



Office of the City Manager

PUBLIC HEARING  
February 23, 2021

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Jordan Klein, Interim Director, Planning & Development Department  
Subject: ZAB Appeals: 1850 and 1862 Arch Street, Use Permits #ZP2019-0212 and ZP2019-0213

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt Resolutions affirming the Zoning Adjustments Board (ZAB) decisions to approve Use Permits #ZP2019-0212 and ZP2019-0213 to reconfigure the interiors of the existing buildings to add 18 bedrooms to an existing 10-unit, 12-bedroom multi-family residential building at 1850 Arch Street, to add 15 bedrooms to an existing 10-unit, 10-bedroom multi-family residential building at 1862 Arch Street, and dismissing the appeals.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On December 20, 2019, Rhoades Planning Group submitted two applications for Use Permits #ZP2019-0212 and #ZP2019-0213 at 1850 and 1862 Arch, respectively, to add 18 bedrooms to an existing 10-unit, 12-bedroom multi-family residential building for a total of 30 bedrooms on the parcel at 1850 Arch, and to add 18 bedrooms to an existing 10-unit, 12-bedroom multi-family residential building for a total of 30 bedrooms on the parcel at 1862 Arch.

On April 16, 2020, after one round of comments from staff, the application was deemed complete.

On April 30, 2020 the City received a letter from a resident of the building expressing concerns regarding the impacts to trash, laundry, parking, and bathrooms that would result from the project, and complaints regarding property maintenance of the existing building. The applicant responded to those concerns in a letter dated May 26, 2020 (See Attachment 3).

On September 24, 2020 the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit applications. After considering the staff report and administrative record, and hearing public comments and holding discussion, the ZAB

added Condition #10 requiring a Transportation Network Company (TNC) management plan, revised Condition #18 limiting construction hours to Monday through Friday from 8:00AM to 6:00PM and approved the Use Permits by a vote of 5-3-0-1 (Yes: Clark, Kahn, Kim, O'Keefe, Pinkston; No: Olson, Selawsky, Sheahan; Recused: Tregub).

On September 29, 2020, staff issued the ZAB Notice of Decision. On October 13, 2020, Robin O'Donnell, a resident at 1850 Arch Street, filed an appeal of the ZAB decision with the City Clerk. The appeal was signed by an additional 19 neighbors who reside within 300 feet of the project site. On January 12, 2021, staff posted the public hearing notice at the site and two nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area. The Council must conduct a public hearing to resolve the appeal.

### PROJECT DESCRIPTION

The subject sites are located in the Multiple Family Residential (R-3), Hillside Overlay zoning district on the west side of Arch Street, in a mixed-use residential neighborhood that consists of educational uses as well as multiple-family apartment and condominium buildings that range from two to three stories in height (See Attachment 3, Figure 1: Zoning Map). The sites are one-half block north of Hearst Avenue and the University of California campus, two blocks east of Shattuck Avenue and downtown Berkeley, and two blocks west of the commercial district on lower Euclid Avenue. The subject parcels are rectangular, sloping down toward the southwest and are currently developed with two three-story multi-family residential buildings constructed in 1923, each containing 10 units. Both parcels are non-conforming to current zoning standards in terms of minimum setbacks and parking; 1850 Arch exceeds the maximum allowable lot coverage.

The applicant is seeking approval to reconfigure the building floor plans by moving and adding interior walls to accommodate an additional 18 bedrooms within 1850 Arch (total of 30 bedrooms) and an additional 15 bedrooms within 1862 Arch (total of 25 bedrooms). No exterior alterations are proposed. The unit mix would change as follows:

- **1850 Arch**
  - Existing: six 1-bedroom, two 2-bedroom, and two 3-bedroom units
  - Proposed: one 1-bedroom, one 2-bedroom, six 3-bedroom and two 4-bedroom units
- **1862 Arch**
  - Existing: two studio, two 1-bedroom, five 2-bedroom, and one 4-bedroom units
  - Proposed: two studio, one 1-bedroom, one 2-bedroom, five 3-bedroom and one 5-bedroom units

### BACKGROUND

At the September 24, 2020 ZAB hearing, neighbors voiced concerns about impacts from an increased number of occupants, including traffic and deliveries. The ZAB voiced

concerns about impacts from deliveries, and confirmed requirements for tenant notification prior to construction and temporary relocation during construction. In response to those concerns, the ZAB modified Condition of Approval #18 (construction to begin at 8:00 AM rather than 7:00 AM, no construction on Saturdays) and added Condition of Approval #10 to the Use Permit. They read as follows:

**18. *Construction Hours.*** *Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday. No construction-related activity shall occur on Saturday, Sunday or any Federal Holiday.*

**10. *Transportation Network Company (TNC) Plan.*** *The applicant shall submit a TNC management plan to Land Use Planning staff for review and approval. The management plan shall clearly articulate the allowable uses of the driveway for deliveries and passenger pick-up and drop-offs; this plan shall be distributed to all residents of the building.*

In addition, current tenants of the buildings as well as member of the ZAB expressed concerns regarding tenant protections. As a result, the ZAB approved a revised condition of approval acknowledging that the applicant must comply with both the Rent Stabilization and Eviction for Good Cause Ordinance as well as the Tenant Protection Ordinance, as follows:

**33. *Tenant Noticing.*** *Prior to the execution of a new lease with prospective tenants, the property owner shall provide notice of the proposed project and notice of their rights under the Rent Stabilization and Eviction for Good Cause Ordinance (BMC Chapter 13.76) and the Tenant Protection Ordinance (BMC Section 13.79.060).*

The ZAB found that the project satisfied the required findings and approved the Use Permit for the addition of bedrooms on the parcels (See Attachment #4, Captioner's Record, for a written record of the hearing).

Staff received communications from the appellant regarding the appeal process after the ZAB's September 24, 2020 approval of the Use Permit. A resident of 1850 Arch Street, Robin O'Donnell, filed a timely appeal.

#### ENVIRONMENTAL SUSTAINABILITY

The project approved by the ZAB is in compliance with all state and local environmental requirements, would be located in a transit-rich area, and would be built and operated according to current codes for energy conservation, waste reduction, low toxicity, and other factors.

RATIONALE FOR RECOMMENDATION

The issues raised in the appellant's letter, and staff's responses, are as follows. For the sake of brevity, the appeal issues are not re-stated in their entirety. Please refer to the attached appeal letter (Attachment #2: Appeal Letter) for the full text.

Issue #1: The projects would be inconsistent with policies in the City's General Plan:  
The appellant contends that the projects would be inconsistent with several General Plan Land Use Element and Urban Design & Preservation Element policies that relate to preservation of the character and historical integrity of the hillside residential neighborhood, as the addition of bedrooms would result in two high-density rooming houses within buildings that have notable architectural design and are century-old, elegant, multi-family residences, in a neighborhood characterized by century-old structures, institutions, and diverse residents; the neighborhood should not be an appendage to the University. Therefore, the projects would impact the architectural integrity of the properties and detrimentally alter the balance of the residential community.

The appellant also contends that the projects will result in noise impacts that are inconsistent with Environmental Management Element policies related to noise reduction and land use compatibility.

Response: The appellant asserts that the project is inconsistent with policies in the Urban Design & Preservation Element, which regulates building style and design of new buildings and exterior alterations to existing buildings. Because no exterior alterations to the buildings are proposed, the Urban Design & Preservation Element policies cited by the appellant do not apply to the project. Therefore, an evaluation of the project's consistency with these policies is unwarranted. Secondly, the appellant asserts that high-density rooming houses would impact the architectural integrity of the properties and be detrimental to the residential community, and would be inconsistent with the Land Use Element Policy LU-7 *Neighborhood Quality of Life*. However, the R-3 district does not have a density standard, and one of its purposes is to "encourag[e] development of relatively high-density residential areas." In addition, rooming houses, or group living accommodations, are allowed in this district subject to approval of a Use Permit, and the City is prohibited from regulating the composition of households. Therefore, the project is consistent with the policies of the Land Use Element.

The appellant also cites two policies in the Environmental Management Element, which applies to management and conservation of the city's natural resources and the protection of the community from hazards, pollution, and excessive noise. Policy EM-43 *Noise Reduction* is



implemented through the Community Noise Ordinance, which the project would be required to comply with (the Ordinance includes standards for both exterior and interior noise). Finally, staff believes the project is consistent with Policy EM-47 *Land Use Compatibility*, as it is a residential use in a residential district. Therefore, staff recommends the Council dismiss this appeal point.

Issue #2: Construction activity involved in the projects and the projects' lasting legacy will detrimentally impact the residents of the properties and their neighbors:  
The appellant contends that the projects' construction and the addition of bedrooms on the parcel would substantially adversely affect the property, its residents, adjacent properties, and the neighborhood by generating impacts related to noise, traffic, trash, and parking, without materially advancing Berkeley's broader concerns for affordable housing, and would therefore be detrimental under BMC Section 23B.32.040.

Response: The appellant asserts that the proposed project would be detrimental under BMC 23B.32.040 without providing evidence to support these assertions. Regarding construction noise, the ZAB, in response to neighbor and resident concerns, limited the allowed construction hours (Condition of Approval #18) to between the hours of 8:00AM and 6:00PM Monday through Friday. Further, the Community Noise Ordinance sets interior noise standards for multi-family residential dwellings in order to limit noise inside dwelling units after construction.<sup>1</sup> Further, the Zoning Ordinance does not include a standard to evaluate potential detriment of the proposed project based on the number of occupants, but rather evaluates detriment based on impacts to views, privacy, light or air, general non-detriment, and whether the proposal conforms to the development standards of the district. As described in the ZAB staff report dated September 24, 2020, the project conforms to the development standards of the R-3(H) district, and meets the findings for non-detriment as described in the findings and conditions (Attachment 1 to the staff report). Therefore, staff recommends the Council dismiss this appeal point.

Issue #3: ZAB's discussion of the project's impacts and conditions was inadequate:  
The appellant contends that the ZAB did not adequately address impacts of additional bedrooms and did not attach needed limitations on potentially 30 new residents and residential parking permits.

Response: The appellant is referencing the ZAB's discussion of a condition of approval in response to neighbors' and residents' concerns regarding the impacts of the additional bedrooms on traffic and on-street parking in the vicinity of the

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<sup>1</sup> BMC Section 13.40.060

project sites. The project sites are located in Area “F” of the Residential Preferred Parking (RPP) Program. ZAB members discussed adding a condition of approval to disallow new tenants from receiving a residential parking permit starting January 1, 2021. However, ZAB members decided this condition would be difficult to administer and enforce, and may be unfair to tenants. Then, ZAB members discussed and approved adding a condition of approval requiring the applicant to submit a Transportation Network Company (TNC) Plan to Land Use staff for review and approval (See Attachment 1, Exhibit A, Findings and Conditions). ZAB members agreed that this Condition would be more administratively friendly and enforceable than disallowing new tenants from obtaining an RPP permit (see Attachment 4, Captioner’s Record). Therefore, staff recommends the Council dismiss this appeal point.

**Issue #4:** The projects are inconsistent with the purpose of the Hillside (H) overlay zoning district, and the ZAB did not apply the appropriate standards for (H) overlay district, which would have supported rejection of the projects: The appellant contends that the ZAB did not apply the appropriate standards for Hillside Districts, and that consideration of the applicable standards of the Hillside District provisions would have supported rejection of the projects.

**Response:** The appellant correctly states that the ZAB staff reports dated September 24, 2020 do not include a consistency analysis with the purposes of the Hillside (H) overlay district. Staff has revised the staff reports (See Attachment 5) to include this analysis, which is also provided below:

The purposes of the Hillside Overlay District (BMC Section 23E.96.2020) are to:

- A. Implement the Master Plan’s policies regarding Hillside Development
- B. Protect the character of Berkeley’s hill Districts and their immediate environs
- C. Give reasonable protection to views yet allow appropriate development of all property
- D. Allow modifications in standard yard and height requirements when justified because of steep topography, irregular lot pattern, unusual street conditions, or other special aspects of the Hillside District area.

The subject residential buildings are two 10-unit apartment buildings in a mixed-use residential neighborhood that consists of a mixture of multiple-family apartment and condominium buildings, consistent with purpose A. The subject properties are five blocks east of numerous AC Transit routes on University and Shattuck Avenues, are one-half mile from the Downtown Berkeley BART station, and are located on a bikeway. In addition, the

projects are one-half block north of the University of California-Berkeley campus; no exterior changes are proposed, consistent with purpose B. The projects would not result in any exterior changes to the building, such as any new window openings or an extension of the building footprint; there would not be any impacts to views, consistent with purpose C. Although the existing buildings are non-conforming in terms of minimum setbacks, no exterior changes are proposed, consistent with purpose D.

Staff believes this omission does not impact any conclusions or recommendations in the reports, as the project would be consistent with the purposes of the (H) overlay district, and recommends that Council dismiss this appeal point.

**Issue #5:** The ZAB applied the wrong zoning district standards in its evaluation of the projects: The appellant contends that the ZAB erroneously applied BMC Chapter 23B.32 standards for Restricted Multiple Family Residential (R-2A) districts instead of Multiple Family Residential (R-3) districts under Chapter 23D.36.

**Response:** Staff reviewed Table 4, Development Standards, in the ZAB staff reports and determined that the usable open space and parking requirements incorrectly reference the Restricted Two-Family (R-2) district. In the R-3 district, a minimum of 200 square feet per dwelling unit of usable open space is required, and at least one off-street parking space per 1,000 square feet of gross floor area must be provided. Table 4 has been updated below as well as in both staff reports (see Attachment 5). Staff believes these minor errors do not impact any conclusions or recommendations in the reports – the parcels remain conforming in terms of minimum usable open space and non-conforming in terms of minimum number of parking spaces required, and recommends that Council dismiss this appeal point.

**Table 4: Development Standards: 1850 Arch Street**

<b>R-3 Standards</b> BMC Section 23D.36.070-080		<b>Existing</b>	<b>Proposed</b>	<b>Permitted/ Required</b>
Lot Area (sq. ft.)		9,930	no change	5,000 min.
Gross Floor Area (sq. ft.)		12,935	no change	n/a
Dwelling Units		10	no change	n/a
Bedrooms		12	30	n/a (≥5 w/permit)
Building Height	Average	32'-6"	no change	35' max.
	Maximum	36'	no change	n/a

R-3 Standards BMC Section 23D.36.070-080		Existing	Proposed	Permitted/ Required
	Stories	3	no change	3 max.
Building Setbacks	Front	13'-9"	no change	15' min.
	Rear	28'-11"	no change	15' min.
	Left (South) Side	7'-5"	no change	6' min.
	Right (North) Side	4'-1"	no change	6' min.
Lot Coverage (%)		44.6	no change	40 max. (For 3 stories)
Usable Open Space (sq. ft.)		3,631	no change	2,000 min. (400-200 per du)
Parking		5	no change	40 <u>13</u> min. (1 per unit <u>1,000</u> sq. ft. of gross floor area)

**Table 4: Development Standards: 1862 Arch Street**

R-3 Standards BMC Section 23D.36.070-080		Existing	Proposed	Permitted/ Required
Lot Area (sq. ft.)		10,300	No change	5,000 min.
Gross Floor Area (sq. ft.)		10,126	10,146 <sup>2</sup>	n/a
Dwelling Units		10	No change	n/a
Bedrooms		10	25	n/a (≥5 w/permit)
Building Height	Average	27'-4"	No change	35' max.
	Maximum	28'-5"	No change	n/a
	Stories	3	No change	3 max.
Building Setbacks	Front	9'-8"	No change	15' min.
	Rear	50'-11"	No change	15' min.
	Left (South) Side	0'	No change	6' min.
	Right (North) Side	4'-5"	No change	6' min.
Lot Coverage (%)		32.6	No change	40 max. (For 3 stories)

<sup>2</sup> On the basement level, 20 square feet of unfinished area would be converted to floor area in order to expand the existing bedroom and closet area within Unit 8 (see Table 6 below).

<b>R-3 Standards</b> BMC Section 23D.36.070-080	<b>Existing</b>	<b>Proposed</b>	<b>Permitted/ Required</b>
Usable Open Space (sq. ft.)	2,186	No change	2,000 min. (400 <del>200</del> per du)
Parking	5	No change	10 min. (1 per unit <u>1,000 sq. ft.</u> of gross floor area)

The ZAB considered all of the information received from staff, the applicant, the appellant and the neighbors and determined that the projects are consistent with the zoning ordinance and applicable policies of the General Plan, and would not result in detrimental impacts to residents, adjacent properties, the surrounding area or the general welfare of the city.

Staff believes that the ZAB considered and discussed the evidence presented at the hearing, and acted within its purview to approve the proposed projects. Therefore, staff recommends that the City Council uphold the ZAB decision to approve the conversion of interior space to add bedrooms on the parcels with the ZAB-approved conditions of approval related to the TNC plan and construction hours, and clarification of the applicable Rent Stabilization Board regulations.

ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23B.32.060.D, the Council may (1) continue the public hearing, (2) reverse, affirm, or modify the ZAB’s decision, or (3) remand the matter to the ZAB.

Action Deadline:

Pursuant to BMC Section 23B.32.060.G, if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council (not including Council recess), then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

CONTACT PERSONS

Jordan Klein, Interim Director, Planning & Development Department, (510) 981-7534  
Steven Buckley, Land Use Planning Manager, (510) 981-7411  
Ashley James, Project Planner, (510) 981-7458

Attachments:

1. Draft Resolution re 1850 Arch Street
  - Exhibit A: Findings and Conditions
  - Exhibit B: Project Plans, dated March 18, 2020
2. Draft Resolution re 1862 Arch Street
  - Exhibit A: Findings and Conditions
  - Exhibit B: Project Plans, dated March 18, 2020

3. Appeal Letter dated October 13, 2020
4. ZAB Staff Reports, dated September 24, 2020
5. Captioner's Record, ZAB Hearing September 24, 2020
6. Revised ZAB Staff Reports and Findings and Conditions, dated December 8, 2020
7. Index and Administrative Record, 1850 Arch St.
8. Index and Administrative Record, 1862 Arch St.
9. Public Hearing Notice

RESOLUTION NO. ##,###-N.S.

AFFIRMING THE ZONING ADJUSTMENTS BOARD'S APPROVAL OF USE PERMIT #ZP2019-0212 TO ADD 18 BEDROOMS TO AN EXISTING 10-UNIT, 12-BEDROOM MULTI-FAMILY RESIDENTIAL BUILDING, FOR A TOTAL OF 30 BEDROOMS ON THE PARCEL, AND DISMISSING THE APPEAL

WHEREAS, on December 20, 2019, Rhoades Planning Group ("applicant") filed an application for a Use Permit to add 18 bedrooms to an existing 10-unit, 12-bedroom multi-family residential building, for a total of 30 bedrooms on the parcel; and

WHEREAS, on April 16, 2020, staff deemed this application complete and determined that the project is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15301 of the CEQA Guidelines ("Existing Facilities"); and

WHEREAS, on September 10, 2020 staff posted the ZAB Notice of Public Hearing at the site in three locations and mailed 504 notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations; and

WHEREAS, on September 24, 2020, the ZAB held a public hearing in accordance with BMC Section 23B.32.030, and approved the application with Conditions; and

WHEREAS, on September 29, 2020, staff issued the notice of the ZAB decision; and

WHEREAS, on October 13, 2020, Robin O'Donnell filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on or before February 9, 2021, staff posted the public hearing notice at the site in three locations and mailed notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations; and

WHEREAS, on February 23, 2021, the Council held a public hearing to consider the ZAB's decision, and, in the opinion of this Council, the facts stated in or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Council hereby adopts the findings made by the ZAB in Exhibit A, affirms the decision of the ZAB to approve Use Permit #ZP2019-0212, adopts the conditions of approval in Exhibit A and the project plans in Exhibit B, and dismisses the appeal.

Exhibits

A: Findings and Conditions

B: Project Plans, dated March 18, 2020

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FINDINGS AND CONDITIONS

SEPTEMBER 24, 2020

## 1850 Arch Street

Use Permit #ZP2019-0212 to add 18 bedrooms to an existing 10-unit, 12 bedroom multi-family residential building, for a total of 30 bedrooms on the parcel.

### PERMITS REQUIRED

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- Use Permit pursuant to BMC Section 23D.36.060, for the addition of bedrooms beyond the fifth bedroom on the parcel.

### I. CEQA FINDINGS

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1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 ("Existing Facilities") of the CEQA Guidelines. 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. OTHER FINDINGS FOR APPROVAL

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1. As required by BMC Section 23B.32.040.A, 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 proposed project conforms to the applicable provisions of the Berkeley Municipal Code including for height, number of stories, rear and left side yard setbacks, and usable open space in BMC Section 23D.36.070-080 (Development Standards), as detailed in the August 27, 2020 staff report. The proposed project is non-conforming for front yard setback (13'-9" where 15' is the minimum), lot coverage (44.6 percent where 40 percent in the maximum) and parking (providing five spaces where ten are required) under the current Zoning Ordinance. The proposed development is permissible because: (1) the proposed interior renovations do not worsen any non-conforming condition; (2) the proposed development recognizes and adheres to an existing pattern of development; (3) protects adjacent neighbors from unreasonable obstructions of sunlight and air; and (4) represents the District's intended encouragement of the development of relatively high density residential areas characterized by convenience of location and a reasonable amount of Usable Open Space.
  - B. The project is consistent with the purposes of the District in that it will permit the addition of bedrooms through conversion of floor area within the existing building footprint on a



residential property, which continues the existing pattern of high residential density of the neighborhood. The project will not reduce the existing non-conforming 13'-9" front setback, the non-conforming 4'-1" right side setback, the non-conforming 44.6% lot coverage, or the non-conforming off-street parking (5 spaces where 10 is the minimum). The project will, therefore, retain the existing pattern of development that is conveniently located and provides a reasonable amount of usable open space of the District while protecting adjacent properties from unreasonable obstruction of light and air.

- C. The project plans dated March 18, 2020 indicate the proposed addition will not unreasonably obstruct sunlight on nearby existing dwellings, impact the privacy between neighbors, unreasonably impact air and light between neighbors, or impact views. As discussed in the project staff report dated September 24, 2020, the proposed project will not create any new window openings or otherwise change the exterior of the building or the building's footprint. Therefore, the impacts are determined to be non-detrimental.
2. Pursuant to BMC Section 23D.32.050.A, the Zoning Adjustments Board finds that the proposed addition of bedrooms thirteen through eighteen supports the residential use on the parcel, consistent with the purposes of the R-3 District. The project represents the District's intended encouragement of the development of relatively high density residential areas characterized by convenience of location and a reasonable amount of Usable Open Space. The subject property is five blocks east of numerous AC Transit routes on University and Shattuck Avenues, is one-half mile from the Downtown Berkeley BART station, and is located on a bikeway. In addition, the project is one-half block north of the University of California-Berkeley campus. The parcel contains a reasonable amount of open space, 3,631 square feet of useable open space where a minimum of 2,000 square feet is required.
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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.

**I. 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. Notice of Violation - Unit 5A.** All owners of record of the subject property shall sign and record with the Alameda County Clerk-Recorder a "Notice of Limitation on Use of Property" (available from Land Use Planning Division) and provide a recorded copy thereof to the project planner. This Notice of Limitation shall stipulate that: 1) per Housing Code Enforcement Case H2019-00471, Unit 5A may not be rented on either a short- or long-term basis, and Unit 5A shall be combined with Unit 5 in accordance with the approved plans dated February 5, 2020; 2) once Unit 5A and Unit 5 have both been voluntarily vacated by the sitting tenant, or the tenant and owner have come to an agreement for temporary relocation pursuant to BMC Chapter 13.84, the units shall be combined per the project plans dated February 5, 2020; and 3) there are no grounds for eviction of any existing tenant households in the Rent Stabilization and Eviction for Good Cause Ordinance (BMC Chapter 13.76) due to the unpermitted status of Unit #5A or the work proposed in this application. This limitation may not be revised or removed from this property without the prior written permission of the Zoning Officer of the City of Berkeley.

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

**12. Unit Vacancy.** Demolition and/or construction activities approved under this permit shall not commence in any unit unless the existing tenants have either voluntarily vacated the unit or have reached an agreement for temporary relocation pursuant to BMC Chapter 13.84. The applicant shall submit evidence of such to the Rent Stabilization Board (i.e. tenant's notice to vacate, relocation agreement).

**13. Construction and Demolition.** 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.

**14. Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine whether the following document is required and timing for its submittal:

## A. 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.

### **Prior to Issuance of Any Building (Construction) Permit**

15. 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).
16. 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.

### **During Construction:**

17. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
18. 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.

19. 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 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 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.
  - 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.

- 20. 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.
- 21. 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.
- 22. 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.
- 23. 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.
- 24. 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.
- 25. 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.

- 26. 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.
- 27. 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.

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

- 28. 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.
- 29. 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 18, 2020 except as modified by conditions of approval.
- 30. Construction and Demolition Diversion.** A Waste Diversion Report, with receipts or weigh slips documenting debris disposal or recycling during all phases of the project, must be completed and submitted for approval to the City's Building and Safety Division. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement. A copy of the Waste Diversion Plan shall be available at all times at the construction site for review by City Staff.

**At All Times:**

- 31. 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.
- 32. Tenant Noticing.** Prior to the execution of a new lease with prospective tenants, the property owner shall provide notice of the proposed project and notice of their rights under the Rent Stabilization and Eviction for Good Cause Ordinance.
- 33. Units 5 and 5A.** Units 5 and 5A shall not be rented to a new tenant household until Housing and Zoning Enforcement determine that the conditions of the Notice of Violation (H2019-00471) have been satisfied and the Building permit to combine these two units has been finalized.
-



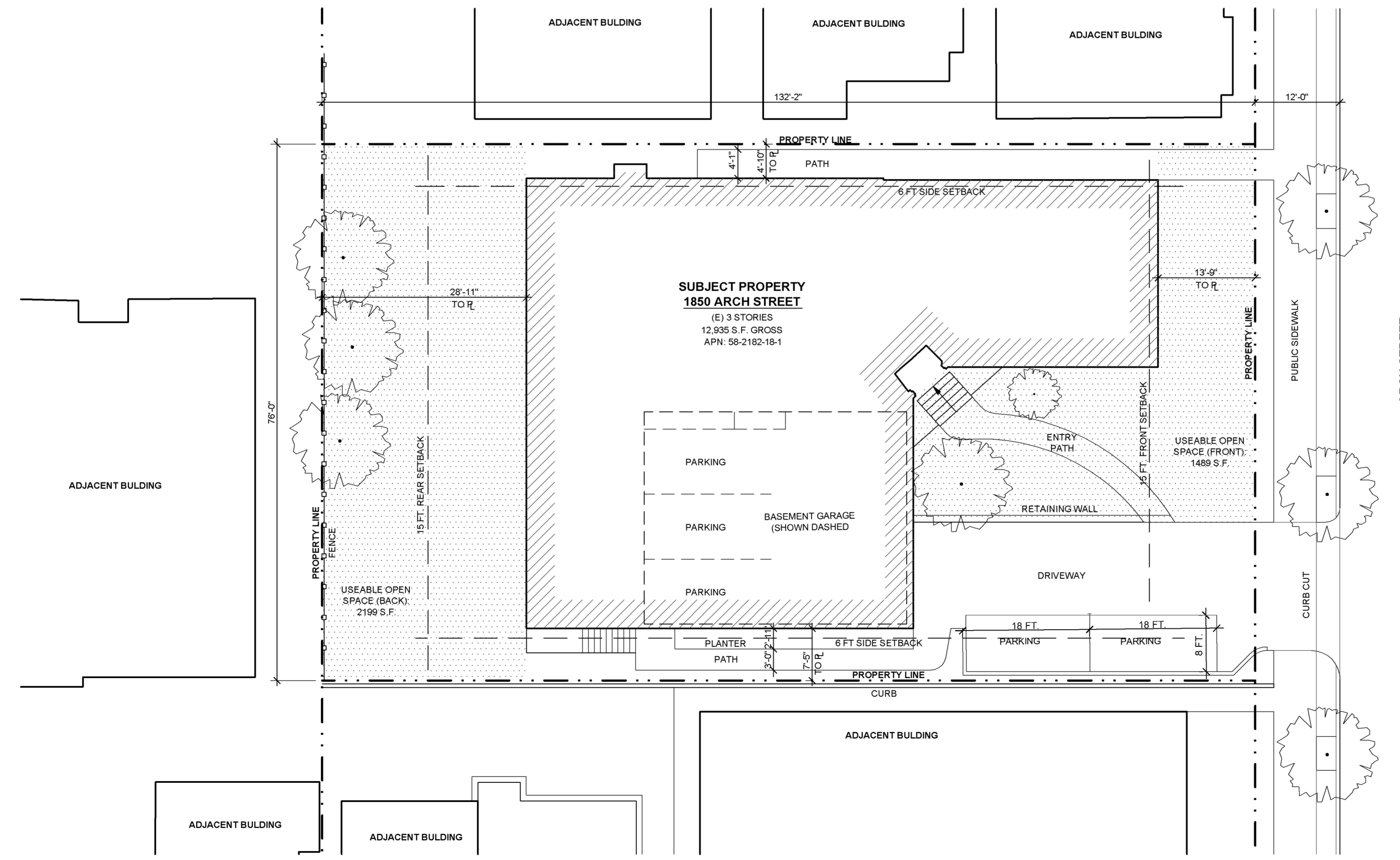
# INTERIOR ALTERATIONS 1850 ARCH STREET BERKELEY, CA 94709

APPLICABLE CODES:	PROJECT DESCRIPTION:	PROJECT TEAM:	PROJECT DATA:	SHEET INDEX:
2019 CALIFORNIA BUILDING CODE 2019 CALIFORNIA ELECTRICAL CODE 2019 CALIFORNIA MECHANICAL CODE 2019 CALIFORNIA PLUMBING CODE 2019 CALIFORNIA ENERGY CODE 2019 CALIFORNIA FIRE CODE 2019 CALGREEN	INTERIOR ALTERATIONS WITHIN AN EXISTING 10 UNIT MULTIFAMILY BUILDING HAVING 2 STORIES OVER HABITABLE BASEMENT.  SCOPE OF WORK TO INCLUDE: -DEMOLITION OF INTERIOR PARTITIONS -CONSTRUCTION OF NEW INTERIOR PARTITIONS -NEW INTERIOR DOORS -NEW PLUMBING FIXTURES AND APPLIANCES  PROJECT SCOPE DOES NOT INCLUDE ANY EXTERIOR WORK	<b>BUILDING OWNER:</b> TURNING POINT INVESTMENTS 222 Monte Vista Avenue Larkspur, CA 94939 (415) 271-2966 Riccardo@TurningPointInvested.com  <b>ARCHITECT:</b> MARCO DIGIACOMO ARCHITECT (415) 334-7516 Marco@DiGiacomoArchitect.com  <b>PLANNING DEVELOPMENT CONSULTANT:</b> RHOADES PLANNING GROUP 46 Shattuck Square Berkeley, CA 94704 (510) 545-4341 Alex@RhoadesPlanningGroup.com	APN: 58-2182-18-1 LOT 2182, BLOCK 18-1 LOT AREA: 9,930 S.F. ZONING DISTRICT: R-3H  EXISTING BUILDING (NO CHANGE): MULTIFAMILY, GROUP R-2 CONSTRUCTION TYPE V-B NON-SPRINKLERED 3 STORIES (INCLUDING "BASEMENT" STORY) 10 DWELLING UNITS  GROSS AREAS (NO CHANGE): BASEMENT: 4037 S.F. 1ST FLOOR: 4424 S.F. 2ND FLOOR: 4474 S.F. TOTAL: 12,935 S.F.  TOTAL BEDROOMS EXISTING: 12 TOTAL BEDROOMS PROPOSED: 30  EXISTING PARKING: 5 (NO CHANGE)  EXISTING COMMON OPEN SPACE: 3688 S.F. (NO CHANGE)  EXISTING AVERAGE BLDG HEIGHT: 32'-6" EXISTING MAXIMUM BUILDING HEIGHT: 36'-0"	A1 COVER SHEET AND SITE PLAN A2 EXISTING PLANS A3 PROPOSED PLAN- BASEMENT A4 PROPOSED PLAN- 1ST FLOOR A5 PROPOSED PLAN- 2ND FLOOR

MARCO DIGIACOMO  
ARCHITECT, LEED AP  
3110 Fernside Blvd.  
Alameda, CA 94501  
Call (415) 334-7516



**INTERIOR ALTERATIONS  
1850 ARCH STREET  
BERKELEY, CA 94709**



SITE PLAN  
SCALE 1:10



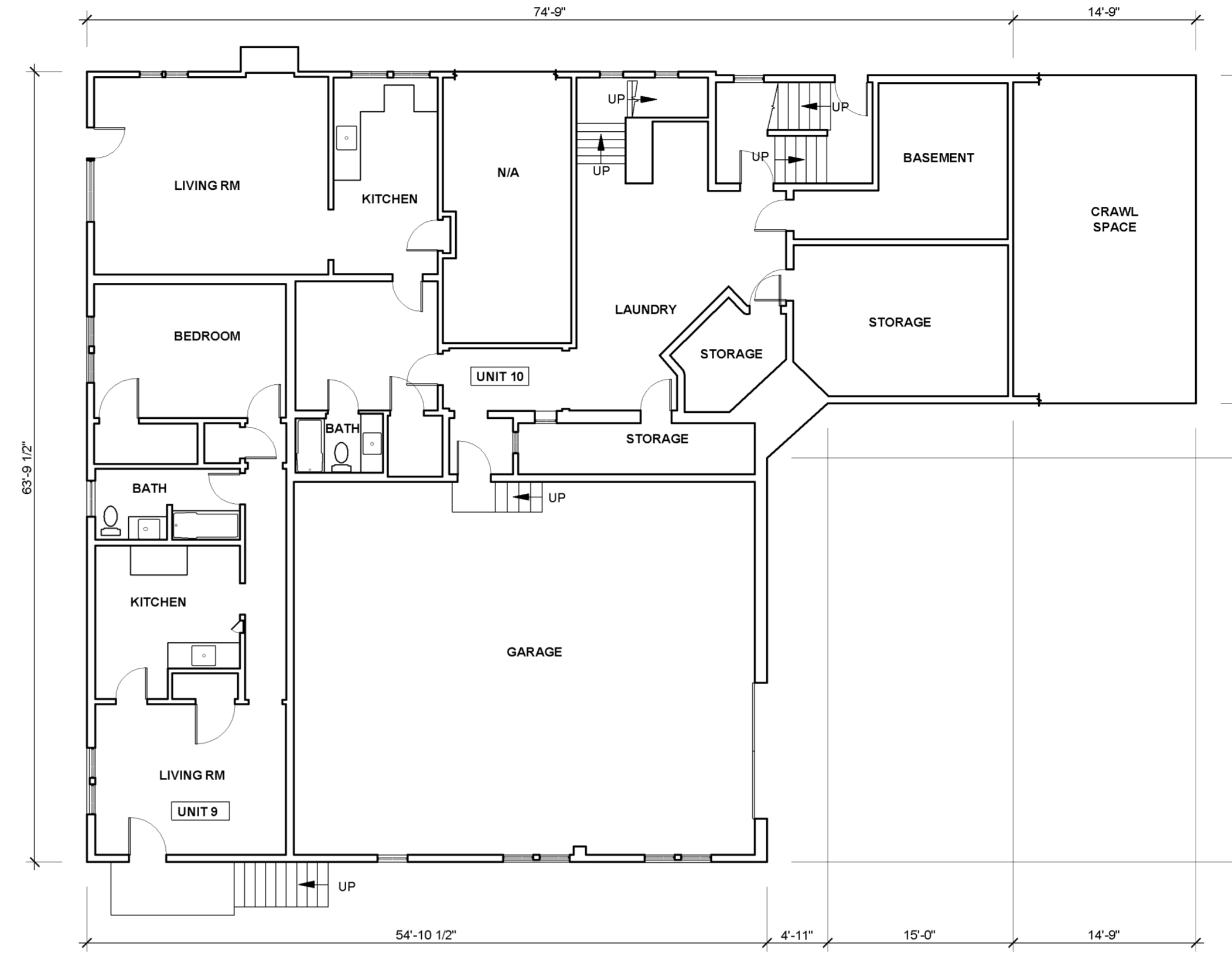
PLANNING PERMIT	12-19-19
REVISION 1	3-18-20

A1

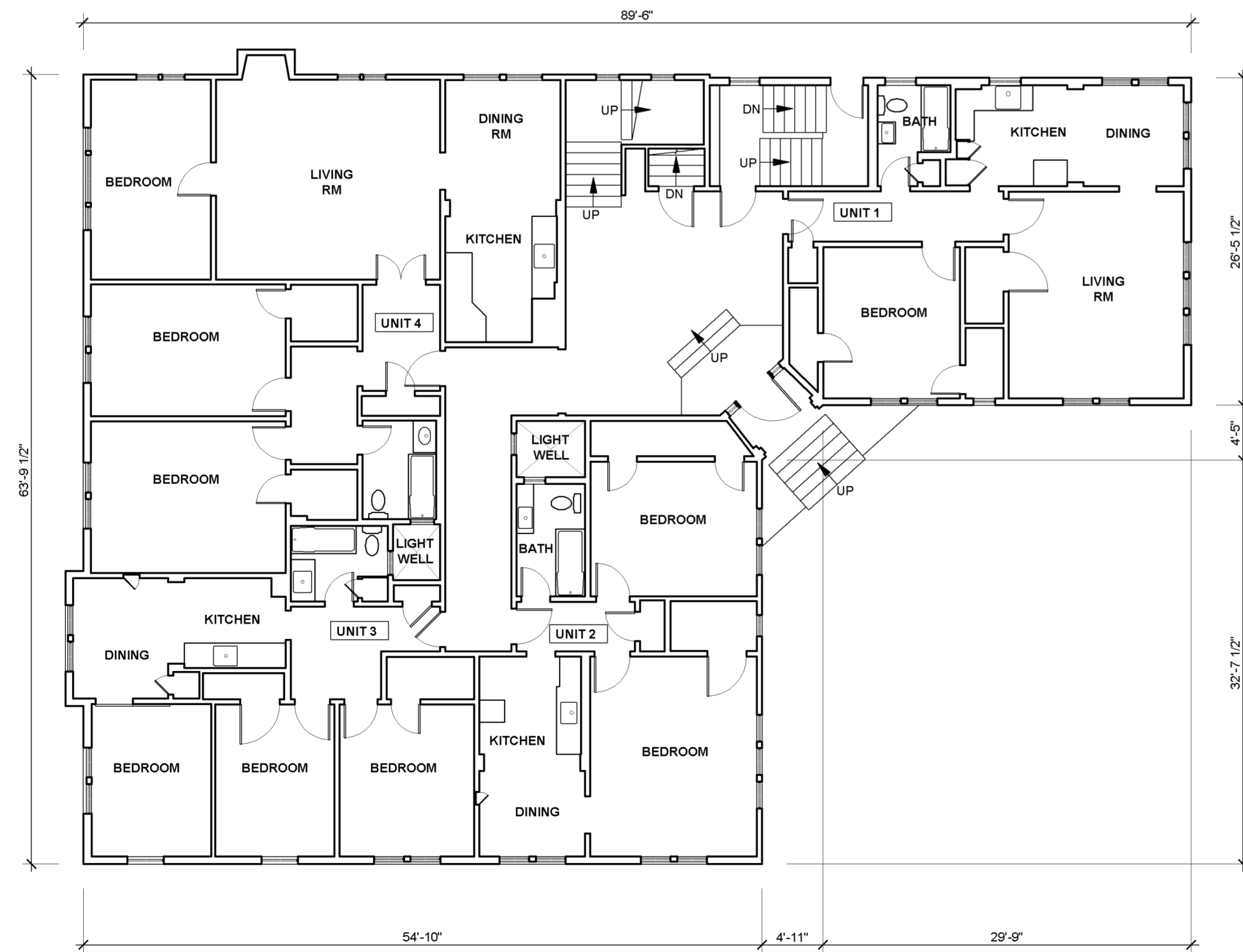
MARC DI GIACOMO  
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Cell (415) 334-7516



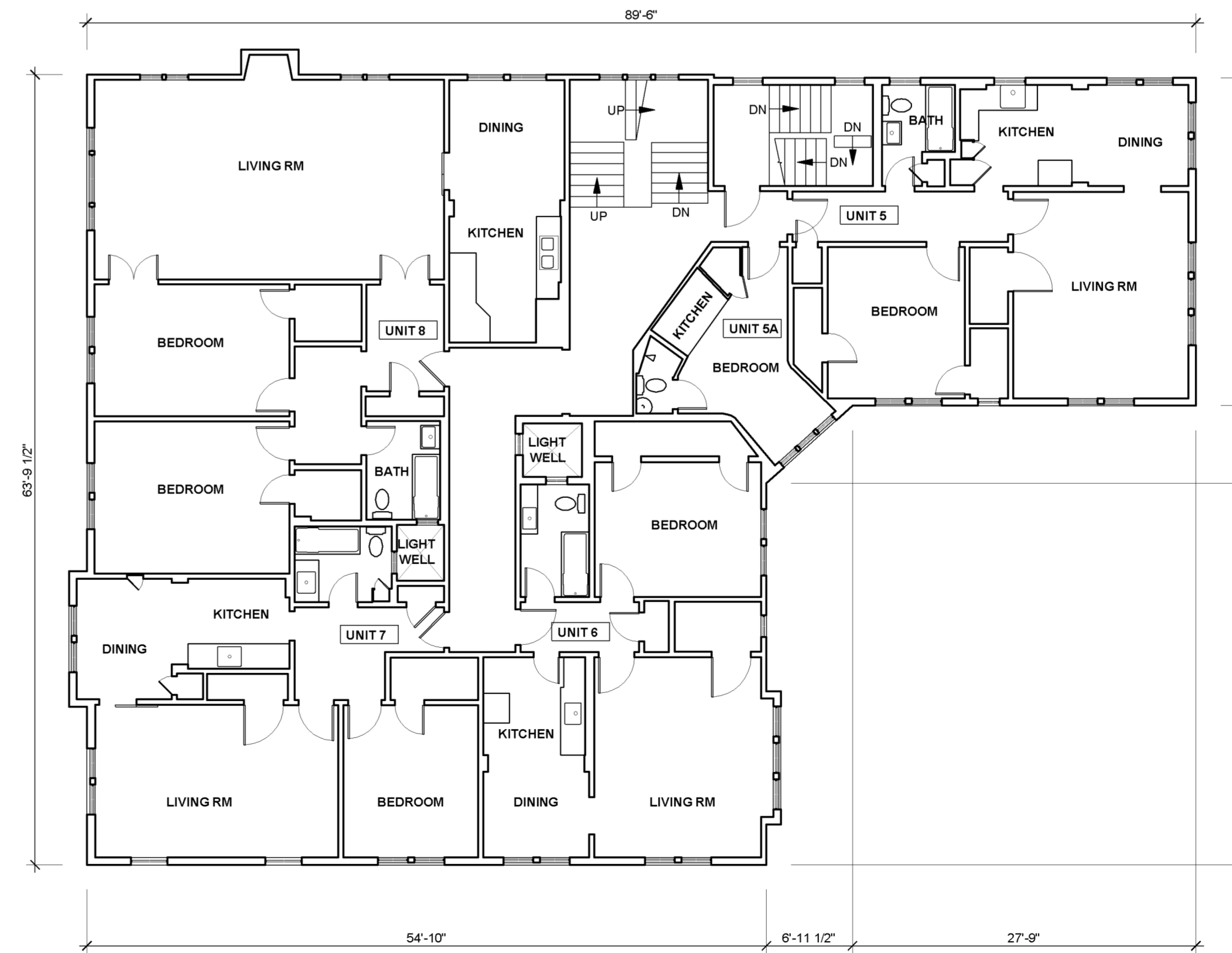
**INTERIOR ALTERATIONS  
1850 ARCH STREET  
BERKELEY, CA 94709**



1 EXISTING PLAN- BASEMENT FLOOR  
SCALE: 1/8" = 1'-0"



2 EXISTING PLAN- 1ST FLOOR  
SCALE: 1/8" = 1'-0"



3 EXISTING PLAN- 2ND FLOOR  
SCALE: 1/8" = 1'-0"



**A2**

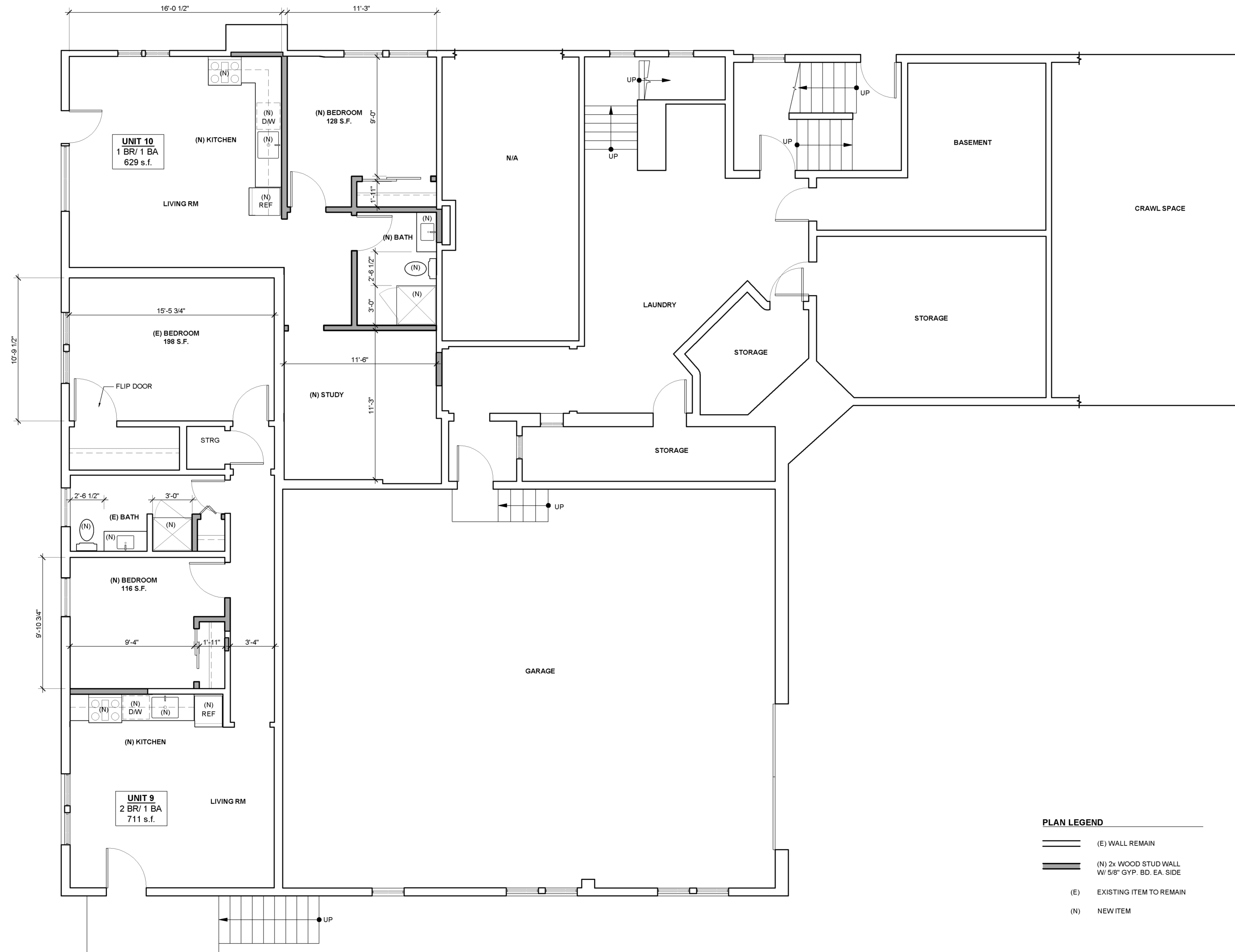
PLANNING PERMIT 12-19-19

REVISION 1 3-18-20

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**INTERIOR ALTERATIONS  
1850 ARCH STREET  
BERKELEY, CA 94709**



- PLAN LEGEND**
- (E) WALL REMAIN
  - (N) 2x WOOD STUD WALL  
W/ 5/8" GYP. BD. EA. SIDE
  - (E) EXISTING ITEM TO REMAIN
  - (N) NEW ITEM

1 PROPOSED PLAN- BASEMENT  
SCALE: 1/4" = 1'-0"



PLANNING PERMIT	12-19-19
REVISION 1	3-18-20

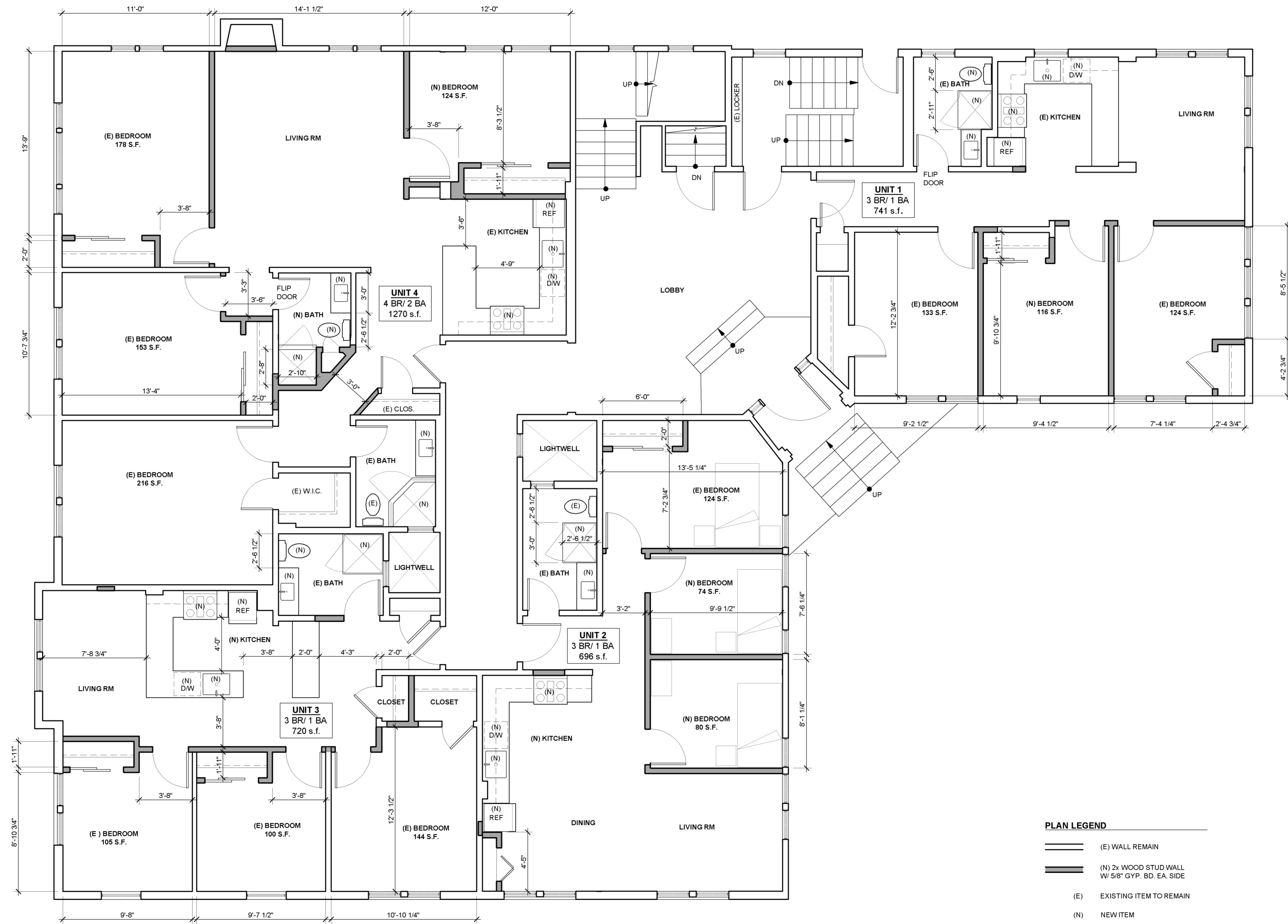
**A3**



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**INTERIOR ALTERATIONS  
1850 ARCH STREET  
BERKELEY, CA 94709**



1 PROPOSED PLAN- 1ST FLOOR  
SCALE: 1/4" = 1'-0"

PLANNING PERMIT	12-19-19
REVISION 1	3-18-20

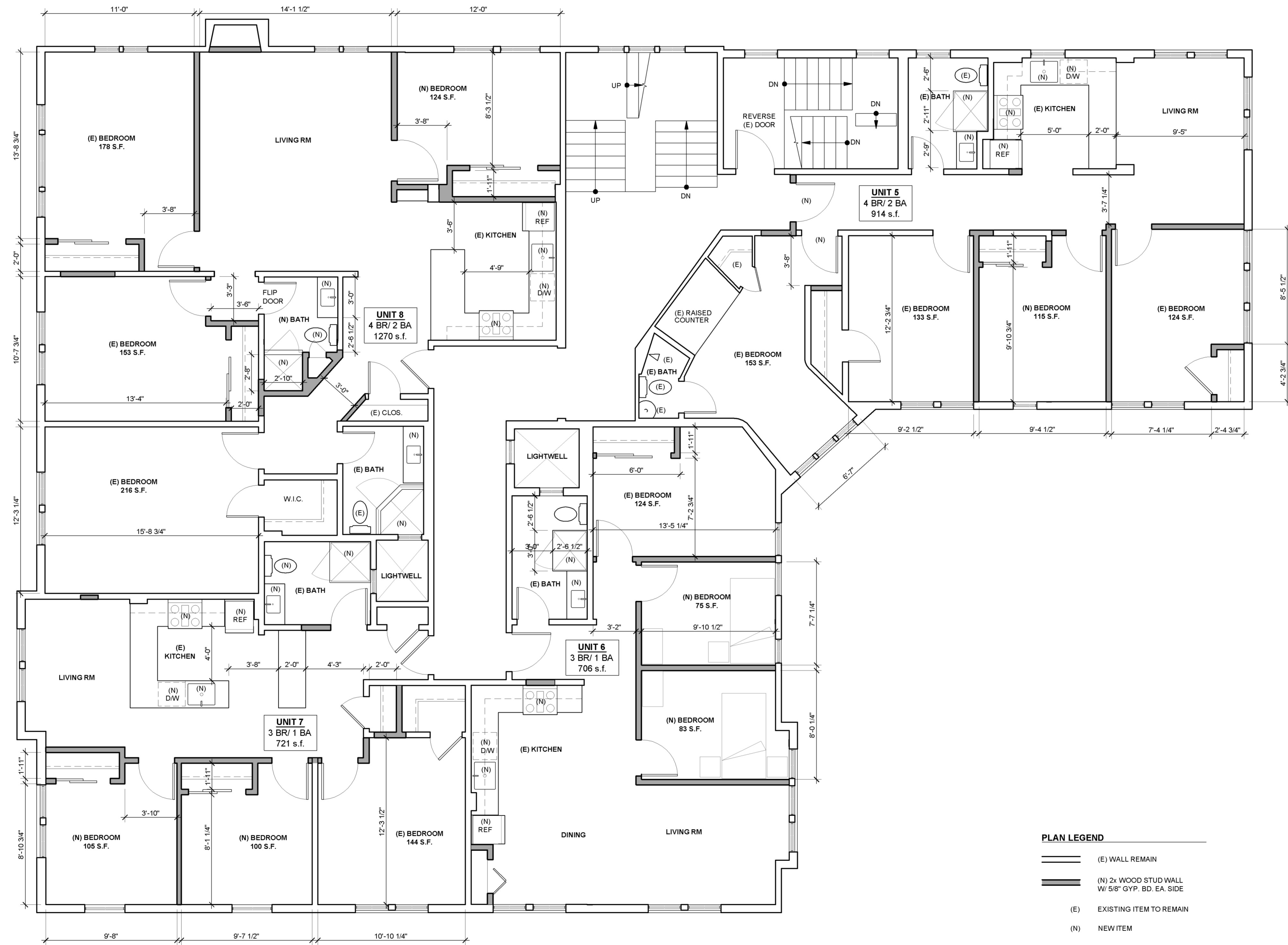


**A4**

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**INTERIOR ALTERATIONS  
1850 ARCH STREET  
BERKELEY, CA 94709**



- PLAN LEGEND**
- (E) WALL REMAIN
  - (N) 2x WOOD STUD WALL  
W/ 5/8" GYP. BD. EA. SIDE
  - (E) EXISTING ITEM TO REMAIN
  - (N) NEW ITEM

1 PROPOSED PLAN- 2ND FLOOR  
SCALE: 1/4" = 1'-0"



PLANNING PERMIT	12-19-19
REVISION 1	3-18-20

**A5**

RESOLUTION NO. ~~##,###~~-N.S.

AFFIRMING THE ZONING ADJUSTMENTS BOARD'S APPROVAL OF USE PERMIT #ZP2019-0213 TO ADD 15 BEDROOMS TO AN EXISTING 10-UNIT, 10-BEDROOM MULTI-FAMILY RESIDENTIAL BUILDING, FOR A TOTAL OF 25 BEDROOMS ON THE PARCEL, AND DISMISSING THE APPEAL

WHEREAS, on December 20, 2019, Rhoades Planning Group ("applicant") filed an application for a Use Permit to add 18 bedrooms to an existing 10-unit, 12-bedroom multi-family residential building, for a total of 30 bedrooms on the parcel; and

WHEREAS, on April 16, 2020, staff deemed this application complete and determined that the project is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15301 of the CEQA Guidelines ("Existing Facilities"); and

WHEREAS, on September 10, 2020 staff posted the ZAB Notice of Public Hearing at the site in three locations and mailed 504 notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations; and

WHEREAS, on September 24, 2020, the ZAB held a public hearing in accordance with BMC Section 23B.32.030, and approved the application with Conditions; and

WHEREAS, on September 29, 2020, staff issued the notice of the ZAB decision; and

WHEREAS, on October 13, 2020, Robin O'Donnell filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on or before February 9, 2021, staff posted the public hearing notice at the site in three locations and mailed notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations; and

WHEREAS, on February 23, 2021, the Council held a public hearing to consider the ZAB's decision, and, in the opinion of this Council, the facts stated in or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Council hereby adopts the findings made by the ZAB in Exhibit A, affirms the decision of the ZAB to approve Use Permit #ZP2019-0213 adopts the conditions of approval in Exhibit A and the project plans in Exhibit B, and dismisses the appeal.

Exhibits

A: Findings and Conditions

B: Project Plans, dated March 18, 2020

# ATTACHMENT 2, EXHIBIT A

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## FINDINGS AND CONDITIONS

SEPTEMBER 24, 2020

### 1862 Arch Street

**Use Permit #ZP2019-0213 to add 13 bedrooms to an existing 10-unit, 10 bedroom multi-family residential building, for a total of 25 bedrooms on the parcel.**

#### PERMITS REQUIRED

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- Use Permit pursuant to BMC Section 23D.36.060, for the addition of bedrooms beyond the fifth bedroom on the parcel.

#### I. CEQA FINDINGS

---

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 (“Existing Facilities”) of the CEQA Guidelines. 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. OTHER FINDINGS FOR APPROVAL

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1. As required by BMC Section 23B.32.040.A, 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 proposed project conforms to the applicable provisions of the Berkeley Municipal Code including for height, number of stories, rear yard setback, lot coverage, and usable open space in BMC Section 23D.36.070-080 (Development Standards), as detailed in the August 27, 2020 staff report. The proposed project is non-conforming for front yard setback (9'-8" where 15' is the minimum), left yard setback (0' where 6' is the minimum), right yard setback (0' where 6' is the minimum), and parking (providing five spaces where ten are required) under the current Zoning Ordinance. The proposed development is permissible because: (1) the proposed interior renovations do not worsen any non-conforming condition; (2) the proposed development recognizes and adheres to an existing pattern of development; (3) protects adjacent neighbors from unreasonable obstructions of sunlight and air; and (4) represents the District's intended encouragement of the development of relatively high density residential areas characterized by convenience of location and a reasonable amount of Usable Open Space.
  - B. The project is consistent with the purposes of the District in that it will permit the addition of bedrooms through conversion of existing floor area and conversion of 20 square feet of

existing unfinished area within the existing building footprint on a residential property, which continues the existing pattern of high residential density of the neighborhood. The project will not reduce the existing non-conforming 9'-8" front setback, the non-conforming 0' left and right side setbacks, or the non-conforming off-street parking (5 spaces where 10 is the minimum). The project will, therefore, retain the existing pattern of development that is conveniently located and provides a reasonable amount of usable open space of the District while protecting adjacent properties from unreasonable obstruction of light and air.

- C. The project plans submitted on April 6, 2020 indicate the proposed addition will not unreasonably obstruct sunlight on nearby existing dwellings, impact the privacy between neighbors, unreasonably impact air and light between neighbors, or impact views. As discussed in the project staff report dated September 24, 2020, the proposed project will not create any new window openings or otherwise change the exterior of the building or the building's footprint. Therefore, the impacts are determined to be non-detrimental.
2. Pursuant to BMC Section 23D.32.050.A, the Zoning Adjustments Board finds that the proposed addition of bedrooms eleven through twenty five supports the residential use on the parcel, consistent with the purposes of the R-3 District. The project represents the District's intended encouragement of the development of relatively high density residential areas characterized by convenience of location and a reasonable amount of Usable Open Space. The subject property is five blocks east of numerous AC Transit routes on University and Shattuck Avenues, is one-half mile from the Downtown Berkeley BART station, and is located on a bikeway. In addition, the project is one-half block north of the University of California-Berkeley campus. The parcel contains a reasonable amount of open space, 2,186 square feet of useable open space where a minimum of 2,000 square feet is required.
-



#### **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.

**I. 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 #

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

- 11. Unit Vacancy.** Demolition and/or construction activities approved under this permit shall not commence in any unit unless the existing tenants have either voluntarily vacated the unit or have reached an agreement for temporary relocation pursuant to BMC Chapter 13.84. The applicant shall submit evidence of such to the Rent Stabilization Board (i.e. tenant's notice to vacate, relocation agreement).
- 12. 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.
- 13. Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine whether the following document is required and timing for its submittal:
- A. 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.

**Prior to Issuance of Any Building (Construction) Permit**

**14. 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).

15. 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.

### **During Construction:**

16. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
17. 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.

18. 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 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.
- 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.

**19. 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.
20. 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.
21. 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.
22. 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.
23. 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.
24. 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.
25. 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.
26. 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.

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

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27. 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.
28. 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 February 5, 2020 except as modified by conditions of approval.
29. Construction and Demolition Diversion. A Waste Diversion Report, with receipts or weigh slips documenting debris disposal or recycling during all phases of the project, must be completed and submitted for approval to the City's Building and Safety Division. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement. A copy of the Waste Diversion Plan shall be available at all times at the construction site for review by City Staff.

**At All Times:**

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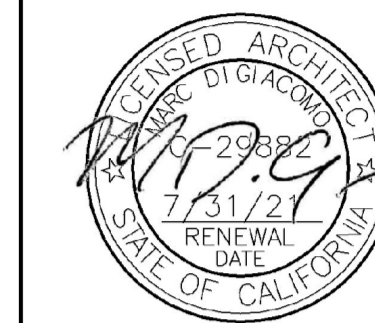
30. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
  31. Tenant Noticing. Prior to the execution of a new lease with prospective tenants, the property owner shall provide notice of the proposed project and notice of their rights under the Rent Stabilization and Eviction for Good Cause Ordinance.
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# INTERIOR ALTERATIONS 1862 ARCH STREET BERKELEY, CA 94709

APPLICABLE CODES:	PROJECT DESCRIPTION:	PROJECT TEAM:	PROJECT DATA:	SHEET INDEX:
2019 CALIFORNIA BUILDING CODE 2019 CALIFORNIA ELECTRICAL CODE 2019 CALIFORNIA MECHANICAL CODE 2019 CALIFORNIA PLUMBING CODE 2019 CALIFORNIA ENERGY CODE 2019 CALIFORNIA FIRE CODE 2019 CALGREEN	INTERIOR ALTERATIONS WITHIN AN EXISTING 11 UNIT MULTIFAMILY BUILDING HAVING 2 STORIES OVER HABITABLE BASEMENT.  SCOPE OF WORK TO INCLUDE: -DEMOLITION OF INTERIOR PARTITIONS -CONSTRUCTION OF NEW INTERIOR PARTITIONS -NEW PLUMBING FIXTURES AND APPLIANCES  PROJECT SCOPE DOES NOT INCLUDE ANY EXTERIOR WORK	<b>BUILDING OWNER:</b> TURNING POINT INVESTMENTS 222 Monte Vista Avenue Larkspur, CA 94939 (415) 271-2966 Riccardo@TurningPointInvested.com  <b>ARCHITECT:</b> MARC DIGIACOMO ARCHITECT (415) 334-7516 Marc@DiGiacomoArchitect.com  <b>PLANNING DEVELOPMENT CONSULTANT:</b> RHOADES PLANNING GROUP 46 Shattuck Square Berkeley, CA 94704 (510) 545-4341 Alex@RhoadesPlanningGroup.com	APN: 58-2182-19-1 LOT 2182, BLOCK 19-1 LOT AREA: 10,300 S.F. ZONING DISTRICT: R-3H  EXISTING BUILDING (NO CHANGE): MULTIFAMILY, GROUP R-2 CONSTRUCTION TYPE V-B NON-SPRINKLERED 3 STORIES (INCLUDING HABITABLE "BASEMENT" STORY) 10 DWELLING UNITS  GROSS AREAS (NO CHANGE): BASEMENT: 3396 S.F. 1ST FLOOR: 3356 S.F. 2ND FLOOR: 3404 S.F. TOTAL: 10,126 S.F.  TOTAL BEDROOMS EXISTING: 18 TOTAL BEDROOMS PROPOSED: 25  EXISTING PARKING: 5 (NO CHANGE)  EXISTING COMMON OPEN SPACE: 2186 S.F. (NO CHANGE)  EXISTING AVERAGE BLDG HEIGHT: 27'-4"	A1 COVER SHEET AND SITE PLAN A2 EXISTING PLANS A3 PROPOSED PLAN- BASEMENT A4 PROPOSED PLAN- 1ST FLOOR A5 PROPOSED PLAN- 2ND FLOOR

MARC DIGIACOMO  
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Alameda, CA 94501  
Cell (415) 334-7516

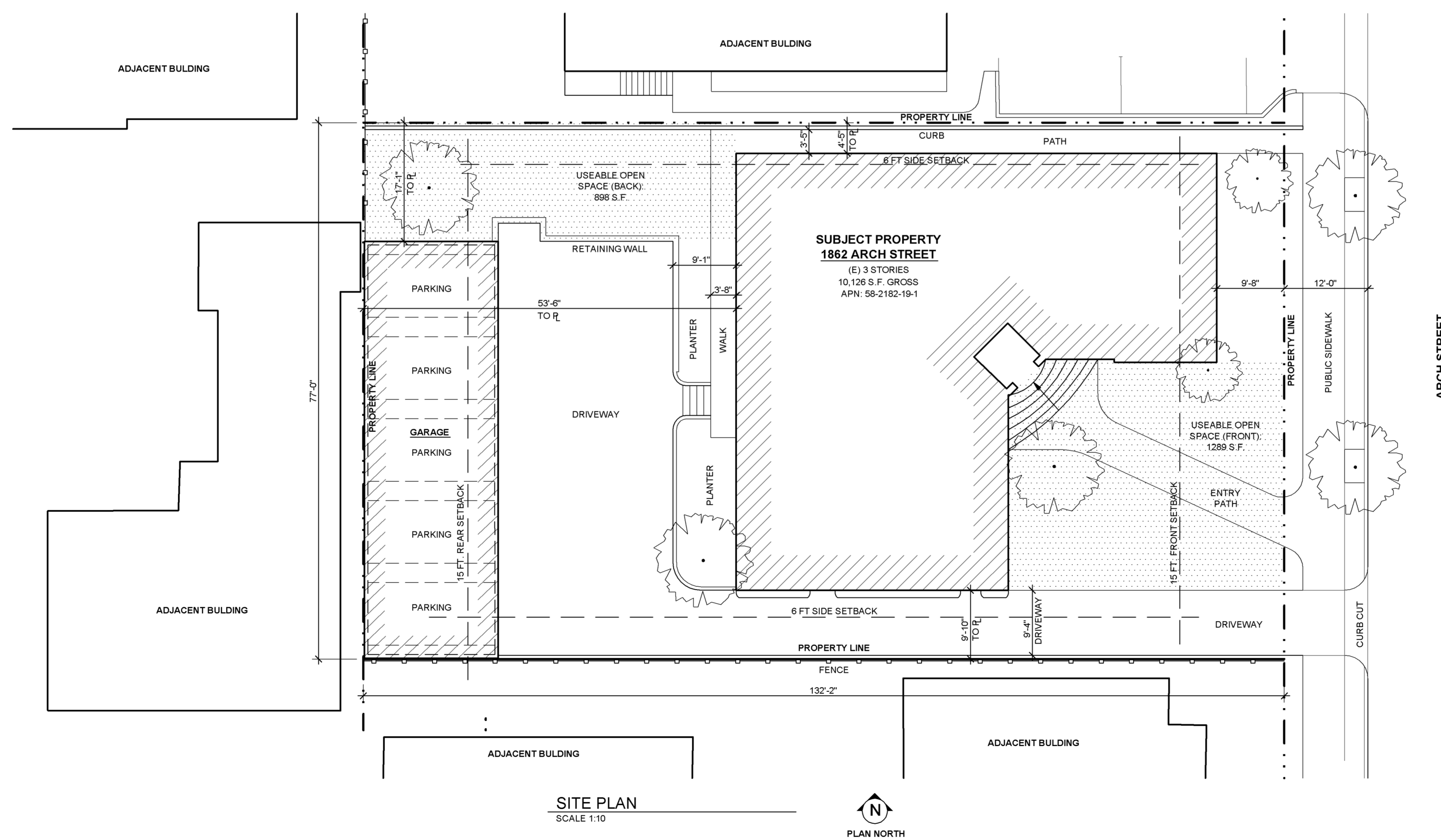


**INTERIOR ALTERATIONS  
1862 ARCH STREET  
BERKELEY, CA 94709**

PLANNING PERMIT 12-19-19

REVISION 1 2-5-20

A1

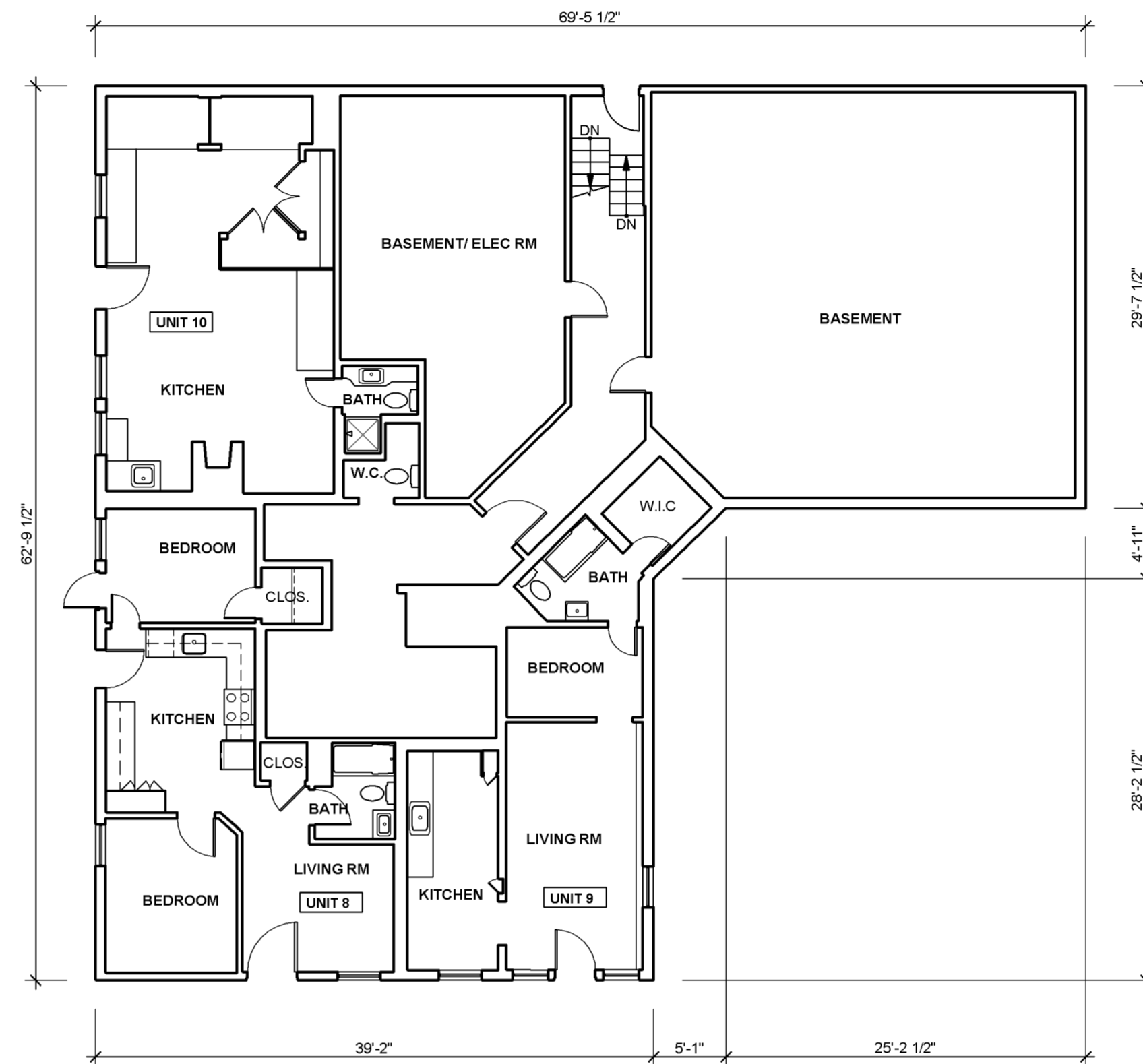




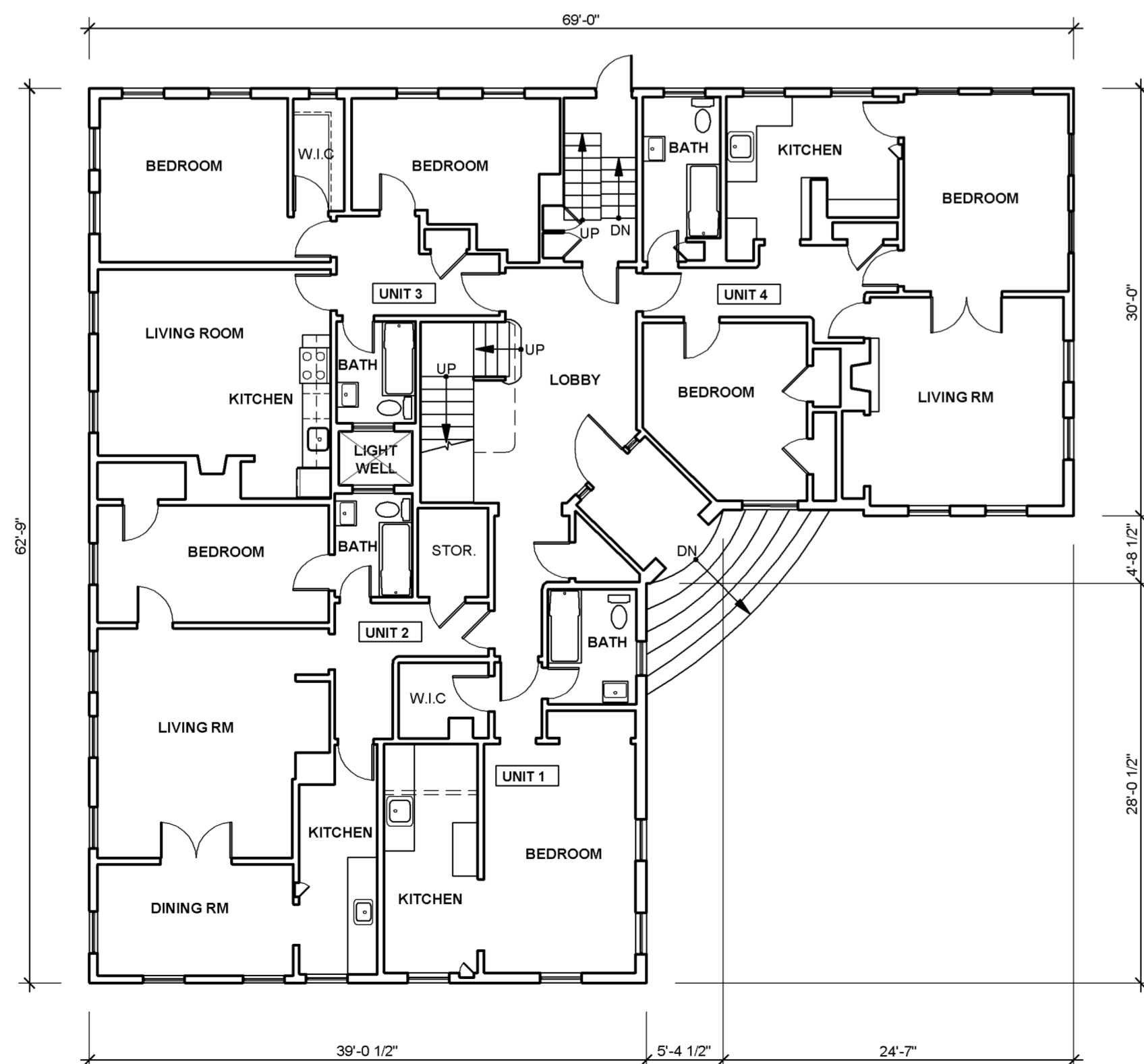
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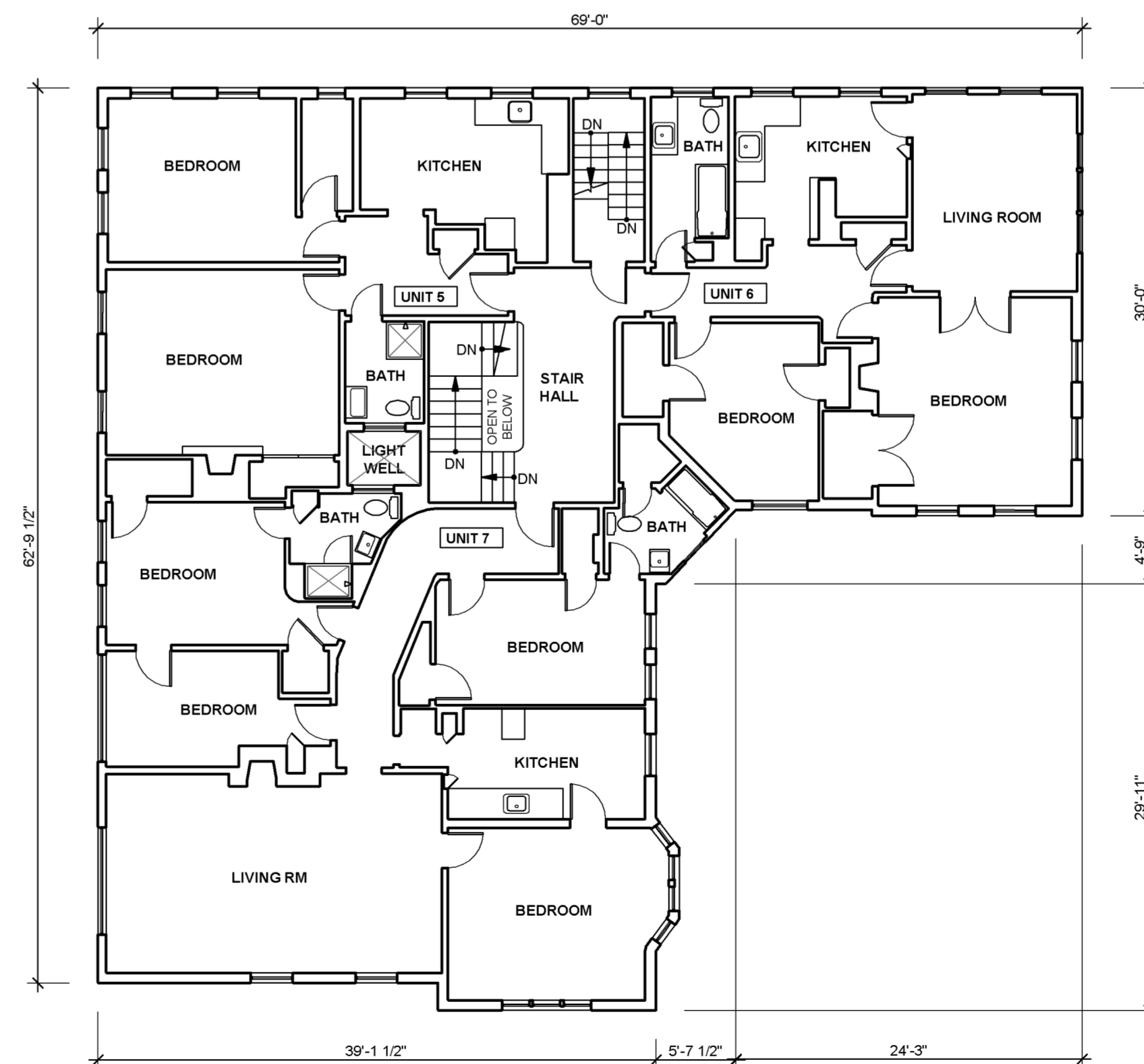
**INTERIOR ALTERATIONS  
 1862 ARCH STREET  
 BERKELEY, CA 94709**



① EXISTING PLAN- BASEMENT FLOOR  
 SCALE: 1/8" = 1'-0"



② EXISTING PLAN- 1ST FLOOR  
 SCALE: 1/8" = 1'-0"



③ EXISTING PLAN- 2ND FLOOR  
 SCALE: 1/8" = 1'-0"

PLANNING PERMIT	12-19-19
REVISION 1	2-5-20

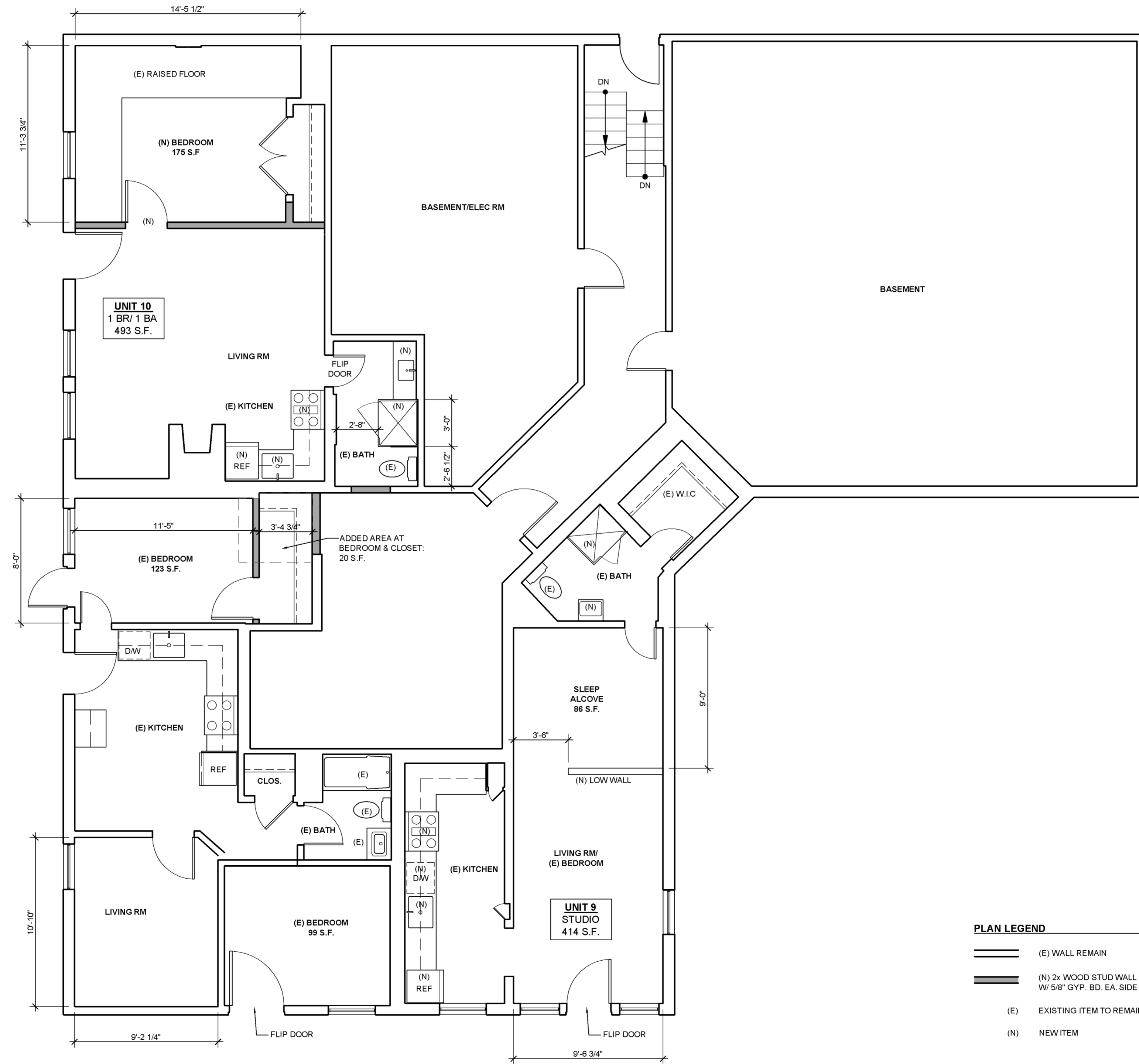


**A2**

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**INTERIOR ALTERATIONS  
1862 ARCH STREET  
BERKELEY, CA 94709**



- PLAN LEGEND**
- (E) WALL REMAIN
  - (N) 2x WOOD STUD WALL W/ 5/8" GYP. BD. EA. SIDE
  - (E) EXISTING ITEM TO REMAIN
  - (N) NEW ITEM

1 PROPOSED PLAN- BASEMENT FLOOR  
SCALE: 1/4" = 1'-0"



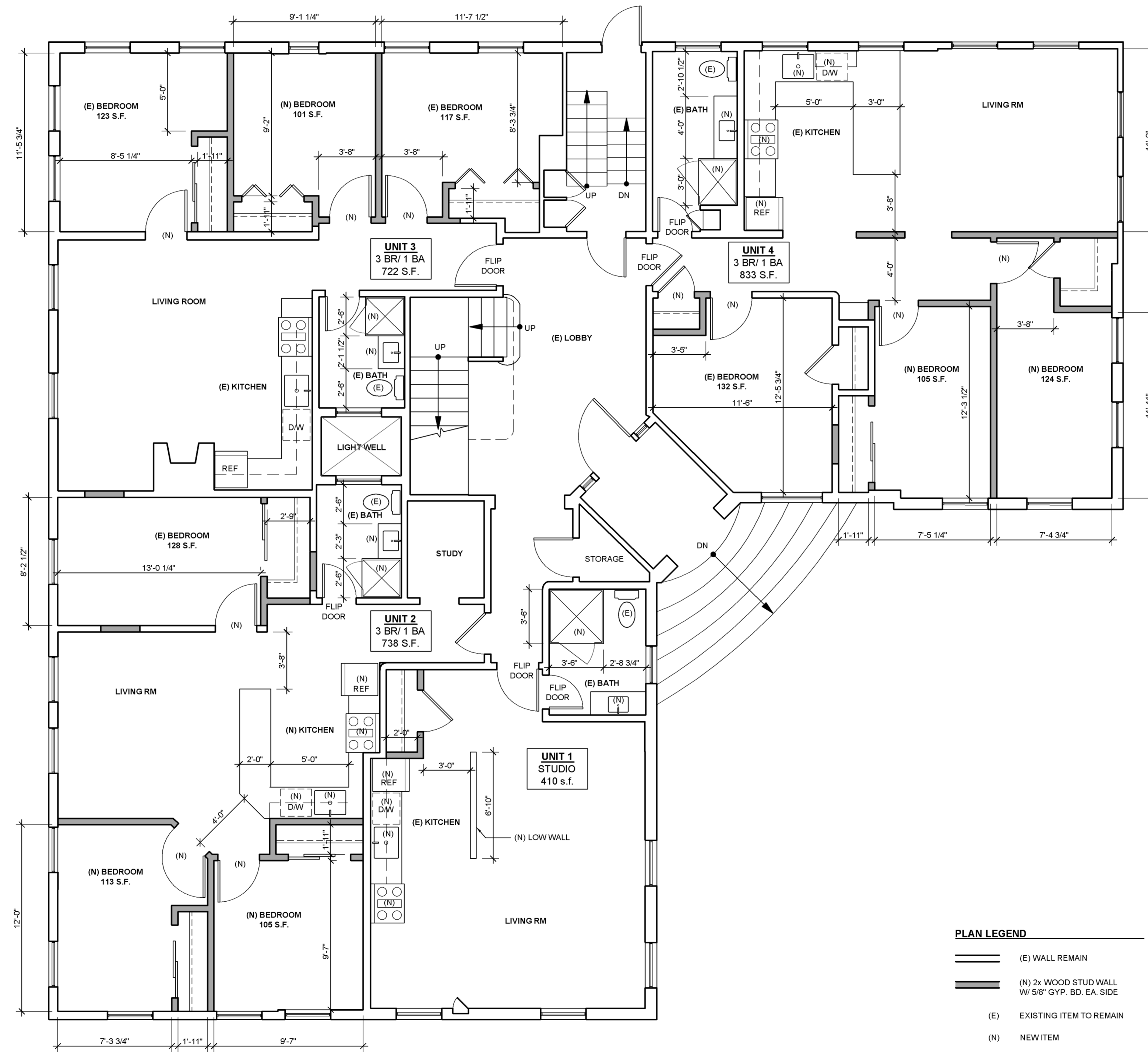
PLANNING PERMIT	12-19-19
REVISION 1	2-5-20

**A3**

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 Alameda, CA 94501  
 Cell (415) 334-7516



**INTERIOR ALTERATIONS  
 1862 ARCH STREET  
 BERKELEY, CA 94709**



- PLAN LEGEND**
- (E) WALL REMAIN
  - (N) 2x WOOD STUD WALL  
W/ 5/8" GYP. BD. EA. SIDE
  - (E) EXISTING ITEM TO REMAIN
  - (N) NEW ITEM

1 PROPOSED PLAN- 1ST FLOOR  
 SCALE: 1/4" = 1'-0"

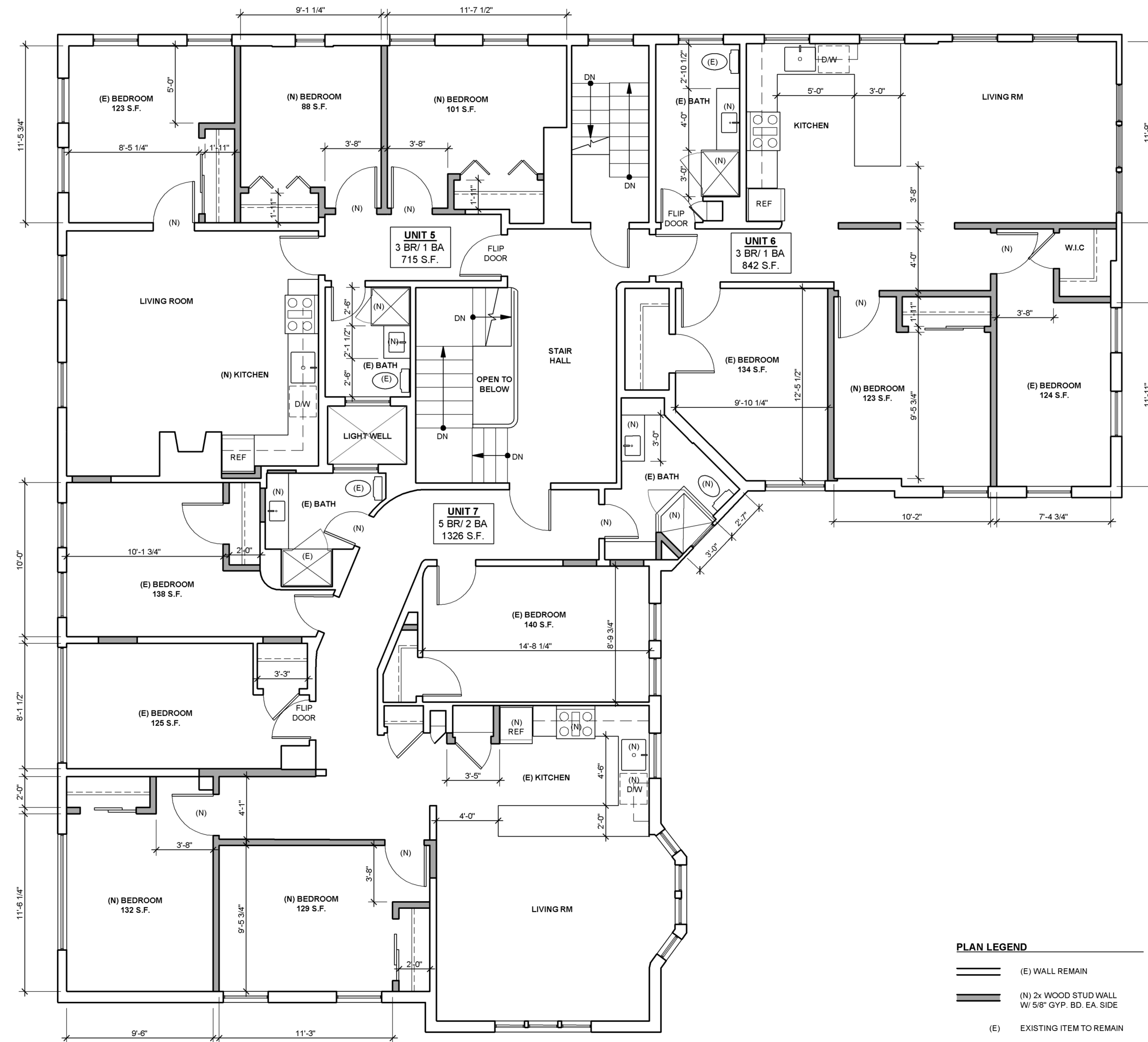


PLANNING PERMIT 12-19-19

REVISION 1 2-5-20

**A4**

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 Alameda, CA 94501  
 Cell (415) 334-7516



**PLAN LEGEND**

- (E) WALL REMAIN
- (N) 2x WOOD STUD WALL  
W/ 5/8" GYP. BD. EA. SIDE
- (E) EXISTING ITEM TO REMAIN
- (N) NEW ITEM

1 PROPOSED PLAN- 2ND FLOOR  
 SCALE: 1/4" = 1'-0"



**INTERIOR ALTERATIONS  
 1862 ARCH STREET  
 BERKELEY, CA 94709**

PLANNING PERMIT	12-18-19
REVISION 1	2-5-20

**A5**

October 13, 2020

Berkeley City Council  
2180 Milvia Street  
First Floor  
Berkeley, CA 94704

**Re: Appeal of Decision of Zoning Adjustments Board Dated September 24, 2020  
Concerning Use Permits #ZP2019-0212  
Property Addresses 1850 Arch Street**

Dear Members of the Berkeley City Council:

We are submitting this appeal of the decision of the Berkeley Zoning Adjustments Board (“ZAB”) concerning Use Permit #ZP2019-0212 pertaining to the property at 1850 Arch Street in Berkeley. We have simultaneously submitted a separate appeal of the decision of ZAB concerning Use Permit #ZP2019-0213 pertaining to the property at 1862 Arch Street. Because the applicant for the use permits is the same in both instances, the buildings at 1850 and 1862 Arch Street (the “Properties”) are adjacent, and the permitting decision and appeals present virtually identical issues of fact and law, we are submitting substantially identical letters for each appeal.

While the COVID pandemic has made it difficult to coalesce citizen input into the renovations of the 1850 and 1862 Arch Street (collectively, the “Projects”), the list of signatures attached to this letter and opposing the ZAB decisions demonstrates widespread opposition to the Projects from the majority of residents of the Properties. This opposition arises because the Projects are deeply flawed attempt to maximize revenue from the Properties with little consideration of the relevant requirements of the Berkeley Municipal Code for the issuance of the permits. Many of these considerations, including considerations about the character of the Hillside community and the detrimental effects of the construction and the development on the residents of the Properties and the broader community, were either completely ignored or improperly weighed by ZAB.

The 1850 Arch Street Project would add 18 bedrooms to an existing 10-unit, 12-bedroom multi-family residential building that was constructed in 1927, immediately after the 1923 fires, and has been largely in its same configuration for almost 100 years. The building is non-confirming; it exceeds the district’s maximum lot coverage (44.6% v. 40%); has non-conforming front-yard and side setbacks; and only provides five parking spacings, half of the BMC’s requirement. Similarly, the 1862 Arch Street Project would add 15 bedrooms to an existing 10-unit, 10-bedroom multi-family residential building of a similar vintage, which, like its counterpart, has largely remained in its current configuration for almost 100 years. 1862 Arch Street is also non-



conforming is multiple ways: for front-yard setback (9'-8" v. 15' minimum), left yard setback (0' v. 6' minimum), right-yard setback (0' v. 6' minimum), and only provides five parking spaces where ten are required.

Taken together, the Projects would increase the number of bedrooms in each property by 150% (with total bedrooms increasing from 22 to 55) and could be expected to result in similar increase in the number of residents. The buildings are essentially situated on top of each other and the adjoining buildings – there is about 15 between 1862 Arch Street and 1876 Arch Street – on a restricted access one-way street with limited street parking. The buildings are designated as R-3(H), with the H representing a designation that the Properties are located in the ecological fragile and historically important Hillside District. Consistent with its classification as Medium Density Residential (“MDR”),<sup>1</sup> this block of Arch Street is characterized by a mix of gracious single-family condominiums, single-family homes and small to medium sized multi-family structures. The block also houses several cultural and religious institutions, such as the Institute of Salesian Studies, which is diagonally across the Street for the Projects, and the Pacific School of Religion and affiliated institutions, which are located on Holy Hill at the intersection of Arch Street and Virginia Street at the end of the block

**A. The Projects are inconsistent with the purposes of Hillside Districts and the Berkeley General Plan and the character and historical integrity of the neighborhood**

In its Staff Reports and Findings and Conditions for the Projects, ZAB erroneously applied BMC Chapter 23B.32’s standards for Restricted Multiple-family Residential (R-2A) districts instead of those for Multiple Family Residential (R-3) Districts under Chapter 23D.36. Unlike for R-2 Districts, ZAB is required to consider additional permitting requirements for Hillside Districts where, as here, project is located in a district classified as R-3(H).<sup>2</sup> Perhaps confused by which standards were applicable, ZAB completely failed to apply the appropriate standards for Hillside Districts. This error was not harmless. Notably, BMC requires ZAB to consider of the purposes of Hillside Districts, including to “[p]rotect the character of Berkeley’s hill Districts and their immediate environs” and to “[i]mplement the Master Plan’s policies regarding Hillside Development.”<sup>3</sup> Consideration of the applicable standards of the Hillside District provisions and the Berkeley General Plan would have supported rejection of the Projects.

Put simply, the Projects are the applicant’s attempt to maximally monetize the Properties by transforming elegant and proportioned historic multi-family apartment buildings in a quiet residential neighborhood into extremely high-density rooming houses for transient students

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<sup>1</sup> See City of Berkeley General Plan (“General Plan”), Land Use Element (explaining that MDR areas “are generally characterized by a mix of single-family homes and small to medium sized multi-family structures.”).

<sup>2</sup> See BMC 23D.36.010.

<sup>3</sup> See BMC 23E.96.020.

willing to pay exorbitant rents. The detrimental impacts of the Projects on the residents of the Properties, the neighbors, and the broader hillside environment are immense.

As explained above, in their current configurations, the Properties are non-conforming and take up a higher proportion of the allocated lot space and have non-conforming setbacks from the property lines. For example, the south wall of the 1862 Arch Street is about 15 feet from 1876 Arch Street. The immediate neighborhood's density, without introducing 30 or 40 more residents in the two buildings is already a problem given its precarious infrastructure. Noise pollution from the overcrowded apartment buildings is an issue for neighbors. Even amid the COVID pandemic, it is difficult to get a parking space on street, and the Properties already have a deficient number of parking spaces. This block of Arch Street is narrow, and, in response to pedestrian crossing issues at its base, has recently been made a one-way street. With the existing density, the noise and congestion from car traffic, construction, trash pickup, and deliveries already stretches the neighborhood's infrastructure to its capacity. Because the Properties are so close to the street and neighboring buildings, increasing the residency by more than a factor of two will greatly exacerbate these problems.

The Arch Street neighborhood was designed as and organically developed into a medium density area, and there are no provisions in the plan to accommodate the increased density of the Projects. In its public hearing on the Projects, ZAB spent an inordinate time discussing potential parking impacts and ultimately decided that even though the parking in the building was already non-conforming and residential parking would likely not be approved for a new construction, it was completely acceptable to permit, without limitation, the potential 30 plus new residents of the Properties to receive residential parking permits. Given the current parking situation, of which ZAB seemed to be ill-informed,<sup>4</sup> ZAB's failure to attach limitations on parking permits or otherwise address the parking problems was a mistake. But, more fundamentally, ZAB's inability to adequately address the parking issue is emblematic of its unwillingness to soberly confront the immense impact of the Projects on the local infrastructure -- increasing the bedrooms from 22 to 55 in small structures packed into undersized lots on a narrow one-way street. Even if a proportion of the new residents do not have automobiles, they nevertheless will create more noise, they will be heavily reliant on food and other deliveries, and they will produce more trash.

The applicant has avoided otherwise applicable density restrictions by maintaining the existing number of units but greatly increasing the number of bedrooms. While this is a gap in the regulatory scheme, ZAB is directed to consider the density and other effects of this project by the BMC's requirement that the character of the Hill District and its immediately environs be considered and similar considerations raised in Berkeley's General Plan. For example, the General Plan's Urban Design and Preservation Element has stressed the need to preserve community identity through recognition of the beauty and continuity of older buildings. It cautions that a "design [that] is suitable in any specific case significantly depends on the particular location." Creating two high-density rooming houses are inconsistent with the

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<sup>4</sup> For example, ZAB was unaware of the current parking situation and relied on speculation that the potential additional residents of the Properties would not own automobiles.

original, notable architectural design of these two, century-old, elegant multi-family residences.<sup>5</sup> In addition to needless vitiating the architectural integrity of the Properties, the introduction of overly dense student dormitories detrimentally alters the balance of the residential community.<sup>6</sup>

The Projects may preserve the façade of the Properties, but this carapace would belie the damage to the architectural integrity of the building and fabric of the neighborhood.<sup>7</sup>

**B. The construction involved in the Projects and the Projects' lasting legacy will detrimentally impact the residents of the Properties and their neighbors**

BMC section 23B.32.040 requires the ZAB to approve an application for a use permit only upon finding that the project “will not be detrimental to the health, safety, peace, morals, comfort or

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<sup>5</sup> See Policy UD-20 (“Alterations to a worthwhile building should be compatible with the building’s original architectural character”); Policy UD-22 (“Regulate new construction and alterations to ensure that they are individually well-designed and that they are so designed and located as to duly respect and where possible enhance the existing built environment.”); Policy UD-5 Architectural Features (“Encourage, and where appropriate require, retention of ornaments and other architecturally interesting features in the course of seismic retrofit and other rehabilitation work.”)

<sup>6</sup> See Policy UD-3 (“[u]se regulations to protect the character of neighborhoods and districts”); Policy UD-24 Area Character (“Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.”); (Policy LU-2) (ensuring that development be compatible with “scale, historic character, and surrounding uses in the area”).

<sup>7</sup> On this point, the hearing comments of ZAB member Sheahan reviewing the 1850 Arch Street project before voting against the Projects deserve to be quoted at length:

“TO CALL IT ELEGANT DENSITY I THINK IS A JOKE. THIS IS A BEAUTIFUL APARTMENT BUILDING. OF NICELY SCALED APARTMENTS OF A SIZE THAT IS DESPERATE NEED IN THIS CITY. AND IT'S A VERY MIXED POPULATION. I KNOW PEOPLE ON THIS STREET, THEY AREN'T ALL STUDENTS. THEY AREN'T ALL ONE-YEAR LEASE HOLDERS. PEOPLE LIVE THERE. THEY LIVE ON THE STREET. IN THIS NEIGHBORHOOD. AND THESE ARE THE PLACES THEY LIVE IN. AND THIS PROJECT ENCOURAGES BY VIRTUE OF THE CONSTRUCTION PROCESS FOR ONE, AND A HIGHER RATE OF TURNOVER, REALLY MAKES IT THAT MUCH LESS DESIRABLE PLACE TO LIVE AND I THINK IS EFFECTIVELY DISCOURAGING LONG-TERM TENANTS FROM EITHER MOVING OUT OR NOT MOVING IN. I THINK IT'S A SERIOUS OVERSIGHT OF THE CITY NOT TO HAVE DENSITY STANDARDS FOR THIS ZONE. IT BOGGLES ME. AND YOU KNOW, WITH WE ARE WELL WEAR ESPECIALLY THIS YEAR OF THE ISSUES OF DENSITY AND EXTREME DENSITY. IT ALREADY IS HIGH DENSITY. THIS PROPOSAL IS EXTREME DENSITY.... I CAN'T SUPPORT THIS. I THINK IT'S AN ILL-CONCEIVED OBVIOUS ATTEMPT TO EXTRACT THE MAXIMUM RENT OUT OF A PROPERTY BY MORE THAN DOUBLING THE NUMBER OF BEDROOMS AND IN CUTTING THE LIVING SPACE -- COMMON LIVING SPACE IN HALF OR WORSE. IT'S A DISASTER. I CAN'T VOTE FOR IT. IT'S ENCOURAGING UNSAFE AND UNHEALTHY LIVING.”



general welfare of persons residing or working in the area or 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.”

In its Staff Reports and Findings and Conditions for the Projects, ZAB summarily concluded that the Projects were permissible because: “(1) the proposed interior renovations do not worsen any non-conforming condition; (2) the proposed development recognizes and adheres to an existing pattern of development; (3) protects adjacent neighbors from unreasonable obstructions of sunlight and air; and (4) represents the District’s intended encouragement of the development of relatively high density residential areas characterized by convenience of location and a reasonable amount of Usable Open Space.” This superficial treatment of the issues does not address the myriad detrimental effects of the Projects. In fact, both the construction of the project and the resultant renovations will substantially adversely affect the property, its residents, adjacent properties, and the neighborhood.

First, the construction plan for the Projects ensures that there will be constant construction noise for at least the next several years. The applicant plans to add the 33 bedrooms to the properties by adding interior walls and substantially reconfiguring the layout over the building. The renovations will occur when each of the 22 units becomes vacant. Some of the current residents have been living in the Properties for years; many others are students who reside for only a year or two. The result will be that vacancies will be staggered and that there will be construction ongoing for years.<sup>8</sup> The effects of modest, non-structural modifications made to the Properties in the past several months are not auspicious. This work has been disruptive with work trucks blocking resident parking and contractors working and walking around the property at times without masks, as required by public health regulations directed against the COVID epidemic.<sup>9</sup>

The prospect of continuous construction over the next several years is particularly alarming given the use of the building and the likely effects on the neighborhood. Many of the residents will be students who will be working from home during construction hours. The other residents are a mix of retirees who similarly spend many working hours at home, and other workers who are increasingly working from home given the transition to a distributed workforce that has been accelerated by the COVID epidemic. This is not to suggest that well planned and proportionate renovations should be opposed on the ground of construction impacts. But the Projects are not well planned: the scale of the Projects is immense, yet discrete in timing, and thus the timeline is uncertain and most likely attenuated, promising massive ongoing disruption to residents and

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<sup>8</sup> The authors of this letter have heard from multiple tenants of the Properties that they have recently been forced to sign 6-month and 12-month leases with the implication that the leases will not be renewed. This is disturbing because these practices may be inconsistent with applicable rent regulations, including protections for rent control apartments. In any event, they underscore the applicant’s eagerness to monetize the Properties at the expense of its current residents and countervailing considerations.

<sup>9</sup> ZAB’s attempt to mitigate this harm by prohibiting construction on Saturday’s is plainly insufficient for the magnitude and duration of the harm. Resident will only have to live with constant construction five days a week for years, instead of six.

neighbors.<sup>10</sup> Every current and future resident of the Properties can expect to experience construction-related noise and disruption for many years.

Unfortunately, the detrimental effects of the Projects to the “health, safety, peace, morals, comfort or general welfare” of residents and the community will not be confined to the construction period; in fact, the Projects themselves will make these effects the permanent condition of the Properties and the neighborhood. The Properties are already non-conforming for their lots; squeezing more than twice as many residents into the same building footprint will have a litany of adverse effects. The Projects will increase the noise levels for residents of the Properties and neighbors, some of whom are not students and keep more regular hours.<sup>11</sup> The housing itself will be cramped and substandard.<sup>12</sup> These effects are multiplied by the density of the buildings themselves and the close proximity of neighboring buildings, which are a result of the non-conforming condition of the Properties and adjacent buildings, such as 1876 Arch Street, which directly abuts the lot line.<sup>13</sup>

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<sup>10</sup> ZAB Member Sheahan’s hearing comments on this point are particularly instructive:

“I THINK AS HAS BEEN POINTED OUT, THE CONSTRUCTION PROCESS, THIS PHASED CONSTRUCTION LIKELY ONE UNIT IN EACH OF THE BUILDINGS IS UNDER CONSTRUCTION ALL THE TIME. THAT MAKES IT REALLY INTOLERABLE FOR EVERYONE LIVING THERE TO HAVE NONSTOP CONSTRUCTION GOING ON.”

<sup>11</sup> While opposition to the Projects among residents of the Properties is overwhelming, the situations of two of this letter’s authors, are instructive. Robin O’Donnell is a 72-year-old single man who has lived at 1850 Arch Street for 24 years and spends many working days in his apartment. In April 2020, he submitted a letter to the City detailing the possible negative effects of the Projects. He remains concerned about the implications of the massive increase in building density to his health and welfare, including the noise arising from the project and new residents, the constant parade of construction workers, at the possible health impacts in the age of COVID from packing many young residents into a small footprint structure with retirees. Carey Pelton is a 65-year-old single women who has lived at 1850 Arch Street for 30 years. She is a former employee of the University of California and is disabled. She shares Mr. O’Donnell’s concerns about the Projects.

<sup>12</sup> As ZAB Member Sheahan explained while discussing the 1862 Arch Street project:

“I RAISE THE ISSUE OF DENSITY STANDARDS. AND WHAT I KEPT THINKING OF AS I WAS LOOKING AT THIS IS MINI DORMS. THIS IS LIKE TAKING AN APARTMENT BUILDING AND MAKING A BUNCH OF MINI DORMS OUT OF IT. MINI DORMS HAVE BECOME REGULATED. IN THE ABSENCE OF REGULATION, THAT APPLIES TO THIS KIND OF THING. THAT IS EXTREMELY DENSE, VERY LITTLE LIVING SPACE IN PROPORTION TO BEDROOMS. AND THERE IS DETRIMENT TO THAT. THERE IS SUCH A THING AS TO DETRIMENT TO LIGHT, AIR, SUN. EXCESSIVE DENSITY COMPROMISES. FOR THE CAUSES. AND I'M GOING TO VOTE NO ON THIS ALSO BECAUSE I THINK THIS IS NOT THE KIND OF -- THIS IS HOUSING GEARED TOWARDS SHORT TERM TENANTS AND A TURNOVER BECAUSE IT ALLOWS RENT INCREASE. OR MAXIMIZES POTENTIAL RENT INCREASE. THAT'S WHAT THIS PROJECT IS TRYING TO DO. AND I'LL VOTE NO AGAIN. IT'S NOT RIGHT.”

<sup>13</sup> The deleterious impact of noise arising from new development is cognizable in the General Plan. *See* Policy LU-7 (stressing preserving historic buildings and “minimize[ing] or eliminat[ing] negative impacts

In addition to noise, levels the Projects will have multiple other tangible detrimental effects on the immediate neighborhood. First, the already difficult parking situation will undoubtedly worsen because some of the new residents will park on the street. The applicant takes advantage of a regulatory loophole arising from developing a building with non-conforming parking but, because, despite its substantial effect on the parking situation, it is not classified as a new construction, it is not subject to parking restrictions. Even if only five of the 30 plus new residents parked on the street, there would be inadequate spaces available. Second, to the extent that residents are not automobile owners, they will be heavily reliant on deliveries for goods. This is true even, as ZAB noted, the proximity of shopping areas. It is unrealistic to think that young adults will tote much of their shopping needs from the cheap restaurant district on Euclid Avenue or hike one mile from Safeway with groceries. Even without the new residents, deliveries are constant on this narrow one-way street, and they can be expected to increase. Finally, it is not a knock on the exuberance and vitality of students to note that they keep unconventional hours, listen to loud music, and may be less sensitive to the fabric of their neighborhoods and the concerns of neighbors. Students are already a welcome part of this block of Arch Street, but the thoughtless, unplanned introduction of this density of students will disrupt the balance of this unique, diverse community.

The need for student housing in Berkeley is real. It is true that the Properties are close to the University. But the historic hillside residential neighborhood of Arch Street, with its graceful century-old structures, venerated institutions, and diverse residents, is not and should not become a mere appendage to the University. Contrary to some opinions expressed at the ZAB hearing, the Projects do not materially advance Berkeley's broader concerns for affordable housing. The reconfigured apartments will be expensive and should not be expected to serve the housing needs of the broader Berkeley community.<sup>14</sup>

We do not oppose the Projects because they promise a healthy economic return for the property owners or because we categorically oppose renovations or improvements to old buildings, including the Properties. There are real reasons support development, and proposals should balance developmental goals, such as the provision of new housing, with broader goals, such as

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on adjacent residential uses"); Policy EM-43 ("minimize new sources of noise"); Policy EM-47 ("Ensure that noise-sensitive uses, including, but not limited to, residences ... are protected from detrimental noise levels.").

<sup>14</sup> As ZAB member Selawsky explained at the hearing:

“BRINGING UP PEOPLE LIVING UNDER THE BRIDGES, PAYING \$3,000 A MONTH FOR RENT? I'M NOT SURE WHAT THE CONNECTION IS THERE. YOU LOST ME ON THAT ONE. THERE IS A SET OF DIFFERENT SOLUTIONS FOR THE HOMELESS. AND IT'S NOT \$3,000 A MONTH RENT. MOST OF WHAT I SEE ABOUT THIS PROJECT -- THESE TWO PROJECTS ... IT'S A WAY OF RECEIVING MORE PROFITS. I DON'T THINK IT SOLVES ANY HOUSING ISSUES. ESPECIALLY FOR THE CURRENT TENANTS. AND I GO BACK TO THAT. AND THEY'RE GOING TO BE LIVING WITH CONSTRUCTION FOR THE NEXT I DON'T KNOW HOW MANY MONTHS, YEARS, DECADES. I DON'T KNOW. NOBODY KNOWS. AND PUTTING TENANTS IN THAT SITUATION, I'M SORRY, IT'S -- IT TROUBLES ME. IT TROUBLES ME THE WAY THE CITY PRETENDS THAT IT'S SOLVING THE HOUSING CRISIS WITH BUILDING MORE UNITS AT HIGH RENT. WE'RE NOT SOLVING ANY HOUSING CRISIS THAT WAY.”

the protection of residents' rights and the integrity of the neighborhood. This balance is fostered by a proper application of Berkeley's laws and enshrined in its General Plan. But the Projects do not strike this balance. The addition of 33 bedrooms to two building that currently have 22 will have a myriad of negative short and long-term effects. Berkeley can do better. For these reasons, we respectfully urge the City Council to reverse the decision of ZAB.

Very truly yours,



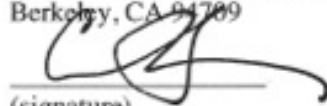
(signature)

Name: Robin O'Donnell

Date: October 13, 2020

Address: 1850 Arch Street, Apt. 6

Berkeley, CA 94709



(signature)

Name: Carey Pelton

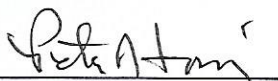
Date: October 13, 2020

Address: 1850 Arch Street, Apt. 1

Berkeley, CA 94709

Attachment: Signatures in Opposition to the ZAB Decisions

(signatures continued on next page)



(signature)

Name: Peter Honig

Date: October 19, 2020 per PH

Address: 2078 Las Canoas Road  
Santa Barbara, CA 93105

Owner: 1876 Arch Street,  
Berkeley, CA 94709



(signature)

Name: Sarah Roberts

Date: October 19, 2020 per SR

Address: 2078 Las Canoas Road  
Santa Barbara, CA 93105

Owner: 1876 Arch Street,  
Berkeley, CA 94709

Petition In Opposition to the 9/24 ZAB Ruling

As a tenant at or near 1850/1862 Arch Street — known by the developers as Arch Village — I oppose the projects for these buildings as approved by the Berkeley ZAB at their meeting on September 24, 2020.

<u>Signature</u>	<u>Name</u>	<u>Address</u>	<u>Email</u>
	Robin O'Donnell	1850 Arch St. #6	roed@hackman.com
	CAREY PELTON	1850 Arch #1	carey.pelton@gmail.com
	KATHERINE ENTIS	1850 Arch #7	kentis@riscv.com
	Katherine Gardner	1850 Arch #5	mattykat@gmail.com
	Matthew Gardner	1850 Arch #5	mguardner@gmail.com
	Daniel Chagnon	1850 Arch #3	d.chag3@gmail.com
	Anthony Rosato	1850 Arch #3	anthony.s.rosato@rosato.com
	John Sibony	1850 Arch #2	john.sibony@kotmail.com
	AUSTIN SERIF	1850 Arch St. #4	aserif@me.com
	Noah Guss	1850 Arch St. #4	noahguss37@gmail.com
	Abhinav Agrawal	1850 Arch St #4	aa3797@berkeley.com
	Emma Steigenwald	1862 Arch St #10	emma.c.steigenwald@gmail.com
	Jared Porter	1862 Arch St #4	thejaredporter@gmail.com
	Aditya Yellapragada	1862 Arch St #4	adityay23@gmail.com
	Evgenios Kornaropoulos	1862 Arch St #2	kornarop@gmail.com
	NEEMA OSHIDARY	1850 Arch St #7	NEESHID@GMAIL.COM
	John Sibony	1850 Arch St #2	john.sibony@berkeley.com
	Khalil Belgarate	1850 Arch St #2	Khalil_Belgarate@berkeley.com
	David Kim	1862 Arch St #1	ykimdavid@berkeley.com
	Anton Sorokin	1862 Arch St #10	Anton.srkin@gmail.com



October 13, 2020

Berkeley City Council  
2180 Milvia Street  
First Floor  
Berkeley, CA 94704

**Re: Appeal of Decision of Zoning Adjustments Board Dated September 24, 2020  
Concerning Use Permits #ZP2019-0213  
Property Addresses 1862 Arch Street**

Dear Members of the Berkeley City Council:

We are submitting this appeal of the decision of the Berkeley Zoning Adjustments Board (“ZAB”) concerning Use Permit #ZP2019-0213 pertaining to the property at 1862 Arch Street in Berkeley. We have simultaneously submitted a separate appeal of the decision of ZAB concerning Use Permit #ZP2019-0212 pertaining to the property at 1850 Arch Street. Because the applicant for the use permits is the same in both instances, the buildings at 1850 and 1862 Arch Street (the “Properties”) are adjacent, and the permitting decision and appeals present virtually identical issues of fact and law, we are submitting substantially identical letters for each appeal.

While the COVID pandemic has made it difficult to coalesce citizen input into the renovations of the 1850 and 1862 Arch Street (collectively, the “Projects”), the list of signatures attached to this letter and opposing the ZAB decisions demonstrates widespread opposition to the Projects from the majority of residents of the Properties. This opposition arises because the Projects are deeply flawed attempts to maximize revenue from the Properties with little consideration of the relevant requirements of the Berkeley Municipal Code for the issuance of the permits. Many of these considerations, including considerations about the character of the Hillside community and the detrimental effects of the construction and the development on the residents of the Properties and the broader community, were either completely ignored or improperly weighed by ZAB.

The 1850 Arch Street Project would add 18 bedrooms to an existing 10-unit, 12-bedroom multi-family residential building that was constructed in 1927, immediately after the 1923 fires, and has been largely in its same configuration for almost 100 years. The building is non-conforming; it exceeds the district’s maximum lot coverage (44.6% v. 40%); has non-conforming front-yard and side setbacks; and only provides five parking spacings, half of the BMC’s requirement. Similarly, the 1862 Arch Street Project would add 15 bedrooms to an existing 10-unit, 10-bedroom multi-family residential building of a similar vintage, which, like its counterpart, has largely remained in its current configuration for almost 100 years. 1862 Arch Street is also non-



conforming is multiple ways: for front-yard setback (9'-8" v. 15' minimum), left yard setback (0' v. 6' minimum), right-yard setback (0' v. 6' minimum), and only provides five parking spaces where ten are required.

Taken together, the Projects would increase the number of bedrooms in each property by 150% (with total bedrooms increasing from 22 to 55) and could be expected to result in similar increase in the number of residents. The buildings are essentially situated on top of each other and the adjoining buildings – there is about 15 between 1862 Arch Street and 1876 Arch Street – on a restricted access one-way street with limited street parking. The buildings are designated as R-3(H), with the H representing a designation that the Properties are located in the ecological fragile and historically important Hillside District. Consistent with its classification as Medium Density Residential (“MDR”),<sup>1</sup> this block of Arch Street is characterized by a mix of gracious single-family condominiums, single-family homes and small to medium sized multi-family structures. The block also houses several cultural and religious institutions, such as the Institute of Salesian Studies, which is diagonally across the Street for the Projects, and the Pacific School of Religion and affiliated institutions, which are located on Holy Hill at the intersection of Arch Street and Virginia Street at the end of the block

**A. The Projects are inconsistent with the purposes of Hillside Districts and the Berkeley General Plan and the character and historical integrity of the neighborhood**

In its Staff Reports and Findings and Conditions for the Projects, ZAB erroneously applied BMC Chapter 23B.32’s standards for Restricted Multiple-family Residential (R-2A) districts instead of those for Multiple Family Residential (R-3) Districts under Chapter 23D.36. Unlike for R-2 Districts, ZAB is required to consider additional permitting requirements for Hillside Districts where, as here, project is located in a district classified as R-3(H).<sup>2</sup> Perhaps confused by which standards were applicable, ZAB completely failed to apply the appropriate standards for Hillside Districts. This error was not harmless. Notably, BMC requires ZAB to consider of the purposes of Hillside Districts, including to “[p]rotect the character of Berkeley’s hill Districts and their immediate environs” and to “[i]mplement the Master Plan’s policies regarding Hillside Development.”<sup>3</sup> Consideration of the applicable standards of the Hillside District provisions and the Berkeley General Plan would have supported rejection of the Projects.

Put simply, the Projects are the applicant’s attempt to maximally monetize the Properties by transforming elegant and proportioned historic multi-family apartment buildings in a quiet residential neighborhood into extremely high-density rooming houses for transient students

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<sup>1</sup> See City of Berkeley General Plan (“General Plan”), Land Use Element (explaining that MDR areas “are generally characterized by a mix of single-family homes and small to medium sized multi-family structures.”).

<sup>2</sup> See BMC 23D.36.010.

<sup>3</sup> See BMC 23E.96.020.

willing to pay exorbitant rents. The detrimental impacts of the Projects on the residents of the Properties, the neighbors, and the broader hillside environment are immense.

As explained above, in their current configurations, the Properties are non-conforming and take up a higher proportion of the allocated lot space and have non-conforming setbacks from the property lines. For example, the south wall of the 1862 Arch Street is about 15 feet from 1876 Arch Street. The immediate neighborhood's density, without introducing 30 or 40 more residents in the two buildings is already a problem given its precarious infrastructure. Noise pollution from the overcrowded apartment buildings is an issue for neighbors. Even amid the COVID pandemic, it is difficult to get a parking space on street, and the Properties already have a deficient number of parking spaces. This block of Arch Street is narrow, and, in response to pedestrian crossing issues at its base, has recently been made a one-way street. With the existing density, the noise and congestion from car traffic, construction, trash pickup, and deliveries already stretches the neighborhood's infrastructure to its capacity. Because the Properties are so close to the street and neighboring buildings, increasing the residency by more than a factor of two will greatly exacerbate these problems.

The Arch Street neighborhood was designed as and organically developed into a medium density area, and there are no provisions in the plan to accommodate the increased density of the Projects. In its public hearing on the Projects, ZAB spent an inordinate time discussing potential parking impacts and ultimately decided that even though the parking in the building was already non-conforming and residential parking would likely not be approved for a new construction, it was completely acceptable to permit, without limitation, the potential 30 plus new residents of the Properties to receive residential parking permits. Given the current parking situation, of which ZAB seemed to be ill-informed,<sup>4</sup> ZAB's failure to attach limitations on parking permits or otherwise address the parking problems was a mistake. But, more fundamentally, ZAB's inability to adequately address the parking issue is emblematic of its unwillingness to soberly confront the immense impact of the Projects on the local infrastructure -- increasing the bedrooms from 22 to 55 in small structures packed into undersized lots on a narrow one-way street. Even if a proportion of the new residents do not have automobiles, they nevertheless will create more noise, they will be heavily reliant on food and other deliveries, and they will produce more trash.

The applicant has avoided otherwise applicable density restrictions by maintaining the existing number of units but greatly increasing the number of bedrooms. While this is a gap in the regulatory scheme, ZAB is directed to consider the density and other effects of this project by the BMC's requirement that the character of the Hill District and its immediately environs be considered and similar considerations raised in Berkeley's General Plan. For example, the General Plan's Urban Design and Preservation Element has stressed the need to preserve community identity through recognition of the beauty and continuity of older buildings. It cautions that a "design [that] is suitable in any specific case significantly depends on the particular location." Creating two high-density rooming houses are inconsistent with the

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<sup>4</sup> For example, ZAB was unaware of the current parking situation and relied on speculation that the potential additional residents of the Properties would not own automobiles.

original, notable architectural design of these two, century-old, elegant multi-family residences.<sup>5</sup> In addition to needless vitiating the architectural integrity of the Properties, the introduction of overly dense student dormitories detrimentally alters the balance of the residential community.<sup>6</sup>

The Projects may preserve the façade of the Properties, but this carapace would belie the damage to the architectural integrity of the building and fabric of the neighborhood.<sup>7</sup>

**B. The construction involved in the Projects and the Projects' lasting legacy will detrimentally impact the residents of the Properties and their neighbors**

BMC section 23B.32.040 requires the ZAB to approve an application for a use permit only upon finding that the project “will not be detrimental to the health, safety, peace, morals, comfort or

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<sup>5</sup> See Policy UD-20 (“Alterations to a worthwhile building should be compatible with the building’s original architectural character”); Policy UD-22 (“Regulate new construction and alterations to ensure that they are individually well-designed and that they are so designed and located as to duly respect and where possible enhance the existing built environment.”); Policy UD-5 Architectural Features (“Encourage, and where appropriate require, retention of ornaments and other architecturally interesting features in the course of seismic retrofit and other rehabilitation work.”)

<sup>6</sup> See Policy UD-3 (“[u]se regulations to protect the character of neighborhoods and districts”); Policy UD-24 Area Character (“Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.”); (Policy LU-2) (ensuring that development be compatible with “scale, historic character, and surrounding uses in the area”).

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“TO CALL IT ELEGANT DENSITY I THINK IS A JOKE. THIS IS A BEAUTIFUL APARTMENT BUILDING. OF NICELY SCALED APARTMENTS OF A SIZE THAT IS DESPERATE NEED IN THIS CITY. AND IT'S A VERY MIXED POPULATION. I KNOW PEOPLE ON THIS STREET, THEY AREN'T ALL STUDENTS. THEY AREN'T ALL ONE-YEAR LEASE HOLDERS. PEOPLE LIVE THERE. THEY LIVE ON THE STREET. IN THIS NEIGHBORHOOD. AND THESE ARE THE PLACES THEY LIVE IN. AND THIS PROJECT ENCOURAGES BY VIRTUE OF THE CONSTRUCTION PROCESS FOR ONE, AND A HIGHER RATE OF TURNOVER, REALLY MAKES IT THAT MUCH LESS DESIRABLE PLACE TO LIVE AND I THINK IS EFFECTIVELY DISCOURAGING LONG-TERM TENANTS FROM EITHER MOVING OUT OR NOT MOVING IN. I THINK IT'S A SERIOUS OVERSIGHT OF THE CITY NOT TO HAVE DENSITY STANDARDS FOR THIS ZONE. IT BOGGLES ME. AND YOU KNOW, WITH WE ARE WELL WEAR ESPECIALLY THIS YEAR OF THE ISSUES OF DENSITY AND EXTREME DENSITY. IT ALREADY IS HIGH DENSITY. THIS PROPOSAL IS EXTREME DENSITY.... I CAN'T SUPPORT THIS. I THINK IT'S AN ILL-CONCEIVED OBVIOUS ATTEMPT TO EXTRACT THE MAXIMUM RENT OUT OF A PROPERTY BY MORE THAN DOUBLING THE NUMBER OF BEDROOMS AND IN CUTTING THE LIVING SPACE -- COMMON LIVING SPACE IN HALF OR WORSE. IT'S A DISASTER. I CAN'T VOTE FOR IT. IT'S ENCOURAGING UNSAFE AND UNHEALTHY LIVING.”

general welfare of persons residing or working in the area or 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.”

In its Staff Reports and Findings and Conditions for the Projects, ZAB summarily concluded that the Projects were permissible because: “(1) the proposed interior renovations do not worsen any non-conforming condition; (2) the proposed development recognizes and adheres to an existing pattern of development; (3) protects adjacent neighbors from unreasonable obstructions of sunlight and air; and (4) represents the District’s intended encouragement of the development of relatively high density residential areas characterized by convenience of location and a reasonable amount of Usable Open Space.” This superficial treatment of the issues does not address the myriad detrimental effects of the Projects. In fact, both the construction of the project and the resultant renovations will substantially adversely affect the property, its residents, adjacent properties, and the neighborhood.

First, the construction plan for the Projects ensures that there will be constant construction noise for at least the next several years. The applicant plans to add the 33 bedrooms to the properties by adding interior walls and substantially reconfiguring the layout over the building. The renovations will occur when each of the 22 units becomes vacant. Some of the current residents have been living in the Properties for years; many others are students who reside for only a year or two. The result will be that vacancies will be staggered and that there will be construction ongoing for years.<sup>8</sup> The effects of modest, non-structural modifications made to the Properties in the past several months are not auspicious. This work has been disruptive with work trucks blocking resident parking and contractors working and walking around the property at times without masks, as required by public health regulations directed against the COVID epidemic.<sup>9</sup>

The prospect of continuous construction over the next several years is particularly alarming given the use of the building and the likely effects on the neighborhood. Many of the residents will be students who will be working from home during construction hours. The other residents are a mix of retirees who similarly spend many working hours at home, and other workers who are increasingly working from home given the transition to a distributed workforce that has been accelerated by the COVID epidemic. This is not to suggest that well planned and proportionate renovations should be opposed on the ground of construction impacts. But the Projects are not well planned: the scale of the Projects is immense, yet discrete in timing, and thus the timeline is uncertain and most likely attenuated, promising massive ongoing disruption to residents and

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<sup>9</sup> ZAB’s attempt to mitigate this harm by prohibiting construction on Saturday’s is plainly insufficient for the magnitude and duration of the harm. Resident will only have to live with constant construction five days a week for years, instead of six.

neighbors.<sup>10</sup> Every current and future resident of the Properties can expect to experience construction-related noise and disruption for many years.

Unfortunately, the detrimental effects of the Projects to the “health, safety, peace, morals, comfort or general welfare” of residents and the community will not be confined to the construction period; in fact, the Projects themselves will make these effects the permanent condition of the Properties and the neighborhood. The Properties are already non-conforming for their lots; squeezing more than twice as many residents into the same building footprint will have a litany of adverse effects. The Projects will increase the noise levels for residents of the Properties and neighbors, some of whom are not students and keep more regular hours.<sup>11</sup> The housing itself will be cramped and substandard.<sup>12</sup> These effects are multiplied by the density of the buildings themselves and the close proximity of neighboring buildings, which are a result of the non-conforming condition of the Properties and adjacent buildings, such as 1876 Arch Street, which directly abuts the lot line.<sup>13</sup>

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<sup>10</sup> ZAB Member Sheahan’s hearing comments on this point are particularly instructive:

“I THINK AS HAS BEEN POINTED OUT, THE CONSTRUCTION PROCESS, THIS PHASED CONSTRUCTION LIKELY ONE UNIT IN EACH OF THE BUILDINGS IS UNDER CONSTRUCTION ALL THE TIME. THAT MAKES IT REALLY INTOLERABLE FOR EVERYONE LIVING THERE TO HAVE NONSTOP CONSTRUCTION GOING ON.”

<sup>11</sup> While opposition to the Projects among residents of the Properties is overwhelming, the situations of two of this letter’s authors, are instructive. Robin O’Donnell is a 72-year-old single man who has lived at 1850 Arch Street for 24 years and spends many working days in his apartment. In April 2020, he submitted a letter to the City detailing the possible negative effects of the Projects. He remains concerned about the implications of the massive increase in building density to his health and welfare, including the noise arising from the project and new residents, the constant parade of construction workers, at the possible health impacts in the age of COVID from packing many young residents into a small footprint structure with retirees. Carey Pelton is a 65-year-old single women who has lived at 1850 Arch Street for 30 years. She is a former employee of the University of California and is disabled. She shares Mr. O’Donnell’s concerns about the Projects.

<sup>12</sup> As ZAB Member Sheahan explained while discussing the 1862 Arch Street project:

“I RAISE THE ISSUE OF DENSITY STANDARDS. AND WHAT I KEPT THINKING OF AS I WAS LOOKING AT THIS IS MINI DORMS. THIS IS LIKE TAKING AN APARTMENT BUILDING AND MAKING A BUNCH OF MINI DORMS OUT OF IT. MINI DORMS HAVE BECOME REGULATED. IN THE ABSENCE OF REGULATION, THAT APPLIES TO THIS KIND OF THING. THAT IS EXTREMELY DENSE, VERY LITTLE LIVING SPACE IN PROPORTION TO BEDROOMS. AND THERE IS DETRIMENT TO THAT. THERE IS SUCH A THING AS TO DETRIMENT TO LIGHT, AIR, SUN. EXCESSIVE DENSITY COMPROMISES. FOR THE CAUSES. AND I'M GOING TO VOTE NO ON THIS ALSO BECAUSE I THINK THIS IS NOT THE KIND OF -- THIS IS HOUSING GEARED TOWARDS SHORT TERM TENANTS AND A TURNOVER BECAUSE IT ALLOWS RENT INCREASE. OR MAXIMIZES POTENTIAL RENT INCREASE. THAT'S WHAT THIS PROJECT IS TRYING TO DO. AND I'LL VOTE NO AGAIN. IT'S NOT RIGHT.”

<sup>13</sup> The deleterious impact of noise arising from new development is cognizable in the General Plan. See Policy LU-7 (stressing preserving historic buildings and “minimize[ing] or eliminat[ing] negative impacts

In addition to noise, levels the Projects will have multiple other tangible detrimental effects on the immediate neighborhood. First, the already difficult parking situation will undoubtedly worsen because some of the new residents will park on the street. The applicant takes advantage of a regulatory loophole arising from developing a building with non-conforming parking but, because, despite its substantial effect on the parking situation, it is not classified as a new construction, it is not subject to parking restrictions. Even if only five of the 30 plus new residents parked on the street, there would be inadequate spaces available. Second, to the extent that residents are not automobile owners, they will be heavily reliant on deliveries for goods. This is true even, as ZAB noted, the proximity of shopping areas. It is unrealistic to think that young adults will tote much of their shopping needs from the cheap restaurant district on Euclid Avenue or hike one mile from Safeway with groceries. Even without the new residents, deliveries are constant on this narrow one-way street, and they can be expected to increase. Finally, it is not a knock on the exuberance and vitality of students to note that they keep unconventional hours, listen to loud music, and may be less sensitive to the fabric of their neighborhoods and the concerns of neighbors. Students are already a welcome part of this block of Arch Street, but the thoughtless, unplanned introduction of this density of students will disrupt the balance of this unique, diverse community.

The need for student housing in Berkeley is real. It is true that the Properties are close to the University. But the historic hillside residential neighborhood of Arch Street, with its graceful century-old structures, venerated institutions, and diverse residents, is not and should not become a mere appendage to the University. Contrary to some opinions expressed at the ZAB hearing, the Projects do not materially advance Berkeley's broader concerns for affordable housing. The reconfigured apartments will be expensive and should not be expected to serve the housing needs of the broader Berkeley community.<sup>14</sup>

We do not oppose the Projects because they promise a healthy economic return for the property owners or because we categorically oppose renovations or improvements to old buildings, including the Properties. There are real reasons support development, and proposals should balance developmental goals, such as the provision of new housing, with broader goals, such as

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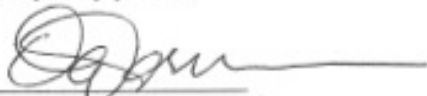
on adjacent residential uses"); Policy EM-43 ("minimize new sources of noise"); Policy EM-47 ("Ensure that noise-sensitive uses, including, but not limited to, residences ... are protected from detrimental noise levels.").

<sup>14</sup> As ZAB member Selawsky explained at the hearing:

“BRINGING UP PEOPLE LIVING UNDER THE BRIDGES, PAYING \$3,000 A MONTH FOR RENT? I'M NOT SURE WHAT THE CONNECTION IS THERE. YOU LOST ME ON THAT ONE. THERE IS A SET OF DIFFERENT SOLUTIONS FOR THE HOMELESS. AND IT'S NOT \$3,000 A MONTH RENT. MOST OF WHAT I SEE ABOUT THIS PROJECT -- THESE TWO PROJECTS ... IT'S A WAY OF RECEIVING MORE PROFITS. I DON'T THINK IT SOLVES ANY HOUSING ISSUES. ESPECIALLY FOR THE CURRENT TENANTS. AND I GO BACK TO THAT. AND THEY'RE GOING TO BE LIVING WITH CONSTRUCTION FOR THE NEXT I DON'T KNOW HOW MANY MONTHS, YEARS, DECADES. I DON'T KNOW. NOBODY KNOWS. AND PUTTING TENANTS IN THAT SITUATION, I'M SORRY, IT'S -- IT TROUBLES ME. IT TROUBLES ME THE WAY THE CITY PRETENDS THAT IT'S SOLVING THE HOUSING CRISIS WITH BUILDING MORE UNITS AT HIGH RENT. WE'RE NOT SOLVING ANY HOUSING CRISIS THAT WAY.”

the protection of residents' rights and the integrity of the neighborhood. This balance is fostered by a proper application of Berkeley's laws and enshrined in its General Plan. But the Projects do not strike this balance. The addition of 33 bedrooms to two building that currently have 22 will have a myriad of negative short and long-term effects. Berkeley can do better. For these reasons, we respectively urge the City Council to reverse the decision of ZAB.

Very truly yours,



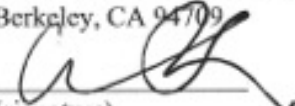
(signature)

Name: Robin O'Donnell

Date: October 13, 2020

Address: 1850 Arch Street, Apt. 6

Berkeley, CA 94709



(signature)

Name: Carey Pelton

Date: October 13, 2020

Address: 1850 Arch Street, Apt. 1

Berkeley, CA 94709

Attachment: Signatures in Opposition to the ZAB Decisions

(signatures continued on next page)



(signature)

Name: Peter Honig

Date: October 19, 2020 <sup>per PH</sup>

Address: 2078 Las Canoas Road <sup>c.H.</sup>  
Santa Barbara, CA 93105

Owner: 1876 Arch Street,  
Berkeley, CA 94709



(signature)

Name: Sarah Roberts

Date: October 19, 2020 <sup>per SR c.H.</sup>

Address: 2078 Las Canoas Road  
Santa Barbara, CA 93105

Owner: 1876 Arch Street,  
Berkeley, CA 94709



Petition In Opposition to the 9/24 ZAB Ruling

As a tenant at or near 1850/1862 Arch Street — known by the developers as Arch Village — I oppose the projects for these buildings as approved by the Berkeley ZAB at their meeting on September 24, 2020.

<u>Signature</u>	<u>Name</u>	<u>Address</u>	<u>Email</u>
	Robin O'Donnell	1850 Arch St. #6	roed@hackman.com
	CAREY PELTON	1850 Arch #1	carey.pelton@gmail.com
	KATHERINE ENTIS	1850 Arch #7	kentis@riscv.com
	Katherine Gardner	1850 Arch #5	mattykat@gmail.com
	Matthew Gardner	1850 Arch #5	mguardner@gmail.com
	Daniel Chagnon	1850 Arch #3	d.chag3@gmail.com
	Anthony Rosato	1850 Arch #3	anthony.s.rosato@rosato.com
	John Sibony	1850 Arch #2	john.sibony@kotmail.com
	AUSTIN SERIF	1850 Arch St. #4	aserif@me.com
	Noah Guss	1850 Arch St. #4	noahguss37@gmail.com
	Abhinav Agrawal	1850 Arch St #4	aa3797@berkeley.com
	Emma Steigenwald	1862 Arch St #10	emma.c.steigenwald@gmail.com
	Jared Porter	1862 Arch St #4	thejaredporter@gmail.com
	Baladitya Yellapragada	1862 Arch St #4	adityay23@gmail.com
	Evgenios Kornaropoulos	1862 Arch St #2	kornarop@gmail.com
	NEEMA OSHIDARY	1850 Arch St #7	NEESHID@GMAIL.COM
	John Sibony	1850 Arch St #2	john.sibony@berkeley.com
	Khalil Belgarate	1850 Arch St #2	Khalil_Belgarate@berkeley.com
	David Kim	1862 Arch St #1	ykimdavid@berkeley.com
	Anton Sorokin	1862 Arch St #10	Anton.srkin@gmail.com





Z O N I N G  
A D J U S T M E N T S  
B O A R D  
S T A F F R E P O R T

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FOR BOARD ACTION  
SEPTEMBER 24, 2020

## 1850 Arch Street

Use Permit #ZP2019-0212 to add 18 bedrooms to an existing 10-unit, 12-bedroom multi-family residential building, for a total of 30 bedrooms on the parcel.

### I. Background

#### A. Land Use Designations:

- General Plan: MDR – Medium Density Residential
- Zoning: R-3(H) – Multiple Family Residential District, Hillside Overlay

#### B. Zoning Permits Required:

- Use Permit pursuant to BMC Section 23D.36.060, for the addition of bedrooms beyond the fifth bedroom on the parcel.

**C. CEQA Recommendation:** It is staff's recommendation to the ZAB that the project is Categorically exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines and is not subject to any exception noted in Section 15300.2 of the CEQA Guidelines. The determination is made by the ZAB.

#### D. Parties Involved:

- Applicant: Rhoades Planning Group, 46 Shattuck Square, Berkeley
- Owner: Arch Street Village, LLC, c/o Rhoades Planning Group



Figure 1: Zoning Map



Zoning District	
R-1(H):	Single-Family Residential District, Hillside Overlay
R-3(H):	Multiple-Family Residential District, Hillside Overlay
R-4:	Multi-Family Residential District
R-4(H):	Multi-Family Residential District, Hillside Overlay
R-5:	High-Density Residential District

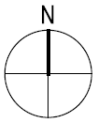


Figure 2: Site Plan

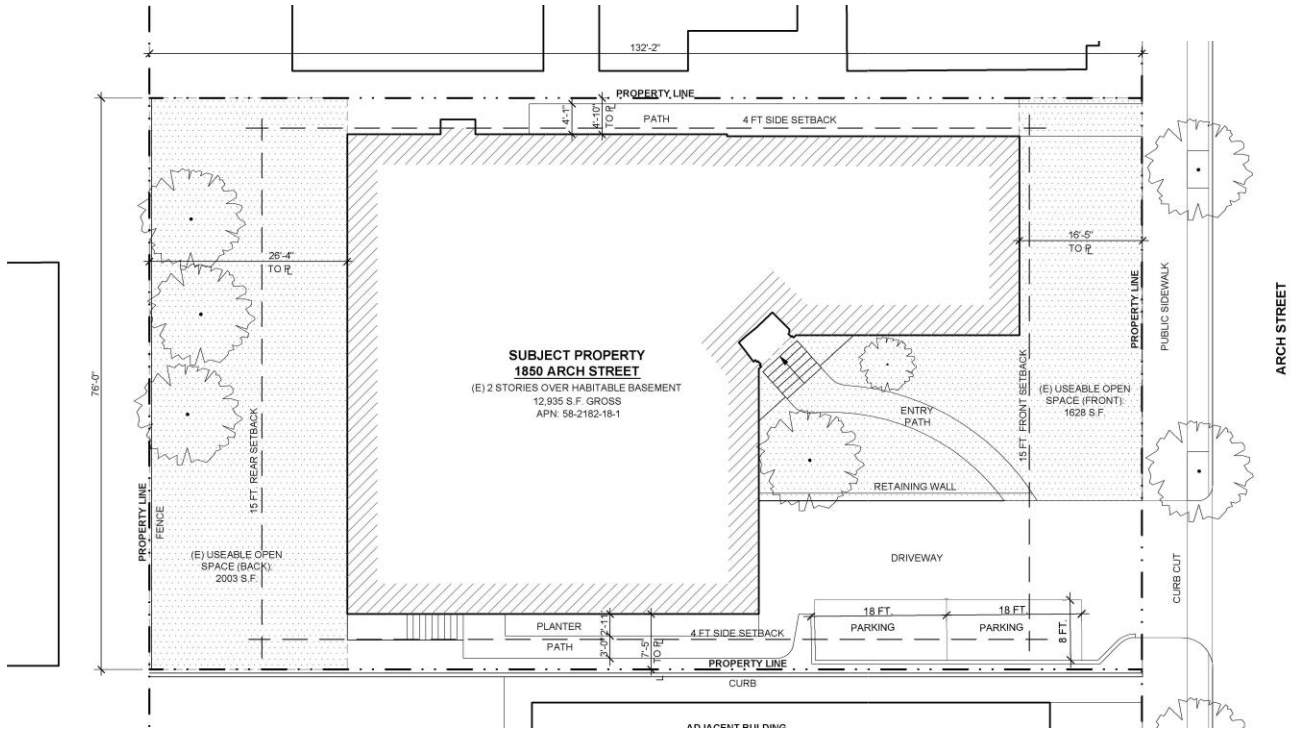


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		10-unit multi-family building	Multiple-Family Hillside Overlay (R-3H)	Medium Density Residential (MDR)
Surrounding Properties	North	Multi-family building		
	East	Triplex		
	South	11-unit multi-family building		
	West	22-unit multi-family development (Normandy Village)		

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	This fee applies to projects with new non-residential gross floor area, including projects that alter buildings that have been substantially vacant of all uses for at least 3 years. No new non-residential gross floor area is proposed.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	This fee applies to projects with new non-residential gross floor area, including projects that alter buildings that have been substantially vacant of all uses for at least 3 years. No new gross floor area is proposed.

Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	The project does not include the creation of any new rental units, and therefore this requirement does not apply.
Housing Accountability Act (Govt. Code 65589.5(j))	No	The project is not a "housing development project," as no additional units would be created. The project is to expand two existing units on the site. Therefore, the HAA findings do not apply to this project.
Coast Live Oaks	No	There are no oak trees on the project site.
Creeks	No	The project site is not near a creek or within a creek buffer.
Density Bonus	No	The project is not seeking a Density Bonus.
Green Building Score	No	The project does not propose the construction of a new building.
Historic Resources	No	The project does not propose the demolition or substantial alteration of a main building. In addition, there is no evidence to suggest the building is a historic resource.
Rent Controlled Units	Yes	According to the Rent Stabilization Board (RSB), the building contains 11 units, all of which are claimed as "rented or available to rent" and considered controlled rental units, and are therefore subject to BMC Chapter 13.76; the project must comply with RSB noticing and vacancy rules (See Attachment 4 and section V.B below).
Residential Preferred Parking (RPP)	Yes	The project site is located in Area "F" of the Residential Preferred Parking Program.
Seismic Hazards (SHMA)	No	The project site is not located in an area susceptible to liquefaction, fault rupture or landslide, as defined by the State Seismic Hazards Mapping Act (SHMA). Thus, the project is not subject to additional review to comply with the Act.
Soil/Groundwater Contamination	No	The project site is not located within the City's Environmental Management Area.
Transit and Bicycle Access	Yes	The project site is five blocks east of numerous AC transit routes on University and Shattuck Avenue. There is a bikeway on Arch Street (N-S) and Hearst Avenue (E-W). Also, the project site is approximately ½ mile from the Downtown Berkeley BART station.

**Table 3: Project Chronology**

Date	Action
December 20, 2019	Application submitted
January 7, 2020	Application deemed incomplete
March 16, 2020	Shelter in Place Order issued, multiple ZAB hearings cancelled
April 6, 2020	Revised application submitted
April 16, 2020	Application deemed complete
September 10, 2020	Public hearing notices mailed/posted
September 24, 2020	ZAB hearing

**Table 4: Development Standards**

<b>R-3 Standards</b> BMC Section 23D.36.070-080		<b>Existing</b>	<b>Proposed</b>	<b>Permitted/ Required</b>
Lot Area (sq. ft.)		9,930	no change	5,000 min.
Gross Floor Area (sq. ft.)		12,935	no change	n/a
Dwelling Units		10	no change	n/a
Bedrooms		12	30	n/a (≥5 w/permit)
Building Height	Average	32'-6"	no change	35' max.
	Maximum	36'	no change	n/a
	Stories	3	no change	3 max.
Building Setbacks	Front	13'-9"	no change	15' min.
	Rear	28'-11"	no change	15' min.
	Left (South) Side	7'-5"	no change	6' min.
	Right (North) Side	4'-1"	no change	6' min.
Lot Coverage (%)		44.6	no change	40 max. (For 3 stories)
Usable Open Space (sq. ft.)		3,631	no change	2,000 min. (400 per du)
Parking		5	no change	10 min. (1 per unit)

## II. Project Setting

**A. Neighborhood/Area Description:** The subject site is located on the west side of Arch Street, in a mixed-use residential neighborhood that consists of educational uses as well as multiple-family apartment and condominium buildings that range from two to three stories in height (See Figure 1: Zoning Map). The site is located one-half block north of Hearst Avenue and the University of California – Berkeley campus. It is also located two blocks west of Shattuck Avenue and downtown Berkeley (C-DMU District), and two blocks east of the goods and services on Euclid Avenue.

**B. Site Conditions:** The subject parcel is rectangular, with a 76' front along Arch Street and 132'-2" depth, and slopes down toward the southwest. The parcel is currently developed with a three-story residential building constructed in 1926. It was originally constructed with nine dwelling units, and in 1961, an additional unit was created in the basement for a total of ten dwelling units (six 1-bedroom, two 2-bedroom, and two 3-bedroom). Also added in 1961 was a laundry room, storage areas and garage on the basement level. The building is accessed on the first level through a driveway and front entry pat/stairway along Arch Street. Outdoor usable open space is provided in the rear and front yards.

The parcel is non-conforming to current zoning standards in terms of maximum height, minimum building setback from the front (east) and right (north) side property lines, lot

coverage, and parking. (See Figure 2: Site Plan and Table 4: Development Standards). The property contains a total of five parking spaces where 10 is the minimum, including three spaces in the garage and two spaces adjacent to the driveway.

In addition to the 10 existing units within this residential building, there is one non-conforming space labeled Unit 5A by the applicant, shown in the Existing Second Floor Plan (Attachment 2, Sheet A2). According to a Special Inspection conducted by the City Building Division on November 2, 1987, this space appears to have been created out of a portion of the adjacent unit (Unit 6) by plastering over a door in the bedroom closet and adding a door to the hallway. While City records indicate 10 units, there is no evidence that Unit 5A was created with permits. In 1987, the City recommended that Unit 5A be reconnected as part of the larger unit for the following reasons:

- 1) Unit 5A has a combined sleeping/living room of barely 120 sq. ft., which is the minimum required floor area for a habitable room under existing code.
- 2) Unit 5A does not have a kitchen and is therefore a sleeping room- not a dwelling unit. Inspection revealed that the tenant was conducting illegal cooking practices on a hot plate and doing dishes in the bathroom due to lack of proper kitchen facilities.

On February 4, 1992, the Building Division approved Unit 5A for habitable use as a guest room with a bathroom. More recently, on January 6, 2020, the Rental Housing Code Enforcement Division inspected the building and issued a Notice of Violation (NOV) under the City's rental housing safety program. The NOV included violations within Unit 5A. On June 25, 2020 the Rental Housing Code Enforcement Division issued an addendum to the NOV, stating that Unit 5A had been converted as a separate unit without permits and approvals. To correct the violation, the owner must remove all illegal construction and either restore the space to its legal use or obtain permits and zoning approvals to legalize as a separate unit, and was referred to Zoning Code Enforcement. (See Attachment 5). As part of this zoning permit application process, Staff recommended that Unit 5A could be brought into compliance with the Zoning Code through 1) combination with an existing legal unit, 2) renovation to meet minimum building code requirements for a dwelling or efficiency unit, or 3) conversion to non-habitable space. The project proposes to combine Unit 5A with Unit 5, providing an additional bedroom and bathroom (See Attachment 2, Sheet A5) once both units are voluntarily vacated or a temporary relocation plan has been implemented, which will correct this violation (see Condition of Approval #11, #12, #32, and #33, as well as Attachment 5).

### III. Project Description

The applicant proposes to reconfigure the building floor plan by moving and adding interior walls to accommodate an additional 18 bedrooms and two bathrooms within the existing 10-unit building. The building would contain one 1-bedroom, one 2-bedroom, six 3-bedroom and two 4-bedroom units. A total of one bedroom would be added to the basement level, eight bedrooms and one bathroom would be added to the first level, and



nine bedrooms and one bathroom would be added to the second level (see Table 5 below). No exterior alterations are proposed.

**Table 5: Bedroom and Bathroom Count, Floor Area, and Location**

Location within Building	Floor Area	Number of Bedrooms			Number of Bathrooms			
		Floor	Sq. Ft.	Entitled	As-Built	Proposed	Entitled	As-Built
Basement	4,037		2	2	3	2	2	2
First	4,424		5	9	13	4	4	5
Second	4,474		5	6	14	4	4	5
<b>Total</b>	<b>12,935</b>		<b>12</b>	<b>17</b>	<b>30</b>	<b>10</b>	<b>10</b>	<b>12</b>

**Note:** City records indicate the building contained 12 bedrooms and 10 bathrooms as of 1961, when the most recent building permit was finalized. As part of this Use Permit application, the applicant submitted as-built plans indicating the building contained 17 rooms that met the City's definition of a "bedroom," per BMC Section 13.42.020.B. Therefore, this Table presents the entitled, as-built, and proposed number of bedrooms and bathrooms. For the purpose of this Use Permit, the project description is to add 18 bedrooms to the building, which previously contained 12, as entitled.

## IV. Community Discussion

**A. Neighbor/Community Concerns:** Prior to submitting the application to the City on December 20, 2019, a pre-application poster was installed by the applicant at the project site and the project plans were reviewed at a community meeting hosted by the applicant. Four people attended the meeting, including two residents of the building and two neighbors. Concerns included timely repairs, excessive noise from both the door buzzer and residents during quiet hours, and disruptions (i.e. noise) from the proposed construction. On March 30, 2020, the applicant notified all tenants of the proposed renovations as well as their rights under the Rent Stabilization Ordinance (BMC Section 13.76) and Tenant Protection Ordinance (BMC Section 13.79.060). On April 30, 2020 the City received a letter from a resident of the building expressing concerns regarding the impacts to trash, laundry, parking, and bathrooms that would result from the project, and complaints regarding property maintenance of the existing building. The applicant responded to those concerns in a letter dated May 26, 2020 (Attachment 3). See the discussion in section V.B for more information.

On September 10, 2020, the City mailed 505 public hearing notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations, and the City posted notices within the neighborhood in two locations. As of the writing of this staff report, Staff has not received any communications regarding the project.

**B. Committee Review:** This project is not subject to advisory committee review.

## V. Issues and Analysis

**A. Addition of Bedrooms to the Parcel:** Pursuant to BMC Section 23D.32.050.A, the addition of bedrooms 13 through 18 on the parcel requires the approval of a Use Permit. Specifically, the Board must make the required "non-detriment" findings pursuant to BMC Section 23B.32.040 related to the "health, safety, peace, morals,

comfort or general welfare of persons residing or working in the area or neighborhood...or be detrimental or injurious to property or improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.” “The Board shall deny an application for a Use Permit if it determines that is unable to make any of the required findings, in which case it shall state the reasons for that determination.” Recently, the ZAB has considered the amount of common space (living room/dining room/kitchen) relative to the number of bedrooms, as well as the amount of usable open space on the parcel, as factors when evaluating the addition of bedrooms. While there is no adopted standard, that information is compiled below, in Table 6.

As shown in Table 6 below, the proposed project would convert common living areas to create new bedrooms in eight of the ten units, and new bathrooms in two units. On average, 50% of the existing floor area within each unit is currently dedicated to common living spaces. The project would result in a 16% reduction in the share of floor area dedicated to common living spaces, for a new average of 34%, which continues to provide a reasonable amount of common living space in each unit. According to the applicant statement, the conversion of common living spaces to bedrooms and bathrooms would improve the layout of the units, for example by relocating the kitchen to create a more natural great room in Unit 3, and relocating the kitchen to create an open floor plan and private bedroom in Unit 10.

As shown in Table 4 above, the parcel has a non-conforming front and right (north) side yard setbacks, exceeds the maximum lot coverage by 4.6%, and has five off-street parking spaces where 10 is the minimum. The proposed renovations would not change the building footprint, and thus would not exacerbate any non-conforming condition, and would maintain the existing amount of usable space on the parcel (3,631 square feet), which exceeds the minimum requirement by 1,631 square feet.

**Table 6: Change in amount and share of common living area per unit**

Unit#	Floor Area	Common (Living/Dining/Kitchen) Area			Share of Common Living Spaces to Total Floor Area			Location within Building
	Sq. Ft	As-Built	+/-	Proposed	As-Built	+/-	Proposed	Floor
Unit 1	741	404	-178	226	54	-24	30	First
Unit 2	696	152	+132	284	22	+19	41	
Unit 3	720	165	+67	232	23	+9	32	
Unit 4	1,270	515	-181	334	41	-14	26	
Unit 5	741	435	-214	221	59	-29	30	Second
Unit 6	706	396	-106	290	56	-15	41	
Unit 7	721	430	-170	260	60	-24	36	
Unit 8	1,270	705	-349	356	56	-27	28	
Unit 9	711	405	-190	215	57	-27	30	Basement
Unit 10	629	470	-215	255	75	-34	41	
<b>Average</b>	<b>820</b>	<b>407</b>	<b>-140</b>	<b>267</b>	<b>50%</b>	<b>-16%</b>	<b>34%</b>	

Staff believes the proposed addition is consistent with the purposes of the R-3 District, which are to:

- A. Implement Master Plan policy by encouraging the development of relatively high-density residential areas;
- B. Make available housing for persons who desire both convenience of location and a reasonable amount of usable open space;
- C. Protect adjacent properties from unreasonable obstruction of light and air; and
- D. Permit the construction of residential structures, such as dormitories, fraternity and sorority houses, boarding and rooming houses, which will meet the City requirements for this type of housing; (Ord. 7210-NS § 8 (part), Ord. 6478-NS § 4 (part), 1999).

Staff Analysis: As described in section II above, the subject residential building is a 10-unit apartment building in a mixed-use residential neighborhood that consists of a mixture of multiple-family apartment and condominium buildings, consistent with purpose A. As described in Table 2 above, the subject property is five blocks east of numerous AC Transit routes on University and Shattuck Avenues, is one-half mile from the Downtown Berkeley BART station, and is located on a bikeway. In addition, the project is one-half block north of the University of California-Berkeley campus, consistent with purpose B. The parcel contains a reasonable amount of open space, 3,631 square feet of useable open space where a minimum of 2,000 square feet is required. As the project would not result in any exterior changes to the building, such as new window openings or extension of the building footprint, there would not be any impacts to light and air, consistent with purpose C.

Staff believes the addition of 18 bedrooms to the 10-unit residential building would support the high-density residential use on the parcel, consistent with the purposes of the R-3 District.

- B. Tenant Protections:** As of the writing of this staff report, all rent controlled units are occupied and currently rented to tenants whose tenancy began prior to the submittal of this Use Permit application. The applicant intends to complete the project over time as tenants move out of the building voluntarily, and has committed to not unlawfully evict or otherwise displace any current tenant in order to accommodate construction. The applicant informed the existing tenants of the development plan at a community meeting held on December 20, 2019, where at least two tenants were present, and mailed a notice to each tenant on March 30, 2020 restating the development plans and their rights under the City's Rent Stabilization Ordinance. Per the Rent Stabilization Ordinance, the existing rental units would remain as rent controlled rental units after renovation, and the property owner has committed to providing notice to any prospective new tenant of their rights under the Ordinance prior to execution of a new lease (see Condition of Approval #32). In addition, the applicant has committed to providing notice in advance of the City's noticing requirements before tenants might be relocated for construction on their units and has confirmed that all tenants would be relocated voluntarily or temporarily as

provided for in Condition of Approval #12, as recommended by the Rent Stabilization Board (see RSB Memorandum in Attachment 4).

**C. General Non-Detriment:** Staff believes the project would not be detrimental to the health, safety, peace, morals, comfort, or general welfare of residents or workers in the area because it would be consistent with the development pattern in the area, as no exterior changes are proposed. In addition, staff believes the project would not unreasonably obstruct sunlight, air, or views as no exterior changes are proposed. Finally, the project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and storm water requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or 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.

**D. General Plan Consistency:** Based on the foregoing project description and analysis, staff concludes that the project would comply with the following 2002 General Plan goals and policies:

1. Policy H-8–Maintain Housing: Maintain and preserve the existing supply of housing in the City.
2. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
3. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.

Staff Analysis: The residential project would increase the number of bedrooms on the parcel and renovate the interior of the building, thus maintaining and preserving the existing housing supply in the city. The subject property is located in a mixed-use residential neighborhood containing a mix of multiple-family dwellings and condominiums that are two- to three-stories in height, and does not propose any changes to the exterior of the building or expand its footprint. Because the changes proposed would maintain the existing building footprint, would not increase the building height, and would maintain the amount of usable open space on the property, staff believes that the project would maintain the existing design, scale and compatibility with the neighborhood.

## VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board **APPROVE** Use Permit #ZP2019-0212 pursuant to Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

**Attachments:**

1. Findings and Conditions
2. Project Plans, dated March 18, 2020
3. Correspondence, received May 26, 2020
4. Rent Stabilization Board memo, prepared on August 5, 2020
5. Notice of Violation, Unit 5A, dated June 25 ,2020
6. Notice of Public Hearing

**Staff Planner:** Ashley James, [ajames@cityofberkeley.info](mailto:ajames@cityofberkeley.info), (510) 981-7458



# ATTACHMENT 1

## FINDINGS AND CONDITIONS

SEPTEMBER 24, 2020

### 1850 Arch Street

Use Permit #ZP2019-0212 to add 18 bedrooms to an existing 10-unit, 12 bedroom multi-family residential building, for a total of 30 bedrooms on the parcel.

#### PERMITS REQUIRED

- Use Permit pursuant to BMC Section 23D.36.060, for the addition of bedrooms beyond the fifth bedroom on the parcel.

#### I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 (“Existing Facilities”) of the CEQA Guidelines. 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. OTHER FINDINGS FOR APPROVAL

1. As required by BMC Section 23B.32.040.A, 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 proposed project conforms to the applicable provisions of the Berkeley Municipal Code including for height, number of stories, rear and left side yard setbacks, and usable open space in BMC Section 23D.36.070-080 (Development Standards), as detailed in the August 27, 2020 staff report. The proposed project is non-conforming for front yard setback (13'-9" where 15' is the minimum), lot coverage (44.6 percent where 40 percent in the maximum) and parking (providing five spaces where ten are required) under the current Zoning Ordinance. The proposed development is permissible because: (1) the proposed interior renovations do not worsen any non-conforming condition; (2) the proposed development recognizes and adheres to an existing pattern of development; (3) protects adjacent neighbors from unreasonable obstructions of sunlight and air; and (4) represents the District's intended encouragement of the development of relatively high density residential areas characterized by convenience of location and a reasonable amount of Usable Open Space.
  - B. The project is consistent with the purposes of the District in that it will permit the addition of bedrooms through conversion of floor area within the existing building footprint on a

residential property, which continues the existing pattern of high residential density of the neighborhood. The project will not reduce the existing non-conforming 13'-9" front setback, the non-conforming 4'-1" right side setback, the non-conforming 44.6% lot coverage, or the non-conforming off-street parking (5 spaces where 10 is the minimum). The project will, therefore, retain the existing pattern of development that is conveniently located and provides a reasonable amount of usable open space of the District while protecting adjacent properties from unreasonable obstruction of light and air.

- C. The project plans dated March 18, 2020 indicate the proposed addition will not unreasonably obstruct sunlight on nearby existing dwellings, impact the privacy between neighbors, unreasonably impact air and light between neighbors, or impact views. As discussed in the project staff report dated September 24, 2020, the proposed project will not create any new window openings or otherwise change the exterior of the building or the building's footprint. Therefore, the impacts are determined to be non-detrimental.
2. Pursuant to BMC Section 23D.32.050.A, the Zoning Adjustments Board finds that the proposed addition of bedrooms thirteen through eighteen supports the residential use on the parcel, consistent with the purposes of the R-3 District. The project represents the District's intended encouragement of the development of relatively high density residential areas characterized by convenience of location and a reasonable amount of Usable Open Space. The subject property is five blocks east of numerous AC Transit routes on University and Shattuck Avenues, is one-half mile from the Downtown Berkeley BART station, and is located on a bikeway. In addition, the project is one-half block north of the University of California-Berkeley campus. The parcel contains a reasonable amount of open space, 3,631 square feet of useable open space where a minimum of 2,000 square feet is required.
-



#### **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.

**I. 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. Notice of Violation - Unit 5A. All owners of record of the subject property shall sign and record with the Alameda County Clerk-Recorder a “Notice of Limitation on Use of Property” (available from Land Use Planning Division) and provide a recorded copy thereof to the project planner. This Notice of Limitation shall stipulate that: 1) per Housing Code Enforcement Case H2019-00471, Unit 5A may not be rented on either a short- or long-term basis , and Unit 5A shall be combined with Unit 5 in accordance with the approved plans dated February 5, 2020; 2) once Unit 5A and Unit 5 have both been voluntarily vacated by the sitting tenant, or the tenant and owner have come to an agreement for temporary relocation pursuant to BMC Chapter 13.84, the units shall be combined per the project plans dated February 5, 2020; and 3) there are no grounds for eviction of any existing tenant households in the Rent Stabilization and Eviction for Good Cause Ordinance (BMC Chapter 13.76) due to the unpermitted status of Unit #5A or the work proposed in this application. This limitation may not be revised or removed from this property without the prior written permission of the Zoning Officer of the City of Berkeley.

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

12. Unit Vacancy. Demolition and/or construction activities approved under this permit shall not commence in any unit unless the existing tenants have either voluntarily vacated the unit or have reached an agreement for temporary relocation pursuant to BMC Chapter 13.84. The applicant shall submit evidence of such to the Rent Stabilization Board (i.e. tenant’s notice to vacate, relocation agreement).

13. Construction and Demolition. 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.

14. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine whether the following document is required and timing for its submittal:

A. 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.

### **Prior to Issuance of Any Building (Construction) Permit**

15. 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).
16. 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.

### **During Construction:**

17. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
18. 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.

19. 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 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 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.
  - 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.

- 20. 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.
- 21. 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.
- 22. 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.
- 23. 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.
- 24. 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.
- 25. 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.

- 26. 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.
- 27. 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.

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

- 28. 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.
- 29. 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 18, 2020 except as modified by conditions of approval.
- 30. Construction and Demolition Diversion.** A Waste Diversion Report, with receipts or weigh slips documenting debris disposal or recycling during all phases of the project, must be completed and submitted for approval to the City's Building and Safety Division. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement. A copy of the Waste Diversion Plan shall be available at all times at the construction site for review by City Staff.

**At All Times:**

- 31. 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.
- 32. Tenant Noticing.** Prior to the execution of a new lease with prospective tenants, the property owner shall provide notice of the proposed project and notice of their rights under the Rent Stabilization and Eviction for Good Cause Ordinance.
- 33. Units 5 and 5A.** Units 5 and 5A shall not be rented to a new tenant household until Housing and Zoning Enforcement determine that the conditions of the Notice of Violation (H2019-00471) have been satisfied and the Building permit to combine these two units has been finalized.
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1850 Arch St., #6  
Berkeley, CA 94709  
April 30, 2020

Berkeley Zoning Adjustment Board  
Land Use Planning Division  
1947 Center Street, 2nd Floor  
Berkeley CA 94704

Dear Members of the Zoning Adjustment Board:

I have been a tenant at 1850 Arch Street for over 24 years, a building that was recently purchased, along with 1862 Arch Street, by Rhoades Planning Group.

Rhoades' plan is to subdivide existing one bedroom apartments into multiple bedroom apartments, adding as many as 20 new bedrooms to the two buildings.

With regard to Rhoades' plan to make modifications at 1850 and 1862 Arch Street, I have serious objections to this for the following reasons:

There are several units in both buildings that have already been divided, and are now shared by three or four unrelated people.

This has resulted in additional trash, additional use of laundry room machines, and additional parking issues, as well as a shortage of bathrooms.

— We have one dumpster, two cans for paper and cardboard, one for glass, metal and plastic, and one for compostables. Before these conversions, the containers were rarely full on pickup days. Since the conversions, the dumpster, the paper

bins and the glass, metal and plastic bin are regularly filled to overflowing.

The trash collectors will, I'm sure, verify that the dumpster has been regularly overfilled, even with twice a week pickups.

In short, even five more people in these buildings will result in more trash. The addition of twenty new bedrooms will result in quite a bit more.

— There are two washers and two dryers in the basement of 1850 Arch, shared by both buildings. Again, previously, these were sufficient for the needs of residents.

Already, these have proven to be insufficient for all the new tenants; in fact, there are regularly lines waiting to use these machines. More tenants will make this situation untenable.

— There are seven spaces and two garages available for parking cars on the premises. Currently, the garages are in use, as are five of the seven spaces. Additional tenants will mean more cars, and requests for spaces. Those tenants who are unable to secure a space will park on the street when spaces are free, which is rare, especially so during the months that University of California Berkeley is in session. In other words, more traffic in the entire neighborhood, more searching for spaces, and more parking chaos.

When workers come to make repairs, they park in the driveway and block access from the people who pay for these spaces. This has been a problem for many years, and has been especially awkward during the massive electrical "upgrade".

— Since the date when Rhoades purchased these buildings, they have proven to be inattentive and negligent landlords.

At a meeting in December, their representatives told us that “there will be no major changes” to these buildings. They “pooh-poohed” the question of whether the additional bedrooms would qualify as “major changes”.

When challenged about the “major changes” issue — it would seem that changing a one bedroom unit into a three bedroom unit is very much “major work” — they had no reasonable response.

— Within just a couple of weeks of that meeting, they had a team of electricians installing 125 amp panels in every apartment, and major panels and pipes attached to the sides of the buildings. They claimed that PG&E mandated these changes.

Aside from the daily and constant noise five days a week, and often six, workers “discovered” a need to do concrete work to accommodate people who used the walkway between buildings, where their electrical fittings were installed. The result was a very clumsy and badly positioned cutout in the existing wall of the walkway, and the new concrete work interrupted the gradual slope from the front to the back of the buildings, which, in turn, caused a pool of water to be trapped every time it rains. Right in front of the main panels. This work also created a step, making it impossible for people in wheelchairs to use the walkway.

— Rhoades has a very poor record of maintaining these buildings.

For just one example, Unit 1 at 1850 is occupied by a woman who has been a tenant for over 25 years. When the electricians worked on her apartment, they caused extensive and massive holes in her plaster (among other work), and have refused to fix them “until the electrical work is completed”. She has had to endure this mess until ... when??

Also, on their website was a schematic that showed the planned work on her apartment, without asking her whether that was a problem. She is a retired person, and this is an affront to her safety. She has been anxious about this since she first discovered it, and admits to becoming more so the longer it stays on the website. (Rhoades has since removed this schematic from their website.)

In Unit 6 at 1850, the worker who did the panel install caused cracks and other damage to the walls, and plaster dust in every room. And while he casually swept up some of the mess, this only resulted in spreading more plaster dust throughout the apartment. Plus, the panel is basically just hanging rather than being fixed.

As if this weren't bad enough, the worker disconnected the phone and answering machine, which resulted in four people who tried to call but were unable to leave a message.

I occupy Unit 6. Once I noticed these items, I met with the Berkeley Rent Board and determined that I had the right to deny any further access. I then notified the electricians that they could no longer enter my apartment.

Unit 7 has also had problems with workers whose proposed route for the conduits would have routed their lines through the interior of the apartment, rather than through the hallways.

The workers left holes in walls throughout the apartments and the common areas, and covered some with blue tape. And have made no effort to fix these items.

The outside faucets at the front and rear of 1850 have leaked for some time. When this was brought to the attention of the Rhoades representatives in December, they came up with a resolution: "we'll just attach an additional faucet to the leaking

one, no problem.” This was indeed a clumsy repair, and it simply does not work. All that was needed, and is still needed, is a new washer. In other words, their work is poorly thought out and poorly executed.

Rhoades has done nothing to repair holes in the garage, or holes in the sidelight at the front door of 1850, the latter of which has resulted in creatures entering the lobby, and warm air escaping, among other issues. What little work they have done to 1850 is subpar by any reasonable standard.

— None of the plans call for adding bathrooms. Clearly, this puts a strain on the tenants. Three bedrooms, multiple students in each bedroom. This is yet another shortsighted part of Rhoades’ plan.

These are only examples of the low quality of work done by these landlords, but is typical of their “management” style.

Rhoades has owned this building for roughly six months. It is clear that they do not consider the needs of current tenants, and only seek to create more rentable space, and therefore profit.

While I have not seen the work done to apartments at 1862 Arch Street, I have no doubt that the work in that building is every bit as unprofessional as at 1850 Arch Street. Currently, there are plywood panels where there used to be doors on the south side of the building, and that work has been stopped by the City. The workers have also left an over-full trash can and half-empty paint cans on the premises for many months.

This is just a partial description of the shoddy work done to these buildings.

— Blatant disregard for the rights of their tenants

The tenants of both buildings have been subjected to major disruptions since this work has started, including noise from early morning to late afternoon, and dust and debris everywhere.

In short, the low quality of the work and the disruption indicate that, as landlords, Rhoades' ownership and employees clearly do not care for the welfare of existing tenants, and exhibit very little respect for them.

— Finally, none of the apartments, whether modified or not, will be low-income units.

These buildings are not dormitories, but residences for individuals and families, and should be treated as such.

Therefore, I respectfully request that the Board deny Rhoades' petition to make the proposed changes to these buildings.

Sincerely,

Robin O'Donnell  
1850 Arch St., Apt. 6  
Berkeley, CA 94709

May 26, 2020

Mr. Robin O'Donnell  
1850 Arch Street, Unit 6  
Berkeley, CA 94709

Dear Robin:

We are the owners of 1850 & 1862 Arch Street, and we have received the letter you sent to the Berkeley Zoning Adjustment Board Land Use Planning Division, dated April 30, 2020.

We certainly hear and appreciate the concerns you've outlined, which describe changes you've noticed that have occurred in the recent past and also the changes you have been informed of that are forthcoming. We want you to know that we really do value the impact of the residents of our building, and feel that some clarification of our plans may reduce some of your concerns.

To summarize your letter, you are requesting of the City that they deny our petition for a use permit to make the proposed changes to the building because 1) units have already been subdivided which has resulted in increased density in the building, straining amenities like laundry machines and resulting in more garbage than the bins can currently accommodate, 2) more bedrooms suggests more residents, which will impact street parking, and our workers have blocked the driveway in the past, 3) we have proven ourselves to be inattentive and negligent landlords who have engaged in disruptive and messy construction to a subpar level, 4) construction projects that had been started seem to have stalled mysteriously over the past two months with no explanation or timeframe for completion, 5) none of the proposed plans include bathroom additions, and 6) none of the units will be low-income.

I hope I have grabbed your main points, if I missed any, please do call them to my attention.

Let me address each of those issues. Before I do, Rhoades Planning Group does not own the building. It is owned by Arch Street Village, LLC., no affiliation to Rhoades Planning Group (the company or the people) in any way whatsoever.

- 1) Units have already been subdivided which has resulted in increased density in the building, straining amenities like laundry machines and resulting in more garbage than the bins can currently accommodate:*

In your letter, you state that units have already been subdivided, and are now shared by "3-4 unrelated people." We have not performed any work to any units in the building whatsoever. We are aware of one unit that appears to have had a wall added within a large living room to create an additional bedroom at some point in the past, and it seems that occurred long ago (but there is no record). Any increase in use of refuse, laundry, or parking that you have observed is not the result of anyone having added bedrooms to any units in your building. At 1862 Arch Street, prior ownership did convert a 1-bed into a 2-bed, but that unit has never been occupied since that conversion and remains vacant to this day. They also tried to convert a 2-bed into a 3-bed, but we are taking it back to a 2-bed. In short, we are confident that between all 21 units of both buildings (1850 and 1862 Arch Street), no one has subdivided any currently occupied units at any point in the recent past. Further, we have only completed one new lease in either building, where two students replaced an individual who had lived alone, thus a net increase of one person across both buildings.



Having said that, if additional laundry facilities, refuse/recycling facilities, etc are already required for any reason, and/or may be required at a future date, we are very open to increase those services accordingly. Let's just have those kinds of conversations directly, as we are happy to take any reasonable requests into consideration.

*2) More people will mean that it will be harder to find street parking:*

The neighborhood has Residential Permit Parking, but parking issues exist throughout Berkeley. They are less of a problem in this neighborhood than they are in many others. Many of the tenants of the building, and especially newer tenants, are affiliated with the University as faculty or students. As such, vehicles are unnecessary due to the proximity of campus and the Downtown, and high level of nearby transit.

If anyone ever blocks the driveway, be it a tenant, a visitor, a contractor, or a neighbor, by all means please feel free to call Berkeley parking enforcement. We will be sure to emphasize to any contractors we may require that they not park in the driveway, and apologize if they have done so in the past. Thank you for bringing this to our attention.

*3) We have proven ourselves to be inattentive and negligent landlords who have caused disruptive and messy construction to a subpar level*

I hate to think that we are "inattentive and negligent landlords". We are certainly guilty of making significant improvements to the electrical system, which was 100 years old, and we accept that this project has presented an inconvenience to tenants. We have not performed any work of any kind to any other portion of your building, so we are not sure what messy construction you are referring to. At 1862 Arch we have also been renovating a vacant unit, but hope that unit renovation has not been overly disruptive to you personally since it is in the adjacent building. The new electrical system we have installed in both buildings will provide significantly more power to each unit in accordance with the needs of the typical tenant today (who needs to power computers, microwaves, etc) that were not considerations during original construction in the 1920's. It also includes a grounded line, in addition to other significant safety benefits. We are surprised that any tenant should be critical of an ownership that takes on this investment. Please note that we are also planning to perform an entirely voluntary seismic retrofit to both buildings to significantly increase their resistance to a significant seismic event. This project will take place in the basement and is not expected to be particularly disruptive, and we hope you'll appreciate the trade-off. We regret that you don't approve of the exact shape of the concrete cutout which was needed to provide clearance for the new electrical panel, nor the manner in which I addressed a leaky exterior faucet. The plywood on the walls of Unit 8 have been there because work started on that unit and then the lockdown associated with Covid-19 hit. That is not a permanent solution.

We do not agree that we have performed a very poor job of maintaining the buildings since our acquisition last fall, though certainly we have yet to perform many of the improvements we have planned simply because the electrical upgrade was the first priority for all the reasons listed above.

*4) Construction projects that had been started seem to have stalled mysteriously over the past two months with no explanation or timeframe for completion:*



As aforementioned, the only two projects that have been undertaken in either 1850 or 1862 Arch Street at the electrical upgrade and the 1862 Arch Unit 8 renovation. The Covid-19 Shelter In Place has halted all construction through early May 2020.

The holes in the plaster created in various units and some common areas was necessary for the electrical upgrade to each unit, and had to be left open in order for the City inspector to see and sign off on the work performed. The reason the openings were left open so long and have not been repaired is that Shelter In Place hit right after those improvements were made, and work was suspended by law. All units which granted us access (including yours, thank you, and the Unit 1 you referenced) did pass inspection, and as I've told you, we are very happy to send in a contractor to repair all the openings in any unit which is willing to accept that work at this time, including yours. We apologize for the delay caused by the recent global pandemic. As for your own unit, Unit 6, we apologize for the mess left by the electrician when the work was originally performed. We did not receive that feedback from any other tenants. It turns out that they had not completed their project on your unit, including clean up, when you elected to refuse them further entry, then Shelter In Place hit and clearly they could not complete the work in your unit even if you had at that point granted access. I hope you found the work performed in your unit when it was inspected recently, including the clean-up, to be acceptable; if not please let me know. Incidentally, the reason for the openings in the plaster in units and some common areas, as explained above, was also detailed in a letter I emailed to all tenants on March 21, 2020. I sent it to the email address I have on file for you, I hope it is current and that you had received that correspondence but if not, I certainly understand why you were surprised by the delay in repairs.

*5) None of the proposed plans include bathroom additions:*

You are incorrect about none of the plans adding bathrooms to existing units. Having said that, do you use other people's bathrooms? If not, I am not sure how this affects you personally.

*6) None of the units will be low-income*

The proposed building modifications do not include the addition of any new dwelling units. Rather, existing units are being made more useful in an effort which helps the City of Berkeley address its housing availability crisis in this small way. Because there are no new dwelling units proposed there is no requirement for affordability

I hope I have addressed the concerns you laid out in your letter to the City, at least at a high level, though I would be happy to further discuss any of the more detailed specifics of your letter at any time.

In summary, we are hoping to gain your trust here. We are conscientious individuals who have acquired an apartment building that we feel had been somewhat neglected over time, and who are making significant improvements to the safety, functionality, and comfort of the building to the benefit, we feel, of both existing and future residents. The units we renovate will in some cases (not all) add bedrooms as per building code, and in some cases bathrooms as well, all while being nicely modernized. We also intend to make significant cosmetic and safety improvements to the common areas of the buildings, to include new paint and carpet, improved and tasteful lighting, etc, all in keeping with the elegant and historic nature of the building. We are in no way creating a frat house here, far from it. We understand and appreciate your concerns, and are happy to discuss them further and take any request or suggestions you may have in mind to heart. Please do not hesitate to reach out to me directly with any future questions or concerns.

Best,

Riccardo Gale  
[riccardo@turningpointinvested.com](mailto:riccardo@turningpointinvested.com)  
(415)271-2996

**Rent Stabilization Board**

August 5, 2020

To: Ashley James, Associate Planner, Planning & Development Department

From: Matt Brown, Acting Executive Director

By: Lief Bursell, Senior Planner

Be Tran, Associate Planner

Subject: **1850 Arch Street**

On January 29, 2020, you wrote to Mr. Bursell informing him of an application to increase the number of bedrooms within the envelope of an existing building and to remove an existing unpermitted unit through the combination of units #5 and #5A. You requested that we provide you with information related to the property's rental history and status under the Rent Stabilization and Eviction for Good Cause Ordinance ("Ordinance").

**Property History**

Alameda County records show that Arch Street Village, LLC purchased the property on September 18, 2019. City of Berkeley records indicate that the building was constructed in 1926 as an apartment building with nine units. Then in 1961, an additional unit was created in the basement for a total of ten units.

Rent Stabilization Board records and plans submitted with the subject application indicate that 1850 Arch currently contains 11 units. The City inspected the building in 1987 and determined the 11<sup>th</sup> unit (#5A) was created out of a portion of #6 and did not meet the minimum requirements of a dwelling unit due to its size and lack of a kitchen. In 1992 the City approved #5A for habitable use as a guest room with bathroom (not a dwelling unit).

**Rental History and Rent Control Status**

Rent Stabilization Board records reflect 11 units at 1850 Arch, all of which are claimed as "rented or available for rent." All 11 units are currently rented, under rent control, and fully subject to the Ordinance. All 11 units, including Unit 5A, have been registered with the Rent Stabilization Board since 1981. Our records indicate Unit 5A currently has two tenants with a starting tenancy of December 1, 2018.

**Ellis Act**

The building at 1850 Arch has not been removed from the rental market under the Ellis Act at any time during the preceding five (5) years.

**Harassment or Illegal Eviction**

The Rent Stabilization Board has no record of any verified cases of harassment or threatened or actual illegal evicting occurring at 1850 Arch Street.

**Project Analysis**

If the project is approved and completed as proposed, the expansion or alteration of any of the 11 units may not start until the affected tenants voluntarily relocate. In addition, none of the units shall be rented to a new tenant until the work has been completed. Rent Board records indicate that unit #5A is currently being rented to tenants with both rent control and eviction protections. The owners may not use the approved permits to combine units 5 and 5A as a reason to evict any existing tenants of either unit.

If the Zoning Adjustments Board (ZAB) decides to approve the project, the Rent Stabilization Board staff recommend that ZAB include the following conditions of approval related to the existing tenants, which are consistent the proposal outlined in the applicant's project statement:

1. Prior to building permit approval for each unit, the property owner shall provide proof that any affected tenants have voluntarily vacated their unit or proof that the owner and affected tenants have come to a written agreement on a plan for temporary relocation.
2. Prior to the execution of a new lease with prospective tenants, the property owner shall provide notice of the proposed project and notice of their rights under the Rent Stabilization and Eviction for Good Cause Ordinance.
3. At all times the units #5 and #5A shall not be rented to a new tenant household until Housing Code Enforcement determines that the conditions of the Notice of Violation have been satisfied and the Building permit to address the illegal conditions has been finalized.
4. Prior to building permit approval, the property owner shall record a declaration of deed restriction, in a form acceptable to the City of Berkeley, stating that the owner shall address the illegal conditions at 1850 Arch Street, Unit 5A, prior to renting unit #5 or #5A to a new tenant household on either a short-term or long-term basis. The deed restriction shall acknowledge that there are no grounds for eviction of any existing tenant households in the Rent Stabilization and Eviction for Good Cause Ordinance (BMC Chapter 13.76) due to the unpermitted status of unit #5A or the work proposed in this application.

Rent Stabilization Board staff is recommending ZAB approve the removal of the unit subject to the agreed upon conditions only because it is difficult to permit Unit #5A due to its small size. If legalization of this unit was feasible, maintaining the unit would be the preferred outcome for this project. The Rent Stabilization Board believes it is in the City's best interest to encourage the legalization of unpermitted rental units in order to maintain these existing and often more affordable units as part of Berkeley's housing stock.

Please feel free to contact Mr. Bursell with any further questions regarding this matter.

CITY OF BERKELEY  
Housing Code Enforcement  
1947 Center Street, 3rd floor  
Berkeley, CA 94704  
(510) 981-5444

**Case Details**

**Date:** 6/25/2020  
  
H2019-00471  
1850 ARCH St 5A

**Case Number:**

**Subject:**

Page 1

Of the original 17 violations, 16 have been cleared.  
The remaining violations are:

16. Interior [Unit 5A - Guest Room with Bath - Illegal Use - Notation], \*, \*

This is an addendum to the original Notice of Violation & was noted on 01/06/2020. The habitable space labeled as Unit 5A has been converted as a separate unit without permits and approvals. City of Berkeley records states that Unit 5A may continue as a guest room with a bath. To correct, remove all illegal construction and restore the space to its legal use or obtain permits and zoning approvals to legalize the use as a separate unit. This notation will be referred to Zoning Code Enforcement Unit. BMC 19.28, SEC. 105 AND BMC 19.40, CHAPTER 3, SEC. 301



Planning and Community Development Department  
Codes and Inspection Division

## City of Berkeley



### SPECIAL INSPECTION

(415) 644-6504

Property Location: 1850 Arch Street  
Type of Inspection: Verification of the number of units

Requested by: Ken Y. Chung  
Address: 11024 Piney Meeting House  
Phone: Potomac, MD 20854

Inspector: David Smith

Description: Request for inspection to verify units; two residential stories over sub-grade parking garages. Description of units added since original construction.

Area: 9607 s.f. Bldg. Type: V-N Occupancy Group: R-1 Stories: 2  
Roof Type: Flat, tar & gravel Year Built: 1926  
Current Use: residential Proposed Use: residential Zone: R-3-H  
Assessor's Parcel No. Map: 8 Block: 2182 Parcel No. 18-1  
Use Permit or Variance required: Yes  No  N/A   
Inspection by other departments required: Fire  No  Health  No  Other

A CERTIFICATE OF OCCUPANCY OR OTHER APPROVAL MAY BE ISSUED WHEN ALL OF THE CONDITIONS NOTED BELOW ARE MET.

### INSPECTION RESULTS

- At the time of inspection, there were observed to be eleven separate units. Two of these were in the basement area, to the west rear of the parking garage. Both of these "basement" apartments are shown as existing as of December 1961, and having been created through the normal permit remodeling process.
- An eleventh unit, on the first floor, called unit no "5-A", appears to have been created out of a portion of the adjacent unit, no. 6, at some unspecified time in the past. While the City property records indicate only ten units, there is no specific evidence that unit no "5-A" was not created without permits. For example, building permit no. 43105, in 1937, lists an alteration of an apartment for \$350.00. This unspecified work may very well have been for this apartment; the record is inconclusive.  
  
Evidence that this unit consists mainly in the fact that apartment no 6 has a door in the closet which has been plastered over from the 5-A side, indicating that they were originally joined.
- It is recommended that 5-A be reconnected as a part of the larger unit for the following reasons:

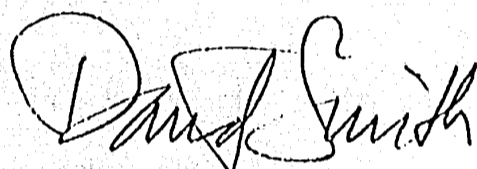


1850 ARCH STREET  
PAGE 2

NOVEMBER 23, 1987

- (a) Apartment no. 5-A has a combined sleeping-livingroom of barely 120 square feet, which under current code is the minimum for a habitable room.
- (b) The unit has no kitchen and is therefore a sleeping room -- not a dwelling unit. Inspection revealed that the tenant is cooking on a hot plate and doing dishes in the lavatory. Such illegal cooking practice is encouraged by lack of a proper kitchen.

THIS REPORT DOES NOT ABROGATE THE RESPONSIBILITY TO COMPLY WITH ALL APPLICABLE CODES AND ORDINANCES WHETHER CITED OR NOT.



DAVID SMITH  
Housing Inspector

DS/sbb

 City of Berkeley 

Codes and Inspection Division  
 Planning and Community Development Department  
 Martin Luther King, Jr.  
 Civic Center Building  
 2180 Milvia Street  
 Berkeley, California 94704  
 Telecommunications Device for the Deaf (415) 644-6915



## NOTICE OF COMPLETION

February 4, 1992

Joan Wang  
 David Monasch  
 680 8th Street  
 San Francisco, CA 94103

Re: 1850 ARCH #5A, Berkeley, California

Dear Owner(s):

On 11/07/91, an initial inspection of the above referenced property was performed. A written notice of the inspection results was provided to you on 12/11/91.

We are pleased to advise you that an inspection performed on 01/14/92 revealed that all violations noted in the 11/07/91 inspection report have been corrected.

You are encouraged to monitor the property periodically and to perform preventive maintenance as appropriate.

If you have any questions regarding the inspector's observations, please feel free to contact the inspector who inspected the property. Inspectors are available to answer questions during weekdays, 8-9 a.m. or 4:30 to 5:00 p.m., at (510)644-8877.

Sincerely,

HARRY ATTRI  
 Building Official

Housing Inspector

cc: Tenant

*Apt. #5A has been Approved  
 For Habital use and may continue  
 as a guest Room with a Bathroom.*





Z O N I N G  
A D J U S T M E N T S  
B O A R D

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NOTICE OF PUBLIC HEARING

## 1850 Arch Street

**Use Permit #ZP2019-0212 to add 18 bedrooms to an existing 10-unit, 12 bedroom multi-family residential building, for a total of 30 bedrooms on the parcel.**

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23B.32.020, on September 24, 2020 **conducted via Zoom, see the Agenda for details at:**

[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_PHN/2020-09-24\\_Draft\\_ZAB\\_Agenda.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_PHN/2020-09-24_Draft_ZAB_Agenda.pdf). The meeting starts at 7:00 p.m.

**PUBLIC ADVISORY:** This meeting will be conducted exclusively through videoconference and teleconference. Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

### A. Land Use Designations:

- General Plan: MDR – Medium Density Residential
- Zoning: R-3(H) – Multiple Family Residential District, Hillside Overlay

### B. Zoning Permits Required:

- Use Permit pursuant to BMC Section 23D.36.060, for the addition of bedrooms beyond the fifth bedroom on the parcel.

**C. CEQA Recommendation:** Categorically exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines and is not subject to any exception noted in Section 15300.2 of the CEQA Guidelines.

### D. Parties Involved:

- Applicant: Rhoades Planning Group, 46 Shattuck Square, Berkeley
- Owner: Arch Street Village, LLC, c/o Rhoades Planning Group

1850 ARCH STREET  
Page 2 of 3

NOTICE OF PUBLIC HEARING  
Posted SEPTEMBER 9, 2020

**Further Information:**

All application materials are available online at: <http://www.cityofberkeley.info/zoningapplications>. The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <http://www.cityofberkeley.info/zoningadjustmentsboard>.

Questions about the project should be directed to the project planner, Ashley James, at (510) 981-7458 or [ajames@cityofberkeley.info](mailto:ajames@cityofberkeley.info).

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at [zab@cityofberkeley.info](mailto:zab@cityofberkeley.info).

**Communication Disclaimer:**

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

**Communications and Reports:**

Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: [zab@cityofberkeley.info](mailto:zab@cityofberkeley.info). All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: <https://www.cityofberkeley.info/zoningadjustmentboard/>.

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.

**Correspondence received by 5:00 PM, eight days before this public hearing, will be provided with the agenda materials provided to the Board.** Note that if you submit a hard copy document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by 5:00 PM two days before** this public hearing, will be conveyed to the Board in a Supplemental Communications and Reports, which is released around noon one day before the public hearing; or
- **Correspondence received after 5:00 PM two days before** this public hearing will be saved in the project administrative record.

It will not be possible to submit written comments at the meeting.

**Accessibility Information / ADA Disclaimer:**

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date.

**SB 343 Disclaimer:**

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public. Please contact the Land Use Planning Division (zab@cityofberkeley.info) to request hard-copies or electronic copies.

**Notice Concerning Your Legal Rights:**

If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice.
2. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.



Z O N I N G  
A D J U S T M E N T S  
B O A R D  
S T A F F R E P O R T

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FOR BOARD ACTION  
SEPTEMBER 24, 2020

## 1862 Arch Street

Use Permit #ZP2019-0213 to add 15 bedrooms to an existing 10-unit, 10-bedroom multi-family residential building, for a total of 25 bedrooms on the parcel.

### I. Background

#### A. Land Use Designations:

- General Plan: MDR – Medium Density Residential
- Zoning: R-3(H) – Multiple Family Residential District, Hillside Overlay

#### B. Zoning Permits Required:

- Use Permit pursuant to BMC Section 23D.36.060, for the addition of bedrooms beyond the fifth bedroom on the parcel.

**C. CEQA Recommendation:** It is staff's recommendation to the ZAB that the project is categorically exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines and is not subject to any exception noted in Section 15300.2 of the CEQA Guidelines. The determination is made by the ZAB.

#### D. Parties Involved:

- Applicant: Rhoades Planning Group, 46 Shattuck Square, Berkeley
- Owner: Arch Street Village, LLC co/Rhoades Planning Group



Figure 1: Zoning Map



Zoning District	
R-1(H):	Single-Family Residential District, Hillside Overlay
R-3(H):	Multiple-Family Residential District, Hillside Overlay
R-4:	Multi-Family Residential District
R-4(H):	Multi-Family Residential District, Hillside Overlay
R-5:	High-Density Residential District

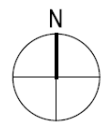


Figure 2: Site Plan

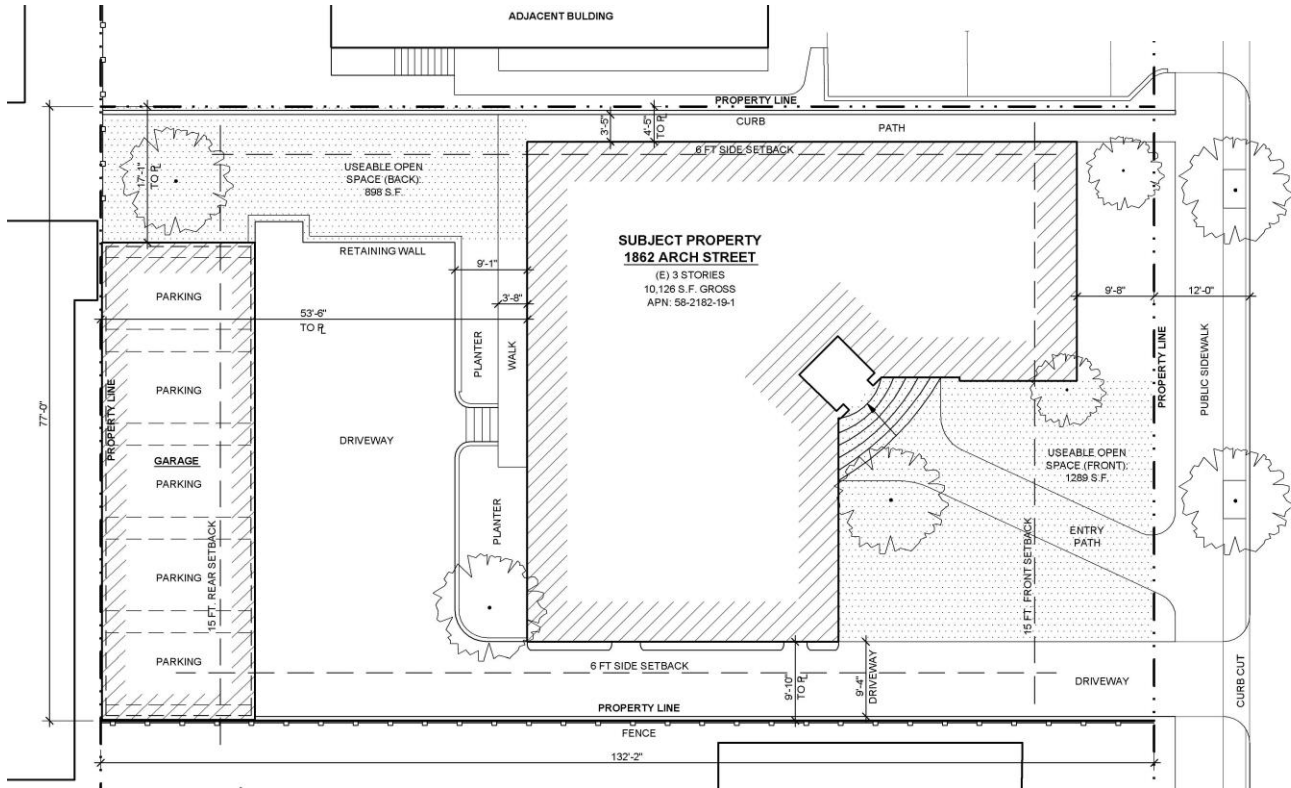


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		10-unit multi-family building	Multiple-Family Hillside Overlay (R-3H)	Medium Density Residential (MDR)
Surrounding Properties	North	10-unit multi-family building		
	East	Group Living Accommodation (Delta Zeta Sorority)		
	South	Fourplex		
	West	22-unit multi-family development (Normandy Village)		

**Table 2: Special Characteristics**

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	This fee applies to projects with new non-residential gross floor area, including projects that alter buildings that have been substantially vacant of all uses for at least 3 years. No new non-residential gross floor area is proposed.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	This fee applies to projects with new non-residential gross floor area, including projects that alter buildings that have been substantially vacant of all uses for at least 3 years. No new gross floor area is proposed.
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	The project does not include the creation of any new rental units, and therefore this requirement does not apply.
Housing Accountability Act (Govt. Code 65589.5(j))	No	The project is not a "housing development project," as no additional units would be created. The project is to expand two existing units on the site. Therefore, the HAA findings do not apply to this project.
Coast Live Oaks	No	There are no oak trees on the project site.
Creeks	No	The project site is not near a creek or within a creek buffer.
Density Bonus	No	The project is not seeking a Density Bonus.
Green Building Score	No	The project does not propose the construction of a new building.
Historic Resources	No	The project does not propose the demolition or substantial alteration of a main building. In addition, there is no evidence to suggest the building is a historic resource.
Rent Controlled Units	Yes	According to the Rent Stabilization Board (RSB), the building contains 10 units, all of which are claimed as "rented or otherwise available to rent" and considered controlled rental units, and are therefore subject to BMC Chapter 13.76. The project must comply with RSB noticing and vacancy rules, see Conditions of Approval #11 and #31.
Residential Preferred Parking (RPP)	Yes	The project site is located in Area "F" of the Residential Preferred Parking Program.
Seismic Hazards (SHMA)	No	The project site is not located in an area susceptible to liquefaction, fault rupture or landslide, as defined by the State Seismic Hazards Mapping Act (SHMA). Thus, the project is not subject to additional review to comply with the Act.
Soil/Groundwater Contamination	No	The project site is not located within the City's Environmental Management Area.
Transit and Bicycle Access	Yes	The project site is five blocks east of numerous AC transit routes on University and Shattuck Avenue. There is a bikeway on Arch Street (N-S) and Hearst Avenue (E-W). Also, the project site is approximately ½ mile from the Downtown Berkeley BART station.

**Table 3: Project Chronology**

Date	Action
December 20, 2019	Application submitted
January 7, 2020	Application deemed incomplete
March 16, 2020	Shelter in Place Order issued, multiple ZAB hearings cancelled
April 6, 2020	Revised application submitted
April 16, 2020	Application deemed complete
September 10, 2020	Public hearing notices mailed/posted
September 24, 2020	ZAB hearing

**Table 4: Development Standards**

R-3 Standards BMC Section 23D.36.070-080		Existing	Proposed	Permitted/ Required
Lot Area (sq. ft.)		10,300	No change	5,000 min.
Gross Floor Area (sq. ft.)		10,126	10,146 <sup>1</sup>	n/a
Dwelling Units		10	No change	n/a
Bedrooms		10	25	n/a (≥5 w/permit)
Building Height	Average	27'-4"	No change	35' max.
	Maximum	28'-5"	No change	n/a
	Stories	3	No change	3 max.
Building Setbacks	Front	9'-8"	No change	15' min.
	Rear	50'-11"	No change	15' min.
	Left (South) Side	0'	No change	6' min.
	Right (North) Side	4'-5"	No change	6' min.
Lot Coverage (%)		32.6	No change	40 max. (For 3 stories)
Usable Open Space (sq. ft.)		2,186	No change	2,000 min. (400 per du)
Parking		5	No change	10 min. (1 per unit)

## II. Project Setting

**A. Neighborhood/Area Description:** The subject site is located on the west side of Arch Street, in a mixed-use residential neighborhood that consists of educational uses as well as multiple-family apartment and condominium buildings that range from two to three stories in height (See Figure 1: Zoning Map). The site is located one-half block north of Hearst Avenue and the University of California – Berkeley campus. It is also

<sup>1</sup> On the basement level, 20 square feet of unfinished area would be converted to floor area in order to expand the existing bedroom and closet area within Unit 8 (see Table 6 below).



located two blocks west of Shattuck Avenue and downtown Berkeley (C-DMU District), and two blocks east of goods and services on Euclid Avenue.

**B. Site Conditions:** The subject parcel is rectangular, with a 77’ front along Arch Street and 132’-2” depth, and slopes down toward the southwest. The parcel is currently developed with a three-story residential building containing ten dwelling units (two studio, two 1-bedroom, five 2-bedroom, and one 4-bedroom), which was constructed in 1923. The building is accessed on the first level through a driveway and front entry pat/stairway along Arch Street. Outdoor usable open space is provided in the rear and front yards.

The parcel is non-conforming to current zoning standards in terms of minimum building setback from the front and side property lines and parking. The property contains a total of five parking spaces where 10 is the minimum, located in a detached garage located on the rear property line. (See Figure 2: Site Plan and Table 4: Development Standards).

### III. Project Description

The applicant proposes to reconfigure the building floor plan by moving and adding interior walls to accommodate an additional 15 bedrooms within the existing 10-unit building. The building would contain two studio, one 1-bedroom, one 2-bedroom, five 3-bedroom and one 5-bedroom units. On the basement level, three bedrooms would be added and 20 square feet of unfinished area would be converted to floor area in order to expand the existing bedroom and closet area within Unit 8 (see Table 6 below). A total of six bedrooms would be added to both the first and second levels (see Table 5 below). No exterior alterations are proposed.

**Table 5: Bedroom Count, Floor Area, and Location**

Location within Building	Floor Area	# of Bedrooms		
		Entitled	As-Built	Proposed
Basement	Existing: 3,366	1	4	4
	Proposed: 3,386			
First	3,356	4	6	10
Second	3,404	5	8	11
<b>Total</b>	<b>10,126</b>	<b>10</b>	<b>18</b>	<b>25</b>

Note: City records indicate the building contained 10 bedrooms as of 1961, when the most recent building permit was finalized. As part of this Use Permit application, the applicant submitted as-built plans indicating the building contained 18 rooms that met the City’s definition of a “bedroom,” per BMC Section 13.42.020.B. Therefore, this Table presents the entitled, as-built, and proposed number of bedrooms. For the purpose of the Use Permit, the project description is to add 15 bedrooms to the building, which previously contained 10, as entitled.

## IV. Community Discussion

**A. Neighbor/Community Concerns:** Prior to submitting the application to the City on December 20, 2019, a pre-application poster was installed by the applicant at the project site and the project plans were reviewed at a community meeting hosted by the applicant. Four people attended the meeting, including two residents of the building and two neighbors. Concerns included timely repairs, excessive noise from residents during quiet hours, and disruptions (i.e. noise) from the proposed construction. On April 30, 2020 the City received a letter from a resident of the adjacent building at 1850 Arch expressing concerns about the proposed scope of work at both buildings regarding the impacts to trash, laundry, parking, and bathrooms that would result from the project, and complaints regarding property maintenance of the existing building. The applicant responded to those concerns in a letter dated May 26, 2020 (Attachment 3). In addition, the applicant notified all tenants of the proposed renovations as well as their rights under the Rent Stabilization Ordinance (BMC Section 13.76) and Tenant Protection Ordinance (BMC Section 13.79.060). See the discussion in section V.B for more information.

On September 10, 2020, the City mailed 505 public hearing notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations, and the City posted notices within the neighborhood in two locations. As of the writing of this staff report, Staff has not received any communications regarding the project.

**B. Committee Review:** This project is not subject to advisory committee review.

## V. Issues and Analysis

**A. Addition of Bedrooms to the Parcel:** Pursuant to BMC Section 23D.32.050.A, the addition of the bedrooms 11 through 25 on the parcel requires the approval of a Use Permit. Specifically, the Board must make the required “non-detriment” findings pursuant to BMC Section 23B.32.040 related to the “health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood...or be detrimental or injurious to property or improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.” “The Board shall deny an application for a Use Permit if it determines that is unable to make any of the required findings, in which case it shall state the reasons for that determination.” Recently, the ZAB has considered the amount of common space (living room/dining room/kitchen) relative to the number of bedrooms, as well as the amount of usable open space on the parcel, as factors when evaluating the addition of bedrooms. While there is no adopted standard, that information is compiled below, in Table 6.

As shown in Table 6 below, the proposed project would convert common living areas to create new bedrooms in six of the ten units. On average, 43% of the existing floor area within each unit is currently dedicated to common living spaces. The project would result in a 4% reduction in the share of floor area dedicated to common living spaces, for a new average of 39%, which continues to provide a reasonable amount of common living space in each unit. According to the applicant statement, the

conversion of common living spaces to bedrooms would improve the layout of the units, for example by converting 20 square feet of unconditioned space on the basement level to floor area within Unit 8, in order to expand the bedroom and closet area. The layout of Unit 9 would be improved by moving interior walls, Unit 1 would become a more functional studio, and the layout of Unit 10 would be improved by creating a bedroom in this studio unit.

As shown in Table 4 above, the parcel has non-conforming setbacks at all yards and has five off-street parking spaces where 10 is the minimum. The proposed renovations would not change the building footprint, and thus would not exacerbate any non-conforming condition, and would maintain the existing amount of usable space on the parcel (2,186 square feet), which exceeds the minimum requirement by 186 square feet.

**Table 6: Change in amount and share of common living area per unit**

Unit#	Floor Area	Common (Living/Dining/Kitchen) Area			Share of Common Living Spaces to Total Floor Area			Location within Building
	Sq. Ft	As-Built	+/-	Proposed	As-Built	+/-	Proposed	Floor
Unit 1	410	105	98	203	26%	24%	50%	First
Unit 2	738	450	-210	240	61%	-28%	33%	
Unit 3	722	245	18	263	34%	2%	36%	
Unit 4	833	424	-149	275	51%	-18%	33%	
Unit 5	715	166	87	253	23%	12%	35%	Second
Unit 6	842	342	-68	274	41%	-8%	33%	
Unit 7	1,326	458	-178	280	35%	-13%	21%	
Unit 8	(E) 531/ (P) 551	238	-4	234	45%	-3%	42%	Basement
Unit 9	414	273	-33	240	66%	-8%	58%	
Unit 10	493	260	-8	252	53%	-2%	51%	
<b>Average</b>	<b>702</b>	<b>296</b>	<b>-48</b>	<b>251</b>	<b>43%</b>	<b>-4%</b>	<b>39%</b>	

Staff believes the proposed addition is consistent with the purposes of the R-3 District, which are to:

- A. Implement Master Plan policy by encouraging the development of relatively high density residential areas;
- B. Make available housing for persons who desire both convenience of location and a reasonable amount of usable open space;
- C. Protect adjacent properties from unreasonable obstruction of light and air; and
- D. Permit the construction of residential structures, such as dormitories, fraternity and sorority houses, boarding and rooming houses, which will meet the City

requirements for this type of housing; (Ord. 7210-NS § 8 (part), Ord. 6478-NS § 4 (part), 1999).

**Staff Analysis:** As described in section II above, the subject residential building is a 10-unit apartment building in a mixed-use residential neighborhood that consists of a mixture of multiple-family apartment and condominium buildings, consistent with purpose A. As described in Table 2 above, the subject property is five blocks east of numerous AC Transit routes on University and Shattuck Avenues, is one-half mile from the Downtown Berkeley BART station, and is located on a bikeway. In addition, the project is one-half block north of the University of California-Berkeley campus, consistent with purpose B. The parcel contains a reasonable amount of open space, 2,186 square feet where a minimum of 2,000 is required. As the project would not result in any exterior changes to the building, such as new window openings or extension of the building footprint, there would not be any impacts to light and air, consistent with purpose C.

Staff believes the addition of 15 bedrooms to the 10-unit residential building would support the high-density residential use on the parcel, consistent with the purposes of the R-3 District.

- B. Tenant Protections:** As of the writing of this staff report, all rent controlled units are occupied and currently rented to tenants whose tenancy began prior to the submittal of this Use Permit application. The applicant intends to complete the project over time as tenants move out of the building voluntarily, and has committed to not unlawfully evict or otherwise displace any current tenant in order to accommodate construction. The applicant informed the existing tenants of the development plan at a community meeting held on December 20, 2019, where at least two tenants were present, and mailed a notice to each tenant in the spring of 2020 restating the development plans and their rights under the City's Rent Stabilization Ordinance. Per the Rent Stabilization Ordinance, the existing rental units would remain as rent controlled rental units after renovation, and the property owner has committed to providing notice to any prospective new tenant of their rights under the Ordinance prior to execution of a new lease (see Condition of Approval #31). In addition, the applicant has committed to providing notice in advance of the City's noticing requirements before tenants might be relocated for construction on their units and has confirmed that all tenants would be relocated voluntarily or temporarily as provided for in Condition of Approval #11, as recommended by the Rent Stabilization Board.
- C. General Non-Detriment:** Staff believes the project would not be detrimental to the health, safety, peace, morals, comfort, or general welfare of residents or workers in the area because it would be consistent with the development pattern in the area, as no exterior changes are proposed. In addition, staff believes the project would not unreasonably obstruct sunlight, air, or views as no exterior changes are proposed. Finally, the project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and storm water requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or 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.

**D. General Plan Consistency:** Based on the foregoing project description and analysis, staff concludes that the project would comply with the following 2002 General Plan goals and policies:

1. Policy H-8–Maintain Housing: Maintain and preserve the existing supply of housing in the City.
2. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
3. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.

Staff Analysis: The residential project would increase the number of bedrooms on the parcel and renovate the interior of the building, thus maintaining and preserving the existing housing supply in the city. The subject property is located in a mixed-use residential neighborhood containing a mix of multiple-family dwellings and condominiums that are two- to three-stories in height, and does not propose any changes to the exterior of the building or expand its footprint. Because the changes proposed would maintain the existing building footprint, would not increase the building height, and would maintain the amount of usable open space on the property, staff believes that the project would maintain the existing design, scale and compatibility with the neighborhood.

## VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board **APPROVE** Use Permit #ZP2019-0213 pursuant to Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

### Attachments:

1. Findings and Conditions
2. Project Plans, dated February 5, 2020
3. Correspondence, received May 26, 2020
4. Notice of Public Hearing

**Staff Planner:** Ashley James, [ajames@cityofberkeley.info](mailto:ajames@cityofberkeley.info), (510) 981-7458

# ATTACHMENT 1

## FINDINGS AND CONDITIONS

SEPTEMBER 24, 2020

### 1862 Arch Street

**Use Permit #ZP2019-0213 to add 13 bedrooms to an existing 10-unit, 10 bedroom multi-family residential building, for a total of 25 bedrooms on the parcel.**

#### PERMITS REQUIRED

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- Use Permit pursuant to BMC Section 23D.36.060, for the addition of bedrooms beyond the fifth bedroom on the parcel.

#### I. CEQA FINDINGS

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1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 ("Existing Facilities") of the CEQA Guidelines. 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. OTHER FINDINGS FOR APPROVAL

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1. As required by BMC Section 23B.32.040.A, 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 proposed project conforms to the applicable provisions of the Berkeley Municipal Code including for height, number of stories, rear yard setback, lot coverage, and usable open space in BMC Section 23D.36.070-080 (Development Standards), as detailed in the August 27, 2020 staff report. The proposed project is non-conforming for front yard setback (9'-8" where 15' is the minimum), left yard setback (0' where 6' is the minimum), right yard setback (0' where 6' is the minimum), and parking (providing five spaces where ten are required) under the current Zoning Ordinance. The proposed development is permissible because: (1) the proposed interior renovations do not worsen any non-conforming condition; (2) the proposed development recognizes and adheres to an existing pattern of development; (3) protects adjacent neighbors from unreasonable obstructions of sunlight and air; and (4) represents the District's intended encouragement of the development of relatively high density residential areas characterized by convenience of location and a reasonable amount of Usable Open Space.
  - B. The project is consistent with the purposes of the District in that it will permit the addition of bedrooms through conversion of existing floor area and conversion of 20 square feet of

existing unfinished area within the existing building footprint on a residential property, which continues the existing pattern of high residential density of the neighborhood. The project will not reduce the existing non-conforming 9'-8" front setback, the non-conforming 0' left and right side setbacks, or the non-conforming off-street parking (5 spaces where 10 is the minimum). The project will, therefore, retain the existing pattern of development that is conveniently located and provides a reasonable amount of usable open space of the District while protecting adjacent properties from unreasonable obstruction of light and air.

- C. The project plans submitted on April 6, 2020 indicate the proposed addition will not unreasonably obstruct sunlight on nearby existing dwellings, impact the privacy between neighbors, unreasonably impact air and light between neighbors, or impact views. As discussed in the project staff report dated September 24, 2020, the proposed project will not create any new window openings or otherwise change the exterior of the building or the building's footprint. Therefore, the impacts are determined to be non-detrimental.
2. Pursuant to BMC Section 23D.32.050.A, the Zoning Adjustments Board finds that the proposed addition of bedrooms eleven through twenty five supports the residential use on the parcel, consistent with the purposes of the R-3 District. The project represents the District's intended encouragement of the development of relatively high density residential areas characterized by convenience of location and a reasonable amount of Usable Open Space. The subject property is five blocks east of numerous AC Transit routes on University and Shattuck Avenues, is one-half mile from the Downtown Berkeley BART station, and is located on a bikeway. In addition, the project is one-half block north of the University of California-Berkeley campus. The parcel contains a reasonable amount of open space, 2,186 square feet of useable open space where a minimum of 2,000 square feet is required.
-

#### **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.

**I. 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 #

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

- 11. Unit Vacancy.** Demolition and/or construction activities approved under this permit shall not commence in any unit unless the existing tenants have either voluntarily vacated the unit or have reached an agreement for temporary relocation pursuant to BMC Chapter 13.84. The applicant shall submit evidence of such to the Rent Stabilization Board (i.e. tenant's notice to vacate, relocation agreement).
- 12. 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.
- 13. Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine whether the following document is required and timing for its submittal:
- A. 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.

**Prior to Issuance of Any Building (Construction) Permit**

**14. 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).

15. 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.

### **During Construction:**

16. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
17. 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.

18. 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 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.
- 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.

**19. 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.
20. 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.
21. 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.
22. 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.
23. 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.
24. 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.
25. 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.
26. 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.

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

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27. 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.
  
28. 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 February 5, 2020 except as modified by conditions of approval.
  
29. Construction and Demolition Diversion. A Waste Diversion Report, with receipts or weigh slips documenting debris disposal or recycling during all phases of the project, must be completed and submitted for approval to the City's Building and Safety Division. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement. A copy of the Waste Diversion Plan shall be available at all times at the construction site for review by City Staff.

**At All Times:**

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30. 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.
  
  31. Tenant Noticing. Prior to the execution of a new lease with prospective tenants, the property owner shall provide notice of the proposed project and notice of their rights under the Rent Stabilization and Eviction for Good Cause Ordinance.
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1850 Arch St., #6  
Berkeley, CA 94709  
April 30, 2020

Berkeley Zoning Adjustment Board  
Land Use Planning Division  
1947 Center Street, 2nd Floor  
Berkeley CA 94704

Dear Members of the Zoning Adjustment Board:

I have been a tenant at 1850 Arch Street for over 24 years, a building that was recently purchased, along with 1862 Arch Street, by Rhoades Planning Group.

Rhoades' plan is to subdivide existing one bedroom apartments into multiple bedroom apartments, adding as many as 20 new bedrooms to the two buildings.

With regard to Rhoades' plan to make modifications at 1850 and 1862 Arch Street, I have serious objections to this for the following reasons:

There are several units in both buildings that have already been divided, and are now shared by three or four unrelated people.

This has resulted in additional trash, additional use of laundry room machines, and additional parking issues, as well as a shortage of bathrooms.

— We have one dumpster, two cans for paper and cardboard, one for glass, metal and plastic, and one for compostables. Before these conversions, the containers were rarely full on pickup days. Since the conversions, the dumpster, the paper



bins and the glass, metal and plastic bin are regularly filled to overflowing.

The trash collectors will, I'm sure, verify that the dumpster has been regularly overfilled, even with twice a week pickups.

In short, even five more people in these buildings will result in more trash. The addition of twenty new bedrooms will result in quite a bit more.

— There are two washers and two dryers in the basement of 1850 Arch, shared by both buildings. Again, previously, these were sufficient for the needs of residents.

Already, these have proven to be insufficient for all the new tenants; in fact, there are regularly lines waiting to use these machines. More tenants will make this situation untenable.

— There are seven spaces and two garages available for parking cars on the premises. Currently, the garages are in use, as are five of the seven spaces. Additional tenants will mean more cars, and requests for spaces. Those tenants who are unable to secure a space will park on the street when spaces are free, which is rare, especially so during the months that University of California Berkeley is in session. In other words, more traffic in the entire neighborhood, more searching for spaces, and more parking chaos.

When workers come to make repairs, they park in the driveway and block access from the people who pay for these spaces. This has been a problem for many years, and has been especially awkward during the massive electrical "upgrade".

— Since the date when Rhoades purchased these buildings, they have proven to be inattentive and negligent landlords.

At a meeting in December, their representatives told us that “there will be no major changes” to these buildings. They “pooh-poohed” the question of whether the additional bedrooms would qualify as “major changes”.

When challenged about the “major changes” issue — it would seem that changing a one bedroom unit into a three bedroom unit is very much “major work” — they had no reasonable response.

— Within just a couple of weeks of that meeting, they had a team of electricians installing 125 amp panels in every apartment, and major panels and pipes attached to the sides of the buildings. They claimed that PG&E mandated these changes.

Aside from the daily and constant noise five days a week, and often six, workers “discovered” a need to do concrete work to accommodate people who used the walkway between buildings, where their electrical fittings were installed. The result was a very clumsy and badly positioned cutout in the existing wall of the walkway, and the new concrete work interrupted the gradual slope from the front to the back of the buildings, which, in turn, caused a pool of water to be trapped every time it rains. Right in front of the main panels. This work also created a step, making it impossible for people in wheelchairs to use the walkway.

— Rhoades has a very poor record of maintaining these buildings.

For just one example, Unit 1 at 1850 is occupied by a woman who has been a tenant for over 25 years. When the electricians worked on her apartment, they caused extensive and massive holes in her plaster (among other work), and have refused to fix them “until the electrical work is completed”. She has had to endure this mess until ... when??

Also, on their website was a schematic that showed the planned work on her apartment, without asking her whether that was a problem. She is a retired person, and this is an affront to her safety. She has been anxious about this since she first discovered it, and admits to becoming more so the longer it stays on the website. (Rhoades has since removed this schematic from their website.)

In Unit 6 at 1850, the worker who did the panel install caused cracks and other damage to the walls, and plaster dust in every room. And while he casually swept up some of the mess, this only resulted in spreading more plaster dust throughout the apartment. Plus, the panel is basically just hanging rather than being fixed.

As if this weren't bad enough, the worker disconnected the phone and answering machine, which resulted in four people who tried to call but were unable to leave a message.

I occupy Unit 6. Once I noticed these items, I met with the Berkeley Rent Board and determined that I had the right to deny any further access. I then notified the electricians that they could no longer enter my apartment.

Unit 7 has also had problems with workers whose proposed route for the conduits would have routed their lines through the interior of the apartment, rather than through the hallways.

The workers left holes in walls throughout the apartments and the common areas, and covered some with blue tape. And have made no effort to fix these items.

The outside faucets at the front and rear of 1850 have leaked for some time. When this was brought to the attention of the Rhoades representatives in December, they came up with a resolution: "we'll just attach an additional faucet to the leaking

one, no problem.” This was indeed a clumsy repair, and it simply does not work. All that was needed, and is still needed, is a new washer. In other words, their work is poorly thought out and poorly executed.

Rhoades has done nothing to repair holes in the garage, or holes in the sidelight at the front door of 1850, the latter of which has resulted in creatures entering the lobby, and warm air escaping, among other issues. What little work they have done to 1850 is subpar by any reasonable standard.

— None of the plans call for adding bathrooms. Clearly, this puts a strain on the tenants. Three bedrooms, multiple students in each bedroom. This is yet another shortsighted part of Rhoades’ plan.

These are only examples of the low quality of work done by these landlords, but is typical of their “management” style.

Rhoades has owned this building for roughly six months. It is clear that they do not consider the needs of current tenants, and only seek to create more rentable space, and therefore profit.

While I have not seen the work done to apartments at 1862 Arch Street, I have no doubt that the work in that building is every bit as unprofessional as at 1850 Arch Street. Currently, there are plywood panels where there used to be doors on the south side of the building, and that work has been stopped by the City. The workers have also left an over-full trash can and half-empty paint cans on the premises for many months.

This is just a partial description of the shoddy work done to these buildings.

— Blatant disregard for the rights of their tenants

The tenants of both buildings have been subjected to major disruptions since this work has started, including noise from early morning to late afternoon, and dust and debris everywhere.

In short, the low quality of the work and the disruption indicate that, as landlords, Rhoades' ownership and employees clearly do not care for the welfare of existing tenants, and exhibit very little respect for them.

— Finally, none of the apartments, whether modified or not, will be low-income units.

These buildings are not dormitories, but residences for individuals and families, and should be treated as such.

Therefore, I respectfully request that the Board deny Rhoades' petition to make the proposed changes to these buildings.

Sincerely,

Robin O'Donnell  
1850 Arch St., Apt. 6  
Berkeley, CA 94709

May 26, 2020

Mr. Robin O'Donnell  
1850 Arch Street, Unit 6  
Berkeley, CA 94709

Dear Robin:

We are the owners of 1850 & 1862 Arch Street, and we have received the letter you sent to the Berkeley Zoning Adjustment Board Land Use Planning Division, dated April 30, 2020.

We certainly hear and appreciate the concerns you've outlined, which describe changes you've noticed that have occurred in the recent past and also the changes you have been informed of that are forthcoming. We want you to know that we really do value the impact of the residents of our building, and feel that some clarification of our plans may reduce some of your concerns.

To summarize your letter, you are requesting of the City that they deny our petition for a use permit to make the proposed changes to the building because 1) units have already been subdivided which has resulted in increased density in the building, straining amenities like laundry machines and resulting in more garbage than the bins can currently accommodate, 2) more bedrooms suggests more residents, which will impact street parking, and our workers have blocked the driveway in the past, 3) we have proven ourselves to be inattentive and negligent landlords who have engaged in disruptive and messy construction to a subpar level, 4) construction projects that had been started seem to have stalled mysteriously over the past two months with no explanation or timeframe for completion, 5) none of the proposed plans include bathroom additions, and 6) none of the units will be low-income.

I hope I have grabbed your main points, if I missed any, please do call them to my attention.

Let me address each of those issues. Before I do, Rhoades Planning Group does not own the building. It is owned by Arch Street Village, LLC., no affiliation to Rhoades Planning Group (the company or the people) in any way whatsoever.

- 1) Units have already been subdivided which has resulted in increased density in the building, straining amenities like laundry machines and resulting in more garbage than the bins can currently accommodate:*

In your letter, you state that units have already been subdivided, and are now shared by "3-4 unrelated people." We have not performed any work to any units in the building whatsoever. We are aware of one unit that appears to have had a wall added within a large living room to create an additional bedroom at some point in the past, and it seems that occurred long ago (but there is no record). Any increase in use of refuse, laundry, or parking that you have observed is not the result of anyone having added bedrooms to any units in your building. At 1862 Arch Street, prior ownership did convert a 1-bed into a 2-bed, but that unit has never been occupied since that conversion and remains vacant to this day. They also tried to convert a 2-bed into a 3-bed, but we are taking it back to a 2-bed. In short, we are confident that between all 21 units of both buildings (1850 and 1862 Arch Street), no one has subdivided any currently occupied units at any point in the recent past. Further, we have only completed one new lease in either building, where two students replaced an individual who had lived alone, thus a net increase of one person across both buildings.

Having said that, if additional laundry facilities, refuse/recycling facilities, etc are already required for any reason, and/or may be required at a future date, we are very open to increase those services accordingly. Let's just have those kinds of conversations directly, as we are happy to take any reasonable requests into consideration.

*2) More people will mean that it will be harder to find street parking:*

The neighborhood has Residential Permit Parking, but parking issues exist throughout Berkeley. They are less of a problem in this neighborhood than they are in many others. Many of the tenants of the building, and especially newer tenants, are affiliated with the University as faculty or students. As such, vehicles are unnecessary due to the proximity of campus and the Downtown, and high level of nearby transit.

If anyone ever blocks the driveway, be it a tenant, a visitor, a contractor, or a neighbor, by all means please feel free to call Berkeley parking enforcement. We will be sure to emphasize to any contractors we may require that they not park in the driveway, and apologize if they have done so in the past. Thank you for bringing this to our attention.

*3) We have proven ourselves to be inattentive and negligent landlords who have caused disruptive and messy construction to a subpar level*

I hate to think that we are "inattentive and negligent landlords". We are certainly guilty of making significant improvements to the electrical system, which was 100 years old, and we accept that this project has presented an inconvenience to tenants. We have not performed any work of any kind to any other portion of your building, so we are not sure what messy construction you are referring to. At 1862 Arch we have also been renovating a vacant unit, but hope that unit renovation has not been overly disruptive to you personally since it is in the adjacent building. The new electrical system we have installed in both buildings will provide significantly more power to each unit in accordance with the needs of the typical tenant today (who needs to power computers, microwaves, etc) that were not considerations during original construction in the 1920's. It also includes a grounded line, in addition to other significant safety benefits. We are surprised that any tenant should be critical of an ownership that takes on this investment. Please note that we are also planning to perform an entirely voluntary seismic retrofit to both buildings to significantly increase their resistance to a significant seismic event. This project will take place in the basement and is not expected to be particularly disruptive, and we hope you'll appreciate the trade-off. We regret that you don't approve of the exact shape of the concrete cutout which was needed to provide clearance for the new electrical panel, nor the manner in which I addressed a leaky exterior faucet. The plywood on the walls of Unit 8 have been there because work started on that unit and then the lockdown associated with Covid-19 hit. That is not a permanent solution.

We do not agree that we have performed a very poor job of maintaining the buildings since our acquisition last fall, though certainly we have yet to perform many of the improvements we have planned simply because the electrical upgrade was the first priority for all the reasons listed above.

*4) Construction projects that had been started seem to have stalled mysteriously over the past two months with no explanation or timeframe for completion:*



As aforementioned, the only two projects that have been undertaken in either 1850 or 1862 Arch Street at the electrical upgrade and the 1862 Arch Unit 8 renovation. The Covid-19 Shelter In Place has halted all construction through early May 2020.

The holes in the plaster created in various units and some common areas was necessary for the electrical upgrade to each unit, and had to be left open in order for the City inspector to see and sign off on the work performed. The reason the openings were left open so long and have not been repaired is that Shelter In Place hit right after those improvements were made, and work was suspended by law. All units which granted us access (including yours, thank you, and the Unit 1 you referenced) did pass inspection, and as I've told you, we are very happy to send in a contractor to repair all the openings in any unit which is willing to accept that work at this time, including yours. We apologize for the delay caused by the recent global pandemic. As for your own unit, Unit 6, we apologize for the mess left by the electrician when the work was originally performed. We did not receive that feedback from any other tenants. It turns out that they had not completed their project on your unit, including clean up, when you elected to refuse them further entry, then Shelter In Place hit and clearly they could not complete the work in your unit even if you had at that point granted access. I hope you found the work performed in your unit when it was inspected recently, including the clean-up, to be acceptable; if not please let me know. Incidentally, the reason for the openings in the plaster in units and some common areas, as explained above, was also detailed in a letter I emailed to all tenants on March 21, 2020. I sent it to the email address I have on file for you, I hope it is current and that you had received that correspondence but if not, I certainly understand why you were surprised by the delay in repairs.

*5) None of the proposed plans include bathroom additions:*

You are incorrect about none of the plans adding bathrooms to existing units. Having said that, do you use other people's bathrooms? If not, I am not sure how this affects you personally.

*6) None of the units will be low-income*

The proposed building modifications do not include the addition of any new dwelling units. Rather, existing units are being made more useful in an effort which helps the City of Berkeley address its housing availability crisis in this small way. Because there are no new dwelling units proposed there is no requirement for affordability

I hope I have addressed the concerns you laid out in your letter to the City, at least at a high level, though I would be happy to further discuss any of the more detailed specifics of your letter at any time.

In summary, we are hoping to gain your trust here. We are conscientious individuals who have acquired an apartment building that we feel had been somewhat neglected over time, and who are making significant improvements to the safety, functionality, and comfort of the building to the benefit, we feel, of both existing and future residents. The units we renovate will in some cases (not all) add bedrooms as per building code, and in some cases bathrooms as well, all while being nicely modernized. We also intend to make significant cosmetic and safety improvements to the common areas of the buildings, to include new paint and carpet, improved and tasteful lighting, etc, all in keeping with the elegant and historic nature of the building. We are in no way creating a frat house here, far from it. We understand and appreciate your concerns, and are happy to discuss them further and take any request or suggestions you may have in mind to heart. Please do not hesitate to reach out to me directly with any future questions or concerns.



Best,

Riccardo Gale  
[riccardo@turningpointinvested.com](mailto:riccardo@turningpointinvested.com)  
(415)271-2996



# Z O N I N G A D J U S T M E N T S B O A R D

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## NOTICE OF PUBLIC HEARING

### 1862 Arch Street

**Use Permit #ZP2019-0213 to add 15 bedrooms to an existing 10-unit, 10 bedroom multi-family residential building, for a total of 25 bedrooms on the parcel, and convert 20 square feet of unfinished area to habitable space on the basement level.**

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23B.32.020, on September 24, 2020 conducted via Zoom, see the **Agenda for details at:**

[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_PHN/2020-09-24\\_Draft\\_ZAB\\_Agenda.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_PHN/2020-09-24_Draft_ZAB_Agenda.pdf). The meeting starts at 7:00 p.m.

**PUBLIC ADVISORY:** This meeting will be conducted exclusively through videoconference and teleconference. Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

#### A. Land Use Designations:

- General Plan: MDR – Medium Density Residential
- Zoning: R-3(H) – Multiple Family Residential District, Hillside Overlay

#### B. Zoning Permits Required:

- Use Permit pursuant to BMC Section 23D.36.060, for the addition of bedrooms beyond the fifth bedroom on the parcel.

**C. CEQA Recommendation:** Categorically exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines and is not subject to any exception noted in Section 15300.2 of the CEQA Guidelines.

#### D. Parties Involved:

- Applicant: Rhoades Planning Group, 46 Shattuck Square, Berkeley
- Owner: Arch Street Village, LLC, c/o Rhoades Planning Group

1862 ARCH STREET  
Page 2 of 3

NOTICE OF PUBLIC HEARING  
Posted SEPTEMBER 9, 2020

**Further Information:**

All application materials are available online at: <http://www.cityofberkeley.info/zoningapplications>. The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <http://www.cityofberkeley.info/zoningadjustmentsboard>.

Questions about the project should be directed to the project planner, Ashley James, at (510) 981-7458 or [ajames@cityofberkeley.info](mailto:ajames@cityofberkeley.info).

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at [zab@cityofberkeley.info](mailto:zab@cityofberkeley.info).

**Communication Disclaimer:**

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

**Communications and Reports:**

Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: [zab@cityofberkeley.info](mailto:zab@cityofberkeley.info). All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: <https://www.cityofberkeley.info/zoningadjustmentboard/>.

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.

**Correspondence received by 5:00 PM, eight days before this public hearing, will be provided with the agenda materials provided to the Board.** Note that if you submit a hard copy document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by 5:00 PM two days before** this public hearing, will be conveyed to the Board in a Supplemental Communications and Reports, which is released around noon one day before the public hearing; or
- **Correspondence received after 5:00 PM two days before** this public hearing will be saved in the project administrative record.

It will not be possible to submit written comments at the meeting.

**Accessibility Information / ADA Disclaimer:**

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date.

**SB 343 Disclaimer:**

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public. Please contact the Land Use Planning Division (zab@cityofberkeley.info) to request hard-copies or electronic copies.

**Notice Concerning Your Legal Rights:**

If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice.
2. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

ROUGHLY EDITED COPY

BERKELEY ZAB MEETING  
REMOTE BROADCAST CAPTIONING  
THURSDAY, SEPTEMBER 24, 2020

Services provided by:  
QuickCaption, Inc.  
4927 Arlington Avenue  
Riverside, CA 92504  
Telephone - 951-779-0787  
Fax Number - 951-779-0980  
[quickcaption@gmail.com](mailto:quickcaption@gmail.com)  
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This text is being provided in a rough draft format.  
Communication Access Realtime Translation (CART) is provided in  
order to facilitate communication accessibility and **may not be  
totally verbatim record of the proceedings.**

\* \* \* \* \*

>> S. O'KEEFE: I DON'T THINK THERE IS A NON-LIVE. I THINK YOU'RE JUST HERE.

>> C. KAHN: WHEN WE'RE INTO THE DESIGN REVIEW, WE ACTUALLY GO LIVE OR SOMETHING.

>> S. O'KEEFE: THE MEETING IS RECORDED. AND SO THAT'S ALREADY HAPPENING.

>> ZAB SECRETARY: I HEAR WHAT YOU'RE SAYING AND I USUALLY START THE MEETING MORE LIKE. I WORRY ABOUT THE PUBLIC TRYING TO BE ON TIME AND ORGANIZED AND IF THE MEETING IS NOT RUNNING, THEN IT'S GOING TO BE -- IT'S GOING TO ADD CONFUSION.

>> S. O'KEEFE: I THINK THE PUBLIC APPRECIATES THAT. JUST LIKE YOU OPEN THE DOORS BEFORE 7:00 AND EVERYBODY COME IN AND HAVE A SEAT. I SAY TO MY STUDENTS AS THEIR LITTLE FACES ARE APPEARING, I SAY HAVE A SEAT, SIT ANYWHERE YOU LIKE. NO, NOT THERE. I HAVE TO SAY SOMETHING.

>> ZAB SECRETARY: I'M GOING TO FILL THIS TIME WITH AN ANNOUNCEMENT TO THE ZAB MEMBERS. I HAVE THE HONOR OF BEING THE SECRETARY OF LPC RECENTLY. THAT REQUIRED ME TO LOOK SOMETHING UP IN EYE COMMISSIONER'S MANUAL. I SAW A SENTENCE THAT SAID, IF A ROLL CALL VOTE IS USED, THE SECRETARY CALLS THE ROLL ALWAYS IN THE SAME ORDER. AND SO IT HAS NOT BEEN ZAB'S PRACTICE IN MY FIVE YEARS TO CALL IN THE SAME ORDER. WE SPECIFICALLY MIX THINGS UP SO DIFFERENT PEOPLE GET TO GO FIRST. I NOW SEE THAT THAT IS NOT THE WAY. SO STARTING TONIGHT, I WILL CALL IN THE SAME ORDER AND

I'LL ASK SHOSHANA, OUR CHAIR OFF LINE IF WE COULD MIX IT UP MEETING BY MEETING BUT NOT WITHIN EACH AS SORT OF A THREADING OF THE NEEDLE.

>> S. O'KEEFE: I WILL BE PREPARED TO ANSWER THAT QUESTION OFF LINE. I'LL HAVE TO LOOK AT WHAT THE HANDBOOK SAYS.

>> ZAB SECRETARY: I DIDN'T REALIZE WE WERE NOT FOLLOWING THE RULES. SO I APOLOGIZE.

>> D. PINKSTON: A LOT OF RULES, IT'S HARD TO KEEP TRACK OF THEM ALL.

>> S. O'KEEFE: RAISE YOUR HAND IF YOU'VE READ THE ENTIRE COMMISSIONER'S MANUAL FRONT TO BACK. JOHN, I DON'T BELIEVE JOHN. I BELIEVE SHANNON. I BELIEVE CARRIE. I LOOK, I HAVE NOT SAT DOWN AND FLIPPED THREW EVERY PAGE.

>> ZAB SECRETARY: AND THINGS CHANGE SO THERE IS EVERY YEAR OR TWO, THERE A NEW NUGGET IN THERE OF CLARIFICATION.

>> S. O'KEEFE: TALES 7:03, WE SHOULD GET STARTED. WE HAVE A QUORUM AND I HAVE TO READ THE THING ANY WAY SO I'M GOING TO READ THING.

>> I THINK WE'RE ALL HERE.

>> S. O'KEEFE: NINE, YOU'RE RIGHT, WE'RE ALL HERE. PURSUANT TO SECTION 3 OF EXECUTIVE ORDER N 29-20 THEM MEET WILL BE DISCUSSED THROUGH ZOOM VIDEOCONFERENCE. PURSUANT TO THE SHELTER IN PLACE ORDER AND TO ENSURE THE HEAT AND SAFETY OF THE PUBLIC BY LIMITING HUMAN CONTACT TO SPREAD THE COVID-19 VIRUS, THERE

WILL NOT BE A PHYSICAL MEETING LOCATION AVAILABLE. PERSONS ATTENDING THIS ZOOM MEETING HAVE DISPLAYED NAMES THAT ARE VISIBLE TO COMMISSIONERS AND STAFF. IF YOU WISH TO BE NONE PLUS CLICK ON RENAME TO CHANGE YOUR DISPLAY NAME. FOR COMMISSIONERS WISHING TO SPEAK, USE THE RAISED HAND ICON AT THE BOTTOM OF THE SCREEN AND WAIT TO BE CALLED UPON BY THE CHAIR. MEMBERS OF THE PUBLIC WISHING TO SPEAK SHOULD USE THE RAISED HAND ICON AT THE BOTTOM OF THE SCREEN. IF YOU ARE PARTICIPATING BY PHONE AND WISH TO COMMENT, SUPPRESS STAR 9 AND WAIT TO BE RECOGNIZED BY THE STAIR. STANDARD TIME LIMITS ON PUBLIC COMMENT APPLY. ALL RULES OF PROCEDURE AND DECORUM APPLY FOR MEETINGS CONDUCTED BY VIDEO MEETINGS AND IT IS PARTICULARLY IMPORTANT TO GIVE EACH SPEAKER A CHANCE TO COMPLETE THEIR REMARKS BEFORE THE NEXT SPEAKER STARTS. THAT LAST SENTENCE ALWAYS GIVES ME A LAP BECAUSE IT'S IMPOSSIBLE TO INTERRUPT SOMEBODY BECAUSE ONLY ONE PERSON SPEAKS AT A TIME. IT WAS MORE OF A PROBLEM WITH THE LIVE MEETINGS. CALL THIS MEETING TO ORDER. LET'S START WITH A ROLL CALL. WHAT DO WE CALL IT? ROLL CALL AND EX PARTE. BOARD MEMBER TREGUB.

>> I. TREGUB: PRESENT AND NO EX-PARTE.

>> BOARD MEMBER CLARK.

>> BOARD MEMBER CLARK.

>> PRESENT AND NO EX-PARTE.

>> BOARD MEMBER SHEAHAN.

>> PRESENT AND NO EX-PARTE.



>> SELAWSKY.

>> PRESENT NO EX-PARTE.

>> BOARD MEMBER OLSON.

>> PRESENT NO EX-PARTE.

>> BOARD MEMBER KAHN.

>> PRESENT NO EX-PARTE.

>> BOARD MEMBER KIM.

>> PRESENT NO EX-PARTE.

>> BOARD MEMBER PINKSTON.

>> PRESENT NO EX-PARTE.

>> CHAIR O'KEEFE.

>> S. O'KEEFE: PRESENT, NO EX-PARTE. NOW I WOULD LIKE TO GO TO THE PUBLIC, THE ATTENDEES HERE WITH US AND -- I SEE WHO HANDS UP. COT HANDS GO DOWN SO I KNOW WHAT IS GOING ON. RAISE YOUR HAND NOW IF YOU'RE HERE TO SEEK ON AN ITEM THAT NOT ON OUR AGENDA. THIS IS THE TIME FOR THAT. I SEE ONE, ANYONE ELSE HERE TO SPEAK ON AN ITEM NOT ON THE AGENDA? SEEING NONE, I'M GOING TO RECOGNIZE KELLY. I'M NOT A HOST, YOU GUYS. I SEE ROBIN O'DONNELL RAISING THEIR HAND. AS SOON AS I'VE BEEN GIVEN THE ABILITY, I WILL RECOGNIZE FIRST KELLY AND THEN ROBIN. KELLY, YOU HAVE THREE MINUTES.

>> THANK YOU. I SHOULD HAVE SPENT MORE TIME PREPARING MY SPEECH. I WANTED TO SAY A NUMBER OF THINGS TO THINK ABOUT. I WAS HAVING A CONVERSATION EARLIER TODAY WITH A FRIEND. WHO WAS

TELLING ME THERE HAS BEEN A 30% DROP IN FOREIGN STUDENTS  
NATIONWIDE AND DROP IN U.S. STUDENTS.

>> S. O'KEEFE: DO WE HAVE A TIMER? IS SOMEBODY DOING TIMER.  
SORRY KELLY TO INTERRUPT. IS VICKIE DOING THE TIMER TODAY? AND  
KELLY, YOU CAN START YOUR THREE MINUTES ONCE WE GET THE TIMER  
GOING. I APOLOGIZE AGAIN FOR INTERRUPTING YOU. I WANT TO GET THE  
PROCEDURES SET. ALL RIGHT, HERE WE GO.

>> OKAY, SO I'LL START AGAIN. SO BERKELEY REALLY IS LIKE A  
COMPANY TOWN. WE DEPEND ON UC BERKELEY FOR INCOME AND WE HAVE  
THOUSANDS OF STUDENTS AT UC BERKELEY. I HEARD THE NUMBER 45,000  
STUDENTS IN TOTAL. IF WE DON'T HAVE ALL OF THOSE STUDENTS HERE,  
AND WE HAVE A DROP LIKE WE HAVE THIS YEAR WITH COVID, SUDDENLY  
WE MAY FIND THAT WE ARE NO LONGER IN A HOUSING CRISIS. I HAD A  
CONVERSATION WITH A FRIEND THIS MORNING THAT WE HAVE A 39% DROP  
IN FOREIGN STUDENTS NATIONWIDE AND 14% DROP IN COLLEGE  
APPLICATIONS OF U.S. STUDENTS. IF TESTIMONY HASN'T COME TO US  
YET, I WOULD SUGGEST THAT IT WILL. WE'RE ALSO FACING A CLIMATE  
MIGRATION OUT OF CALIFORNIA AND I'M INTERESTED IN FINISHING THE  
ARTICLE BY ABRAM LUSTGARTEN FROM SEPTEMBER 15TH. ALL OF THIS IS  
GOING TO IMPACT OUR NEED FOR HOUSING. AND MAY CLEAR UP OUR  
HOUSING SHORTAGE PROBLEM. THE OWE THING IS JUST WITH THE FIRES  
AND CLIMATE. WHEN WE LOOK AT BUILDINGS, I WOULD HOPE THAT ALL OF  
YOU REALLY LOOK AT HOW THOSE STRUCTURES ARE HARDENS ED FOR FIRE  
AND HOW WE'RE PAYING ATTENTION TO OUR NATIVE HABITAT AND

CREATING STRUCTURES THAT LIVE WITH OUR ENVIRONMENT. 97 YEARS AGO WAS THE 1923 FIRE THAT BURN ALMOST ALL THE WAY INTO DOWNTOWN AND OUR HISTORIANS NOT ON THIS BOARD, BUT IT WOULDN'T TAKE LONG FOR A FIRE TO GO FROM THE HILLS TO THE BAY. OUR FIRE CHIEF HAS HOLD ME WE COULD BURN TO THE GROUND IN AN HOUR FROM THE HILLS TO THE BAY IF A WIND IS COMING FROM THE EAST TO THE HILL. SO WE HAVE A LOT OF THINGS FACING US TO THINK ABOUT AND SO I WOULD LIKE TO JUST KIND OF PUT THIS INTO YOUR MIND AS YOU LOOK AT PROJECTS AND CONSIDER WHERE WE ARE BUILDING AND WHAT WE ARE BUILDING AND WHAT YOU ARE APPROVING. AND IF EACH DAY DIDN'T FEEL LIKE A MONTH, I WOULD HAVE HAD A MORE FORMAL SPEECH THAN WHAT I'M GIVING YOU. IT'S JUST THAT EVERY DAY IS SO PACKED WITH NEWS, IT'S HARD TO STAY ON TOP OF IT. I SEE ITCH ONE SECOND LEFT.

>> S. O'KEEFE: THANK YOU, KELLY. NOW ROBIN HAS PUT THEIR HAND DOWN. JOHN, DO YOU HAVE A QUESTION FOR KELLY?

>> J. SELAWSKY: I DO. CAN YOU HEAR ME?

>> S. O'KEEFE: YES.

>> J. SELAWSKY: MY AUDIO HAS BEEN [INDISCERNIBLE] LATELY. GOOD, I'M GLAD YOU CAN HEAR ME. KELLY, I HAVE A QUESTION.

>> S. O'KEEFE: I JUST DISABLED HER TALKING. WHAT IS YOUR QUESTION FOR KELLY.

>> J. SELAWSKY: IF ZAB'S AUTHORITY IS ZONING, HOW WOULD WE POSSIBLY -- I'M TRYING TO WRAP MY HEAD AROUND WHAT HER COMMENTS WERE AND HOW WE MIGHT ACTUALLY INCORPORATE THOSE.

>> S. O'KEEFE: KELLY, WOULD YOU LIKE TO ANSWER BRIEFLY IF YOU HAVE ANY CONCRETE SUGGESTIONS.

>> A COUPLE OF SUGGESTIONS. ONE IS I'D LIKE YOU NOT TO FEEL LIKE YOU ARE TOTALLY PRESSURED TO APPROVE EVERY PROJECT IN FRONT OF YOU. YOU KNOW, TO REALLY CONSIDER THE PROJECTS. TWO IS THE FIRE. YOU KNOW, WHERE ARE WE APPROVING BUILDINGS AND WHEN WE ARE APPROVING STRUCTURES IN FIRE ZONES, I THINK THE EVALUATION OF THAT SITE FROM OUR FIRE DEPARTMENT OUGHT TO COME FIRST RATHER THAN AFTER THE BUILDING IS APPROVED. AND WHEN THINGS GO TO DESIGN REVIEW, WE REALLY NEED TO LOOK AT THE DESIGN OF THOSE BUILDINGS AND WHAT THE EXTERIOR IS OF THOSE BUILDINGS TO PROTECT THE FUTURE UNIT OCCUPANTS. VINYL WAS THE CLADDING APPROVED ON A BUILDING LAST WEEK. IT SEEM LIKE THAT'S NOT THE MOST HARDENED EXTERIOR WE SHOULD HAVE IN THE CITY WHERE WE ARE IN A HIGH FIRE RISK. THAT'S MY QUICK ANSWER. I WASN'T EXPECTING QUESTIONS.

>> S. O'KEEFE: THANKS, KELLY, THAT IS HELPFUL. JOHN, YOU FEEL GOOD?

>> J. SELAWSKY: YES, THANK YOU, KELLY. NOW ROBIN PUT THEIR HAND DOWN. ROBIN, IF YOU'D LIKE TO SPEAK PUT YOUR HAND UP AND I CAN ENABLE YOUR TALKING. ROBIN, YOU HAVE THREE MINUTES. YOU'RE MUTED RIGHT NOW. THERE YOU GO. ROBIN, I DON'T KNOW IF YOU'RE TALKING BUT WE CAN'T HEAR YOU. ROBIN, I'M NOT GETTING ANYTHING. WELL, ROBIN SOMEONE ELSE HAS A HAND UP SO I'M GOING TO DISABLE YOUR TALK GOING RECOGNIZE SHANE AND MAYBE YOU'LL HAVE YOUR AUDIO

ISSUES WORKED OUT. SHANE. WOULD YOU LIKE TO SPEAK ON SOMETHING NOT ON THE AGENDA.

>> CALLER: HELLO I'M SHANE. I'M THE VICE CHAIR OF THE PUBLIC WORKS COMMISSION AND T-1 BOND MEASURE OVERSIGHT SUBCOMMITTEE. I WANT TO BRING TO YOUR ATTENTION THROUGH THE MONTH OF OCTOBER, YOU'LL BE SEEKING INPUT THROUGH INFRASTRUCTURE PROJECTS THROUGHOUT THE ENTIRE CITY OF BERKELEY. FOR DISTRICT 7 AND 8, THE MEETING IS ON OCTOBER 1ST, FIVE AND 6 IS OCTOBER 8TH, TWO AND THREE IS OCTOBER 15TH AND ONE AND FOUR IS OCTOBER 22ND AS WELL AS THE WATERFRONT AND AQUATIC PART OCTOBER 25TH. I KNOW THERE ARE IDEAS COMING FROM ALL AROUND THE CITY COVERING THINGS SUCH AS BATHROOMS AS WELL AS ALTERING TRAFFIC AREAS INTO RESTRICTIVE PEDESTRIAN ZONES. SO I WANT TO BRING THESE TO YOUR ATTENTION AND HOPEFULLY YOU CAN PROVIDE INPUT OF WHAT INFRASTRUCTURE PROJECTS YOU THINK COULD POTENTIALLY BENEFIT THE CITY MOVING FORWARD. THAT'S ALL I HAVE. THANK YOU.

>> S. O'KEEFE: IS THERE A PLACE TO FIND OUT MORE INFORMATION? IS THERE A WEBSITE?

>> YES, SO IT'S CITYOFBERKELEY.INFO/MEASURET-1.

>> S. O'KEEFE: WE'RE GOING TO GIVE ROBIN ONE MORE CHANCE. IF WE CAN'T HEAR YOU IN 20 SECONDS, WE'LL MOVE ON. ROBIN, I RECOGNIZED YOU. I CAN'T HEAR ANYTHING. I'M SORRY, ROBIN, WE'RE NOT ABLE TO HEAR YOU. WE'LL HAVE TO MOVE ON. BECAUSE THIS IS WHATEVER YOUR HERE TO SPEAK ABOUT IS NOT ON THE AGENDA, YOU'RE

WELCOME TO COME BACK ANOTHER TIME TO SAY WHAT YOU HAVE TO SAY.  
YOU CAN ALSO SUBMIT WRITTEN COMMENTS TO -- I SHOULD  
PROBABLY -- SHANNON, WHAT IS THE E-MAIL? ZAB@CITY OF BERKELEY?  
IT'S ON THE AGENDA ZAB@CITYOFBERKELEY.INFO. ONCE AGAIN, I'M  
GOING TO GO AHEAD AND MOVE ON FROM ROBIN. I'M SORRY WE DIDN'T  
GET TO HEAR WHAT YOU HAD TO SAY. OKAY, MOVING ON, SO NOW I'D  
LIKE TO TALK ABOUT THE AGENDA. WE HAVE ONE ITEM ON THE  
CONSENT -- WE HAVE THE MINUTES AND ONE ITEM ON THE CONSENT  
CALENDAR. AND THEN TWO ITEMS ON THE ACTION CALENDAR. FIRST I'M  
GOING TO CHECK IN WITH THE PUBLIC AND SEE IF ANYONE IS HERE TO  
SPEAK ABOUT 2724 MABEL STREET. SO IF YOU ARE HERE FROM THE  
PUBLIC AND LISTEN CAREFULLY BEFORE YOU RAISE YOUR HAND. ONCE  
YOU'VE HEARD MY INSTRUCTIONS IF YOU STILL WANT TO RAISE YOUR  
HAND, DO IT. IT'S ON CONSENT CALENDAR RIGHT NOW. IT IS  
RECOMMENDED TO APPROVE. I CAN'T PREDICT THE FUTURE, BUT I THINK  
IT'S LIKELY IF IT STAYS ON CONSENT CALENDAR IT WILL BE APPROVED  
WITHOUT A HEARING. IF YOU ARE OKAY WITH, DO NOT RAISE YOUR HAND.  
IF YOU HAVE AN OKAY TO THIS PROJECT OR HAVE SOMETHING YOU'D LIKE  
TO SAY THAT MAKES YOU FEEL IT DESERVES A FULL HEARING, RAISE  
YOUR HAND NOW AND WE CAN TAKE IT OFF THE CONSENT CALENDAR AND  
GIVE IT A FULL HEARING. I SEE SOMEONE FROM THE PUBLIC WOULD LIKE  
TO SPEAK ABOUT IT. THANK YOU, ROYA, THANK YOU FOR LETTING US  
KNOW YOU'RE HEAR. DOES ANYONE FROM THE BOARD HAVE A COMMENT  
ABOUT THAT? OR IT PROBABLY DOESN'T MATTER AT THIS POINT. THE

MABEL STREET IS COMING OFF THE CONSENT CALENDAR. CARRIE, YES.

CARRIE, YOU'RE MUTED.

>> C. OLSON: I WAS GOING IT MAKE A MOTION TO PROVE THE MINUTES.

>> S. O'KEEFE: MOTION TO APPROVE THE CONSENT CALENDAR/MINUTES IS ON THE TABLE. JOHN.

>> J. SELAWSKY: SECOND.

>> S. O'KEEFE: WE HAVE A MOTION AND A SECOND. FURTHER CONVERSATION ABOUT THE MINUTES. IGOR, DID YOU CATCH ANY ERRORS?

>> I. TREGUB: NO, I WASN'T LOOKING HARD ENOUGH.

>> S. O'KEEFE: OKAY SO LET'S DO A ROLL CALL VOTE ON THE CONSENT CALENDAR WHICH IS JUST THE MINUTES.

>> ZAB SECRETARY: BOARD MEMBER TREGUB.

>> YES.

>> BOARD MEMBER CLARKE, A NEED A VERBAL, PLEASE.

>> S. O'KEEFE: YOU'RE A MUTED, TERESA.

>> YES.

>> BOARD MEMBER SHEAHAN.

>> YES.

>> BOARD MEMBER SELAWSKY.

>> YES.

>> ZAB SECRETARY: BOARD MEMBER OLSON.

>> YES.

>> BOARD MEMBER KAHN.

>> YES.

>> BOARD MEMBER KIM.

>> YES.

>> BOARD MEMBER PINKSTON.

>> YES.

>> CHAIR O'KEEFE.

>> S. O'KEEFE: YES. OR YES, MY HUSBAND WANTS TO KNOW WHAT IS READY FOR DINNER. MINUTES ARE APPROVED. AND NOW WE'LL MOVE ON TO THE ACTION CALENDAR. THE FIRST ITEM IS MABEL STREET. IS SHE HERE?

>> ZAB SECRETARY: YES AND SHE WILL BE PROMOTED IN A SECOND.

>> SO 2724 MABEL, I WILL BRING UP MY SCREEN. SO YOU CAN SEE IS THAT SHOWING UP? 2724 MABEL STREET. THIS PROPERTY IS LOCATED AT THE SOUTHWEST CORNER OF MABEL AND WARD STREET. IT IS ACROSS THE STREET FROM SAN PABLO PARK LOCATED TO THE EAST AS SHOWN ON YOUR SCREEN. THIS IS A REQUEST TO CONSTRUCT A APPROXIMATELY 840-FOOT SECOND ADDITION TO A SINGLE-FAMILY DWELLING WITH EXISTING NONCONFORMING LOT COVERAGE. THE PROJECT INCLUDES A REQUEST TO EXTEND THE NONCONFORMING RIGHTS SIDE YARD SETBACK, THIS IS THE NORTH SIDE ALONG WARD. AND TO CONSTRUCT A DECK WHICH OVERLOOKS THE REAR YARD OF THE PROPERTY AND WOULD INCREASE THE USABLE OPEN SPACE BY 86 SQUARE FEET. ADDITIONALLY, THERE WAS A MISLABEL IN THE PLANS SO THEY'RE GOING TO BE HAVING A TOTAL OF FIVE BEDROOMS WHICH REQUIRES AN ADMINISTRATIVE USE PERMIT. THE



GROUND FLOOR PLANS INDICATE AN OFFICE OR PLAY ROOM. THIS WILL BE AN ADDITIONAL BEDROOM. IN ADDITION TO THE SECOND STOREY ADDITION THERE WILL BE A RECONFIGURATION OF THE FIRST FLOOR FOR MOSTLY OPEN FLOOR PLAN WITH TWO BEDROOMS AND A BATHROOM ON THE GROUND FLOOR AND A -- A BEDROOM AND I A BATHROOM ON THE GROUND FLOOR AS WELL AS THREE BEDROOMS ON SECOND FLOOR. THE PROJECT IS CONSISTENT WITH THE ZONING ORDINANCE IN THE GENERAL PLAN. STAFF RECOMMENDS APPROVAL. STAFF AS WELL AS THE ARCHITECT AND I BELIEVE THE RESIDENTS, OWNERS OF THE PROPERTY ARE AVAILABLE FOR QUESTIONS.

>> S. O'KEEFE: ANY QUESTIONS FOR STAFF AT THIS TIME? ALL RIGHT. SEEING NONE, ARE THE APPLICANTS HERE? CAN THEY BE PROMOTED? APPLICANTS, WE'RE GOING TO GIVE YOU THREE MINUTES -- NO, FIVE MINUTES TO SPEAK. YOU DON'T HAVE TO USE THE FULL-TIME BUT YOU CAN TO SPEAK ABOUT YOUR PROJECT AND WE'LL ASK QUESTIONS IF WE HAVE THEM AT THE END.

>> I'M A RESIDENT OF 2427 MABEL STREET. THANK YOU FOR TAKING THE TIME TO SPEAK WITH US TONIGHT OF OUR HOME. WE'VE LIVED HERE SINCE 2010 AND WE MET IN BERKELEY AND GOT MARRIED IN THE BRAZILIAN ROOM IN 2008. I'M A BERKELEY NATIVE. JESSICA IS ALSO A CALIFORNIA NATIVE AND LIVED IN THE BAY AREA SINCE 2002. SINCE HER MOTHER MOVED IN WITH US AND OUR BIRTH OF THREE SONS OUR FAMILY HAS GROWN AND WE CAN USE MORE ROOM FOR OUR FAMILY. WE LOVE OUR NEIGHBORHOOD AND CHERISH THE MEMORIES WE MADE AND HAVE

A HARD TIME PICTURING LIVING ANYWHERE ELSE. WE PLAN TO STAY IN OUR HOME FOR MANY YEARS TO COME AND HOPE TO BE A PART OF THE COMMUNITY AROUND SAN PABLO PARK.

>> S. O'KEEFE: THAT'S IT?

>> THAT'S IT.

>> S. O'KEEFE: OKAY. GREAT THANK YOU SO MUCH. ARE THERE ANY QUESTIONS FOR THE APPLICANT? I DIDN'T MEAN THAT -- IT WAS GREAT. USUALLY PEOPLE GO ON LONGER. QUESTIONS FOR THE APPLICANT. HOLD ON. SOMEBODY HAS THEIR HAND UP. NOBODY DOES. NO QUESTIONS. WELL, THANKS SO MUCH. WE MIGHT HAVE QUESTIONS FOR YOU LATER. APPLICANT ANDUS BRANDT.

>> I WANTED TO GIVE BACKGROUND. I'M THE ARCHITECT.

>> S. O'KEEFE: GO AHEAD. SURE.

>> I'M ANDUS BRANDT AND THE I AM THE ARCHITECT WORKING ON 2427 MABEL. THE APPLICANTS ARE OWNERS THAT LIVED THERE FOR 10 YEARS. AND WANT TO LIVE THERE FOR THE FORESEEABLE FUTURE. VARIOUS ITERATIONS, WE'VE COME TO THIS MODEST ADDITION INCREASING THE AREA BY 876 SQUARE FEET. JESSICA'S MOM, GIVEN OUR PRESENT-DAY REALITIES, I'M NOT GOING TO SAY THAT THEY'RE GOING CRAZY, BUT THINGS ARE KIND OF CABIN FEVERISH. THE CURRENT CONDITION IS FOUR BEDROOM -- YOU HEARD ABOUT THE DESCRIPTION. THERE IS A TINY GARAGE AND A POST REAR YARD THERE. THE PLAN IS TO INCREASE THE SIZE TO THIS FIVE BEDROOM THREE BATH HOUSE. THE SAME ARCHITECTURAL VERNACULAR WHICH IS A CRAFTSMAN BUNGALOW

STYLE. MASTER BEDROOM AND TWO KIDS WILL BE UPSTAIRS. THE OTHER KIDS' BEDROOM DOWNSTAIRS. I WOULD LIKE TO EMPHASIZE A FEW THINGS ABOUT THE DESIGN. THE ADDITION IS RELATIVELY SMALL CENTERED SO THE FRONT AND BACK ROOF AND EAVES CAN REMAIN. THE CORNER LOT LOCATION MEANS THERE WILL BE LITTLE -- ON PRIVACY. THAT'S KIND OF MY FEELING ABOUT IT. I KNOW THERE HAS BEEN SOME CONCERN FROM PARTICULARLY ONE NEIGHBOR. AND ANOTHER PERSON FURTHER AWAY, BUT THE NEIGHBOR NEXT DOOR MET HIM, DAVID, HE'S CONCERNED ABOUT HIS PRIVACY. WE'VE MITIGATED THAT PRIVACY IN A COUPLE OF WAYS AND WE CAN TALK ABOUT THAT IF IT COMES UP. THERE A ROOF DECK IN THE BACK THAT IS QUITE SMALL. WE PUT IN A TRELIS THERE. AND THE WINDOWS OF THE BEDROOM NEXT IT THAT, WE'RE PUTTING BLINDS AND CURTAINS ON THOSE. SO I REALLY DON'T HAVE MUCH ELSE TO SAY. THANK YOU.

>> S. O'KEEFE: THANK YOU SO MUCH. I APPRECIATE IT. OKAY. SO JOHN HAS A QUESTION FOR THE APPLICANT.

>> J. SELAWSKY: TO THE APPLICANT. YES. THANK YOU SHOSHANA. I JUST WANT TO BE CLEAR, HOW MANY BEDROOMS ARE THERE?

>> THERE ARE THREE BEDROOMS --

>> J. SELAWSKY: PROPOSED BEDROOMS.

>> FIVE PROPOSED BEDROOMS. THE DESIGN THAT WE ORIGINALLY SUBMITTED, THERE WERE FOUR AND WE OPENED UP ONE OF THE BEDROOMS TO THE DINING ROOM WHICH -- WELL I'M NOT GOING IT SHARE SCREENS.

>> S. O'KEEFE: WE HAVE THE PLANS UP ON THE SCREEN NOW.

>> WHERE IT SAYS "OFFICE PLAY" DOWN NEAR DOOR NUMBER 6 WHICH IS A CLOSET DOOR NEXT TO THE DINING ROOM, THAT WAS AN OFFICE PLAY ROOM WITH THE WALL BETWEEN THE DINING ROOM OPENED UP. AND THE APPLICANT DECIDED THEY -- THE OWNER DECIDED THEY WANTED TO EACH THAT BEDROOM SO WE CLOSED IT BACK UP AND I FORGOT TO TAKE THE LABEL AND CHANGE. IT'S FIVE BEDROOMS WITH THAT ROOM.

>> J. SELAWSKY: SO I'LL ASK STAFF AND APPLICANT BOTH. IF YOU LOOK AT PAGE FIVE, IT SAYS BEDROOMS EXISTING FOUR PROPOSED NO CHANGE. SO HAS THERE BEEN A SUPPLEMENTAL STAFF REPORT THAT I'M MISSING?

>> THERE HAS BEEN A SUPPLEMENTAL PLAN SUBMITTED -- POSTED ON THE WEBSITE. BUT BY THE TIME YE NOTICED THE MISLABEL, WE WEREN'T ABLE TO REVISE THAT.

>> J. SELAWSKY: I JUST WANT TO BE REALLY CLEAR. HOW MANY BEDROOMS ARE PROPOSED?

>> STAFF: A TOTAL OF FIVE BEDROOMS ARE PROPOSED.

>> J. SELAWSKY: THAT WOULD TAKE AN AUP.

>> STAFF: CORRECT. THE FINDINGS ARE THE SAME AS THE FINDINGS FOR THE ADDITION AND THE CONDITIONS OF THE NONCONFORMING SETBACK.

>> J. SELAWSKY: THANK YOU.

>> S. O'KEEFE: ANY OTHER QUESTIONS FOR THE APPLICANT? OKAY. NOW I'M GOING TO GO TO THE PUBLIC. AND ROYA, WE'D LOVE TO HEAR WHAT YOU HAVE TO SAY. YOU HAVE TWO MINUTES.

>> I JUST WANTED TO SAY THANK YOU TO ALL OF YOU DOING SECRETARY OF STATE FOR THE COMMUNITY. DOING SERVICE TO THE COMMUNITY AND THANK YOU TO THE ARCHITECT THAT DID AN AMAZING JOB KEEPING THE BUILDING IN THE FLAVOR OF ITS ORIGINAL INTENTION. I'VE LIVED KITTY-CORNER BEHIND AT 2727 MATTHEW STREET FOR 30 SOME YEARS. MY CONCERN IS THE HEIGHT. I DON'T KNOW -- I'M NOT VERSED IN YOUR PROCESS, SO FORGIVE ME IN I'M ERRING IN WHEN AND HOW I SPEAK. BUT MY CONCERN IS NEVER REALLY UNDERSTANDING HOW HIGH THE BUILDING WILL BE AND WHETHER FROM MY UPSTAIRS WINDOW I WILL STILL HAVE ACCESS TO VIEWING THE HILLS TO THE EAST WHICH IS AN CORN PART OF MY MENTAL HEALTH. AND TO THE VALUE OF THE PROPERTY. I HAVE ONE MINUTE LEFT, THAT'S BASICALLY MY CONCERN. I DON'T HOLD IT AGAINST ANYBODY A GROWING FAMILY TO NEED AN ADDITION BUT I WOULD LIKE TO KNOW WHAT THE PROCESS IS NAVIGATING THE HEIGHT. I HAD ASKED THE OWNERS TO ASK THE ARCHITECT IF THEY'RE GOING TO PUT UP A PILLAR OR A BAMBOO POLE OR SOMETHING THAT DELINEATES WHERE THE TOP OF THE ADDITION WILL BE. I'VE SEEN THAT ON NEW CONSTRUCTION BUT I HAVE YET TO SEE ANYTHING LIKE THAT.

>> S. O'KEEFE: ONE MORE MEMBER OF THE PUBLIC WOULD LIKE TO SPEAK. AFTER THAT THE APPLICANT TEAM IS GOING TO COME BACK UP TO RESPOND HOPEFULLY THEY'LL HAVE A RESPONSE FOR YOU AT THAT TIME. FIRST, I'M GOING TO RECOGNIZE KELLY. I'M GOING TO RECOGNIZE KELLY. YOU HAVE TWO MINUTES, KELLY.

>> AM I ON?

>> S. O'KEEFE: YES.

>> I DON'T THINK I NEED TWO MINUTES. I'M HAVING TROUBLE PULLING IT UP TO GET A BETTER LOOK. BUT I HEARD THE WORD "TRELLIS" AND I THOUGHT OF PIPE VINE AND THE PIPE VINES SWALLOW TAIL. I WOULD -- SINCE THEY ARE LOOKING AT INCREASED PRIVACY, I WOULD SUGGEST AND ASK THAT THEY CONSIDER PLANTING PIPE VINE AND THEN THEY WILL HAVE THESE AMAZING LITTLE CATERPILLARS CRAWLING ON THAT PIPE VINE AND JUST THE GORGEOUS IRIDESCENT SWALLOW TAIL BUTTERFLIES. THAT WOULD BE A NICE ADDITION AND WE HAVE A SHORTAGE OF PIPE VINE WHICH IS A NATIVE PLANT. WE HAVE A SHORTAGE OF THESE PLANTS IN OUR NEIGHBORHOOD. I MISS SEEING THE CATER PILLARS AND BUTTERFLIES THIS YEAR.

>> S. O'KEEFE: THANK YOU, KELLY, I THINK I WANT TO PLANT THAT. ANYONE ELSE FROM THE PUBLIC WISH TO SPEAK ON THIS ITEM? WE'RE GOING TO BRING IT BACK TO THE APPLICANT. APPLICANT TEAM, DO YOU HAVE A RESPONSIBILITY TO EITHER OF THE COMMENTS? THEY'RE PROMOTED, RIGHT?

>> I'LL SAY SOMETHING. ACTUALLY, THIS IS A SMALL ADDITION. SUBSTANTIALLY SMALLER THAN WHAT WE ORIGINALLY STARTED WITH. I THINK THAT ROYA CONCERNS ARE OVERBLOWN. I THINK SHE'LL STILL HAVE A NICE VIEW OF THE HILLS. WE TALKED ABOUT PUTTING UP A STOREY POLE AND IT SEEMED UNNECESSARY BUT COULD BE DONE. IT'S AN EXPENSE. IF WE DON'T HAVE TO DO IT, WE WON'T DO IT. THAT'S WHY

THERE WASN'T ONE DONE. I THINK I DON'T REMEMBER THE DIFFERENCE, BUT MAYBE IT'S AN 8-FOOT CHANGE. I CAN'T REMEMBER. BUT ANYWAY, THE ADDITION ITSELF IS SMALL. I THINK THAT SHE'LL STILL SEE THE HILLS.

>> I DON'T HAVE ANYTHING ELSE TO ADD. I'M SORRY I DIDN'T BACK TO YOU, ROYA ABOUT THE HEIGHT AND STOREY POLES BUT WE DID TALK TO LAYAL ABOUT PUTTING UP STOREY POLES AFTER OUR CONVERSATION WITH YOU.

>> S. O'KEEFE: SO THAT'S AN ANSWER. IF POSSIBLE -- IS IT POSSIBLE FOR YOU PROBABLY THE ARCHITECT, TO GIVE AN EXACT ANSWER OR EVEN LAYAL AS TO WHAT IS THE TOTAL INCREASE IN HEIGHT? I THINK WE OWE IT TO THIS NEIGHBOR TO GIVE THEM AN ACCURATE ANSWER. WE SHOULD BE ABLE TO ANSWER THAT QUESTION WHAT IS THE TOTAL HEIGHT DIFFERENCE. IS IT POSSIBLE TO GET THAT RIGHT NOW?

>> STAFF: CAN YOU HEAR ME?

>> YES.

>> GREAT. SO THE CODE, THE R-1 CODE DOES REGULATE AVERAGE HEIGHT IN THE DISTRICT. THE AVERAGE HEIGHT IS INCREASING BY 8 FEET GOING FROM ABOUT 13 FEET IN HEIGHT TO 21½. AND THE MAXIMUM IS 28. IN TERMS OF MAXIMUM HEIGHT WHICH WOULD BE THE HIGHEST OF THE PITCH IS GOING FROM 14.8 TO APPROXIMATELY 23½. SO THE PITCH ITSELF IS GOING ABOUT 10 FEET IN INCREASE. THE AVERAGE INCREASE IS 8.

>> S. O'KEEFE: OKAY, THANK YOU. THAT'S A GOOD, PRECISE,

ACCURATE ANSWER. I HOPE THAT WAS HELPFUL. I CAN'T SEE SHANNON.  
SHANNON, WHAT DO YOU WANT TO ADD?

>> ZAB SECRETARY: THE MAXIMUM HEIGHT ALLOWABLE WITHOUT PERMIT IS 28 FEET. IT COULD BE UP TO 35 WITH A USE PERMIT AND IN TERMS OF THE NUMBER OF STOREYS, THEY WENT FROM ONE STOREY TO TWO. THIS DISTRICT DOES ALLOW THREE.

>> S. O'KEEFE: THANK YOU, SHANNON. THAT IS HELPFUL. WHEN THE SCREEN IS SHARED, I CAN ONLY SEE THREE PEOPLE. RAISE YOUR BLUE HANDS. THERE WE GO. CHARLES IS RAISING HIS BLUE LAND, DO YOU HAVE A QUESTION?

>> C. KAHN: SHANNON, IF I UNDERSTAND YOU CORRECTLY, I'M SAYING THIS FOR THE BENEFIT OF THE NEIGHBOR CONCERNED ABOUT THE HEIGHT. THE REASON WE'RE HEARING THIS TONIGHT IS NOT BECAUSE THIS BUILDING EXCEEDS ANY ALOUD LOT COVERAGE. BUT WE'RE LOOKING AT IT.

>> STAFF: I KNOW YOU DIRECTED IT TO SHANNON, BUT I'M GOING TO ANSWER. THAT'S CORRECT, CAN CHARLES, THE ISSUE IS WHEN YOU HAVE A PROPERTY THAT IS OVER LOT COVERAGE OR OVER DENSITY, THE ADDITIONS WOULD BE REVIEWED AND APPROVED BY STAFF GET TO ZAB FOR PUBLIC HEARING. IN THIS CASE THE LOT IS SLIGHTLY UNDERSIZED. THE ORIGINAL FOOTPRINT HAS RENDERED THIS PROJECT NONCONFORMING FOR LOT COVERAGE. THAT MEANS THAT YOU GUYS GET TO REVIEW IT.

>> C. KAHN: AND LAYAL, I NOTICED THAT THE SECOND STOREY ADDITION IS SIGNIFICANTLY SMALLER THAN THE FIRST FLOOR. AND THE



FIRST FLOOR IS 55% LOT COVERAGE. VISUALLY I CAN SEE THAT THE SECOND STOREY ADDITION IS 60% OF THE GROUND FLOOR AREA. IT'S PROBABLY WELL UNDER THE 40%. SO THIS SECOND STOREY THAT WE ARE BEING ASKED TO APPROVE TONIGHT IS LESS -- IF THIS BUILDING WERE BUILT WITH A 40% LOT COVERAGE, THIS SECOND STOREY ADDITION WOULD BE SITTING ON A PERMITTED BUILDING ENCROACHING INTO THE 40%. AND WE WOULDN'T BE HEARING IT TONIGHT. RIGHT?

>> STAFF: YES, IF THIS EXISTING BUILDING WAS CONFORMING FOR LOT COVERAGE, THIS ADDITION WOULD NOT REQUIRE A BOARD REVIEW. YOU KNOW, ANOTHER WAY TO THINK OF IT VISUALLY IS IF YOU WERE TO LOOK AT THE COVERAGE OF THIS SECOND FLOOR FOR THE WHOLE SITE, THAT IS LESS THAN THE MAXIMUM ALLOWED IN THE DISTRICT.

>> C. KAHN: I ASK THESE QUESTIONS FOR THE BENEFIT OF THE NEIGHBOR WHO HAD CONCERNS ABOUT VIEWS AND SO FORTH CAN. I JUST WANT TO REASSURE -- WE'LL GO TO COMMENTS LATER.

>> S. O'KEEFE: JOHN.

>> J. SELAWSKY: IT SAYS THE HOST HAS DISABLED MY VIDEO.

>> S. O'KEEFE: I DIDN'T.

>> WELL -- WHAT DOES THAT MEAN?

>> S. O'KEEFE: I DON'T KNOW. I CAN ASK YOU TO START YOUR VIDEO. THERE WE GO. YOUR VIDEO STARTED.

>> IS IT OKAY NOW?

>> WE CAN'T SEE YOUR FACE. I THINK WE CAN SEE YOUR LAB.

>> THAT'S NOT GOOD.

>> S. O'KEEFE: DO YOU WANT ME TO DISABLE YOUR VIDEO? WHILE JOHN IS STRUGGLING WITH THAT.

>> J. SELAWSKY: THAT IS WEIRD.

>> S. O'KEEFE: CAN YOU TURN AROUND, JOHN?

>> HE HAS TO PRESS THAT BUTTON.

>> J. SELAWSKY: OKAY. ALL RIGHT.

>> S. O'KEEFE: SO WHILE JOHN IS FIGURING THAT OUT, I THINK -- NO MORE QUESTION FOR THE APPLICANT? LET'S CLOSE THE HEARING AND BRING IT BACK FOR BOARD COMMENTS. BOARD COMMENTS. MOTIONS ARE FINE TOO. TERESA RAISE YOUR BLUE HAND. CARRIE RAISED HER BLUE HAND.

>> C. OLSON: I'M TRYING TO FOLLOW YOUR RULES, TEACHER. I WOULD LIKE TO MOVE APPROVAL WITH THE ADDITION OF THE FIFTH BEDROOM. I JUST WANT TO CLARIFY TO MAKE SURE THAT WE'VE GOT THAT.

>> S. O'KEEFE: WE HAVE A MOTION FOR APPROVAL. CHARLES.

>> I'D LIKE TO SECOND AND THANK YOU CARRIE FOR THE SPECIAL NOTE ON THE MOTION. I APPRECIATE THAT.

>> S. O'KEEFE: TERESA. NO. JOHN, I'M AFRAID TO CALL ON JOHN.

>> J. SELAWSKY: I'M NOT GOING TO TURN THE VIDEO ON. I DON'T KNOW WHAT IS GOING ON NOW WITH VIDEO. SORRY, ALL. CAN I CLARIFY WHAT THE MOTION WAS? ARE YOU SUGGESTING A FIFTH BEDROOM?

>> S. O'KEEFE: CARRIE, YOU WANT TO REPEAT THAT?

>> C. OLSON: THE FIFTH BEDROOM IS PART OF THE PROJECT NOW. WE WERE SHOWN THAT BY THE ARCHITECT. IT'S A CONVERSION OF SOMETHING THEY'RE CALLING OFFICE RIGHT NOW WHICH MY UNDERSTANDING IT BEING ON THE FIRST FLOOR WAS A BEDROOM -- IS A BEDROOM NOW. SO THEY'RE KEEPING IT, MAINTAINING IT AS A BEDROOM. IT'S A FIFTH BEDROOM.

>> J. SELAWSKY: I HAVE A COMMENT ABOUT THAT WHEN THE TIME IS RIGHT.

>> S. O'KEEFE: THIS IS THE TIME.

>> J. SELAWSKY: I AM PROBABLY GOING TO VOTE TO APPROVE. BUT I -- WHEN WE GET A STAFF REPORT THAT SAYS FOUR BEDROOMS AND IT COMES IN TO ZAP AND IT'S FIVE BEDROOMS, THAT TROUBLES ME A LITTLE BIT. I WOULD LIKE IT TO BE CLEAR ABOUT WHAT WE ARE APPROVING. SO WHEN I READ THE STAFF REPORT AND LOOK OVER THE PLANS, I KNOW WHAT I'M APPROVING. I DON'T WANT TO HAVE TO -- I DON'T WANT TO HAVE TO SWITCH GEARS THE NIGHT OF ZAB. OKAY? AND I THINK MOST ZAB MEMBERS WOULD PROBABLY HAVE SOME SYMPATHY FOR THAT. I'M NOT CALLING OUT STAFF IN ANY WAY. WITH COVID, IT'S A HARD TIME RIGHT NOW AND IF IT SAYS FOUR BEDROOMS, THAT'S WHAT IT SHOULD BE. SO I'M A LITTLE TROUBLED BY THAT. THAT'S ALL I'M GOING TO SAY, THANK YOU.

>> S. O'KEEFE: THANK YOU, JOHN. IGOR.

>> I. TREGUB: THANK YOU SO MUCH. I MEAN TO ERR IS HUMAN. I'M NOT FINGER POINTING. I WANT TO MAKE A SUGGESTION THAT WHEN

STAFF CATCHES ERRORS LIKE THIS OR ZAB MEMBERS CATCH ERRORS THAT BE SENT OUT TO US AS A SUPPLEMENTAL PRIOR TO THE MEETING. OR IF THAT'S NOT FEASIBLE OR IF IT'S NOT CAUGHT IN TIME FOR THAT TO HAPPEN, THAT BEFORE WE GO INTO THE PROJECT APPROVAL, BECAUSE THIS WOULD HAVE BEEN ON THE CONSENT CALENDAR HAD IT NOT BEEN PULLED. THAT STAFF JUST INFORM US ABOUT SUCH CHANGES. BUT BASED ON WHAT I'M HEARING, I MEAN, THIS SOUNDS STRAIGHTFORWARD OF AN APPROVAL BUT I REALLY WANT TO DOUBLE CLICK ON THE POINT THAT JOHN WAS MAKING AND HOPEFULLY WITH THAT SUGGESTION, IT WOULD PROVIDE MORE CLARITY FOR US AND MEMBERS OF THE PUBLIC.

>> S. O'KEEFE: THANKS IGOR. NEXT UP WE HAVE TERESA.

>> T. CLARKE: WE DID NOT SEND IT OUT AS A SUPPLEMENTAL?

>> STAFF: NO, SO THE ARCHITECT TOLD ME THAT THEY HAD SEEN A DISCREPANCY VERSUS WHAT THEY HAD DISCUSSED. BUT FRANKLY, WITH THE COMMUNICATION WE HAVE PRINTED PLANS THAT WERE TO OUR ADMIN STAFF DISTRIBUTED TO YOU AND WE TRIED TO FIGURE OUT THE ISSUE. DIDN'T GIVE ENOUGH TIME TO. BUT WE UPLOADED THE ACCURATE PLANS AND THE ARCHITECT NOTED THAT HE STILL HAD A MISLABEL ALTHOUGH --

>> IT'S A BEDROOM WHETHER IT'S LABELED OR NOT. DID YOU ALREADY HAVE THE FIVE BEDROOM IN YOUR PERMIT? IN OTHER WORDS YOU HAVE TO APPROVE THIS, RIGHT? THAT HAS TO BE PART OF THE PERMIT, THE FIFTH BEDROOM. STAFF REPORT.

>> STAFF: NO AND WITH THE PLANS FOR THE STAFF REPORT, WE DID NOT HAVE THAT. IT WAS CLARIFIED THERE WAS BACK AND FORTH

WITH THE PLANS.

>> WHAT IS IN OUR RECOMMENDED APPROVAL?

>> STAFF: IN YOUR RECOMMENDED APPROVAL IS AN OFFICE PLAYGROUND.

>> SHE SAID THE FINDINGS WERE THE SAME.

>> BECAUSE AN OFFICE PLAY ROOM CAN BE USED AS A BEDROOM.

>> CORRECT.

>> I WANTED TO MAKE SURE OF THAT. WHETHER IT'S LABELED AS A BEDROOM OR OFFICE OR A YOGA ROOM, IT'S STILL CONSIDERED A BEDROOM.

>> S. O'KEEFE: LET ME RECOGNIZE SHANNON I WANT TO SAY I HEAR WHAT YOU'RE SAYING. IF THERE ARE CHANGES LIKE THIS AT THE 11TH HOUR, WE'LL PUT TOGETHER SUPPLEMENTAL INFORMATION SO THAT YOU CAN BE PREPARED TO HAVE THE DISCUSSION THAT NEEDS TO BE HAD. IN THIS INSTANCE, THERE ARE A COUPLE OF THINGS. ONE, THERE IS A DIFFERENCE BETWEEN A PLAY ROOM AND A BEDROOM AND IT HAS TO DO WITH THE LEVEL OF ACCESS. I THINK ABOUT CAN YOU ROLL -- THERE IS A DEFINITION, IF YOU HAVE A BIG OPENING, IT'S A PLAY ROOM. IF YOU HAVE A SMALLER OPENING WHERE YOU CAN CLOSE THE DOOR, IT'S A BEDROOM. AND THAT IS SOMETHING THAT STAFF AND THE ZAB IS MINDFUL OF BUT NOT SOMETHING THAT MEMBERS OF THE PUBLIC OR ARCHITECTS OFTEN THINK OF. THEY THINK OF I CHANGED THE DOOR BY 6-INCHES AND NOW I'VE CHANGED THE DOORWAY, NOW IT'S A BEDROOM. AN APPLICANT MIGHT NOT THINK TO CALL THAT OUT AS A SUBSTANTIVE CHANGE TO

STAFF. AS WE ALL SAID, AS WE WORK REMOTELY AND THERE ARE HARD COPIES AND WE LOOK AT THINGS IF AT THE LAST MINUTE, THERE IS A CHANGE THAT WASN'T IMPORTANT TO THE APPLICANT BUT HAS RAMIFICATIONS IN THE CITY OF BERKELEY. THAT'S A LITTLE MORE BACK STORY. I APPRECIATE YOUR FLEXIBILITY BOTH WITH STAFF, BUT ALSO WITH THE APPLICANT DURING THIS TIME IN ACCOMMODATING THESE KINDS OF CHANGES THAT IT WASN'T CLEAR THAT THERE WERE RAMIFICATIONS TO.

>> S. O'KEEFE: THANK YOU, SHANNON.

>> I APPRECIATE THAT EXPLANATION.

>> S. O'KEEFE: CHARLES.

>> C. KAHN: I WANT TO SAY I APPRECIATE YOUR CONCERN ABOUT GETTING THE ACCURATE INFORMATION. THAT'S WHAT STAFF PROVIDES OVERWHELMINGLY TO EVERYBODY. WE'RE ALL HUMAN, EVERYBODY HERE MAKES MISTAKES. IN MY YEARS WITH LAYAL, SHE'S ONE OF THE MOST THOROUGH AND ACCURATE PLANNERS I'VE HAD THE PLEASURE TO KNOW. THIS IS GOING TO HAPPEN. I'M SURE IT WON'T BE THE LAST TIME IT HAPPENS WITH SHANNON OR ME OR ANYBODY ELSE HERE. THEY'LL DO THEIR BEST. I THINK IGOR'S IDEA OF GETTING A NOTICE IN ADVANCE THAT SHANNON ACKNOWLEDGED SOUNDS LIKE THE RIGHT WAY TO ADDRESS IT IN THE FUTURE. I WANT YOU TO KNOW I APPRECIATE THE GOOD WORK YOU DO LAYAL BECAUSE YOU DO A GOOD WORK.

>> S. O'KEEFE: PATRICK.

>> P. SHEAHAN: I NOTICED THAT ROOM THAT APPEARED TO BE A

BEDROOM INITIALLY. I WAS PREPARED TO EITHER ASK TO PULL THE ITEM OR FIRST OF ALL ASKING STAFF FOR CLARIFICATION. I'M GLAD TO HEAR THAT IT WAS PROVIDED. AND I THINK AS A NON-CONTROVERSIAL ITEM IT'S MORE FALLS UNDER THE CATEGORY OF COMPLETE, ACCURATE INFORMATION IS ALWAYS HELPFUL AND I FRESH. BUT THE MAGNITUDE OF THIS IS ENTIRELY UNDERSTANDABLE AS A SIMPLE MISTAKE. AND -- BUT I DID WANT TO COMMEND BOTH THE OWNERS AND THE ARCHITECT ON I THINK A REALLY NICELY EXECUTED PROJECT MODESTLY SCALED, WELL-MASSED. SYMPATHIES FOR THE OWNER THAT MAY LOSE SOME OF THE [INDISCERNIBLE] BUT I SUGGEST IF CONSOLATION YOU HAVE A PRETTY HANDSOME BUILDING. SO I JUST WANTED TO MAKE THAT COMMENT. I THINK IT'S WELL-EXECUTED PROJECT.

>> DITTO.

>> S. O'KEEFE: THANK YOU PATRICK AND CHARLES. AND TERESA. I MUTED YOU TERESA, SORRY. THERE YOU GO.

>> T. CLARKE: SO I THINK AT THE BEGINNING OF THE MEETING, THAT'S WHERE STAFF SHOULD HAVE LET US KNOW. I THINK YOU GUYS HAVE DONE THAT BEFORE, RIGHT? LET US KNOW. BECAUSE IF WE HAD APPROVED IT ON CONSENT, I JUST DON'T KNOW HOW THE FIFTH BEDROOM WOULD BE IN THERE. YOU KNOW WHAT I MEAN? ANYWAY, BUT I THINK IT'S ALWAYS OKAY EVEN IF IT'S ON CONSENT TO BRING UP LIKE SOMETIMES YOU'LL TELL US ABOUT SOME CONDITIONS OF APPROVAL THAT WILL HAS BEEN ADJUSTED SO WE CAN INCORPORATE THOSE. SO I'M A LITTLE CONFUSED WHY THAT DIDN'T HAPPEN, BUT I'M READY TO VOTE ON

THE MOTION.

>> S. O'KEEFE: LAYAL.

>> I AGREE WITH YOUR COMMENTS AND I APPRECIATE THEM.

WE -- IF WE HAD NOT HAD THE CHANCE TO DISCUSS THIS DISCREPANCY THAT THE ARCHITECT BROUGHT TO MY ATTENTION, THEN THE PROJECT WOULD HAVE BEEN APPROVED WITH FOUR BEDROOMS AND A PLAY ROOM AND SUBSEQUENTLY ANY SORT OF A ADDITIONS COULD BE DISCUSSED THROUGH THE PROCESSES THAT EXIST.

>> S. O'KEEFE: THANK YOU VERY MUCH. I LIKE TERESA'S SUGGESTION TO VOTE ON THIS. SHANNON, WOULD YOU DO A ROLL CALL VOTE IN THE SAME ORDER YOU DID BEFORE.

>> BOARD MEMBER TREGUB.

>> YES.

>> BOARD MEMBER CLARKE.

>> YES.

>> BOARD MEMBER SHEAHAN.

>> YES.

>> BOARD MEMBER SELAWSKY.

>> YES.

>> BOARD MEMBER OLSON.

>> YES.

>> BOARD MEMBER KAHN.

>> YES.

>> BOARD MEMBER KIM.



>> YES.

>> BOARD MEMBER PINKSTON.

>> YES.

>> AND CHAIR O'KEEFE.

>> S. O'KEEFE: YES. MOTION PASSES. MABEL STREET YOU HAVE YOUR USE PERMITS APPEALABLE TO THE CITY COUNCIL. THAT'S IT FOR THIS PROJECT. THANK YOU VERY MUCH EVERYONE. WE'LL NOW MOVE ON TO -- THERE ARE TWO ARCH STREET PROJECTS, WE'RE GOING IT HEAR THEM BOTH AND I HAVE TO LOOK UP THE ORDER TO GET IT RIGHT. 1850 ARCH. SO JUST FOR MEMBERS OF THE PUBLIC WHO ARE HERE TO SPEAK ABOUT THIS, I JUST WANT TO ACKNOWLEDGE THAT THERE ARE TWO PROJECTS THAT FEEL LIKE ONE PROJECT. BUT THEY ARE TWO SEPARATE PROJECT BECAUSE THEY ARE TWO SEPARATE BUILDINGS. WHEN WE HAVE TIME FOR PUBLIC COMMENT, KEEP MOO MIND THERE WILL BE TWO OPPORTUNITIES. SO FIGURE OUT HOW YOU WANT TO MANAGE THAT IF YOU HAVE COMMENTS THAT PERTAIN TO ONE BUILDING OVER ANOTHER, YOU'LL WARRANT TO WAIT. WE'LL HAVE TWO SEPARATE HEARINGS ON THE PROJECTS SO WE'LL DO OUR BEST IT KEEP OUR CONVERSATION FOCUSED ON ONE AND THEN THE OTHER. WITH THAT SAID, CAN WE HAVE A STAFF REPORT ON 1850 ARCH, PLEASE.

>> GOOD EVENING. THIS IS USE PERMIT DP 2019-0212 AT 1850 AVERAGE WHICH IS TO ADD 18 BEDROOMS TO A MULTI-FAMILY RESIDENTIAL BUILDING FOR A TOTAL OF 30 BEDROOMS. THE LAND USE DESIGNATION IS MEDIUM DENSITY RESIDENTIAL. THE PROPOSAL REQUIRES

USE PERMIT PURSUANT TO 23 D FOR ADDITIONAL BEDROOMS. THE FIFTH ON THE PARCEL AND IT'S STAFF RECOMMENDATION THAT THE PROJECT IS EXEMPT FROM CEQA OR SECTION 15301 EXISTING FACILITIES. SO THE SITE IS LOCATED ON THE WEST SIDE OF ARCH STREET IN A MIXED USE RESIDENTIAL NEIGHBORHOOD ONE HALF BLOCK OF THE UC CAMPUS. TWO BLOCKS WEST OF DOWNTOWN BERKELEY AND SHATTUCK. THE EXISTING BUILDING IS A THREE-STOREY 10 UNIT BUILDING CONSTRUCTED IN 1926. IT CONTAINS 10 UNITS WITH SIX ONE-BEDROOM AND TWO-THREE BEDROOM UNITS AND OUTDOOR OPEN SPACE IS PROVIDED. MINIMUM SETBACK FROM THE FRONT AND RIGHT SIDE PROPERTY LINES AND LOT COVERAGE AND PARKING. THE PROJECT DOES NOT HAVE ANY EXTERIOR CHANGES. THESE ARE INTERIOR MODIFICATIONS TO ACCOMMODATE THE ADDITIONAL 18 BEDROOMS AND TWO BATHROOMS. ONCE COMPLETED, THE BUILDING WOULD CONTAIN ONE, ONE BEDROOM, 6 THREE BEDROOM AND TWO FOUR BEDROOM UNITS. THE APPLICANT HOSTED A PRE-APPLICATION MEETING AND DISCUSSED CONCERNS AND INCLUDING POTENTIAL NOISE FROM THE CONSTRUCTION AND THESE UNITS ARE CURRENTLY OCCUPIED AND SUBJECT TO RENT CONTROL. SO THE APPLICANT NOTIFIED TENANTS OF THE PROJECT AND THEIR RIGHTS UNDER THE TENANT PROTECTION ORDINANCE. THEY'RE IN YOUR SUPPLEMENTAL COMMUNICATIONS AND ATTACHMENT THREE. SO IN ORDER TO APPROVE THE USE PERMIT TO ADD BEDROOMS 13 THROUGH 18 ON THE PARCEL REQUIRES THE BOARD TO MAKE A NO DETRIMENT FINDING UNDER 23 B THERE IS NO ADOPTED STANDARD PARTICULARLY FOR THIS BEDROOM ORDINANCE AND SO TABLE 6 SHOWS

WHAT WILL ZAB HAS BEEN EVALUATING IN TERMS OF THE AMOUNT OF COMMON SPACE RELATIVE TO THE NUMBER OF BEDROOMS AND USABLE OPEN SPACE OF A PARCEL EXCEED THE MINIMUM OVER 1600 SQUARE FEET. WITH THE ADDITION OF BEDROOMS, THE COMMON SPACES WILL BE REDUCED BY 15% ON AVERAGE WHICH STAFF BELIEVES MAINTAINS A REASONABLE AMOUNT OF COMMON LIVING SPACE IN THE UNIT. IN SOME UNITS WOULD BE IMPROVED FOR THE APPLICANT STATEMENT. STAFF BELIEVES THAT THE ADDITIONAL BEDROOMS IS CONSISTENT ACCOUNT PURPOSES OF THE DISTRICT BY MAINTAINING A REASONABLE AMOUNT OF USABLE OPEN SPACE AND WITH THE LACK OF EXTERIOR CHANGES WOULD NOT RESULT IN ANY IMPACT TO LIGHT AND AIR. AND SUPPORTS THE HIGH DENSITY RESIDENTIAL USE IN THE R-3 DISTRICT. IT'S LOCATED NEAR TRANSIT AND OTHER SERVICES. IN TERMS OF TENANT PROTECTIONS, THE APPLICANT INTENDS TO COMPLETE THE PROJECT OVER TIME AS TENANTS MOVE OUT OF THE BUILDING VOLUNTARILY AND INFORMED THE TENANTS OF THE PLAN AND THE EXISTING UNITS WOULD REMAIN RENT CONTROLLED AFTER RENOVATION AND THEY WOULD BE NOTIFIED. STAFF WILL ALSO BELIEVES THAT THE PROJECT IS CONSISTENT WITH THE GENERAL PLANS, AGAIN, BY SUPPORTING AN INCREASE IN THE NUMBER OF BEDROOMS AND INCREASING THE HOUSING SUPPLY. BECAUSE OF THESE CONSISTENCIES, STAFF RECOMMENDS APPROVAL OF THE PROJECTS INCLUDING FINDINGS AND CONDITIONS.

>> S. O'KEEFE: QUESTIONS FOR STAFF? IGOR.

>> I. TREGUB: THANK YOU. THREE QUESTIONS. JUST TO CONFIRM,

OTHER THAN HALF UNIT THAT -- AFTER THE TENANT MOVES OUT WOULD BE COMBINED WITH AN EXISTING UNIT, ARE THERE ANY OTHER PROPOSALS TO ALTER ANY FLOOR PLANS OF EXISTING UNITS? OR IS IT THE WORK BASICALLY HAPPENING JUST TAKING THE GROUND FLOOR AND CARVING THAT OUT INTO UNITS OUT OF NOT ANYTHING THAT IS RESIDENTIAL RIGHT NOW?

>> STAFF: SO THE FOOTPRINT OF THE ACTUAL UNITS WOULD CHANGE FOR UNITS 5 AND THAT PORTION OF A-5S THAT CONSTRUCTED AND SEPARATED OUT OF THE PORTION OF A-5. THEY WOULD CORRECT THAT NONCONFORMING CONDITION TO BRING IT BACK TO UNIT 5-A. THE NUMBER OF UNITS WOULD NOT CHANGE FROM THE PROJECT.

>> I. TREGUB: I GUESS MY QUESTION IS OTHER THAN THE FOOTPRINT OF 5 AND 5-A ARE THERE ANY OWE PROPOSED CHANGES TO ANY OTHER FOOTPRINTS?

>> STAFF: NO, THESE ARE MOVING WALLS IN THE UNIT.

>> I. TREGUB: OKAY. AND NO WORK WOULD COMMENCE UNTIL AFTER THE EXISTING TENANTS GET RELOCATION PAYMENTS AND SO FORTH? OKAY. I JUST WANTED TO CONFIRM BECAUSE I THINK THIS IS THE FIRST TIME I'VE SEEN USE OF THE RELOCATION ORDINANCE AS PART OF THE FINDS AND CONDITIONS. I REALLY APPRECIATE STAFF INCLUDING THAT AS ONE OF THE CONDITIONS. MY OTHER TWO CONDITIONS HAVE TO DO WITH PARKING AND ONE OF THE CONCERNS BROUGHT UP BY TENANTS. PARKING FIRST, I SEE THAT PARKING IS NOT BEING INCREASED. I PERSONALLY SUPPORT AS FOLKS KNOW ON THIS BOARD NO INCREASES TO PARKING.

HOWEVER, I JUST WANTED TO CONFIRM THAT TENANTS WHO MOVE IN WOULD NOT BE ELIGIBLE FOR RPP PERMITS.

>> STAFF: THAT'S A GOOD QUESTION BECAUSE THIS IS IN THE RPP. BECAUSE IT'S NOT A NEW BUILDING, NEW BUILDINGS MAY BE NOT ELIGIBLE FOR RPPS. BECAUSE THIS IS AN EXISTING BUILDING, I BELIEVE THAT THEY WOULD STILL BE ELIGIBLE FOR THAT PROGRAM.

>> I. TREGUB: UNLESS WE PUT IN A CONDITION, CORRECT?

>> STAFF: YES.

>> I. TREGUB: OKAY. THANK YOU. ON THE WASTE MANAGEMENT PROGRAM AND THIS IS WHERE I MIGHT NEED TERESA'S KEEN EYE, I THINK IN THE PAST SOMETIMES WE HAVE REQUIRED A MANAGEMENT PROGRAM TO TAKE PLACE. BUT MOSTLY IT'S BEEN AROUND GROUP LIVING ACCOMMODATIONS. BUT I'M CURIOUS IF THIS IS -- MAYBE MY QUESTION IS A MORE GENERAL, WHAT ARE EXPECTATIONS FOR QUALIFIED FAMILY HOUSING AROUND A MANAGEMENT PROGRAM?

>> STAFF: THIS IS PUBLIC WORKS AND ZERO WASTE MANAGES TRASH COLLECTION. THAT IS A SEPARATE SECTION OF THE BMC THAT REQUIRES OWNERS TO PROVIDE THE NUMBER OF BINS AND THE CAPACITY REQUIRED BASED ON THE AMOUNT OF TRASH THAT THE BUILDING WOULD GENERATE. BERKELEY DOES HAVE REGULATIONS AND ORDINANCES REGARDING WASTE MANAGEMENT. I DON'T KNOW SPECIFICALLY THE PLAN, BUT, AGAIN, THAT WOULD BE A CONDITION OF APPROVAL IF YOU'RE INTERESTED IN THAT.

>> I. TREGUB: THANK YOU.

>> S. O'KEEFE: THAT'S IT IGOR? GO AHEAD PATRICK.

>> P. SHEAHAN: WHAT IS THE QUESTION FOR STAFF? WHAT IS THE QUESTION APPLICABILITY OF DENSITY STANDARDS UNTIL REGARDS TO THIS PROJECT?

>> STAFF: DENSITY STANDARDS. SO THE PROJECT DOES NOT -- SO THIS DISTRICT DOES NOT HAVE A DENSITY STANDARD. IN TABLE 4. UNDER DWELLING UNITS.

>> P. SHEAHAN: OKAY. IT STRIKES ME VISUALLY THAT THERE SEEMS TO BE ALREADY DENSE AS AN EXISTING AND EXTREMELY DENSE AS PROPOSED. I CAN'T HELP BUT WONDER WHY WOULD NOT DENSITY STANDARDS APPLY HERE? ED.

>> STAFF: THERE IS NO DENSITY STANDARD IN THE R-3 DISTRICT.

>> IT'S ABOVE HER PAY GRADE TO ANSWER THAT QUESTION.

>> THAT'S A PLANNING COMMISSION QUESTION.

>> S. O'KEEFE: WE TRIED TO FIX THIS, BUT IT WILL TAKE A WHILE.

>> P. SHEAHAN: THANK YOU.

>> S. O'KEEFE: JOHN, YOU HAVE A QUESTION?

>> J. SELAWSKY: TO FOLLOW UP ON PATRICK, I UNDERSTAND THERE IS NO OR LITTLE DENSITY STANDARDS HERE. BUT IF THOSE OF YOU WHO HAVE WALKED UP THAT STREET OR DRIVEN DOWN THAT STREET, IT'S A NARROW ONE-WAY STREET. I'M A LITTLE CONCERNED ABOUT ADDING THIS MANY UNITS ON A NARROW ONE-WAY STREET.

>> S. O'KEEFE: DO YOU HAVE A QUESTION FOR STAFF, JOHN?

>> J. SELAWSKY: YES. IS THERE GOING TO BE A TRAFFIC, YOU

KNOW, SOME KIND OF TRAFFIC MITIGATION STUDY? IS THERE GOING TO BE SOME KIND OF -- WHAT ARE WE LOOKING AT IN TERMS OF, AGAIN, IT'S A NARROW ONE-WAY STREET. AND ADDING HOW MANY MORE PEOPLE? SO WHAT WILL ARE BEE GOING TO LOOK AT? WHAT IS THE CITY GOING TO LOOK AT HERE?

>> STAFF: THE SITE IS POX MAT ON A BIKEWAY. A YOU'RE A HALF MILE FROM THE BART STATION AND SHATTUCK IS A SHORT WALK. PEOPLE WOULD BE INTERESTED IN BIKE GOING WALKING. THE TRAFFIC IMPACT ASSESSMENT IS REQUIRED FOR 2030 NEW UNITS. THIS PROJECT NOT CREATING ANY NEW UNIT.

>> S. O'KEEFE: SO NOTHING I THINK IS THE ANSWER TO JOHN'S QUESTION.

>> J. SELAWSKY: I GUESS THAT WAS NOTHING.

>> S. O'KEEFE: THAT'S THE ANSWER. THAT'S GREAT. ANY OTHER QUESTIONS FOR STAFF AND THEN WE CAN ASK THE APPLICANT MORE QUESTIONS TOO AFTER THEY GET IT TALK. PATRICK.

>> P. SHEAHAN: YES, KIND OF -- THIS -- IT HAS SOME SIMILARITY. ON THE BASEMENT PLAN, THERE IS A SPACE THAT BACKS UP TO THE GARAGE LABELED "NEW STUDY" BUT A DOORWAY-SIZED OPENING IS FRAMED WITHOUT A DOOR INDICATED. ALTHOUGH IT APPEARS TO BE A SPACE THAT COME VERY EASILY BE USED AS A BEDROOM. BUT IT DOESN'T HAVE EGRESS WINDOW AND IT'S PROBABLY CALLED A STUDY FOR THAT REASON.

>> STAFF: YES.

>> IS THAT LEGAL TO CREATE A SPACE THAT COULD SIMPLY BE USED AS A BEDROOM EASILY? AS OPPOSED TO -- I GUESS THERE IS NO WAY TO REGULATE THAT.

>> STAFF: THERE IS EGRESS AND VENTILATION APARTMENTS.

>> EXACTLY. THAT'S THE PROBLEM WITH THAT SPACE. THERE IS NONE. OKAY. THANK YOU.

>> S. O'KEEFE: FURTHER QUESTIONS FOR STAFF. SEEING NONE, LET'S HEAR FROM THE APPLICANT. I DON'T SEE THE APPLICANT HERE, CAN THEY GET PROMOTED? SO APPLICANT TEAM, YOU HAVE FIVE MINUTES. VICKIE, ARE YOU GOING TO DO THE TIMER? VICKIE, ARE YOU GOING TO DO THE TIMER?

>> GOOD EVENING, FOLKS. I WANT TO SHARE MY SCREEN HERE.

>> S. O'KEEFE: FINE WITH ME. DO YOU HAVE THE ABILITY TO DO THAT? LET'S TRY IT.

>> GOOD EVENING EVERYBODY AND THANK YOU FOR THE TIME TONIGHT.

>> S. O'KEEFE: I DON'T KNOW IF PEOPLE CAN SEE VICKIE, THERE IS AN ISSUE, HE'LL START YOUR TIMER IN A SECOND. IS THERE IS AN ISSUE WHEN THERE IS A SCREEN BEING SHARED, THE PUBLIC CAN'T SEE ALL THE WINDOWS, BUT THEY CAN PROBABLY SEE ME BECAUSE I'M THE HOST SO I'LL DO THE TIMER. GO AHEAD, MARK.

>> IN THE SLIDE SHOW YOU'LL SEE IS COMBINED IT FOR THE TWO SITES BECAUSE I THOUGHT THERE WAS A CHANCE YOU PUT THEM TOGETHER. I WANT TO APPRECIATE STAFF. I HAD NOT SEE THE ANALYSIS



METHODOLOGY DONE FOR THIS PROJECT -- DONE BEFORE. IT'S INTERESTING. AND ALSO KELLER HAMMARGREN'S COMMENTS. I'VE ALWAYS THOUGHT THAT THE CITY'S HOUSING SUPPLY CONVERSATION SHOULD BE DYNAMIC AND I APPRECIATE THAT TOO. TONIGHT WE'RE BRINGING YOU SOMETHING A LITTLE BIT DIFFERENT THAN WHAT WE TYPICALLY BRING YOU. WE'RE BRINGING A PROJECT THAT IN MY OPINION IS -- WE ARE ADDING CAPACITY TO EXISTING BUILDINGS WITHOUT PROPOSING TO DEMOLISH THEM, ET CETERA. THIS LOCATION THAT YOU CAN SEE HERE IS INCREDIBLY PROXIMAL TO BOTH THE CAMPUS, DOWNTOWN TRANSIT, WALKABLE GOODS AND SERVICES AND ALL THOSE THINGS. THE PROJECT AND WE'VE APPRECIATED OUR RELATIONSHIP WORKING WITH THE RENT BOARD AND STAFF AND THE ZONING ADJUSTMENTS BOARD, TRILLION THERE WILL KNOB REPLACEMENTS AND EVICTIONS RELATED TO THE CHANGES. SIGNIFICANT BUILDING SYSTEM UPGRADES TO HE GET THEM READY FOR THEIR NEXT HUNDRED YEARS. AN OPPORTUNITY TO PUT MORE PEOPLE IN RENT STABILIZATION ORDINANCE. UNIT 5-A GETS COLLAPSED INTO UNIT 5 AND WE THINK THAT'S WHERE IT STARTED IN THE FIRST PLACE. TO ANSWER BOARD MEMBER SHEAHAN'S QUESTION, THERE ARE NO NEW UNITS PROPOSED HERE. SO THE DENSITY TECHNICALLY IS NOT CHANGING EVEN THOUGH THERE ARE BEDROOMS BEING ADDED. THIS IS THE OUTSIDE OF THE BUILDING FROM A STREET PERSPECTIVE 1850 AND YOU SAW THE SITE PLAN WITH STAFF. YOU KNOW, THESE BULLET POINTS WALK THROUGH WHAT IS BEING DONE, VOLUNTARILY RETROFITS. RENOVATIONS THAT WILL OCCUR EITHER WITH A RESIDENT WHO IS MOVED OUT AND MOVED BACK IN

OR WHEN THE RESIDENT MOVES OUT WHICH IS MORE TYPICALLY GOING TO BE THE CIRCUMSTANCES. HERE IS WHAT THE UNIT 5 AND 5-A RECOMBINATION LOOKS LIKE. WE MOVED THE ENTRY DOOR OUT CLOSER TO THE ENTRY. THE NEXT ONES ARE FOR THE NEXT PROJECT. SO I'LL HOLD THOSE. WITH THAT, I'LL TRY TO ANSWER ANY QUESTIONS YOU HAVE. AND WE'RE EXCITED TO BE ABLE TO DO A PROJECT SUCH AS THIS. IT ADDS MORE PEOPLE, BUT IT'S A WALKABLE ENVIRONMENT AND THESE FOLKS ARE NOT GOING TO BE BRINGING CARS TO THE CITY, ESPECIALLY IF YOU ADD THE CONDITION OF APPROVAL FOR THE NO-PRECEDENTIAL PARKING PERMITS. I BELIEVE THE POLICY IS THAT -- IT'S NOT TRIGGERING PARKING CHANGES BECAUSE THE SQUARE FOOTAGE IS NOT CHANGING. I'M HAPPY TO TRY TO ANSWER ANY QUESTIONS YOU HAVE. THE OWNER IS ON TO TRY TO ANSWER ANY QUESTIONS RELEVANT TO THE RESIDENTS AND THE WORK THEY'VE BEEN DOING. I KNOW IT'S BEEN A LITTLE BIT TOUGH A COUPLE OF TIMES BECAUSE THIS IS A NEW OWNERSHIP GROUP, THEY'RE GETTING USED TO THE BUILDINGS AND WHAT IS GOING ON AND THEY'RE DOING THEIR BEST TO GET THE WORK GOING ON IT. THANKS VERY MUCH.

>> S. O'KEEFE: THANK YOU. QUESTIONS FOR THE APPLICANT. I SEE TWO. IGOR, YOU'RE HE A FIRST.

>> I. TREGUB: THANK YOU, MARK. I DON'T KNOW IF THIS IS FOR YOU OR THE OWNERS. BUT FOR SITTING TENANTS AFTER THEY ARE TEMPORARILY RELOCATED WISH TO COME BACK AND LIVE IN THE UNITS, BUT MAYBE CANNOT CARRY AN INCREASE IN RENT RESULTING IN AN INCREASE IN BEDROOMS FOR AMENITIES, WHAT WOULD BE THE PLAN

THERE?

>> I BELIEVE THAT THEIR INTENT IS TO PRIMARILY -- THAT WOULD ONLY BE THE EXCEPTION. IN FACT, THEY'RE GOING TO TRY TO WAIT UNTIL VACATE A UNIT BEFORE THEY START THE WORK IN THEM.

>> THAT'S CORRECT. THERE IS NO INTENTION WHATSOEVER OF RELOCATING ANY EXISTING TENANTS AT ALL. WE'RE SIMPLY GOING IT WAIT UNTIL EACH OF THE UNITS ROLLS ON THE NATURAL COURSE WHEN THE TENANTS SELECT TO RELOCATE VOLUNTARILY. ONLY THEN WILL WE PERFORM THE IMPROVEMENTS TO THOSE UNITS.

>> I. TREGUB: AS A FOLLOW-UP QUESTION, SOME OF THOSE RELOCATIONS MAY TAKE PLACE AT DIFFERENT TIMES. I ASSUME NOT EVERYONE THERE IS A STUDENT WHO IS ON A SEMESTER SYSTEM. ARE YOU PROPOSING A PHASED APPROACH TO HOW CONSTRUCTION IS GOING TO BE DONE?

>> YEAH. I MEAN THE -- EACH UNIT THAT GETS RENOVATED, AGAIN, IT HAPPENS -- IT MAY NEVER HAPPEN. SOMEONE MAY -- WE DON'T KNOW WE'LL GET TO EVERY UNIT. WHEN A UNIT TURNS AND IS VACATED, THAT POINT WE'LL RENOVATE THE UNIT AND NOT BEFORE THEN. YOU USE THE WORD "RELOCATION" BUT THERE ISN'T ANY RELOCATION. WHEN A UNIT VACATES, WE'LL RENOVATE IT LIKE ANY LANDLORD WOULD RENOVATE ANY UNIT THAT VACATES OVER TIME.

>> I THINK THE DISPLACEMENT PROVISIONS ARE IN FROM AS A BACKSTOP JUST IN CASE.

>> DISPLACEMENT NOT RELOCATION.

>> S. O'KEEFE: IGOR WAS ASKING ABOUT THE NATURE OF THE CONSTRUCTION AND IT CAN BE DONE PIECEMEAL.

>> YES.

>> S. O'KEEFE: APARTMENT BY APARTMENT.

>> THAT'S THE INTENT. THE BUILDING WILL NEVER EMPTY OUT ALL TOGETHER.

>> S. O'KEEFE: THANK YOU. JOHN, QUESTION FOR THE APPLICANT.

>> J. SELAWSKY: ACTUALLY, I APPRECIATE YOUR RESPONSES TO IGOR'S QUESTIONS AND SENSITIVITY TO TENANTS, THEIR RIGHT TO LIVE THERE BASICALLY. I WAS A LITTLE TROUBLED BY A LETTER I THINK BY A TENANT AT 1850 WHO CLAIM -- AND I'M NOT -- I DON'T KNOW IF IT'S TRUE, ACCURATE OR NOT BUT WHOSE CLAIM WAS THAT WORKERS WERE COMING IN AND WITHOUT PRIOR, YOU KNOW, APPROVAL, AND COMING IN AND DOING WORK, AND MY QUESTION IS BASICALLY DO YOU, THE APPLICANTS, DO YOU PROVIDE TENANTS WITH EXISTING BERKELEY TENANTS' RIGHTS PER BERKELEY ORDINANCES?

>> YES, I MEAN I'M NOT THE PROPERTY OWNER HERE AND I'LL LET RICCARDO ANSWER FOR HIMSELF. THERE HAS BEEN A LOT OF ADJUSTMENT BETWEEN THE NEW RESIDENTS AND NEW OWNERS AS THEY'VE BEEN TRYING TO COME IN. THE BUILDINGS WERE IN A FAIR AMOUNT OF DISREPAIR WHEN THE OWNERSHIP CHANGE OCCURRED. THERE IS A LOT OF WORK THAT NEEDS TO BE DONE. THERE ARE MISSTEPS AND MISCOMMUNICATION BUT I DON'T THINK ANY WORK HAS BEEN DOING ANY WORK INSIDE ANYBODY'S UNIT WITHOUT NOTICE. IT MAY HAVE BEEN CROSS COMMUNICATION WITH

RESPECT TO WORK ON THE PROPERTY WHERE SOMEBODY MAY HAVE NOT GOTTEN -- BUT NOT WITHIN THE UNIT WITHOUT NOTICE.

>> J. SELAWSKY: THANK YOU, I APPRECIATE THAT. THANK YOU, MARK. AGAIN, I'M GOING BACK TOKING WHAT I SAID EARLIER. IT'S A NARROW ONE-WAY STREET. WE'RE ADDING -- I'M NOT SURE HOW MANY TENANTS IN TOTAL FOR THE TWO UNIT. BUT IT'S SIGNIFICANT, RIGHT? SO WHAT ABOUT DROP-OFFS? WHAT ABOUT DELIVERIES AND UBER AND LYFT. FOOD DELIVERIES. ON A NARROW ONE-WAY STREET. HOW ARE THOSE HANDLED?

>> A COUPLE OF THINGS IN RESPONSE TO THAT BOARD MEMBER SELAWSKY. I APPRECIATE THE QUESTION. OUR STREET JUST BECAME A ONE-WAY STREET WITHIN THE LAST COUPLE OF YEARS BECAUSE OF THE RECOGNIZED, I BELIEVE, THE LOWER PORTION OF IT. BECAUSE OF HOW BAD THE PUBLIC SAFETY WAS RIGHT THERE. WITH THAT LIKE THE WAY THE TWO INTERSECTIONS FORK OFF OF EACH OTHER. THAT IMPROVED CIRCUMSTANCES HERE QUITE A BIT. YOU DON'T GET NEARLY AS MUCH TRAFFIC CROSSING THROUGH INTEREST. IT'S ONLY THE FOLKS LIVING ON THAT BLOCK FOR THE MOST PART IN MY EXPERIENCE. WE'VE LOOKED AT THAT STREET FOR A LONG TIME BECAUSE WE WERE DOING SOME OF THE WORK WITH THE SEMINARY RIGHT THERE AS WELL. SO THESE FOLKS, YOU KNOW --

>> THE SEMINARY ON THE CORNER?

>> ACROSS --

>> ON 1ST AND ARCH?

>> UP THE STREET. MANY.

>> J. SELAWSKY: OKAY.

>> I SPENT A LOT OF TIME UNTIL THIS NEIGHBORHOOD OVER THE LAST FEW YEARS. AND I THINK THAT THOSE OPERATIONS ARE GOING TO CONTINUE AS THEY HAPPEN. THERE IS A TOTAL OF 18 NEW BEDROOMS WHICH WILL BE AT LEAST 18 NEW PEOPLE. THAT IS PROBABLY GOING TO IMPLEMENT OVER THE COURSE OF SEVERAL YEARS GIVEN RESIDENTS NEEDING TO MOVE OUT BEFORE WORK CAN BE DONE. I DON'T THINK THERE IS GOING TO BE AN APPRECIABLE DIFFERENCE HERE. THIS IS A DENSE NEIGHBORHOOD ALREADY. THERE IS A MARKET NEARBY, THERE ARE GOODS AND SERVICES AND THIS IS A NEIGHBORHOOD LIKE THE SOUTH SIDE WHERE PEOPLE DON'T NEED TO OWN A CAR IN ORDER TO HAVE GREAT ACCESS TO EVERYWHERE. AND ALMOST EVERYTHING. AT LEAST FROM A BERKELEY PERSPECTIVE.

>> J. SELAWSKY: OKAY, THANK YOU, MARK.

>> S. O'KEEFE: NEXT WE HAVE A QUESTION FOR THE APPLICANT FROM CHARLES.

>> C. KAHN: OKAY. HERE WE GO. FOR SOME REASON MY VIDEO WOULDN'T START. SO FOLLOWING UP ON JOHN'S QUESTION ABOUT PICKUPS AND DELIVERIES. THIS IS SOMETHING THAT HAS BEEN QUITE A BIT OF -- WE'VE HAD QUITE A BIT OF DISCUSSION ABOUT IT ON LARGER PROJECTS. ONE OF THE THINGS THAT WE HAVE GOING FOR US HERE AND I'M ANTICIPATING THE NEXT PROJECT BECAUSE IT APPLIES TO BOTH PROJECTS. WE HAVE A DRIVEWAY THAT IS AN OPEN DRIVEWAY. AND I WAS

WONDERING IF YOU AS A REPRESENTATIVE OF THE APPLICANT -- THE OWNER WOULD BE WILLING TO ACCEPT A CONDITION FROM THIS BOARD THAT WOULD REQUIRE THE OWNERSHIP TO ADVISE -- FIRST, THAT THE OWNERSHIP WOULD SUPPORT DELIVERIES BEING MADE IN THAT DRIVEWAY. THAT WILL THEY -- IF THE GRUB HUB SHOWS UP IF THEY'RE ALLOWED TO USE THE DRIVEWAY. THAT'S MY FIRST QUESTION. IF AN UBER DRIVER COMES BAY THAT THEY'RE ALLOWED TO USE THE DRIVEWAY?

>> A CONDITION OF APPROVAL TO REQUIRE THE DRIVEWAY TO REMAIN CLEAR AND UNOBSTRUCTED, FOR SHORT TERM DELIVERIES AND UBER PICKUP SEEMS FINE. RICARDO, DO YOU HAVE A PROBLEM WITH THAT?

>> NO, I THINK THAT THE DRIVEWAY CAN BE USED PROBABLY NO DOUBT ALREADY IS USED IN THAT CAPACITY. IT'S IMPORTANT TO US THAT MEANS OF EGRESS INTO AND OUT OF THE PARKING LOT AND DRIVEWAY REMAINS OPEN AT ALL TIMES FOR THE TENANTS. IT'S TO BE TOTALLY CLEAR IS IT OKAY FOR UBER TO COME IN AND DROP SOMEONE OFF? YES, THAT IS TOTALLY FINE. IS IT OKAY FOR EVERYONE TO GET OUT OF THEIR CAR AND WALK INTO THE BUILDING? NO IT'S NOT FINE.

>> FAIR ENOUGH. IF IT'S OKAY WITH YOU, THE OTHER QUESTION WOULD BE WOULD YOU BE WILLING TO ACCEPT A CONDITION THAT YOU NOTIFY EXISTING TENANTS AND NEW TENANTS AS THEY MOVE IN THAT IT IS ACCEPTABLE TO OWNERSHIP FOR PURPOSES OF UBER, LYFT, QUICK DROP-OFF PICKUP NOT JUST FOR LEAVING A CAR THERE IN THE DRIVEWAY BECAUSE THAT'S A PROBLEM, THAT THEY BE NOTIFIED THAT THERE IS NO

OPPOSITION TO THAT FROM THE OWNERSHIP. I THINK -- I'M TRYING TO ADDRESS JOHN'S CONCERN IN A PRACTICAL WAY.

>> RICARDO, THAT WOULD BE A LINE ITEM IN YOUR LEASE PAPER WORK FOR NEW RESIDENTS.

>> IF I'M NOT MISTAKEN, THAT LANGUAGE ALREADY EXISTS IN THE NEW LEASES THAT WE SIGNED. WHICH EXPLICITLY SAYS THE DRIVEWAY MUST REMAIN OPEN AT ALL TIMES OR -- IF ONE IS IN THE DRIVEWAY, TO BE IN THE CAR AND READY TO MOVE IT IF NEED BE. YOU'RE NOT PERMITTED TO BLOCK THE DRIVEWAY. THAT'S IN THE LANGUAGE OF OUR RELEASE, BUT WE'RE MORE THAN HAPPY TO COMMIT TO EMPHASIZING THAT REQUIREMENT WITH ANY NEW TENANTS MOVING FORWARD.

>> I THINK YOU DESCRIBED THE KEY POINT. AS LONG AS SOMEONE IS OCCUPYING THE CAR, IT'S FAIR TO USE THE DRIVEWAY. AND THAT -- OKAY, I JUST WANTED TO KNOW WHERE WE HAVE SOME LATITUDE BECAUSE I'M TRYING TO -- I THINK JOHN HAS A LEGITIMATE CONCERN HERE. IF THERE STAY DESIGN SOLUTION, WOULD I LIKE YOU TO -- THANKS.

>> S. O'KEEFE: FURTHER QUESTIONS FOR THE APPLICANT. STILL WAITING TO HEAR FROM THE PUBLIC. LOOKING FORWARD TO THAT. AND AS EVERYONE KNOWS, WE'LL HAVE THE APPLICANT BACK UP AFTER PUBLIC COMMENT IF MORE QUESTIONS COME UP. THANK YOU VERY MUCH. LET'S GO TO THE PUBLIC. IF YOU ARE HERE TO SPEAK ON THIS ITEM, I WANT TO REMIND YOU THERE ARE TWO ARCH STREET ITEMS. YOU'RE WELCOME TO MAKE COMMENTS CERTAINLY ABOUT THIS ONE OR IF YOUR COMMENTS ARE



ABOUT BOTH PROJECTS, THAT'S OKAY. AS LONG AS IT RELATE TO 1850 IN SOME WAY. WHO HERE FROM THE PUBLIC WOULD LIKE TO SPEAK ON THIS ITEM? RAISE YOUR HAND OR PRESS STAR 9. I GOT TWO SO FAR. JUST SO I HAVE AN IDEA OF HOW MANY THERE ARE. I WOULD FRESH IF YOU'RE HERE TO SPEAK ON THIS ITEM IF YOU COULD RAISE YOUR HAND NOW BECAUSE IT WILL HELP ME FIGURE OUT. WE HAVE A CAPTIONER BREAK COMING UP. RIGHT NOW I ONLY SEE TWO. WE'LL GO AHEAD AND START WITH KELLY. KELLY, YOU HAVE TWO MINUTES.

>> CALLER: I DON'T THINK I NEED ALL THAT, BUT HEARING THE DISCUSSION, DOES THERE NEED TO BE A CONDITION AND I KNOW IGOR IS THE EXPERT ON TENANTS, I BELIEVE ON ZAB. BUT THERE NEED TO BE SOMETHING SPECIAL SO PEOPLE ARE NOT PUSHED OUT OF THEIR APARTMENTS. AND THERE IS NOTIFICATION IF THERE IS CONSTRUCTION IN THE BUILDING SO PEOPLE KNOW IF AN APARTMENT BELOW OR ABOVE THEM IS GOING TO HAVE CONSTRUCTION THAT THEY'VE BEEN ADEQUATELY NOTIFIED. THOSE WERE MY CONCERNS.

>> S. O'KEEFE: THANKS KELLY. WE'LL MAKE SURE WE GET AN ANSWER FOR YOU. I'M GETTING A DINNER DELIVERY. SARAH ROBERTS. YOU HAVE TWO MINUTES.

>> THIS IS PETER. THAT'S MY WIFE'S ACCOUNT. I FORMERLY LIVED AT 1850 ARCH STREET FOR MANY YEARS AND I'M THE OWNER OF THE PROPERTY ADJACENT 1862. I'VE BEEN IN CONTACT WITH THE TWO TENANTS, ROBIN O'DONNELL, BOTH OF WHICH ARE OVER 65, I BELIEVE. AND HAVE BEEN THERE MAYBE 25 YEARS. AND NEITHER OF WHOM ARE

HAPPY ABOUT DEVELOPMENTS THERE. ROBIN IS UNABLE TO GET ON TO THE ZOOM CALL. HE WAS TRYING EARLIER IN THE DAY IF YOU REMEMBER. BUT IN INCREASING THE NUMBER OF OCCUPANCY -- OF PEOPLE IS LIKE THREE TIMES. I'M NOT SURE OF THE CITY'S INTENT. IS THE CITY ACTIVELY NOT OPPOSING THIS OR ARE THEY ENCOURAGING TRANSITION OF THIS NEIGHBORHOOD TO HIGHER DENSITY? IT'S NOT CLEAR TO ME. AND AS THE OWNER OF THE BUILDING NEXT DOOR, ARE YOU SAYING YOU'RE ENCOURAGING ME TO SUBDIVIDE MY BUILDING INTO THREE TIMES AS MANY UNITS? YOU HAVE A TENSION BETWEEN LIKE ON ONE HAND, YOU HAVE A HUGE PROFIT MOTIVE BUT IT'S COUCHED IN TERMS OF LIKE SOME SOCIAL GOOD THAT IT'S INCREASING OPPORTUNITIES FOR LOWER INCOME PEOPLE TO LIVE THERE WHICH I'M NOT SURE THAT YOU HAVE THOSE TWO THINGS CAN COEXIST. IF YOU COULD START BY ADDRESSING THE ISSUE, IS THE CITY NOT OPPOSING THIS BECAUSE IT FALLS IN BETWEEN REGULATIONS BUT THERE IS NO REAL DEFINITION OF WHAT HIGH DENSITY IS. OR IS IT AN ACTIVE PLAN TO INCREASE DENSITY IN AN ALREADY CROWDED NEIGHBORHOOD?

>> S. O'KEEFE: THANK YOU. THANK YOU VERY MUCH. SORRY, I DIDN'T CATCH YOUR NAME.

>> PETER.

>> S. O'KEEFE: DOES ANYONE ELSE FROM THE PUBLIC HERE TO SPEAK? ROBIN, DO YOU WANT TO GIVE IT ANOTHER SHOT? WE HAVE YOUR LETTER. OKAY. SEEING NONE, WE'LL BRING IT BACK FOR THE APPLICANT TO RESPOND AND THEN THE BOARD MIGHT WANT TO RESPOND AS WELL.

APPLICANT, YOU WANT TO RESPOND?

>> AND I APPRECIATE THE QUESTIONS. I THINK IN THIS TIME OF THIS HOUSING CRISIS THAT WE HAVE IN CLIMATE EMERGENCY, IT IS INCUMBENT ON THE CITY AND I BELIEVE THIS IS THE R-3 HIGHER DENSITY DESIGNATION. WE NEED TO PROVIDE PLACES FOR PEOPLE TO LIVE AND SLEEP. TO DO THAT IN A RENT-CONTROLLED APARTMENT BUILDING IS FANTASTIC AND ESPECIALLY ONE THAT IS SO TRANSIT ORIENTED. THE RENT BOARD IS WELL AWARE OF THIS PROJECT AND WE'VE BEEN WORKING WITH THEM IT MAKE SURE OUR CONTACT WITH THE TENANTS IS BEST IT CAN BE. THERE WILL BE NOTICES FOR CONSTRUCTION FOR PEOPLE AS THE CONSTRUCTION PROCEEDS SO IF SOMEBODY MOVES OUT OF THE UNIT AND THE WORK IS GOING TO START THERE, YES, IT'S ALREADY A CITY REQUIREMENT THAT THE REST OF THE RESIDENT IN THE BUILDING BE NOTIFIED OF THAT. OF COURSE THE RENT BOARD IS A RES OR AVAILABLE FOR RESIDENTS IF THERE ARE OTHER PROBLEMS. WITH THAT, YOU KNOW, I JUST REALLY HOPE THAT THE ZAB CAN SEE THIS "ELEGANT" OR HIDDEN DENSITY AS THAT AND AS A RESOURCE FOR HOUSING AND RENT-PROTECTED HOUSING IN THIS PART OF THE CITY. THANKS.

>> S. O'KEEFE: THANK YOU VERY MUCH. ANY MORE QUESTIONS FROM THE BOARD FOR THE APPLICANT OR STAFF BEFORE WE CLOSE PUBLIC HEARING? CHARLES.

>> C. KAHN: I'LL WAIT UNTIL YOU CLOSE THE PUBLIC HEARING.

>> S. O'KEEFE: OKAY. ANYONE ELSE LIKE TO SPEAK BEFORE WE CLOSE PUBLIC HEARING? IGOR, NO? IT SOUNDS LIKE YOU WANT ME TO

CLOSE PUBLIC HEARING. SO I'LL DO THAT. THANK YOU, APPLICANT AND PUBLIC. PRESCRIBE YOUR TIME. LET'S SEE. I'M NOT GOING IT MESS WITH THAT. PUBLIC HEARING IS CLOSE EXAMINED I'LL RERECOGNIZE CHARLES.

>> C. KAHN: THANKS SHOSHANA, I'VE REVIEWED THE PLANS AND THINK THESE ARE WELL-DESIGNED UNITS. I DON'T THINK THE TENANTS WILL BE OVERCROWDED IN THIS BUILDING. PATRICK, I DID LOOK AT THE STUDY ISSUE THAT YOU WERE CONCERNED ABOUT. I'M SATISFIED BECAUSE IF YOU CHECK THE ORIGINAL PLANS, THE EXISTING CONDITIONS, IT'S A SIMILAR SIZED ROOM THAT COULD BE USED AS A BEDROOM BECAUSE IT HAS A DOOR ON IT. I DON'T THINK THEY'RE TRYING TO PUT ONE OVER ON US. I'M GOING TO MOVE FOR APPROVAL WITH CONDITION THAT THE LANGUAGE THAT WE UNDERSTAND FROM THE APPLICANT THAT IS CURRENTLY A PART OF THE NOTIFICATIONS TO TENANTS BE MANDATED AS PART OF THIS APPROVAL, BUT THAT FURTHER MORE, IT SOUNDS LIKE WHAT HE DESCRIBED IS SOMETHING THAT WAS SAYING YOU CAN'T OBSTRUCT THE DRIVEWAY UNLESS YOU'RE SITTING IN YOUR CAR. WHAT I WAS TALKING ABOUT IS ACTUALLY A LITTLE DIFFERENT. SO I WOULD LIKE -- HE CAN SAY WHATEVER HE WANTS TO SAY IN THAT REGARD THAT YOU CAN'T UNLESS YOU'RE SITTING IN THE CAR. BUT LYFT AND UBER DRIVERS WILL BE TOLERATED BY OWNERSHIP SHOULD THEY CHOOSE TO USE THE DRIVEWAY AS A WAY OF PICKING PEOPLE UP. THEY NEED TO KNOW THAT'S OKAY. THAT'S MY MOTION. AND I'M HAPPY TO HEAR WHAT PEOPLE THINK OF IT.

>> S. O'KEEFE: IGOR.

>> I. TREGUB: I AM PREPARED TO SECOND THE MOTION IF CHARLES IS PREPARED TO ACCEPT A COUPLE OF AMENDMENTS. THE ONE ACTUALLY -- I'D LOVE TO SEE -- I APPRECIATE THE INTENT OF YOUR AMENDMENT, CHARLES. I WOULD LOVE TO SEE SOMETHING MORE CONCRETE THAT IS ENFORCEABLE. I HAD A COUPLE MORE. I WANTED TO ADD A CONDITION ON TENANTS -- NEW TENANTS BEING PRECLUDED FROM QUALIFYING FOR THE RPP PROGRAM. AND THEN TO KELLY'S POINT AND I REVIEWED THIS, I THINK IT'S FINE AS IS. BUT SHE DOES BRING UP A GOOD POINT ABOUT WHAT SOMETIMES KNOWN AS CONSTRUCTIVE EVICTION. THAT THE RENT STABILIZATION ORDINANCE IS NOT EQUIPPED TO CATCH, BUT IT DOES HAPPEN AND IT CAN PARTICULARLY HAPPEN -- I'M NOT SAYING IT'S GOING TO HAPPEN HERE WITH THESE OWNERS. BUT THERE IS A TENDENCY TO TRY TO CONSTRUCTIVELY EVICT TENANTS SO RENOVATIONS COULD BE MADE. I WISH TO PROPOSE CONDITION 31 UNDER TENANTS NOTICING WHERE IT SAYS THEY WOULD BE NOTICED OF THEIR RIGHTS UNDER THE RENT STABILIZATION AND EVICTION UNDER GOOD CAUSED ORDINANCE AND TENANT PROTECTION ORDER MANSLAUGHTER WHICH IS ANOTHER ORDINANCE UNDER THE CITY THAT GIVES TENANTS PRIVATE RIGHT OF ACTION SHOULD ATTEMPTS TO CONSTRUCTIVELY EVICT THEM EXIST. ARE MY TWO ADDITIONS. CHARLES, IF YOU'RE FRIENDLY THOUGH THEM, ELEMENT ME KNOW AND MAYBE WE CAN MAKE YOUR IDEA MORE CONCRETE. BECAUSE I WOULD LOVE TO SUPPORT IT.

>> C. KAHN: IN TERMS OF MAKING IT MORE CONCRETE, I WOULD LIKE THE APPLICANT TO SUBMIT LANGUAGE TO THE PLANNER THAT IS

DEEMED ACCEPTABLE BY THE PLANNER THAT CLEARLY ARTICULATES TO THE TENANTS THAT THEY HAVE THE RIGHT AND FROM FACT ARE ENCOURAGED TO DIRECT UBER DRIVERS OR LYFT DRIVERS WHO ARE PICKING THEM UP TO USE THE DRIVEWAY. AND WAIT FOR THEM THERE. AND I THINK THAT THE SPECIFIC LANGUAGE APPROVED BY STAFF, WE CAN BE SURE IS THAT WE'VE GOT THE LANGUAGE. I THINK IT'S DIFFICULT TO REVIEW INDIVIDUAL LEASES, BUT IT IS PART OF THIS -- WILL BE PART OF THIS APPROVAL AND IF THE LANDLORD DOESN'T INCLUDE SUCH LANGUAGE, THEY'RE AT RISK OF VIOLATING THE APPROVAL OF THE ZONING BOARD WHICH COULD HAVE SERIOUS CONSEQUENCES. I HOPE THAT IS SUFFICIENT. ANY OTHER IDEAS YOU WOULD HAVE, I'M OPEN TO MAKE THAT TOUGHER OR STRONGER.

>> I. TREGUB: I WANTED TO CLARIFY, SO YOU'RE TALKING ABOUT TMC'S TRANSPORTATION NETWORK COMPANIES LIKE UBER AND LIFT, AND DAN, ARE YOU INCLUDING DELIVERY VEHICLES AS WELL?

>> THE PROBLEM I HAVE WITH DELIVERY VEHICLES IS WHAT THE OWNER SAID NOT WANTING PEOPLE TO LEAVE THEIR CARS. THAT'S WHY I DIDN'T SPECIFICALLY INCLUDE THAT. I THINK THAT'S FAIR. IT'S I THINK A REASONABLE DEMISING LINE. IF SOMEONE IS THEIR CAR OR NEEDS TO GET OUT, THEY CAN MOVE THEIR CAR. IF THEY'RE INSIDE MAKING A PIZZA DELIVERY, THEY HAVE TO GO INSIDE. SO WHERE THE CAR IS OCCUPIED WHILE IT'S IN THE DRIVEWAY.

>> SO TMCS AND THAT MAKES SENSE AND YOU'RE FRIENDLY TO MY OTHER TWO CHANGES?

>> YES, SO THE SECOND ONE FEELS A LITTLE UNFAIR TO ME THAT THE EXISTING TENANTS GET TO HAVE PARKING STICKERS AND THE NEWS ONE DON'T BUT I'M WILLING TO ACCEPT IT BECAUSE I THINK THE INTENT IS GOOD AND GIVEN THE PROXIMITY TO BART AND THE CAMPUS. I DON'T THINK SEE THIS BEING A PUNISHMENT TO NEW PEOPLE COMING ON BOARD. IT'S GOING TO BE GOOD FOR THE COMMUNITY. IT ADDRESSES THE CONCERNS OF THE CITIZEN WHO SPOKE. THE THIRD ITEM, SHANNON, IF THERE IS A PROBLEM WITH THAT LEGALLY.

>> ZAB SECRETARY: I'M NOT SURE HOW THE CITY WILL TRACK TENANTS COMING AND GOING. AND IF THERE IS -- WHAT IF THE PEOPLE THERE NOW DON'T HAVE CARS AND ARE NOT UTILIZING THE RPP PROGRAM. I DON'T HAVE AN IDEA OF HOW UTILIZED THE PROGRAM IS FOR THOSE BUILDINGS NOW AND HOW WOULD WE TRACK -- I DON'T HAVE TO TRACK IT.

>> I HAVE A SUGGESTION. I WOULD SUGGEST THAT IGOR'S PROPOSED AMENDMENT GO INTO EFFECT JANUARY 1ST, 2021. AND THAT THE OWNER NOTIFY TENANTS THAT THEY HAVE BETWEEN NOW AND JANUARY 1ST, 2021 TO SECURE A PERMIT. AFTER THAT, THE BUILDING WILL NOT BE ELIGIBLE FOR SUCH PERMITS. HOW DOES THAT SOUND?

>> ZAB SECRETARY: THAT SOUNDS BETTER TO ME.

>> S. O'KEEFE: THEY HAVE TO GET RENEWED EVERY YEAR. YOU COULD GET A RENEWAL BUT NOT A NEW ONE.

>> C. KAHN: YES.

>> S. O'KEEFE: I HOPE THAT'S DOABLE.

>> I. TREGUB: I'M HAPPY IF SHANNON IS HAPPY.

>> WE'LL ALL HAVE AUTONOMOUS VEHICLES WITHIN FIVE YEARS.

>> C. KAHN: AND THEN THE THIRD PROVISION IGOR -- I'M TRYING TO REMEMBER.

>> I. TREGUB: IT'S TENANT PROTECTION.

>> S. O'KEEFE: SO WE HAVE A MOTION AND A SECOND. AND MORE PEOPLE WHO WANT TO TALK. LET'S HEAR FROM CARRIE.

>> C. OLSON: MY CONCERN IS I THINK THIS IS GOING TO BE A CONSTRUCTION ZONE FOR YEARS. AND WE'RE APPROVING THAT CONSTRUCTION STARTS AT 8:00 A.M. FOR YEARS THIS COULD BE THAT PEOPLE ARE LISTENING TO CONSTRUCTION SOMEWHERE IN THIS BUILDING. AND A LOT OF THESE FOLKS WILL BE STUDENT AND THEY ARE GOING TO HAVE TO LISTEN TO IT SIX DAYS A WEEK. SO I GUESS I'M THROWING OUT THERE THAT THE HOURS OF CONSTRUCTION SHOULD BE CHANGED. AND ALONG WITH THAT, YOU GUYS ARE TALKING ABOUT UBER IN THE DRIVEWAY AND I'M THINKING, NO, THERE IS GOING TO BE CONSTRUCTION TRUCKS IN THAT DRIVEWAY ALL THE TIME. FOR YEARS. AS THEY HAVE VACANCIES. THERE IS NOT GOING TO BE AN EASY WAY FOR TENANTS TO GET IN AND OUT LET ALONE DELIVERY VEHICLES OR UBER VEHICLES. I'M THROWING IT OUT THERE SO PEOPLE CAN DISCUSS.

>> S. O'KEEFE: THANKS. TERESA.

>> T. CLARKE: YES, I MEAN I THINK THE -- I THINK THE RPP THING IS JUST A LOT OF HEADACHE. TO TRY TO SAY THE NEW TENANTS CAN'T GET IT BUT OLD TENANTS CAN WOULDN'T MAKE ANY DIFFERENCE.



IF THE BUILDING IS ELIGIBLE, LET'S KEEP IT ELIGIBLE. AGAIN, THIS IS A TRANSIT, WALKABLE, BIKEABLE NEIGHBORHOOD. A FEW TENANTS MAY REALLY NEED RPP. WHAT IF A DISABLED TENANT COMES IN AND THERE IS NO PARKING AVAILABLE AND THEY WANT TO PARK ON THE STREET? I DON'T THINK WE SHOULD WORRY ABOUT IT. THAT'S MY OPINION ON THAT. I WOULD NOT WANT TO ADD THAT CONDITION. I DEFINITE SUPPORT THE CONDITION FOR ADDING THAT TENANT PROTECTION THING. I THINK THAT MAKES IT MORE COMPLETE OF A CONDITION. THE ONE THAT YOU ADDED IGOR. AND I ALSO THINK THE UBER THING, I THINK WE SHOULD SAY THERE SHOULD BE A PLAN FOR DELIVERIES, DROP-UPS AND LET THEM FIGURE IT -- DROP-OFFS AND LET THEM FIGURE IT OUT. SAYING WHAT SHOULD BE IN SOMEONE'S LEASE IS TOO MICROMANAGING. THEY SHOULD HAVE A PLAN FOR DROP-OFFS, DELIVERIES, UBER LYFTS ET CETERA. THEY NEED A PLAN IN PLACE ENFORCEABLE AS POSSIBLE TO PREVENT TRAFFIC JAMS OR UNSAFE CONDITIONS IN THE NEIGHBORHOOD. AND SO I WOULD VOTE FOR THE MOTION IF WE MODIFIED THOSE SLIGHTLY TO BE A LITTLE MORE ADMINISTRATIVE FRIENDLY THAT ACTUALLY COULD BE ENFORCED AND THAT DON'T PREVENT TENANTS -- THERE ARE PLENTY OF TENANTS IN FROM AND YOU'RE SAYING NO ONE CAN GET A PARKING SPOT? THAT'S MY TWO CENTS. BUT I REALLY DON'T LIKE SOME OF THE WAY THE CONDITIONS HAVE BEEN WORDED. I WANT TO SAY ONE MORE THING BEFORE I SIGN OFF. I THINK THIS IS A GREAT ADDITION, MAKING THESE MORE LIVABLE AND FUNCTIONAL FOR MORE PEOPLE THERE COULD BE TWO PEOPLE LIVING IN ONE BEDROOM AS IT IS. NOW THEY'LL HAVE TWO. I THINK

THIS IS GREAT. IT ADDS EXTRA CAPACITY TO A WALKABLE NEIGHBORHOOD. I THINK THIS IS A GOOD PROJECT.

>> S. O'KEEFE: I'M GOING TO JUMP? CHARLES BEFORE I RECOGNIZE YOU AND POINT OUT THE FACT IF SOMEBODY MOVES INTO THE BUILDING AND HAD WAS DISABLED THEY WOULD NOT NEED A PERMIT TO PARK ON THE STREET. CHARLES.

>> C. KAHN: I ACTUALLY APPRECIATE TERESA'S POINT ABOUT THE MANAGEMENT PLAN DELIVERY AND PICKUP -- DELIVERY, PICKUP, DROP-OFF MANAGEMENT PLAN. I THINK IT IS BETTER TO LEAVE THAT TO SOMETHING THAT THE OWNERSHIP WORKS OUT WITH STAFF. BUT I WOULD LIKE TO HAVE IT WORKED OUT WITH STAFF. I WOULD LIKE THEM TO SUBMIT TO STAFF A PICKUP, DROP-OFF MANAGEMENT PLAN. IT ADDRESSES THE ISSUES RAISED AT THE HEARING. STAFF IS HERE AND SHARP. THEY'VE HEARD OUR CONCERNS. THERE MAY BE BETTER WAYS TO SOLVE THIS OFFERED BY OWNERSHIP THAN WHAT I'VE COME UP WITH. I PREFER THAT IF THAT IS ACCEPTABLE TONIGHT THAT AMENDMENT. I SEE PEOPLE NODDING.

>> S. O'KEEFE: LET THE RECORD SHOW IGOR NODDED.

>> C. KAHN: IN TERMS OF THE RPP, I HAD SOME MISGIVINGS ABOUT THAT MYSELF. I HAVE TREMENDOUS RESPECT FOR IGOR AND WANTED TO INCLUDE IT. I WOULD LIKE TO HEAR WHAT THE -- IF OTHERS HERE SHARE IGOR'S CONCERN OR TERESA'S CONCERNS SO WE CAN GET A GENERAL SENSE OF WHETHER TO KEEP THAT OR WITH IGOR'S PERMISSION TO DELETE IT.

>> S. O'KEEFE: NEXT UP IS IGOR.

>> I. TREGUB: I'M ON MUTE. I APPRECIATE EVERYONE'S POINTS AND I DON'T WANT TO BELABOR IT. I THINK IT WOULD BE IRONIC IF THE THING WE FOCUS ON THE MOST IS RPP PERMITS ON THIS PROJECT. I THINK TERESA'S POINTS WOULD BE WELL-PLACED MORE IF NOT FOR THE FACT THAT TO SHOSHANA'S POINT YOU ARE -- IF YOU HAVE A DISABLED PLACARD, YOU AUTOMATICALLY QUALIFY FOR A PERMIT. IF YOU DON'T ALREADY HAVE OFF-STREET PARKING, YOU WILL BE ABLE TO QUALIFY AND I THINK DENISE WANTS TO SAY ABOUT THAT. IF THIS WAS A NEW CONSTRUCTION PROJECT, WE WOULD AUTOMATICALLY DO THIS IN MOST MULTI-FAMILY BUILDINGS THAT HAVE RPP ZONES IF NOT ALL, THERE IS ALREADY A CONDITION IN PLACE THAT SAYS NEW TENANTS ARE NOT ELIGIBLE FOR THEM. TO THE GENTLEMAN'S POINT, I FORGET HIS NAME, MEMBER OF THE PUBLIC, ABOUT DENSITY. WE DON'T HAVE DENSITY STANDARDS UNTIL QUITE THE WAY THAT I THINK FOR THOSE WHO HAVE BEEN CONCERNED ABOUT IT WISH FOR US TO HAVE. IT FEELS TO ME LIKE THE PRINCIPLE CONCERN ABOUT TOO MUCH DENSITY IS THE IMPACTS OF FOR INSTANCE HAVING ENOUGH PARKING. THIS IS PROBABLY THE ONE THING WE CAN DO. TO ALSO ENCOURAGE USES OTHER THAN DRIVING, I'VE ACTUALLY BEEN AMAZED HOW LITTLE I DRIVE NOW THAT WE'RE ALL IN THE SHELTER IN PLACE MODE. I THINK THAT'S PROBABLY GOING TO BE THE THE REALITY AND EVEN MORE SORE FOR THE TYPES OF TENANTS THAT ARE LIKELY TO RENT IN THAT UNIT. THERE ARE ALREADY FIVE PARKING SPACES. IT'S A HARD PLACE TO FIND PARKING ON-STREET PARKING ON

RIGHT NOW. FOR ALL OF THOSE REASONS, I THINK WE SHOULD KEEP THAT CONDITION AS-IS. BUT I'M HAPPY TO HEAR FROM OTHERS.

>> S. O'KEEFE: THANKS IGOR. I'M GOING TO RECOGNIZE PATRICK. PATRICK, SORRY, WITH DISABLED THING I HAVE TO CORRECT PEOPLE. IT'S NOT THAT THEY WOULD QUALIFY FOR A PERMIT, THEY DON'T NEED A PERMIT. I DON'T WANT ANYONE IN THAT SITUATION MISLED. YOU DON'T HAVE TO DO ANYTHING. YOU CAN PARK WITH A PLACARD.

>> P. SHEAHAN: I WANT TO COMMENT ON THE BASEMENT APARTMENT UNIT 10 BECAUSE I LOOKED MORE CLOSELY AT THE EXISTING LOCATION OF THE BATH AND THE NEW PROPOSED LOCATION. AND IT'S OBVIOUS TO ME THAT THE BATH HAS BEEN RELOCATED WHICH IS AN EXPENSIVE THING TO DO. I THINK TO ENCOURAGE WHAT IS CALLED A STUDY A BEDROOM. IT'S A LIFE SAFETY ISSUE BECAUSE IT HAS NO EGRESS. I LOOK AT THIS PLAN AND I THINK THAT'S WHAT IS BEING ATTEMPTED HERE. AND I REALIZE THAT IT CAN'T BE REGULATED. BUT IT'S TRANSPARENT TO ME. TO CALL IT ELEGANT DENSITY I THINK IS A JOKE. THIS IS A BEAUTIFUL APARTMENT BUILDING. OF NICELY SCALED APARTMENTS OF A SIZE THAT IS DESPERATE NEED IN THIS CITY. AND IT'S A VERY MIXED POPULATION. I KNOW PEOPLE ON THIS STREET, THEY AREN'T ALL STUDENTS. THEY AREN'T ALL ONE-YEAR LEASE HOLDERS. PEOPLE LIVE THERE. THEY LIVE ON THE STREET. IN THIS NEIGHBORHOOD. AND THESE ARE THE PLACES THEY LIVE IN. AND THIS PROJECT ENCOURAGES BY VIRTUE OF THE CONSTRUCTION PROCESS FOR ONE, AND A HIGHER RATE OF TURNOVER, REALLY MAKES IT THAT MUCH LESS DESIRABLE PLACE TO LIVE

AND I THINK IS EFFECTIVELY DISCOURAGING LONG-TERM TENANTS FROM EITHER MOVING OUT OR NOT MOVING IN. I THINK IT'S A SERIOUS OVERSIGHT OF THE CITY NOT TO HAVE DENSITY STANDARDS FOR THIS ZONE. IT BOGGLES ME. AND YOU KNOW, WITH WE ARE WELL WEAR ESPECIALLY THIS YEAR OF THE ISSUES OF DENSITY AND EXTREME DENSITY. IT ALREADY IS HIGH DENSITY. THIS PROPOSAL IS EXTREME DENSITY. I THINK AS HAS BEEN POINTED OUT, THE CONSTRUCTION PROCESS, THIS PHASED CONSTRUCTION LIKELY ONE UNIT IN EACH OF THE BUILDINGS IS UNDER CONSTRUCTION ALL THE TIME. THAT MAKES IT REALLY INTOLERABLE FOR EVERYONE LIVING THERE TO HAVE NONSTOP CONSTRUCTION GOING ON. I CAN'T SUPPORT THIS. I THINK IT'S AN ILL-CONCEIVED OBVIOUS ATTEMPT TO EXTRACT THE MAXIMUM RENT OUT OF A PROPERTY BY MORE THAN DOUBLING THE NUMBER OF BEDROOMS AND IN CUTTING THE LIVING SPACE -- COMMON LIVING SPACE IN HALF OR WORSE. IT'S A DISASTER. I CAN'T VOTE FOR IT. IT'S ENCOURAGING UNSAFE AND UNHEALTHY LIVING.

>> S. O'KEEFE: ALL RIGHT. DENISE.

>> D. PINKSTON: I INTEND TO SUPPORT THE MOTION. I AGREE WITH THE WAY CHARLES DESCRIBED THIS. AND I AGREE WITH EARLIER COMMENTERS THIS EVENING THAT THE HOUSING CRISIS IS GOING TO GO AWAY ANYWHERE IN CALIFORNIA. THIS IS EXACTLY THE KIND OF NEIGHBORHOOD WE NEED TO BE BUILDING IN. PEOPLE RESIST NEW BUILDINGS, THEY RESIST CONVERSIONS OF OLD BUILDINGS AND THEY TOLERATE HOMELESS PEOPLE LIVING UNDER THE FREEWAY. WE HAVE GOT

TO HOUSE PEOPLE ESPECIALLY NEAR CAMPUS. HOMELESSNESS AFFECTS U.S. BERKELEY STUDENTS. A BUILDING LIKE THIS IS AN IDEAL FACE FOR UC FACULTY, STAFF, AND UNDER GRAD STUDENTS. THIS IS WHERE DENSITY LIKE THIS SHOULD BE GOING IN THE CITY. THIS IS ONE WAY TO GET IT. THERE ARE MANY WAYS TO GET IT. I DON'T THINK WE SHOULD BE GETTING INTO CREATING CONDITIONS THAT ARE IMPOSSIBLE TO ENFORCE. WE DON'T DIED WHO GETS IT LEASE WHAT. SAYING EXISTING TENANTS CAN HAVE RPP AND FUTURE TENANTS CAN'T WHEN THEY'RE ASSIGNED BY ADDRESS, IT SEEMS UNREALISTIC TO ME. THEY'RE NOT ASSIGNED TO A PERSON, THEY'RE ASSIGNED A CERTAIN AMOUNT TO AN ADDRESS. THAT WOULD BE SAYING I CAN ONLY GIVE A PARKING PASS TO MY ELDER DAUGHTER BECAUSE MY YOUNGER DAUGHTER IS NOT ELIGIBLE. WHILE I APPRECIATE THE OBJECTIVE, RIGHT NOW OUR RPP PROGRAM IS NOT SET UP TO BE RUN THAT WAY. AND I THINK THAT IT'S AN EXISTING BUILDING AND IT'S GOING TO GET PARKING. AND I DON'T THINK SEE THERE IS THREE WAY FOR ZONING STAFF IS TO GET INVOLVED IN HOW THE CITY RUNS THE RPP PROGRAM IN AN EFFECTIVE WAY ALTHOUGH I APPRECIATE THE INTENT. THOSE ARE MY THOUGHTS.

>> S. O'KEEFE: DENISE. JOHN.

>> J. SELAWSKY: THANK YOU. I JUST I WANT TO MAKE A COUPLE OF COMMENT HERE. DENISE, UNDER MOST CIRCUMSTANCES I THINK MOST OF THE TIME I AGREE WITH YOU OR AT LEAST I CONSIDER WHAT YOU'RE SAYING RELEVANT. AND ON POINT. I'M SORRY, BRINGING UP PEOPLE LIVING UNDER THE BRIDGES, PAYING \$3,000 A MONTH FOR RENT? I'M

NOT SURE WHAT THE CONNECTION IS THERE. YOU LOST ME ON THAT ONE. THERE IS A SET OF DIFFERENT SOLUTIONS FOR THE HOMELESS. AND IT'S NOT \$3,000 A MONTH RENT. MOST OF WHAT I SEE ABOUT THIS PROJECT -- THESE TWO PROJECTS, YOU'LL ACTUALLY AGREE WITH PATRICK MORE THAN I AGREE WITH ANYONE ELSE HERE. IT'S A WAY OF RECEIVING MORE PROFITS. I DON'T THINK IT SOLVES ANY HOUSING ISSUES. ESPECIALLY FOR THE CURRENT TENANTS. AND I GO BACK TO THAT. AND THEY'RE GOING TO BE LIVING WITH CONSTRUCTION FOR THE NEXT I DON'T KNOW HOW MANY MONTHS, YEARS, DECADES. I DON'T KNOW. NOBODY KNOWS. AND PUTTING TENANTS IN THAT SITUATION, I'M SORRY, IT'S -- IT TROUBLES ME. IT TROUBLES ME THE WAY THE CITY PRETENDS THAT IT'S SOLVING THE HOUSING CRISIS WITH BUILDING MORE UNITS AT HIGH RENT. WE'RE NOT SOLVING ANY HOUSING CRISIS THAT WAY. I'M SORRY. THAT'S ALL I HAVE. THANK YOU SHOSHANA.

>> S. O'KEEFE: I WANT TO SAY I THINK TERESA IS NEXT AND I DON'T SEE ANY MORE HANDS UP. BUT WE HAVE TO HAVE A CAPTIONER BREAK WITHIN THE NEXT COUPLE OF MINUTES. IF THERE WAS APPETITE FOR A VOTE, I'M NOT SURE IF THAT IS -- I SEE ONE VOTE FOR THAT, IT WOULD BE CLEAN TO HAVE A VOTE AND HAVE A CAPTIONER BREAK, BUT IF MORE DISCUSSION IS NECESSARY, THAT'S FINE.

>> T. CLARKE: I WOULD LIKE TO CALL THE QUESTION. AND I DID WANT TO SAY IN TERMS OF THE CONSTRUCTION, THE AMOUNT OF WORK DONE IF THERE, THEY'RE MOVING WALLS INTERIOR. AND SO, I DON'T KNOW IF IT'S GOING TO BE THAT DISRUPTIVE AND I DO AGREE THAT

CARRIE MAYBE -- I THINK 8:00 A.M. IS OKAY. MONDAY THROUGH FRIDAY. I WOULDN'T WANT ANY WORK TO BE GOING ON ON SATURDAY OR SUNDAY. I WOULD BE OKAY. CARRIE BROUGHT THAT UP. I THINK IT'S OKAY FOR IT TO START MONDAY THROUGH FRIDAY 8:00 A.M., BUT NOT ON THE WEEKENDS. IT JUST GETS TO BE TOO MUCH FOR PEOPLE WORKING ALL WEEK LONG. I DON'T THINK WE ADDRESSED THAT AND CARRIE BROUGHT IT UP EARLIER BUT I WOULD LIKE TO CALL THE QUESTION AND MAYBE ADD THAT WITHIN ITEM TO IT.

>> S. O'KEEFE: I 100 PERCENT AGREE WITH DENISE. I SUPPORT THE PROJECT BUT I WOULD LIKE TO SEE THE RPP THING TAKEN OUT. I'M NOT INTO MESSY LEGISLATION. MESSY RULES. I LIKE TO MAKE CLEAN RULES AND IT SEEM TOO MESSY. I'D RATHER VOTE FOR IT IF IT HAD THAT OUT. BUT I SUPPORT THE PROJECT OVERALL. IGOR HAD HIS HAND UP FIRST. IGOR.

>> I. TREGUB: JUST SPEAKING TO CARRIE'S AND TERESA'S POINT. CONSTRUCTION IS ALREADY NOT PERMITTED ON SUNDAYS. BUT I WOULD BE FRIENDLY TO TAKING OUT THE SATURDAY PORTION. I MEANT TO SAY THAT BEFORE. I'M SORRY, I FORGOT AS WE WERE DEBATING SOMETHING ELSE.

>> IT'S A TEAM EFFORT. CHARLES.

>> I THINK THAT'S A GREAT IDEA. I WOULD LIKE TO ADJUST THE MOTION TO INCLUDE A PROVISION THAT THERE WOULD BE NO WORK ALLOWED ON THE WEEKENDS. I THINK THAT IS PARTICULARLY IMPORTANT GIVEN THE TENURE OF THE WORK THAT WE'VE BEEN CONCERNED ABOUT. GIVEN THAT WE HAVE -- I ASKED IGOR FOR THE OPINIONS ABOUT THE



RPP AND ALL I GOT WAS NEGATIVE THOUGHTS ABOUT THEM. I'M GOING TO ASK IF IT'S OKAY WITH YOU TO WE LIMB THAT FROM THIS PROJECT AS SECONDER OF THE MOTION.

>> I. TREGUB: I'M NOT GOING TO DIE ON THAT HILL. THAT'S FINE. ALTHOUGH I STILL BELIEVE IT SHOULD BE THERE.

>> S. O'KEEFE: IT'S A VALUES ATTEMPT. WE APPRECIATE WHAT YOU'RE TRYING TO DO.

>> I'LL STAY WITH YOU HALF THE WAY ANYWAY. DOES EVERYBODY UNDERSTAND THE MOTION? MAYBE THE PLANNER CAN REPEAT OR SHANNON, YOU CAN REPEAT THE MOTION. BECAUSE THERE HAVE BEEN A LOT OF CHANGES ALONG THE WAY.

>> ZAB SECRETARY: I APPRECIATE THE OPPORTUNITY. I'LL MAYBE NOT GET THE LANGUAGE CORRECT, I'LL BUT THE FIRST ADDITIONAL CONDITION OF APPROVAL RELATES TO THE APPLICANT SUBMITTING A PLAN TO STAFF FOR THEIR REVIEW REGARDING DELIVERY AND ACTIONS ON THE SITE. NEXT CONDITIONAL APPROVAL IS THE EXTENSION OF THE PROTECTION COA THAT IS THERE AND MODIFICATION OF THE APPROVAL AROUND CONSTRUCTION TO SAY THERE IS NO CONSTRUCTION ACTIVITY ON SATURDAY OR SUNDAY.

>> THAT'S RIGHT, THANKS.

>> S. O'KEEFE: OKAY. LET'S TAKE A VOTE IN THE SAME ORDER.

>> ZAB SECRETARY: BOARD MEMBER TREGUB.

>> YES.

>> BOARD MEMBER CLARKE.

>> YES.

>> BOARD MEMBER SHEAHAN.

>> NO.

>> BOARD MEMBER SELAWSKY.

>> NO.

>> BOARD MEMBER OLSON.

>> NO.

>> BOARD MEMBER KAHN.

>> YES.

>> BOARD MEMBER KIM.

>> YES.

>> BOARD MEMBER PINKSTON.

>> YES.

>> CHAIR O'KEEFE.

>> S. O'KEEFE: YES SO THAT IS MAJORITY. YOU HAVE YOUR USE PERMIT APPEALABLE TO THE CITY COUNCIL. THANK YOU VERY MUCH. EVERYONE, WE'LL TAKE A 10-MINUTE CAPTIONER BREAK AND WHEN WE COME BACK WE'LL HEAR THE NEXT ONE. CAPTIONER, HAVE A GOOD REST, I'LL SEE YOU IN 10 MINUTES AT 9:14.

>> S. O'KEEFE: I HAVE 9:14, SO IF PEOPLE COULD COME BACK, THAT WOULD BE GREAT.

>> S. O'KEEFE: WHAT DID YOU GUYS DO ON YOUR BREAK? I ANSWERED FRANTIC STUDENT E-MAILS.

>> I HAD DESSERT.

>> I GOT MY HAAGEN-DAZS. WHAT DO YOU HAVE THERE PATRICK?

>> TARA'S ICE CREAM. IT'S A LOCAL FAVORITE.

>> S. O'KEEFE: OKAY, SO I GUESS JOHN IS BACK. JOHN IS JUST HAVING HIS CAMERA OFF.

>> J. SELAWSKY: I'M BACK.

>> S. O'KEEFE: WE'RE BACK. CAPTIONER I HOPE YOUR FINGERS ARE RESTED. 1862 ARCH. WHICH MIGHT FEEL A LITTLE FAMILIAR BUT IT IS A DIFFERENT PROJECT. WE'LL HAVE A STAFF REPORT. STAFF.

>> STAFF: I'LL KEEP IT QUICK. THIS IS 1862 ARCH STREET. WHICH IS ZP2019-0213 ADDS 15 BEDROOMS TO A BUILDING FOR A TOTAL OF 25 BEDROOMS ON THE FIRST FLOOR ALSO IN THE R 3 H ZONING DISTRICT. LET ME SHARE THIS. THIS IS ADJACENT TO THE SOUTH OF 1850 ARCH. OVERLOOKING THE NEIGHBORHOOD.

>> S. O'KEEFE: SORRY, WE CAN'T SEE ANYTHING. IT SAYS 1862 PLANS BUT THERE WAS BLACK. THAT'S WEIRD. I THOUGHT YOU MIGHT WANT TO KNOW.

>> OKAY. CAN YOU SEE IT NOW?

>> S. O'KEEFE: YES.

>> STAFF: YES. THIS BUILDING IS ALSO THREE STOREYS AND CONTAINS TWO STUDIOS, FIVE TWO BEDROOMS AND ONE FOUR BEDROOM APARTMENT CONSTRUCTED IN 1923. PARCELS IS NONCONFORMING TO CURRENT ZONING STANDARDS FOR THE MINIMUM SETBACK ON THE FRONT AND SIDE PROPERTY LINES. THE PROJECT IS ALSO ONLY INTERIOR MODIFICATIONS NO EXTERIOR CHANGES TO ACCOMMODATE AN INITIAL 15

BEDROOMS. ONE COMPLETED IT WILL CONTAIN TWO STUDIOS ONE ONE-BROOM, ONE TWO-BEDROOM, FIVE THREE-BEDROOM AND ONE FIVE-BEDROOM UNIT. AND THE APPLICANT HELD A PRE-APPLICATION MEETING IN DECEMBER AND DISCUSSED BOTH PROJECTS AND CONCERNS ARE SIMILAR TO 1850, THERE ARE NO SPECIFIC CONCERNS TO 1862 THAT ARE DIFFERENT FROM WHAT HAS BEEN DISCUSSED AND ALL UNITS ARE OCCUPIED AND SUBJECT TO THE RENT STABILIZATION ORDINANCE. AND STAFF ALSO BELIEVES THAT THE AMOUNT OF COMMON SPACE RELATIVE TO THE NUMBER OF BEDROOMS WOULD REMAIN SUFFICIENT THROUGH THIS AND WOULD NOT BE DETRIMENTAL. IN CONTRAST TO 1850 ARCH, AT THIS BUILDING THERE IS ONLY A 4% REDUCTION IN THE FLOOR AREA DEDICATED TO COMMON LIVING SPACE. FOR AN AVERAGE OF 40% OF THE UNIT FLOOR AREA AS COMMON LIVING SPACES. AND ACCORDING TO THE APPLICANT STATEMENT WOULD HELP UNITS BE MORE FUNCTIONAL AND IN TURN STUDIO UNIT TO ADD A BEDROOM. AND SO, STAFF ALSO BELIEVES 1850 THAT THIS IS CONSISTENT WITH THE PURPOSES OF THE R-3 DISTRICT CONTAINS A REASONABLE AMOUNT OF OPEN SPACE, 2,186 SQUARE FEET WHERE 20,000 IS THE MINIMUM SO IT EXCEEDS THE MINIMUM. FROM IS NO WINDOW OPENINGS OR IMPACTS TO AIR. SUPPORTS RESIDENTIAL USE ON THE PARCEL. THE SAME TENANT PRO TECHS ARE IN PLACE AS 1850. SO STAFF RECOMMENDS APPROVAL OF THIS AND SUBJECT SO FINDINGS AND CONDITIONS.

>> S. O'KEEFE: ARE THERE QUESTIONS FOR STAFF? SEEING NONE, LET'S HEAR -- IGOR HAS A QUESTION.

>> I. TREGUB: I DIDN'T GET A CHANCE TO ASK THAT ON 1850, BUT I ASSUME FOR THE BASEMENT UNITS EVEN THOUGH THEY ARE BASEMENT UNITS THAT THIS HAS BEEN OR WILL BE VETTED BY BUILDING -- THE BUILDING DEPARTMENT TO MAKE SURE THAT THEY HAVE COMPLIED WITH ALL MINIMUM REQUIREMENTS FOR VENTILATION AND LIGHT?

>> STAFF: YES AND THE CITY HAS A RENTAL HOUSING PROGRAM TOO COMPLETES INSPECTIONS TO MAKE SURE THAT RENTAL UNIT ARE MAINTAINED AND IN PROPER CONDITION.

>> S. O'KEEFE: OTHER QUESTIONS FOR STAFF. SEEING NONE, APPLICANT. WHAT DO YOU HAVE TO TELL US NEW ABOUT THIS BUILDING?

>> THANK YOU. VERY MUCH AGAIN FOR TIME. NOT MUCH. SO CAN YOU SEE MY SCREEN?

>> S. O'KEEFE: NO.

>> LET'S TRY AGAIN. YOU SHOULD BE ABLE TO SEE NOW.

>> S. O'KEEFE: NOW WE CAN.

>> THIS PROJECT IS ACTUALLY THE IMAGE THAT'S IN THE UPPER LEFT CORNER. VERY AGAIN SIMILAR CIRCUMSTANCE TO THE PROJECT YOU JUST HEARD TO ANSWER BOARD MEMBER TREGUB'S QUESTION. YES, THE BASEMENT UNITS THAT YOU CAN SEE ON THE LEFT-HAND SIDE AS THE HILL FALLS AWAY, IT REVEALS THE FULL WALL HEIGHT OF THE UNITS AS IT GOES DOWN THE DRIVEWAY AND AROUND THE CORNER WE'VE LOOKED AT THE PROXIMITIES TO CAMPUS AND THE DOWNTOWN WITH THIS. AGAIN, THIS PROJECT HAS RECEIVED A BRAND NEW HEATING SYSTEM. THE

ELECTRICAL UPGRADE HAS BEEN COMPLETE. THEY'RE GOING THROUGH SEISMIC RETROFIT IT MAKE SURE THE BUILDING LAST ANOTHER HUNDRED YEARS. THIS IS JUST ONE EXAMPLE OF HOW THE UNIT WOULD BE RECONFIGURED AND BEING SEE HOW THE SIZE OF THESE BUILDINGS AS THEY FALL DOWN THE SLOPES BOTH OF THEM HERE 1862 IS NOW ON THE RIGHT-HAND SIDE. AGAIN, WE'RE HAPPY TO ANSWER ANY QUESTIONS. THE CONDITIONS ON THE LAST PROJECT I THINK WE'D BE FINE TO HAVE THOSE APPLY HERE AS WELL. HAPPY TO ANSWER ANY QUESTIONS YOU HAVE. ANYTHING WE CAN RESPOND TO WOULD BE GREAT.

>> S. O'KEEFE: THANK YOU VERY MUCH. I FORGOT TO DO THE TIMER. SO ANY QUESTIONS FOR APPLICANT? SEEING NONE, WE'LL NOW TURN TO THE PUBLIC. PUBLIC I SEE KELLY. ANYONE ELSE HERE WOULD LIKE TO SPEAK ON THIS ITEM? WE'LL GO AHEAD AND RAISE YOUR HAND IF YOU DO. KELLY, YOU HAVE TWO MINUTES. DO I NEED TO TIME YOU? KELLY, YOU KNOW WHAT TWO MINUTES FEEL LIKE.

>> SO LOOKING AT THE BASEMENT, THE BEDROOM THAT'S NEXT TO THE LIVING ROOM HAS FLIPPED OR JUST ABOVE WHAT SAYS "PROPOSED PLANNED BASEMENT FLOOR" THAT BEDROOM THERE DOESN'T HAVE ANY EXIT INTO THE APARTMENTS. SO I'M SURE THAT'S JUST A DRAWING ERROR THAT YOU NEED TO CORRECT, BUT IT SEEMS LIKE IT OUGHT TO BE CORRECTED. SO THAT THE BEDROOM IS PART OF THE APARTMENT. AND THEN THIS UNIT UP ON THE SECOND FLOOR THAT HAS THE FIVE BEDROOM, IT FEELS UNWIELDY, MANY OF YOU ARE ARCHITECTS, YOU'VE BEEN LOOKING AT PLANS LONGER THAN I'VE BEEN. THE UNIT 7 KIND OF

DOESN'T FEEL QUITE RIGHT. PLEASE TAKE A LOOK AT THAT. AND THOSE ARE REALLY MY COMMENTS.

>> S. O'KEEFE: THANK YOU, KELLY. I SEE A HAND UP. CARRIE, DO YOU HAVE A QUESTION FOR KELLY.

>> MY QUESTION WAS FOR THE APPLICANT.

>> S. O'KEEFE: LET'S -- I'LL ASK THEM IN A MINUTE. I HAVE ANOTHER MEMBER OF THE PUBLIC THAT WOULD LIKE TO SPEAK FIRST. SO CHARLIE. HELLO CHARLIE, YOU HAVE TWO MINUTES.

>> THANKS. I PROBABLY SHOULD HAVE MENTIONED THIS DURING DISCUSSION OF 1850. I LIVE IN 1876 UNTIL APARTMENT IMMEDIATELY OPPOSITE 1862. AND I'VE HEARD THE DISCUSSION CONCERNS ABOUT CONSTRUCTION NOISE AND I THINK THEY'RE LOGICAL POINTS. FOR THE PAST SEVERAL MONTHS THEY'VE BEEN DOING WORK ON A COUPLE OF BASEMENT APARTMENTS ABUTTING 1876. BECAUSE OF THE EXCEPTION THAT THESE BUILDINGS ARE NOT SEPARATED BY MUCH. FRANKLY IT'S TAKEN FOREVER EVEN ALLOWING FOR THE FACT IT WAS DELAYED BECAUSE OF COVID. AND THERE ARE PEOPLE COMING IN AND OUT CONSTANTLY STARTING EARLY IN THE MORNING AND I DON'T THINK THESE RENOVATIONS INVOLVE MOVING ANY WALLS. I THINK SOME OF THE MEMBERS OF THE BOARD'S COMMENTS THAT WE CAN ANTICIPATE CONSTRUCTION BEING COST IS A POINT. I KNOW THERE WAS SOME DISCUSSION AND I THINK THAT'S LATE ABOUT ATTACHING A CONDITION ON WEEKDAYS AS WELL AS AT LEAST A TIME CONDITION. MAYBE IT'S TOO LATE TO GO BACK FOR 1850, BUT I WOULD THINK THAT YOU COULD

CONSIDER THAT. I JUST TO MAKE A QUICK POINT ABOUT TRAFFIC ON THE STREET. I THINK IT'S A FALLACY SO THINK WHEN PEOPLE DON'T HAVE CARS IT NECESSARILY REDUCE CAR TRAFFIC. I'VE BEEN LOOKING AT THE TRAFFIC ON THE STREET WHEN I'M STUCK AT HOME. WHEN PEOPLE DON'T HAVE CARS, THEY DO HAVE CARS BUT THEY HAVE AMAZON DELIVERY AND FOOD DELIVERY AND EVEN MULTIPLY THE AMOUNT OF TRAFFIC. THE RPP ISSUE IS ABOUT DENSITY IN THAT AREA ARE REAL AS WELL.

>> S. O'KEEFE: THANK YOU VERY MUCH. APPRECIATE YOUR COMMENTS. IS THERE ANYONE ELSE FROM THE PUBLIC WHO WOULD LIKE TO SPEAK ON THIS ITEM? ALL RIGHT, SEEING NONE, CARRIE, DO YOU MIND IF I GIVE THE APPLICANT A CHANCE TO RESPOND THEN YOU'LL HAVE A CHANCE TO ASK A QUESTION. APPLICANT. DO YOU WANT TO ADD ANYTHING?

>> I WOULD LIKE TO SAY THESE BUILDING ARE REALLY OLD. THEY LACKED PROPER REPAIR FOR A LONG TIME. THE OWNER HAS, I THINK, ACTUALLY OWNED THEM FOR JUST UNDER A YEAR MAYBE JUST OVER. WHILE THE BULLS ARE BEING RESTABILIZED AND HAVING THE SYSTEMS UPGRADED, THEY NEED A LOT OF WORK. THE INVESTMENT THAT IS BEING PUT BACK INTO THEM WILL HOPEFULLY BE PAID FOR BY THE RENTS. IT'S A LOT OF MONEY AND TIME. AND WE CAN I THINK LIVE WITH THE CONSTRUCTION CONDITION THAT WAS PLACED ON THE LAST ONE, BUT STARTING LATER IN THE MORNING JUST IS GOING TO PROLONG CONSTRUCTION. LATER IT MAKES IT MORE DIFFICULT TO GET CONTRACTORS IN BECAUSE THEY LIKE TO START EARLIER AND, AGAIN, I



THINK THE OWNERS ARE TRYING TO GET AS MUCH OF THIS DONE AS FAST AS THEY CAN. THAT'S ALL WE HAVE TO SAY. ANY OTHER QUESTIONS, WE'RE HAPPY TO TRY AND ANSWER.

>> S. O'KEEFE: THANK YOU. OKAY. CARRIE, ASK THE QUESTION.

>> C. OLSON: I WANT TO ASK ABOUT THE BASEMENT PLAN. YOU SEEM TO HAVE LOST THE TALLY FOR ONE OF YOUR UNITS. IT ISN'T ON THERE AND I GUESS I'M GOING TO HAVE STAFF PERK UP THEIR EARS A LITTLE BIT BECAUSE WE'RE LIKE GETTING READY TO APPROVE THIS PROJECT SO WE SHOULD HAVE ACCURATE PLANS. THANK YOU, KELLY FOR POINTING OUT THAT THAT ONE BEDROOM IN THE BASEMENT DOESN'T HAVE A WAY TO GET INTO THE REST OF THE UNIT. SO WHOEVER MAKES THE MOTION, CAN YOU MAKE SURE YOU UNDERSTAND HOW MANY UNITS WE ARE APPROVING AND HOW MANY BEDROOMS WE'RE APPROVING AND MAKE SURE THAT WE ASK FOR A DOOR TO BE PUT IN THE PLANS.

>> S. O'KEEFE: LET'S LET THE APPLICANT RESPOND.

>> ABSOLUTELY, THERE SHOULD BE -- I DON'T KNOW THAT IS AN PLANNING ERROR. THERE SHOULD BE A DOOR ON THE OTHER SIDE OF THAT ROOM INTO THE UNIT AND THAT SHOULD MOST LIKELY BE A WINDOW OR JUST WALL SECTION.

>> S. O'KEEFE: ALL RIGHT.

>> AND I THINK THE PROBLEM IS THAT RIGHT NOW THAT'S AN EXISTING DOOR TO THE OUTSIDE. SO THE UNIT RIGHT NOW HAS A FRONT AND BACKDOOR. THAT DOOR WOULD NEED TO BE CLOSED OFF SO THAT THERE IS JUST ONE PRIMARY DOOR IN THE UNIT. WITH THE BEDROOM

UNIT, THERE IS AN EGRESS WINDOW.

>> S. O'KEEFE: TERESA HAD HER HAND UP BUT PUT IT DOWN. NO? SO ANY OTHER QUESTIONS FOR THE APPLICANT BEFORE I CLOSE THE PUBLIC HEARING. SEEING NONE, THANK YOU SO MUCH. HAVE A SEAT. AND WE'LL BRING IT BACK TO THE BOARD FOR COMMENTS. IGOR. I'M SORRY, CARRIE. I SAW YOUR HAND UP FIRST BUT THE ORDER TELLS ME WHO DID IT. SO CARRIE.

>> C. OLSON: I WANTED TO GET MY COMMENT IN EARLY TO PLEASE HAVE THE SAME CONDITION ABOUT CONSTRUCTION NOISE AND I -- MARK TRIED TO MAKE AN ARGUMENT ABOUT NOISE THAT I DON'T QUITE BUY. I THINK THAT WE HAD IT COME UP BEFORE. SORRY, FELLOW BOARD MEMBERS, ABOUT GUYS WHO ARE ARRIVE TO DO THE CONSTRUCTION EARLY, THEY WANT TO BEAT THE TRAFFIC SO THEY COME AT 6:00 A.M. AND SIT IN THEIR TRUCK AND PLAY THEIR MUSIC. I UNDERSTAND WHY WE WOULDN'T MAKE IT A CONDITION, BUT I'M SAYING THIS SO THAT THE APPLICANT WILL UNDERSTAND THAT YOU HAVE TENANTS IN THE BUILDING AND WE WANT TO TREAT THEM NICE.

>> S. O'KEEFE: OKAY. IGOR.

>> I. TREGUB: PART OF THE JOYS OF MAKING A MOTION TO APPROVE IS TO MAKE SURE ALL THE PREVIOUS CONDITIONS ARE MOSTLY INCLUDED HERE. I WANTED TO LET CHARLIE KNOW THAT WE DID ADD A CONDITION FOR NO CONSTRUCTION ON SATURDAYS. THAT WILL BE ADDED CONDITION NUMBER ONE. AS PART OF THIS MOTION TO APPROVE. ADDITION NUMBER TWO WOULD BE THE CHANGE IN PLANS THAT KELLY

CAUGHT. THANK YOU, KELLY. NUMBER THREE WOULD BE INCLUSION OF THE BOARD'S AND TENANT PROFESSION ORDINANCE AT THE END OF CONDITION 31. AND THE FOURTH WOULD BE THE CONSTRAINT ON TMCS BEING ABLE TO USE THE DRIVEWAY AS LONG AS THE VEHICLE IS OCCUPIED. WHATEVER THE CONDITION WAS IN THE LAST PROJECT. DID I MISS ANYTHING?

>> S. O'KEEFE: I DON'T THINK SO. COOL, ALL RIGHT. SO CHARLES.

>> C. KAHN: I WOULD LIKE TO SECOND IGOR'S MOTION.

>> S. O'KEEFE: ALL RIGHT. PREDICTABLE. OKAY SO WE HAVE A MOTION AND A SECOND. IS THERE FURTHER DISCUSSION ON THE MOTION? OH, WELL, I GUESS WE'RE GOING TO VOTE ON THE MOTION. PATRICK. PATRICK, YOU'RE MUTED.

>> P. SHEAHAN: YES AND I -- I'M STILL KIND OF PUZZLING OVER WHAT THIS REALLY IS. AND WHAT THE NUMBERS REALLY ARE. ONE THING I WOULD LIKE TO COMMENT ON IS BOTH TO APPLICANT AND STAFF AND I KNOW THERE ARE STANDARDS FOR SUBMITTALS BUT THIS CHANGE OF SCALE MAKES IT REALLY DIFFICULT TO SORT THROUGH THESE AND FIGURE OUT WHAT IS BEING PROPOSED. I'M A PROFESSIONAL. IT'S HARD FOR ME. AND KELLY, NICE JOB SPOTTING SOME OF THE ISSUES BECAUSE IT'S SORT OF LIKE SEARCHING FOR WALDO. IN THE PLACEMENT, I NOTED THE DOOR TO THE EXTERIOR, BUT IT WAS OBVIOUSLY THOUGHT ABOUT BECAUSE THERE IS A NOTE THAT SAYS FLIP DOOR. IT WAS SORT OF THOUGHT ABOUT BUT NOT REALLY THOUGHT THROUGH. THE THING THAT DISTURBS ME MORE ABOUT THIS PLAN, THIS UNIT PLAN IS THAT THE LIVING ROOM IS

CONFIGURED AS A BEDROOM. IT'S KIND OF ALL WITH A DOOR. SEPARATING IT FROM THE KITCHEN RATHER THAN MOST OF THE OTHER UNIT PLANS HAVE A KITCHEN AND LIVING ROOM AS WITHIN SPACE. SO I THINK THIS IS ANOTHER CASE OF PROVIDING A PLAN THAT IS LEGAL IN THE STRICT SENSE BUT HAS A BEDROOM THAT DOESN'T GET COUNTED AS A BEDROOM, IT'S A LIVING ROOM. KNOWING HOW THESE PLACES TEND TO GET OCCUPIED, THAT'S GOING TO BE USED AS A BEDROOM. I RAISE THE ISSUE OF DENSITY STANDARDS. AND WHAT I KEPT THINKING OF AS I WAS LOOKING AT THIS IS MINI DORMS. THIS IS LIKE TAKING AN APARTMENT BUILDING AND MAKING A BUNCH OF MINI DORMS OUT OF IT. MINI DORMS HAVE BECOME REGULATED. IN THE ABSENCE OF REGULATION, THAT APPLIES TO THIS KIND OF THING. THAT IS EXTREMELY DENSE, VERY LITTLE LIVING SPACE IN PROPORTION TO BEDROOMS. AND THERE IS DETRIMENT TO THAT. THERE IS SUCH A THING AS TO DETRIMENT TO LIGHT, AIR, SUN. EXCESSIVE DENSITY COMPROMISES. FOR THE CAUSES. AND I'M GOING TO VOTE NO ON THIS ALSO BECAUSE I THINK THIS IS NOT THE KIND OF -- THIS IS HOUSING GEARED TOWARDS SHORT TERM TENANTS AND A TURNOVER BECAUSE IT ALLOWS RENT INCREASE. OR MAXIMIZES POTENTIAL RENT INCREASE. THAT'S WHAT THIS PROJECT IS TRYING TO DO. AND I'LL VOTE NO AGAIN. IT'S NOT RIGHT.

>> S. O'KEEFE: PATRICK. OKAY. NO MORE COMMENTS. I JUST WANT TO SAY BRIEFLY I DIDN'T MAKE MUCH OF A COMMENT LAST TIME. IN TERMS OF DENSITY, THIS IS PRETTY DENSE. HOWEVER, IT IS SO CLOSE TO CAMPUS. I REALLY ACTUALLY THINK THIS IS A VERY APPROPRIATE

PLACE FOR THIS TYPE OF HOUSING. EVEN THOUGH I THINK IT WOULD BE EXTREME AND PROBABLY ILL-ADVISED IN OTHER PARTS OF THE CITY, I AM COMFORTABLE WITH IT IN THIS LOCATION. I JUST WANTED TO SAY THAT. A PLUG FOR DENSITY. WITH NO FURTHER COMMENT, WE CAN TAKE A ROLL CALL VOTE, SHANNON.

>> ZAB SECRETARY: BOARD MEMBER TREGUB.

>> YES.

>> BOARD MEMBER CLARKE.

>> YES.

>> BOARD MEMBER SHEAHAN.

>> NO.

>> BOARD MEMBER SELAWSKY.

>> NO.

>> BOARD MEMBER OLSON.

>> NO.

>> BOARD MEMBER KAHN.

>> YES.

>> BOARD MEMBER KIM.

>> YES.

>> BOARD MEMBER PINKSTON.

>> YES.

>> CHAIR O'KEEFE.

>> S. O'KEEFE: YES, MOTION PASSES. 1862 ARCH STREET, YOU HAVE YOUR USE PERMITS APPEALABLE TO THE CITY COUNCIL AS ALWAYS.

THANK YOU VERY MUCH. THANK YOU TO THE PUBLIC AND THANK YOU APPLICANT. THANK YOU STAFF. SO, THAT IS THE END OF OUR HEARINGS. THE LAST THING ON THE AGENDA IS A DRC REPORT. DO WE HAVE ONE?

>> NOTHING TO REPORT. WE ARE -- I DID -- ACTUALLY THERE IS ONE THING TO REPORT. TERESA, DO YOU WANT TO TALK ABOUT SOME OF THE MOVEMENT ON THE DOWNTOWN DESIGN STANDARDS? YOU ATTENDED THE MEETING.

>> T. CLARKE: WE TRIED TO GET TO THE TOPIC LAST TIME, BUT WE RAN OVER. SO WE WROTE UP SOME NOTES FROM A TOUR AND WE COULD SEND THOSE TO THE ZONING BOARD. I HAVE SOME PHOTOS SO WE'LL ASK STAFF TO SEND THOSE OUT AS A SUPPLEMENTAL. OR HOW DO WE DO THAT? WE'LL ASK ANN TO SEND THEM TO SHANNON AND SHANNON CAN PUT THEM UNDER OUR DRC PACKET OR WHATEVER. IT'S JUST WE KIND OF REVIEWED WHAT KIND OF LANDSCAPING AND HARDSCAPING IN PLANTERS WOULD BE GOOD TO REPEAT. BECAUSE RIGHT NOW WE DON'T REALLY HAVE ANY COHESIVE SET OF GUIDELINES FOR THE DOWNTOWN. RIGHT NOW THERE IS NO LANDSCAPE ARCHITECT OR OTHER PLANNER-TYPE PERSON WHO IS WORKING ON A COHESIVE PLAN FOR THE STREETScape FURNITURE, HARDSCAPE, AND ALSO PLANTERS. SO, YEAH, I ENCOURAGE EVERYBODY TO GIVE INPUT BECAUSE -- AND I ALSO AFTER WALKING THAT DOWNTOWN, IT BECAME CLEAR WE NEED TO I THINK JUST AS CITIZENS WHO CARE ABOUT OUR DOWNTOWN IS TO ADVOCATE FOR THE CITY TO CREATE A DESIGN STANDARDS FOR THE DOWNTOWN. SO IT'S MORE COHESIVE BECAUSE IT'S PRETTY MISHMASH. HE'LL JUST KEEP YOU GUYED INFORMED OF WHAT I'M

DOING BECAUSE I THINK EVERYBODY HERE WOULD SUPPORT A MORE BEAUTIFUL DOWNTOWN. AND AS MORE PROJECTS GET DEVELOPED IN DOWNTOWN, WE'D LIKE TO SEE -- WITH THE MONEYS WE HAVE. THE IMPROVEMENT.

>> C. KAHN: TERESA INVESTIGATION TO DATE HAS NOT REVEALED ANY DESIGN STANDARDS FOR THE CITY OF BERKELEY FOR OUR DOWNTOWN FOR THE PUBLIC SPACES WHICH IS ASTONISHING. TO ME. AND WE NEED TO RECTIFY THAT HOW THAT IS RECTIFIED WILL BE A MATTER OF COUNCIL BUT WE'RE TRYING TO COLLECT GOOD INFORMATION SO COUNCIL WILL MAKE A DETERMINATION ON HOW TO FIX IT. TERESA FIGURED THIS OUT. THE DRC, WE HAVE STANDARDS IN THE CITY. WHEN PEOPLE BUILD LARGE PROJECTS THEY HAVE TO REPLACE THE SIDEWALK FREQUENTLY. THEY HAVE TO PUT IN LANDSCAPING IMPROVEMENTS AND THEY DON'T KNOW WHAT TO DO. WE AT DRC -- WE DO OUR BEST, BUT WE DON'T HAVE STANDARDS TO WORK FROM. TERESA REALLY BROUGHT IT TO THE ATTENTION OF DRC AND IS ACTIVELY PURSUING IMPROVEMENTS TO OUR DOWNTOWN AND GETTING STANDARDS THAT WE CAN AS YOUR SUBCOMMITTEE, YOU KNOW, IN FORCE WHEN PEOPLE COME WITH NEIGHBORHOOD PROJECTS AND PAY MAJOR MONEY INTO THE PUBLIC RIGHT-OF-WAY WITHOUT ANY IDEA OF WHAT THEY ACTUALLY OUGHT TO BE DOING. SO THANK YOU TERESA.

>> S. O'KEEFE: CAN I -- BEFORE I CALL ON ALL FOUR OF YOU, SHANNON THAT IS NOT A PROBLEM TO GET THE NOTES? SEND IT TO ME AND I'LL PUSH IT OUT TO THE ZAB NOTES. WE'LL GET IT IN OUR

E-MAIL?

>> ZAB SECRETARY: IF THIS IS SOMETHING THAT THERE IS A LOT OF DIFFERENT WAYS. I CAN PUSH IT OUT VIA E-MAIL, IT COULD BE AN ATTACHMENT TO THE NEXT ZAB PACKET IF THAT IS SOMETHING YOU WANT TO DISCUSS MORE OR WANT TO MAKE SURE THAT THE PUBLIC HAS ACCESS THE SAME WAY THAT THE ZAB DOES. WE COULD DO AWFUL THE ABOVE. I COULD PUSH OUT THE E-MAIL SOONER AND ATTACH IT TO A PACKET IN TWO WEEKS.

>> S. O'KEEFE: TERESA, WOULD IT BE HELPFUL TO HAVE A ZAB DISCUSSION ON IT?

>> NOT YET. I THINK WE'LL TRY TO GET IT ON TO THE DRC. MAYBE WE CAN DO IT AS PART OF THE DRC REPORT.

>> S. O'KEEFE: THAT MAKES SENSE. IF WE EVER NEED TO HAVE A ZAB DISCUSSION, WE CAN PUT THAT ON AGENDA. ALL RIGHT. I WANT TO GET TO THE PEOPLE WITH THEIR HANDS UP. THAT SOUNDS COOL. WHO WAS FIRST, IGOR.

>> I. TREGUB: KUDOS TO MEMBERS OF THE DRC. THIS IS A GREAT EXAMPLE OF SOMETHING THAT WE MENTIONED AT ZAB I THINK AT ONE OF THE MEETING AND IT WENT TO THE DRC FOR FURTHER DISCUSSION. WHICH REMINDS ME THAT THERE HAVE BEEN SEVERAL THINGS THAT ZAB HAS BEEN ASKING FOR. AND I WANTED TO SEE IF ON THE NEXT AGENDA WE COULD INCLUDE A STAFF UPDATE ON SOME OF THOSE THINGS. I CAN'T EVEN REMEMBER WHAT THEY ALL ARE RIGHT NOW. I NEED TO WORK WITH SHANNON. BUT I DISTINCTLY REMEMBER THAT A COUPLE OF MONTHS AGO,



WE HAD A RUNNING LIST OF ISSUES THAT KEPT COMING UP AT ZAB OVER AND OVER AND OVER AND WE WANTED TO CONSOLIDATE THEM AND SEE HOW WE CAN ASK THE COUNCIL TO ADDRESS THEM.

>> I CAN ANSWER ONE AND YOU'RE GOING TO GET ME IN TROUBLE, IGOR. ONE OF THE ON GOING QUESTIONS OR CONCERNS THAT CAME UP AT ZAB IS THE WAY THE AFFORDABLE MITIGATION FEE IS CALCULATED. THAT ITEM GOES TO DISCUSSION AT I BELIEVE THE OCTOBER 13TH PLANNING COMMISSION MEETING. BUT WHAT THE CITY CLERK ASKED ME TO DO IS NOT TELL YOU ALL ABOUT THAT UNTIL AFTER THE MEETING. SO THAT WE DON'T RUN INTO A BROWN ACT PROBLEM OF ALL THE ZAB MEMBERS BEING THERE. MAYBE IF YOU COULD ALL AGREE THAT ONLY IGOR WILL WATCH IT IN REALTIME AND THE REST OF YOU WILL WATCH IT ON THE 14TH.

>> S. O'KEEFE: THEY SAID LIKE WE CAN'T BE GROWN UPS.

>> ZAB SECRETARY: IT'S 9:45. I CAN'T REMEMBER THE LANGUAGE.

>> S. O'KEEFE: JUST MAKE SURE THERE IS NO BROWN ACT VIOLATION. IF WE'RE AT A PUBLIC MEET --

>> ZAB SECRETARY: TRUST ME. THE CLERK SAID IT COULD BE PROBLEMATIC AND A SLIPPERY SLOPE. PLEASE DON'T ALL ATTEND ON THE 13TH. WATCH IT ON THE 14TH.

>> I. TREGUB: THE REST WILL WATCH IT ON FACEBOOK LIVE.

>> S. O'KEEFE: CARRIE.

>> FOR YEARS WE ARE DEALT DOWNTOWN STREETScape AND WE CERTAINLY TALKED ABOUT IT WITH THE WORK TO CREATE A HISTORIC DISTRICT. I DON'T KNOW IF YOU ALL KNOW, BUT WE ACTUALLY DID THAT

WORK. WE HAD CONSULTANTS AND WE PAID A LOT OF MONEY FOR IT. BUT IT'S NOT GOING IT HAPPEN BECAUSE YOU HAVE TO HAVE PROPERTY OWNERS BUY OFF ON HISTORIC DISTRICTS. IT'S STILL IS THERE AND THE WORK WAS -- I MEAN THERE ARE ABOUT A HUNDRED HISTORIC PROPERTIES DOWNTOWN. I'M JUST THROWING IT OUT THERE, TERESA, I APPRECIATE THE WORK YOU'RE DOING BUT WE HAVE DONE SOME WORK ON THAT.

>> T. CLARKE: IF YOU HAVE ANYTHING ON STREET FURNITURE, LANDSCAPE AND THE HARD CAPE, THOSE ARE THE THREE ITEMS WE'RE TRYING TO DEAL WITH ABOUT US THAT'S THE AREA THAT PUBLIC WORKS IS IN CHARGE OF AND THEY DON'T HAVE ANYTHING AND NOBODY THERE GIVES A HOOT.

>> S. O'KEEFE: OKAY. DENISE.

>> D. PINKSTON: I JUST WANTED TO SAY THANK YOU TO THE DESIGN REVIEW COMMITTEE FOR TAKING THAT ON. THINK THAT'S GREAT ABOVE AND BEYOND THE CALL OF DUTY. THANKS.

>> S. O'KEEFE: PATRICK, YOU PUT YOUR HAND DOWN.

>> IT'S BEEN COVERED BUT I WANT TO THANK CHARLES AND TERESA FOR THEIR WORK. IT'S SORELY NEEDED.

>> S. O'KEEFE: AS IGOR SAYS [INDISCERNIBLE]

>> IT'S MORE FUN THAN SOME OF THE OTHER STUFF WE DO. MAKE SOMETHING PRETTY. ON THE STREET. THAT WE WALK EVERY DAY.

>> S. O'KEEFE: ABSOLUTELY. OKAY, NO MORE HANDS UP. NO FURTHER DISCUSSION? SHALL WE ADJOURN? WE ARE ADJOURNED MY

FRIEND. I'LL SEE YOU IN TWO WEEKS.

>> THANKS SHOSHANA.

>> S. O'KEEFE: THANKS, EVERYONE.

>> THANK YOU SO MUCH.

>> THANK YOU CHAIR. THANKS EVERYBODY.

>> S. O'KEEFE: THANKS VICKIE. BUY, LADIES.

>> ZAB SECRETARY: GOOD NIGHT VICKIE.



Z O N I N G  
A D J U S T M E N T S  
B O A R D

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S T A F F R E P O R T  
REVISED DECEMBER 8, 2020

FOR BOARD ACTION  
SEPTEMBER 24, 2020

## 1850 Arch Street

Use Permit #ZP2019-0212 to add 18 bedrooms to an existing 10-unit, 12-bedroom multi-family residential building, for a total of 30 bedrooms on the parcel.

### I. Background

#### A. Land Use Designations:

- General Plan: MDR – Medium Density Residential
- Zoning: R-3(H) – Multiple Family Residential District, Hillside Overlay

#### B. Zoning Permits Required:

- Use Permit pursuant to BMC Section 23D.36.060, for the addition of bedrooms beyond the fifth bedroom on the parcel.

**C. CEQA Recommendation:** It is staff's recommendation to the ZAB that the project is Categorically exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines and is not subject to any exception noted in Section 15300.2 of the CEQA Guidelines. The determination is made by the ZAB.

#### D. Parties Involved:

- Applicant: Rhoades Planning Group, 46 Shattuck Square, Berkeley
- Owner: Arch Street Village, LLC, c/o Rhoades Planning Group

Figure 1: Zoning Map



Zoning District	
R-1(H):	Single-Family Residential District, Hillside Overlay
R-3(H):	Multiple-Family Residential District, Hillside Overlay
R-4:	Multi-Family Residential District
R-4(H):	Multi-Family Residential District, Hillside Overlay
R-5:	High-Density Residential District

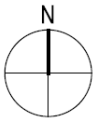


Figure 2: Site Plan

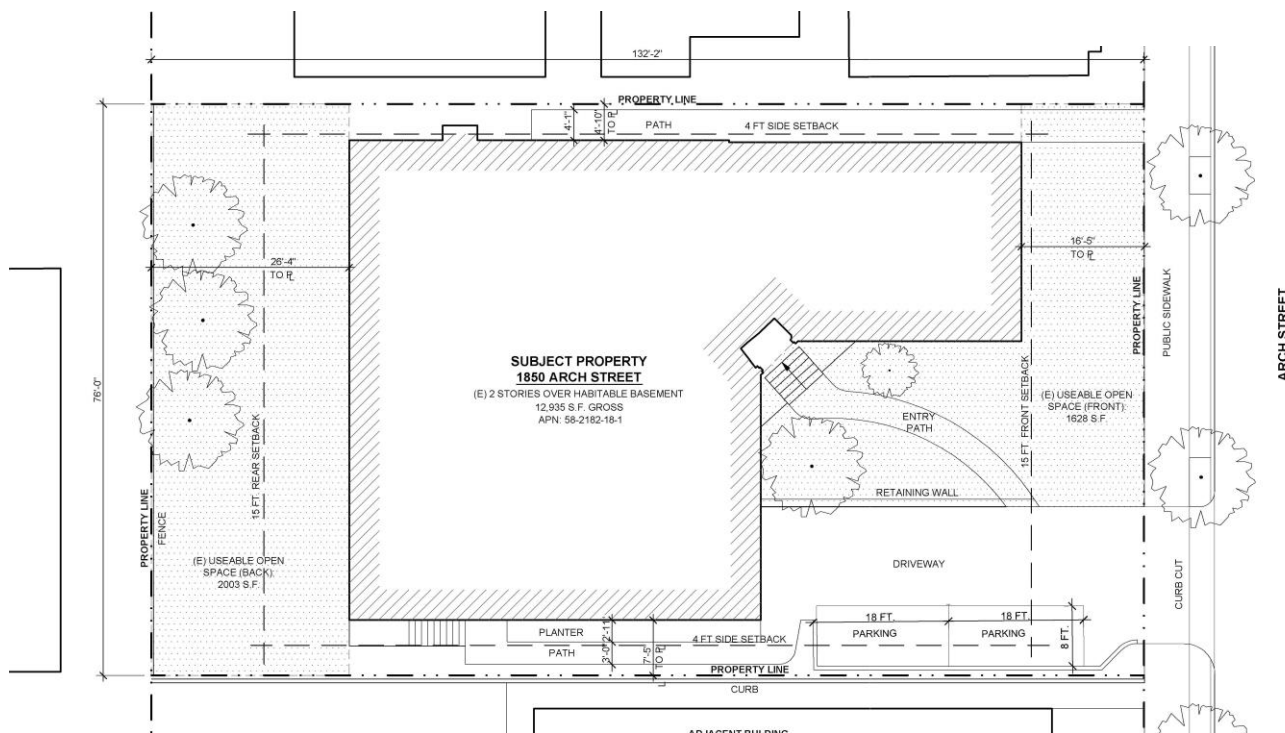


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		10-unit multi-family building	Multiple-Family Hillside Overlay (R-3H)	Medium Density Residential (MDR)
Surrounding Properties	North	Multi-family building		
	East	Triplex		
	South	11-unit multi-family building		
	West	22-unit multi-family development (Normandy Village)		

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	This fee applies to projects with new non-residential gross floor area, including projects that alter buildings that have been substantially vacant of all uses for at least 3 years. No new non-residential gross floor area is proposed.
Affordable Housing Fee for qualifying non-residential	No	This fee applies to projects with new non-residential gross floor area, including projects that alter buildings that have

projects (Per Resolution 66,617-N.S.)		been substantially vacant of all uses for at least 3 years. No new gross floor area is proposed.
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	The project does not include the creation of any new rental units, and therefore this requirement does not apply.
Housing Accountability Act (Govt. Code 65589.5(j))	No	The project is not a "housing development project," as no additional units would be created. The project is to expand two existing units on the site. Therefore, the HAA findings do not apply to this project.
Coast Live Oaks	No	There are no oak trees on the project site.
Creeks	No	The project site is not near a creek or within a creek buffer.
Density Bonus	No	The project is not seeking a Density Bonus.
Green Building Score	No	The project does not propose the construction of a new building.
Historic Resources	No	The project does not propose the demolition or substantial alteration of a main building. In addition, there is no evidence to suggest the building is a historic resource.
Rent Controlled Units	Yes	According to the Rent Stabilization Board (RSB), the building contains 11 units, all of which are claimed as "rented or available to rent" and considered controlled rental units, and are therefore subject to BMC Chapter 13.76; the project must comply with RSB noticing and vacancy rules (See Attachment 4 and section V.B below).
Residential Preferred Parking (RPP)	Yes	The project site is located in Area "F" of the Residential Preferred Parking Program.
Seismic Hazards (SHMA)	No	The project site is not located in an area susceptible to liquefaction, fault rupture or landslide, as defined by the State Seismic Hazards Mapping Act (SHMA). Thus, the project is not subject to additional review to comply with the Act.
Soil/Groundwater Contamination	No	The project site is not located within the City's Environmental Management Area.
Transit and Bicycle Access	Yes	The project site is five blocks east of numerous AC transit routes on University and Shattuck Avenue. There is a bikeway on Arch Street (N-S) and Hearst Avenue (E-W). Also, the project site is approximately ½ mile from the Downtown Berkeley BART station.

**Table 3: Project Chronology**

Date	Action
December 20, 2019	Application submitted
January 7, 2020	Application deemed incomplete
March 16, 2020	Shelter in Place Order issued, multiple ZAB hearings cancelled
April 6, 2020	Revised application submitted



April 16, 2020	Application deemed complete
September 10, 2020	Public hearing notices mailed/posted
September 24, 2020	ZAB hearing

**Table 4: Development Standards**

R-3 Standards BMC Section 23D.36.070-080		Existing	Proposed	Permitted/ Required
Lot Area (sq. ft.)		9,930	no change	5,000 min.
Gross Floor Area (sq. ft.)		12,935	no change	n/a
Dwelling Units		10	no change	n/a
Bedrooms		12	30	n/a (≥5 w/permit)
Building Height	Average	32'-6"	no change	35' max.
	Maximum	36'	no change	n/a
	Stories	3	no change	3 max.
Building Setbacks	Front	13'-9"	no change	15' min.
	Rear	28'-11"	no change	15' min.
	Left (South) Side	7'-5"	no change	6' min.
	Right (North) Side	4'-1"	no change	6' min.
Lot Coverage (%)		44.6	no change	40 max. (For 3 stories)
Usable Open Space (sq. ft.)		3,631	no change	2,000 min. (400-200 per du)
Parking		5	no change	40 <u>13</u> min. (1 per unit <u>1,000 sq. ft. of gross floor area</u> )

## II. Project Setting

**A. Neighborhood/Area Description:** The subject site is located on the west side of Arch Street, in a mixed-use residential neighborhood that consists of educational uses as well as multiple-family apartment and condominium buildings that range from two to three stories in height (See Figure 1: Zoning Map). The site is located one-half block north of Hearst Avenue and the University of California – Berkeley campus. It is also located two blocks west of Shattuck Avenue and downtown Berkeley (C-DMU District), and two blocks east of the goods and services on Euclid Avenue.

**B. Site Conditions:** The subject parcel is rectangular, with a 76' front along Arch Street and 132'-2" depth, and slopes down toward the southwest. The parcel is currently developed with a three-story residential building constructed in 1926. It was originally constructed with nine dwelling units, and in 1961, an additional unit was created in the basement for a total of ten dwelling units (six 1-bedroom, two 2-bedroom, and two 3-



bedroom). Also added in 1961 was a laundry room, storage areas and garage on the basement level. The building is accessed on the first level through a driveway and front entry pat/stairway along Arch Street. Outdoor usable open space is provided in the rear and front yards.

The parcel is non-conforming to current zoning standards in terms of maximum height, minimum building setback from the front (east) and right (north) side property lines, lot coverage, and parking. (See Figure 2: Site Plan and Table 4: Development Standards). The property contains a total of five parking spaces where 10~~3~~ is the minimum, including three spaces in the garage and two spaces adjacent to the driveway.

In addition to the 10 existing units within this residential building, there is one non-conforming space labeled Unit 5A by the applicant, shown in the Existing Second Floor Plan (Attachment 2, Sheet A2). According to a Special Inspection conducted by the City Building Division on November 2, 1987, this space appears to have been created out of a portion of the adjacent unit (Unit 6) by plastering over a door in the bedroom closet and adding a door to the hallway. While City records indicate 10 units, there is no evidence that Unit 5A was created with permits. In 1987, the City recommended that Unit 5A be reconnected as part of the larger unit for the following reasons:

- 1) Unit 5A has a combined sleeping/living room of barely 120 sq. ft., which is the minimum required floor area for a habitable room under existing code.
- 2) Unit 5A does not have a kitchen and is therefore a sleeping room- not a dwelling unit. Inspection revealed that the tenant was conducting illegal cooking practices on a hot plate and doing dishes in the bathroom due to lack of proper kitchen facilities.

On February 4, 1992, the Building Division approved Unit 5A for habitable use as a guest room with a bathroom. More recently, on January 6, 2020, the Rental Housing Code Enforcement Division inspected the building and issued a Notice of Violation (NOV) under the City's rental housing safety program. The NOV included violations within Unit 5A. On June 25, 2020 the Rental Housing Code Enforcement Division issued an addendum to the NOV, stating that Unit 5A had been converted as a separate unit without permits and approvals. To correct the violation, the owner must remove all illegal construction and either restore the space to its legal use or obtain permits and zoning approvals to legalize as a separate unit, and was referred to Zoning Code Enforcement. (See Attachment 5). As part of this zoning permit application process, Staff recommended that Unit 5A could be brought into compliance with the Zoning Code through 1) combination with an existing legal unit, 2) renovation to meet minimum building code requirements for a dwelling or efficiency unit, or 3) conversion to non-habitable space. The project proposes to combine Unit 5A with Unit 5, providing an additional bedroom and bathroom (See Attachment 2, Sheet A5) once both units are voluntarily vacated or a temporary relocation plan has been implemented, which will correct this violation (see Condition of Approval #11, #12, #32, and #33, as well as Attachment 5).

### III. Project Description

The applicant proposes to reconfigure the building floor plan by moving and adding interior walls to accommodate an additional 18 bedrooms and two bathrooms within the existing 10-unit building. The building would contain one 1-bedroom, one 2-bedroom, six 3-bedroom and two 4-bedroom units. A total of one bedroom would be added to the basement level, eight bedrooms and one bathroom would be added to the first level, and nine bedrooms and one bathroom would be added to the second level (see Table 5 below). No exterior alterations are proposed.

**Table 5: Bedroom and Bathroom Count, Floor Area, and Location**

Location within Building	Floor Area	Number of Bedrooms			Number of Bathrooms		
		Floor	Sq. Ft.	Entitled	As-Built	Proposed	Entitled
Basement	4,037	2	2	3	2	2	2
First	4,424	5	9	13	4	4	5
Second	4,474	5	6	14	4	4	5
<b>Total</b>	<b>12,935</b>	<b>12</b>	<b>17</b>	<b>30</b>	<b>10</b>	<b>10</b>	<b>12</b>

**Note:** City records indicate the building contained 12 bedrooms and 10 bathrooms as of 1961, when the most recent building permit was finalized. As part of this Use Permit application, the applicant submitted as-built plans indicating the building contained 17 rooms that met the City's definition of a "bedroom," per BMC Section 13.42.020.B. Therefore, this Table presents the entitled, as-built, and proposed number of bedrooms and bathrooms. For the purpose of this Use Permit, the project description is to add 18 bedrooms to the building, which previously contained 12, as entitled.

### IV. Community Discussion

**A. Neighbor/Community Concerns:** Prior to submitting the application to the City on December 20, 2019, a pre-application poster was installed by the applicant at the project site and the project plans were reviewed at a community meeting hosted by the applicant. Four people attended the meeting, including two residents of the building and two neighbors. Concerns included timely repairs, excessive noise from both the door buzzer and residents during quiet hours, and disruptions (i.e. noise) from the proposed construction. On March 30, 2020, the applicant notified all tenants of the proposed renovations as well as their rights under the Rent Stabilization Ordinance (BMC Section 13.76) and Tenant Protection Ordinance (BMC Section 13.79.060). On April 30, 2020 the City received a letter from a resident of the building expressing concerns regarding the impacts to trash, laundry, parking, and bathrooms that would result from the project, and complaints regarding property maintenance of the existing building. The applicant responded to those concerns in a letter dated May 26, 2020 (Attachment 3). See the discussion in section V.B for more information.

On September 10, 2020, the City mailed 505 public hearing notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations, and the City posted notices within the neighborhood in two locations.

As of the writing of this staff report, Staff has not received any communications regarding the project.

**B. Committee Review:** This project is not subject to advisory committee review.

## V. Issues and Analysis

**A. Addition of Bedrooms to the Parcel:** Pursuant to BMC Section 23D.32.050.A, the addition of bedrooms 13 through 18 on the parcel requires the approval of a Use Permit. Specifically, the Board must make the required “non-detriment” findings pursuant to BMC Section 23B.32.040 related to the “health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood...or be detrimental or injurious to property or improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.” “The Board shall deny an application for a Use Permit if it determines that is unable to make any of the required findings, in which case it shall state the reasons for that determination.” Recently, the ZAB has considered the amount of common space (living room/dining room/kitchen) relative to the number of bedrooms, as well as the amount of usable open space on the parcel, as factors when evaluating the addition of bedrooms. While there is no adopted standard, that information is compiled below, in Table 6.

As shown in Table 6 below, the proposed project would convert common living areas to create new bedrooms in eight of the ten units, and new bathrooms in two units. On average, 50% of the existing floor area within each unit is currently dedicated to common living spaces. The project would result in a 16% reduction in the share of floor area dedicated to common living spaces, for a new average of 34%, which continues to provide a reasonable amount of common living space in each unit. According to the applicant statement, the conversion of common living spaces to bedrooms and bathrooms would improve the layout of the units, for example by relocating the kitchen to create a more natural great room in Unit 3, and relocating the kitchen to create an open floor plan and private bedroom in Unit 10.

As shown in Table 4 above, the parcel has a non-conforming front and right (north) side yard setbacks, exceeds the maximum lot coverage by 4.6%, and has five off-street parking spaces where 10 is the minimum. The proposed renovations would not change the building footprint, and thus would not exacerbate any non-conforming condition, and would maintain the existing amount of usable space on the parcel (3,631 square feet), which exceeds the minimum requirement by 1,631 square feet.

**Table 6: Change in amount and share of common living area per unit**

Unit#	Floor Area	Common (Living/Dining/Kitchen) Area			Share of Common Living Spaces to Total Floor Area			Location within Building
	Sq. Ft	As-Built	+/-	Proposed	As-Built	+/-	Proposed	Floor
Unit 1	741	404	-178	226	54	-24	30	First
Unit 2	696	152	+132	284	22	+19	41	
Unit 3	720	165	+67	232	23	+9	32	
Unit 4	1,270	515	-181	334	41	-14	26	
Unit 5	741	435	-214	221	59	-29	30	Second
Unit 6	706	396	-106	290	56	-15	41	
Unit 7	721	430	-170	260	60	-24	36	
Unit 8	1,270	705	-349	356	56	-27	28	
Unit 9	711	405	-190	215	57	-27	30	Basement
Unit 10	629	470	-215	255	75	-34	41	
<b>Average</b>	<b>820</b>	<b>407</b>	<b>-140</b>	<b>267</b>	<b>50%</b>	<b>-16%</b>	<b>34%</b>	

Staff believes the proposed addition is consistent with the purposes of the R-3 District, which are to:

- A. Implement Master Plan policy by encouraging the development of relatively high-density residential areas;
- B. Make available housing for persons who desire both convenience of location and a reasonable amount of usable open space;
- C. Protect adjacent properties from unreasonable obstruction of light and air; and
- D. Permit the construction of residential structures, such as dormitories, fraternity and sorority houses, boarding and rooming houses, which will meet the City requirements for this type of housing; (Ord. 7210-NS § 8 (part), Ord. 6478-NS § 4 (part), 1999).

**Staff Analysis:** As described in section II above, the subject residential building is a 10-unit apartment building in a mixed-use residential neighborhood that consists of a mixture of multiple-family apartment and condominium buildings, consistent with purpose A. As described in Table 2 above, the subject property is five blocks east of numerous AC Transit routes on University and Shattuck Avenues, is one-half mile from the Downtown Berkeley BART station, and is located on a bikeway. In addition, the project is one-half block north of the University of California-Berkeley campus, consistent with purpose B. The parcel contains a reasonable amount of open space, 3,631 square feet of useable open space where a minimum of 2,000 square feet is required. As the project would not result in any exterior changes to the building, such as new window openings or extension of the building footprint, there would not be any impacts to light and air, consistent with purpose C.

Staff believes the addition of 18 bedrooms to the 10-unit residential building would support the high-density residential use on the parcel, consistent with the purposes of the R-3 District.

Staff believes the proposed addition of bedrooms is consistent with the purposes of the Hillside Overlay District (BMC Section 23E.96.2020), which are to:

- A. Implement the Master Plan's policies regarding Hillside Development
- B. Protect the character of Berkeley's hill Districts and their immediate environs
- C. Give reasonable protection to views yet allow appropriate development of all property
- D. Allow modifications in standard yard and height requirements when justified because of steep topography, irregular lot pattern, unusual street conditions, or other special aspects of the Hillside District area.

Staff Analysis: The subject building is a 10-unit multi-family building in a mixed-use residential neighborhood that consists of a mixture of multiple-family apartment and condominium buildings, consistent with purpose A. The subject property is five blocks east of numerous AC Transit routes on University and Shattuck Avenues, are one-half mile from the Downtown Berkeley BART station, and are located on a bikeway. In addition, the projects are one-half block north of the University of California-Berkeley campus; no exterior changes are proposed, consistent with purpose B. The project would not result in any exterior changes to the building, such as any new window openings or an extension of the building footprint; there would not be any impacts to views, consistent with purpose C. Although the existing building is non-conforming in terms of minimum setbacks, no exterior changes are proposed, consistent with purpose D.

- B. Tenant Protections:** As of the writing of this staff report, all rent controlled units are occupied and currently rented to tenants whose tenancy began prior to the submittal of this Use Permit application. The applicant intends to complete the project over time as tenants move out of the building voluntarily, and has committed to not unlawfully evict or otherwise displace any current tenant in order to accommodate construction. The applicant informed the existing tenants of the development plan at a community meeting held on December 20, 2019, where at least two tenants were present, and mailed a notice to each tenant on March 30, 2020 restating the development plans and their rights under the City's Rent Stabilization Ordinance. Per the Rent Stabilization Ordinance, the existing rental units would remain as rent controlled rental units after renovation, and the property owner has committed to providing notice to any prospective new tenant of their rights under the Ordinance prior to execution of a new lease (see Condition of Approval #32). In addition, the applicant has committed to providing notice in advance of the City's noticing requirements before tenants might be relocated for construction on their units and has confirmed that all tenants would be relocated voluntarily or temporarily as provided for in Condition of Approval #12, as recommended by the Rent Stabilization Board (see RSB Memorandum in Attachment 4).

- C. General Non-Detriment:** Staff believes the project would not be detrimental to the health, safety, peace, morals, comfort, or general welfare of residents or workers in

the area because it would be consistent with the development pattern in the area, as no exterior changes are proposed. In addition, staff believes the project would not unreasonably obstruct sunlight, air, or views as no exterior changes are proposed. Finally, the project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and storm water requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or 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.

**D. General Plan Consistency:** Based on the foregoing project description and analysis, staff concludes that the project would comply with the following 2002 General Plan goals and policies:

1. Policy H-8–Maintain Housing: Maintain and preserve the existing supply of housing in the City.
2. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
3. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.

Staff Analysis: The residential project would increase the number of bedrooms on the parcel and renovate the interior of the building, thus maintaining and preserving the existing housing supply in the city. The subject property is located in a mixed-use residential neighborhood containing a mix of multiple-family dwellings and condominiums that are two- to three-stories in height, and does not propose any changes to the exterior of the building or expand its footprint. Because the changes proposed would maintain the existing building footprint, would not increase the building height, and would maintain the amount of usable open space on the property, staff believes that the project would maintain the existing design, scale and compatibility with the neighborhood.

## VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board **APPROVE** Use Permit #ZP2019-0212 pursuant to Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

### Attachments:

1. Findings and Conditions
2. Project Plans, dated March 18, 2020
3. Correspondence, received May 26, 2020
4. Rent Stabilization Board memo, prepared on August 5, 2020
5. Notice of Violation, Unit 5A, dated June 25, 2020

6. Notice of Public Hearing

**Staff Planner:** Ashley James, [ajames@cityofberkeley.info](mailto:ajames@cityofberkeley.info), (510) 981-7458

# ATTACHMENT 1

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## FINDINGS AND CONDITIONS

APPROVED BY ZAB ON SEPTEMBER 24, 2020

REVISED DECEMBER 8, 2020

### 1850 Arch Street

Use Permit #ZP2019-0212 to add 18 bedrooms to an existing 10-unit, 12 bedroom multi-family residential building, for a total of 30 bedrooms on the parcel.

#### PERMITS REQUIRED

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- Use Permit pursuant to BMC Section 23D.36.060, for the addition of bedrooms beyond the fifth bedroom on the parcel.

#### I. CEQA FINDINGS

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1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 ("Existing Facilities") of the CEQA Guidelines. 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. OTHER FINDINGS FOR APPROVAL

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1. As required by BMC Section 23B.32.040.A, 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 proposed project conforms to the applicable provisions of the Berkeley Municipal Code including for height, number of stories, rear and left side yard setbacks, and usable open space in BMC Section 23D.36.070-080 (Development Standards), as detailed in the August 27, 2020 staff report. The proposed project is non-conforming for front yard setback (13'-9" where 15' is the minimum), lot coverage (44.6 percent where 40 percent in the maximum) and parking (providing five spaces where ~~ten~~ thirteen are required) under the current Zoning Ordinance. The proposed development is permissible because: (1) the proposed interior renovations do not worsen any non-conforming condition; (2) the proposed development recognizes and adheres to an existing pattern of development; (3) protects adjacent neighbors from unreasonable obstructions of sunlight and air; and (4) represents the District's intended encouragement of the development of relatively high density residential areas characterized by convenience of location and a reasonable amount of Usable Open Space.



- B. The project is consistent with the purposes of the District in that it will permit the addition of bedrooms through conversion of floor area within the existing building footprint on a residential property, which continues the existing pattern of high residential density of the neighborhood. The project will not reduce the existing non-conforming 13'-9" front setback, the non-conforming 4'-1" right side setback, the non-conforming 44.6% lot coverage, or the non-conforming off-street parking (5 spaces where 4@ 13 is the minimum). The project will, therefore, retain the existing pattern of development that is conveniently located and provides a reasonable amount of usable open space of the District while protecting adjacent properties from unreasonable obstruction of light and air.
- C. The project is consistent with the purposes of the Hillside Overlay (H) District, as the subject building is a residential, 10-unit multi-family building in a mixed-use residential neighborhood. The project does not result in any exterior changes, and therefore would not result in any impacts to views or exacerbate any existing non-conforming condition.
- D. The project plans dated March 18, 2020 indicate the proposed addition will not unreasonably obstruct sunlight on nearby existing dwellings, impact the privacy between neighbors, unreasonably impact air and light between neighbors, or impact views. As discussed in the project staff report dated September 24, 2020, the proposed project will not create any new window openings or otherwise change the exterior of the building or the building's footprint. Therefore, the impacts are determined to be non-detrimental.
2. Pursuant to BMC Section 23D.32.050.A, the Zoning Adjustments Board finds that the proposed addition of bedrooms thirteen through eighteen supports the residential use on the parcel, consistent with the purposes of the R-3 District. The project represents the District's intended encouragement of the development of relatively high density residential areas characterized by convenience of location and a reasonable amount of Usable Open Space. The subject property is five blocks east of numerous AC Transit routes on University and Shattuck Avenues, is one-half mile from the Downtown Berkeley BART station, and is located on a bikeway. In addition, the project is one-half block north of the University of California-Berkeley campus. The parcel contains a reasonable amount of open space, 3,631 square feet of useable open space where a minimum of 2,000 square feet is required.
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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.

**I. 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. Transportation Network Company (TNC) Plan. The applicant shall submit a TNC management plan to Land Use Planning staff for review and approval. The management plan shall clearly articulate the allowable uses of the driveway for deliveries and passenger pick-up and drop-offs; this plan shall be distributed to all residents of the building.
- 11. 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 #

- 12. Notice of Violation - Unit 5A. All owners of record of the subject property shall sign and record with the Alameda County Clerk-Recorder a “Notice of Limitation on Use of Property” (available from Land Use Planning Division) and provide a recorded copy thereof to the project planner. This Notice of Limitation shall stipulate that: 1) per Housing Code Enforcement Case H2019-00471, Unit 5A may not be rented on either a short- or long-term basis, and Unit 5A shall be combined with Unit 5 in accordance with the approved plans dated February 5, 2020; 2) once Unit 5A and Unit 5 have both been voluntarily vacated by the sitting tenant, or the tenant and owner have come to an agreement for temporary relocation pursuant to BMC Chapter 13.84, the units shall be combined per the project plans dated February 5, 2020; and 3) there are no grounds for eviction of any existing tenant households in the Rent Stabilization and Eviction for Good Cause Ordinance (BMC Chapter 13.76) due to the unpermitted status of Unit #5A or the work proposed in this application. This limitation may not be revised or removed from this property without the prior written permission of the Zoning Officer of the City of Berkeley.

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

- 13. Unit Vacancy. Demolition and/or construction activities approved under this permit shall not commence in any unit unless the existing tenants have either voluntarily vacated the unit or have reached an agreement for temporary relocation pursuant to BMC Chapter 13.84. The applicant shall submit evidence of such to the Rent Stabilization Board (i.e. tenant’s notice to vacate, relocation agreement).
- 14. Construction and Demolition. 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.
- 15. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine whether the following document is required and timing for its submittal:
  - A. 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.

### **Prior to Issuance of Any Building (Construction) Permit**

16. 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).
17. 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.

### **During Construction:**

18. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday. No construction-related activity shall occur on Saturday, Sunday or any Federal Holiday.
19. 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.

20. 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 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 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.
  - 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.

- 21. 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.
- 22. 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.
- 23. 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.
- 24. 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.
- 25. 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.

26. 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.
27. 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.
28. 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.

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

29. 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.
30. 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 18, 2020 except as modified by conditions of approval.
31. Construction and Demolition Diversion. A Waste Diversion Report, with receipts or weigh slips documenting debris disposal or recycling during all phases of the project, must be completed and submitted for approval to the City's Building and Safety Division. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement. A copy of the Waste Diversion Plan shall be available at all times at the construction site for review by City Staff.

#### **At All Times:**

32. 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.
33. Tenant Noticing. Prior to the execution of a new lease with prospective tenants, the property owner shall provide notice of the proposed project and notice of their rights under the Rent Stabilization and Eviction for Good Cause Ordinance (BMC Chapter 13.76) and the Tenant Protection Ordinance (BMC Section 13.79.060).



- 34. Units 5 and 5A.** Units 5 and 5A shall not be rented to a new tenant household until Housing and Zoning Enforcement determine that the conditions of the Notice of Violation (H2019-00471) have been satisfied and the Building permit to combine these two units has been finalized.
-



Z O N I N G  
A D J U S T M E N T S  
B O A R D

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S T A F F R E P O R T  
REVISED DECEMBER 8, 2020

FOR BOARD ACTION  
SEPTEMBER 24, 2020

## 1862 Arch Street

Use Permit #ZP2019-0213 to add 15 bedrooms to an existing 10-unit, 10-bedroom multi-family residential building, for a total of 25 bedrooms on the parcel.

### I. Background

#### A. Land Use Designations:

- General Plan: MDR – Medium Density Residential
- Zoning: R-3(H) – Multiple Family Residential District, Hillside Overlay

#### B. Zoning Permits Required:

- Use Permit pursuant to BMC Section 23D.36.060, for the addition of bedrooms beyond the fifth bedroom on the parcel.

**C. CEQA Recommendation:** It is staff's recommendation to the ZAB that the project is categorically exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines and is not subject to any exception noted in Section 15300.2 of the CEQA Guidelines. The determination is made by the ZAB.

#### D. Parties Involved:

- Applicant: Rhoades Planning Group, 46 Shattuck Square, Berkeley
- Owner: Arch Street Village, LLC co/Rhoades Planning Group

Figure 1: Zoning Map



Zoning District	
R-1(H):	Single-Family Residential District, Hillside Overlay
R-3(H):	Multiple-Family Residential District, Hillside Overlay
R-4:	Multi-Family Residential District
R-4(H):	Multi-Family Residential District, Hillside Overlay
R-5:	High-Density Residential District

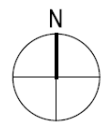


Figure 2: Site Plan

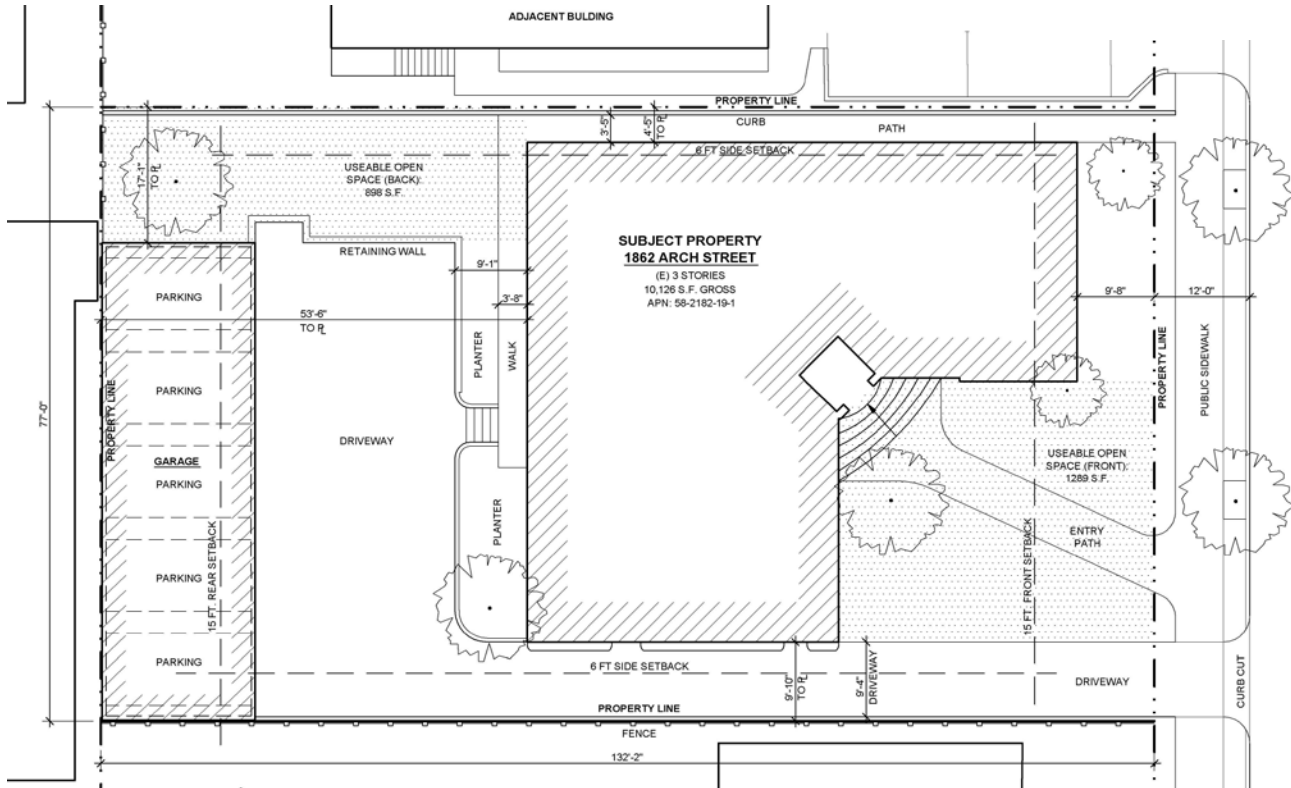


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		10-unit multi-family building	Multiple-Family Hillside Overlay (R-3H)	Medium Density Residential (MDR)
Surrounding Properties	North	10-unit multi-family building		
	East	Group Living Accommodation (Delta Zeta Sorority)		
	South	Fourplex		
	West	22-unit multi-family development (Normandy Village)		

**Table 2: Special Characteristics**

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	This fee applies to projects with new non-residential gross floor area, including projects that alter buildings that have been substantially vacant of all uses for at least 3 years. No new non-residential gross floor area is proposed.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	This fee applies to projects with new non-residential gross floor area, including projects that alter buildings that have been substantially vacant of all uses for at least 3 years. No new gross floor area is proposed.
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	The project does not include the creation of any new rental units, and therefore this requirement does not apply.
Housing Accountability Act (Govt. Code 65589.5(j))	No	The project is not a "housing development project," as no additional units would be created. The project is to expand two existing units on the site. Therefore, the HAA findings do not apply to this project.
Coast Live Oaks	No	There are no oak trees on the project site.
Creeks	No	The project site is not near a creek or within a creek buffer.
Density Bonus	No	The project is not seeking a Density Bonus.
Green Building Score	No	The project does not propose the construction of a new building.
Historic Resources	No	The project does not propose the demolition or substantial alteration of a main building. In addition, there is no evidence to suggest the building is a historic resource.
Rent Controlled Units	Yes	According to the Rent Stabilization Board (RSB), the building contains 10 units, all of which are claimed as "rented or otherwise available to rent" and considered controlled rental units, and are therefore subject to BMC Chapter 13.76. The project must comply with RSB noticing and vacancy rules, see Conditions of Approval #11 and #31.
Residential Preferred Parking (RPP)	Yes	The project site is located in Area "F" of the Residential Preferred Parking Program.
Seismic Hazards (SHMA)	No	The project site is not located in an area susceptible to liquefaction, fault rupture or landslide, as defined by the State Seismic Hazards Mapping Act (SHMA). Thus, the project is not subject to additional review to comply with the Act.
Soil/Groundwater Contamination	No	The project site is not located within the City's Environmental Management Area.
Transit and Bicycle Access	Yes	The project site is five blocks east of numerous AC transit routes on University and Shattuck Avenue. There is a bikeway on Arch Street (N-S) and Hearst Avenue (E-W).

		Also, the project site is approximately ½ mile from the Downtown Berkeley BART station.
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**Table 3: Project Chronology**

Date	Action
December 20, 2019	Application submitted
January 7, 2020	Application deemed incomplete
March 16, 2020	Shelter in Place Order issued, multiple ZAB hearings cancelled
April 6, 2020	Revised application submitted
April 16, 2020	Application deemed complete
September 10, 2020	Public hearing notices mailed/posted
September 24, 2020	ZAB hearing

**Table 4: Development Standards**

R-3 Standards BMC Section 23D.36.070-080		Existing	Proposed	Permitted/ Required
Lot Area (sq. ft.)		10,300	No change	5,000 min.
Gross Floor Area (sq. ft.)		10,126	10,146 <sup>1</sup>	n/a
Dwelling Units		10	No change	n/a
Bedrooms		10	25	n/a (≥5 w/permit)
Building Height	Average	27'-4"	No change	35' max.
	Maximum	28'-5"	No change	n/a
	Stories	3	No change	3 max.
Building Setbacks	Front	9'-8"	No change	15' min.
	Rear	50'-11"	No change	15' min.
	Left (South) Side	0'	No change	6' min.
	Right (North) Side	4'-5"	No change	6' min.
Lot Coverage (%)		32.6	No change	40 max. (For 3 stories)
Usable Open Space (sq. ft.)		2,186	No change	2,000 min. (400 <del>200</del> per du)
Parking		5	No change	10 min. (1 per unit <u>1,000 sq. ft. of gross floor area</u> )

## II. Project Setting

<sup>1</sup> On the basement level, 20 square feet of unfinished area would be converted to floor area in order to expand the existing bedroom and closet area within Unit 8 (see Table 6 below).

**A. Neighborhood/Area Description:** The subject site is located on the west side of Arch Street, in a mixed-use residential neighborhood that consists of educational uses as well as multiple-family apartment and condominium buildings that range from two to three stories in height (See Figure 1: Zoning Map). The site is located one-half block north of Hearst Avenue and the University of California – Berkeley campus. It is also located two blocks west of Shattuck Avenue and downtown Berkeley (C-DMU District), and two blocks east of goods and services on Euclid Avenue.

**B. Site Conditions:** The subject parcel is rectangular, with a 77’ front along Arch Street and 132’-2” depth, and slopes down toward the southwest. The parcel is currently developed with a three-story residential building containing ten dwelling units (two studio, two 1-bedroom, five 2-bedroom, and one 4-bedroom), which was constructed in 1923. The building is accessed on the first level through a driveway and front entry pat/stairway along Arch Street. Outdoor usable open space is provided in the rear and front yards.

The parcel is non-conforming to current zoning standards in terms of minimum building setback from the front and side property lines and parking. The property contains a total of five parking spaces where 10 is the minimum, located in a detached garage located on the rear property line. (See Figure 2: Site Plan and Table 4: Development Standards).

### III. Project Description

The applicant proposes to reconfigure the building floor plan by moving and adding interior walls to accommodate an additional 15 bedrooms within the existing 10-unit building. The building would contain two studio, one 1-bedroom, one 2-bedroom, five 3-bedroom and one 5-bedroom units. On the basement level, three bedrooms would be added and 20 square feet of unfinished area would be converted to floor area in order to expand the existing bedroom and closet area within Unit 8 (see Table 6 below). A total of six bedrooms would be added to both the first and second levels (see Table 5 below). No exterior alterations are proposed.

**Table 5: Bedroom Count, Floor Area, and Location**

Location within Building	Floor Area	# of Bedrooms		
		Entitled	As-Built	Proposed
Basement	Existing: 3,366	1	4	4
	Proposed: 3,386			
First	3,356	4	6	10
Second	3,404	5	8	11
<b>Total</b>	<b>10,126</b>	<b>10</b>	<b>18</b>	<b>25</b>

Note: City records indicate the building contained 10 bedrooms as of 1961, when the most recent building permit was finalized. As part of this Use Permit application, the applicant submitted as-built plans indicating the building contained 18 rooms that met the City’s definition of a “bedroom,” per BMC Section 13.42.020.B. Therefore, this Table presents the entitled, as-built, and proposed number of bedrooms. For the purpose of the

Use Permit, the project description is to add 15 bedrooms to the building, which previously contained 10, as entitled.

## IV. Community Discussion

**A. Neighbor/Community Concerns:** Prior to submitting the application to the City on December 20, 2019, a pre-application poster was installed by the applicant at the project site and the project plans were reviewed at a community meeting hosted by the applicant. Four people attended the meeting, including two residents of the building and two neighbors. Concerns included timely repairs, excessive noise from residents during quiet hours, and disruptions (i.e. noise) from the proposed construction. On April 30, 2020 the City received a letter from a resident of the adjacent building at 1850 Arch expressing concerns about the proposed scope of work at both buildings regarding the impacts to trash, laundry, parking, and bathrooms that would result from the project, and complaints regarding property maintenance of the existing building. The applicant responded to those concerns in a letter dated May 26, 2020 (Attachment 3). In addition, the applicant notified all tenants of the proposed renovations as well as their rights under the Rent Stabilization Ordinance (BMC Section 13.76) and Tenant Protection Ordinance (BMC Section 13.79.060). See the discussion in section V.B for more information.

On September 10, 2020, the City mailed 505 public hearing notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations, and the City posted notices within the neighborhood in two locations. As of the writing of this staff report, Staff has not received any communications regarding the project.

**B. Committee Review:** This project is not subject to advisory committee review.

## V. Issues and Analysis

**A. Addition of Bedrooms to the Parcel:** Pursuant to BMC Section 23D.32.050.A, the addition of the bedrooms 11 through 25 on the parcel requires the approval of a Use Permit. Specifically, the Board must make the required “non-detriment” findings pursuant to BMC Section 23B.32.040 related to the “health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood...or be detrimental or injurious to property or improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.” “The Board shall deny an application for a Use Permit if it determines that is unable to make any of the required findings, in which case it shall state the reasons for that determination.” Recently, the ZAB has considered the amount of common space (living room/dining room/kitchen) relative to the number of bedrooms, as well as the amount of usable open space on the parcel, as factors when evaluating the



addition of bedrooms. While there is no adopted standard, that information is compiled below, in Table 6.

As shown in Table 6 below, the proposed project would convert common living areas to create new bedrooms in six of the ten units. On average, 43% of the existing floor area within each unit is currently dedicated to common living spaces. The project would result in a 4% reduction in the share of floor area dedicated to common living spaces, for a new average of 39%, which continues to provide a reasonable amount of common living space in each unit. According to the applicant statement, the conversion of common living spaces to bedrooms would improve the layout of the units, for example by converting 20 square feet of unconditioned space on the basement level to floor area within Unit 8, in order to expand the bedroom and closet area. The layout of Unit 9 would be improved by moving interior walls, Unit 1 would become a more functional studio, and the layout of Unit 10 would be improved by creating a bedroom in this studio unit.

As shown in Table 4 above, the parcel has non-conforming setbacks at all yards and has five off-street parking spaces where 10 is the minimum. The proposed renovations would not change the building footprint, and thus would not exacerbate any non-conforming condition, and would maintain the existing amount of usable space on the parcel (2,186 square feet), which exceeds the minimum requirement by 186 square feet.

**Table 6: Change in amount and share of common living area per unit**

Unit#	Floor Area	Common (Living/Dining/Kitchen) Area			Share of Common Living Spaces to Total Floor Area			Location within Building
	Sq. Ft	As-Built	+/-	Proposed	As-Built	+/-	Proposed	Floor
Unit 1	410	105	98	203	26%	24%	50%	First
Unit 2	738	450	-210	240	61%	-28%	33%	
Unit 3	722	245	18	263	34%	2%	36%	
Unit 4	833	424	-149	275	51%	-18%	33%	
Unit 5	715	166	87	253	23%	12%	35%	Second
Unit 6	842	342	-68	274	41%	-8%	33%	
Unit 7	1,326	458	-178	280	35%	-13%	21%	
Unit 8	(E) 531/ (P) 551	238	-4	234	45%	-3%	42%	Basement
Unit 9	414	273	-33	240	66%	-8%	58%	
Unit 10	493	260	-8	252	53%	-2%	51%	
<b>Average</b>	<b>702</b>	<b>296</b>	<b>-48</b>	<b>251</b>	<b>43%</b>	<b>-4%</b>	<b>39%</b>	

Staff believes the proposed addition is consistent with the purposes of the R-3 District, which are to:

- A. Implement Master Plan policy by encouraging the development of relatively high density residential areas;
- B. Make available housing for persons who desire both convenience of location and a reasonable amount of usable open space;
- C. Protect adjacent properties from unreasonable obstruction of light and air; and
- D. Permit the construction of residential structures, such as dormitories, fraternity and sorority houses, boarding and rooming houses, which will meet the City requirements for this type of housing; (Ord. 7210-NS § 8 (part), Ord. 6478-NS § 4 (part), 1999).

Staff Analysis: As described in section II above, the subject residential building is a 10-unit apartment building in a mixed-use residential neighborhood that consists of a mixture of multiple-family apartment and condominium buildings, consistent with purpose A. As described in Table 2 above, the subject property is five blocks east of numerous AC Transit routes on University and Shattuck Avenues, is one-half mile from the Downtown Berkeley BART station, and is located on a bikeway. In addition, the project is one-half block north of the University of California-Berkeley campus, consistent with purpose B. The parcel contains a reasonable amount of open space, 2,186 square feet where a minimum of 2,000 is required. As the project would not result in any exterior changes to the building, such as new window openings or extension of the building footprint, there would not be any impacts to light and air, consistent with purpose C.

Staff believes the addition of 15 bedrooms to the 10-unit residential building would support the high-density residential use on the parcel, consistent with the purposes of the R-3 District.

Staff believes the proposed addition of bedrooms is consistent with the purposes of the Hillside Overlay District (BMC Section 23E.96.2020), which are to:

- A. Implement the Master Plan's policies regarding Hillside Development
- B. Protect the character of Berkeley's hill Districts and their immediate environs
- C. Give reasonable protection to views yet allow appropriate development of all property
- D. Allow modifications in standard yard and height requirements when justified because of steep topography, irregular lot pattern, unusual street conditions, or other special aspects of the Hillside District area.

Staff Analysis: The subject building is a 10-unit multi-family building in a mixed-use residential neighborhood that consists of a mixture of multiple-family apartment and condominium buildings, consistent with purpose A. The subject property is five blocks east of numerous AC Transit routes on University and Shattuck Avenues, are one-half mile from the Downtown Berkeley BART station, and are located on a bikeway. In addition, the projects are one-half block north of the University of California-Berkeley campus; no exterior changes are proposed, consistent with purpose B. The project would not result in any exterior changes to the building, such

as any new window openings or an extension of the building footprint; there would not be any impacts to views, consistent with purpose C. Although the existing building is non-conforming in terms of minimum setbacks, no exterior changes are proposed, consistent with purpose D.

- B. Tenant Protections:** As of the writing of this staff report, all rent controlled units are occupied and currently rented to tenants whose tenancy began prior to the submittal of this Use Permit application. The applicant intends to complete the project over time as tenants move out of the building voluntarily, and has committed to not unlawfully evict or otherwise displace any current tenant in order to accommodate construction. The applicant informed the existing tenants of the development plan at a community meeting held on December 20, 2019, where at least two tenants were present, and mailed a notice to each tenant in the spring of 2020 restating the development plans and their rights under the City's Rent Stabilization Ordinance. Per the Rent Stabilization Ordinance, the existing rental units would remain as rent controlled rental units after renovation, and the property owner has committed to providing notice to any prospective new tenant of their rights under the Ordinance prior to execution of a new lease (see Condition of Approval #31). In addition, the applicant has committed to providing notice in advance of the City's noticing requirements before tenants might be relocated for construction on their units and has confirmed that all tenants would be relocated voluntarily or temporarily as provided for in Condition of Approval #11, as recommended by the Rent Stabilization Board.
- C. General Non-Detriment:** Staff believes the project would not be detrimental to the health, safety, peace, morals, comfort, or general welfare of residents or workers in the area because it would be consistent with the development pattern in the area, as no exterior changes are proposed. In addition, staff believes the project would not unreasonably obstruct sunlight, air, or views as no exterior changes are proposed. Finally, the project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and storm water requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or 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.
- D. General Plan Consistency:** Based on the foregoing project description and analysis, staff concludes that the project would comply with the following 2002 General Plan goals and policies:
1. Policy H-8–Maintain Housing: Maintain and preserve the existing supply of housing in the City.
  2. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.

3. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.

Staff Analysis: The residential project would increase the number of bedrooms on the parcel and renovate the interior of the building, thus maintaining and preserving the existing housing supply in the city. The subject property is located in a mixed-use residential neighborhood containing a mix of multiple-family dwellings and condominiums that are two- to three-stories in height, and does not propose any changes to the exterior of the building or expand its footprint. Because the changes proposed would maintain the existing building footprint, would not increase the building height, and would maintain the amount of usable open space on the property, staff believes that the project would maintain the existing design, scale and compatibility with the neighborhood.

## VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board **APPROVE** Use Permit #ZP2019-0213 pursuant to Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

### Attachments:

1. Findings and Conditions
2. Project Plans, dated February 5, 2020
3. Correspondence, received May 26, 2020
4. Notice of Public Hearing

**Staff Planner:** Ashley James, [ajames@cityofberkeley.info](mailto:ajames@cityofberkeley.info), (510) 981-7458

# ATTACHMENT 1

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## FINDINGS AND CONDITIONS

APPROVED BY ZAB ON SEPTEMBER 24, 2020

REVISED DECEMBER 8, 2020

### 1862 Arch Street

**Use Permit #ZP2019-0213 to add 13 bedrooms to an existing 10-unit, 10 bedroom multi-family residential building, for a total of 25 bedrooms on the parcel.**

#### PERMITS REQUIRED

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- Use Permit pursuant to BMC Section 23D.36.060, for the addition of bedrooms beyond the fifth bedroom on the parcel.

#### I. CEQA FINDINGS

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1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 (“Existing Facilities”) of the CEQA Guidelines. 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. OTHER FINDINGS FOR APPROVAL

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1. As required by BMC Section 23B.32.040.A, 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 proposed project conforms to the applicable provisions of the Berkeley Municipal Code including for height, number of stories, rear yard setback, lot coverage, and usable open space in BMC Section 23D.36.070-080 (Development Standards), as detailed in the August 27, 2020 staff report. The proposed project is non-conforming for front yard setback (9'-8" where 15' is the minimum), left yard setback (0' where 6' is the minimum), right yard setback (0' where 6' is the minimum), and parking (providing five spaces where ten are required) under the current Zoning Ordinance. The proposed development is permissible because: (1) the proposed interior renovations do not worsen any non-conforming condition; (2) the proposed development recognizes and adheres to an existing pattern of development; (3) protects adjacent neighbors from unreasonable obstructions of sunlight and air; and (4) represents the District's intended encouragement of the development of relatively high density residential areas characterized by convenience of location and a reasonable amount of Usable Open Space.

- B. The project is consistent with the purposes of the District in that it will permit the addition of bedrooms through conversion of existing floor area and conversion of 20 square feet of existing unfinished area within the existing building footprint on a residential property, which continues the existing pattern of high residential density of the neighborhood. The project will not reduce the existing non-conforming 9'-8" front setback, the non-conforming 0' left and right side setbacks, or the non-conforming off-street parking (5 spaces where 10 is the minimum). The project will, therefore, retain the existing pattern of development that is conveniently located and provides a reasonable amount of usable open space of the District while protecting adjacent properties from unreasonable obstruction of light and air.
- C. The project is consistent with the purposes of the Hillside Overlay (H) District, as the subject building is a residential, 10-unit multi-family building in a mixed-use residential neighborhood. The project does not result in any exterior changes, and therefore would not result in any impacts to views or exacerbate any existing non-conforming condition.
- D. The project plans submitted on April 6, 2020 indicate the proposed addition will not unreasonably obstruct sunlight on nearby existing dwellings, impact the privacy between neighbors, unreasonably impact air and light between neighbors, or impact views. As discussed in the project staff report dated September 24, 2020, the proposed project will not create any new window openings or otherwise change the exterior of the building or the building's footprint. Therefore, the impacts are determined to be non-detrimental.
2. Pursuant to BMC Section 23D.32.050.A, the Zoning Adjustments Board finds that the proposed addition of bedrooms eleven through twenty five supports the residential use on the parcel, consistent with the purposes of the R-3 District. The project represents the District's intended encouragement of the development of relatively high density residential areas characterized by convenience of location and a reasonable amount of Usable Open Space. The subject property is five blocks east of numerous AC Transit routes on University and Shattuck Avenues, is one-half mile from the Downtown Berkeley BART station, and is located on a bikeway. In addition, the project is one-half block north of the University of California-Berkeley campus. The parcel contains a reasonable amount of open space, 2,186 square feet of useable open space where a minimum of 2,000 square feet is required.
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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.

**I. 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. Transportation Network Company (TNC) Plan. The applicant shall submit a TNC management plan to Land Use Planning staff for review and approval. The management plan shall clearly articulate the allowable uses of the driveway for deliveries and passenger pick-up and drop-offs; this plan shall be distributed to all residents of the building.
- 11. Plan Corrections. The applicant shall submit a revised planset to Land Use Planning staff for review and approval. The planset shall provide a floor plan and exiting plan within Unit 8 that is properly labeled and compliant with the California Building Code (CBC) 2019.
- 12. 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 #
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**Prior to Issuance of Any Building & Safety Permit (Demolition or Construction)**

- 13. Unit Vacancy. Demolition and/or construction activities approved under this permit shall not commence in any unit unless the existing tenants have either voluntarily vacated the unit or have reached an agreement for temporary relocation pursuant to BMC Chapter 13.84. The applicant shall submit evidence of such to the Rent Stabilization Board (i.e. tenant’s notice to vacate, relocation agreement).
- 14. 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.
- 15. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine whether the following document is required and timing for its submittal:
  - A. 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.

### **Prior to Issuance of Any Building (Construction) Permit**

16. 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).
17. 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.

### **During Construction:**

18. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday. No construction-related activity shall occur on Saturday, Sunday or any Federal Holiday.
19. 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.

20. 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 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 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.
  - 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.
- 21. 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.
- 22. 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.
- 23. 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.
- 24. 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.
- 25. 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.
- 26. 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.
- 27. 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.
- 28. 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.

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

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29. 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.
  30. 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 February 5, 2020 except as modified by conditions of approval.
  31. Construction and Demolition Diversion. A Waste Diversion Report, with receipts or weigh slips documenting debris disposal or recycling during all phases of the project, must be completed and submitted for approval to the City's Building and Safety Division. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement. A copy of the Waste Diversion Plan shall be available at all times at the construction site for review by City Staff.

**At All Times:**

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32. 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.
  33. Tenant Noticing. Prior to the execution of a new lease with prospective tenants, the property owner shall provide notice of the proposed project and notice of their rights under the Rent Stabilization and Eviction for Good Cause Ordinance (BMC Chapter 13.76) and the Tenant Protection Ordinance (BMC Section 13.79.060).
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Administrative Record  
ZAB Appeal:  
1850 Arch Street

This attachment is on file and available for review upon request from the City Clerk Department, or can be accessed from the City Council Website.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

or from:

**The City of Berkeley, City Council's Web site**  
<http://www.cityofberkeley.info/citycouncil/>



Administrative Record  
ZAB Appeal:  
1862 Arch Street

This attachment is on file and available for review upon request from the City Clerk Department, or can be accessed from the City Council Website.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

or from:

**The City of Berkeley, City Council's Web site**  
<http://www.cityofberkeley.info/citycouncil/>

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL  
BERKELEY UNIFIED SCHOOL DISTRICT BOARD ROOM,  
1231 ADDISON STREET  
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

**ZAB APPEAL: USE PERMITS #ZP 2019-0212, 1850 ARCH STREET AND ZP2019-0213,  
1862 ARCH STREET**

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY FEBRUARY 23, 2021 at 6:00 P.M.** a public hearing will be conducted to consider two appeals of the decisions by the Zoning Adjustments Board to approve Use Permits #2019-0212 and - 0213, to reconfigure the interiors of the existing buildings to add 18 bedrooms to an existing 10-unit, 12-bedroom multi-family residential building at 1850 Arch, to add 15 bedrooms to an existing 10-unit, 10-bedroom multi-family residential building at 1862 Arch.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **FEBRUARY 11, 2021**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Ashley James, Project Planner at (510) 981-7458. Written comments should be mailed to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704 or email [council@cityofberkeley.info](mailto:council@cityofberkeley.info), in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

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Mark Numainville, City Clerk

Mailed: by February 9, 2021

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny (Code Civ. Proc. § 1094.6(b)) or approve (Gov. Code 65009(c)(5)) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

*If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available by request from the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.*