2120 Berkeley Way – UC Press Building

Use Permit #ZP2015-0153 to renovate an existing three-story, 22,864-square-foot office building and construct a three-story, 19,260-square-foot office space addition, resulting in a 41,674-square-foot, six-story, approximately 72-foot tall building. Approximately 3,521 square feet of ground floor office space would be converted to retail space.

PERMITS REQUIRED

- Use Permit for construction of >10,000 sq. ft. gross floor area, under BMC Section 23E.68.050;
- Use Permit to allow a building over 60 feet but not more than 75 feet in the Outer Core area, under BMC Section 23E.68.070.A;
- Use Permit to modify the minimum 5-foot interior side and rear lot line setback where the building is between 21 and 75 feet in height, under 23E.68.070.C;
- Administrative Use Permit to allow architectural projections to exceed the height limit, under BMC Section 23E.04.020.C; and
- Use Permit to reduce required vehicle parking spaces, under BMC Section 23E.68.080.D.

I. CEQA FINDINGS

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15332 of the CEQA Guidelines (“In-Fill Development”). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. FINDINGS FOR APPROVAL

As required by Section 23B.32.040 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:

A. The subject site is located within, and surrounded by the Downtown Mixed Use District, Outer Core Subarea. The site is surrounded by two two-story vacant brown-shingle residential buildings to the east; a single-story and a four-story commercial building to the southeast, a four-story, 54-foot tall residential building (Bachenheimer Building) to the
south; and single-story commercial buildings to the southwest and west. North of the project site an eight-story 320,000 square foot UC building (future home of Tolman Hall) is currently under construction. In addition, a six-story, 75-foot tall mixed-use building (Acheson Commons) has been approved to the east and the south of the site and a 12-story, 120-foot tall building (L’Argent Highrise) is proposed to the west. The project design uses mixture of architectural articulations, recesses, and changes in color and material to both minimize the massing impacts and respect the scale of the residential uses to the south. The Design Review Committee (DRC) reviewed the project for its interface with the adjacent uses and found no detriment.

B. The shadow studies submitted as part of the application illustrate that under current conditions, the neighboring properties receive minimal shading impacts from the existing development on the subject site; shading impacts increase with the planned development. Due to the north/south orientation of the site, the proposed addition would cast shadows on to the properties to the north at 2161 Berkeley Way (UC Building – currently under construction) and to the south and east at 1922-30 Walnut Street (Acheson Commons) to varying degrees at different seasons. The most shading impacts would be on the building immediate to the east, which would experience shading on its eastern façade during the winter months during the evening hours. As the new shading will be limited to the evening hours of the summer months only, and below what is to be expected in the Berkeley downtown urbanized area. Shadow impacts are, therefore, found to be non-detrimental.

C. The proposed increase in height would reduce sunlight on adjacent parcels, one of which contains residential units (Bachenheimer Building). As demonstrated in the project plans, the addition will be directly adjacent to windows on the north façade of the Bachenheimer Building, these windows are primarily associated with a circulation hallway. The westernmost unit on this façade of the Bachenheimer Building has its bedroom window facing north. However, the proposed building design protects this unit by recessing the window openings to protect its privacy and to allow adequate light and air. The easternmost unit on this façade of the Bachenheimer Building has a number of window openings on the hall way. The proposed addition respects the privacy of this unit by recessing the window openings. The project massing is designed to respect the mixed-use Bachenheimer Building to the south. The Design Review Committee (DRC) reviewed the project for its interface with the adjacent uses and found no detriment.

D. The project proposes no parking spaces where 29 would be required (one and one-half automobile spaces per each 1,000 square feet of new floor area). In accordance with the City’s Climate Action Plan, as well as to advance more general sustainability goals, the C-DMU zoning district employs strategies to reduce vehicle reliance and promote alternative modes of transportation. In accordance with these policies, the District allows the reduction of parking spaces in exchange for an in-lieu fee payment per every waived space. The in-lieu fee will support a fund established by the City to provide structured parking in the downtown or be used for a variety of enhanced transit and transportation demand management programs based on Downtown Area Plan Policy AC-1.3.

The project also includes 28 secure bicycle parking spaces where 10 are required by the District provisions. The abundance of bicycle parking, the project’s proximity to public transit, jobs, goods and services, and the University, will help reduce car dependence and help ensure that parking demand does not exceed the project’s parking supply.
E. Pursuant to Berkeley Municipal Code Section 23E.68.090.B, the City finds that the proposed project is consistent with the purpose of the C-DMU District, because it is consistent with the goals and policies of the Downtown Area Plan as discussed in the project staff report dated March 31, 2016. The design, including height, massing, materials, color, and detailing has been reviewed and recommended for approval by the City’s DRC.

F. Pursuant to Section 23E.68.070.D.2, the project provides 234 square feet of privately owned public open space at the entry level where a total of 380 square feet is required; the applicant proposes to pay the in-lieu fee for remaining 146 square feet. Pursuant to Berkeley Municipal Code Section 23E.68.090.G, as development within the Downtown is on the rise, the City finds that the payment of an in-lieu fee for the 146 square feet of privately-owned public open space is appropriate and will support timely development of open space improvements that will serve the needs of both project residents and other people living in and using the downtown.

Roof deck open space is also provided, which the DRC has reviewed and approved, subject to final design review. Furthermore, the project will be subject to the Streets and Open Space Improvement Plan (SOSIP) fee.

G. The project would promote environmental sustainability by achieving a LEED Gold rating or higher as defined by the U.S. Green Building Council (USGBC), or by attaining building performance equivalent to this rating. The project includes solar PV panels on the roof, energy-efficient LED lighting, on-site public open space and an in lieu payment to enhance public transit services.

H. The project helps encourage transit use and reduce greenhouse gas emissions from motor vehicles by constructing office space without parking in close proximity to Downtown BART station, AC transit lines, UC Campus, and basic goods and services in the Downtown areas.

III. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS
The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

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

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

11. Percent for Art. The City Council is considering a One Percent for Art obligation on private development projects. Projects on which the obligation is required include, but may not be limited to: all new multifamily residential buildings of five or more units, commercial buildings, industrial buildings, and additions of 10,000 or more square feet made to existing structures of the same types. The five tall buildings described in Sections 23B.68.070.B.1 & 2 of the Berkeley Zoning Ordinance are exempted from this requirement. The Ordinance is anticipated to require owners of subject properties to provide publicly accessible art in the project, valued at 1% of construction costs of the overall project, or to pay an equivalent in-lieu fee. If the requirement is adopted by the Council prior to issuance of a building permit for this project, the applicant shall provide the art as noted, or pay the fee at the time of issuance of a building permit to construct the project.

12. Construction Noise Management - Public Notice Required. At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within 500 feet of the project site, including (1) project description, (2) description of construction activities, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Noise Management Individual for the project, (5) commitment to notify neighbors at least four days in advance of authorized extended work hours and the reason for extended hours, (6) that construction work is about to commence, and (7) designate a “construction liaison” that would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.

13. Construction Noise Reduction Program. The applicant shall develop a site specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:
   • Construction equipment should be well maintained and used judiciously to be as quiet as
practical.

- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- Utilize “quiet” models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
- Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
- Prohibit unnecessary idling of internal combustion engines.
- If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
- Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
- Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
- Route construction related traffic along major roadways and away from sensitive receptors where feasible.

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

15. **Streets and Open Space Improvement Plan: Street Frontage Improvements.** Consistent with the Streets and Open Space Improvement Plan (SOSIP), and the Downtown Area Plan, the developer shall construct and install the curb, gutter, sidewalk, dividers, street trees, benches and planters along the project’s street frontage, consistent with the Streets and Open Space Improvement Plan (SOSIP), or subsequent iterations as adopted by the City. Such improvements shall be included with the building permit submittal, designed and constructed as directed by the Public Works Department, and constructed prior to occupancy.

16. **Parking In-Lieu Fee.** Consistent with BMC 23E.28.080.D, the applicant shall pay a fee in lieu of providing each required vehicle parking. As set by the City Council, the graduated fee is as follows: $15,000 for each space 1-5, $20,000 or each space 6-15, $25,000 for each space 16-25, and $30,000 for each space above 25. The in lieu fee will be deposited into a fund established by the City that provides enhanced transit services.

17. **Open Space In-Lieu Fee:** Consistent with BMC 23E.68.070.D, the applicant shall pay a fee in lieu of providing 146 sq. ft. on-site open space required by this Section, to help fund the Streets and Open Space Improvement Plan (SOSIP). If the City Council does not adopt said fee by the time the City is ready to issue building permits, the fee shall be paid prior to Certificate of Occupancy or building permit final.
18. Streets and Open Space Improvement Plan: Impact Fee. As required by BMC Section 23E.68.075, the project shall pay an impact fee to implement the Streets and Open Space Improvement Plan (SOSIP), as may be adopted by the City Council. The City shall deposit this payment into the Downtown Streets and Open Space Improvement Fund (SOSIF), or its equivalent, to pay for the design and construction of the SOSIP Major Projects. “Gross Floor Area” shall be as defined in BMC Section 23F.04.010.

The fee shall be calculated and assessed consistent with the policies of the Downtown Area Plan Streets and Open Space Improvement Fee Nexus Study, (Draft July 2011,) or subsequent iterations as adopted by the City Council. At the City’s discretion, the City Manager or her designee may reduce the required SOSIP Impact Fee, on a $1 to $1 ratio, as a credit for constructing all or a portion of a Major SOSIP Improvement Project. The fee shall be paid according to a schedule established by the City Manager or his/her designee.

19. Affordable Housing. As required by Resolution No. 66,617-N.S., adopted June 3, 2014, Owner shall offset the estimated impacts of the project on affordable housing according to the following formulas:

<table>
<thead>
<tr>
<th>USE</th>
<th>AFFORDABLE UNITS per SQ.FT.</th>
<th>FEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office, Research + Development,</td>
<td>1 unit per 52,859 gross</td>
<td>$4.50 per gross square</td>
</tr>
<tr>
<td>Restaurant/Retail, Hotel</td>
<td>square feet</td>
<td>foot</td>
</tr>
<tr>
<td>Industrial/Manufacturing, Warehouse/</td>
<td>1 unit per 105,719 gross</td>
<td>$2.25 per gross square</td>
</tr>
<tr>
<td>Storage (except “self-storage”)</td>
<td>square feet</td>
<td>foot</td>
</tr>
<tr>
<td>Self-Storage</td>
<td>1 unit per 54,432 gross</td>
<td>$4.37 per gross square</td>
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<tr>
<td>square feet</td>
<td>foot</td>
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In-Lieu Fee - Owner shall pay an equivalent in-lieu impact fee in the amounts and according to the schedule listed below:

- Prior to Building Permit: $30,339.00
- Prior to Occupancy Permit: $30,339.00
- 1 Year from Occupancy Permit: $30,339.00

The final payment shall be appropriately secured by the City, e.g., by a letter of credit, bond, Promissory Note, Deed of Trust or another appropriate form of security. Some payments carry interest from the date they would normally be due.

Applicants may request reductions to these fee amounts, under the provisions of BMC Sections 22.20.070 or 22.20.080 relating to lower levels of impact, infeasibility, or overriding benefit to the City.

20. Child Care. As required by Resolution No. 66,618-N.S., adopted June 3, 2014, Owner shall offset the estimated impacts of the project on affordable child care according to the following formulas:
<table>
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<tr>
<th>USE</th>
<th>FEE</th>
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<tbody>
<tr>
<td>Office, Restaurant/Retail</td>
<td>$1.25 per gross square foot</td>
</tr>
<tr>
<td>Industrial/Manufacturing</td>
<td>$0.75 per gross square foot</td>
</tr>
<tr>
<td>Hotel/lodging</td>
<td>$1.50 per gross square foot</td>
</tr>
<tr>
<td>Warehouse/Storage</td>
<td>$0.62 per gross square foot</td>
</tr>
<tr>
<td>Research &amp; Development</td>
<td>$0.80 per gross square foot</td>
</tr>
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**In-Lieu Fee.** Owner shall pay a fee into the City’s Child Care Operating Subsidy account in the amounts and according to the schedule listed below.

- Prior to Building Permit: $8,427.50
- Prior to Occupancy Permit: $8,427.50
- 1 Year from Occupancy Permit: $8,427.50

The final payment shall be appropriately secured by the City, e.g., by a letter of credit, bond, Promissory Note, Deed of Trust or another appropriate form of security. Some payments carry interest from the date they would normally be due.

Applicants may request reductions to these fee amounts, under the provisions of BMC Sections 22.20.070 or 22.20.080 relating to lower levels of impact, infeasibility, or overriding benefit to the City.

21. **Green Building Certification.** The applicant shall submit documentation demonstrating that the building will attain LEED Gold or higher, or attain a building performance equivalent to this rating that has been approved by the Zoning Officer for this project. Documentation shall include proof of payment of the registration/application fee to the organization administering the green building certification system (e.g. USGBC/GBCI for LEED, Build It Green for GreenPoint Rated, etc.), a copy of the updated green building checklist that reflects anticipated points, and a statement from the appropriate project team professional (e.g. LEED Accredited Professional, GreenPoint Rater, etc.) verifying that the project is on track for certification at the required level or above. The submitted green building checklist must be a type that is appropriate for the project and a version that is being accepted by the organization granting the green building certification at the time of building permit application. Whenever applicable, measures from the green building checklist shall be incorporated and noted on site plans.

22. **Savings By Design.** The applicant shall submit documentation to the project planner verifying that an application to the Savings By Design program (either the Whole Building form or the Systems Approach form) was submitted to PG&E. This documentation shall include a copy of follow-up documentation between PG&E and the applicant, including a Savings By Design Energy Efficiency Form with a completed Preliminary Savings Estimate.

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

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

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

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

27. **First Source Agreement.** The applicant and/or end user(s) shall enter into a First Source Agreement with the City's WorkSource program, a referral service for Berkeley residents seeking jobs. The agreement requires employers to consult WorkSource before hiring construction workers or permanent employees, but leaves the final hiring decision with the employer. Please call (510) 981-7551 for further information, or visit WorkSource at 1947 Center Street.

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

1) **Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13)**
   A recent Phase I ESA (less than 6 months old*) shall be submitted to TMD for developments for:
   
   a. All new commercial, industrial and mixed use developments and all large improvement projects.
   
   b. All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).

   EMA is available online at: [http://www.cityofberkeley.info/uploadedFiles/IT/Level_3 - General/ema.pdf](http://www.cityofberkeley.info/uploadedFiles/IT/Level_3 - General/ema.pdf)

   Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff.

   The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.

   * If the Phase I is over 6 months old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

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

TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

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

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

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

During Construction:
30. Construction Hours. Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday. It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the project site describing the expanded construction hours. A copy
of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The project shall not be allowed more than 15 extended working days.

31. 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.

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

33. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City’s National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
   A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City’s storm drainage system, regardless of season or weather conditions.
   B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system;
these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.

C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.

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

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

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

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

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

I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
J. All loading areas must be designated to minimize “run-on” or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.

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

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

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

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

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

35. **Public Works.** All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.

36. **Public Works.** The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

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

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

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

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

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

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

42. **Compliance with Approved Plan.** The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated March 22, 2016, except as modified by conditions of approval.

43. **Green Building Certification.** The applicant shall submit updated documentation demonstrating that the building will attain LEED Gold or higher, or attain a building performance equivalent to this rating that has been approved by the Zoning Officer for this project. Documentation expected at this stage includes proof of submission of the final application materials and payment of the certification fee. If this submission has not yet occurred, a detailed explanation and timeline indicating when it will it happen must be submitted to the Zoning Officer for review.
and approval. Once awarded by the organization administering the green building certification system, the applicant shall forward a copy of the certification award to the Zoning Officer.

44. **Savings By Design.** The applicant shall provide the project planner with an updated Savings By Design Energy Efficiency Form that includes a completed Final Savings for the project. If the applicant has requested that PG&E complete this form and PG&E is unable to do so prior to occupancy permit or final inspection approval, the applicant may satisfy this condition by submitting documentation that PG&E intends to submit the form to the project planner with the expected date.

**At All Times:**
45. **Exterior Lighting.** All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

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

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

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

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

50. **Transportation Demand Management.** A Transportation Demand Management compliance report shall be submitted to the Transportation Division Manager, on a form acceptable to the City, prior to occupancy, and on an annual basis thereafter, which demonstrates that the project is in compliance with the applicable requirements and the following:

   A. Consistent with BMC 23E.68.080.H, and subject to the review and oversight of the Transportation Division Manager, the cost equivalent to an unlimited local bus pass shall be provided on a Clipper Card, or equivalent card that can be used by major Bay Area transit systems, shall be provided, at no cost, to every employee.

   B. A notice describing these transportation benefits shall be posted in a location or locations visible to all employees.

   C. Exceeding BMC23E.68.080.H, and subject to the review and oversight of the Transportation Division Manager, the cost equivalent to an unlimited local bus pass shall be provided on a Clipper Card, or equivalent card that can be used by major Bay Area transit systems, shall be provided, at no cost, two per residential unit.

   D. Transit information shall be provided in the residential lobby, updated at a minimum once a year. The information panels shall be shown in the construction drawings and shall be installed prior to occupancy.
E. Transportation Information Officer will gather and provide information regarding transit and other alternative transportation to residents and commercial tenants and their employees. Information may pertain to the City, regional transit agencies, car sharing, Spare the Air, 511 and other relevant programs. This information package shall be provided to all residents/employees on arrival plus once a year.

51. Transit Subsidy Condition. The applicant shall reimburse employees the maximum non-taxable cost of commuting to and from work on public transportation (e.g., monthly passes) if they so commute, and a notice informing employees of the availability of such subsidy shall be permanently displayed in the employee area. [Link to City of Berkeley Transit Benefit Ordinance]

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