

ATTACHMENT 1

FINDINGS AND CONDITIONS

JUNE 11, 2020

2023-25 Shattuck Avenue

Use Permit #ZP2019-0041 to construct a 24,178 square-foot, seven-story, 73'5" tall, mixed-use building with 48 dwelling units (including 4 units available to very-low-income households) and 1,250 square feet of ground floor commercial space. The project would provide no vehicle parking; it would provide secure storage for 34 bicycles.

PERMITS REQUIRED BY THE BERKELEY MUNICIPAL CODE

- Use Permit, under Berkeley Municipal Code (BMC) Section 23E.68.030.A (Downtown Mixed Use District, Core Area), to construct multi-family dwelling units.
- Use Permit, under BMC Section 23E.68.050, to construct more than 10,000 square-feet of floor area.
- Administrative Use Permit, under BMC Section 23E.04.020.C, to allow architectural elements to exceed the height limit in a commercial district.

CONCESSIONS/WAIVERS REQUESTED UNDER GOVERNMENT CODE SECTION 65915-65918

- Height modification to exceed the maximum 60' height limit to permit a 73'-5" building.
- Setback modifications to reduce the side setbacks above 20' in height from 5' to 0' to accommodate the density bonus units.
- Concession to reduce the open space requirement from 3,840 square feet to 1,325 square feet.
- Concession to reduce the required off-street parking spaces from 18 to 0.

I. CEQA FINDINGS AND APPROVAL

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

The project meets all of the requirements of this exemption, as follows:

- A. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
- B. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
- C. The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
- D. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by the City Transportation Division which concurred with the findings of less than significant impacts. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.

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

II. DENSITY BONUS FINDINGS AND APPROVAL

- 1. Pursuant to Government Code Section 65915, the Zoning Adjustments Board finds that:
 - A. Under the City's methodology for implementing density bonuses, the Base Project consists of 35 units.
 - B. The project will provide at least 4 qualifying units, representing 11% of the 35-unit Base Project at rents affordable to Very-Low-Income households, as more fully set forth in the Conditions of Approval.
 - C. The project is entitled to a density increase of 35% over the otherwise maximum allowable residential density as represented in the Base Project, plus two concessions or incentives. This equates to a density bonus of 13 units above the Base Project, for a total of 48 units.
- 2. In accordance with Government Code Section 65915(d) and (k), the applicant has requested the following concessions in order to provide for affordable housing costs:
 - A. Concession to reduce the open space requirement from 3,840 square feet to 1,325 square feet.
 - B. Concession to reduce the required off-street parking spaces from 18 to 0.
- 3. In accordance with Government Code Section 65915(d), the Zoning Adjustments Board finds that the approval of the concessions is required to provide for construction of the proposed project with the density permitted under State law, and to provide for affordable rents, because: approval of the concession would result in identifiable and actual cost reduction; approval of the concession would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and approval of the concession would not be contrary to State or Federal law.
- 4. In accordance with Government Code Section 65915(d), the Zoning Adjustments Board hereby grants the requested concessions.
- 5. In accordance with Government Code Section 65915(e), the applicant has requested the following waivers:
 - A. Height modification to exceed the maximum 60' height limit to permit a 73'-5" building.
 - B. Setback modifications to reduce the side setbacks above 20' in height from 5' to 0' to accommodate the density bonus units.
- 6. In accordance with Government Code Section 65915(e), the Zoning Adjustments Board finds that the requested waivers are appropriate because: State law requires the City to modify development standards that would otherwise physically preclude the housing development including density bonus units; the density bonus units can best be accommodated by granting these waivers; the requested waivers would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California

Register of Historical Resources; and approval of the requested waivers would not be contrary to State or Federal law.

7. In accordance with Government Code Section 65915(e), the Zoning Adjustments Board hereby grants the requested waivers.

III. FINDINGS FOR APPROVAL

8. As required by Section 23B.32.040.A of the BMC, 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 for the following reasons.
 - A. The Project is a higher-density development in proximity to regional transit, shops and amenities that is compatible with the purposes of the district and the surrounding uses and buildings. The project site is location within the Downtown Mixed Use District (C-DMU), Core Area, as identified in the City's Downtown Area Plan (DAP). It will create 48 dwelling units, consisting of studio apartments. Four (4) of the units will be deed restricted as affordable housing units for very-low-income residents. The proposal also includes 1,250 square feet of commercial space and 34 secure bicycle parking spaces on the ground floor. The Project site is well served by public transportation, including a BART station two blocks away. There are also bus stops less than one block from the site that provide access to five different AC Transit bus routes including a transbay route (Route F), an all-nighter (Route 800), as well as connections to intercity express routes. The surrounding commercial district includes retail sales, restaurants, offices, mixed-use developments, and institutional uses; the Project will add to these commercial uses and add population to support these uses.
 - B. The neighborhood is a mix of residential and commercial uses, including apartments, offices, food service establishments, and personal service establishments. Existing structures in the immediate neighborhood vary in height up to seven stories, with a few buildings up to 180 feet in height. The building's proposed massing has a strong street wall presence at the property line on Shattuck Avenue with articulated bay windows. The bottom of the second-floor residential bays is raised to create the feeling of a taller ground floor and the composite wood paneling extends down to the ground floor for a distinguished entry point. The Design Review Committee has recommended approval of the project because the mass, articulation, materials and details are compatible with the form and character of the District.
 - C. The applicant has indicated that building construction will attain a LEED Gold rating or higher as defined by the U.S. Green Building Council (USGBC) or the equivalent as determined by the Zoning Officer, and will be in compliance with Title 24 of California's Building Standards Code. The project's sustainability features include: solar panels, drought-tolerant landscaping, and facilities to encourage bicycle use. The project is consistent with the City's Climate Action Plan and General Plan Implementation Strategies.
 - D. The Design Review Committee has reviewed and approved the plan for the rooftop open space, subject to final design review. Furthermore, the project will be subject to the Streets and Open Space Improvement Plan (SOSIP) fee. Pursuant to BMC Section 23E.68.070.D,

the City finds that the project provides sufficient private usable open space for project residents.

- E. Pursuant to BMC Section 23E.04.020.C, the Zoning Adjustments Board finds that the proposed rooftop equipment, which exceeds the district height limit (60 feet), does not exceed 15% the average floor area of the building's floors. The open rooftop area would be used as common open space for the residents of the building and none of the equipment structures would be used as habitable or commercial space.
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IV. 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 Board, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

Changes in the plans for the construction of a building or structure, may be modified prior to the completion of construction, in accordance with Section 23B.56.030.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

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

V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23B.32.040.D, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

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

Please designate the name of this individual below:

Project Liaison _____
Name Phone #

- 11. Final Design Review.** The Project requires approval of a Final Design Review application by the Design Review Committee.

12. Address Assignment. The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City's database prior to the applicant's submittal of a building permit application.

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:
 - A. Construction equipment should be well maintained and used judiciously to be as quiet as practical.
 - B. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
 - C. 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.
 - D. 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.
 - E. Prohibit unnecessary idling of internal combustion engines.
 - F. If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
 - G. 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.
 - H. 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.
 - I. Route construction related traffic along major roadways and away from sensitive receptors where feasible.

14. Damage Due to Construction Vibration. The project applicant shall submit screening level analysis prior to, or concurrent with demolition building permit. If a screening level analysis shows that the project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment (assessment). The assessment shall take into account project specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, as well as the soil characteristics in the project area, in order to determine whether project construction may cause damage to any of the structures identified as potentially impacted in the screening level analysis. If the assessment finds that the project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction that to avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake an existing

conditions study (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage. This study shall

- establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls; and
- include written descriptions and photographs.

The study shall be reviewed and approved by the Building and Safety Division and the Zoning Officer prior to issuance of a grading permit. Upon completion of the project, the structures (or, in case of large buildings, of the portions of the structures) previously inspected will be resurveyed, and any new cracks or other changes shall be compared to pre-construction conditions and a determination shall be made as to whether the proposed project caused the damage. The findings shall be submitted to the Building and Safety Division and the Zoning Officer for review. If it is determined that project construction has resulted in damage to the structure, the damage shall be repaired to the pre-existing condition by the project sponsor, provided that the property owner approves of the repair.

15. Compliance with Conditions and Environmental Mitigations. The building permit application is subject to verification of compliance to the adopted **Mitigation Monitoring and Reporting Program** from the Downtown Area Plan EIR. The applicant shall be responsible for demonstrating compliance with all conditions of approval and mitigation measures per the timeline set forth by this use permit. The applicant shall deposit \$10,000 with the City, or less with the approval of the Zoning Officer, to pay for the cost of monitoring compliance with these Conditions of Approval and other applicable conditions and regulations. Should compliance-monitoring expenses exceed the initial deposit, the applicant shall deposit additional funds to cover such additional expenses upon the request of the Zoning Officer; any unused deposit will be refunded to the applicant.

Prior to Issuance of Any Building & Safety Permit (Demolition or Construction)

16. 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. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities during extended work hours and reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, 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.
17. 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.

18. Demolition. Demolition of the existing structure cannot commence until a complete application is submitted for the replacement building. In addition, all plans presented to the City to obtain a permit to allow the demolition are subject to these conditions.
19. Construction and Demolition Diversion. Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.
20. Low-Carbon Concrete. The project shall verify compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%.
21. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
 - A. Environmental Site Assessments:
 - 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 6 months old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at:
 - http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
 - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
 - 3) If the Phase I is over 6 months old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.
 - B. Soil and Groundwater Management Plan:
 - 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
 - 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
 - 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.
 - C. Building Materials Survey:
 - 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building

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

D. Hazardous Materials Business Plan:

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

Prior to Issuance of Any Building (Construction) Permit

22. Parcel Merger. The applicant shall secure approval of any parcel merger and/or lot line adjustment associated with this Use Permit.
23. Percent for Public Art: Consistent with BMC §23C.23, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.
24. Affordable Housing Mitigation Fee: Consistent with BMC §22.20.065, and fee resolution applicable to this project, the applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, and they shall pay this fee.
25. Interior Noise Levels. Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.
26. Streets and Open Space Improvement Plan: Street Frontage Improvements. Streets and Open Space Improvement Plan: Street Frontage Improvements. Consistent with the Downtown Streets and Open Space Improvement Plan (SOSIP) (or subsequent iterations as adopted by the City), the developer shall construct improvements along Shattuck Avenue to the centerline or pay an in-lieu fee at the discretion of the City Engineer. Such improvements shall be included with the building permit submittal, designed and constructed as directed by the Public Works and Fire Departments, and constructed prior to certificate of occupancy. At the discretion of the City Engineer, the developer may be required to pay a fee in lieu of certain improvements as specified.
27. 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) per the fee schedule adopted by the Council by resolution. 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. The fee shall apply to the project's "Gross Floor Area" as defined in BMC Section 23F.04.010, less any existing Gross Floor Area removed as part of the project.

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 beyond the frontage improvements already required by this Permit. The first half of this fee shall be paid prior to issuance of a building permit, and the second half shall be paid prior to issuance of a certificate of occupancy.

28. SOSIP Improvements: At the discretion of the City Engineer, the developer shall make an in-lieu payment for roadway improvements which are not constructed as part of the project, with a maximum payment of to be determined by the Public Works Department for expected improvements. Maximum payment amount shall be increased annually (if applicable) based on the Engineering News Record's construction prices for the San Francisco Bay Area. The first half of these payments shall be made prior to issuance of a building permit, and the second half shall be made prior to issuance of a certificate of occupancy.
29. 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.
30. Solar Photovoltaic (Solar PV). A solar PV system, on the solar zone specified in Section 110.10 of the 2019 Energy Code, shall be installed (subject to the exceptions in Section 110.10) as specified by the Berkeley Energy Code (BMC Chapter 19.36). Location of the solar PV system shall be noted on the construction plans.
31. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELo). MWELo-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET_o) for Berkeley is 41.8.
32. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).

- 33. 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.
- 34. Parking for Disabled Persons.** Per BMC Section 23E.28.040.D of the Zoning Ordinance, "Notwithstanding any reduction in off-street parking spaces that may be granted for mixed-use projects in non-residential districts listed in Sub-title 23E, the requirement for off-street parking spaces for disabled persons in the project shall be calculated as if there had been no reduction in total parking spaces."

Prior to Demolition or Start of Construction:

- 35. 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:

- 36. 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.
- 37. Construction Hours- Exceptions.** 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.
- 38. 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:
- Contact information (i.e. "hotline" phone number, and email address) for the project construction manager
 - Calendar and schedule of daily/weekly/monthly construction activities
 - The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.
- 39. 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:
- A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

- C. 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.
 - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - E. 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.
 - F. 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.
 - G. 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.
 - H. 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.
- 40. Air Quality - Diesel Particulate Matter Controls during Construction.** All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
- A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or
 - B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.
- In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:
- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
 - A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.
- 41. Construction and Demolition Diversion.** Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for

City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.

- 42. Low-Carbon Concrete.** The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
- 43. Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
 - Storage of building materials, dumpsters, debris anywhere in the public ROW;
 - Provision of exclusive contractor parking on-street; or
 - Significant truck activity.

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

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

- 44. Avoid Disturbance of Nesting Birds.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and

the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

- 45. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction).** Pursuant to CEQA Guidelines section 15064.5(f), “provisions for historical or unique archaeological resources accidentally discovered during construction” should be instituted. Therefore:
- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
 - B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
 - C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
 - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
 - E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
- 46. Human Remains (Ongoing throughout demolition, grading, and/or construction).** In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
- 47. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).** In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

- 48. Halt Work/Unanticipated Discovery of Tribal Cultural Resources.** In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
- 49. 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 on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
 - H. 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 of 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.

- I. 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.
 - J. 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.
50. 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.
51. 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.
52. 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.
53. 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.
54. 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.
55. 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:

56. Compliance with Conditions 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.
57. 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 January 24, 2020, except as modified by conditions of approval.
58. 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 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.

BELOW MARKET RATE UNITS

- 59. Number of Below Market Rate Units.** The project shall provide 4 below market rate rental dwelling units (“BMR Units”), which are required to comply with the State Density Bonus Law (Government Code Section 65915) and the Affordable Housing Mitigation Fee to comply with BMC Section 22.20.065.D. The BMR Units shall be designated in the Regulatory Agreement and shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City.
- 60. Regulatory Agreement.** Prior to the issuance of a building permit, the applicant shall enter into a Regulatory Agreement that implements Government Code Section 65915 and this Use Permit. The Regulatory Agreement may include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The maximum qualifying household income for the BMR Units shall be 50 percent of area median income (AMI), and the maximum housing payment shall be 30 percent of 50 percent of AMI, as set forth in the following paragraphs of this condition. If the BMR units are occupied by very low income tenants receiving a rental subsidy through the Section 8 or Shelter Plus Care programs, the rent received by the project sponsor may exceed the restricted rent to the payment standards allowed under those programs so long as the rent allowed under the payment standards is not greater than the market rents charged for comparable units in the development. The applicant shall submit the Regulatory Agreement to the Housing and Community Services Department (HHCS) via email to affordablehousing@cityofberkeley.info for review and approval.
- 61.** In addition, the following provisions shall apply:
- A. Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5 (h).
 - B. Rent shall include a reasonable allowance for utilities, as published and updated by the Berkeley Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.
 - C. BMR units will be provided for the life of the project under Section 22.20.065.
- 62. Determination of Area Median Income (AMI).**
- The “AMI” (Area Median Income) shall be based on the income standards for the Oakland Primary Metropolitan Statistical Area reported by the United States Department of Housing and Urban Development (HUD). In the event HUD discontinues establishing such income standards, AMI shall be based on income standards determined by the California State Department of Housing and Community Development (HCD). If such income standards are no longer in existence, the City will designate another appropriate source or method for determining the median household income.

- The applicable AMI for the purpose of determining the allowable rent for each unit (but not for the purpose of determining eligibility for occupancy of an inclusionary unit) shall be determined in accordance with the following table:

Unit Size	AMI Standard
Studio unit	AMI for a one person household
One-bedroom unit	AMI for a two person household
Two-bedroom unit	AMI for a three person household
Three-bedroom unit	AMI for a four person household

63. Nothing in these conditions shall be interpreted to prohibit or to require modification of the Use Permit or Regulatory Agreement to allow the provision of additional BMR units, or additional affordability, than are required in the foregoing provisions.

At All Times:

64. Exterior Lighting. 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.
65. 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.
66. Design Review. Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review approval.
67. 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.
68. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
69. Residential Permit Parking. No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The project planner shall notify the Finance Department, Customer Service Center, to add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of an occupancy permit or final inspection.
70. Bike Parking. Secure and on-site bike parking for at least 34 bicycles shall be provided for the life of the building.
71. Tenant Notification. The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service and entertainment uses, and that each occupant shall not seek to impede their lawful operation.

- 72. 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.
- 73. 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 as per BMC Chapter 9.88.
- 74. 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.
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