



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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## 2110 Parker Street

### Administrative Use Permit #ZP2016-0145

**Project Description:** To temporarily use an existing vacant lot as a 20-space automobile parking lot for the parking required for the mixed-use building at 2598 Shattuck Avenue. Use is valid until certificate of occupancy is issued for the parking garage at 2600 Shattuck Avenue where the required parking spaces for 2598 Shattuck Avenue will be located.

- Section 23B.10.010 to permit a temporary use.

### 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 September 7, 2016

Attest: Carol Johnson  
Carol Johnson, Land Use Planning Manger

September 7, 2016  
Effective Date

# ATTACHMENT 1

## FINDINGS AND CONDITIONS

AUGUST 22, 2016

### 2110 Parker Street

#### Administrative Use Permit #ZP2016-0145

**To temporarily use an existing vacant lot as a 20-space automobile parking lot for the parking required for the mixed-use building at 2598 Shattuck Avenue. Use is valid until certificate of occupancy is issued for the parking garage at 2600 Shattuck Avenue where the required parking spaces for 2598 Shattuck Avenue will be located**

#### PERMITS REQUIRED

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- Administrative Use Permit for a temporary use, per BMC 23B.10.010

#### 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 15301 of the CEQA Guidelines (“Existing Facilities”). 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 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:
  - The project site is currently used for auto storage in violation of the zoning ordinance, and the temporary use of the 20-space surface parking lot will be added to the southern portion of the lot. The project does not include any new structures or construction and as such the separation from surrounding buildings will be retained, allowing continued access to light and air. No new shadows will be cast. There will be no impacts to views.
  - The potential increase in activity on the surface lot will result in additional people on the lot; however, the existing approximately six-foot tall fence along the eastern property line will limit any impacts to privacy to residential uses to the east. Parker Street provides the boarder to the north, uses to the west and south are commercial.

- The project will be subject to the removing the non-compliant auto storage within 60 days of the effective date of this AUP (see Condition of Approval 11).

## **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 Issuance of Occupancy Permit or Final Inspection:**


- All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
- All landscape, site and architectural improvements shall be completed per the attached approved drawings dated July 22, 2016.

**At All Times (Operation):**

10. 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.
11. The vehicle storage zoning violation be remedied by either removing the vehicles or obtaining the necessary zoning permits within 60 days of the effective date of the AUP.

12. 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.
13. This permit shall expire on January 31, 2017 or upon issuance of a certificate of occupancy, whichever comes first.

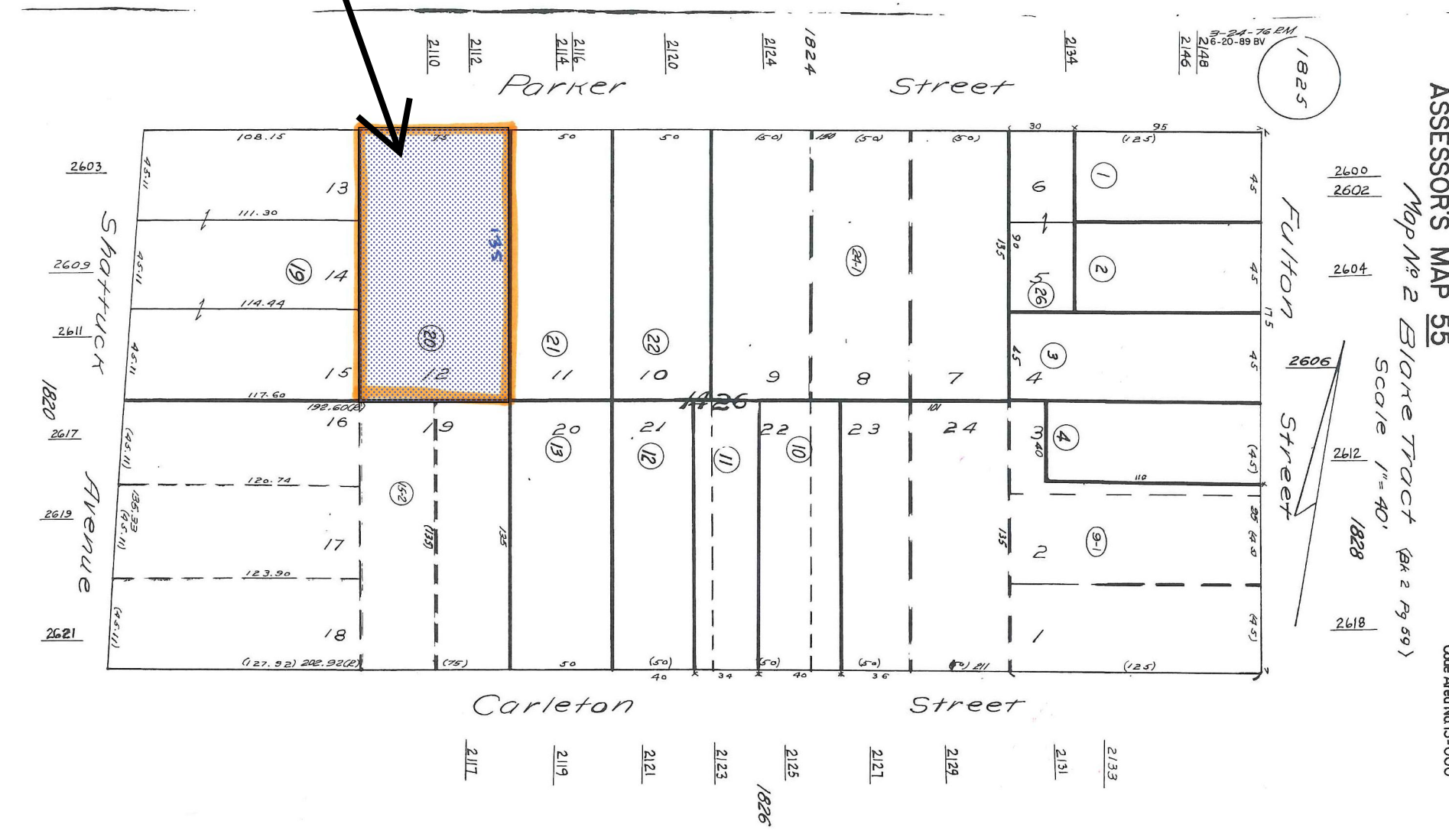
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Prepared by: Shannon Allen, AICP, Principal Planner  
For City of Berkeley Zoning Officer

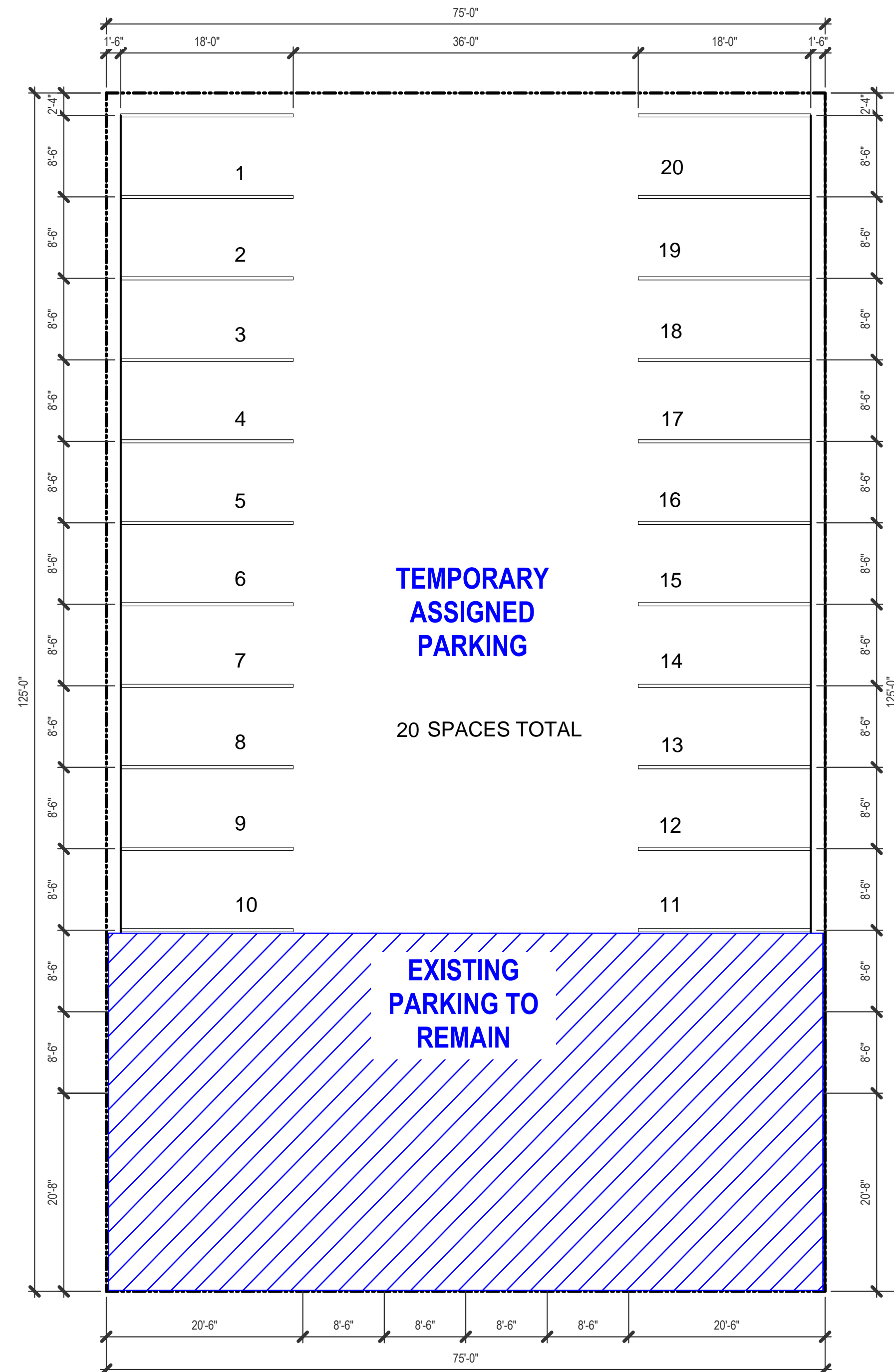
Reviewed by Leslie Mendez, Senior Planner

PROPOSED PARKING



**ASSESSOR'S PARCEL MAP - 2110 PARKER STREET**

**PARKER STREET**



**PROPOSED PARKING PLAN - 2110 PARKER STREET**

**PLANS APPROVED by**

*Shanna Alu*

August 19, 2016

SIGNATURE

DATE

\*AUP Findings and Conditions Attached

