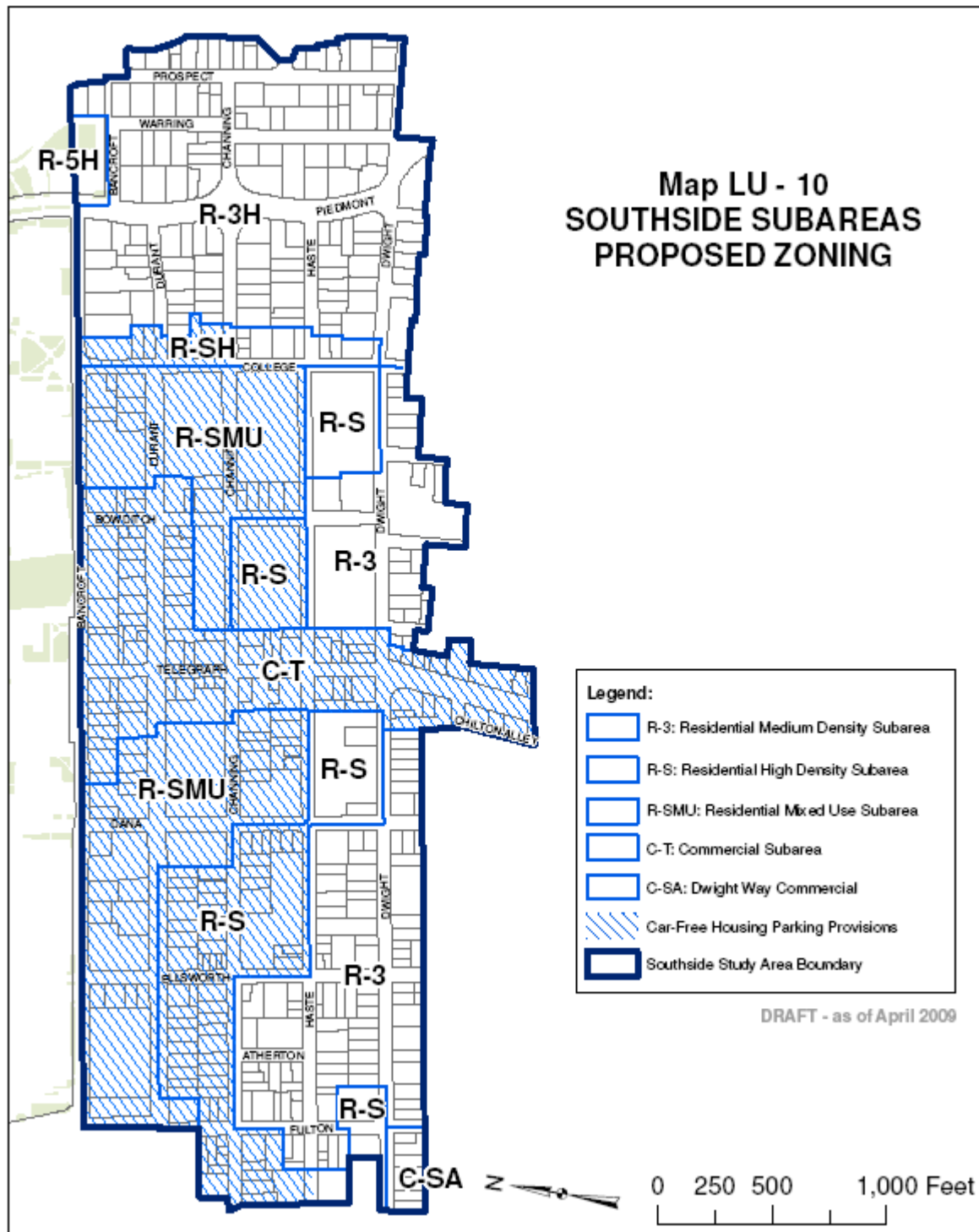
The Residential-Southside Mixed Use District (R-SMU)

The draft zoning would implement the Plan's emphasis on encouraging higher density development close to the UC campus and the Bancroft/Durant transit corridor and along the

Telegraph commercial/transit corridor, while "stepping down" and permitting less density closer to the residential neighborhoods south of Dwight Way and east of College Avenue.



This list is for information only, and does not represent any specific policy direction or policy interpretation on the part of the City or other contributors to the draft Southside Plan.



ZONING

23E.56. C-T TELEGRAPH AVENUE COMMERCIAL DISTRICT PROVISIONS

Section 23E.56.010 Applicability of Regulations

The regulations in this Chapter shall apply in all C-T Districts. In addition, general provisions in Sub-title 23C shall apply. (Ord. 6478-NS § 4 (part), 1999)

Section 23E.56.020 Purposes

The purposes of the Telegraph Avenue Commercial (C-T) Districts are to:

- A. Implement the Master Plan's designations for Community Shopping and Commercial/Residential Districts in this area.
- B. Implement the Southside Area Plan designations for the Commercial Subarea.
- C. Regulate development in the Telegraph Area Commercial District in order to satisfy the needs of the population groups using the District, especially the University population and the surrounding resident population.
- D. Encourage the availability of a variety of goods and services which serve residents in the District and the University population but do not generate a high volume of vehicular traffic.
- E. Allow for uses which maintain the cultural quality of the District giving it its regional appeal without generating substantial vehicular traffic.
- F. Discourage uses which because of size, the type of the products sold, vehicular traffic generated or other considerations, are more appropriately located elsewhere in the City.
- G. Encourage a mix of goods and services which will preclude the dominance of any one type of use and which will produce variations within the same category of uses.
- H. To encourage the establishment and maintenance of uses which will satisfy the needs of all age groups and attract a range of users and interests.
- I. Encourage the creation of additional housing in the District which is affordable, including housing for those who work or study nearby.
- J. Encourage those uses and structural architecture that reinforce, and discourage those uses and architecture that interrupt, the pedestrian orientation of the District.
- K. Encourage ~~mixed commercial and Residential Uses~~ mixed-use development.

- L. Encourage the construction of new housing and mixed-use development on vacant properties and surface parking lots.
- M. Encourage the redevelopment of single story structures that are not historically significant resources with housing and mixed-use development.
- N. Protect and enhance historical and architecturally significant buildings by ensuring that new development and alterations complement their existing architectural character.
- O. Encourage the establishment and survival of small, locally-owned businesses, thereby contributing to the vitality and diversity of the District.
- P. Discourage the type of ~~Commercial-commercial Use-use~~ whose establishment will contribute to the displacement of businesses that supply neighboring residents with essential goods and services.
- Q. Ensure that new buildings, additions and renovations harmonize with and enhance the unique character of the District.
- R. Provide environmental protection for the residents of mixed residential commercial structures and surrounding residents from such detriments as noise, fumes and litter.
- S. Preserve the ethnic diversity of the resident population and users of the District and of the types of businesses providing ethnically diverse goods and services in the District.
- T. Protect and encourage the development of properties accessible to the disabled for both residential and ~~Commercial-commercial Useuse.~~
- U. Discourage uses which are widely available in other shopping ~~Districts-districts~~ throughout the Bay Area and detract from the unique type and mix of goods and services available in the District. (Ord. 6478-NS § 4 (part), 1999)

Section 23E.56.030 Uses Permitted

- A. The following table sets forth the permits required for each listed item. Each use or structure shall be subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing (UP(PH)), or is Prohibited.

TABLE 23E.56.030

USE AND REQUIRED PERMITS

Use	Classification	Special Requirements (if any)
RETAIL SALES		
All Retail Sales Uses, except those listed below:	ZC	As defined in Sub-title F except otherwise listed (does not include Video Rental Stores)
Alcoholic Beverage Retail Sales	Prohibited	Including Liquor Stores and Wine Shops
Department Stores	UP(PH)	
Drug Paraphernalia (any use involving the sale or distribution thereof)	Prohibited	As defined in California Health and Safety Code Section 11364.5(d)
Firearm/Munitions Businesses	UP(PH)	Prohibited on any property devoted to residential use
Pawn Shops	Prohibited	Including Auction Houses
Pet Stores	UP(PH)	Including Sales and Grooming of Animals (but not Boarding)
Smoke Shops	UP(PH)	Prohibited if within 1,400 feet of a school or public park
PERSONAL AND HOUSEHOLD SERVICES		
All Personal and Household Services, except those listed below	ZC	As defined in Sub-title F, except those otherwise listed (does not include Massage). Also subject to numerical limitations listed in Table 23E.56.040
Laundromats	AUP*	
Veterinary Clinics	UP(PH)	Including Pet Hospitals
Video Tape/Disk Rental Stores	AUP*	
OFFICES		
Financial Services, Retail (Banks)	AUP*	
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents:		
When <u>not</u> located on the ground floor adjacent to street frontage	ZC	Offices prohibited on upper floors except on Bancroft Way
When located on the ground floor adjacent to street frontage	AUP*	Offices prohibited on upper floors except on Bancroft Way
Medical Practitioners, including Holistic Health and Mental Health Practitioners	UP(PH)	When not located on the ground floor adjacent to street frontage. Offices prohibited on upper floors except on Bancroft Way <u>Offices prohibited on ground floor adjacent to street frontage</u>

		<u>and on upper floors except on Bancroft Way.</u>
Other Professionals and Government, Institutions, Utilities	UP(PH)	When not located on the ground floor adjacent to street frontage. Also subject to parking requirements under Section E.56.080. Offices prohibited on upper floors except on Baneroft <u>Offices prohibited on ground floor adjacent to street frontage and on upper floors except on Bancroft Way.</u>

FOOD AND ALCOHOL SERVICE, LODGING, ENTERTAINMENT AND ASSEMBLY USES

Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service, including Bars, Cocktail Lounges and Taverns	UP(PH)	Service of distilled alcoholic beverages may be approved for full service restaurants only
Amusement Device Arcades	Prohibited	
Commercial Recreation Center	AUP*	
Dance, Exercise, Martial Arts and Music Studios	AUP*	
Entertainment Establishments	UP(PH)	Including Nightclubs
Food Service Establishments:	Also subject to numerical limitations listed in Table 23E.56.040	
Carry Out Food Service Stores	AUP*	
Quick Service Restaurants	AUP*	Subject to parking requirements; see Section 23E.56.080
Full Service Restaurants	AUP*	
Group Class Instruction for Business, Vocational or Other Purposes	AUP*	Not allowed on ground floor adjacent to street frontage
Gyms and Health Clubs	AUP*	
Hotels, Tourist, including Inns, Bed and Breakfasts and Hostels	UP(PH)	Subject to parking requirements; see Section 23E.56.080
Motels, Tourist	Prohibited	
Theaters, including Motion Pictures and Stage Performance	UP(PH)	Not allowed on ground floor adjacent to street frontage

AUTOMOBILE AND OTHER VEHICLE ORIENTED USES

Automobile Parts Stores	ZC	Excluding service of auto parts
Automobile Repair and Service	Prohibited	

Automobile Sales and Rentals	Prohibited	
Automobile Washes, Mechanical or Self-Service	Prohibited	
Automobile Wrecking Establishments	Prohibited	
Automobile/Motorcycle Parts Service	UP(PH)	
Gasoline/Automobile Fuel Stations	Prohibited	Except when located in a parking structure
Motorcycle Stores	Prohibited	Including Sales and/or Service
Recreational Vehicle and Trailers Sales and Rental, including Boats	Prohibited	
Tire Sales/Service Stores	Prohibited	

PARKING, OUTDOOR AND EXTERIOR SERVICE WINDOW USES

Activities or Storage Outside of a Building:		
Not abutting R-District	AUP*	
When abutting R-District	UP(PH)	
Automatic Teller Machines	AUP*	Exterior and when part of a Retail Financial Service
Drive-in Uses	Prohibited	Which provide service to customers in their cars. See definition in Sub-title 23F
Parking Structures	UP(PH)	
<u>Surface</u> Parking Lots	Prohibited	
Recycling Redemption Centers	AUP*	
Sidewalk Café Seating	AUP*	Subject to additional requirements; see Chapter 23E.24

COMBINATION COMMERCIAL/RESIDENTIAL USES

Live/Work Units:		
Not requiring a UP under Chapter 23E.20	ZC	
Requiring a UP under Chapter 23E.20	UP(PH)	
Mixed Use Developments (Residential/Commercial)	UP(PH)	Subject to Section 23E.56.070.D

USES INCIDENTAL TO A PERMITTED USE

Amusement Devices (up to 3)	AUP*	
Food or Beverage for Immediate Consumption	AUP*	Treated as a food service establishment and subject to numerical limitations in Table 23E.56.040
Live Entertainment	AUP*	
Manufacturing Uses	AUP*	

Storage of Goods (over 25% of gross Floor area)	AUP*	
Wholesale Activities	AUP*	
USES PERMITTED IN RESIDENTIAL DISTRICTS		
Accessory Uses and Structures	As per R-3 District	See Table 23D.36.030
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Allowed above the ground floor only. Standards may be modified under Section 23E.56.070.E
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Allowed above the ground floor only. Standards may be modified under Section 23E.56.070.E
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.56.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.56.080
Parks and Playgrounds	ZC	
<u>Public Safety & Emergency Services</u>	<u>UP(PH)</u>	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing Six or fewer persons Seven or more persons New Construction	ZC AUP* UP(PH)	Change of Use from an existing dwelling unit
MISCELLANEOUS USES		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas.
Dry Cleaning and Laundry Plants	Prohibited	
Kennels or Pet Boarding	Prohibited	

Laboratories	Prohibited	Except photographic processing laboratories.
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage, including Mini-storage Warehouses	Prohibited	
Wireless Telecommunication Facilities When located on a site with existing facilities	AUP*	Subject to the requirements of Section 23C.17.100
When located on a site without existing facilities	Prohibited	Waiver may be granted if ZAB approves finding of necessity as required by Section 23C.17.100D
<u>Legend:</u> ZC -- Zoning Certificate AUP* -- Administrative Use Permit UP(PH) -- Use Permit, public hearing required Prohibited -- Use not permitted		* For the purposes of the C-T zoning district, uses established by AUP require public notification of a decision within a 300-foot radius of the subject property

B. Any use not listed that is compatible with the purposes of the C-T District shall be permitted subject to securing an Administrative Use Permit. Any use that is not compatible with the purposes of the C-T District shall be prohibited.

23E.56.040 Special Provisions -- Numerical Limitations

A. The following uses shall be subject to the numerical and size limitations set forth below:

Table 23E.56.040

NUMERICAL AND SIZE LIMITATIONS			
Use	Number limit	Size limit (sq. ft.)	Type of Permit
Barber/Beauty Shops	10	None	Zoning Certificate
Food Service Establishments:			
Carry Out Food Service	19	None	Use Permit
Quick Service Restaurants *	30	1,500	Use Permit
Full Service Restaurants	none	None	Use Permit
Gift / Novelty Shops	None	3,000	Zoning Certificate
* Quick Service Restaurants are also limited to a maximum customer seating capacity of			

50 seats

** Quotas on new full service restaurants are eliminated provided a finding is made that ensures that the use remains in continuous operations as a full service restaurant or is converted to a non-food service use after issuance of a Use Permit.

(Ord. 6478-NS § 4 (part), 1999)

1. New uses that are allowed in the zone and that add new additional housing above the first floor are exempt from the above numerical limitations (land use quotas), with the exception of head shops.
- B. The Board may approve a Use Permit to exceed the limitations in this section (either numeric limitation or floor area) if it makes the findings under Section 23E.56.090.E (Ord. 6984-NS § 2 (part), 2007: Ord. 6478-NS § 4(part), 1999))

23E.56.050 Construction of New Floor Area, Conversions of Existing Buildings -- Requirements for Use Permits

A. No gross floor area shall be created unless a Use Permit is obtained, as set forth below. Creation of new floor area includes construction of new buildings or Accessory Buildings; additions to existing buildings; or the installation of new floor or Mezzanine levels within or onto existing buildings.

1. If the new floor area being created is less than 1,500 square feet of gross floor area, an Administrative Use Permit may be issued by the Zoning Officer;
2. If the new floor area being created is 1,500 or more of square feet of gross floor area, then a Use Permit shall be obtained.

B. No conversion of space shall be allowed except as set forth below:

1. An Administrative Use Permit is required to convert space within an existing building if the space to be converted or the resulting space contains 5,000 square feet or more of gross floor area.
2. Conversions of space that result in a greater number of individual tenant spaces shall be allowed with the issuance of a Zoning Certificate. An Administrative Use Permit is required to create any tenant space less than 1,000 square feet. (Ord. 6984-NS § 3 (part), 2007: Ord. 6478-NS § 4 (part), 1999)

23E.56.060 Use Limitations*

A. Notwithstanding the provisions of Chapter 23B.56 related to extending the hours of operation of an existing commercial use subject to a Use Permit or AUP, commercial uses that do not involve alcoholic beverage sales or service may operate from 7:00 a.m. to midnight Sunday through Thursday, and 7:00 a.m. to 2:00 a.m. Friday and Saturday. The Zoning Officer may approve an Administrative Use Permit for longer hours in accordance with Section 23E.16.010 if he or she makes the finding set forth in Section 23E.56.090.C.

- B. Notwithstanding the provisions of Chapter 23B.56 and Section 23E.16.040 related to extending the hours of operation of an existing commercial use subject to a Use Permit or AUP, commercial uses involving alcoholic beverage sales or service may operate starting at 7:00 a.m. and may not operate after 10:00 p.m. Sunday through Thursday, or midnight Friday and Saturday, unless different hours are specified by a Use Permit in accordance with Section 23E.16.010 and 23E.16.040. In order to grant such Permit, the Board must make the findings set forth in Section 23E.56.090.C.
- C. Any use which is incidental to the primary use of a building or property shall be subject to the permit requirements identified in the Uses Incidental to a Permitted Use heading under Section 23E.56.030, except as below:
 - 1. All food service uses shall be subject to the limitations of Section 23E.56.040 and none shall be considered as an Incidental Use for this District.
- D. Any activity or use which occurs outside of a building shall be subject to the permit requirements identified in the Parking, Outdoor and Exterior Window Uses heading in Table 23E.56.030.
- E. Adult-oriented Businesses and Amusement Arcades are prohibited. Alcoholic Beverage Sales and Live/Work Uses are subject to additional Ordinance requirements under Section 23E.16.040, Chapter 23E.20 and the following requirements:
 - 1. On-premise service and consumption of distilled alcoholic beverages shall be permitted only in full service restaurants. (Ord. 6478-NS § 4 (part), 1999)

*Specific text which previously amended this section on September 26, 2006 was repealed November 2006 as stated in the sunset provision (§ 22) of Ordinance 6,948-N.S.

Section 23E.56.070 Development Standards

- A. The height for a Main Building shall satisfy the following requirements:
 - 1. The minimum height shall be three (3) stories and thirty-five (35) ft.
 - 2. The maximum height shall be four (4) stories and fifty (50) ft.
 - 3. The maximum height can only be increased to five (5) stories and sixty-five (65) ft. if the following findings are made by the Zoning Officer or Board:
 - a. At least 50% of the total building floor area is designed for residential use;
 - ~~b. At least 20% of the housing units are affordable to households earning up to 60% of the Average Median Income (AMI) OR 10% are affordable to households earning up to 50% of AMI;~~
 - eb. The project will not result in a significant reduction in sunlight on Telegraph Avenue sidewalks.

4. In all buildings, except ~~buildings located in portions of the District adjacent to Bancroft~~those listed below, one hundred percent (100%) of the floor area above the ground floor shall be used for Residential Use, except where the second floor is used for Commercial Use as an integral part of the ground floor establishment. In such cases, the second floor commercial space shall have no entrances or exits, other than required fire exits, which offer access independent of the interior of the ground floor space and shall not exceed the ground floor area.

A. Buildings located adjacent to Bancroft may have offices on upper floors subject to the restrictions and permits listed in Section 23E.56.030.

- ~~4.~~ 5.—Shade studies shall be required for all proposed buildings exceeding three (3) stories or 40 feet. Based upon the findings of the shade study, the fourth (4) or higher story of the building may be required to be set back to minimize shade impacts on adjacent properties or the public right of way.

- B. No yards for any building (Main Buildings, Accessory Buildings, or Accessory Structures) shall be required, except as set forth below:

1. When the subject lot is adjacent to an abutting or confronting lot in a residential zone, the requirements of Section 23E.04.050 and 23E.04.060 shall apply, for additional yard and building feature requirements.

- C. Any Mixed Use building (residential and commercial) shall satisfy all of the standards and requirements of this District, including the FAR-development standards and off-street parking requirements of Section 23E.56.070.A and 23E.56.080, respectively, the density limitations of the R-3 District and as follows:

1. Each Mixed Use building shall contain at least 40 square feet of Usable Open Space per Dwelling Unit for the residential use portion, except that no dimension of such open space shall be less than six feet.
2. ~~When the subject lot is adjacent to an abutting or confronting lot in a residential zone, the requirements of Section 23E.04.050 and 23E.04.060 shall apply, for additional yard and building feature requirements~~

- D. Exclusive Residential Uses are not allowed. Dwelling Units and Group Living Accommodations may be allowed, however, above the ground floor only when located in a Mixed Use building. (Ord. 6478-NS § 4 (part), 1999)

*Specific text which previously amended this section on September 26, 2006 was repealed November 2006 as stated in the sunset provision (§ 22) of Ordinance 6,948-N.S.

23E.56.080 Parking -- Number of Spaces

- A. The following provisions shall apply to properties within the CT District:

1. No Off-street Parking Spaces shall be required for the creation of new commercial gross floor area, or for new Dwelling Units or Group Living Accommodation rooms; however, a higher Transportation Services Fee (TSF) shall be paid for commercial projects as described in Section 23E.56.080.A.~~3-4~~ below, but no fee

shall be required for Residential Uses. In addition, no off-street loading spaces shall be required for new commercial gross floor area.

2. Bicycle parking spaces shall be provided at the ratio of one space per 2,000 square feet of gross floor area of commercial space, and in accordance with the requirements of Section 23E.28.070~~;~~.
3. Occupants of residential projects constructed after the effective date of Ordinance No. 5908 (2/7/1989)~~of this ordinance amendment~~ shall not be entitled to receive parking permits under the Residential Permit Parking Program (RPP), under Section 14.08 of the BMC (Ordinance #5803 and #5908).
4. A TSF shall be paid for each square foot of commercial gross floor area in an amount set at three times the basic rate for the District established by City Council resolution and in accordance with the procedures and purposes of Chapter 23E.28. Seventy-five percent (75%) of this fee shall be deposited into the City's general TSF fund under Section 23E.28.100, and the remaining twenty-five percent (25%) shall be deposited into the ~~Sather Gate~~Telegraph/Channing Alternative Transportation Fund as described in Section 23E.56.080.A.5 ~~below~~;
5. The ~~Sather Gate~~Telegraph/Channing Alternative Transportation Fund is hereby established for the deposit of funds from projects in the District. This fund shall be used exclusively for costs incurred to accomplish the following objectives within the District:
 - a. To purchase transit or paratransit passes, coupons, or tickets for a discount to employees and customers;
 - b. For other expenditures to support non-automobile transportation to and from the District;
 - c. To purchase, install and maintain bicycle parking facilities; and
 - d. To purchase, install and maintain improvements which facilitate mobility of disabled persons within the District.
6. Notwithstanding the above requirement, proposed uses in this portion of the District which provide off-street parking, either on-site or at another site under the same ownership within a twelve hundred (1,200) foot radius, ~~in an amount equivalent to that which would be required elsewhere in the District~~, shall only be required to pay the TSF at the normal basic rate established by Council resolution, not at the rate required by Section 23E.56.080.A.4.
7. No new off-street parking shall be permitted on any lot abutting Telegraph Avenue exclusively, and shall only be permitted on lots abutting other streets where access to the parking is gained from curb cuts existing on July 6, 1989, and subject to obtaining a Use Permit; and such Use Permit shall be subject to the Board making the finding as provided in Section 23E.56.090.D.

~~B. Any construction which results in the creation of ten thousand (10,000) square feet of new or additional commercial gross floor space shall satisfy the loading space requirements of Chapter 23E.32, except for the area covered by Section 23E.56.080.A and the following requirements:~~

- ~~1. Off street loading spaces at the ratio of one (1) space for the first ten thousand (10,000) square feet of gross floor area of commercial space;~~
- ~~2. Off street loading spaces at the ratio of one (1) space for each additional forty thousand (40,000) square feet of gross floor area of commercial space above the first ten thousand (10,000) square feet. (Ord. 6478-NS § 4 (part), 1999)~~

~~C. Residential buildings shall be allowed to remove parking spaces if found necessary by the Building Official to perform mandatory seismic strengthening.~~

23E.56.090 Findings

A. In order to approve any Use Permit under this Chapter, the Zoning Officer or Board must make the finding required by Section 23B.32.040. The Zoning Officer or Board must also make the findings required by the following paragraphs of this Section to the extent applicable:

B. A proposed use or structure must:

1. Be compatible with the purposes of the District;
2. Encourage and maintain the present street frontage of the District, will not interfere with the continuity of retail or compatible service facilities at the ground level and will not interrupt a continuous wall of building facades;
3. Be compatible in design and character with the District and the adjacent residential neighborhoods;
4. Not generate traffic or parking demand significantly beyond the capacity of the Commercial District or significantly increase impacts on adjacent residential neighborhoods.

C. No Administrative Use Permit or Use Permit shall be granted under Sections 23E.56.060.A or 23E.56.060B unless the Zoning Officer or Board finds that the extended hours will not generate excessive noise, traffic or parking problems affecting the well-being of the residents of the District.

D. No Use Permit shall be granted under Section 23E.56.080.A.76, unless the Board finds that traffic from the new parking will not significantly impede pedestrian circulation. (Ord. 6478-NS § 4 (part), 1999)

E. The Board, following a public hearing, may grant a Use Permit which authorizes a use which exceeds a limitation set forth in Section 23E.56.040.B, only if all of the following conditions and findings are met:

1. Granting an exception will result in enhancement of the purposes of the District;
and
2. Adverse parking and transportation impacts of the proposed use are negligible or have been mitigated so as not to adversely affect circulation or parking capacity on adjacent streets or in the immediate neighborhood. (Ord. 6984-NS § 5 (part), 2007; Ord. 6478-NS § 4 (part), 1999)

ZONING

R-SMU (Residential Southside Mixed Use District)

Section _____.10 Applicability of Regulations

The regulations in this Chapter shall apply in all R-SMU Districts. In addition, the general provisions in Sub-title 23C shall apply. Where the H District overlays a property so as to be classified R-SMU(H), the Hillside District provisions of Chapter 23E.96 shall also apply. (Ord. 6478-NS § 4 (part), 1999)

Section _____.020 Purposes

The purposes of the Residential Southside Mixed Use District (R-SMU) Districts are to:

- A. Implement Master Plan and Southside Area Plan policy by encouraging high density, multi-story residential development close to major shopping, transportation and employment centers;
- B. Make housing available for persons who desire a convenient location, but who require relatively small amounts of Usable Open Space; yet assure adequate light, air, privacy and Usable Open Space to promote and protect their physical and mental health;
- C. Protect adjacent properties from unreasonable obstruction of light and air;
- D. Permit the construction of residential structures, such as apartments and hotels, which will provide housing opportunities for transient or seasonal residents;
- E. Permit the construction of institutional, neighborhood serving retail, and office uses when such will not be detrimental to the immediate neighborhood;
- F. Provide locations for relocation of office space from other locations in the Southside Plan area;
- G. Encourage the construction of new housing and mixed-use development on vacant properties and surface parking lots;
- H. Encourage the redevelopment of single story structures that are not historically significant resources with housing and mixed-use development; and
- I. Protect and enhance historical and architecturally significant buildings by ensuring that new development and alterations complement their existing architectural character.

Section _____.030 Uses Permitted

The following table sets forth the Permits required for each listed item. Each use or structure shall be subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing (UP(PH)) or is Prohibited.

USE AND REQUIRED PERMITS		
Use	Classification	Special Requirements (if any)
Uses Permitted		
Grocery Stores	UP(PH)	Limited to 3,000 square feet in size
Cafes	UP(PH)	Limited to 1,200 square feet in size
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	
Community Care Facilities/Homes Changes of Use New Construction	ZC UP(PH)	Subject to parking requirements. See Section 23D.40.080.A
Community Centers	UP(PH)	
Dwelling Units, Single-family, Duplex, or Multi-Family, <u>subject to R-SMU Standards</u>	UP(PH)	
<u>Residential Additions (up to 15% of lot area or 600 square feet, whichever is more restrictive)</u>	ZC	<u>See Section 23D. .070 for restrictions</u>
<u>Major Residential Additions</u>	AUP	<u>See definition in Sub-title F. Denial subject to Section 23D.40.090.B.</u>
Group Living Accommodations	UP(PH)	
Hospitals	UP(PH)	Subject to parking requirements. See Section 23D.40.080.A
Hotels	UP(PH)	Subject to parking requirements. See Section 23D.40.080.A Also subject to Design Review; see Section 23D.40.040
Libraries	UP(PH)	Subject to parking requirements. See Section 23D.40.080.A
<u>Mixed-Use Developments (Residential/Commercial)</u>	<u>UP(PH)</u>	<u>Subject to Section 23D. .070.F</u>
Nursing Homes	UP(PH)	Subject to parking requirements. See Section 23D.40.080.A
Offices	UP(PH)	Subject to parking requirements. See Section 23D.40.080.A Also subject to Design Review; see Section 23D.40.040
Parking Structures	UP(PH)	

Parking lots	prohibited	
Parks and Playgrounds	ZC	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing 6 or fewer persons 7 or more persons New Construction	ZC AUP UP(PH)	Changes of use from an existing dwelling unit
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
<u>Accessory Dwelling Units in compliance with applicable standards</u>	ZC	<u>Subject to Section 23D. .040</u>
<u>Accessory Dwelling Unit which involves a Major Residential Addition (500 sq.ft. or more)</u>	AUP	<u>Denial subject to Section 23D. .090.B See definition in Sub-title 23F</u>
<u>Accessory Dwelling Unit in a detached Accessory Building which does not conform to the setbacks in Section 23D.36.070</u>	AUP	<u>In no case shall side or rear setbacks be allowed to be less than four feet, or the front setback to be less than 15 feet. Subject to making the finding in Section 23D.36.090.A</u>
<u>Accessory Dwelling Unit in a detached Accessory Building which does not conform to the height limit in Section 23D.36.040E.2</u>	AUP	<u>Subject to making applicable findings in Section 23D.36.090</u>
Additions, Major Residential (500 sq. ft. or more)–	AUP	Denial subject to finding under Section 23D.40.090.B. See definition in Sub-title F
Child Care, Family Day Care Small Family Day Care Homes of 8 or fewer children Large Family Day Care Homes of 9 to 14 children	ZC AUP	
Fences 6 ft. or less in height Exceeding 6 ft. in height	ZC AUP	In required setbacks

Home Occupations Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.070.C
Stables for Horses	Prohibited	
Stores and Shops (Incidental to another Use)	UP(PH)	
Miscellaneous Uses		
Cemeteries, Crematories, Mausoleums	Prohibited	
Commercial Excavation	Prohibited	
Public Utility Substations, Tanks	UP(PH)	

Legend:
 ZC -- Zoning Certificate UP(PH) -- Use Permit, public hearing required
 AUP -- Administrative Use Permit Prohibited -- Use not permitted

Section _____ . 040 Special Provisions: Development Standards for Accessory Dwelling Units

A. The Zoning Officer shall issue a Zoning Certificate to establish an Accessory Dwelling Unit in compliance with this section if all requirements of the R-SMU District and other applicable requirements are met. The Zoning Officer may approve an AUP for cases not in compliance, as set forth in Section 23D. .030.

B. Accessory Dwelling Units shall conform to the following standards in all cases:

1. The gross floor area of an Accessory Dwelling Unit shall contain no more than 25% of the gross floor area of the main dwelling in existence prior to the construction of the Accessory Dwelling Unit, except that if the house is less than 1,200 square feet., an Accessory Dwelling Unit of 300 square feet. will be allowed.
2. The gross floor area of an Accessory Dwelling Unit shall be no less than 300 square feet but no greater than 640 square feet.
3. No subdivision of land, air rights or condominium is allowed so as to enable the sale or transfer of the Accessory Dwelling Unit independently of the main Dwelling Unit or other portions of the property.
4. Each application shall be determined to be located on a lot with access from a roadway that meets the fire apparatus access road requirements of the California Fire Code Section 902.2.2.1 (as it may be amended or renumbered from time to

time), to be determined prior to either issuance of a Zoning Certificate or approval of an AUP.

5. 5. Prior to issuance of a Building Permit, all owners of record of the subject property shall sign and file a Declaration of Restrictions with the County Recorder, in a form satisfactory to the Zoning Officer, which makes any transfer of the property specifically subject to the restrictions contained in this section, and requires that either the primary Dwelling Unit or the Accessory Dwelling Unit be occupied by the owner of the subject property. Non-occupancy of an owner for periods of up to three years are allowed before the property will be found in non-compliance with this requirement.

B. An Accessory Dwelling Unit may be converted from a portion of the floor area of a pre-existing main Dwelling Unit subject to the following:

1. There shall be a separate entrance for the Accessory Dwelling Unit, but it shall not be located on the front of the existing building.

C. An Accessory Dwelling Unit may be created through a building addition to an existing main dwelling subject to the following:

1. There shall be a separate entrance for the Accessory Dwelling Unit, but it shall not be located on the front of the existing building.
2. The subject lot shall have an area not less than 4,500 square feet.

D. An Accessory Dwelling Unit may be created in a new or existing detached Accessory Building subject to the following:

1. The subject lot shall have an area not less than 4,500 square feet.
2. An Accessory Dwelling Unit located in an Accessory Building shall not exceed 12 feet in average height.
3. The detached accessory building shall conform to the setbacks in Section 23D. .070.D to be allowed by right (with issuance of a Zoning Certificate). Any reduction from the setbacks is subject to review and approval of an Administrative Use Permit, but in no case shall the setbacks be reduced below four feet on side and rear setbacks, or 15 feet on the front setback.

Special Provisions -- Design Review

~~All new projects shall be subject to Design Review as set forth in Chapters 23E.08 and 23E.12. (Ord. 6478 NS § 4 (part), 1999).~~

Section _____ .050 ~~Reserved~~ Special Provisions -- Design Review

All new projects shall be subject to Design Review as set forth in Chapters 23E.08 and 23E.12. (Ord. 6478-NS § 4 (part), 1999).

Section _____ .060 Reserved

Section _____ .070 Development Standards

A. No lot of less than five thousand (5,000) square feet may be created.

B. The height for a Main Building shall satisfy the following requirements:

1. The maximum height shall be 4 stories and 60 ft.
2. Within the portions of the District located east of Telegraph Avenue or more than 130 feet south of Bancroft Way, the maximum height may be increased to 5 stories and 65 ft. if the following findings are made by the Zoning Officer or Board:
 - a. At least 50% of the total building floor area is designed for residential use; and
 - b. ~~At least 20% of the housing units are affordable to households earning up to 60% of the Average Median Income (AMI) or 10% are affordable to households earning up to 50% of AMI.~~ Meets the purpose of the district.
3. Within the portion of the District located west of Telegraph Avenue and within 130 feet from Bancroft Way, the height may be increased to 5 stories and 75 feet if the following findings are made by the Zoning Officer or Board:
 - a. At least 50% of the total building floor area is designed for residential use; and
 - b. ~~At least 20% of the housing units are affordable to households earning up to 60% of the average Median Income (AMI) or 10% are affordable to households earning up to 50% of AMI.~~ Meets the purpose of the district.

C. Each Main Building shall be set back from its respective lot lines, and shall be separated from one another, in accordance with the following limits:

	Story	Yard location				Building separation **
		Front*	Rear**	Side	Street side	
Main buildings with 1 st dwelling units or group living accommodations or located north of Durant Avenue.		0 -10	10	4	0 -6	8
	2nd	0 -10	10	4	0 -8	12
	3rd	0 -10	10	6	0 -10	16

	4th	0-10	17	8	0-10	20
	5 th	0-10	19	10	0-10	24
All other buildings	main 1 st	15	15	4	6	8
	2nd	15	15	4	8	12
	3rd	15	15	6	10	16
	4th	15	17	8	12	20

*=Depending on context. See Section 23D.____.D070.C.1

**See Sections 23D.____070.C.2 and .3 for yard and building separation reductions

1. For a Main Building that contains dwelling units or group living accommodations or is located north of Durant Avenue, the front setback, and the setback on the street side of a corner lot, may be reduced to as little as 0 feet if this is approved through Design Review with a finding that the reduction is appropriate given the setbacks and architectural design of surrounding buildings.
2. For two (2) or more Main Buildings which contain Dwelling Units, the Rear Yard may be reduced subject to obtaining an Administrative Use Permit.
3. For two (2) or more Main Buildings which contain Dwelling Units, the required building separation may be reduced subject to Administrative Use Permit.

D. Maximum lot coverage may not exceed the following coverage percentages:

	Main Building Height (stories)	Lot Coverage Area (%)	
		Interior and Through Lots	Corner Lots
Main Buildings with dwelling units or group living accommodations, or located north of Durant Ave.	1 through 5 or 2	100	100
	<u>3</u>		
	<u>4</u>		
All other main buildings	1 or 2	45	50
	3	40	45
	4	35	40

1. For a Main Building that contains dwelling units or group living accommodations or is located north of Durant Avenue, the lot coverage may be increased up to 100% if this is approved through Design Review with a finding that the increase is appropriate given the setbacks and architectural design of surrounding buildings.

E. Each lot shall contain the following minimum Usable Open Space area: for each Dwelling Unit, forty (40) square feet; for each person who resides in a Group Living Accommodation use; twenty (20) square feet.

F. Any Mixed Use building (residential and commercial) shall satisfy all of the standards and requirements of this District, including the density limitations of the R-3 District and as follows:

1. Each Mixed Use building shall contain at least 40 square feet of Usable Open Space per dwelling Unit for the residential use portion, except that no dimension of such open space shall be less than six feet.

Section _____ .080 Parking -- Number of Spaces

A. All parking shall be provided in accordance with the requirements of this section and Chapter 23E.28, except as set forth within this section.

B. The following provisions shall apply to properties within the R-SMU District:

1. No Off-street Parking Spaces shall be required for the creation of new commercial gross floor area in main buildings that include dwelling units or group living accommodations, or for new Dwelling Units or Group Living Accommodation rooms, or for Accessory Dwelling Units.

2. For main buildings with no dwelling units or group living accommodations, Off-Street Parking Spaces shall be provided in accordance with the requirements of 23D.40.080.

3. Bicycle parking spaces shall be provided at the ratio of one (1) space per two thousand (2,000) square feet of gross floor area of commercial space, and in accordance with the requirements of Section 23E.28.070.

~~B.C.~~ Occupants of dwelling units and group living accommodation rooms constructed without parking, constructed after the effective date of this ordinance amendment shall not be entitled to receive parking permits under the Residential Permit Parking Program (RPP), under Section 14.08 of the BMC (Ordinance #5803 and #5908);

~~C.D.~~ Any construction which results in the creation of ten thousand (10,000) square feet of new or additional commercial gross floor space shall satisfy the loading space requirements of Chapter 23E.32, except for the area covered by Section 23E.56.080.A and the following requirements as follows:

1. Off-street loading spaces at the ratio of one (1) space for the first ten thousand (10,000) square feet of gross floor area of commercial space;
2. Off-street loading spaces at the ratio of one (1) space for each additional forty thousand (40,000) square feet of gross floor area of commercial space above the first ten thousand (10,000) square feet.

~~D. Residential buildings shall be allowed to remove parking spaces if found necessary by the Building Official to perform mandatory seismic strengthening.~~

Section _____ .090 Transportation Services Fee

E. A Transportation Services Fee (TSF) shall be paid for each square foot of commercial gross floor area for the District established by City Council resolution and in accordance with the procedures and purposes of Chapter 23E.28. Seventy-five percent (75%) of this fee shall be deposited into the City's general TSF fund under Section 23E.28.100, and the remaining twenty-five percent (25%) shall be deposited into the ~~Sather Gate Telegraph-Channing~~ Alternative Transportation Fund.

F. A Transportation Services Fee (TSF) shall be paid for each new housing unit. Housing units which are permanently rent restricted to households earning up to 60% of the AMI shall be exempt from the Fee requirement.

[Note: The City does not currently have an adequate Transportation Service Fee ordinance, and the City does not collect such a fee at this time. The General Plan calls for creation of such a fee. The fee will require a new ordinance and a nexus study to establish the fee amount.]

Section _____ .110090 Findings

- A. In order to approve any Permit under this Chapter, the Zoning Officer or Board must make the finding required by Section 23B.32.040. The Zoning Officer or Board must also make any findings required by the following paragraphs of this Section to the extent applicable. If the Zoning Officer or Board makes the applicable finding required by the following paragraph of this Section then the permit shall be denied.
- B. To deny a Use Permit for a major residential addition the Zoning Officer or Board must find that although the proposed major residential addition satisfies all other standards of this Ordinance, the addition would unreasonably obstruct sunlight, air or views.

ZONING

R-S (Residential Southside District)

Section _____.010 Applicability of Regulations

The regulations in this Chapter shall apply in all R-S Districts. In addition, the general provisions in Sub-title 23C shall apply. Where the H District overlays a property so as to be classified R-S(H), the Hillside District provisions of Chapter 23E.96 shall also apply. (Ord. 6478-NS § 4 (part), 1999)

Section _____.020 Purposes

The purposes of the Residential Southside District (R-S) Districts are to:

~~J.A.~~ I.A. Implement Master Plan and Southside Area Plan policy by encouraging relatively high and moderate density, multi-story residential development close to major shopping, transportation and employment centers;

~~K.B.~~ J.B. Make housing available for persons who desire a convenient location, ~~but who require~~ with relatively small amounts of Usable Open Space; yet assure adequate light, air, privacy and Usable Open Space to promote and protect their physical and mental health;

~~L.C.~~ K.C. Protect adjacent properties from unreasonable obstruction of light and air;

~~M.D.~~ L.D. Permit the construction of residential structures, such as apartments and hotels, which will provide housing opportunities for transient or seasonal residents;

~~N.E.~~ M.E. Encourage the construction of new housing on vacant properties and surface parking lots;

~~O.F.~~ N.F. Encourage the redevelopment of single story structures that are not historically significant resources with more dense housing development; and

~~P.G.~~ O.G. Protect and enhance historical and architecturally significant buildings by ensuring that new development and alterations complement their existing architectural character.

Section _____.030 Uses Permitted

The following table sets forth the Permits required for each listed item. Each use or structure shall be subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing (UP(PH)) or is Prohibited.

USE AND REQUIRED PERMITS

Use	Classification	Special Requirements (if any)
Uses Permitted		
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	
Community Care Facilities/Homes:		
Changes of Use	ZC	Subject to parking requirements. See Section 23D.40.080.A
New Construction	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, Single-family, Duplex, or Multi-Family, <u>subject to R-S Standards</u>	UP(PH)	
<u>Residential Additions (up to 15% of the lot area or 600 square feet, whichever is more restrictive)</u>	<u>ZC</u>	<u>See Section 23D. .070 for restrictions.</u>
<u>Major Residential Additions</u>	<u>AUP</u>	<u>See definition in Sub-title F. Denial subject to Section 23D.40.090.B.</u>
Group Living Accommodations	UP(PH)	
Hospitals	Prohibited	
Hotels	UP(PH)	
Libraries	UP(PH)	
Nursing Homes	UP(PH)	
Offices	Prohibited	
Parking Structures	UP(PH)	
Parking lots	Prohibited	
Parks and Playgrounds	ZC	
<u>Public Safety & Emergency Services</u>	<u>UP(PH)</u>	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		
6 or fewer persons	ZC	Changes of use from an existing dwelling unit
7 or more persons	AUP	
New Construction	UP(PH)	
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	

When located on a vacant lot without a Main Building	AUP	
<u>Accessory Dwelling Units in compliance with applicable standards</u>	ZC	Subject to Section 23D. .040
<u>Accessory Dwelling Unit which does not comply with requirements under Section 23D. .080</u>	AUP	Subject to making applicable findings in Section 23D. .090
<u>Accessory Dwelling Unit which involves a Major Residential Addition (500 sq.ft. or more)</u>	AUP	Denial subject to Section 23D. .090.B See definition in Sub-title 23F
<u>Accessory Dwelling Unit which involves meeting the on-site parking requirement with tandem parking (See Section 23D. .040.F)</u>	AUP	Subject to making applicable findings in Section 23D. .090.D.
<u>Accessory Dwelling Unit in a detached Accessory Building which does not conform to the setbacks in Section 23D. .070</u>	AUP	In no case shall side or rear setbacks be allowed to be less than four feet, or the front setback to be less than 15 feet. Subject to making the finding in Section 23D. .090.A
<u>Accessory Dwelling Unit in a detached Accessory Building which does not conform to the height limit in Section 23D. .040E.2</u>	AUP	Subject to making applicable findings in Section 23D. .090
Additions, Major Residential (500 sq. ft. or more)	AUP	
Child Care, Family Day Care		
Small Family Day Care Homes of 8 or fewer children	ZC	
Large Family Day Care Homes of 9 to 14 children	AUP	
Fences		
6 ft. or less in height	ZC	
Exceeding 6 ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.070.C
Stables for Horses	Prohibited	
Stores and Shops (Incidental to another Use)	UP(PH)	
Miscellaneous Uses		
Cemeteries, Crematories, Mausoleums	Prohibited	
Commercial Excavation	Prohibited	
Public Utility Substations, Tanks	UP(PH)	

Legend:

ZC -- Zoning Certificate UP(PH) -- Use Permit, public hearing required

AUP -- Administrative Use Permit Prohibited — Use not permitted

Section _____ .040 Special Provisions: Development Standards for Accessory Dwelling Units

A. The Zoning Officer shall issue a Zoning Certificate to establish an Accessory Dwelling Unit in compliance with this section if all requirements of the R-3 District and other applicable requirements are met. The Zoning Officer may approve an AUP for cases not in compliance, as set forth in Section 23D. .030.

B. Accessory Dwelling Units shall conform to the following standards in all cases:

6. The gross floor area of an Accessory Dwelling Unit shall contain no more than 25% of the gross floor area of the main dwelling in existence prior to the construction of the Accessory Dwelling Unit, except that if the house is less than 1,200 square feet., an Accessory Dwelling Unit of 300 square feet. will be allowed.

7. The gross floor area of an Accessory Dwelling Unit shall be no less than 300 square feet but no greater than 640 square feet.

8. No subdivision of land, air rights or condominium is allowed so as to enable the sale or transfer of the Accessory Dwelling Unit independently of the main Dwelling Unit or other portions of the property.

9. Each application shall be determined to be located on a lot with access from a roadway that meets the fire apparatus access road requirements of the California Fire Code Section 902.2.2.1 (as it may be amended or renumbered from time to time), to be determined prior to either issuance of a Zoning Certificate or approval of an AUP.

10. 5. Prior to issuance of a Building Permit, all owners of record of the subject property shall sign and file a Declaration of Restrictions with the County Recorder, in a form satisfactory to the Zoning Officer, which makes any transfer of the property specifically subject to the restrictions contained in this section, and requires that either the primary Dwelling Unit or the Accessory Dwelling Unit be occupied by the owner of the subject property. Non-occupancy of an owner for periods of up to three years are allowed before the property will be found in non-compliance with this requirement.

E. An Accessory Dwelling Unit may be converted from a portion of the floor area of a pre-existing main Dwelling Unit subject to the following:

2. There shall be a separate entrance for the Accessory Dwelling Unit, but it shall not be located on the front of the existing building.

F. An Accessory Dwelling Unit may be created through a building addition to an existing main dwelling subject to the following:

3. There shall be a separate entrance for the Accessory Dwelling Unit, but it shall not be located on the front of the existing building.

4. The subject lot shall have an area not less than 4,500 square feet.

G. An Accessory Dwelling Unit may be created in a new or existing detached Accessory Building subject to the following:

4. The subject lot shall have an area not less than 4,500 square feet.

5. An Accessory Dwelling Unit located in an Accessory Building shall not exceed 12 feet in average height.

6. The detached accessory building shall conform to the setbacks in Section 23D. .070.D to be allowed by right (with issuance of a Zoning Certificate). Any reduction from the setbacks is subject to review and approval of an Administrative Use Permit, but in no case shall the setbacks be reduced below four feet on side and rear setbacks, or 15 feet on the front setback.

H. Where off-street parking in conformance with Section 23D. .080 would cause detriment to the property due to reduction of open space on the lot, the Zoning Officer may approve an AUP to allow tandem parking. (Ord. 6763-NS § 22 (part), 2003)

~~Special Provisions -- Design Review~~

~~All new projects shall be subject to Design Review as set forth in Chapters 23E.08 and 23E.12. (Ord. 6478-NS § 4 (part), 1999).~~

Section _____.050 Reserved Special Provisions -- Design Review

All new projects shall be subject to Design Review as set forth in Chapters 23E.08 and 23E.12. (Ord. 6478-NS § 4 (part), 1999).

Section _____.060 Reserved

Section _____.070 Development Standards

A. No lot of less than five thousand (5,000) square feet may be created.

B. The height for a Main Building shall satisfy the following requirements:

1.3. The maximum height shall be 3 stories and 35 ft.

2.4. The maximum height may be increased to 4 stories and 45 ft. if the following findings are made by the Zoning Officer or Board:

a. At least 50% of the total building floor area is designed for residential use; and

~~b. At least 20% of the housing units are affordable to households earning up to 60% of the Area Median Income (AMI) OR at least 10% are affordable to households earning up to 50% of Area Median Income (AMI).~~

b. Meets the purposes of the district.

~~3. The maximum height may be increased to 5 stories and 60 ft if the following finding is made in addition to the findings above in Section 40.070.C~~

~~a. At least 25% of the housing units are affordable to households earning up to 60% of the Area Median Income (AMI) AND at least 10% of the units are affordable to households at 40% of AMI.~~

C. Each Main Building shall be set back from its respective lot lines, and shall be separated from one another, in accordance with the following limits:

Yard location

Story	Front	Rear*	Side	Street side	Building separation*
1st	0-10	10	4	6	8
2nd	0-10	10	4	8	12
3rd	0-10	10	6	10	16
<u>4th</u>	<u>0-10</u>	<u>17</u>	<u>8</u>	<u>10</u>	<u>20</u>
<u>5th</u>	<u>0-10</u>	<u>19</u>	<u>10</u>	<u>10</u>	<u>24</u>

* See Sections 23D 40.070.DC.1-3 ~~and 2~~ for yard and building separation reductions.

1. For two (2) or more Main Buildings which contain Dwelling Units, the Rear Yard may be reduced subject to obtaining an Administrative Use Permit.
2. For two (2) or more Main Buildings which contain Dwelling Units, the required building separation may be reduced subject to Administrative Use Permit.
3. Front setbacks shall be 10 feet but may be reduced to 0 feet through design review with a finding that the smaller setback is appropriate given the setbacks and architectural design of surrounding buildings.

D. Maximum lot coverage may not exceed the following coverage percentages:

<u>Main Building Height (stories)</u>	<u>Lot Coverage Area (%)</u>	
	<u>Interior and Through Lots</u>	<u>Corners Lots</u>
1 or 2	65	70
3	60	65
4 or 5	55	60

E. Each lot shall contain the following minimum Usable Open Space area: for each Dwelling Unit, fifty (50) square feet; for each person who resides in a Group Living Accommodation use, twenty (20) square feet.

Section _____ .080 Parking -- Number of Spaces

A. All parking shall be provided in accordance with the requirements of this section and Chapter 23E.28, except as set forth within this section.

B. The following provisions shall apply to properties within the R-S District:

1. No Off-street Parking Spaces shall be required for new Dwelling Units or Group Living Accommodation rooms, ~~for the properties located~~ within the Car-Free Housing overlay Overlay shown in the map titled “Southside Subareas Proposed Zoning”.

2. For properties not included in the Car-Free Housing Overlay, off street parking requirements shall be determined by the parking requirements of Section 23-D.40 (R-4).

3. B. Bicycle parking spaces shall be provided at the ratio of one (1) space per two thousand (2,000) square feet of gross floor area of commercial space, and in accordance with the requirements of Section 23E.28.070.

C. Occupants of residential projects within the ~~Car~~-Car-Free Housing Overlay constructed after the effective date of this ordinance amendment shall not be entitled to receive parking permits under the Residential Permit Parking Program (RPP), under Section 14.08 of the BMC (Ordinance #5803 and #5908).

B. Any construction which results in the creation of ten thousand (10,000) square feet of new or additional commercial gross floor space shall satisfy the loading space requirements of Chapter 23E.32, except for the area covered by Section 23E.56.080.A and the following requirements:

~~A~~1. Off-street loading spaces at the ratio of one (1) space for the first ten thousand (10,000) square feet of gross floor area of commercial space;

~~b~~2. Off-street loading spaces at the ratio of one (1) space for each additional forty thousand (40,000) square feet of gross floor area of commercial space above the first ten thousand (10,000) square feet.

~~E.C.~~ Residential buildings shall be allowed to remove parking spaces if found necessary by the Building Official to perform mandatory seismic strengthening.

Section _____ .090 Transportation Services Fee

~~F.A.~~ A Transportation Services Fee (TSF) shall be paid for each square foot of commercial gross floor area for the District established by City Council resolution and in accordance with the procedures and purposes of Chapter 23E.28. Seventy-five percent (75%) of this fee shall be deposited into the City's general TSF fund under Section 23E.28.100, and the remaining twenty-five percent (25%) shall be deposited into the ~~Sather Gate~~ Telegraph-Channing Alternative Transportation Fund.

~~G.B.~~ A Transportation Services Fee (TSF) shall be paid for each new housing unit. Housing units which are permanently rent restricted to households earning up to 60% of the AMI shall be exempt from the Fee requirement.

[Note: The City does not currently have an adequate Transportation Service Fee ordinance, and the City does not collect such a fee at this time. The General Plan calls for creation of such a fee. The fee will require a new ordinance and a nexus study to establish the fee amount.]

Section _____ .100090 Findings

A. In order to approve any Permit under this Chapter, the Zoning Officer or Board must make the finding required by Section 23B.32.040. The Zoning Officer or Board must also make any findings required by the following paragraphs of this Section to the extent applicable. If the Zoning Officer or Board makes the applicable finding required by the following paragraph of this Section then the permit shall be denied.

B. To deny a Use Permit for a major residential addition the Zoning Officer or Board must find that although the proposed major residential addition satisfies all other standards of this Ordinance, the addition would unreasonably obstruct sunlight, air or views.

C. To approve a parking waiver the Zoning Officer or Board must find that additional or new on-site parking would be detrimental, and that the existing parking supply in the immediate neighborhood is adequate, or that other mitigating conditions are present and apply to the property.

D. To approve tandem parking for an Accessory Dwelling Unit, the Zoning Officer or board must find that additional or new on-site parking consistent with applicable standards would be detrimental due to reduction of open space on the lot, and that the oversight over the parking which will be provided by the resident owner, which is guaranteed by the requirement of owner-occupancy, will mitigate any potential detrimental effects of the tandem parking. (Ord. 6980-NS 6 (part), 20077: Ord. 6763-NS 24 (part), 2003: Ord. 6478-NS 4 (part), 1999).

ZONING

R-3 (Multiple Family Residential District)

Chapter 23D.36 R-3 MULTIPLE FAMILY RESIDENTIAL DISTRICT PROVISIONS

Section 23D.36.010 Applicability of Regulations

The regulations in this Chapter shall apply in all R-3 Districts. In addition, general provisions in Sub-title 23C shall apply. Where the H District overlays a property so as to be classified R-3(H), the Hillside District provisions of Chapter 23E.96 shall also apply. (Ord. 6478-NS § 4 (part), 1999)

Section 23D.36.020 Purposes

The purposes of the Multiple Family Residential (R-3) Districts are to:

- A. Implement Master Plan policy by encouraging development of relatively high density residential areas;
- B. Make available housing for persons who desire both convenience of location and a reasonable amount of Usable Open Space;
- C. Protect adjacent properties from unreasonable obstruction of light and air;
- D. Permit the construction of residential structures, such as dormitories, fraternity and sorority houses, boarding and rooming houses, which will meet the City requirements for this type of housing; and
- E. Permit the construction of specialized care and treatment facilities such as Senior Congregate Housing, Nursing Homes and Hospitals when such will not be detrimental to the immediate neighborhood. (Ord. 6478-NS § 4 (part), 1999)

Section 23D.36.030 Uses Permitted

The following table sets forth the Permits required for each listed item. Each use or structure shall be subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing (UP(PH)) or is Prohibited.

Table 23D.36.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted		
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	

Community Care Facilities/Homes		Subject to parking requirements. See Section 23D.36.080.A
Changes of Use	ZC	
New Construction	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, Single-family, Duplex, or Multi-family, subject to R-3 standards	UP(PH)	
Residential Additions (up to 15% of lot area or 600 square feet, whichever is more restrictive)	ZC	See Section 23D.36.070 for restrictions.
Major Residential Additions	AUP	See definition in Sub-title 23.F. Denial subject to Section 23D.36.090.B.
Group Living Accommodations, subject to R-3 standards	UP(PH)	
Hospitals	UP(PH)	Subject to parking requirements. See Section 23D.36.080.A
Libraries	UP(PH)	Subject to parking requirements. See Section 23D.36.080.A
Nursing Homes	UP(PH)	Subject to parking requirements. See Section 23D.36.080.A
Parks and Playgrounds	ZC	
Parking Lots		
When located in R-3 Districts east of Shattuck between Baneroft Way and Parker Street within the Southside Plan boundaries		Prohibited
—All other R-3 districts	UP(PH)	Subject to Section 23D.12.090
<u>Public Safety & Emergency Services</u>	<u>UP(PH)</u>	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		
6 or fewer persons	ZC	Changes of use from an existing dwelling unit
7 or more persons	AUP	
New Construction	UP(PH)	

Accessory Uses and Structures

Accessory Buildings or Structures If has either habitable space and/or exceeds the requirements under Chapter 23D.08	ZC AUP	Must satisfy the requirements of Chapter 23D.08
When located on a vacant lot without a Main Building	AUP	
Accessory Dwelling Units in compliance with applicable standards	ZC	Subject to Section 23D.36.040
Accessory Dwelling Unit which does not comply with requirements under Section 23D.36.080	AUP	Subject to making applicable findings in Section 23D.36.090
Accessory Dwelling Unit which involves a Major Residential Addition (500 sq.ft. or more)	AUP	Denial subject to Section 23D.36.090.B See definition in Sub-title 23F
Accessory Dwelling Unit which involves meeting the on-site parking requirement with tandem parking (See Section 23D.36.040.F)	AUP	Subject to making applicable findings in Section 23D.36.090.D.
Accessory Dwelling Unit in a detached Accessory Building which does not conform to the setbacks in Section 23D.36.070	AUP	In no case shall side or rear setbacks be allowed to be less than four feet, or the front setback to be less than 15 feet. Subject to making the finding in Section 23D.36.090.A
Accessory Dwelling Unit in a detached Accessory Building which does not conform to the height limit in Section 23D.36.040E.2	AUP	Subject to making applicable findings in Section 23D.36.090
Child Care; Family Day Care Small Family Day Care Homes of 8 or fewer children	ZC	
Large Family Day Care Homes of 9 to 14 children	AUP	
Fences If 6 ft. or less in height	ZC	

Exceeding 6 ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	
Miscellaneous Uses		
Cemeteries, Crematories, Mausoleums	Prohibited	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Public Utility Substations, Tanks	UP(PH)	
Wireless Telecommunication Towers/Antennas	Prohibited	Waiver may be granted if ZAB approves finding of necessity as required by Section 23C.17.100.D

Legend:

ZC -- Zoning Certificate UP(PH) -- Use Permit, public hearing required

AUP -- Administrative Use Permit Prohibited -- Use not permitted

(Ord. 6478-NS § 4 (part), 1999)

~~A. To meet the standards of a mandatory retrofit program or following substantial destruction of a building in a hazard event, residential buildings in areas that have been downzoned resulting from Southside Plan implementation actions shall be allowed by right to repair or rebuild to the same density and FAR as existing at the date of the downzoning.~~

Section 23D.36.040 Special Provisions: Development Standards for Accessory Dwelling Units

A. The Zoning Officer shall issue a Zoning Certificate to establish an Accessory Dwelling Unit in compliance with this section if all requirements of the R-3 District and other applicable requirements are met. The Zoning Officer may approve an AUP for cases not in compliance, as set forth in Section 23D.36.030.

B. Accessory Dwelling Units shall conform to the following standards in all cases:

1. The gross floor area of an Accessory Dwelling Unit shall contain no more than 25% of the gross floor area of the main dwelling in existence prior to the construction of the Accessory Dwelling Unit, except that if the house is less than 1,200 square feet, an Accessory Dwelling Unit of 300 square feet. will be allowed.
 2. The gross floor area of an Accessory Dwelling Unit shall be no less than 300 square feet but no greater than 640 square feet.
 3. No subdivision of land, air rights or condominium is allowed so as to enable the sale or transfer of the Accessory Dwelling Unit independently of the main Dwelling Unit or other portions of the property.
 4. Each application shall be determined to be located on a lot with access from a roadway that meets the fire apparatus access road requirements of the California Fire Code Section 902.2.2.1 (as it may be amended or renumbered from time to time), to be determined prior to either issuance of a Zoning Certificate or approval of an AUP.
 5. Prior to issuance of a Building Permit, all owners of record of the subject property shall sign and file a Declaration of Restrictions with the County Recorder, in a form satisfactory to the Zoning Officer, which makes any transfer of the property specifically subject to the restrictions contained in this section, and requires that either the primary Dwelling Unit or the Accessory Dwelling Unit be occupied by the owner of the subject property. Non-occupancy of an owner for periods of up to three years are allowed before the property will be found in non-compliance with this requirement.
- C. An Accessory Dwelling Unit may be converted from a portion of the floor area of a pre-existing main Dwelling Unit subject to the following:
1. There shall be a separate entrance for the Accessory Dwelling Unit, but it shall not be located on the front of the existing building.
- D. An Accessory Dwelling Unit may be created through a building addition to an existing main dwelling subject to the following:
1. There shall be a separate entrance for the Accessory Dwelling Unit, but it shall not be located on the front of the existing building.
 2. The subject lot shall have an area not less than 4,500 square feet.
- E. An Accessory Dwelling Unit may be created in a new or existing detached Accessory Building subject to the following:
1. The subject lot shall have an area not less than 4,500 square feet.

2. An Accessory Dwelling Unit located in an Accessory Building shall not exceed 12 feet in average height.
 3. The detached accessory building shall conform to the setbacks in Section 23D.36.070.D to be allowed by right (with issuance of a Zoning Certificate). Any reduction from the setbacks is subject to review and approval of an Administrative Use Permit, but in no case shall the setbacks be reduced below four feet on side and rear setbacks, or 15 feet on the front setback.
- F. Where off-street parking in conformance with Section 23D.36.080 would cause detriment to the property due to reduction of open space on the lot, the Zoning Officer may approve an AUP to allow tandem parking. (Ord. 6763-NS § 22 (part), 2003)

Section 23D.36.050 Reserved

Section 23D.36.060 Reserved

Section 23D.36.070 Development Standards

- A. No lot of less than 5,000 square feet may be created.
- B. No more than one person who resides in a Group Living Accommodation use shall be allowed for each 350 square feet of lot area. One additional person who resides in a Group Living Accommodation use may also be allowed for any remaining lot area which may be less than 350 square feet, but not less than 200 square feet in area.
- C. Each Main Building shall be limited in height as follows:

	<u>Height limit average (ft.)</u>	<u>Stories limit (number)</u>
Main Building	35	3
All Residential Additions	16*	N/A

*The Zoning Officer may issue an Administrative Use Permit to allow residential additions to exceed 16 feet in average height, up to the district limit.

- D. Each Main Building shall be set back from its respective lot lines, and shall be separated from one another, in accordance with the following limits:

<u>Story</u>	Yard location					<u>Building separation*</u>
	<u>Front</u>	<u>Rear*</u>	<u>Side</u>	<u>Street side</u>		
1st	15	15	4	6	8	
2nd	15	15	4	8	12	
3rd	15	15	10	10	16	

* See Section 23D.36.070.D.1 and 2 for yard and building separation reductions

1. For two or more Main Buildings which contain Dwelling Units, the Rear Yard may be reduced subject to obtaining an Administrative Use Permit.

2. For two or more Main Buildings which contain Dwelling Units, the required building separation may be reduced subject to obtaining an Administrative Use Permit.

E. Maximum lot coverage may not exceed the following coverage percentages:

<u>Main Building Height (stories)</u>	<u>Lot Coverage Area (%)</u>	
	<u>Interior and Through Lots*</u>	<u>Corner Lots-Lots*</u>
1 or 2	45	50
3	40	45

4.* Maximum lot coverage may be increased in the R-3 Districts located within the Southside Plan boundaries east of Shattuck Ave. between Bancroft Way and Parker Street with a finding that if one of the following findings is made by the Zoning Officer or Board:

- a. ~~It~~ It would enable a new rear dwelling on the lot; or
- b. ~~It~~ It would enable moving an historic building onto the lot.

F. Each lot shall contain the following minimum Usable Open Space area: for each Dwelling Unit, 200 square feet; for each person who resides in a Group Living Accommodation use, 90 square feet. (Ord. 6478-NS § 4 (part), 1999)

G. To meet the standards of a mandatory retrofit program or following substantial destruction of a building in a hazard event, residential buildings in areas that have been downzoned resulting from Southside Plan implementation actions shall be allowed by right to repair or rebuild to the same density and FAR as existing at the date of the downzoning.

Section 23D.36.080 Parking -- Number of Spaces

A. A lot shall contain the following minimum number of Off-street Parking Spaces:

Table 23D.36.080

<u>Use</u>	<u>Parking Required</u>	<u>Number of spaces</u>
Dormitories; Fraternity and Sorority Houses; Rooming and Boarding Houses; and Senior Congregate Housing		1 per each 5 residents, plus 1 for manager
Dwellings, Multiple (fewer than 10)		1 per unit (75% less for seniors, see below)
Dwellings, Multiple (10 or more)		1 per 1,000 sq. ft. of gross floor area (75% less for seniors, see below)
Dwellings, One and Two Family		1 per unit *
Employees		1 per 2 non-resident employees for a Community Care Facility **
Hospitals		1 per each 4 beds, plus 1 per each 3

	employees
Libraries	1 per 500 sq. ft. of floor area that is publicly accessible
Nursing Homes	1 per each 5 residents, plus 1 per each 3 employees

* This also shall include Accessory Dwelling Units. An application for an Accessory Dwelling Unit that does not meet this standard may apply for an administrative use permit to waive this requirement subject to a special finding under Section 23D.36.090.C

** This requirement does not apply to those Community Care Facilities which under state law must be treated in the same manner as a single family residence

B. Other uses requiring Use Permits, including, but not limited to, Child Care Centers, Clubs, Lodges, and community centers, shall provide the number of Off-street Parking Spaces determined by the Board based on the amount of traffic generated by the particular use and comparable with specified standards for other uses.

C. For multiple dwellings where the occupancy will be exclusively for persons over the age of 62, the number of required Off-street Parking Spaces may be reduced to 25% of what would otherwise be required for multiple family dwelling use, subject to obtaining a Use Permit.

D. Senior Congregate Housing, Hospitals, Nursing Homes, and Schools, when having a total gross floor area exceeding 10,000 square feet, shall satisfy the requirements of Chapter 23E.32 and the following requirements:

1. Off-street loading spaces at the ratio of one space for the first 10,000 square feet of gross floor area.
2. Off-street loading spaces at the ratio of one space for each additional 40,000 square feet of gross floor area of above the first 10,000 square feet. (Ord. 6478-NS § 4 (part), 1999)

~~E. Residential buildings shall be allowed to remove parking spaces if found necessary by the Building Official to perform mandatory seismic strengthening.~~

Section 23D.36.090 Findings

A. In order to approve any Permit under this Chapter, the Zoning Officer or Board must make the finding required by Section 23B.32.040. If the Zoning Officer or Board makes the applicable finding required by the following paragraph of this Section then the permit shall be denied.

B. To deny a Use Permit for a major residential addition or residential addition subject to 23D.36.070 the Zoning Officer or Board must find that although the proposed major residential addition satisfies all other standards of this Ordinance, the addition would unreasonably obstruct sunlight, air or views. ~~(Ord. 6478-NS § 4 (part), 1999)~~

D. To approve a parking waiver the Zoning Officer or Board must find that additional or new on-site parking would be detrimental, and that the existing parking supply in the

immediate neighborhood is adequate, or that other mitigating conditions are present and apply to the property.

D. To approve tandem parking for an Accessory Dwelling Unit, the Zoning Officer or board must find that additional or new on-site parking consistent with applicable standards would be detrimental due to reduction of open space on the lot, and that the oversight over the parking which will be provided by the resident owner, which is guaranteed by the requirement of owner-occupancy, will mitigate any potential detrimental effects of the tandem parking. (Ord. 6980-NS 6 (part), 2007; Ord. 6763-NS 24 (part), 2003; Ord. 6478-NS 4 (part), 1999).