



Planning and Development Department  
Land Use Planning Division

# A D M I N I S T R A T I V E U S E P E R M I T

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## 800 Dwight Way – Bayer Campus

### Administrative Use Permit #ZP2015-0223

**Project Description:** To legalize the previous installation of four temporary administration buildings on the central portion of the Bayer campus: Buildings T14D, E, F and G, and Building T56A.

- Section 23E.76.030 to install temporary structures in the MM district.

### FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

Following the expiration of the mandatory appeal period set forth in Section 23B.28.040 of the Berkeley Municipal Code, with no timely appeal being filed, the Administrative Use Permit described herein has been duly granted by the Zoning Officer on July 6, 2016.

Attest: Carol Johnson July 6, 2016  
Carol Johnson, Land Use Planning Manger Effective Date

# ATTACHMENT 1

## FINDINGS AND CONDITIONS

JUNE 14, 2016

### 800 Dwight Way

**Administrative Use Permit #ZP2015-0223 to legalize the previous installation of four temporary administration buildings on the central portion of the Bayer campus: Buildings T14D, E, F and G, and Building T56A.**

#### PERMITS REQUIRED

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- Administrative Use Permit in accordance with Berkeley Municipal Code 23E.76.030 Paragraph C to install temporary structures in the MM district

#### CEQA FINDINGS

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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 15303 of the CEQA Guidelines (“New Construction or Conversion of Small Structures”). 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.

#### FINDINGS FOR APPROVAL

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2. As required by Berkeley Municipal Code (BMC) Section 23B.28.050.A of the Zoning Ordinance, the project, under the circumstances of this particular case existing at the time at which the application is granted, 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:
  - As permitted under the 1992 Development Agreement between the City and Miles Inc. (DA), this proposal satisfies the requirement to obtain Administrative Use Permit approval (Exhibit J - Special Conditions) – albeit retroactivity – as well as the requirements for the installation and maintenance of temporary structures (Exhibit D - Development Standards).
  - The proposed administrative activities within the subject buildings are consistent with permitted uses allowed under the DA (Exhibit C - Site Development Plan), and the subject structures comply with the minimum setback standards and maximum building height limit prescribed for buildings containing these uses (Exhibit D). No additional on-

site parking is required for these temporary uses and no existing on-site parking spaces are affected by the placement of the subject buildings.

- Though these buildings are of substandard quality and design, they are found to be appropriate for limited use and temporary placement for a time not to exceed three years as permitted in the DA (Exhibit C) and requested by the applicant.
3. Pursuant to BMC Sections 23E.76.020 Paragraphs 3, 4, 5 and 7 (Purposes) and 23E.76.090 (Findings) Paragraph B-1, the Zoning Officer finds that the subject temporary buildings will support and ensure the continued operation of this significant West Berkeley employer and industrial use that proves to be compatible with and supportive of its mixed manufacturing context. The remaining purposes of this district either do not apply to this project or would not be undermined by the activities proposed.
4. Pursuant to BMC Section 23E.76.090 Paragraphs B-2 through B-6, the Zoning Officer finds that the proposal to legalize the installation of four temporary structures within the Bayer Campus is permissible because:
- The installations are not incompatible with the surrounding mix of light-industrial and mixed-manufacturing uses where the proposed administrative and security activities will be well contained within the Bayer Campus and, therein, unlikely to affect the surrounding uses.
  - The West Berkeley Plan Spectrum of Permitted Uses (Figure 1-3, page 38) identifies the subject site's mixed manufacturing use as the permitted use for this large parcel and sub-area within West Berkeley.
  - This proposal does not require a change-of-use that would induce substantial change away from uses like manufacturing, wholesale trade or warehousing.
  - The subject structures are not visible from the right-of-way and, therefore, their design and appearance will not detract from the industrial character of the district.

## **STANDARD CONDITIONS**

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

### **1. Conditions Shall be Printed on Plans**

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

### **2. Applicant Responsible for Compliance with Conditions**

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

**3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)**

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

**4. Modification of Permits (Section 23B.56.020)**

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Officer, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

**5. Plans and Representations Become Conditions (Section 23B.56.030)**

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

**6. Subject to All Applicable Laws and Regulations (Section 23B.56.040)**

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

**7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)**

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

**8. Exercise and Lapse of Permits (Section 23B.56.100)**

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

**9. Indemnification Agreement**

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

**ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER**

Pursuant to BMC 23B.28.050.D, the Zoning Officer attaches the following additional conditions to this Permit:

**Prior to Submittal of Any Building Permit:**

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

**Project Liaison** \_\_\_\_\_  
Name Phone #

**Prior to Issuance of Any Building Permit:**

11. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

**During Construction:**

12. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:

- Alterations, closures, or blockages to sidewalks or pedestrian paths
- Alterations, closures, or blockages to vehicle travel lanes (including bicycle lanes)
- Storage of building materials, dumpsters, debris anywhere In the public ROW
- Provision of exclusive contractor parking on-street relevant
- Significant truck activity.

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

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

13. 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
19. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
20. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
21. 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.
22. 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.

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

23. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
24. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated received October 15, 2015.

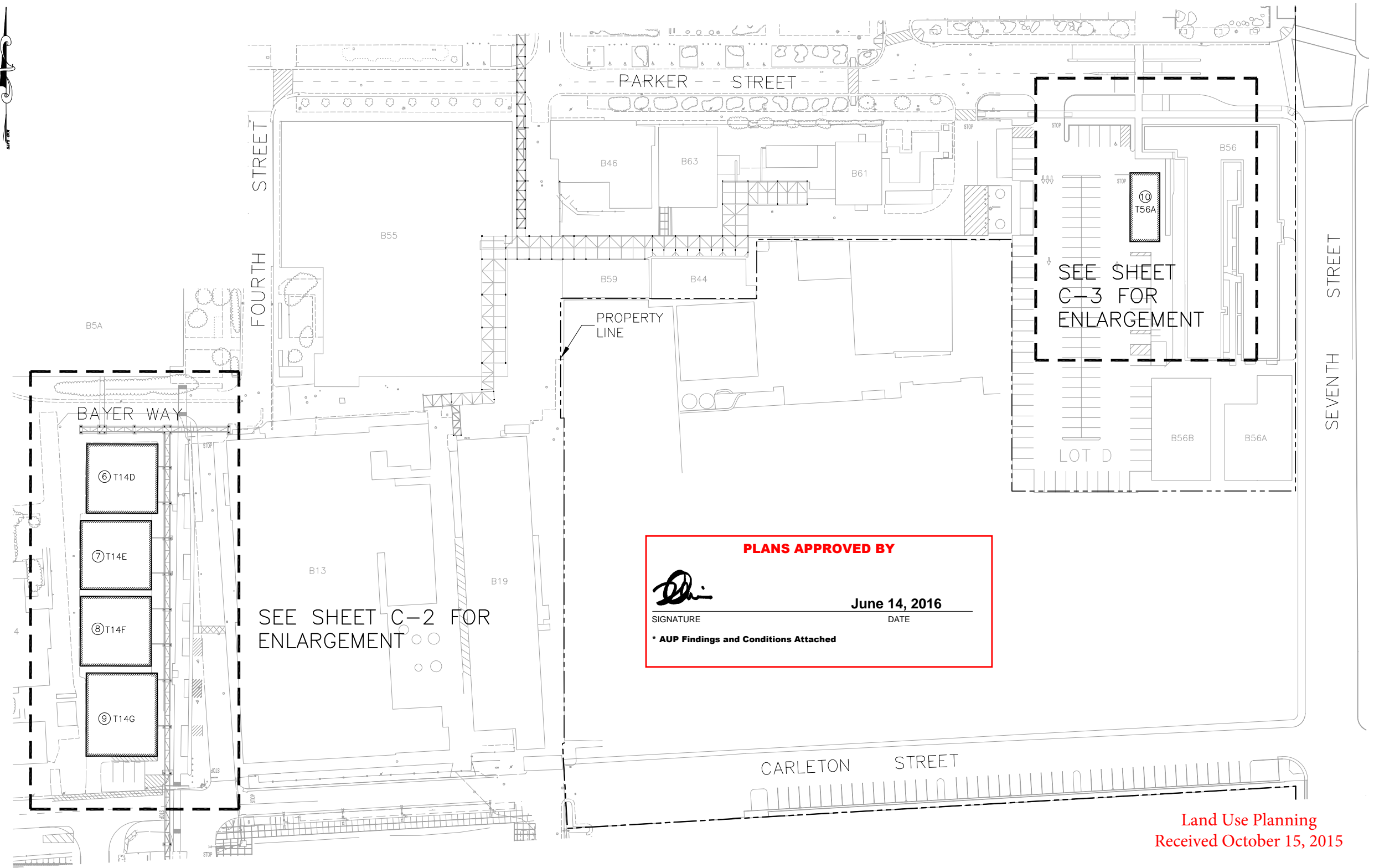
**At All Times (Operation):**

25. The subject temporary structures shall be removed from the Bayer Campus not later than three years from the date of issuance of this permit.
26. 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.
27. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
28. Noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding neighborhood. This shall include noise created by employees working on the premises before or after patrons arrive.




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Prepared by: Fatema Crane, Associate Planner  
For the Zoning Officer





**PLANS APPROVED BY**

  
 SIGNATURE June 14, 2016  
 DATE

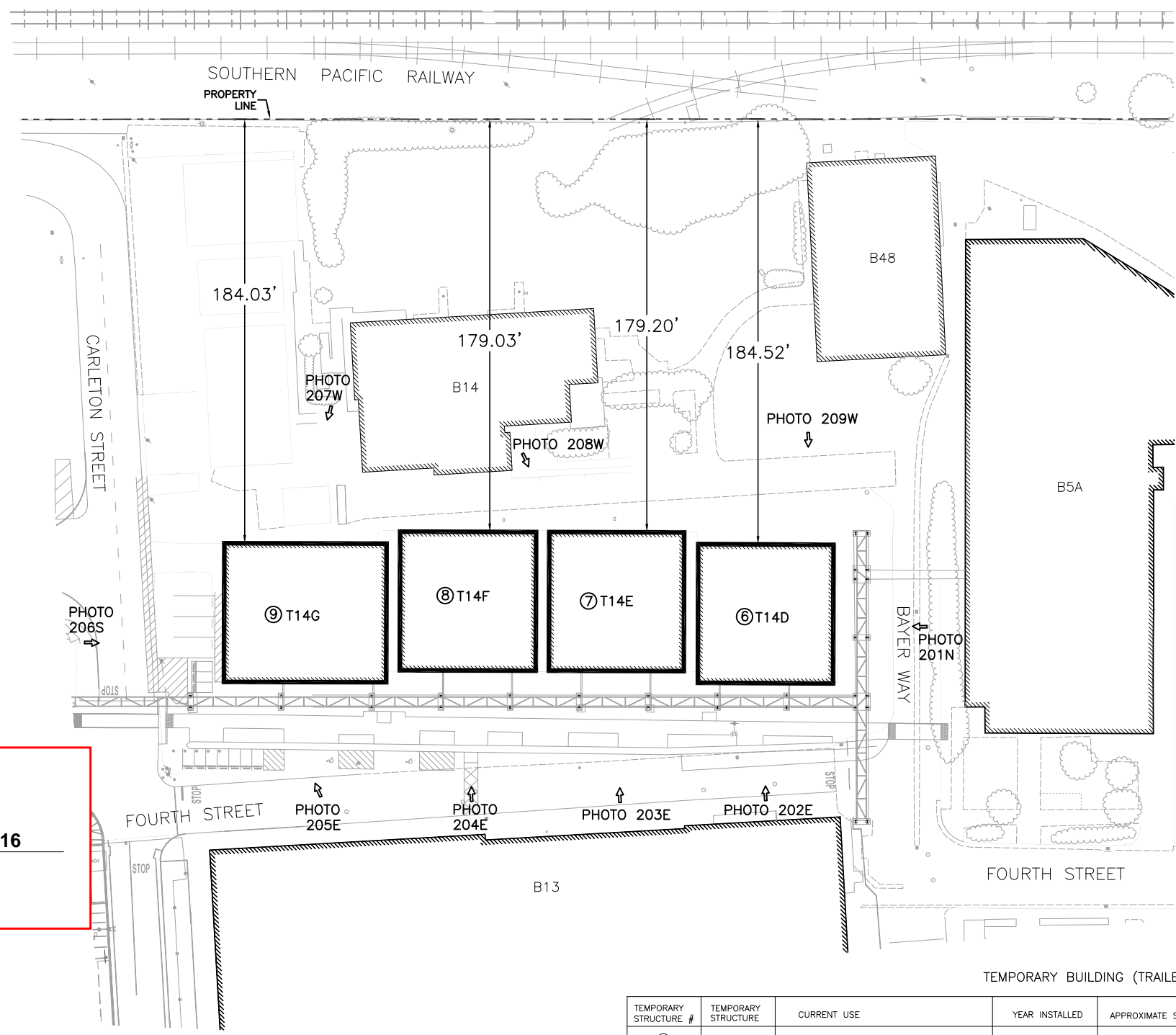
\* AUP Findings and Conditions Attached

Land Use Planning  
Received October 15, 2015

	Reference Information			Revision Information							 Berkeley, CA	BERKELEY SITE PLAN TEMPORARY STRUCTURES AUP MOD 2				
	Ref.	Dwg. No.	Title	Revision Description								Drawn by: WLM Date: 5/01/15 Scale: 1"=30'	Checked: RCW Approved: RCW Proj. Name: -	Date: 5/01/15 Date: 5/01/15	C-1 Drawing Number	As-Built Project
	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X

This drawing is the property of Bayer. The information is confidential and is to be used only in connection with work directed by Bayer. No part of it is to be disclosed to others without written permission from Bayer.





**PLANS APPROVED BY**

*[Signature]* **June 14, 2016**

SIGNATURE DATE

\* AUP Findings and Conditions Attached

TEMPORARY BUILDING (TRAILER)

TEMPORARY STRUCTURE #	TEMPORARY STRUCTURE	CURRENT USE	YEAR INSTALLED	APPROXIMATE SIZE (GSF)	DIMENSIONS (LxW)	HEIGHT
⑥	T14D	ADMINISTRATION - OFFICE (QA PURIFICATION)	2002	3600	121' x 35'	13.9'
⑦	T14E	ADMINISTRATION - OFFICE (QA PURIFICATION)	2002	3600	121' x 35'	13.6'
⑧	T14F	ADMINISTRATION - OFFICE (QA FILLING/FD)	2002	3600	121' x 35'	13.9'
⑨	T14G	ADMINISTRATION - OFFICE (QA TECHNICAL)	2002	4320	121' x 35'	13.3'

	Reference Information		Revision Information						Berkeley, CA		BERKELEY SITE TEMPORARY STRUCTURES AUP MOD 2				
	Ref.	Dwg. No.	Title	Revision Description					This drawing is the property of Bayer. The information is confidential and is to be used only in connection with work directed by Bayer. No part of it is to be disclosed to others without written permission from Bayer.	Drawn by: WLM	Checked: RCW	Date: 5/01/15	C-2 Drawing Number	As-Built Project Revision No.	
	X	X	X	Rev.	Date	By	Cl'd			App'd	Requestor	Date: 5/01/15			Approved: RCW
			Project Number	State	Revision Type	CCR Number			Scale: 1"=20'	Proj. Name: -					

