



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

FOR BOARD ACTION
APRIL 28, 2022

1201-1205 San Pablo Avenue

Use Permit #ZP2021-0070 to construct a six-story, mixed-use building on a vacant lot, with 66 units (including five Very Low-Income units), 1,680 square feet of commercial space, 2,514 square feet of usable open space, and 17 to 28 ground-level parking spaces.

I. Background

A. Land Use Designations:

- General Plan: AC – Avenue Commercial
- Zoning: C-W–West Berkeley Commercial District, Gilman and San Pablo Designated Node

B. Zoning Permits Required:

- Administrative Use Permit under Berkeley Municipal Code (BMC) §23D.04.020.C¹ to construct rooftop projections, such as mechanical appurtenances or architectural elements which exceed the maximum average height limit for the district;
- Use Permit under BMC §23E.64.030.A to construct a mixed-use development with floor area of more than 9,000 square feet;
- Use Permit under BMC §23E.64.030.A to construct new dwelling units; and
- Use Permit under BMC §23E.64.050.B, to create new gross floor area of 5,000 square feet or more.

C. Waivers/Concessions Pursuant to State Density Bonus Law:

- Waiver of BMC §23E.64.070.A to increase maximum FAR to 3.6 where 3.0 is the limit;
- Waiver of BMC §23E.64.070.B to increase maximum average building height to be 68'-3", where 50' is the limit for a mixed-use building;
- Waiver of BMC §23E.64.070.B to increase maximum number of stories to be 6 stories, where 4 stories is the limit for a mixed-use building; and

¹ The prior Zoning Ordinance was in effect at the time this application was deemed complete. The version of the BMC Title 23, Zoning Ordinance, that was in effect at the time this application was deemed complete is available online: [https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Zoning_Ordinance_Revision_Project_\(ZORP\).aspx](https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Zoning_Ordinance_Revision_Project_(ZORP).aspx)

- Concession to reduce the Usable Open Space requirement from 2,640 to 2,514 square feet.

D. CEQA Recommendation: It is staff's recommendation to ZAB that the project is categorically exempt pursuant to §15332 ("In-Fill Development Projects") of the CEQA Guidelines. The determination is made by ZAB.

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

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

Furthermore, none of the exceptions in CEQA Guidelines §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 §65962.5, and (f) the project would not affect any historical resource. See Section III.E for discussion of the project's CEQA review.

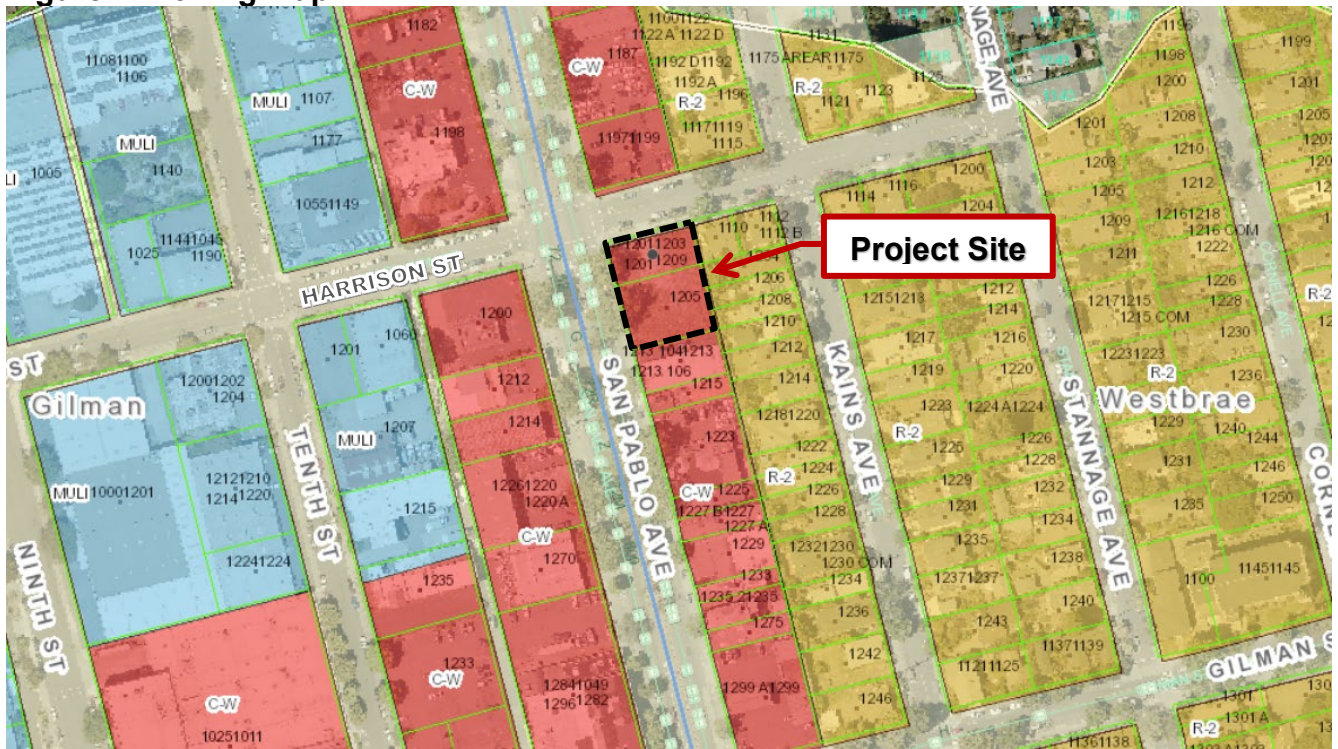
E. Parties Involved:

- Applicant Isaiah Stackhouse, Trachtenberg Architects, 2421 Fourth Street, Berkeley, CA 94710
- Property Owner Lanhai Su, 4500 Great America Parkway, Santa Clara, CA 95054


F. Application Materials, Staff Reports and Correspondence are available on the Internet:

https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1201-1205_San_Pablo.aspx

Figure 1: Zoning Map



Legend

-  AC Transit Bus Route
- C-W: West Berkeley Commercial District
- MU-LI: Mixed Use-Light Industrial District
- R-2: Restricted Two-Family Residential District

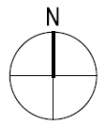


Figure 2: San Pablo Avenue Elevation (West)



Figure 3: Harrison Street Elevation (North)



Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Vacant Land	C-W	AC
Surrounding Adjacent Properties	North	Auto Repair Shop		
	East	Single-Family Residential	R-2	
	South	Multi-family Residential	C-W	
	West	Tattoo Parlor/Art Gallery/ Fast Food Restaurant (vacated) – approved for 104-unit mixed-use building, November, 2020 (ZP2019-0192)		

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee & Affordable Housing Fee for qualifying non-residential projects (Per Resolutions 66,618-N.S. & 66,617-N.S.)	No	These fees apply to projects with more than 7,500 square feet of net new non-residential gross floor area. The project includes 1,680 square feet of net new non-residential gross floor area. Therefore, the project would not be subject to these fees.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)		
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	Yes	The project would include five or more market rate dwelling units and is therefore subject to the affordable housing provisions of BMC 22.20.065.
Alcohol Sales/Service	No	The project is not proposing alcohol sales or service with this permit.
Coast Live Oaks	No	There are no oak trees on the project site.
Creeks	No	The project site is not within a creek buffer.
Density Bonus	Yes	The project would provide five Very Low-Income units, or 10% of the Base Project units, and qualifies for a 32.5% density bonus, or 17 bonus units (16 taken). See Section III.B for discussion.
Green Building Score	No	The project is not located in the C-DMU, Downtown Mixed Use District, and is not subject to this requirement.
Historic Resources	No	The project site is vacant, and does not to contain any known historic resource.

Characteristic	Applies to Project?	Explanation
Housing Accountability Act (Govt. Code 65589.5(j))	Yes	The project is a “housing development project” consisting of a mixed-use building, and requests no modifications to development standards beyond waivers and concessions requested under density bonus law. Therefore, the HAA findings apply to this project, and the project cannot be denied at the density proposed unless the findings for denial can be made. See Section III.C for discussion.
Public Art on Private Projects (BMC Chapter 23C.23)	Yes	The project is subject to the Percentage for Public Art on Private Projects Ordinance. The applicant is electing to pay the fee (0.8% of total building permit valuation) to comply.
Rent Controlled Units	No	The project site is vacant, and there are no rent-controlled units to be demolished.
Residential Preferred Parking	No	The site is not located in an RPP zone.
Seismic Hazards (SHMA)	No	The project site is located in an area susceptible to liquefaction, as defined by the State Seismic Hazards Mapping Act (SHMA). The applicant has submitted a geotechnical report that has been peer reviewed by the City’s consultant. Conditions of approval will be included in the permit to ensure oversight by the applicant’s geotechnical consultant.
Soil/Groundwater Contamination	Yes	The project site is located within the City’s Environmental Management Area. The applicant has submitted a Phase I report. No further investigation is recommended. Standard Conditions of Approval related to hazardous materials would apply.
Transit	Yes	The project site is served by multiple bus lines (local, rapid, and Transbay) that operate along San Pablo Avenue, and is approximately 1.3 miles from the North Berkeley BART Station.

Table 3: Project Chronology

Date	Action
April 1, 2021	SB 330 Preliminary Application deemed complete
May 11, 2021	SB 330 Use Permit Application submitted
September 22, 2021	Application deemed complete; level of CEQA review determined by staff – Categorically Exempt
November 23, 2021	Public hearing notices mailed/posted
December 9, 2021	ZAB Preview
January 20, 2022	DRC Preliminary Design Review
March 29, 2022	DRC Preliminary Design Review (Cont’d)
April 13, 2022	Public hearing notices mailed/posted

April 28, 2022	ZAB Hearing
June 27, 2022	CEQA Determination Deadline

Table 4: Development Standards

C-W Standards, BMC §23E.64.070-080		Existing	Proposed	Permitted/Required
Lot Area (sq. ft.)		5,500 +7,500 ¹	13,000	n/a
Gross Floor Area (sq. ft.)		n/a	46,996	39,000
Commercial Floor Area (sq. ft.)		n/a	1,680	n/a
FAR		n/a	3.6	3
Dwelling Units		n/a	66	n/a
Building Height	Average	n/a	68'-3"	50' max./ 25' min. (in node)
	Maximum	n/a	68'-3"	n/a
	Stories	n/a	6	4 max. 2 min. (in node)
Building Setbacks	Front (Harrison)	n/a	0'-0" (1'-6" overhang into ROW)	0' min.
	Rear	n/a	0'-0"	0' min.
	Left Side	n/a	5'-0"	5' min.
	Right Side (San Pablo)	n/a	0'-0" (1'-6" overhang into ROW)	0' min.
Lot Coverage (%)		n/a	93	n/a
Usable Open Space (sq. ft.)		n/a	2,514	2,640 min. (40 s.f./d.u.)
Parking	Commercial (1,720 sq. ft.)	n/a	4	4 min. (2 spaces/1,000 sq.ft.)
	Residential	n/a	13 to 24 ²	0 min./33 max. (0.5 spaces/du max.)
	Total	n/a	17 to 28	4 min./37 max.
Bicycle Parking	Commercial - Short Term (1,720 sq. ft.)	n/a	2	2 (1 space/2,000 s.f. commercial)
	Residential - Long Term	n/a	64	26 (1 space/3 bedrooms)
	Residential - Short Term	n/a	6	2 (1 space/40 bedrooms, or 2)
	Total	n/a	64/8 (long term/short term)	26/4 (long term/short term)
[Grey Box] = Waiver or Concession requested to modify the district standard. ¹ Merger of two lots ² The applicant would determine the final amount of parking spaces/parking lifts prior to the application for building permits, based upon financial considerations. The amount proposed falls within the range of minimum and maximum parking requirements.				

II. Project Setting

- A. Neighborhood/Area Description:** The project site is located on the southeast corner of the intersection of San Pablo Avenue and Harrison Street, along the San Pablo Commercial Corridor, within the Gilman and San Pablo Node of the West Berkeley Area Plan. Adjacent parcels to the east are occupied by single- and multi-family residential developments in the R-2, Restricted Two-Family Residential District. Further north and south along San Pablo Avenue, in the C-W, West Berkeley Commercial District are mostly one-story commercial buildings, excepting the two parcels just south of the project site, which are occupied by a two-story apartment building and a one-story, single-family dwelling, respectively. Parcels directly west of the site, across San Pablo Avenue, are currently occupied by one-story commercial buildings. Entitlements for a six-story, 104-unit, mixed-use building were obtained for these three parcels in November, 2020 (ZP2019-0192). San Pablo Avenue is served by multiple bus lines (local, rapid, and Transbay). The site is approximately 1.3 miles from the North Berkeley BART Station (to the northeast). (See Figure 1: Zoning Map.)
- B. Site Conditions/Background:** The project site is composed of two rectangular parcels – 1200/1209, and 1205 San Pablo Avenue – which have a combined total area of 13,000 square feet, a combined frontage along San Pablo Avenue measuring 130 feet, and a combined frontage along Harrison Street measuring 100 feet. The parcels are vacant. Entitlements were obtained for the project site in 2006 to construct a five-story, 27-unit, mixed-use building, and an application for a building permit (B2019-05125) to construct the approved project was submitted in 2019, but never issued.

III. Project Description

- A.** The proposed project would involve the merging of two lots into one, and the construction of a mixed-use building with the following main components:
- Six stories, 68 feet, 3 inches in height
 - 66 dwelling units – 22 studios, 34 one-bedroom, and 10 two-bedroom
 - 76 bedrooms total
 - Five Very Low Income (VLI) units
 - 1,680 square feet of ground-floor commercial space
 - 2,514 square feet of usable open space – second-floor podium courtyard, private patios, and sixth-floor roof deck
 - 17 to 28 vehicle parking spaces in ground-level garage²
 - 64-space bike room

(See Figure 2 and 3: Elevations.)

- B. Base Project and Density Bonus:** By committing to provide five VLI units, the project is eligible for a density bonus under Government Code §65915. Under the City's

² The applicant would determine the final amount of parking spaces/parking lifts prior to the application for building permits, based upon financial considerations.

density bonus procedures, the Base Project was calculated to have 50 units, as the maximum allowable density for the site.³ The Base Project has an average unit size of 657 square feet in a four-story building. Five VLI units, or 10 percent of the Base Project, qualifies the project for a 32.5 percent density bonus or 17 bonus units, of which the project would utilize 16. The resulting Proposed Project would be a six-story building with 66 units, with an average unit size of 664 square feet. (See Table 5: Density Bonus.)

Table 5: Density Bonus – CA Gov’t Code 65915

Base Project Units*	Qualifying Units	Percent Density Bonus	Number of Density Bonus Units*	Proposed Project Units
50	5 VLI (10% of BP)	32.5%	16 (17 max.) (32.5%x50)	66
*Per Gov’t Code 65915(q), all unit calculations are rounded up to the nearest whole number.				

C. Housing Accountability Act: The Housing Accountability Act (HAA), California Government Code §65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

- 1) The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
- 2) There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

The Base Project complies with applicable, objective general plan and zoning standards. Further, §65589.5(j)(3) provides that a request for a density bonus “shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.” Therefore, the City may not deny the Base Project or density bonus request or reduced the density with respect to those units without basing its decision on the written findings under §65589.5(j), above. Staff is aware of no specific adverse impacts that could occur with the construction of the Base Project or the density bonus units. Therefore, §65589.5(j) **does apply** to the Proposed Project. All findings discussed below are subject to the requirements of Government Code §65589.5.

³ Per the City’s Density Bonus Procedures (DBP), the Base Project is the largest project allowed on the site that is fully compliant with district development standards (i.e. height, setbacks, usable open space, parking, etc.), or, the *maximum allowable density* for the site. The City uses the DBP to calculate the maximum allowable density for a site where there is no density standard in the zoning district, and to determine the number of units in the Proposed Project, which is the number of Base Project units plus the number of density bonus units that can be added according to the percentage of BMR units proposed, per Government Code, §65915(f).

IV. Community Discussion

A. Neighbor/Community Concerns: After receiving the application on May 11, 2021, the City mailed a Notice of Received Application to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations.⁴ Staff received one email from a neighbor on Stannage Avenue describing concerns over excessive building height, excessive density, and inadequate parking (17 spaces) provided in the project, which would contribute to congestion in the neighborhood.

On December 9 2021, a ZAB Preview for the project was held. Neighbor comments included concerns over not enough parking; increased traffic and impact to pedestrian safety; increased crime and refuse; impact to privacy; and impact to light. ZAB comments included concerns for more attention to the building interface with residential neighborhood, more parking needed, impact to solar panels on adjacent dwellings , breaking up building massing, and more attention to the appearance from the City of Albany approach to Berkeley.

On January 18, 2022 and January 20, 2022 staff received a total of five letters from neighbors expressing concerns regarding impact to sunlight and views; building design and aesthetics; building massing; impact to privacy; construction noise; inadequate parking; theft and vandalism to vehicles; increased traffic; a lack of green space; and the addition of another commercial spaces on San Pablo that may stay empty.

On April 5, 2022, staff received a letter from a neighbor expressing concerns regarding the building's incompatibility with the neighborhood and impact from project construction.

On April 13, 2022, the City mailed 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 three locations.

Staff received twelve neighbor comment letters between April 18 and April 20, 2022 – see Attachment #4. The letters expressed concerns over:

- Not enough parking
- Loss of natural light (and impact on solar panels) and privacy
- Increased noise (especially during construction)
- Increased traffic in neighborhood
- Incompatible building design
- Density bonus Base Project is too large
- Not enough affordable housing in the project
- Increased density in the neighborhood

⁴ The Pre-Application Yellow Poster and Neighborhood Outreach components of the land use application submittal requirements were temporarily suspended at the time of the application submittal due to City emergency health orders. The suspension was lifted on July 1, 2021.

- Impact to pedestrian safety

No further communications regarding the project were received as of the writing of this staff report.

B. Landmarks Preservation Commission: This application is not subject to review by the Landmarks Preservation Commission.

C. Design Review Committee: The Design Review Committee held two Preliminary Design Review on December 16, 2021 and on March 29, 2022, and forwarded a favorable recommendation to the ZAB with the following direction for Final Design Review (FDR) [MOTION: (Kahn, Finacom) VOTE (5-0-0-2) Gaffney, Pink – absent]:

Condition

- At FDR, present an alternate design with open railings for the parapet on the eastern edge of the 5th floor.

Recommendation

- Consider reducing the unit floor plans to only studios on the eastern edge of the project on the highest floor to allow more sunlight on the adjacent residential parcels.

V. Issues and Analysis

A. SB 330 – Housing Crisis Act of 2019: The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating restrictions on housing development projects. A “housing development project” means a use that is: all residential; mixed use with at least two-thirds of the square footage as residential; or transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

1. Government Code §65905.5(a) states that if a proposed housing development project complies with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete, then the city shall not conduct more than five hearings in connection with the approval of that housing development project. This includes all public hearings in connection with the approval of the housing development project and any continuances of such public hearings. The city must consider and either approve or disapprove the project at any of the five hearings consistent with applicable timelines under the Permit Streamlining Act [Chapter 4.5 (commencing with §65920)].

The April 28, 2022 ZAB Hearing represents the fourth public hearing for the proposed project since the project was deemed complete. The City can hold one additional public hearing on this project, if needed. That hearing must be reserved for a potential appeal to the City Council.

2. Government Code §65913.10(a) requires that the City determine whether the proposed development project site is an historic site at the time the application for the housing development project is deemed complete. The determination as to whether the parcel is an historic site must remain valid during the pendency of the housing development project, unless any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities.

The site is vacant, and there is no known cultural resource associated with the site. Therefore, it was determined that the site is not an historic resource. Standard conditions of approval have been included to halt work if any unanticipated discovery of archeological, paleontological, or tribal cultural resources.

3. Government Code §65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. The project was deemed complete on September 22, 2021. Staff also determined on this date that the level of CEQA review was to be: "Categorically Exempt". The ZAB must determine whether the application is categorically exempt from CEQA before June 27, 2022.
4. Government Code §66300(d) prohibits the demolition of residential dwelling units unless the project will create at least as many residential units as will be demolished. The project does not propose the demolition of housing units. Therefore, this section does not apply to the project.

B. Density Bonus Waivers and Concessions: The project is entitled to two concessions (or incentives), under Government Code §65915(d) for providing at least 10 percent of total units to very low-income households, and an unlimited number of waivers, under §65915(e).

Concession. A concession or incentive is a modification of a zoning code requirement that results in identifiable and actual cost reductions to provide for affordable housing costs.⁵ The applicant is requesting one concession to reduce the Usable Open Space requirement from 2,640 to 2,514 square feet, to eliminate the cost of providing an additional occupiable roof deck.

The City may only deny the concessions if it finds that the concessions would have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact⁶ without rendering the development unaffordable to low income, very low income, and

⁵ Because of revisions to Government Code, Section 65915 (Density Bonus) pertaining to incentives and concessions that became effective in January 2017, applicants cannot be required to submit a pro forma financial statement to support concession requests.

⁶ A "specific, adverse impact" means "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete."

moderate-income households, or if the concession would be contrary to State or Federal law. Staff has identified no basis for making such a finding.

Waiver. A waiver is a modification of a development standard that would otherwise physically preclude the construction of the project with the permitted density bonus and concessions. Waivers for FAR and height (maximum height and number of stories) are requested because they are necessary to physically accommodate the full density bonus project on the site.

The City may only deny the waivers if it finds that the waivers would have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low income, very low income, and moderate income households, or if the waiver would be contrary to State or Federal law. Staff has not identified any evidence that would support such a finding.

VI. Other Considerations

The following analyses of conformance with district purposes, use permit findings for non-detriment, and the 2002 General Plan goals and policies are provided for informational purposes only, to provide context; they are not required because the proposed project is HAA-compliant.

A. Findings for Use Permits in C-W District: Pursuant to BMC §23E.64.090.B, in order to approve any Use Permit in the district, the Board must make the following findings. The proposed use or structure must:

1. Be consistent with the purposes of the District. The project is consistent with the following district purposes:
 - Implement the West Berkeley Plan's designation of a Commercial District;
 - Provide locations for commercial services which primarily serve area residents and/or businesses;
 - Support the retention and attraction of a balance of both smaller and larger stores and restaurants;
 - Provide appropriate locations, consistent with West Berkeley Plan policies, for commercial services which serve a citywide or broader clientele;
 - To provide a relatively compact, clearly bounded set of commercial areas in West Berkeley, so as to both improve the quality of West Berkeley shopping environments and to prevent commercial overspill into industrial areas;
 - Increase the opportunities for development of housing in commercial areas to support local retailing and use of transit lines and opportunities for mixed use projects combining pedestrian-oriented neighborhood-serving uses with mixed income housing in locations abutting residential districts;
 - Encourage appropriately intense development in underutilized portions of commercial streets; and

- Promote development compatible with adjacent commercial, residential and industrial areas;
- 2. Be compatible with surrounding uses and buildings;
- 3. Be consistent with the adopted West Berkeley Plan;
- 4. Be supportive of an increase in the continuity of retail and service facilities at the ground level to the degree feasible and does not substantially degrade the existing urban fabric of the street and area;
- 5. Be, for projects which include construction of new floor area, providing an intensity of development which does not underutilize the property;
- 6. Be capable of meeting any applicable performance standards for off-site impacts; and
- 7. Not exceed the amount and intensity of use that can be served by available traffic capacity and potential parking supply.

The proposed mixed-use building at this location would be an appropriate utilization of the currently vacant and underutilized site that would bring 66 new residential units (including five below-market-rate units) and 1,680 square feet of commercial space to the district and the neighborhood. The project would further the purposes of the district by increasing the neighborhood population with new residents of mixed income who would patronize the local businesses, and help to engage the adjacent residential neighborhood (R-2) to the east of the site to contribute to the livability and character of this underutilized portion of the San Pablo Avenue commercial corridor. New residents and business patrons from the project and surrounding neighborhood would increase street-level activity near this intersection of San Pablo Avenue and Harrison Street, and would extend the existing ground-level activation near the Tokyo Fish Market (1220 San Pablo) on the west side of San Pablo Avenue to the east side of the avenue. The project's corner commercial space and primary building orientation toward San Pablo Avenue, along with a similar configuration at the approved mixed-use building to be constructed across the street at 1200-1214 San Pablo, would serve to engage both the southwest and southeast corners of this intersection, and would contribute to the continuity of ground-level activation in the Gilman node of the West Berkeley Plan area.

At six stories tall, the proposed project would be taller than the existing one- and two-story residential and commercial buildings in the vicinity. The building design mitigates this height differential by stepping down toward the dwellings to the east of the site at the sixth floor, and again at the fifth floor. There is also a 43-foot-wide, 47-foot-deep podium level (second floor) garden, and a ten-foot setback along the length of the east property line at the ground level, to soften the transition to the residential neighborhood to the east.

The project would help realize the development potential in the C-W district along San Pablo Avenue in the West Berkeley Area Plan, which allows up to four stories by right (for mixed-use buildings), and would add to the trend of taller, mixed-use development along San Pablo Avenue, north of University Avenue, which includes projects such as: 1406 San Pablo – a three-story, mixed-use building, approved in 2004 and built soon after; 1500 San Pablo – a five-story, mixed use building approved in 2016, which

completed construction in 2021; 1800 San Pablo – a four-story, mixed-use building, approved in 2004 and built in 2006; and 1200-1214 San Pablo (across the street from the subject site) – a six-story, mixed-use building, approved in November, 2020, and currently obtaining building permits.

Finally, the project would be an appropriate intensity of use that would not exceed local traffic and parking capacities. The use permit for a similar, but denser (104 units), mixed-use building at 1200-1214 San Pablo (#ZP2019-0192) was approved in November, 2020 by the City with both a parking waiver and a parking reduction pursuant to State density bonus provisions. In addition, the City's parking reform ordinance (effective March, 2021) eliminated the residential parking requirement and established parking maximums for this district. The proposed 17 to 28 parking spaces falls within the minimum and maximum requirements.

- B. Findings for Use Permits in C-W District Node:** Pursuant to BMC §23E.64.090.C, in order to approve any Use Permit in a District Node, the Board must find that the use supports the development of a strong retail commercial, pedestrian oriented environment at the node. Factors the Board should consider shall include, but are not limited to, the placement of store entrances relative to the street and parking lots and the size and prominence of display windows and areas facing the sidewalk.

Though the specific use and tenant has not yet been determined, the commercial space has floor-to-ceiling windows all along the ground level, with its longer, entry side (west) oriented toward San Pablo Avenue, to activate both the Harrison Street and San Pablo Avenue sidewalks. Floor-to-ceiling windows continue along the ground floor, west side of the building at the residential lobby – which has a residents' lounge behind the windows – through the bike room. Together, floor-to-ceiling windows along the commercial space, lobby, and bike room line approximately 90 percent of the project's San Pablo elevation with active spaces behind transparent glazing.

The project's strong orientation toward the San Pablo Avenue streetscape would add to the pedestrian activity and interest on this portion of the Avenue that already draws visitors daily. The Tokyo Fish Market, across San Pablo and west of the project site, is a food market that has occupied its site for several decades, and is a popular lunchtime destination. The project would contribute to the existing pedestrian activity near this business by bringing new residents to the area, and by helping to draw in local visitors – potentially, those from beyond the immediate neighborhood.

- C. General Non-Detriment Finding:** BMC §23B.32.040.A states that before the ZAB approves an application for a Use Permit, it must find that 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.

Shadows: According to the shadow studies submitted for the project (See Attachment 1, Project Plans – Sheets A.0.4A through A.0.4E). New shadows would affect the existing residences to the east of the site and the existing apartment building to the south, casting new shadows in the winter and summer months in the hours before sunset. Shadows would be cast onto the approved mixed-use building to the west (when constructed) at 1200 San Pablo, in the hours after sunrise in the summer months.

Shadow impact on adjacent dwellings are to be expected, because the subject site is located in the C-W district, which allows heights of up to 50 feet and four stories for mixed-use buildings, by right. The proposal would include a waiver for additional height beyond the district height limits to accommodate the density bonus units (see section V.B for a discussion of waivers) and allow a 68-foot, 3-inch-tall, six-story building. The additional height above the district limits would cast shadows in the affected directions further than if the project were limited to the base district height standards. Staff believes that shadow impacts from the project would be reasonable and not detrimental.

Non-Detriment: The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater 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: The following is an analysis of conformance with the 2002 General Plan goals and policies, provided for informational purposes only:

1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy LU-7–Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
3. Policy LU-23–Transit-Oriented Development: Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit service such as Downtown Berkeley.
4. 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.
5. 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.

6. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

As discussed in section VI.A through VI.C, the project would improve the utilization of the site with development that is of appropriate intensity, that is compatible with the existing surrounding development, and that would further improve the neighborhood character and quality of life by increasing existing street-level activity, and bringing in new residents and new business patrons to an intersection in a designated node along a major commercial and transit corridor. The project site is served by multiple bus lines, including local, rapid, and Transbay lines, that operate along San Pablo Avenue, and a nearby BART Station.

7. Policy UD-33–Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.
8. Policy H-19–Regional Housing Needs: Encourage housing production adequate to meet the housing production goals established by ABAG’s Regional Housing Needs Determination for Berkeley.
9. Policy EM-5–“Green” Buildings: Promote and encourage compliance with “green” building standards. (Also see Policies EM-8, EM-26, EM-35, EM-36, and UD-6.)

The project would help Berkeley meet its regional housing needs by adding 66 net new housing units, including five VLI units. The project would be subject to standard conditions of approval that promote sustainable building design, including conditions for solar PV systems, electric vehicle charging, water efficient landscaping, and natural gas prohibitions.

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 #ZP2021-0070, pursuant to BMC §23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received March 23, 2022
3. Notice of Public Hearing
4. Neighbor Letters, received April 18 - 20, 2022

Staff Planner: Sharon Gong, sgong@cityofberkeley.info, (510) 981-7429

ATTACHMENT 1

FINDINGS AND CONDITIONS

APRIL 28, 2022

1201-1205 San Pablo Avenue

Use Permit #ZP2021-0070 to construct a six-story, mixed-use building on a vacant lot, with 66 units (including five Very Low-Income units), 1,680 square feet of commercial space, 2,514 square feet of usable open space, and 17 to 28 ground-level parking spaces.

PERMITS REQUIRED

- Administrative Use Permit under Berkeley Municipal Code (BMC) §23D.04.020.C to construct rooftop projections, such as mechanical appurtenances or architectural elements which exceed the maximum average height limit for the district;
- Use Permit under BMC §23E.64.030.A to construct a mixed-use development with floor area of more than 9,000 square feet;
- Use Permit under BMC §23E.64.030.A to construct new dwelling units; and
- Use Permit under BMC §23E.64.050.B, to create new gross floor area of 5,000 square feet or more.

CONCESSIONS/ WAIVERS UNDER GOVERNMENT CODE SECTION 65915-65918

- Concession to reduce the Usable Open Space requirement from 2,640 to 2,514 square feet;
- Waiver of BMC §23E.64.070.A to increase maximum FAR to 3.6 where 3.0 is the limit;
- Waiver of BMC §23E.64.070.B to increase maximum average building height to be 68'-3", where 50' is the limit for a mixed-use building; and
- Waiver of BMC §23E.64.070.B to increase maximum number of stories to be 6 stories, where 4 stories is the limit for a mixed-use building.

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 §15332 ("In-Fill Development Projects").

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

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

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

II. DENSITY BONUS FINDINGS

1. Pursuant to Government Code Section 65915, the Zoning Adjustments Board finds that:
- A. Under the City's methodology for implementing density bonuses, the "base project" consists of 50 units;
 - B. The project will provide at least 5 Very Low Income qualifying units in the 50-unit "base project", as more fully set forth in Conditions 62 to 66;
 - C. The project is entitled to a density increase of 32.5% over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element, under the requirements of Government Code Section 65915(b) and (f), plus two concessions or incentives. This equates to a density bonus of 16 units above the Base Project (project is including 16 out of 17 allowable units), for a total of 66 units.
2. In accordance with Government Code Section 65915(d) and (k), the Zoning Adjustments Board hereby grants the following concessions in order to provide for affordable housing costs:
- A. Reduce the Usable Open Space requirement from 2,640 to 2,514 square feet.
3. In accordance with Government Code Section 65915(d), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds that the approval of the concessions is required to provide for affordable rents, as provided in Government Code Section 65915(d)(1)(A) because 1) approval of the concession would result in identifiable and actual cost reduction; 2) approval of the concession would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) would not be contrary to State or Federal law.
4. In accordance with Government Code Section 65915(e) the Zoning Adjustments Board hereby grants the following waivers:
- A. Waiver of BMC §23E.64.070.A to increase maximum FAR to 3.6 where 3.0 is the limit;
 - B. Waiver of BMC §23E.64.070.B to increase maximum average building height to be 68'-3", where 50' is the limit for a mixed-use building; and
 - C. Waiver of BMC §23E.64.070.B to increase maximum number of stories to be 6 stories, where 4 stories is the limit for a mixed-use building.

These waivers are required because state law requires the City to modify development standards as necessary to accommodate these density bonus units, and because the Zoning Adjustments Board hereby finds that the density bonus units can best be accommodated by granting these waivers.

5. In accordance with Government Code Section 65915(e), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board

finds approval of waivers is required 1) construct the proposed project at the density permitted under State law; 2) approval of requested waivers would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) approval of the requested waivers would not be contrary to State or Federal law.

III. FINDINGS FOR APPROVAL

6. The Housing Accountability Act, Government Code Section 65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that:
- A. The development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density¹; and
 - B. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.

Because the Base Project would comply with applicable, objective general plan and zoning standards, §65589.5(j) does apply to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified by staff. The project includes construction of 66 dwelling units.

7. As required by Section 23.406.040.E.1 of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
- A. The project is consistent with all applicable C-W District standards and qualifies for waivers and concessions for the listed district standards granted pursuant to State Density Bonus, Government Code, Section 65915;
 - B. Shadow impact on adjacent dwellings to the east, south, and west (104-unit mixed-use building, approved November, 2020) are to be expected, because the subject site is located in the C-W district, which allows heights of up to 50' and four stories for mixed-use buildings. A waiver is granted for additional height beyond the district height limits to accommodate the density bonus units to allow a 68-foot, 3-inch-tall, six-story building. Staff believes that shadow impacts from the project would be reasonable and not detrimental; and
 - C. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater 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.

¹ As used in the Act, a "specific, adverse impact" means a "significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, polices, or conditions as they existed on the date the application was complete.

IV. OTHER FINDINGS FOR APPROVAL

8. As required by Section 23E.64.090.B of the BMC, the Zoning Adjustments Board finds that:
 - A. The mixed-use building at this location will be a more appropriate utilization of a currently underutilized site that will bring 66 new residential units (including five below-market-rate units) and 1,680 square feet of new commercial space to the district and the neighborhood;
 - B. The project will further the purposes of the district by increasing the neighborhood population with new residents of mixed income who would patronize the local businesses and contribute to the livability and character of an underutilized portion of the San Pablo Avenue commercial corridor;
 - C. The new residents and commercial patrons from the project will increase street-level activity to provide continuity for the ground-level activation near this intersection of San Pablo Avenue and Harrison Street, and would extend the existing ground-level activation near the Tokyo Fish Market (1220 San Pablo) on the west side of San Pablo Avenue to the east side of the avenue;
 - D. The project's corner commercial space and primary building orientation toward San Pablo Avenue, along with a similar configuration at the approved mixed-use building to be constructed across the street at 1200-1214 San Pablo, would serve to engage both the southwest and southeast corners of this intersection, and would contribute to the continuity of ground-level activation in the Gilman node of the West Berkeley Plan area;
 - E. At six stories tall, the proposed project will help realize the development potential in the C-W district along San Pablo Avenue, which allows up to four stories (for mixed use buildings; additional height allowed by density bonus provisions), and will add to the trend of taller, mixed-use development along San Pablo Avenue, north of University Avenue; and
 - F. The project will be an appropriate intensity of use that will not exceed local traffic and parking capacities. The City's parking reform ordinance (effective March, 2021) eliminated the residential parking requirement and established parking maximums for this district. The proposed 17 to 28 parking spaces falls within the minimum and maximum requirements.

 9. As required by Section 23E.64.090.C of the BMC, the Zoning Adjustments Board finds that:
 - A. The project includes a commercial space at the northwest corner of the building at the intersection of San Pablo Avenue and Harrison Street. The commercial space has floor-to-ceiling windows all along the ground level, with its longer, entry (west) side oriented toward San Pablo Avenue, to activate both the Harrison Street and San Pablo Avenue sidewalks. Floor-to-ceiling windows along the commercial space, lobby, and bike room line approximately 90 percent of the project's San Pablo elevation with active spaces behind transparent glazing.
 - B. The project's strong orientation toward the San Pablo Avenue streetscape would add to the pedestrian activity and interest on this portion of the Avenue that already draws visitors daily. The project would contribute to the pedestrian activity near existing businesses by bringing new residents to the area, and by helping to draw in local visitors – potentially, those from beyond the immediate neighborhood.
-

V. 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 and 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. Compliance Required (BMC Section 23.102.050)

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)

- A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
- B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)

- A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
- B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
- C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).
- D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)

Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

7. Permit Modifications (BMC Section 23.404.070)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. 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.

8. Permit Revocation (BMC Section 23.404.080)

The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

9. Pay Transparency Acknowledgement (BMC Section 13.104.030)

Prior to the issuance of a building permit for any Project subject to this Chapter:

- A. A Responsible Representative of the Permittee shall certify under penalty of perjury that: (1) the Permittee has reviewed Chapter 13.104 of the Berkeley Municipal Code; and (2) the Permittee will be responsible for demonstrating compliance with this Chapter.
- B. The Permittee shall provide to the City a Contractor Pay Transparency Acknowledgment on a form approved by the City for this purpose. A Responsible Representative of the Permittee shall certify under penalty of perjury that the Contractor and all Qualifying Subcontractors performing work on the Project will comply with Chapter 13.104 of the Berkeley Municipal Code and with Labor Code sections 226(a) and 2810.5 for each employee who works on the Project.

10. Pay Transparency Attestations Following Project Completion (BMC Section 13.104.040)

Within 10 days of the approved final inspection of any Project subject to this Chapter, each Permittee shall provide to the City for each Contractor and Qualifying Subcontractor a Pay Transparency Attestation on a form approved by the City. On each Pay Transparency Attestation, a Responsible Representative of the Contractor or Qualifying Subcontractor shall attest under penalty of perjury that the Contractor or Qualifying Subcontractor complied with Chapter 13.104 of the Berkeley Municipal Code and Labor Code sections 226(a) and 2810.5 for each employee who performed work on the Project. The City will maintain Pay Transparency Attestation forms for period of at least three years after their date of receipt by the City.

11. Posting of Ordinance (BMC Section 13.104.050)

Each day work is performed on the Project, each Permittee shall post, and keep posted in a conspicuous location where it may be easily read by employees during the hours of the workday, a notice that: (A) contains the text of Chapter 13.104 of the Berkeley Municipal Code; (B) explains that workers can report violations of Labor Code sections 226 and 2810.5 to the Labor Commissioner of the State of California; and (C) provides current contact information, including office address, telephone number, and email address of the Labor Commissioner of the State of California.

12. Conditions of Approval (BMC Section 13.104.060)

The requirements of Sections 13.104.030 through 13.104.050 shall be included as conditions of approval of any Use Permit or Zoning Certificate for any Project that is subject to this Chapter. Failure to comply with the requirements of any provision of this Chapter shall be grounds for issuance of an administrative citation under Chapter 1.28 and/or the revocation or modification of any Use Permit issued for the Project under Chapter 23B.60.

13. 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.

VI. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23.406.040.E, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

14. 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 #

15. Final Design Review. The Project requires approval of a Final Design Review application by the Design Review Committee. Plans presented shall include an alternate design with open railings for the parapet on the eastern edge of the 5th floor.

16. Address Assignment. The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address

associated with this Use Permit. The new address(es) shall be assigned and entered into the City's database prior to the applicant's submittal of a building permit application.

- 17. Geotechnical Plan Review.** The applicant's geotechnical consultant shall review and approve all geotechnical aspects of the project building and grading plans (i.e., site preparation and grading including removal and replacement/treatment of expansive soils, site surface and subsurface drainage improvements including site runoff discharge, and design parameters for foundations and hardscape) to ensure that their recommendations have been properly incorporated and to ensure that the project concept has not changed significantly since preparation of their report. The results of the plan review should be summarized by the geotechnical consultant in a letter and submitted to the City Engineer for review and approval prior to issuance of building permits.
- 18. Construction Noise Reduction Program.** The applicant shall develop a site specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:

 - A. Construction equipment should be well maintained and used judiciously to be as quiet as practical.
 - B. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
 - C. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
 - D. Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
 - E. Prohibit unnecessary idling of internal combustion engines.
 - F. If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
 - G. Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
 - H. Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
 - I. Route construction related traffic along major roadways and away from sensitive receptors where feasible.
- 19. Damage Due to Construction Vibration.** The project applicant shall submit screening level analysis prior to, or concurrent with demolition building permit. If a screening level analysis shows that the project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment (assessment). The assessment shall take into account project specific information such as the composition of the structures, location of the various types of equipment used during each phase

of the project, as well as the soil characteristics in the project area, in order to determine whether project construction may cause damage to any of the structures identified as potentially impacted in the screening level analysis. If the assessment finds that the project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction that to avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake an existing conditions study (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage. This study shall establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls; and include written descriptions and photographs.

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

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

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

21. Construction Noise Management - Public Notice Required. At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within **500 feet** of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities during extended work hours and reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.
22. Construction Phases. The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and

anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an on-site meeting with these individuals as necessary to ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.

23. 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.

24. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

A. Environmental Site Assessments:

- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at: http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
- 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
- 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

B. Soil and Groundwater Management Plan:

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

C. Building Materials Survey:

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

D. Hazardous Materials Business Plan:

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

Prior to Issuance of Any Building (Construction) Permit

25. Geotechnical Construction Inspections. The geotechnical consultant shall inspect, test (as needed), and approve all geotechnical aspects of the project construction. The inspections shall include, but not necessarily be limited to: site preparation and grading, site surface and subsurface drainage improvements, and excavations for foundations and retaining walls prior to the placement of steel and concrete. The results of these inspections and the as-built conditions of the project shall be described by the geotechnical consultant in a letter and submitted to the City Engineer for review prior to final (granting of occupancy) project approval.
26. Parcel Merger. The applicant shall secure approval of any parcel merger and/or lot line adjustment associated with this Use Permit.
27. Percent for Public Art: Consistent with BMC §23C.23, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.
28. Affordable Housing Mitigation Fee: Consistent with BMC §22.20.065, and fee resolution applicable to this project, the applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, and they shall pay this fee.
29. HVAC Noise Reduction. Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's

Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.

30. Interior Noise Levels. Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.
31. Solar Photovoltaic (Solar PV). A solar PV system, on the solar zone specified in Section 110.10 of the 2019 Energy Code, shall be installed (subject to the exceptions in Section 110.10) as specified by the Berkeley Energy Code (BMC Chapter 19.36). Location of the solar PV system shall be noted on the construction plans.
32. Electric Vehicle (EV) Charging. At least 20% of the project parking spaces for residential parking shall be "EV Charger Ready": equipped with raceway, wiring, and power to allow for future Level 2 (240 Volt/40 amp) plug-in electric vehicle (EV) charging system installation, and at least 80% of the project parking spaces for residential parking shall be "EV Spaces Raceway Equipped": equipped with a raceway between an enclosed, inaccessible, or concealed area and an electrical service panel/subpanel as specified by the Berkeley Green Code (BMC Section 19.37.040). Any Level 2 EV charging systems installed at parking spaces will be counted toward the applicable readiness requirement. Readiness for EV charging and EV charging station installations shall be noted on the construction plans.
33. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELO). MWELO-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET_o) for Berkeley is 41.8.
34. Prohibition of Natural Gas Infrastructure in New Buildings. The project shall comply with the City of Berkeley Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80).
35. 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).
36. 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.
37. Required Parking Spaces for Persons with Disabilities. Per BMC Section 23.322.040.H of the Zoning Ordinance, "If the number of required off-street parking spaces in a non-residential district is reduced as allowed by this chapter, the number of required parking spaces for persons with disabilities shall be calculated as if there had been no reduction in required spaces."

Prior to Demolition or Start of Construction:

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

During Construction:

39. 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.

40. Construction Hours- Exceptions. It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The project shall not be allowed more than 15 extended working days.

41. Project Construction Website. The applicant shall establish a project construction website with the following information clearly accessible and updated monthly or more frequently as changes warrant:

- Contact information (i.e. "hotline" phone number, and email address) for the project construction manager
- Calendar and schedule of daily/weekly/monthly construction activities
- The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.

42. 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.
- 43. Air Quality - Diesel Particulate Matter Controls during Construction.** All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
- A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or
- B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:

- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
 - A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.
- 44. 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.
- 45. Low-Carbon Concrete.** The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.

- 46. 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.

- 47. Avoid Disturbance of Nesting Birds.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.
- 48. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction).** Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:
- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted

- and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
- B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
 - C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
 - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
 - E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
49. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
50. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
51. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the

resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.

- 52. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
 - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
 - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
 - E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
 - G. All private or public projects that create and/or replace 10,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological).

- H. All on-site storm drain inlets must be labeled “No Dumping – Drains to Bay” or equivalent using methods approved by the City.
 - I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - J. 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.
 - K. 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.
- 53. 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.
- 54. 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.
- 55. 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.
- 56. 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.
- 57. 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.
- 58. Public Works.** If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Final Inspection or Issuance of Occupancy Permit:

- 59. 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.
- 60. 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 23, 2022**, except as modified by conditions of approval.
- 61. Transportation Demand Management.** Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Planning Department staff to confirm that the physical improvements required in Section 23.334.030(C) and 23.322.090 (bike parking) have been installed. The property owner shall also provide documentation that the programmatic measures required in 23.334.030(A) and 23.334.030(B) will be implemented.
- A. Consistent with Section 23.334.030(A), all parking spaces provided for residents be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling units, such that potential renters or buyers shall have the option of renting or buying a dwelling unit at a price lower than would be the case if there were a single price for both the dwelling unit and the parking space(s).
- B. Consistent with Section 23.334.030(B), at least one of the following transit benefits shall be offered, at no cost to the resident, for a period of ten years after the issuance of a Certificate of Occupancy. A notice describing these transportation benefits shall be posted in a location or locations visible to all employees.
1. One monthly pass for unlimited local bus transit service for every bedroom in each dwelling unit, up to a maximum of two benefits per dwelling unit.
 2. Subject to the review and approval of the Zoning Officer in consultation with the Transportation Division Manager, a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited monthly local bus pass.
- C. Consistent with Section 23.334.030(C), publicly-available, real-time transportation information in a common area, such as a lobby or elevator bay, on televisions, computer monitors or other displays readily visible to residents and/or visitors, shall be provided. Transportation information shall include, but is not limited to, transit arrivals and departures for nearby transit routes.

Property owners may be required to pay administrative fees associated with compliance with this Condition.

BELOW MARKET RATE UNITS

- 62. Number of Below Market Rate Units.** The project shall provide **five (5) Very Low Income**, below market rate rental dwelling units (“BMR Units”), which are required to comply with the State Density Bonus Law (Government Code Section 65915). The BMR Units shall be designated in the Regulatory Agreement and shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City.

63. Regulatory Agreement. Prior to the issuance of a building permit, the applicant shall enter into a Regulatory Agreement that implements Government Code Section 65915 and this Use Permit. The Regulatory Agreement may include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The maximum qualifying household income for the BMR Units shall be 50 percent of area median income (AMI), and the maximum housing payment shall be 30 percent of 50 percent of AMI, as set forth in the following paragraphs of this condition. If the BMR units are occupied by very low income tenants receiving a rental subsidy through the Section 8 or Shelter Plus Care programs, the rent received by the project sponsor may exceed the restricted rent to the payment standards allowed under those programs so long as the rent allowed under the payment standards is not greater than the market rents charged for comparable units in the development. The applicant shall submit the Regulatory Agreement to the Housing and Community Services Department (HHCS) via email to affordablehousing@cityofberkeley.info for review and approval.

- 64.** In addition, the following provisions shall apply:
- A. Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5 (h).
 - B. Rent shall include a reasonable allowance for utilities, as published and updated by the Berkeley Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.
 - C. BMR units will be provided for the life of the project under Section 22.20.065.

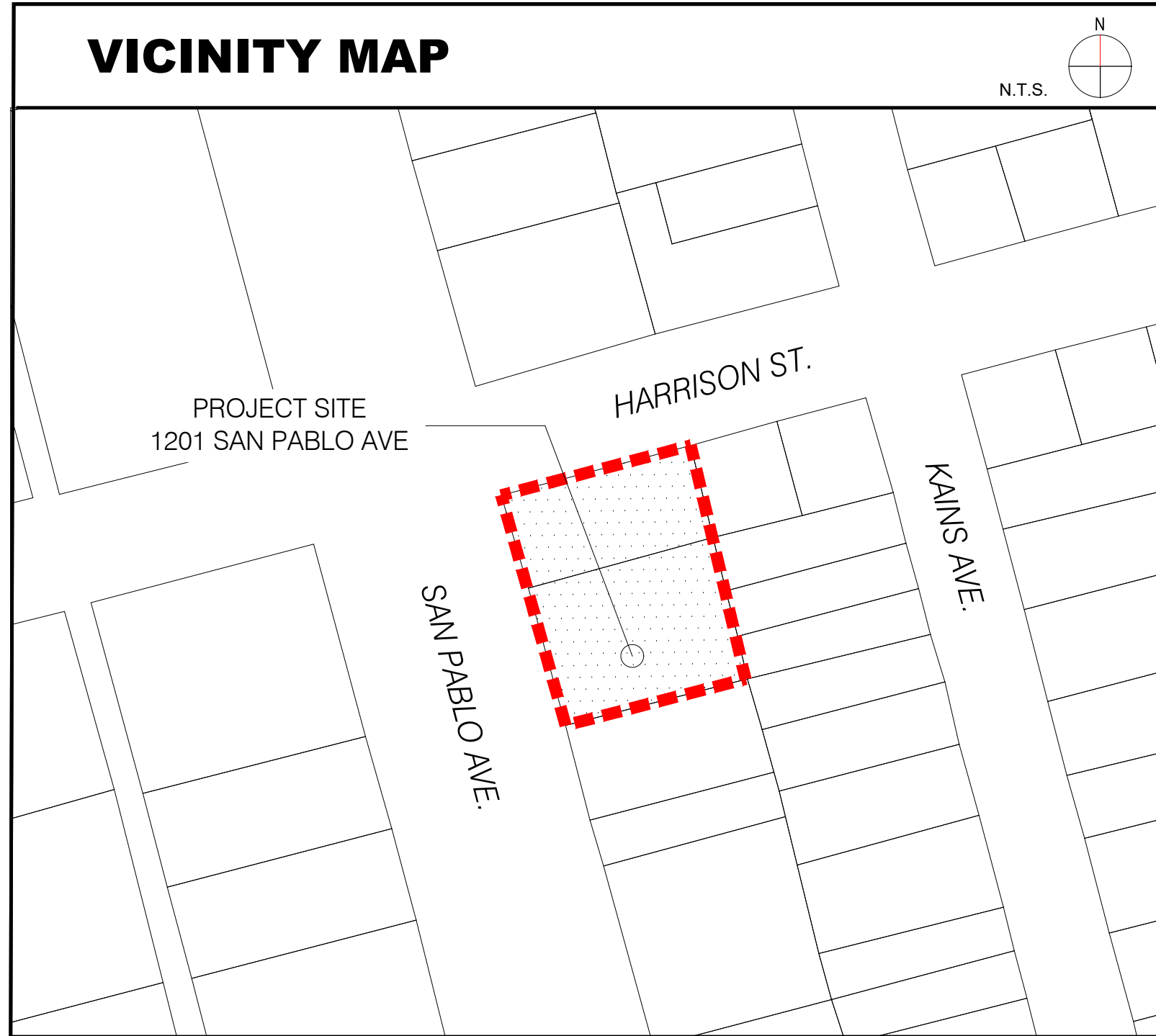
- 65. Determination of Area Median Income (AMI).**
- The “AMI” (Area Median Income) shall be based on the income standards for the Oakland Primary Metropolitan Statistical Area reported by the United States Department of Housing and Urban Development (HUD). In the event HUD discontinues establishing such income standards, AMI shall be based on income standards determined by the California State Department of Housing and Community Development (HCD). If such income standards are no longer in existence, the City will designate another appropriate source or method for determining the median household income.
 - The applicable AMI for the purpose of determining the allowable rent for each unit (but not for the purpose of determining eligibility for occupancy of an inclusionary unit) shall be determined in accordance with the following table:

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

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

At All Times:

67. Transportation Demand Management Compliance. The property owner shall submit to the Planning Department periodic TDM Compliance Reports in accordance with Administrative Regulations, subject to the review and oversight of the Zoning Officer. Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).
68. 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.
69. Rooftop Projections. No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.
70. Design Review. Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review approval.
71. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
72. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
73. Residential Permit Parking. No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The project planner shall notify the Finance Department, Customer Service Center, to add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of an occupancy permit or final inspection.
74. Tenant Notification. The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service and entertainment uses, and that each occupant shall not seek to impede their lawful operation.
75. Transit Subsidy Condition. The applicant shall reimburse employees the maximum non-taxable cost of commuting to and from work on public transportation (e.g., monthly passes) if they so commute, and a notice informing employees of the availability of such subsidy shall be permanently displayed in the employee area as per BMC Chapter 9.88.
76. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.



PROJECT DIRECTORY

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PROJECT DESCRIPTION

PROJECT ADDRESS: 1201 SAN PABLO AVENUE, BERKELEY, CA 94706
APN: 060 240500100, 060 240503101

SCOPE OF WORK:
SB-330 APPLICATION FOR THE CONSTRUCTION OF A NEW 6-STORY MIXED-USE RESIDENTIAL DEVELOPMENT WITH 66 DWELLING UNITS, GROUND LEVEL LOBBIES, COMMERCIAL, AND PARKING, WITH A STATE OF CALIFORNIA DENSITY BONUS.

ZONING CODE SUMMARY
(BASED ON THE BERKELEY MUNICIPAL ZONING CODE)
ZONING: C-W
SEE SHEET A0.1 FOR COMPLETE ZONING DATA

DRAWING LIST

SHEET NO. & TITLE

ARCHITECTURAL

A0.0 GENERAL INFORMATION

A0.1 ZONING INFORMATION

A0.3 DENSITY BONUS DIAGRAMS

A0.4A SHADOW STUDIES

A0.4B SHADOW STUDIES

A0.4C SHADOW STUDIES

A0.4D SHADOW STUDIES

A0.4E SHADOW STUDIES

A0.5 SITE CONTEXT PHOTOS

A1.0 SURVEY

A2.1 SITE PLAN/ PLAN AT GROUND LEVEL

A2.2 PLAN AT LEVELS 2 - 4

A2.3 PLAN AT LEVEL 5

A2.4 PLAN AT LEVEL 6

A2.5 PLAN AT ROOF

A3.1 ELEVATIONS

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A3.3 ELEVATIONS

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A3.5 STREET STRIP ELEVATIONS

A3.6 PERSPECTIVE VIEWS

A3.7 PERSPECTIVE VIEWS

A3.8 PERSPECTIVE VIEWS

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A3.10 PERSPECTIVE VIEWS

A3.11 PERSPECTIVE VIEWS

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A3.13 PERSPECTIVE VIEWS

A3.14 PHOTO MATCH PERSPECTIVES

A4.1 BUILDING SECTIONS

A4.2 WALL SECTIONS & DETAILS

SW-1 PRELIMINARY STORMWATER MANAGEMENT PLAN

G-1 CONCEPTUAL GRADING PLAN

MAT MATERIAL BOARD

LANDSCAPE

L-1.1 LANDSCAPE PLAN - GROUND LEVEL

L-1.2 LANDSCAPE PLAN - LEVEL 2

L-1.3 LANDSCAPE PLAN - LEVEL 6

L-1.4 LANDSCAPE SECTIONS & PLANT PALETTE

L-1.5 EAST PROPERTY LINE SCREEN

CONCEPTUAL VIEW OF PROJECT LOOKING SOUTH ALONG SAN PABLO



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**GENERAL
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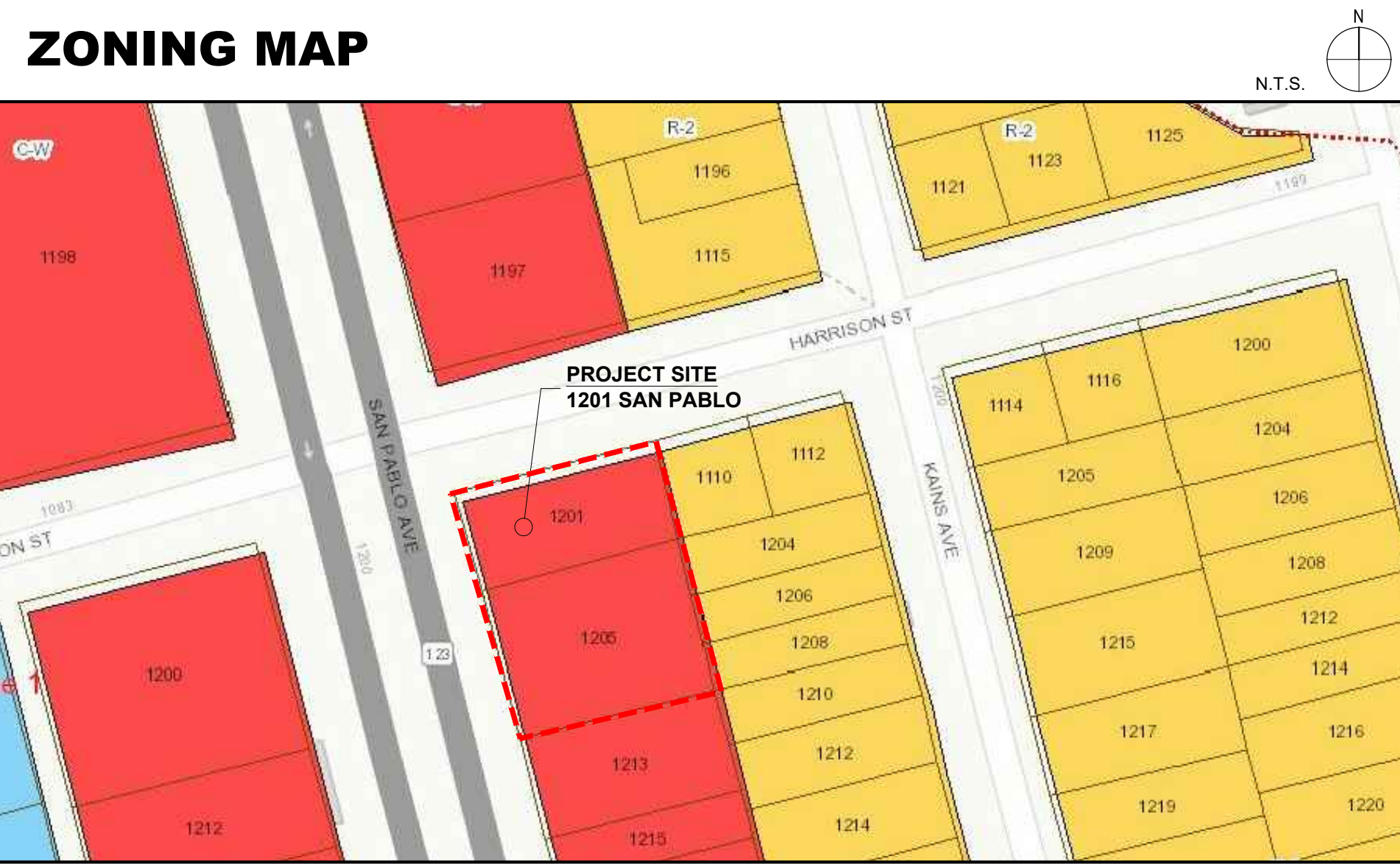
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ZONING DATA

A0.1

REFUSE AND RECYCLING

Waste and Recycling Calculation						
# of Bedrooms	Factor	Occupants	Total cuft required (.25cy or 50 gallons / 3)	Waste (40%)	Recycling (40%)	Organics (20%)
72	1.75	126	10.50 cy	2,100 gal	4.20 cuft	840 gal
Space Calculation			Container Quantities		Space Required	
	Waste	Recycling	Organics	Factor/container	Space/Container	150% Additional
2 cy bin (404 gal)	2	2		28 sf	112 sf	
96 gallon cart	1	1	5	7 sf	49 sf	
64 gallon cart				6 sf		
Total capacity	904 gal	904 gal	480 gal		161 sf	242 sf
						375



ZONING CODE DATA

CITY OF BERKELEY ZONING TABULATIONS

	PROPOSED	PERMITTED/REQUIRED	ALLOWABLE W/ 32.5% DENSITY BONUS
NUMBER OF DWELLING UNITS	66	N/A	N/A
COMMERCIAL AREA	1,680	N/A	N/A
PARKING	SEE TABLE	SEE TABLE	SEE TABLE
BIKE PARKING	68	28	N/A
FRONT YARD SETBACK (HARRISON)	0'	0'	N/A
STREET SIDE YARD SETBACK (SAN PABLO)	VARIABLES; 0' TO 1'	0'	N/A
SIDE YARD SETBACK	VARIABLES; 5' TO 47'-0"	VARIABLES; 0' TO 5'-0"	N/A
REAR YARD SETBACK	VARIABLES; 0' TO 10'-0"	0'	N/A
BUILDING HEIGHT	68'-3" **	50'	70' **
BUILDING STORIES	6	4	6
LOT AREA	13,000	13,000	13,000
LOT AREA (ACRES)	0.30	0.30	0.30
GROSS FLOOR AREA (SEE TABLE)	46,996	N/A	51,740
BUILDING FOOTPRINT	12,056	13,000	N/A
LOT COVERAGE	93%	100%	N/A
USABLE OPEN SPACE (SEE TABLE)	SEE TABLE	SEE TABLE	SEE TABLE
PROJECT FAR	3.60 **	3.0	3.98 **

** Via Density Bonus Waiver

FAR CALCULATIONS

	BASE PROJECT ALLOWABLE	ALLOWABLE W/ 35% DENSITY BONUS	PROPOSED W/ DENSITY BONUS
SITE AREA	13,000	13,000	13,000
FAR	3.00	4.05	3.62
FLOOR AREA	39,000	52,650	46,996

PROPOSED FLOOR AREA WITH DENSITY BONUS

	COMMERCIAL	RESIDENTIAL	MECH.	TOTAL
LEVEL 6		6,303		6,303
LEVEL 5		7,526		7,526
LEVEL 4		9,244		9,244
LEVEL 3		9,244		9,244
LEVEL 2		9,244		9,244
GROUND LEVEL (EXCLUDES PARKING)	1,680	2,906	849	5,435
TOTAL FLOOR AREA W/ DENSITY BONUS	1,680	44,467		46,996
FAR (FLOOR AREA RATIO)				3.62
PARKING				6,583
TOTAL WITH PARKING				53,579

UNIT COUNTS

UNIT TYPE	STUDIO	1-BED	2-BED	TOTAL
LEVEL 6	2	5	2	9
LEVEL 5	5	5	2	12
LEVEL 4	5	8	2	15
LEVEL 3	5	8	2	15
LEVEL 2	5	8	2	15
GROUND LEVEL				
TOTAL	22	34	10	66
PERCENT OF TOTAL	33%	52%	15%	
TOTAL BEDROOM COUNT	22	34	20	76

OPEN SPACE TABLE

	UNITS	RATIO	TOTAL	LANDSCAPE AREA
TOTAL UNITS	66	40	2,640	
TOTAL REQUIRED			2,640	
TOTAL CONCESSION REQUESTED			126	
TOTAL AREA PROVIDED			2,514	1,346
PODIUM LEVEL GARDEN			1,640	902
PODIUM LEVEL PATIOS			120	115
LEVEL 6 ROOF DECK			754	329

BICYCLE PARKING CALCULATIONS

	UNITS/SF	SPACES PER BEDROOM/SF	TOTAL REQ	PROVIDED
NEW COMMERCIAL	1,680	1/2000	2	2
RESIDENTIAL (LONG TERM)	76	0.33	26	64
RESIDENTIAL (SHORT TERM)	76	0.025	2	6
TOTAL PARKING			28	66

PARKING TABLE

	UNITS/SF	MIN.	MAX (.5/UNIT)	PROPOSED
RESIDENTIAL	66	0	33	UP TO 13-24"
COMMERCIAL	1680	2/1000 SF	N/A	4

* ON A VOLUNTARY BASIS, THE PROJECT PROPOSES TO PROVIDE UP TO 17 STANDARD NON-LIFT SPACES OR UP TO 28-SPACES IN DOUBLE-LIFTS.

ROOFTOP ARCHITECTURAL ELEMENTS CALCS

AVERAGE AREA	8936
TOTAL AREA OF ROOFTOP ELEMENTS	392
% AREA OF ROOFTOP ARCH. FEATURES	4.4%
ALLOWABLE % (PER 23E.04.020C)	15.0%

DENSITY BONUS TABLE

Base Project	Base	Base # Units	% VLI units	# VLI Units	# VLI Units	Bonus %	# DB Units	# DB Units	Maximum DB Project
sq. ft. - see calc. below	base project area / avg. unit size	Units/Max. Residential Density (rounded up)	VLI = Very Low Income <50% AMI	% VLI x Base # Units			% Bonus x Base # Units	% Bonus x Base # Units (rounded up)	% Bonus x Base # Units (rounded up)
32,865	49.46	50	10%	5.00	5.00	32.5%	16,2500	17	67

Base Project Res. Area	Floor	Proposed Project Res. Area	%VLI	%DB
	Sixth	6,303	5%	20.00%
	Fifth	7,526	6%	22.50%
10,190	Fourth	9,244	7%	25.00%
10,190	Third	9,244	8%	27.50%
10,190	Second	9,244	9%	30.00%
2,295	Ground	2,295	10%	32.50%
32,865		43,856	11%	35.00%

Base Project # of Units	Floor	Proposed Project # of Units
	Sixth	9
	Fifth	12
16	Fourth	15
17	Third	15
17	Second	15
	Ground	
Total		66

BASE PROJECT ZONING COMPLIANCE CHECKS

Base Project - FAR

	Res. Area	Commercial	Total GFA
GFA	32,865	1720	34,585
Site Area			13,000
FAR			2.660

Base Project - Open Space

	Units	Ratio	Total Area
Base Units	50	40	2000
Total Provided Open Space			2447
Podium Open Space			1692
Roof Deck			755

Base Project - Parking

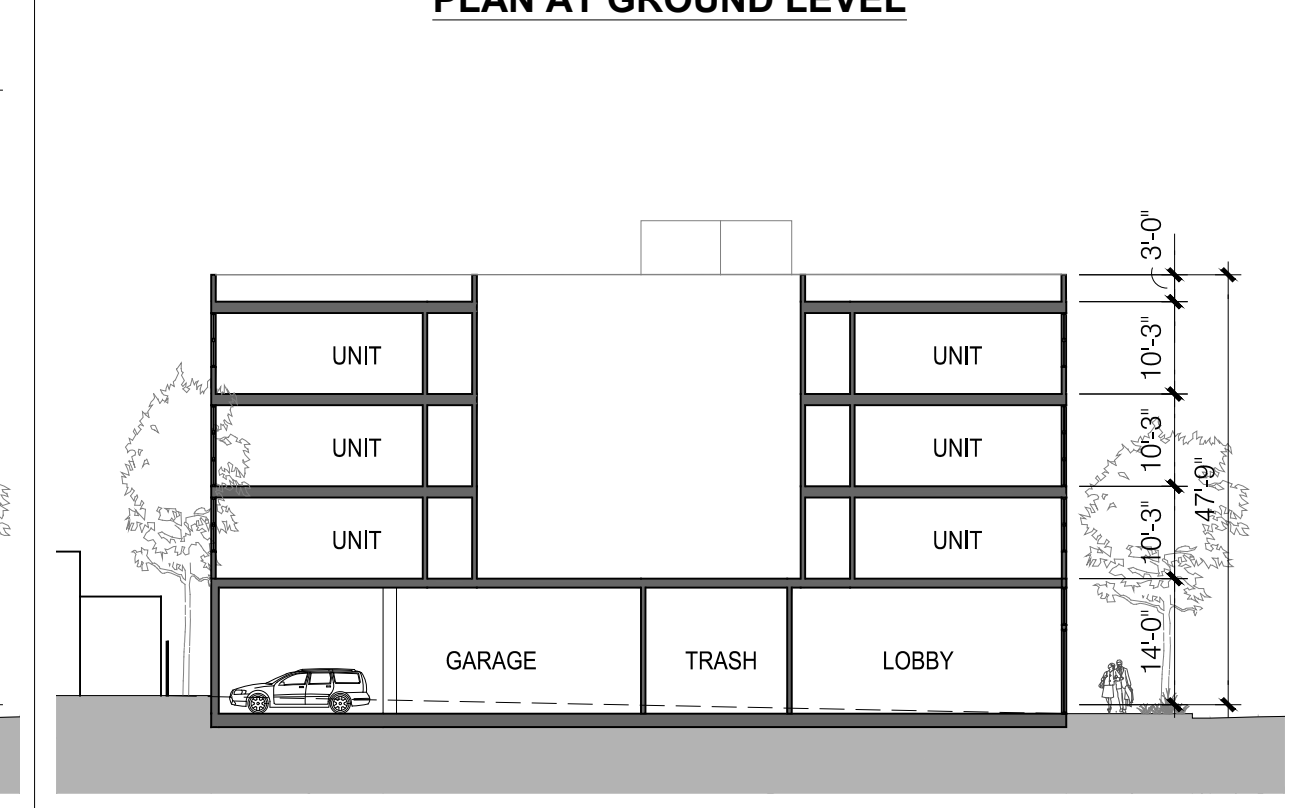
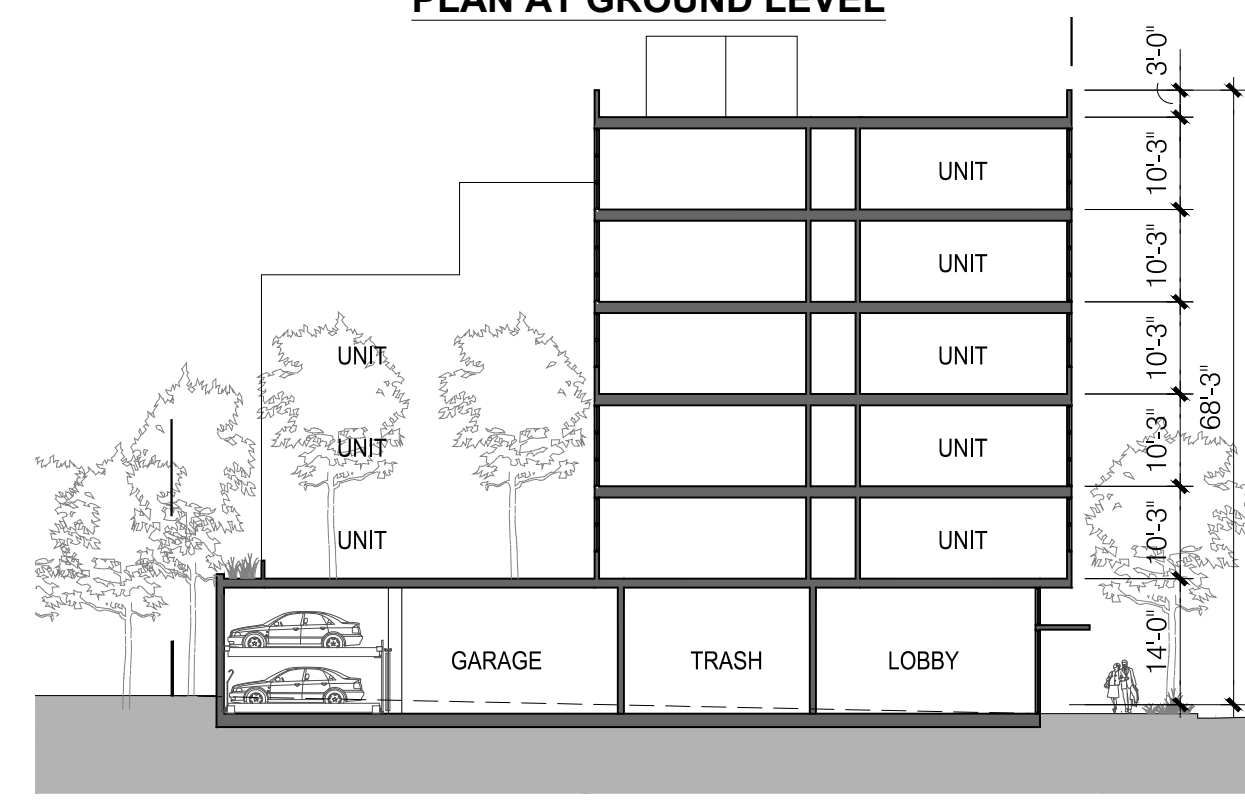
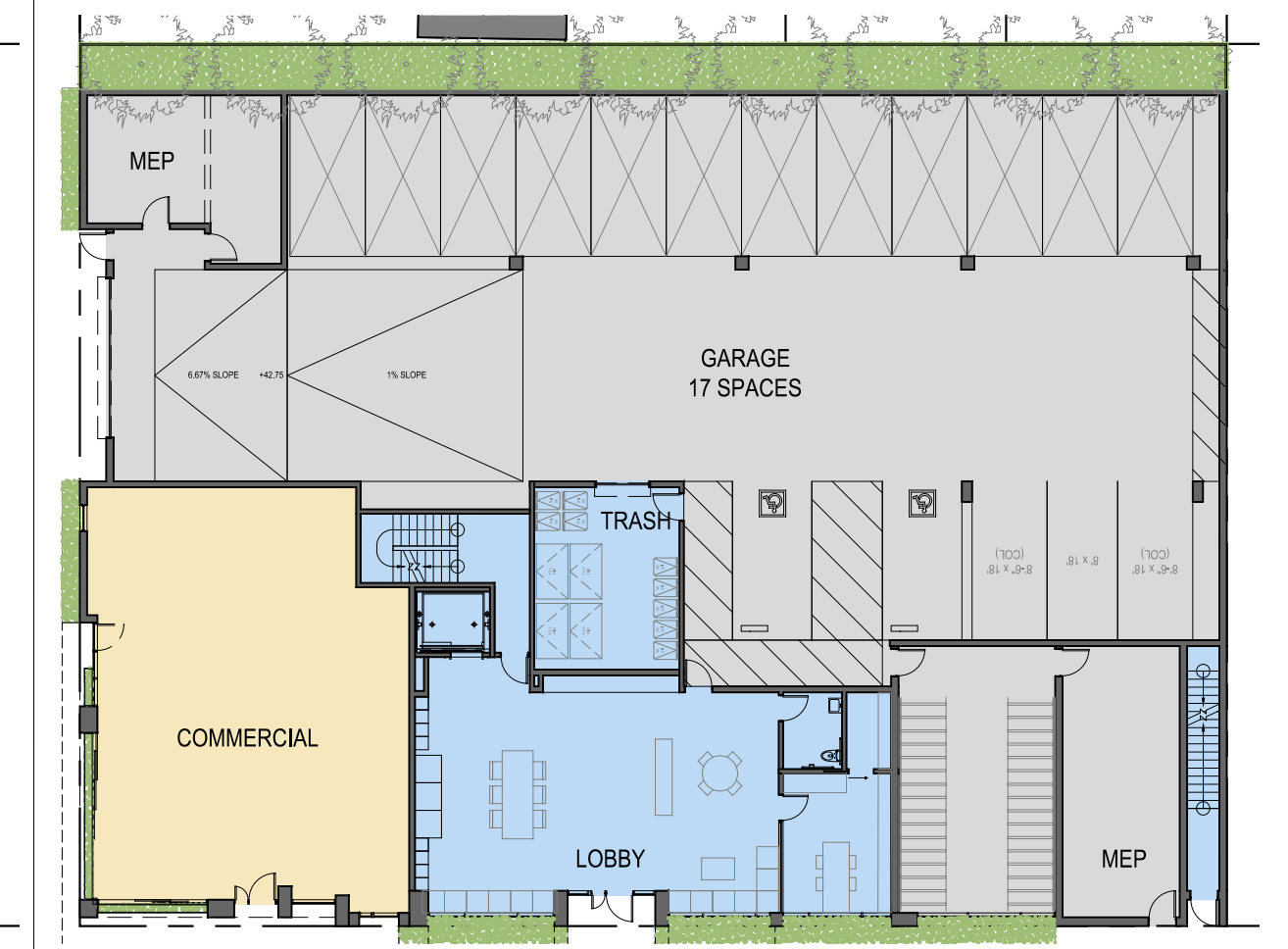
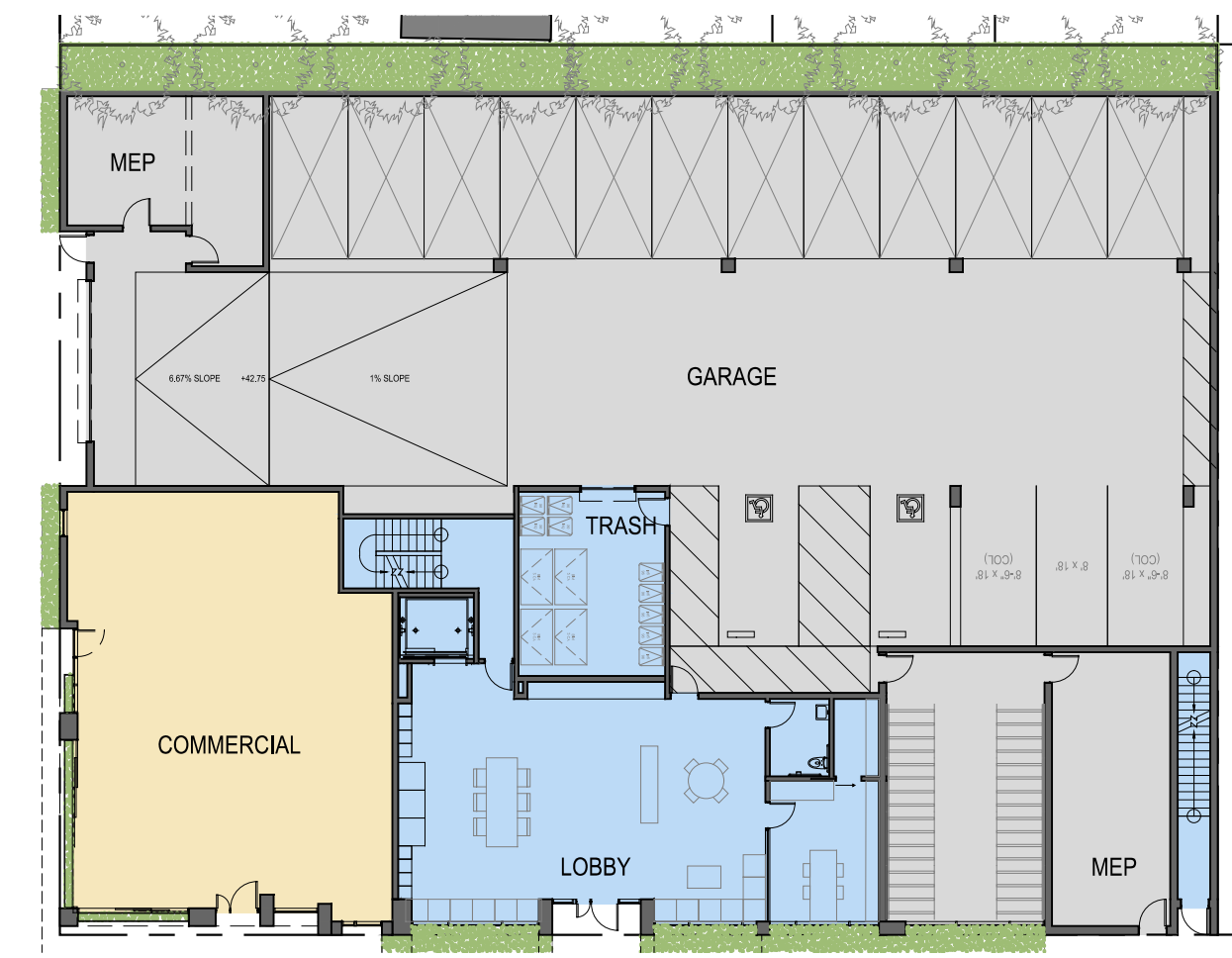
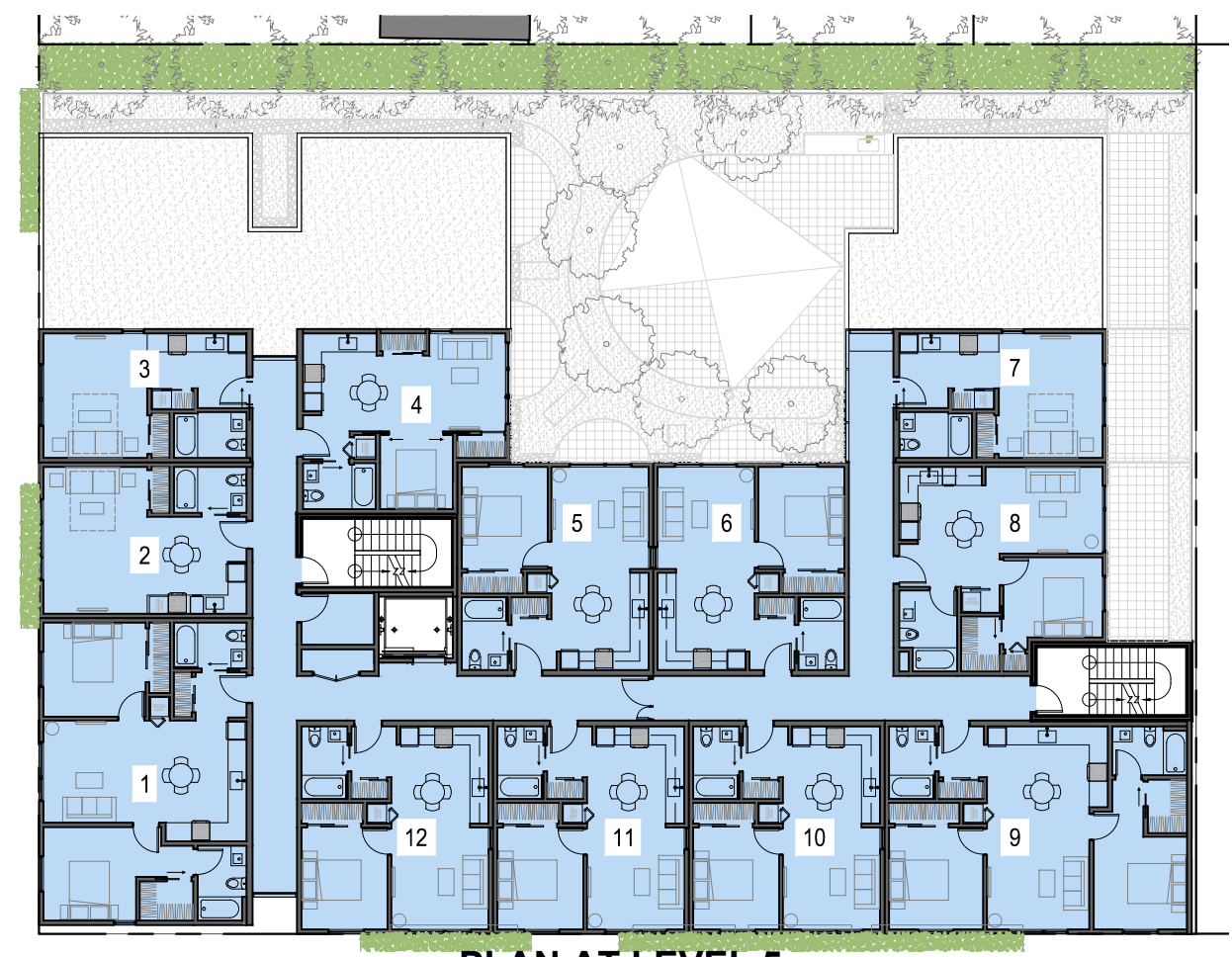
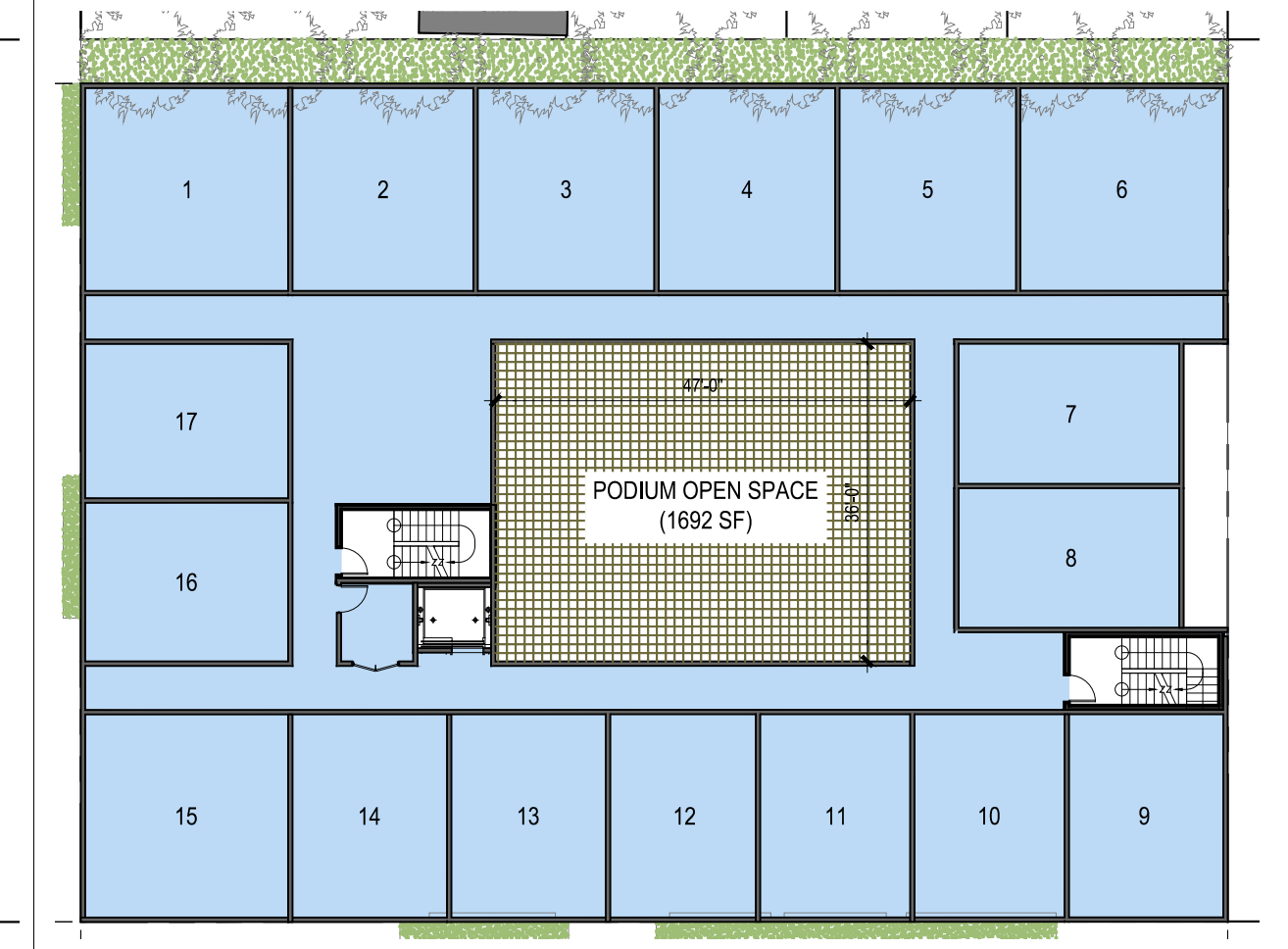
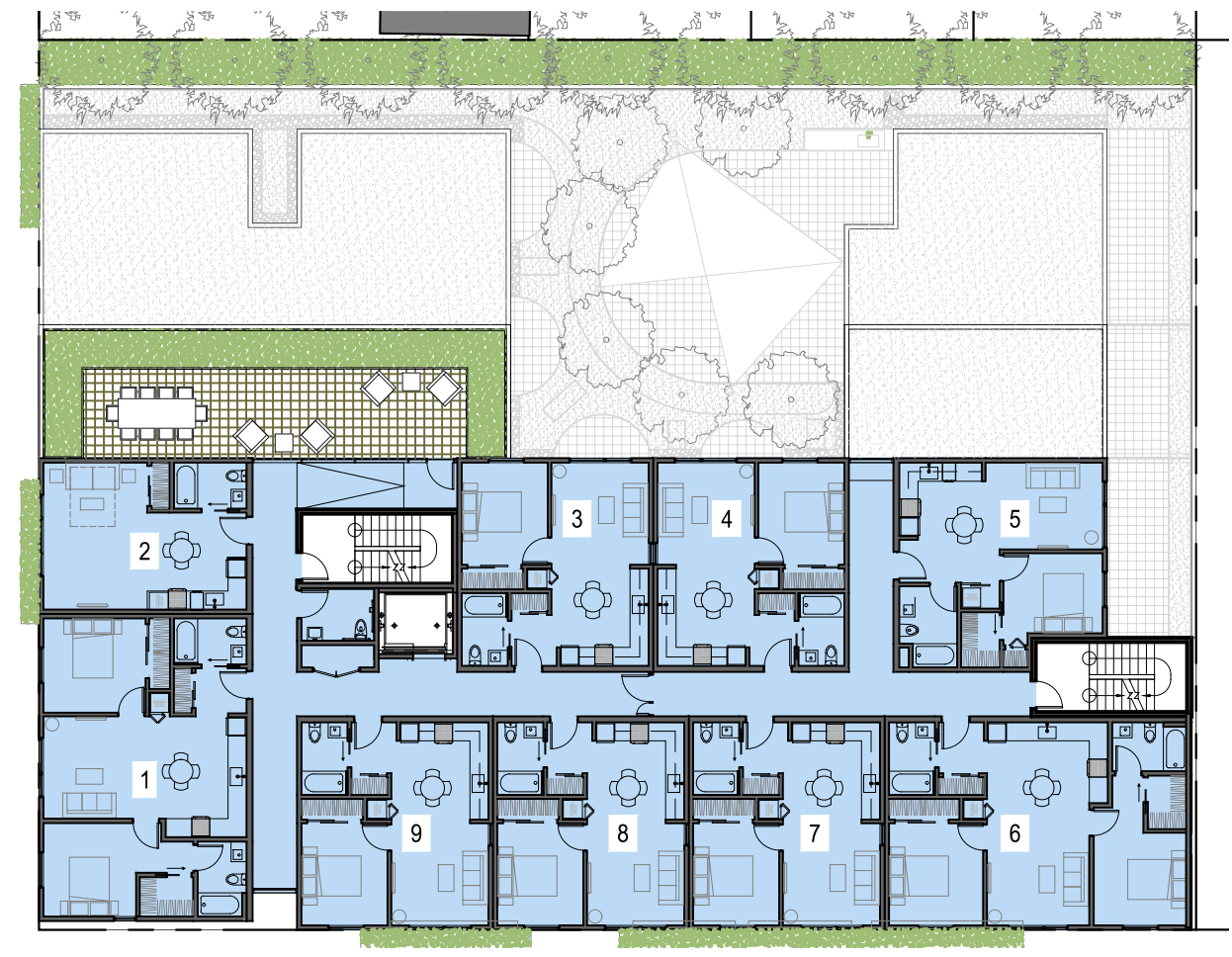
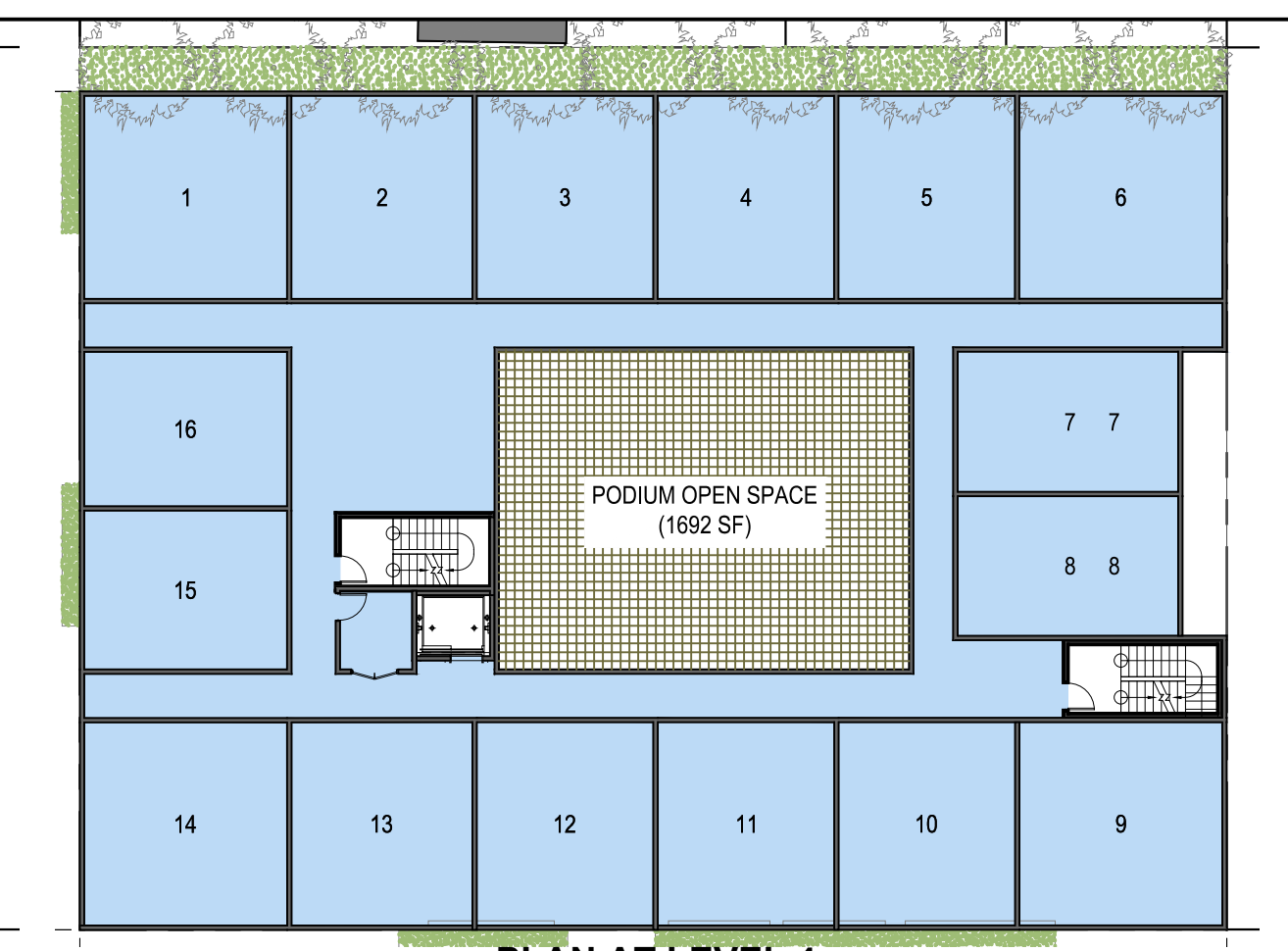
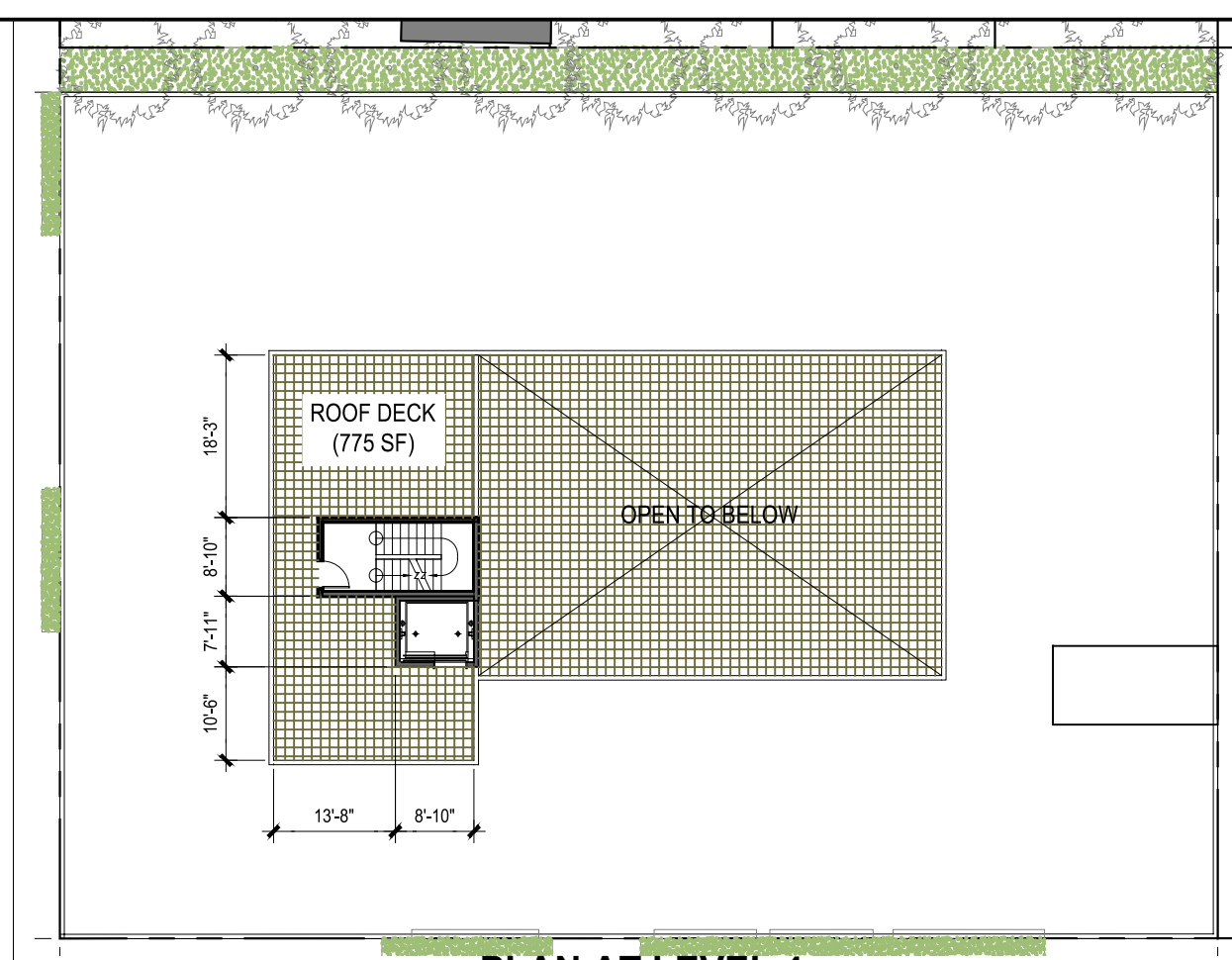
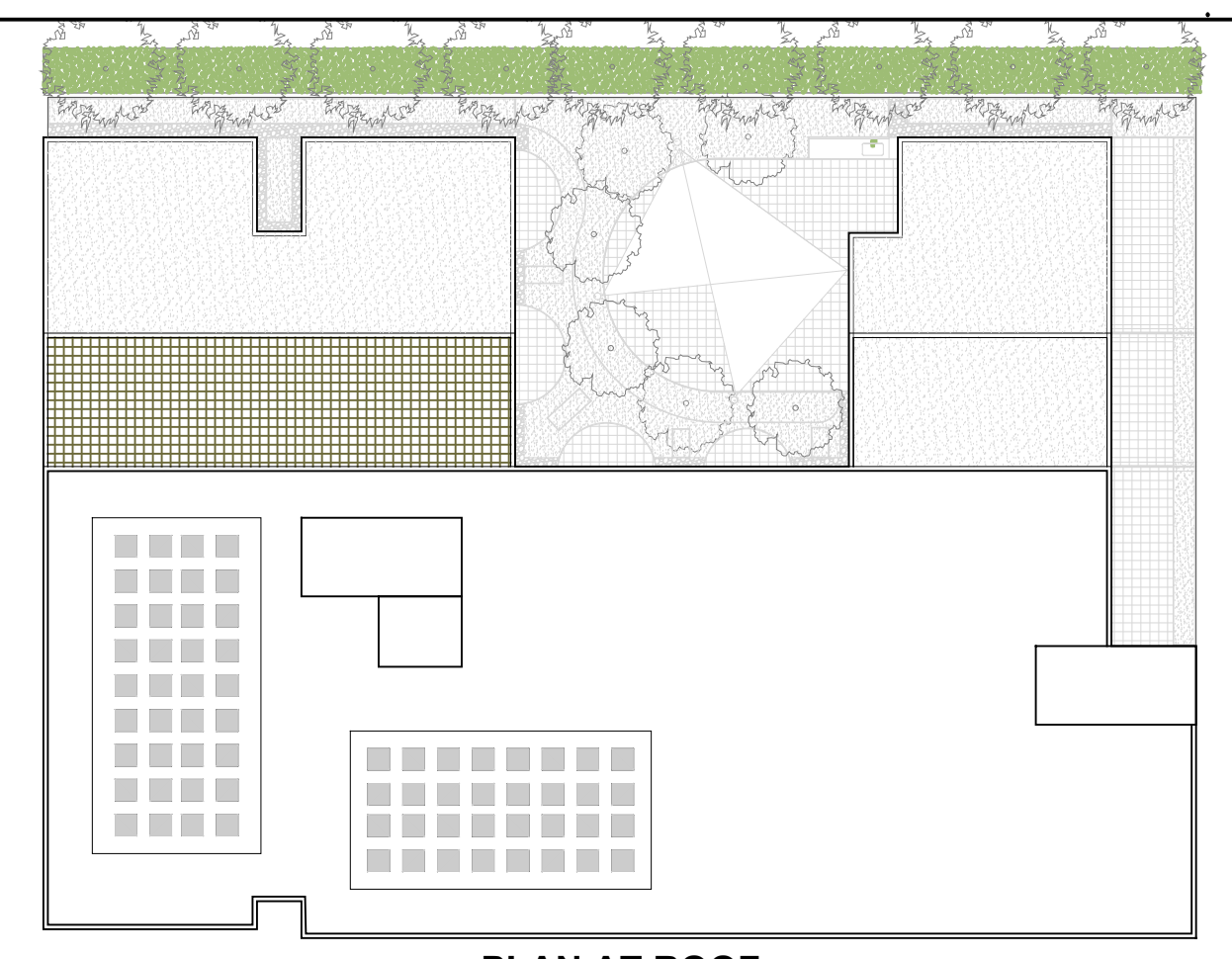
	Units/SF	Bedrooms	Ratio	Total Req.	Provided
Residential				0	13
Commercial	1,680	N/A	2/1000 SF	4	4

Base Project -Bicycle Parking

	Units/SF	Bedrooms	Ratio	Total Req.	Provided
New Comm.	1,680		1/2000	2	2
Res. (Long)		58	0.33	19	64
Res (Short)		58	0.025	1	6

Base Project - Stormwater

	Roof Area	%	Required	Provided
Base Units	13361	4%	534	534

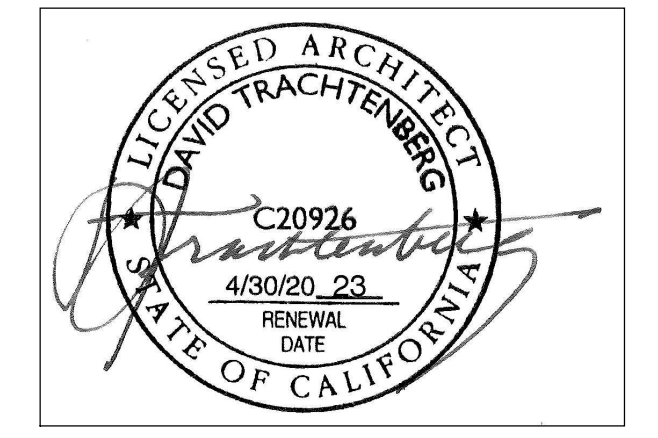


PROPOSED DENSITY BONUS PROJECT
SCALE: 3/64" = 1'-0" @ 24 X 36

BASE PROJECT
SCALE: 3/64" = 1'-0" @ 24 X 36

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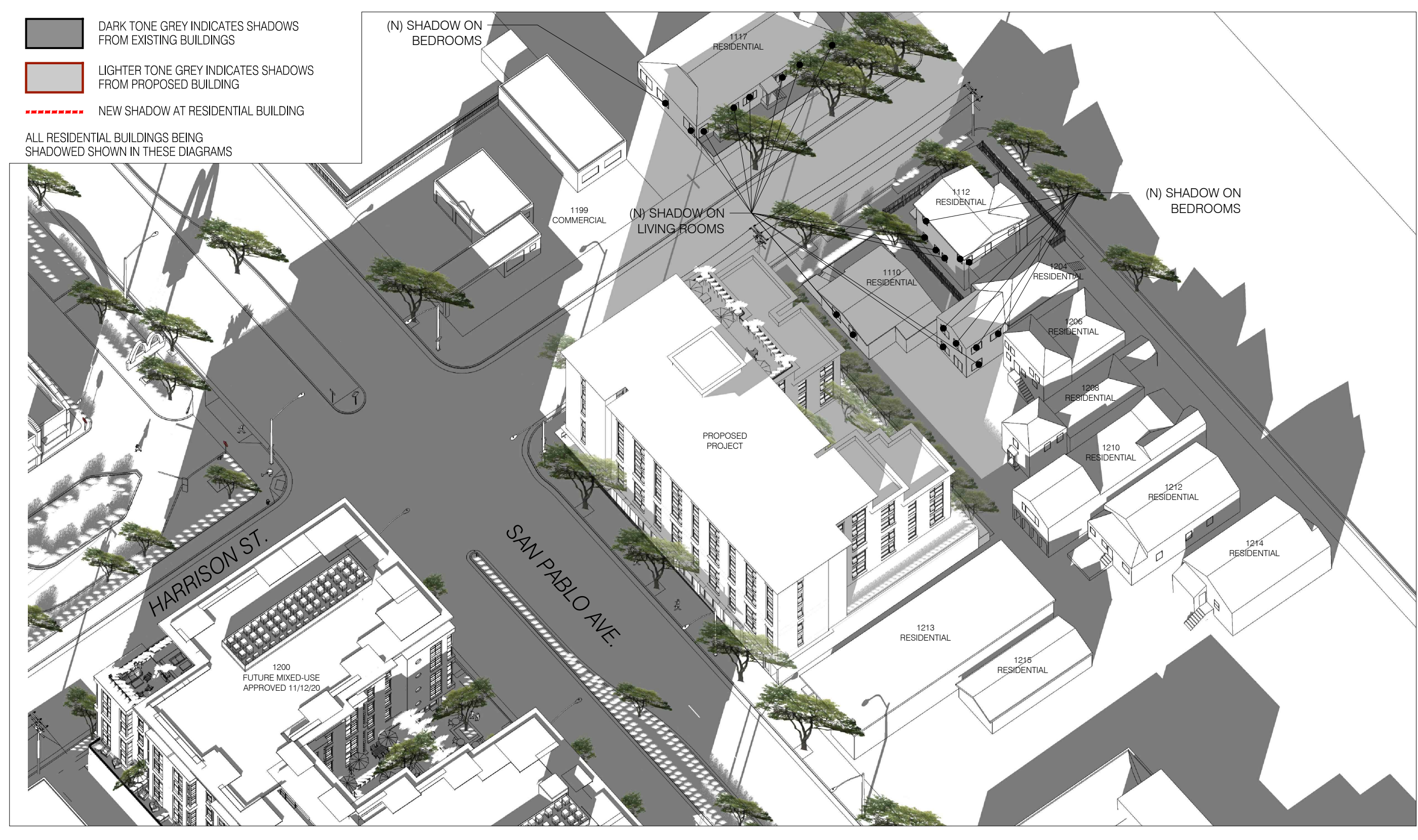
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SHADOW STUDIES
DECEMBER 21ST

A0.4A



4 SHADOW STUDY AXONOMETRIC - DEC 21: 2-HRS AFTER SUNRISE
NTS

2 SHADOW STUDY - DECEMBER 21: 2 HRS AFTER SUNRISE
1:100 @ 11X17 1:50 @ 24X36



3 SHADOW STUDY - DECEMBER 21: NOON
1:100 @ 11X17 1:50 @ 24X36

1 SHADOW STUDY - DECEMBER 21: 2-HRS BEFORE SUNSET
1:100 @ 11X17 1:50 @ 24X36

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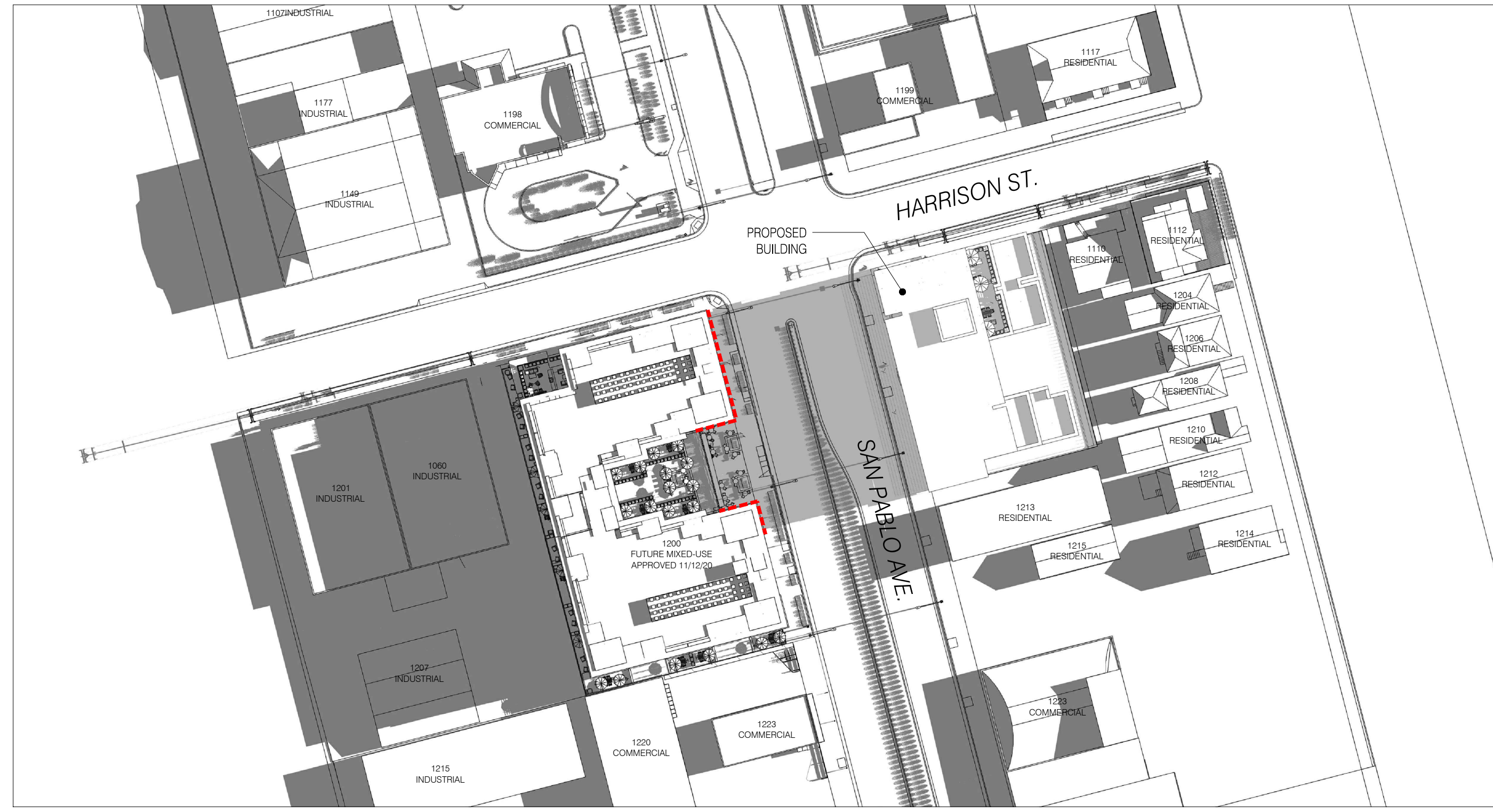
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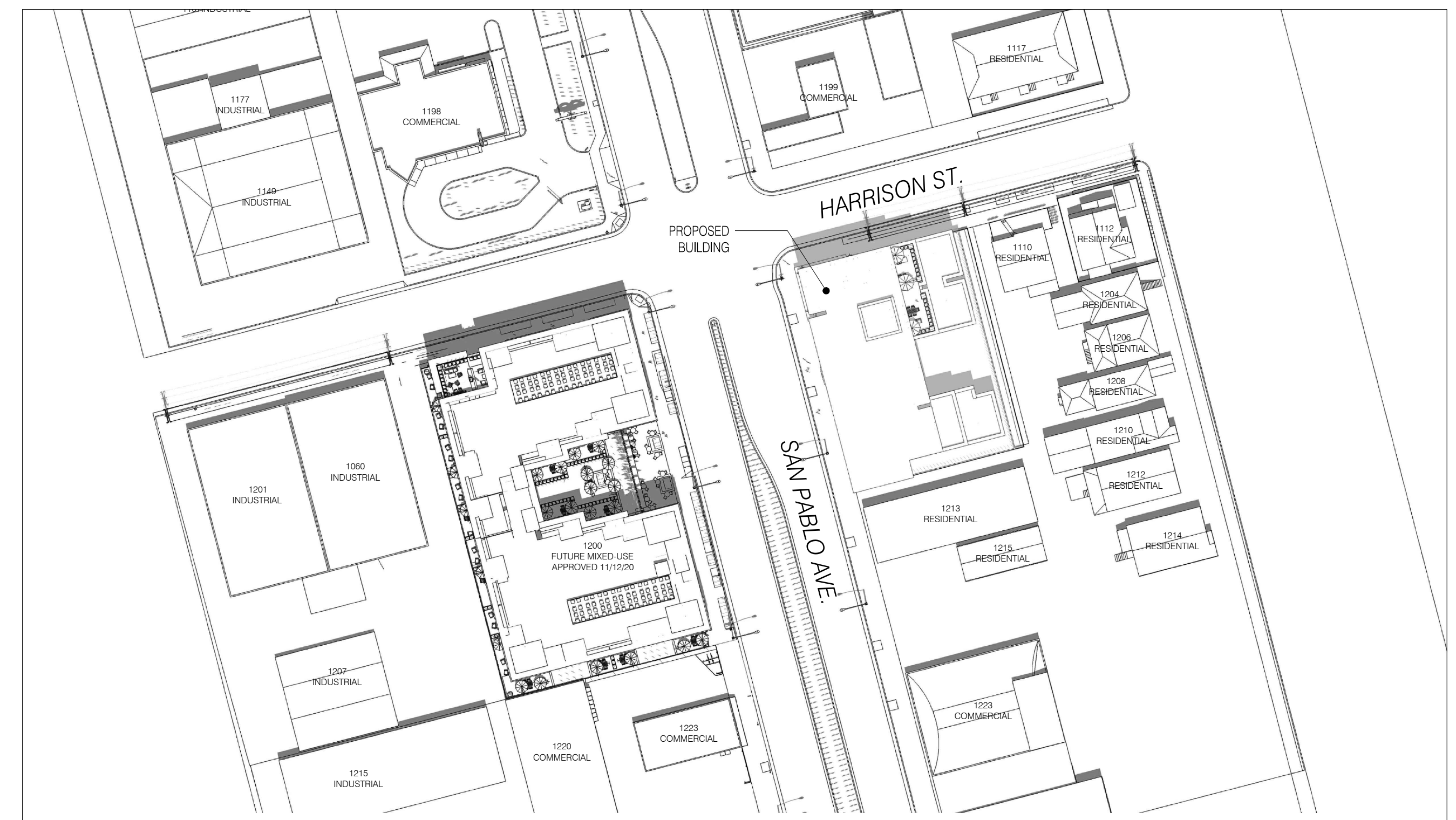
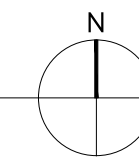
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JUNE 21ST**

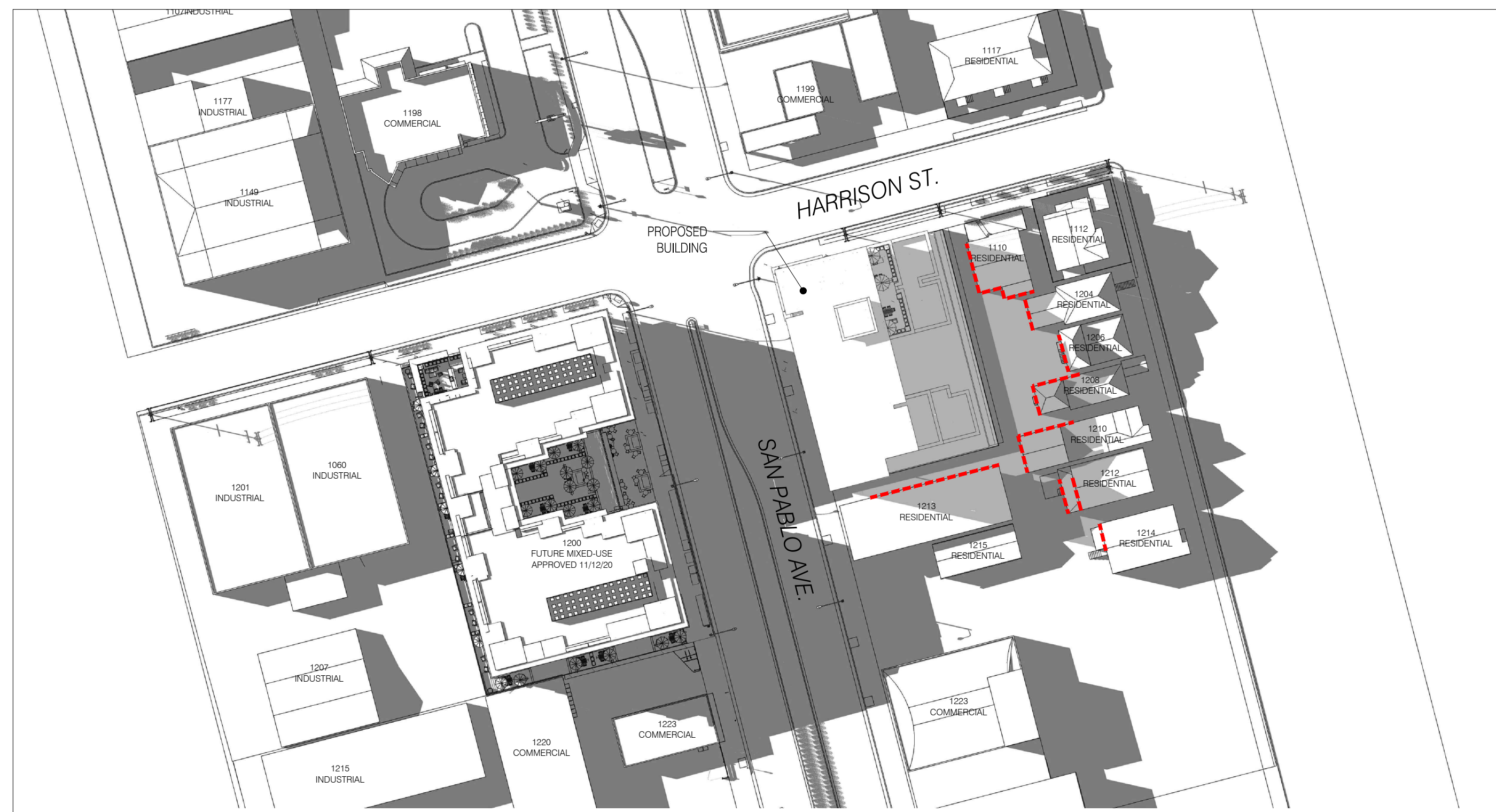
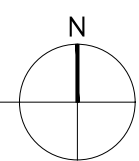
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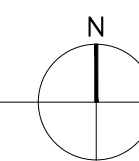
2 SHADOW STUDY - JUNE 21: 2 HRS AFTER SUNRISE
1:100 @ 11X17 1:50 @ 24X36



3 SHADOW STUDY - JUNE 21: NOON
1:100 @ 11X17 1:50 @ 24X36



1 SHADOW STUDY - JUNE 21: 2-HRS BEFORE SUNSET
1:100 @ 11X17 1:50 @ 24X36



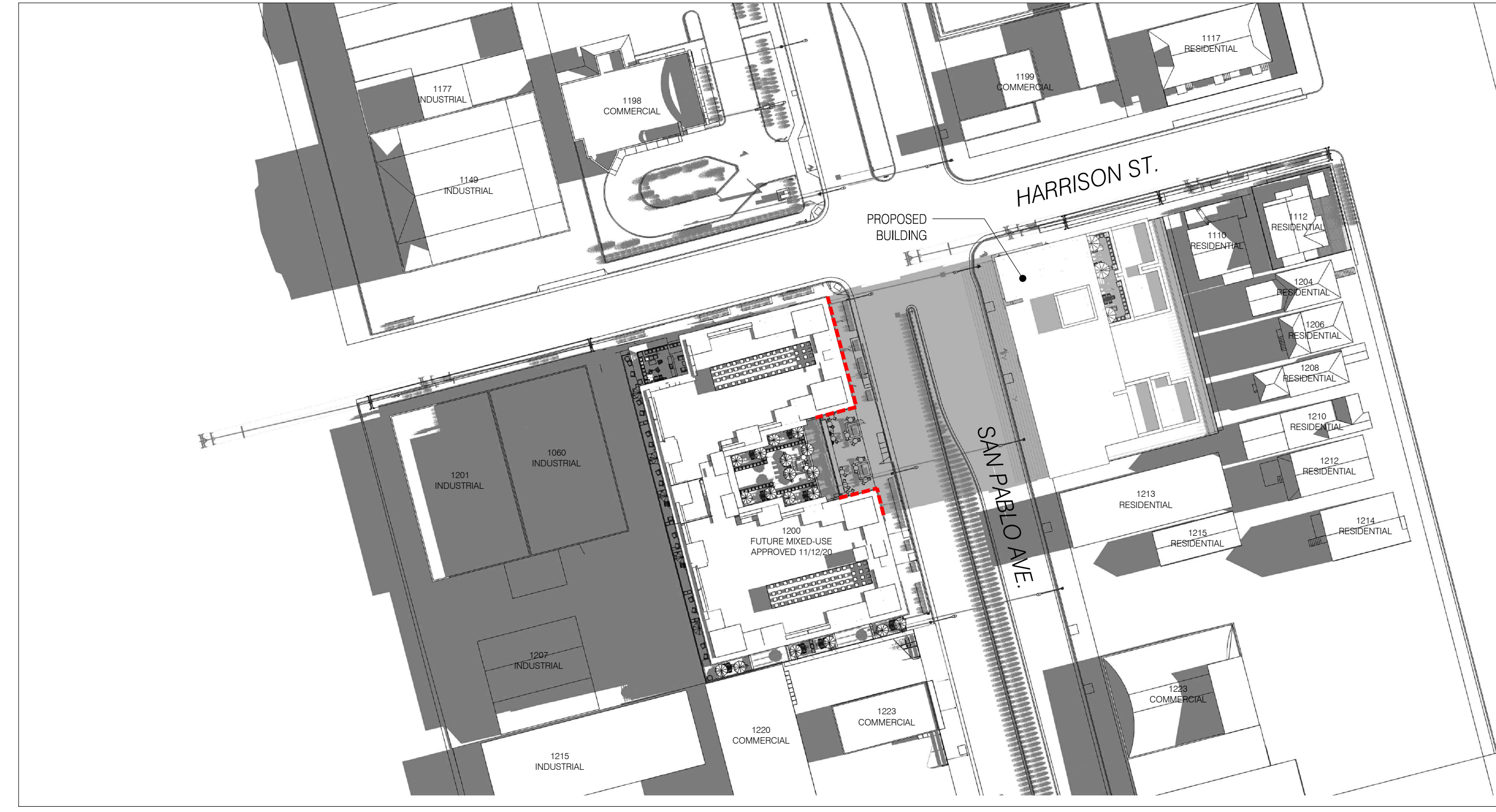
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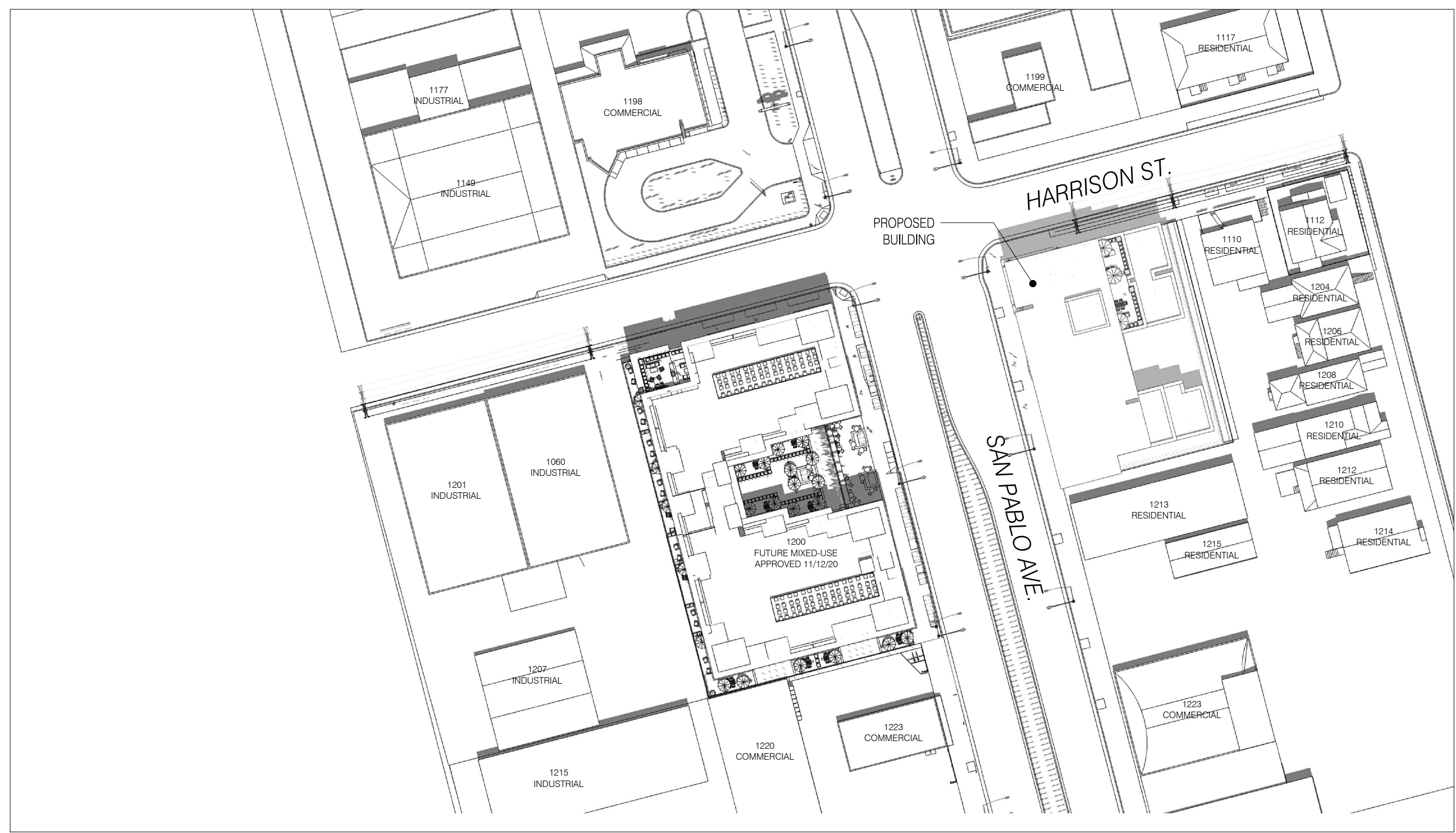


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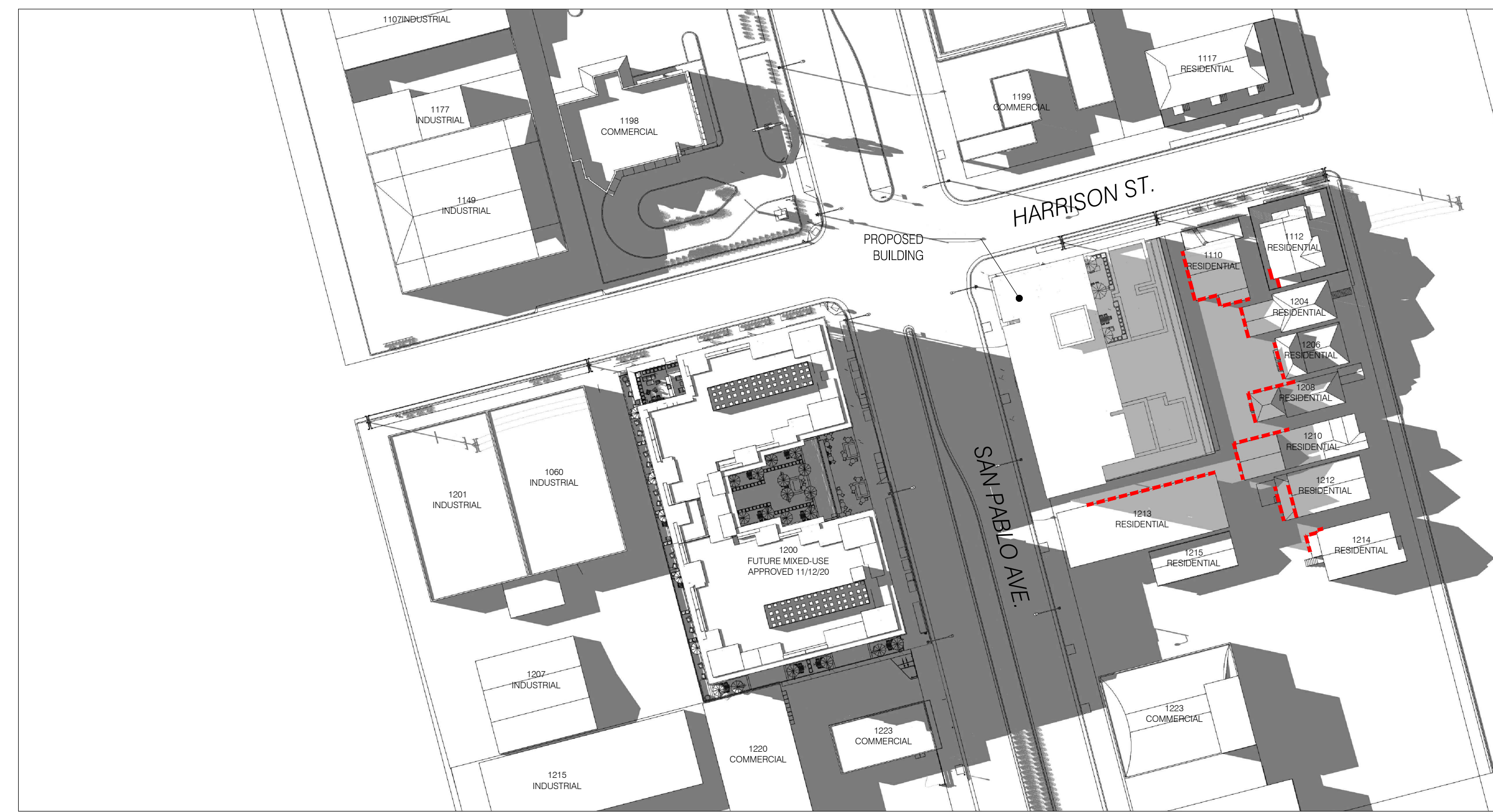
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2 SHADOW STUDY - JULY 2: 2 HRS AFTER SUNRISE
1:100 @ 11X17 1:50 @ 24X36



3 SHADOW STUDY - JULY 2: NOON
1:100 @ 11X17 1:50 @ 24X36



1 SHADOW STUDY - JULY 2: 2-HRS BEFORE SUNSET
1:100 @ 11X17 1:50 @ 24X36

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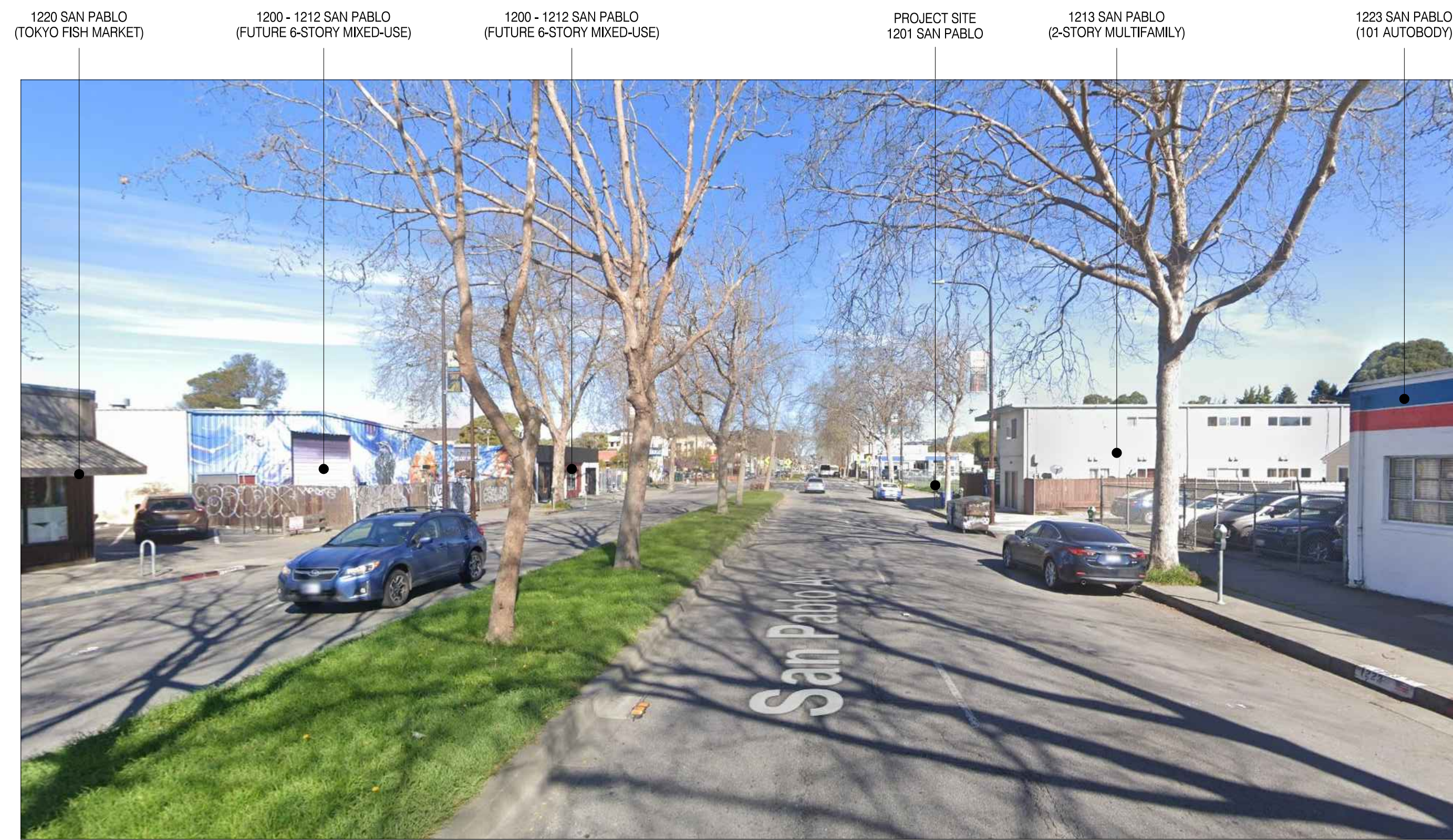
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**SHADOW STUDIES
JULY 2ND**

A0.4D



4
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VIEW FROM HARRISON LOOKING EAST



2
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VIEW FROM SAN PABLO LOOKING NORTH

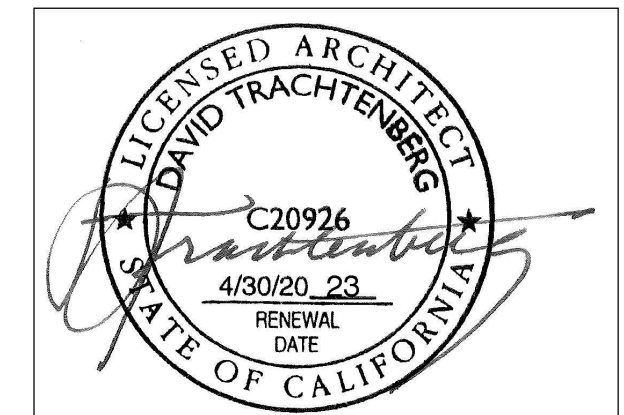


3
-
VIEW FROM SAN PABLO LOOKING SOUTH



1
-
GOOGLE EARTH BIRD'S EYE CONTEXT VIEW

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SITE CONTEXT
PHOTOS

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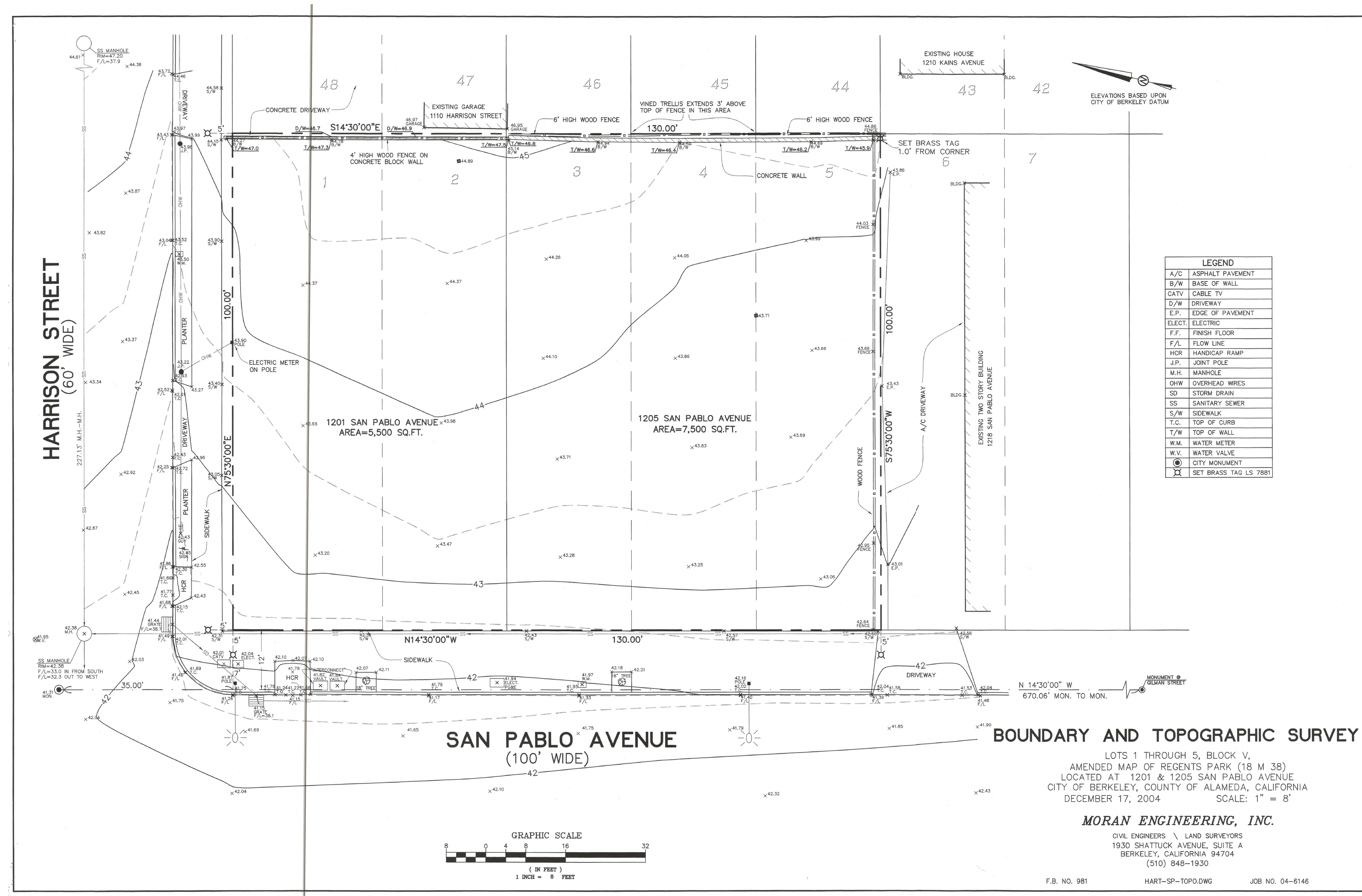
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SURVEY

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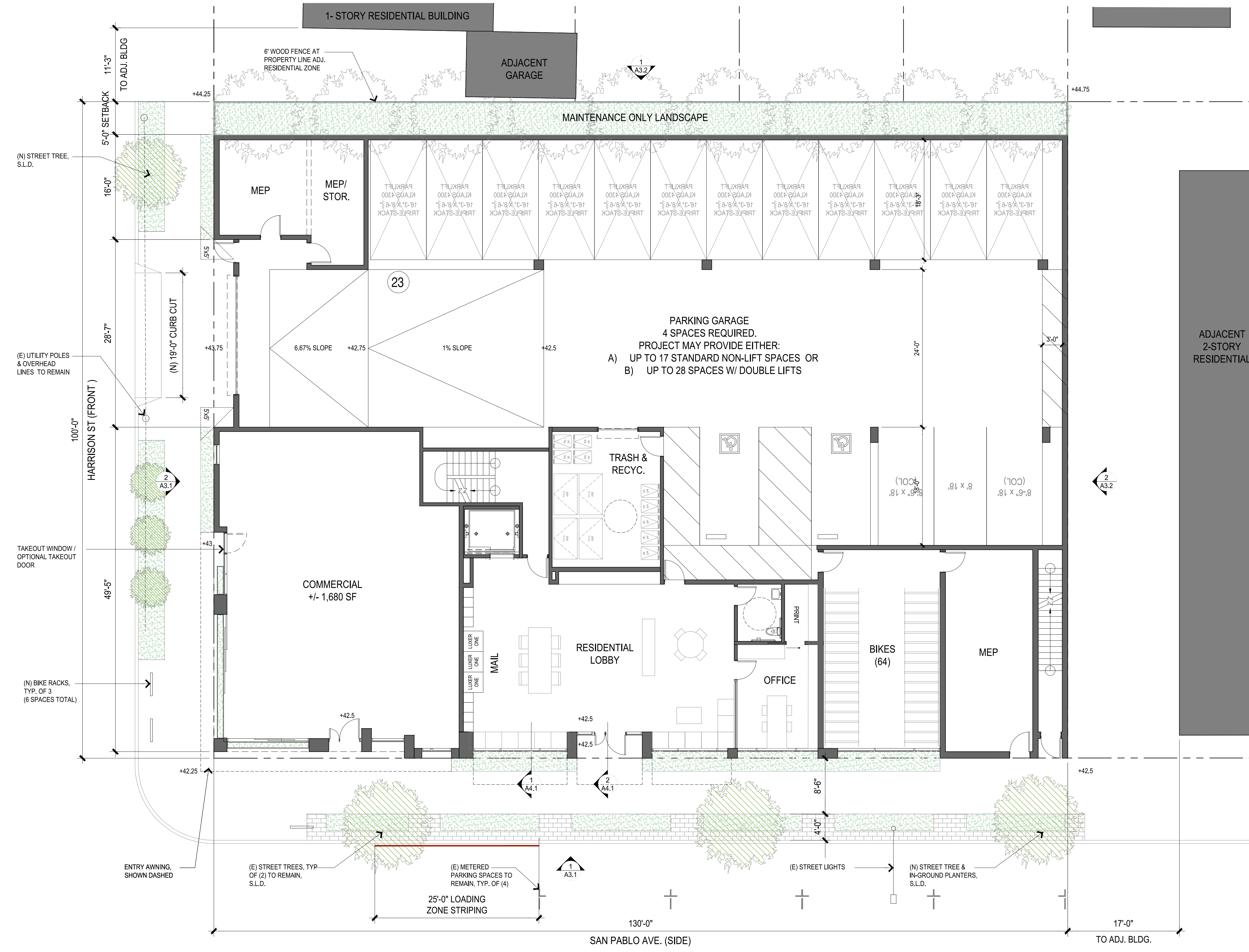
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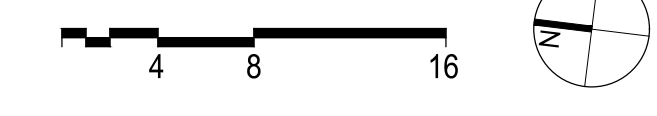
SHEET:

**PLAN AT
GROUND LEVEL/
SITE PLAN**

A2.1



1 SITE PLAN / GROUND LEVEL PLAN
1/16" = 1'-0" @ 11X17 1/8" = 1'-0" @ 24X36



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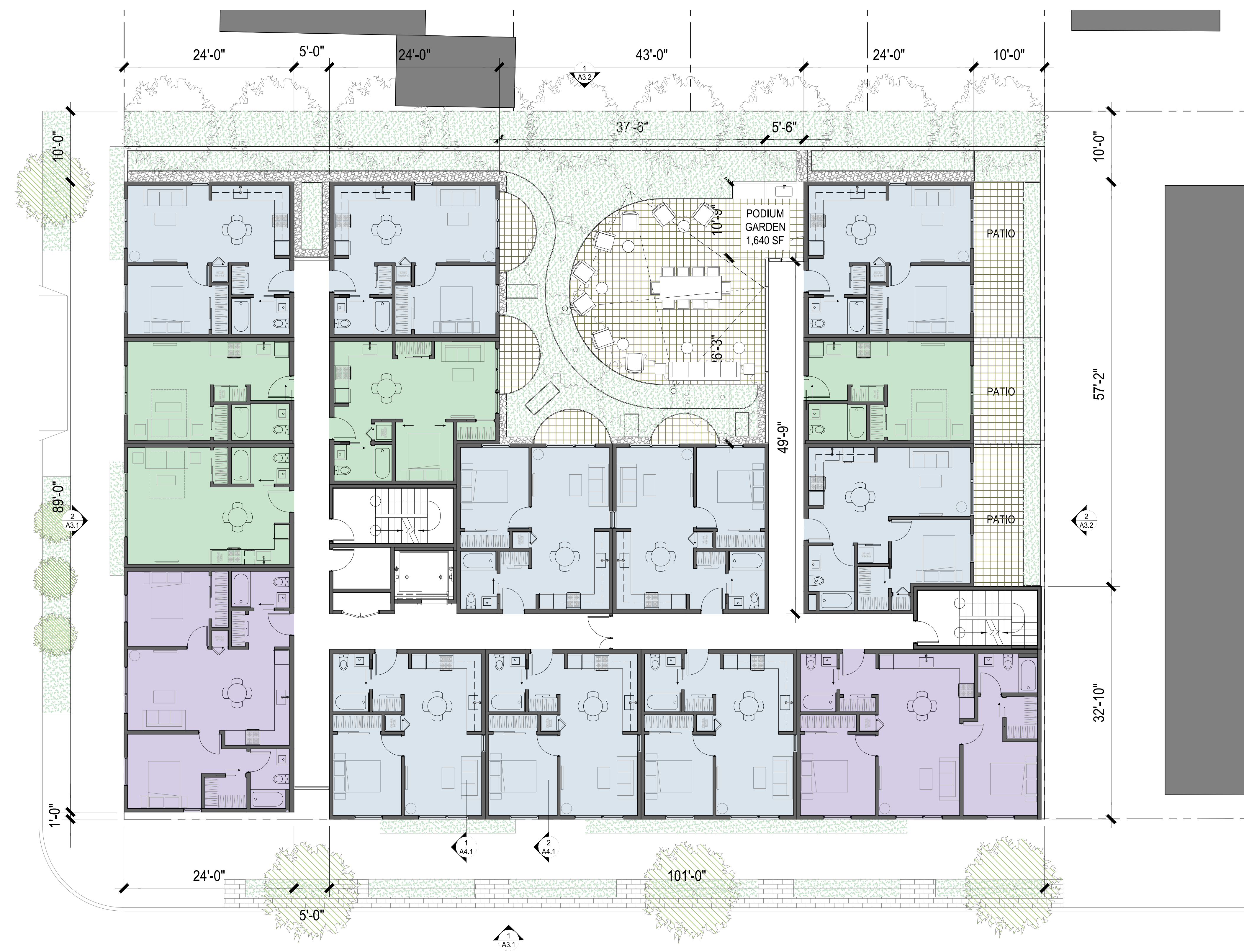
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JOB: 1928

SHEET:

PLAN AT
LEVELS 2 - 4

A2.2



1 PLAN AT LEVELS 2 - 4
1/16" = 1'-0" @ 11X17 1/8" = 1'-0" @ 24X36



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JOB: 1928

SHEET:

PLAN AT
LEVEL 5

A2.3



1
PLAN AT LEVEL 5
1/16" = 1'-0" @ 11X17 1/8" = 1'-0" @ 24X36



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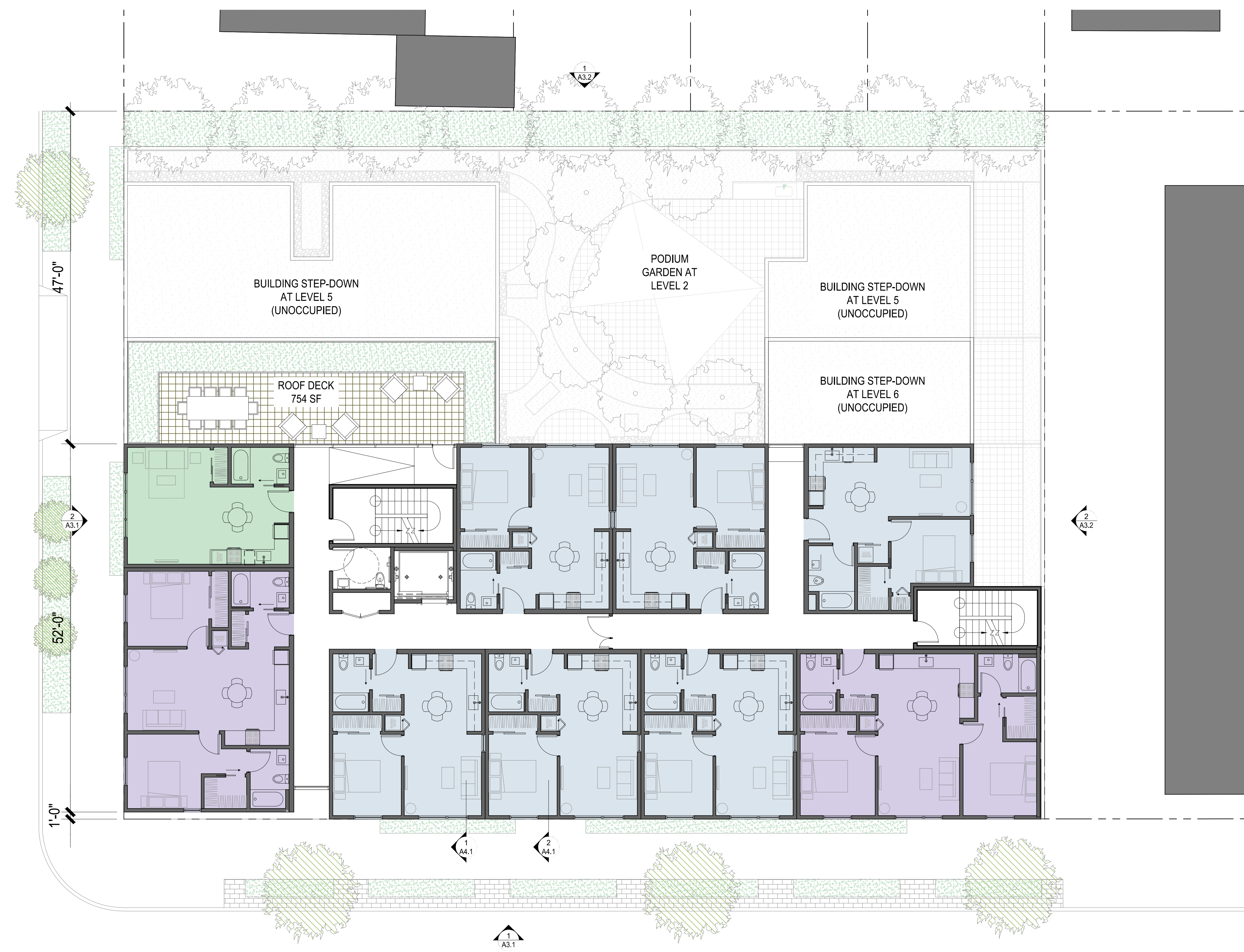
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JOB: 1928

SHEET:

PLAN AT
LEVEL 6

A2.4



1
PLAN AT LEVEL 6
1/16" = 1'-0" @ 11X17 1/8" = 1'-0" @ 24X36



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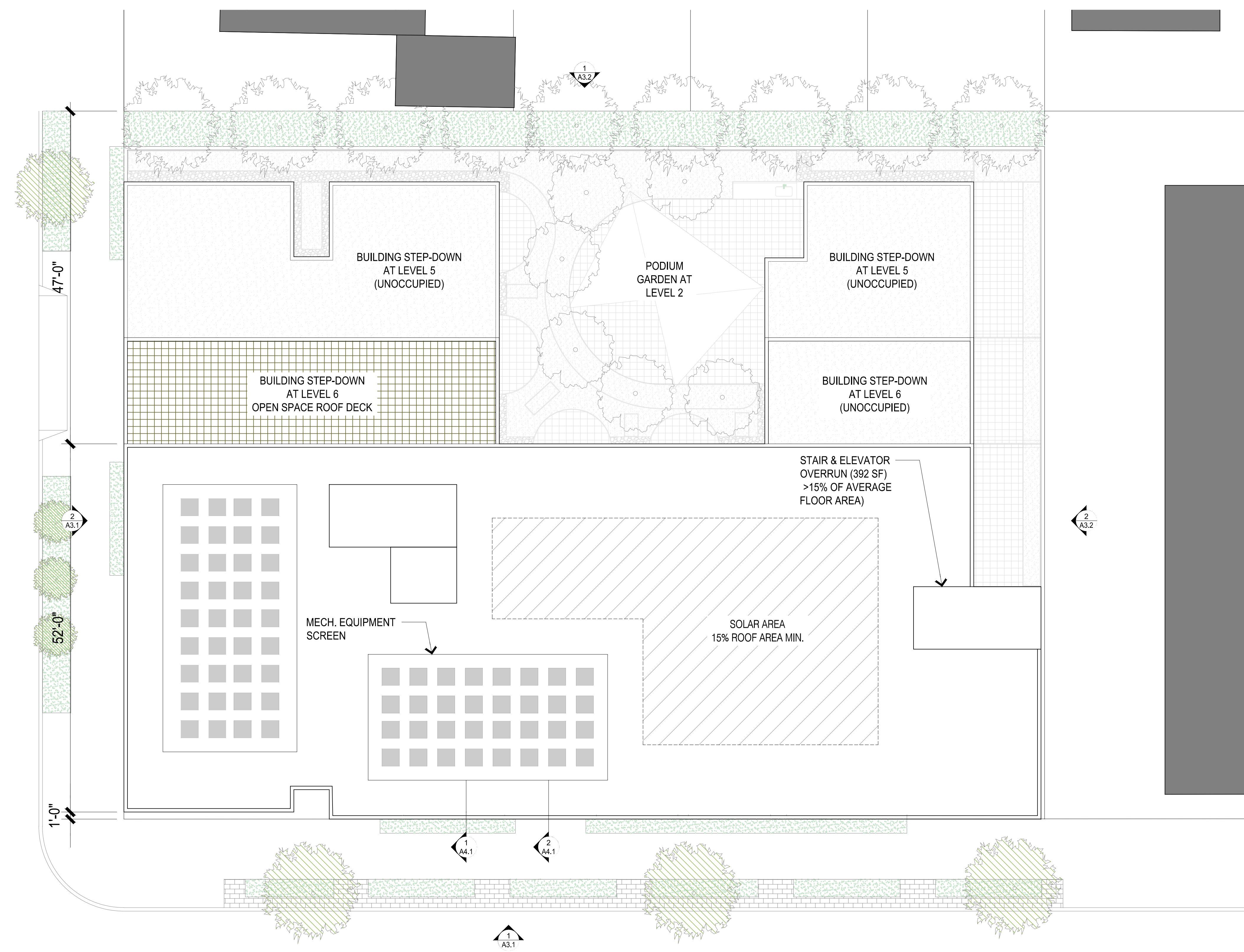
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JOB: 1928

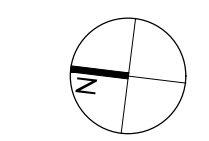
SHEET:

PLAN AT
ROOF

A2.5



1 PLAN AT ROOF
1/16" = 1'-0" @ 11X17 1/8" = 1'-0" @ 24X36



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JOB: 1928

SHEET:
**BUILDING
ELEVATIONS**

A3.1



1 WEST ELEVATION
3/32" = 1'-0" @ 11X17 3/16" = 1'-0" @ 24X36 0 4 8 16

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JOB: 1928

SHEET:

BUILDING
ELEVATIONS

A3.2



WOOD FENCE

CAST IN PLACE CONCRETE

GARAGE

COMMERCIAL EXIT

ALUMINUM STOREFRONT GLAZING

STEEL EAVE,
PTD.

ALUMINUM
WINDOW

INTEGRAL COLOR
STUCCO WITH HARD
TROWEL FINISH

METAL INFILL PANEL

T.O. PARAPET

ROOF

6TH FLOOR

5TH FLOOR

4TH FLOOR

3RD FLOOR

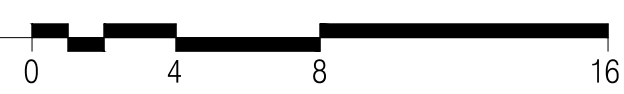
2ND FLOOR

SAN PABLO
AVE.

AVG. GROUND FLOOR

1 NORTH ELEVATION

3/32" = 1'-0" @ 11X17 3/16" = 1'-0" @ 24X36





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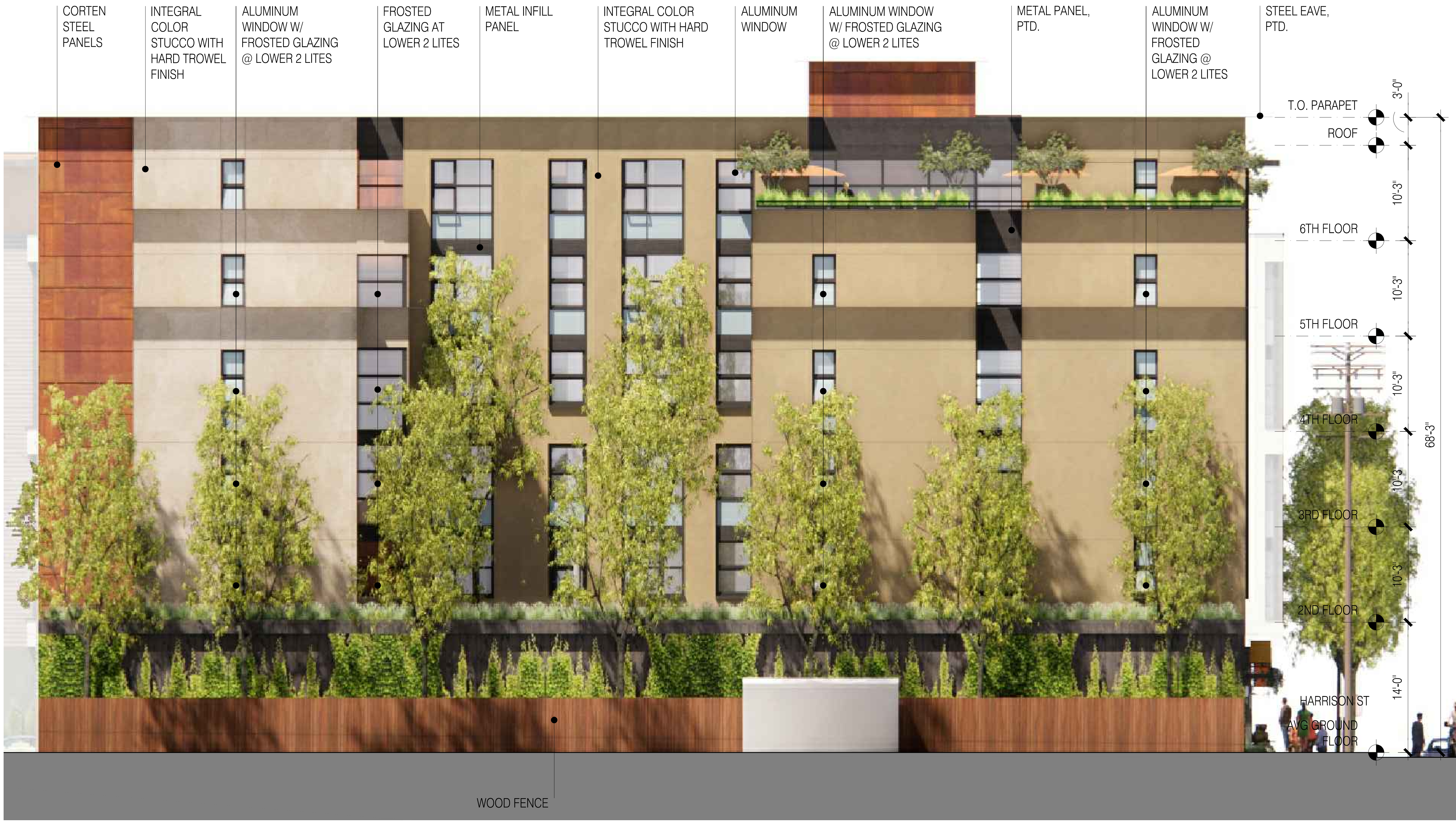
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JOB: 1928

SHEET:
**BUILDING
ELEVATIONS**

A3.3



1 EAST ELEVATION
3/32" = 1'-0" @ 11X17 3/16" = 1'-0" @ 24X36 0 4 8 16

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JOB: 1928

SHEET:

BUILDING
ELEVATIONS

A3.4



STEEL EAVE, PTD. METAL INFILL PANEL CORTEN STEEL PANELS INTEGRAL COLOR STUCCO WITH HARD TROWEL FINISH ALUMINUM WINDOW

3'-0" T.O. PARAPET
ROOF
10'-3" 6TH FLOOR
10'-3" 5TH FLOOR
10'-3" 4TH FLOOR
10'-3" 3RD FLOOR
10'-3" 2ND FLOOR
14'-0" HARRISON ST
AVG GROUND FLOOR

CAST IN PLACE CONCRETE

1 SOUTH ELEVATION
3/32" = 1'-0" @ 11X17 3/16" = 1'-0" @ 24X36 0 4 8 16



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JOB: 1928

SHEET:

STREET STRIP
ELEVATIONS

A3.5



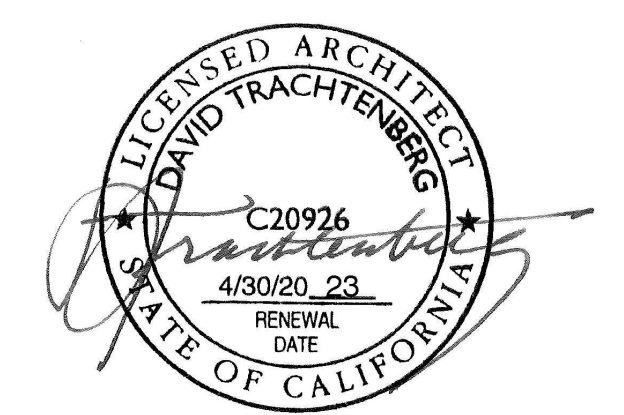
2 STREET STRIP ELEVATION @ HARRISON ST.
1/32" = 1'-0" @ 11X17 1/16" = 1'-0" @ 24X36 0 4 8 16 32



1 STREET STRIP ELEVATION @ SAN PABLO AVE.
1/32" = 1'-0" @ 11X17 1/16" = 1'-0" @ 24X36 0 4 8 16 32

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JOB: 1928

SHEET:

PERSPECTIVE
VIEWS

A3.6



1 VIEW ALONG SAN PABLO - LOOKING SOUTH

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JOB: 1928

SHEET:

PERSPECTIVE
VIEWS

A3.7



1 VIEW ALONG HARRISON - LOOKING EAST



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JOB: 1928

SHEET:

PERSPECTIVE
VIEWS

A3.8



1 - VIEW ALONG HARRISON - LOOKING WEST

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SHEET:

PERSPECTIVE
VIEWS

A3.9



1
-
VIEW ALONG SAN PABLO - LOOKING EAST

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SHEET:

PERSPECTIVE
VIEWS

A3.10



1 VIEW AT SAN PABLO INTERSECTION

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SHEET:

PERSPECTIVE
VIEWS

A3.11



1 - CLOSE UP VIEW ALONG SAN PABLO

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SHEET:

PERSPECTIVE
VIEWS

A3.12



1 SHATTUCK LOOKING NORTH

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SHEET:

PERSPECTIVE
VIEWS

A3.13



1 CLOSE UP VIEW ALONG SAN PABLO

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JOB: 1928

SHEET:

PHOTO MATCH
PERSPECTIVES

A3.12



4 HARRISON LOOKING EAST - AFTER



2 SAN PABLO LOOKING SOUTH - AFTER



3 HARRISON LOOKING EAST - BEFORE



1 SAN PABLO LOOKING SOUTH - BEFORE

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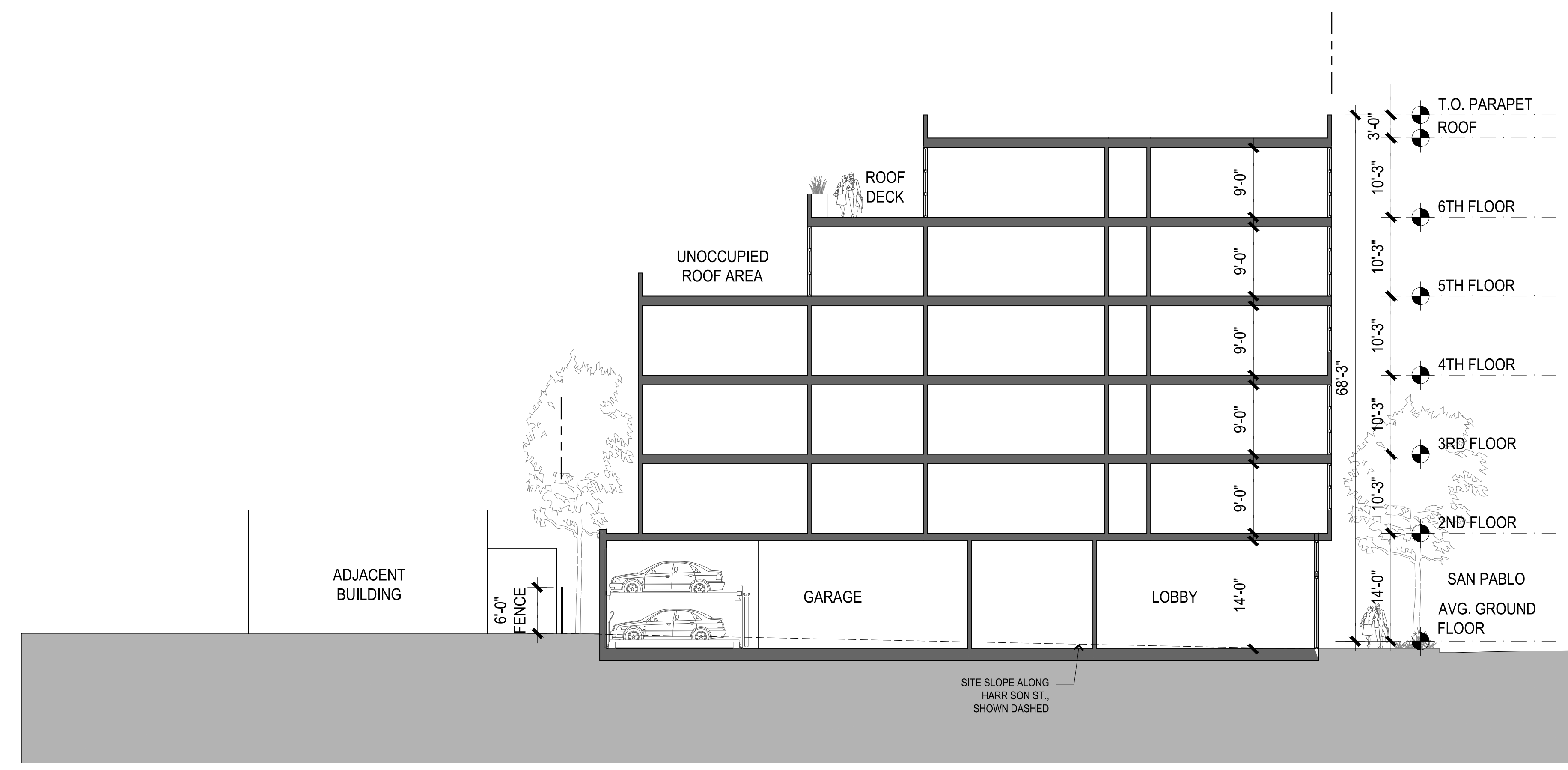
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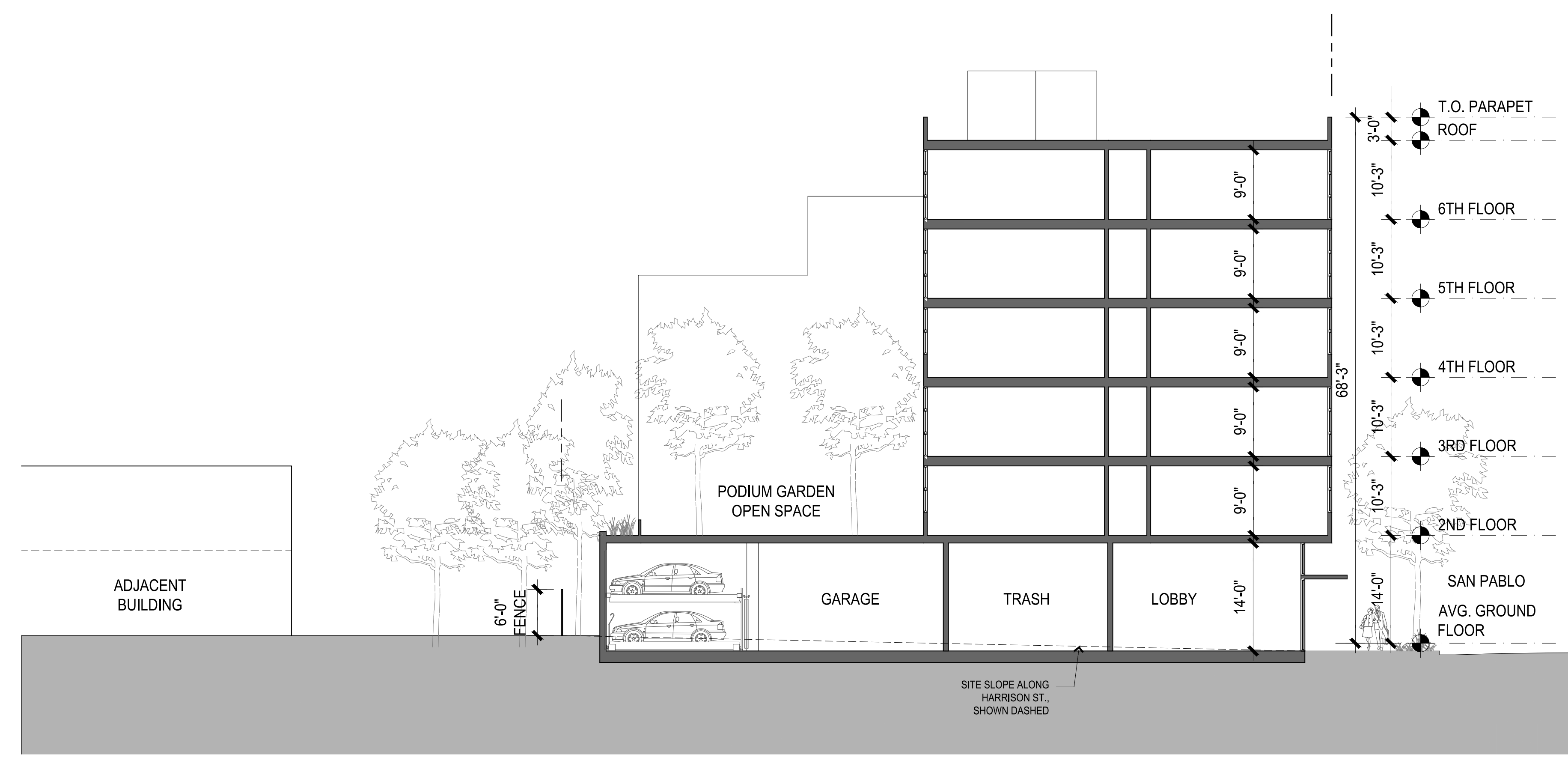
SHEET:

**BUILDING
SECTION**

A4.1

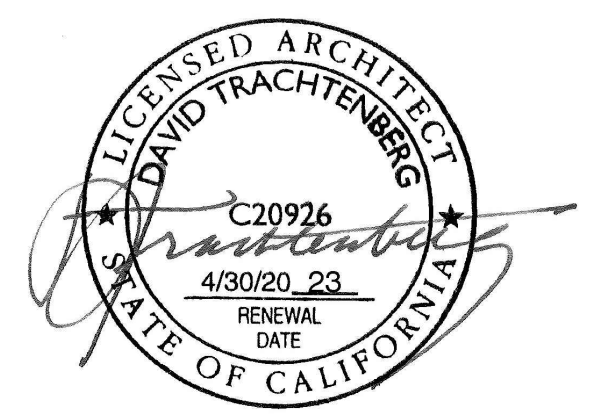


2
E-W SECTION THROUGH PODIUM GARDEN
3/64"=1'-0" @ 11X17 3/32"=1'-0" @ 24X36 0 2 4 8 16



1
E-W SECTION
3/64"=1'-0" @ 11X17 3/32"=1'-0" @ 24X36 0 2 4 8 16

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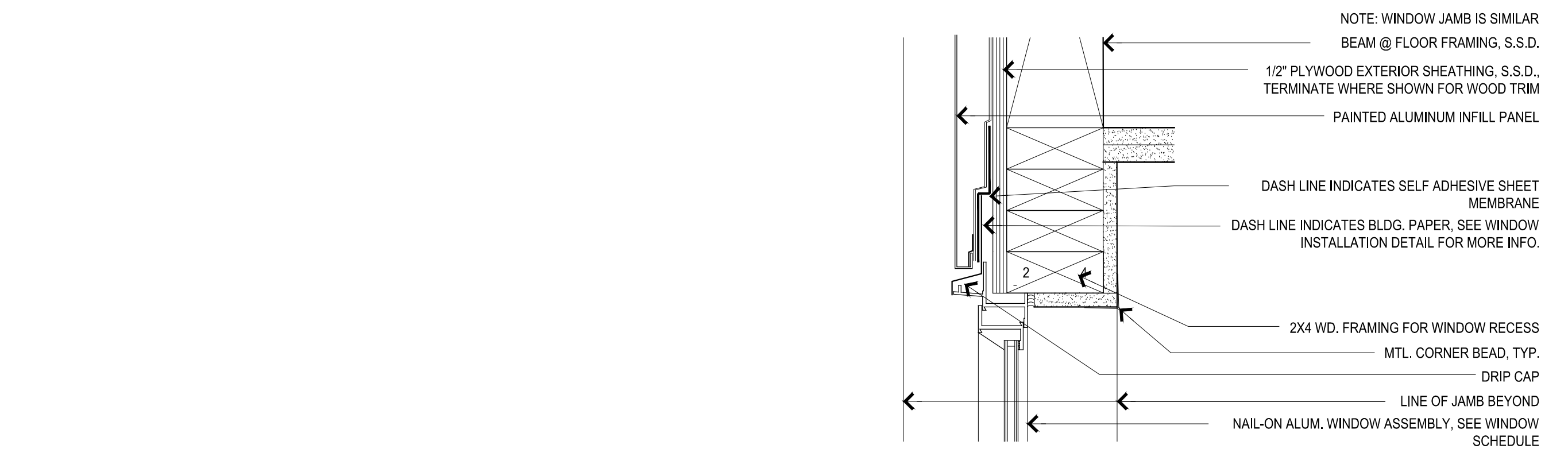
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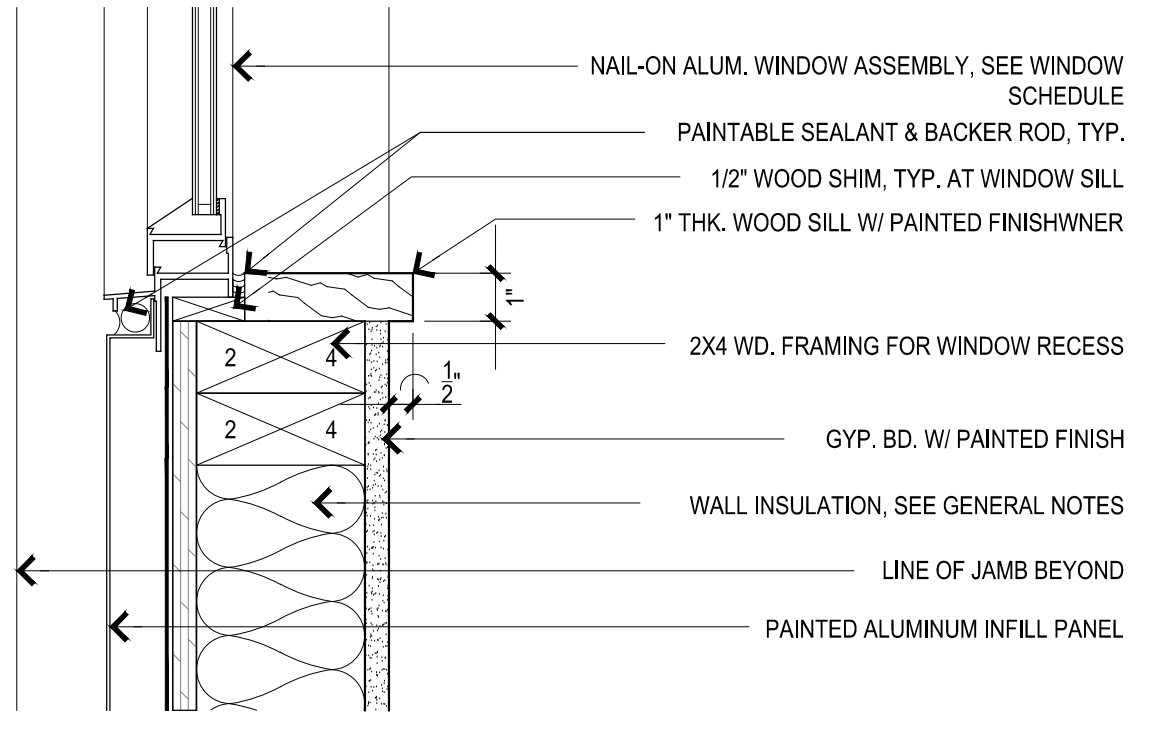
JOB: 1928

SHEET:
**WALL SECTIONS &
DETAILS**

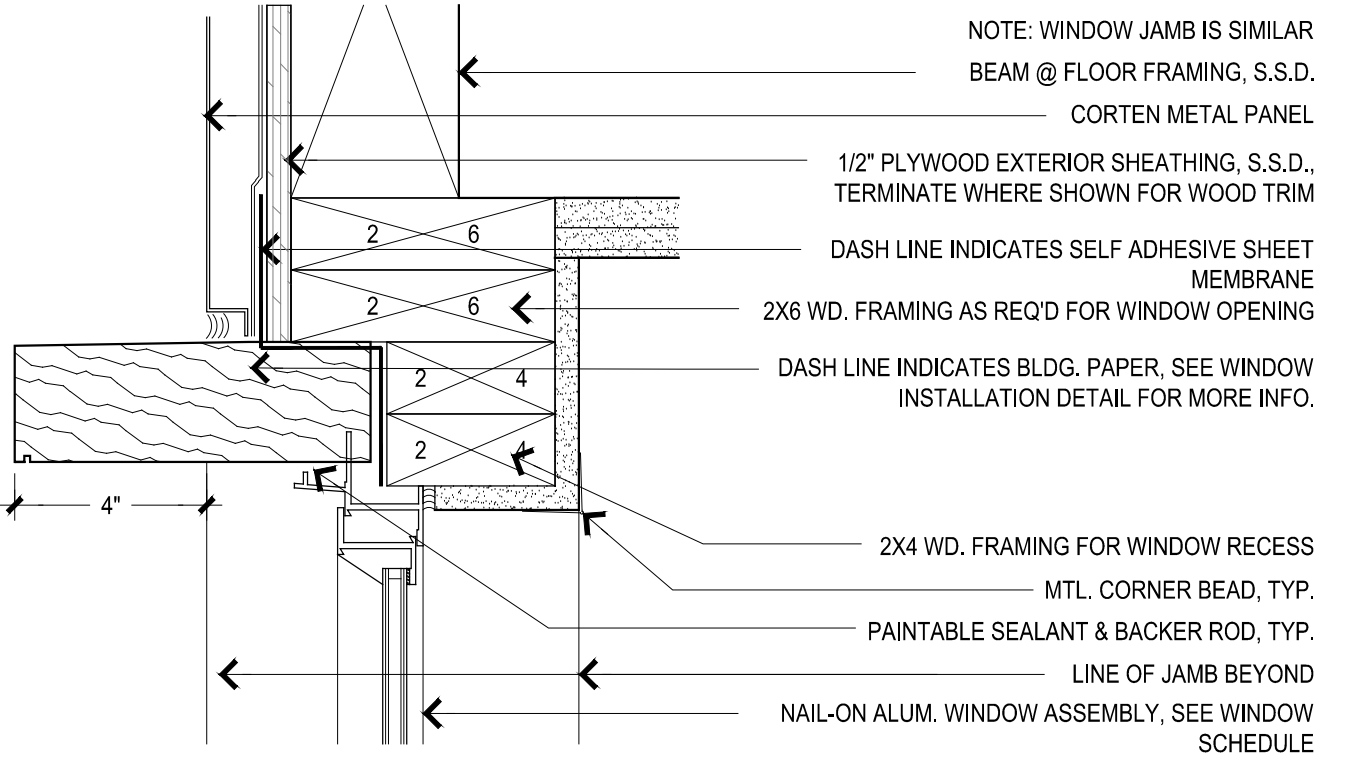
A4.2



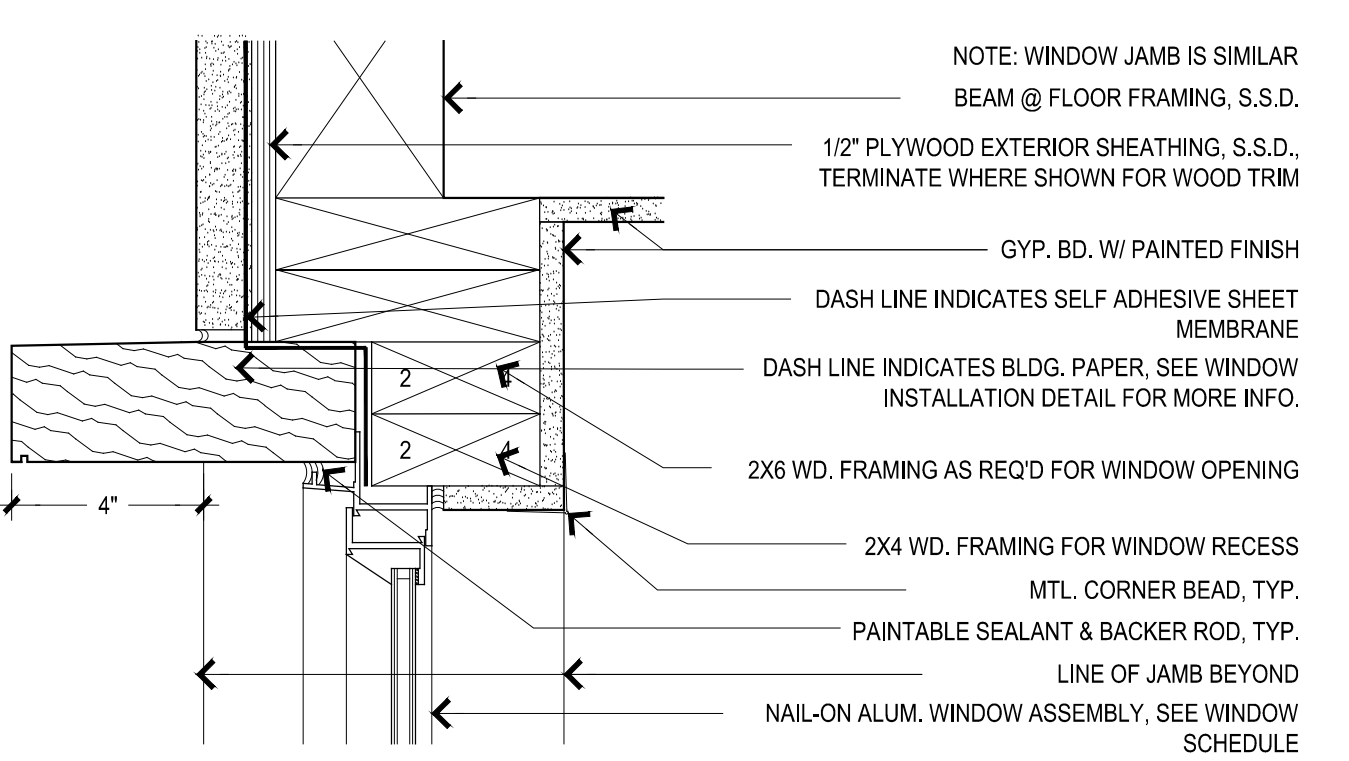
8 HEAD @ FILL PANEL
3"=1'-0"



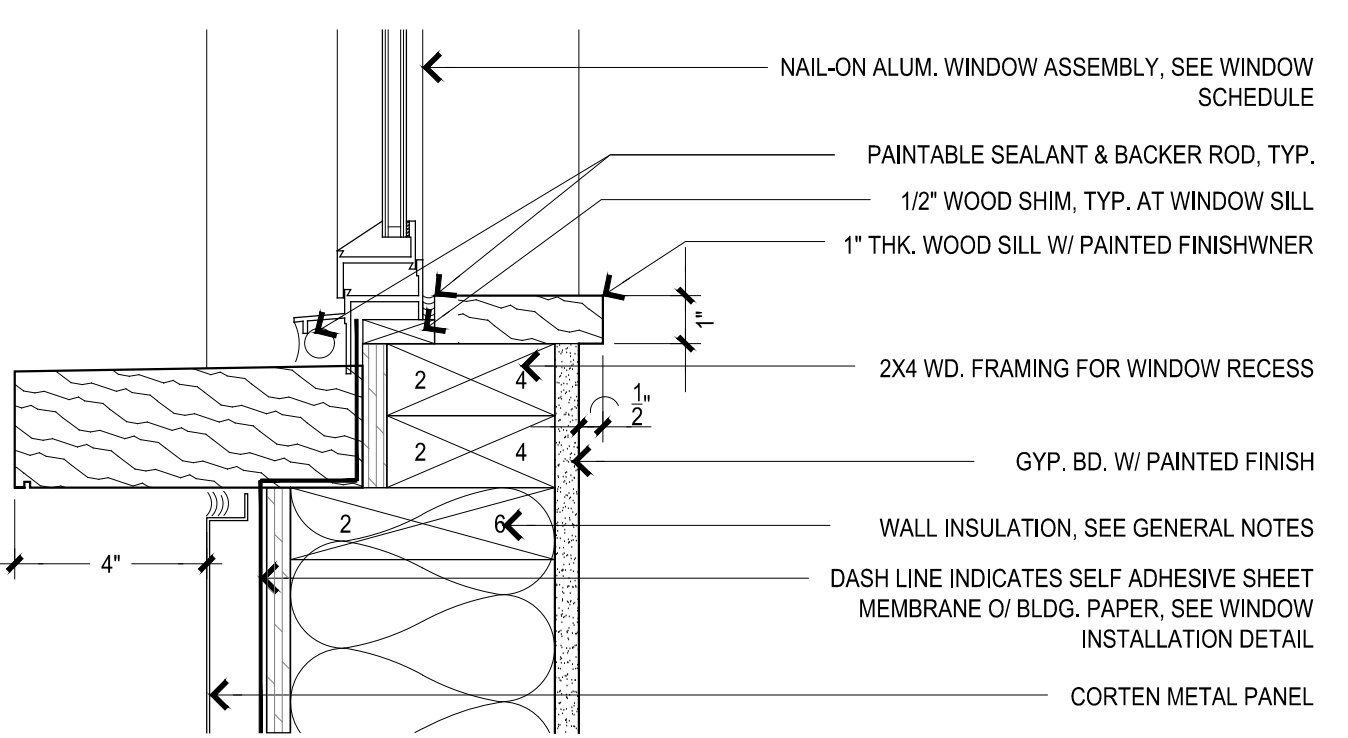
7 SILL AT FILL PANEL
3"=1'-0"



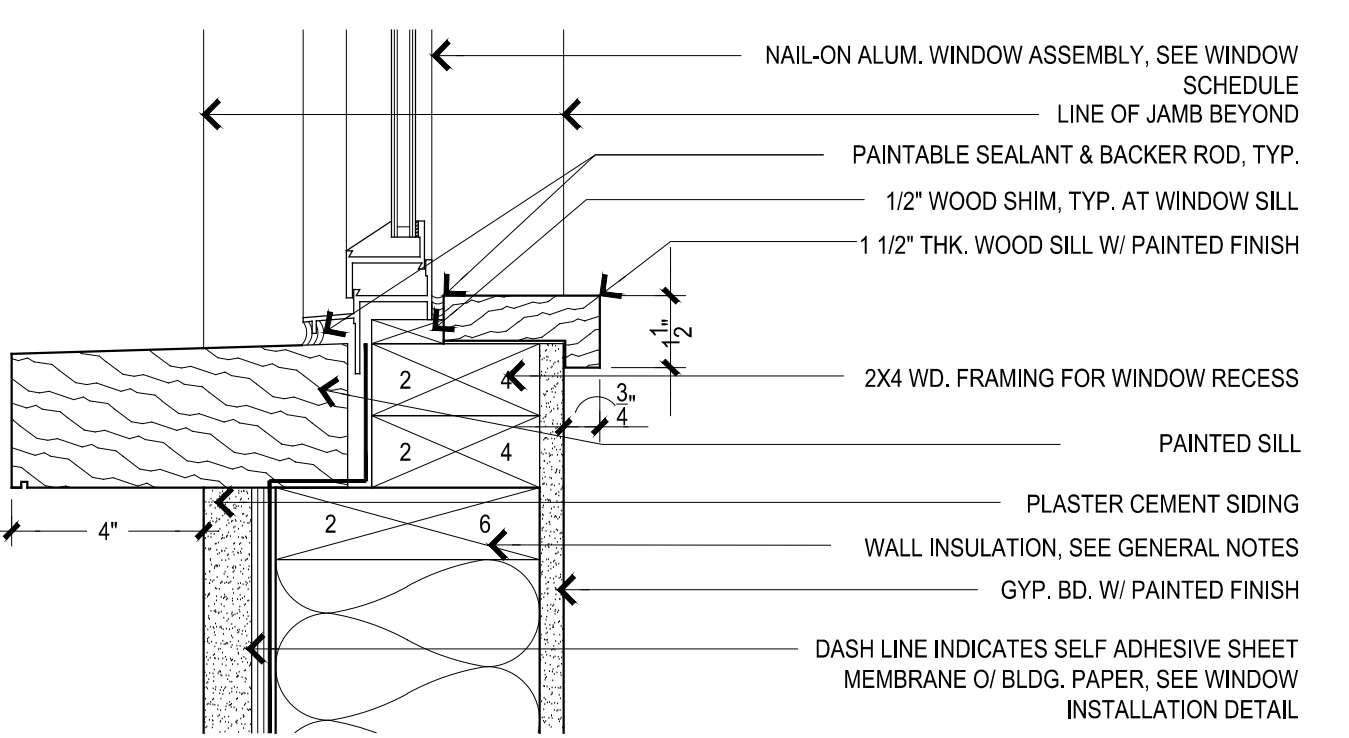
10 TYP. HEAD @ CORTEN
3"=1'-0"



6 TYP. STUCCO HEAD / JAMB
3"=1'-0"



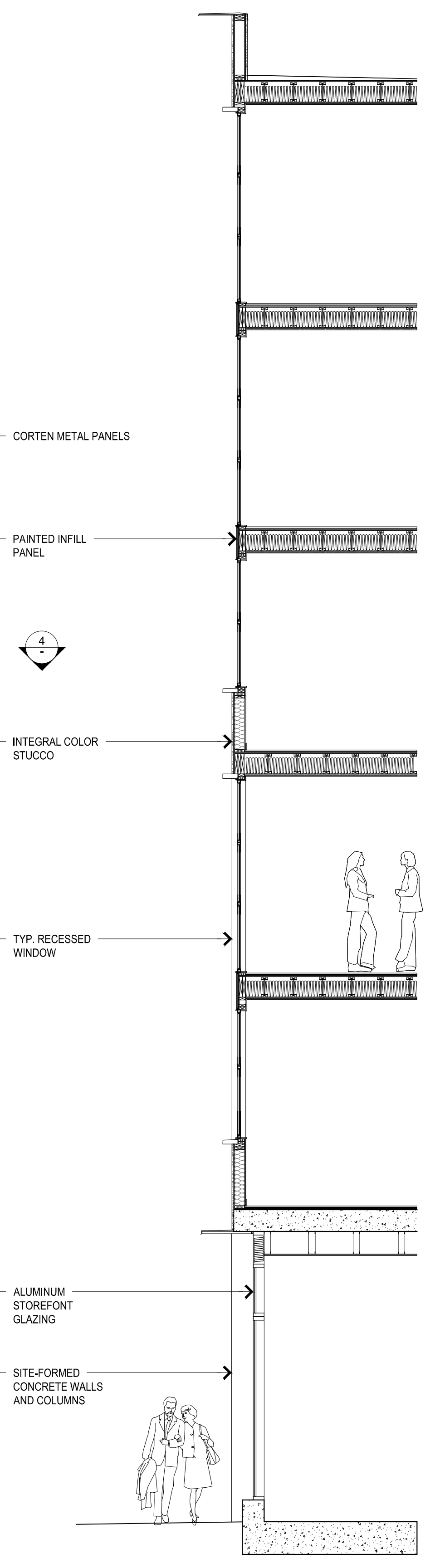
9 TYP. SILL @ CORTEN
3"=1'-0"



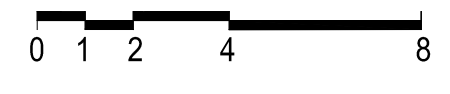
5 TYP. STUCCO SILL
3"=1'-0"



2 ELEVATION DETAIL
1/8"=1'-0" @ 11X17 1/4"=1'-0" @ 24X36



1 SECTION
1/8"=1'-0" @ 11X17 1/4"=1'-0" @ 24X36





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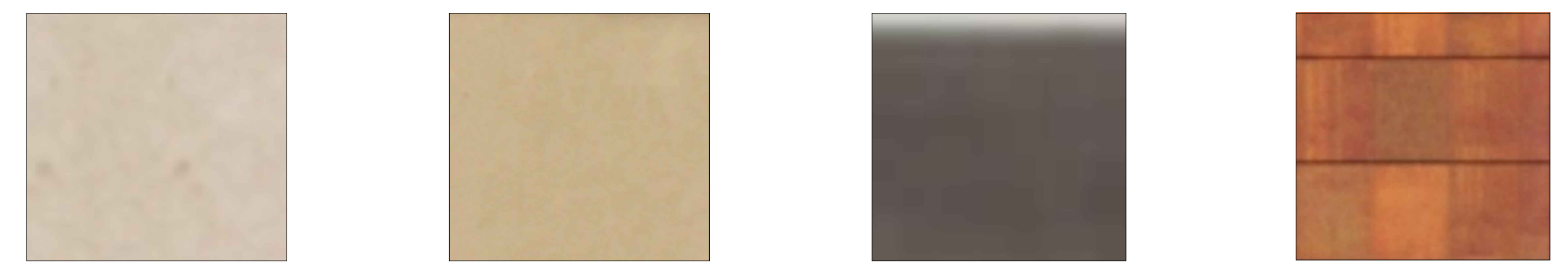
- 03.11.2021 SB-330 PRE-APPLICATION
- 04.29.2021 ZONING APPLICATION
- 07.13.2021 ZONING COMPLETENESS
- 08.30.2021 ZONING COMPLETENESS
- 01.07.2022 ZAB REVISIONS
- 03.15.2022 DRC REVISIONS
- 03.23.2022 DRC REVISIONS

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**MATERIAL
BOARD**

MAT



INTEGRAL COLOR STUCCO W/ SMOOTH TROWEL FINISH INTEGRAL COLOR STUCCO W/ SMOOTH TROWEL FINISH METAL INFILL PANEL CORTEN METAL PANEL

INTEGRAL COLOR STUCCO W/ SMOOTH TROWEL FINISH CORTEN METAL PANELS ALUMINUM STOREFRONT METAL INFILL PANEL CAST-IN-PLACE CONCRETE STEEL EAVE, PTD.





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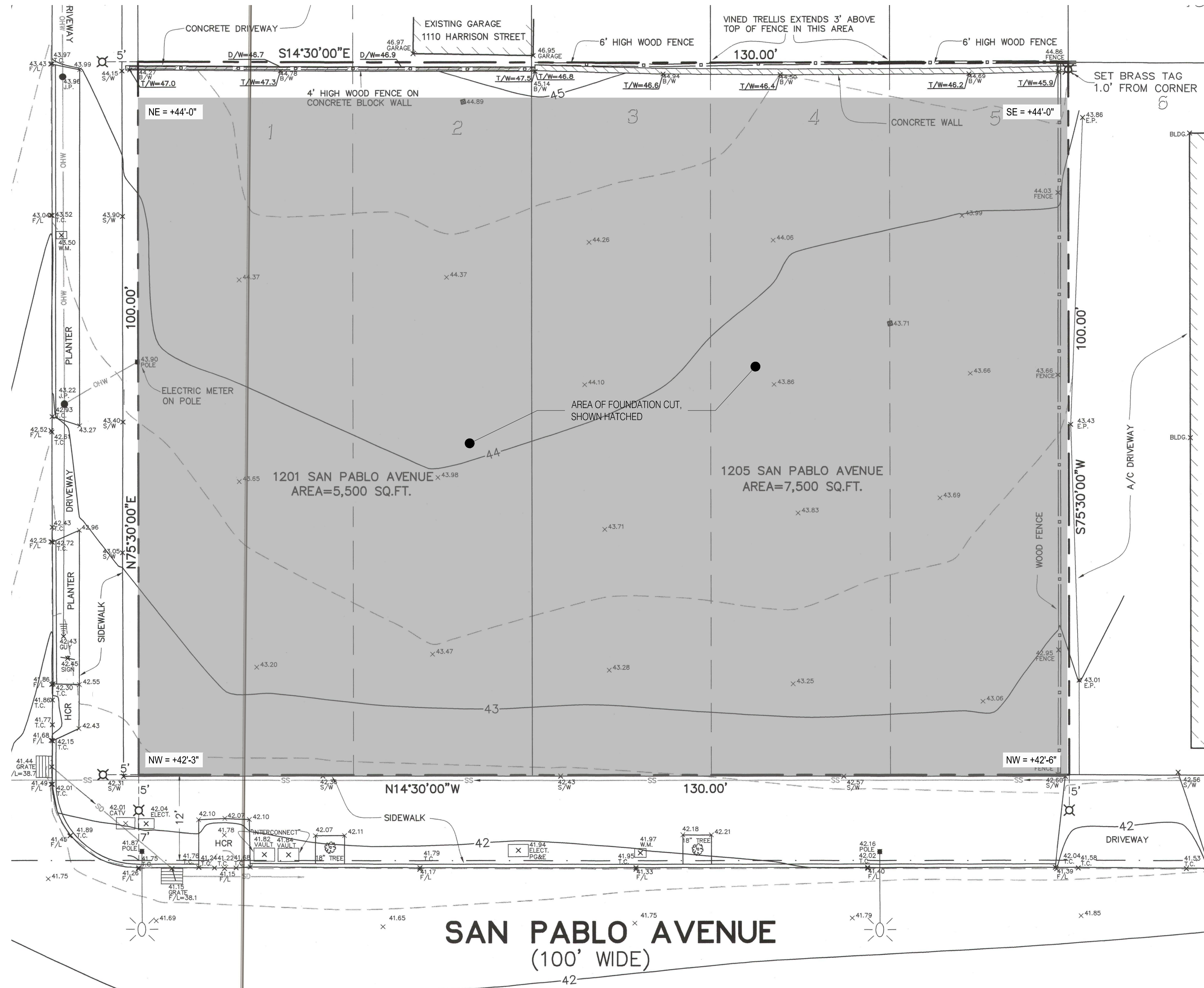
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CONCEPTUAL GRADING PLAN

G-01

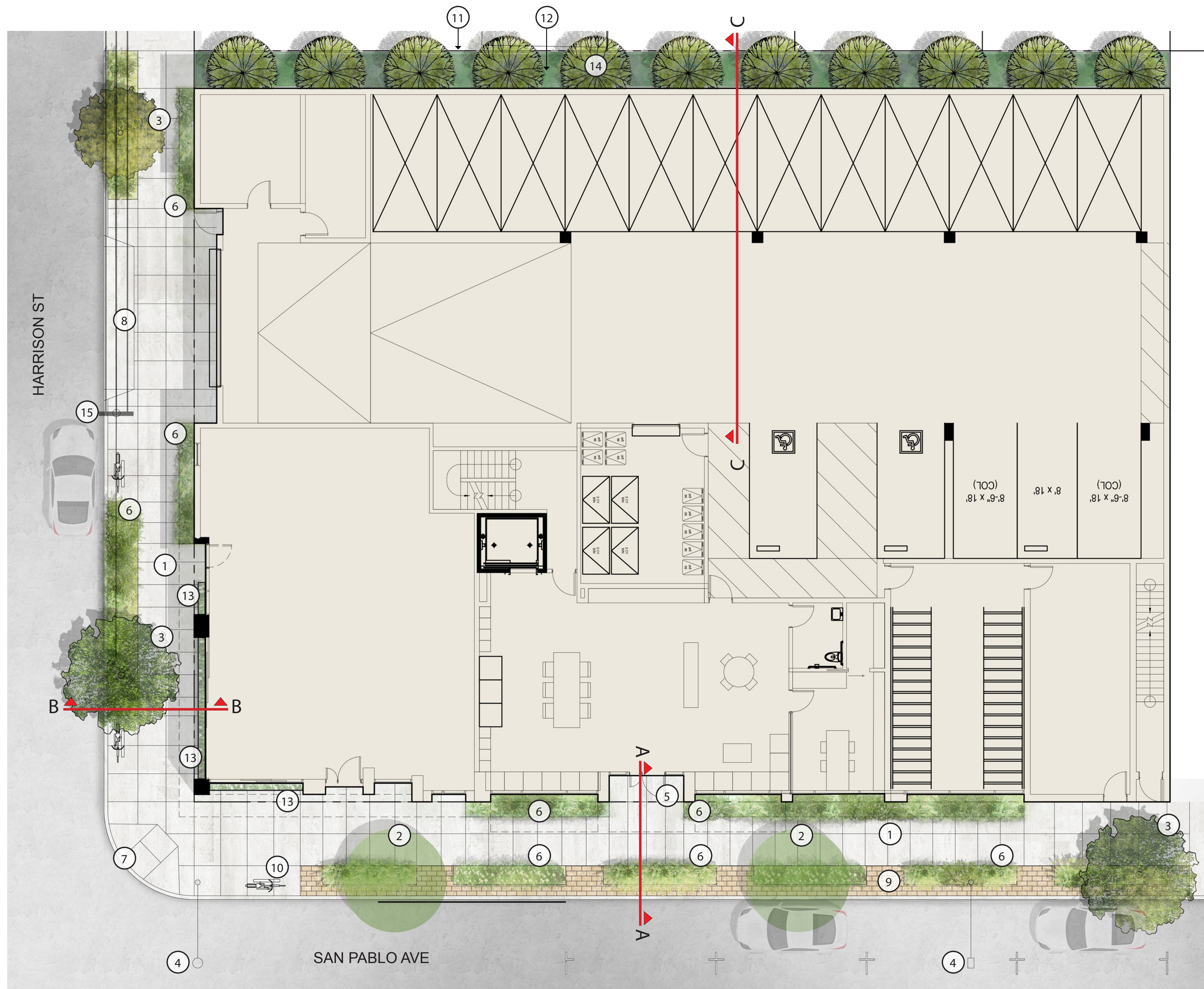


ESTIMATED QUANTITIES AND LOCATIONS OF FOUNDATION CUTS

	FEET	YARDS
TOTAL CUBIC YARDS OF CUT		1115 (CUBIC YARDS)
TOTAL AREA OF CUT	12346	1372 (SQUARE YARDS)
AVERAGE DEPTH OF CUT	2.4375	0.81 (YARDS)
CORNER 1 - NW	42.25	0.5 (YARDS)
CORNER 2 - NE	44	1.083333 (YARDS)
CORNER 3 - SE	44	1.08 (YARDS)
CORNER 4 - SW	42.5	0.583333 (YARDS)

2 ESTIMATED CUT/FILL DATA

1 CONCEPTUAL GRADING PLAN
1/16" = 1'-0" @ 11X17 1/8" = 1'-0" @ 24X36



LEGEND

1. CONCRETE SIDEWALK PAVING
2. EXISTING STREET TREE
3. NEW 24" BOX STREET TREE, TYP. OF (3)
4. EXISTING STREET LIGHT
5. ENTRY TO LOBBY
6. AT-GRADE PLANTING
7. CURB RAMP
8. DRIVEWAY TO GARAGE
9. UNIT PAVERS SET ON PLANTING AREA SUB GRADE
10. NEW BIKE RACKS, TYP. OF (3)
11. 6' HIGH WOOD NEIGHBOR FENCE
12. LANDSCAPE MAINTENANCE AREA
13. 30" HIGH METAL PLANTER
14. EVERGREEN PRIVACY SCREEN
15. EXISTING JOINT POLE, GUY AND OVERHEAD LINES

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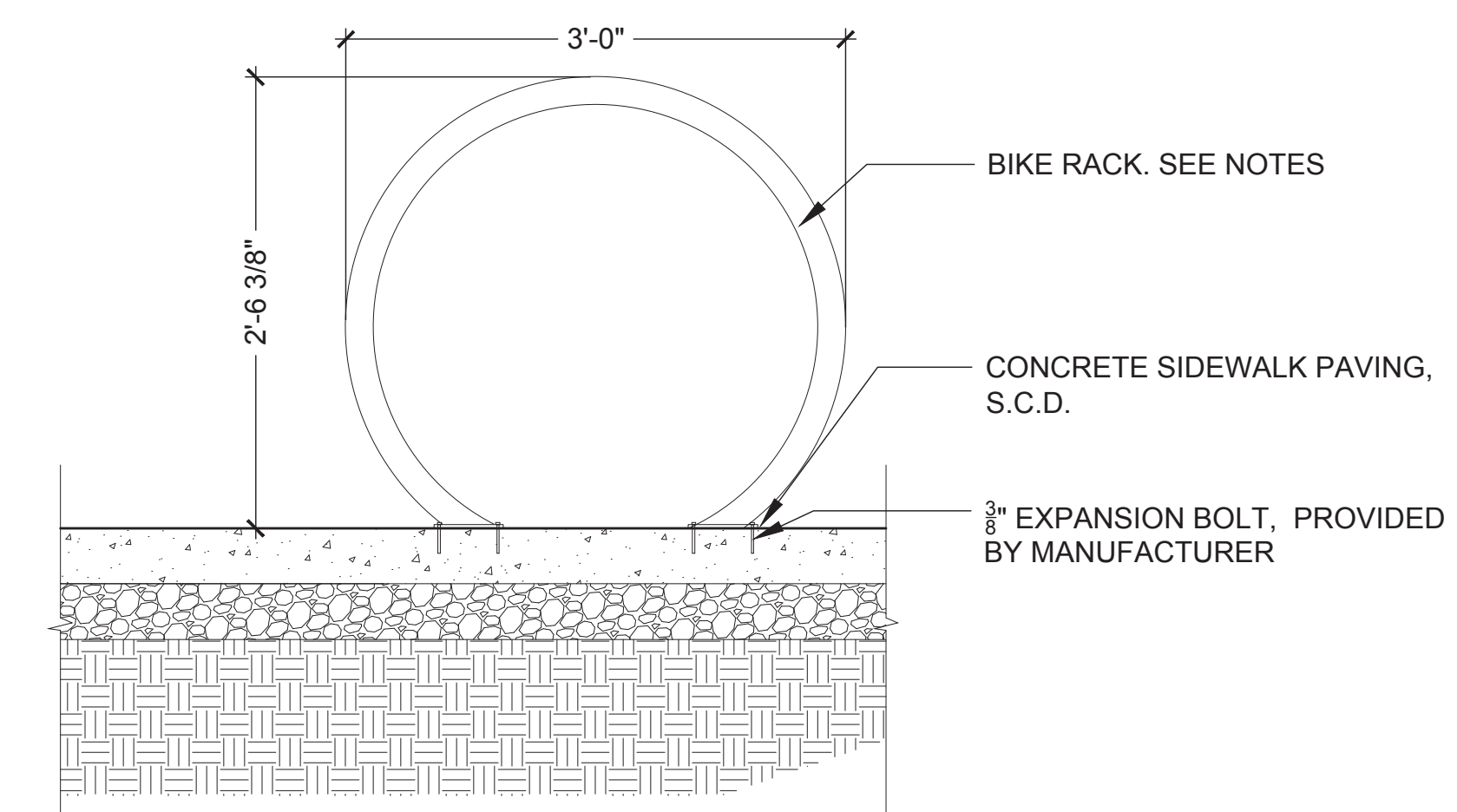
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2022.03.23 DRC REVISIONS

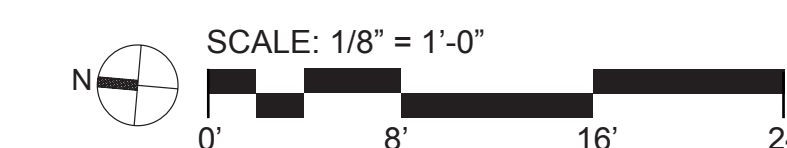


BIKE RACK



BIKE RACK: 'WELLE' CIRCULAR, SQUARE TUBE, HOT-DIPPED GALVANIZED FINISH, SURFACE MOUNT, MODEL: WCR02-SQ-SF-G.

BIKE RACK DETAIL



PLANTING NOTES

1. PLANT SPECIES SELECTED FOR DROUGHT TOLERANCE, ECOLOGICAL BENEFIT AND SITE SUITABILITY IN TERMS OF SIZE, SHADE/SUN-TOLERANCE, AND MAINTENANCE NEEDS. PLANT MATERIAL FROM VARIOUS CALIFORNIA HABITATS HAS BEEN EMPHASIZED.
2. BAY-FRIENDLY BEST PRACTICES REGARDING MULCHING AND SOIL HEALTH WILL BE IMPLEMENTED TO FACILITATE PLANT GROWTH, INCLUDING SPECIFICATION OF ORGANIC SOIL AMENDMENTS AND COMPOST.
3. THE PLANTING DESIGN WILL GROUP PLANTS WITH SIMILAR EVAPOTRANSPIRATION FACTORS WITHIN LEGIBLE ZONES. EVAPOTRANSPIRATION WILL BE ASSIGNED PER WUCOLS VERSION IV.
4. THE LANDSCAPE ARCHITECT WILL PROVIDE PLANT AND SOIL MAINTENANCE RECOMMENDATIONS AS PART OF THE PROJECT SPECIFICATIONS.
5. LAWN AND TURF AREAS WILL NOT BE INCLUDED IN THE PROJECT.

IRRIGATION NOTES

1. THE IRRIGATION SYSTEM WILL BE DESIGNED BY A LICENSED IRRIGATION PROFESSIONAL.
2. A DEDICATED EBMUD METER OR SUBMETER WILL BE PROVIDED FOR THE IRRIGATION SYSTEM DESIGN WITH LOCATION AND POINT OF CONNECTION NOTED.
3. A MANUAL SHUTOFF VALVE, REDUCED PRESSURE BACKFLOW PREVENTER AND FLOW SENSOR WITH MASTER SHUT OFF VALVE WILL BE PROVIDED AFTER THE POINT OF CONNECTION.
4. WATER PRESSURE AND FLOW RATES AT POINT OF CONNECTION AND ALL REMOTE CONTROL VALVES WILL BE INDICATED ON IRRIGATION PLANS.
5. IRRIGATION PLANS WILL SHOW SCHEMATIC LOCATION FOR ALL MAINLINES, LATERALS, SLEEVES AND REMOTE CONTROL VALVES.
6. REMOTE CONTROL VALVES WILL BE OPERATED BY A SMART, WEATHER-BASED IRRIGATION CONTROLLER WITH RAIN SENSOR MOUNTED IN AN APPROPRIATE LOCATION.
7. ALL PLANTED AREAS WILL BE WATERED USING HIGH-EFFICIENCY IRRIGATION TECHNOLOGY, SUCH AS DRIP LINES AND BUBBLERS WITH FLUSH AND AIR RELIEF VALVES WHERE REQUIRED. ALL COMPONENTS SHALL HAVE FIXED FLOW RATES.
8. IRRIGATION ZONES WILL BE GROUPED BY WATER DEMAND AND THE OVERALL PLANTING PLAN WILL COMPLY WITH WATER USE LIMITATIONS OUTLINED IN THE LATEST WATER EFFICIENT LANDSCAPE ORDINANCE.

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JOB: 1928

SHEET:

**LANDSCAPE PLANS
GROUND LEVEL**

L1.1

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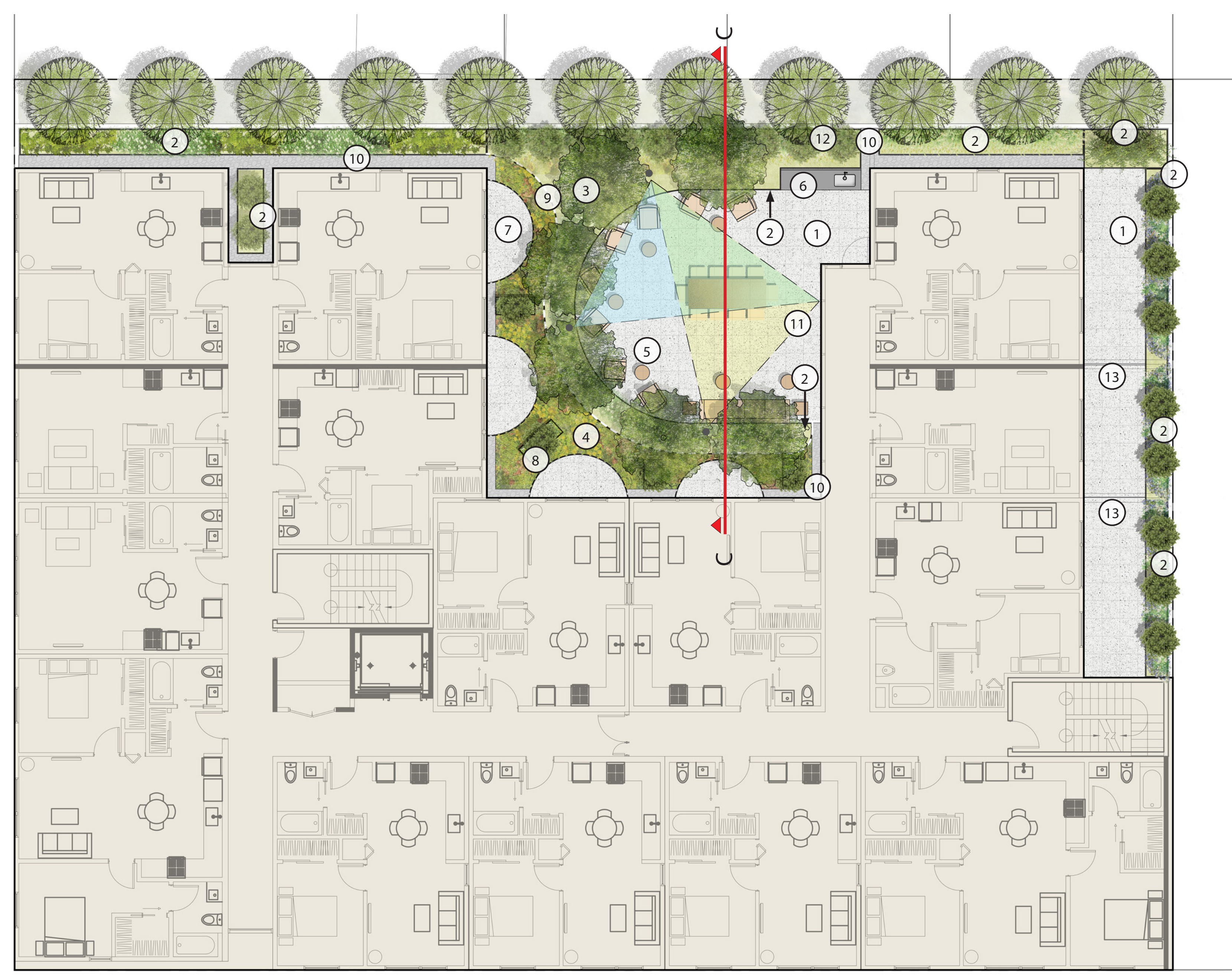
SHEET:

**LANDSCAPE PLAN
LEVEL 2**

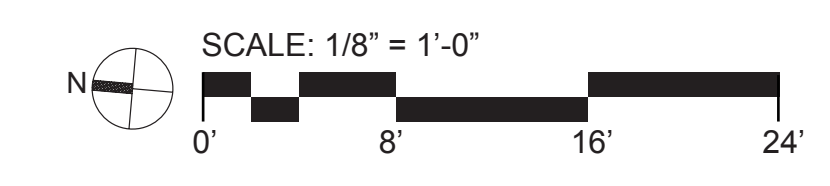
L1.2

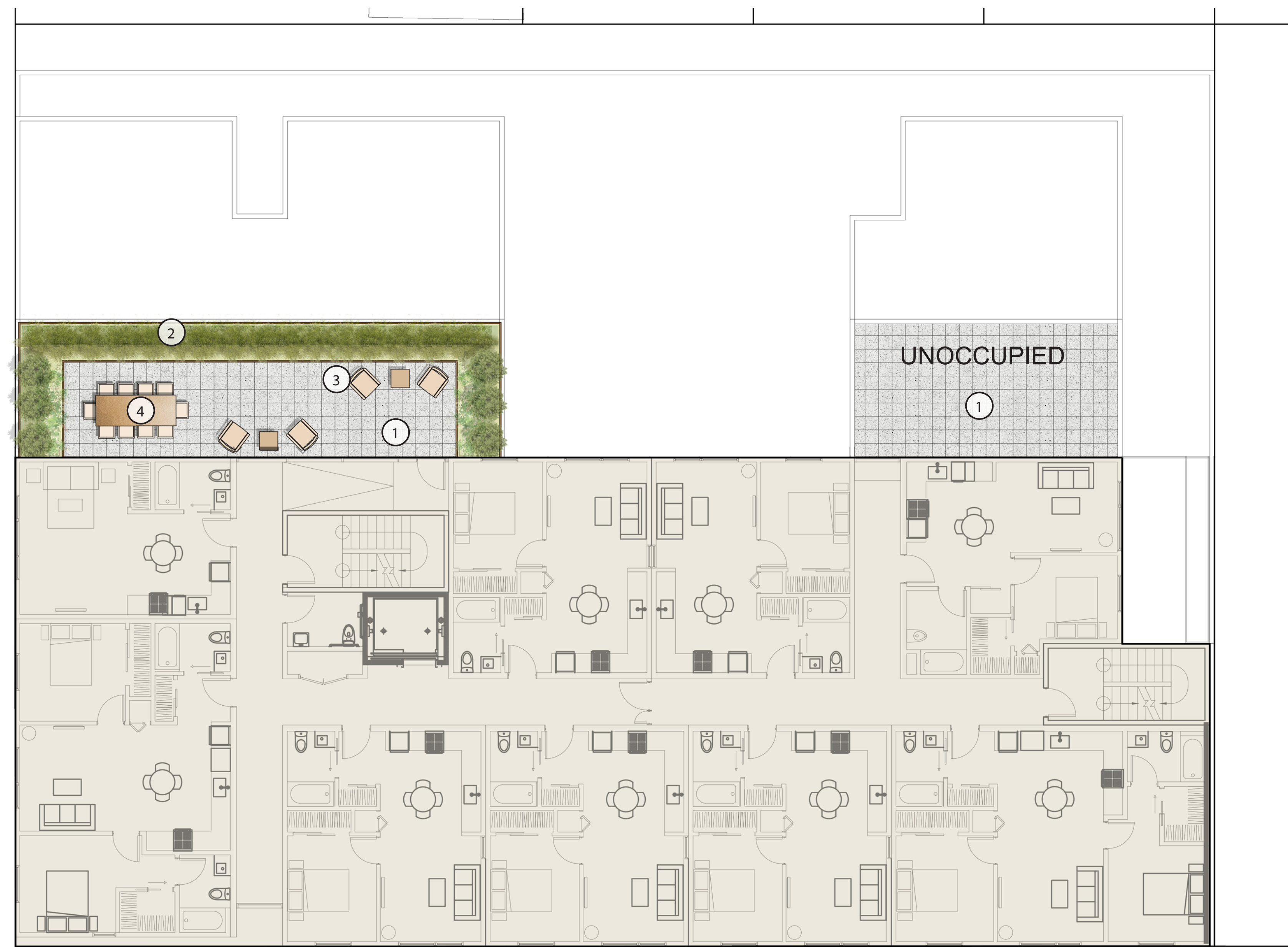
LEGEND

1. UNIT PAVERS ON PEDESTALS
2. RAISED METAL PLANTERS
3. 24" BOX TREES, TYP OF (6)
4. INTENSIVE VEGETATED ROOF
5. MOVABLE FURNITURE, TYP.
6. OUTDOOR COUNTER AND SINK
7. UNIT PATIO W/ METAL EDGE
8. SCREEN PLANTING IN RAISED METAL PLANTER
9. 48" HIGH PERFORATED METAL SCREEN
10. GRAVEL
11. SHADE SAILS
12. SCREEN PLANTING
13. WOOD NEIGHBOR SCREEN



2ND LEVEL PLAN





LEGEND

- 1. UNIT PAVERS ON PEDESTALS
- 2. RAISED METAL PLANTERS
- 3. MOVABLE CHAIRS WITH SIDE TABLES
- 4. DINING TABLES AND CHAIRS

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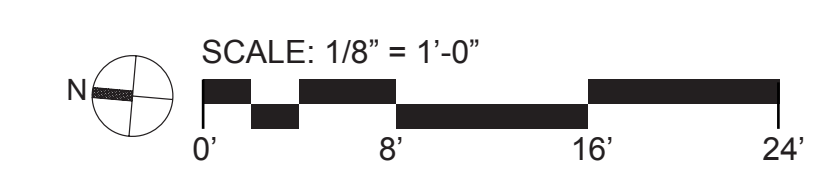
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2022.03.15 DRC REVISIONS

2022.03.23 DRC REVISIONS

6TH LEVEL PLAN



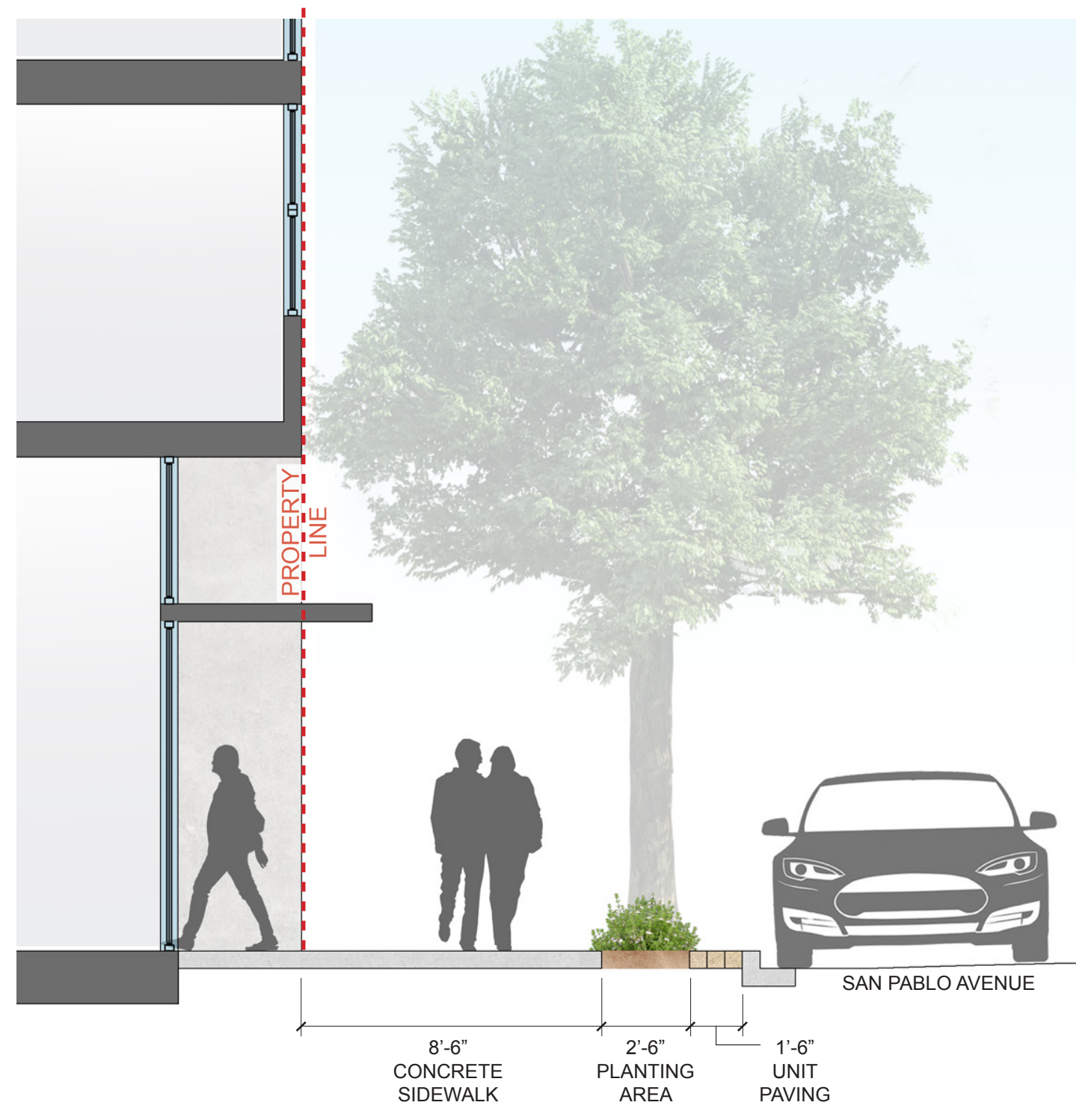
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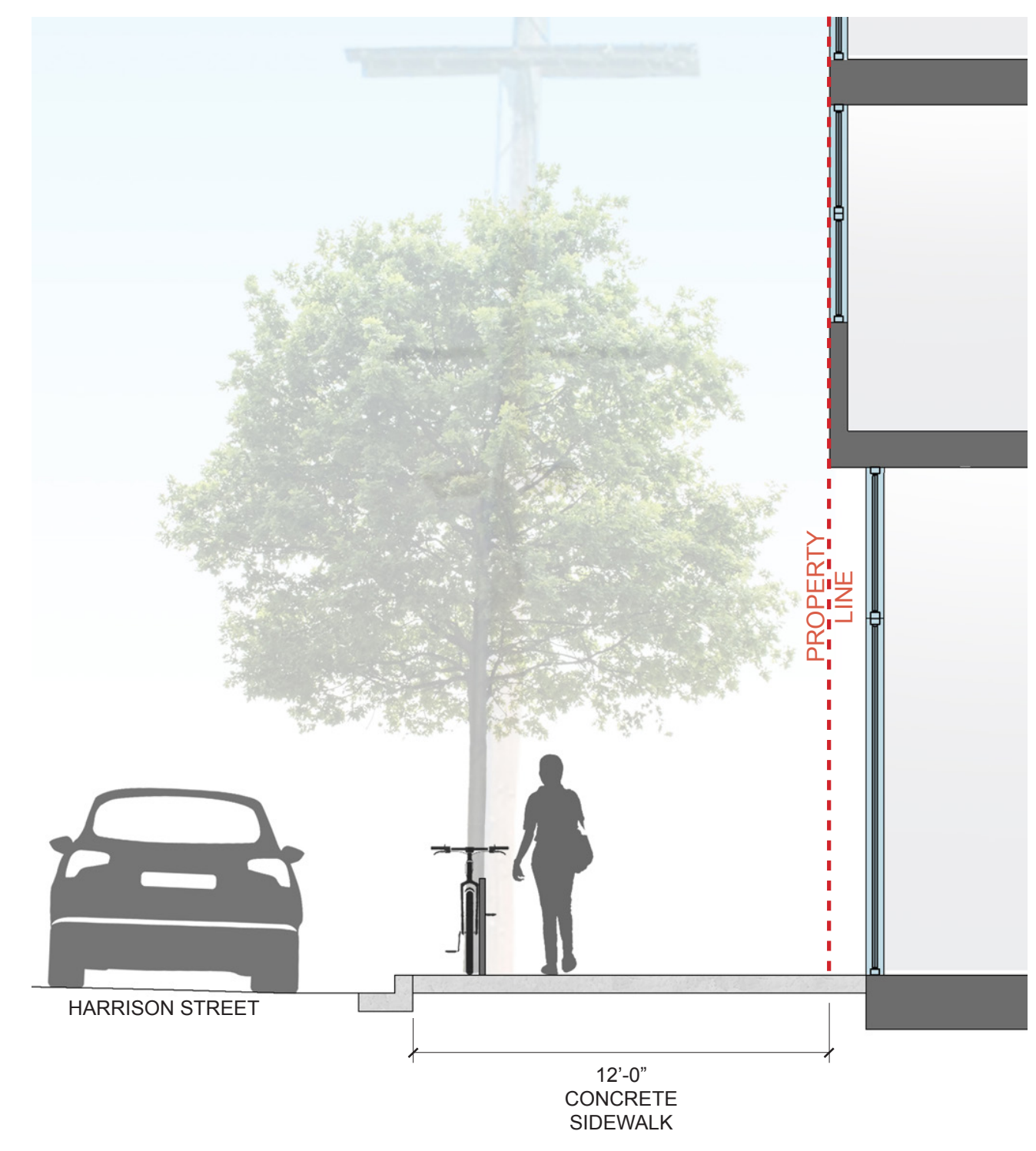
SHEET:

LANDSCAPE PLAN LEVEL 6

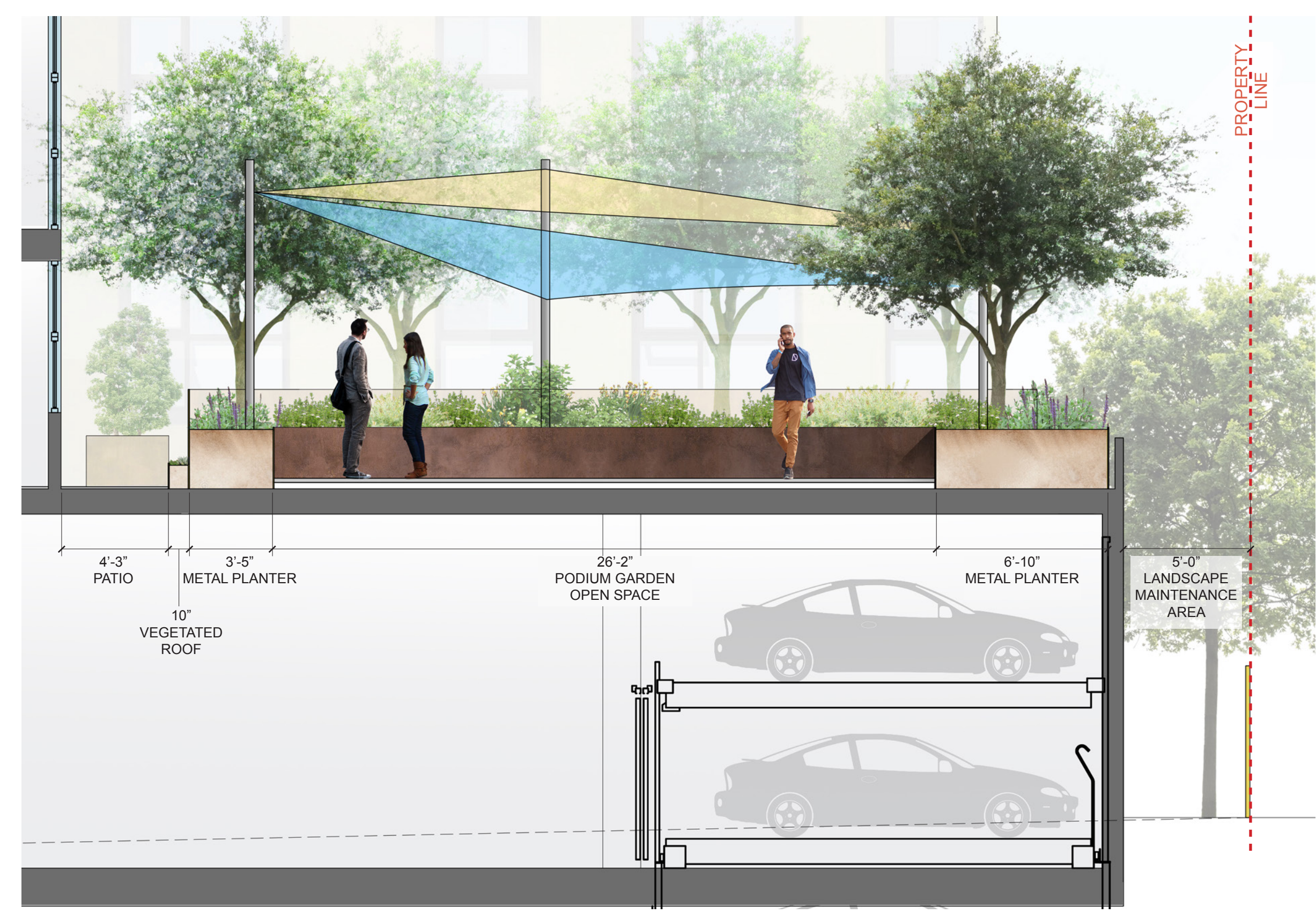
L1.3



SECTION A-A: SAN PABLO AVE



SECTION B-B: HARRISON ST



SECTION C-C: PODIUM GARDEN

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2022.03.15 DRC REVISIONS

2022.03.23 DRC REVISIONS

OPEN SPACE TABLE				
	UNITS	RATIO	TOTAL	LANDSCAPE AREA
TOTAL UNITS	66	40	2,640	
TOTAL AREA PROVIDED			2,514	1,346
PODIUM LEVEL GARDEN			1,640	902
PODIUM LEVEL PATIOS			120	115
LEVEL 6 ROOF DECK			754	329

TOTAL LANDSCAPED AREA ON EACH LEVEL

SHADE SAILS



STREET TREES



David Elm
Ulmus davidiana var. *japonica*



Bronze Loquat
Eriobotrya deflexa

GROUND LEVEL



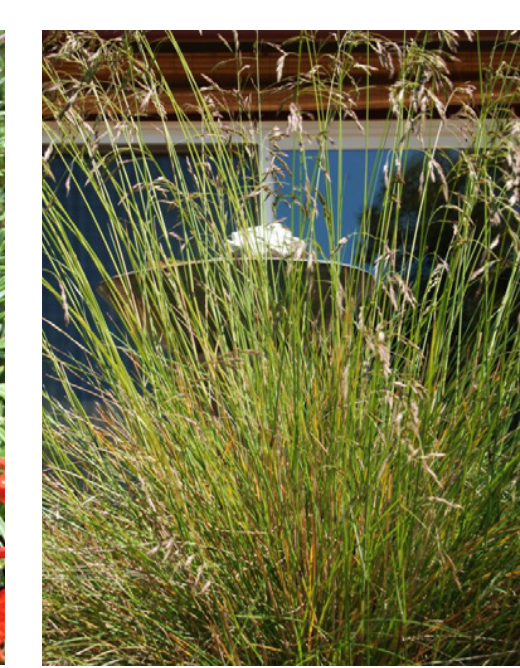
Creeping Fig
Ficus pumila



Stalked Bulbine
Bulbine frutescens



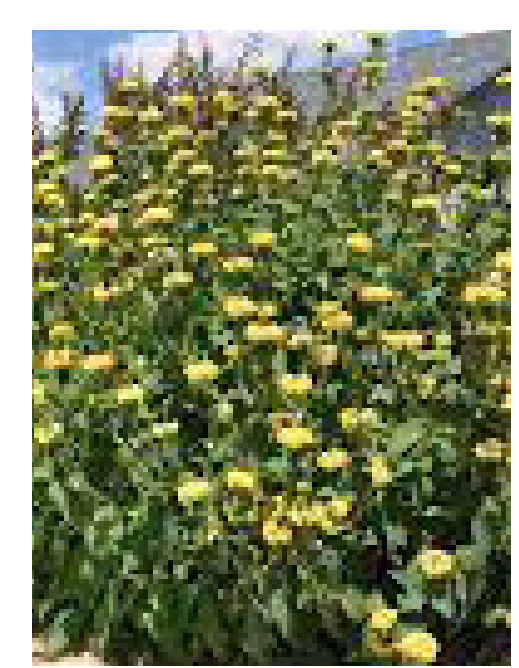
California Fuchsia
Epilobium canum



California Fescue
Festuca californica



Douglas Iris
Iris douglasiana



Jerusalem Sage
Phlomis fruticosa

UNIT PATIO SCREEN



Kohuhu
Pittosporum tenuifolium

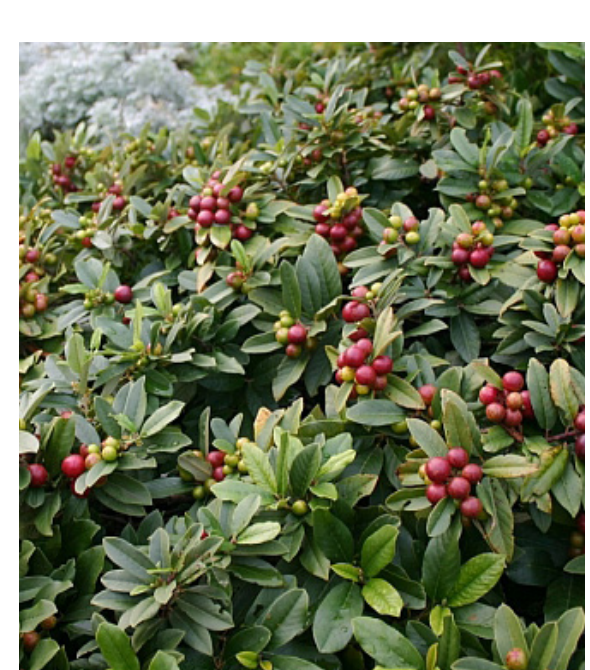
2nd LEVEL PLANTER



Evergreen Dogwood
Cornus capitata



Dwarf Mahonia
Mahonia aquifolium repens



Coffeeberry (Podium Edge)
Frangula californica 'Seaview'



Giant Wildrye
Elymus condensatus



Island Alum Root
Heuchera maxima

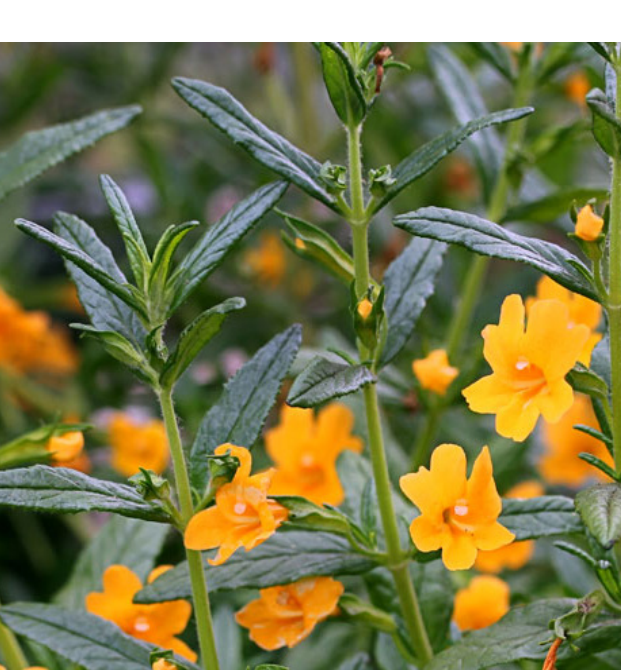


Western Swordfern
Polystichum munitum



Hummingbird Sage
Salvia spathacea

6th LEVEL TERRACE



Point Molate
Mimulus aurantiacus 'Pt. Molate'



Santa Barbara Daisy
Erigeron karvinskianus

PLANT PALETTE

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LANDSCAPE
SECTIONS AND
PLANT PALETTE

L1.4

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**EAST PROPERTY
LINE SCREEN**

L1.5

Sweet Shade

Hymenospermum Flavum
24" Box Installed Size

MAINTENANCE AREA TREE SELECTION

CHARACTERISTICS

Tree Shape: Conical or Rounded
Foliage Type: Evergreen

Maximum Height: 35 feet
Canopy Width: 15-20 feet
Growth Rate: ~12-24 inches/year

Flowers: Showy, Fragrant
Flower Color: Yellow
Flower Type: Both male and female parts (perfect)
Flowering Time: Spring or Summer

Fruit: Medium brown or mostly green capsule
Fruiting Time: Summer or Fall

Bark: Light Green or Light Gray, Rough

Litter: Dry Fruit, Flowers

SITE CONDITIONS

Planting Area: 5' to 10'

Sunset Zones: 8-9, 14-23

Sun Exposure: Partial Shade to Full Sun

Soil Texture: Loam or Sand

Soil pH: Slightly Acidic to Very Alkaline

Soil Salinity Tolerance: Coastal Moderate



SECTION AT EAST PROPERTY LINE - APPROXIMATE INSTALLED CONDITION



SECTION AT EAST PROPERTY LINE - MATURE CONDITION



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

NOTICE OF PUBLIC HEARING

1201-1205 San Pablo Avenue

Use Permit #ZP2021-0070 to construct a six-story, mixed-use building on a vacant lot, with 66 units (including five Very Low-Income units), 1,680 square feet of commercial space, 2,514 square feet of usable open space, and 17 to 28 ground-level parking spaces.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.406.040.D, on April 28, 2022, **conducted via Zoom, see the Agenda for details at:**

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2022-04-28_ZAB_Agenda.pdf. The meeting starts at 7:00 p.m.

PUBLIC ADVISORY: Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the Zoning Adjustments Board (ZAB) will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

A. Land Use Designations:

- General Plan: AC – Avenue Commercial
- Zoning: C-W–West Berkeley Commercial District, Gilman and San Pablo Designated Node

B. Zoning Permits Required:

- Administrative Use Permit under Berkeley Municipal Code¹ (BMC) §23D.04.020.C to construct rooftop projections, such as mechanical appurtenances or architectural elements which exceed the maximum height limit for the district;
- Use Permit under BMC §23E.64.030.A to construct a mixed-use development with floor area of more than 9,000 square feet;
- Use Permit under BMC §23E.64.030.A to construct new dwelling units; and
- Use Permit under BMC §23E.64.050.B, to create new gross floor area of 5,000 square feet or more.

¹ The prior Zoning Ordinance was in effect at the time this application was deemed complete. The version of the BMC Title 23, Zoning Ordinance, that was in effect at the time this application was deemed complete is available online: [https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Zoning_Ordinance_Revision_Project_\(ZORP\).aspx](https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Zoning_Ordinance_Revision_Project_(ZORP).aspx)

C. Waivers/Concessions Pursuant to State Density Bonus Law:

- Waiver of BMC §23E.64.070.A to increase maximum FAR to 3.6 where 3.0 is the limit;
- Waiver of BMC §23E.64.070.B to increase maximum building height to be 68'-3", where 50' is the limit for a mixed-use building;
- Waiver of BMC §23E.64.070.B to increase maximum number of stories to be 6 stories, where 4 stories is the limit for a mixed-use building; and
- Concession to reduce the Usable Open Space requirement from 2,640 to 2,514 square feet.

C. CEQA Recommendation: Categorically exempt pursuant to §15332 ("In-Fill Development Projects") of the CEQA Guidelines.

D. Parties Involved:

- Applicant Isaiah Stackhouse, Trachtenberg Architects, 2421 Fourth Street, Berkeley, 94710

- Property Owner Lanhai Su, 4500 Great America Parkway, Santa Clara, CA 95054

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, Sharon Gong, at (510) 981-7429 or sgong@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.

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. 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.

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 1201-1205 San Pablo Proposed Development.

From: Margaret <margaretpritt@sbcglobal.net>
Sent: Wednesday, April 20, 2022 12:08 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: 1201-1205 San Pablo Proposed Development.

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hi,

As a potentially affected homeowner I need to address concerns that will impact the safety of our neighborhood.

There are concerns that will affect the homeowners whose houses abut the property, such as noise, loss of privacy, and loss of sunlight/solar capacity from a 6 story building only a few yards away! (By the way...the shadow studies attached to the architects design paperwork ARE INACCURATE!). And should show shadows at 2 PM, not noon!

Beyond those specific concerns, our neighborhood will be impacted by a potential of upwards of 60-80 cars driving & parking on our streets (which are narrow enough that 2 cars have trouble maneuvering the street at the same time). The positioning of the garage entrance on Harrison (designed for only around 17 of the potentially 66+ autos) will "force" anyone wishing to travel South on San Pablo to turn right and drive down Kains or Stannage to get to Gilman. The reason is that trying to turn left onto San Pablo from Harrison is very difficult & dangerous. (There is no stoplight there.)

I know the City of Berkeley has a desire that if you don't provide parking...then people won't have cars! Car ownership is not prohibited, and thinking NO PARKING SPACES = NO CARS is not a reality! Even without the adequate parking available, the increased cars in our area will create unsafe conditions for our neighborhood. We have, in just this short block of Kains Avenue, around 20 children who live here & I take care of my 4 grandchildren, 3 on a daily basis. We also have 2 music teachers who have students dropped off for lessons.

I know that under SB330 you have the ability to deny or ask for a less dense development if there is a public safety concern. As citizens of Berkeley who are homeowners paying City Taxes we have the right to be granted concessions to mitigate danger to our public safety.

For an example of Berkeley's "pie in the sky" dream...there are more than a few houses in this neighborhood, (12 on my block of Kains alone) on Kains & Stannage, that either do not have driveways, or have driveways that are not functional...and as far as I know...it has NOT STOPPED CAR OWNERSHIP.

Besides an Environmental Impact Study because of the nearby Cordonices Creek...we would like a Traffic Impact Study to assess the impact of 66+ cars in our neighborhood. Technically, because there are 66 units proposed, there could be more than 100 cars if there are 2-car families because both of them work & need to drive to work.

I read the Berkeley Residential Parking Capacity Study from 2019. It was used as a basis for the 0.5 on-site parking recommendation. Besides the flaw in applying this study to ALL OF BERKELEY, it actually shows that developments of this size that are not within 0.5 miles of a BART Station have GRAVE IMPACT on the parking situation of nearby

homeowners! It shows that 100% of on-street parking is taken (obviously you can't show greater than 100%...those poor homeowners who must park 2 or maybe 3 blocks away)!

Besides the children in our neighborhood, we have a good many residents who are older (including myself & husband 70+)...this impact on our parking & added traffic will be dangerous, especially if residents must park blocks away from their houses & transport kids or groceries after dark because they can't find a parking space!

Here is a summary of the information contained in the 2019 Study:

Berkeley Residential Capacity Study
 City of Berkeley

The surveyed properties are listed in Table 1 and displayed on the Figure 1 on the following page.

Easy Walking to UC Campuses

Table 1 - Surveyed Properties

ID	Address	$\leq 1/8$ mile to BART	Total Units	Parking spaces on-site	% Affordable Housing
1	2575 Le Conte Avenue	-	11	6	0%
2	1277 Hearst Avenue	✓	8	7	0%
3	1612 Walnut Street	-	9	7	0%
4	3001 College Avenue	-	10	5	0%
5	3140 Ellis Street	✓	10	14	0%
6	2777 Ninth Street	-	21	26	0%
7	2414 Parker Street	-	16	16	0%
8	2610 Hillegass Avenue	-	23	21	0%
9	2239 Channing Way	✓	14	10	0%
10	2321 Webster Street	0.6	18	18	0%
11	3380 Adeline Street	✓	14	12	0%
12	651 Addison Street	-	94	107	4% $\frac{2}{3}$ occupied = 71
13	1812 University Avenue	✓	44	19	9%
15	1370 University Avenue	✓	71	46	97%
16	2500 Martin Luther King Jr Way	0.6	10	17	20%
19	1910 Oxford Street	✓	56	34	20%
20	3015 San Pablo Avenue	-	98	116	15%
23	2004 University Avenue	✓	35	7	20%
24	2110 Haste Street	✓	100	67	20%
25	2116 Allston Way	✓	91	37	20%

occupied on-street parking

100%

100%

100%

98/58 occupied

50% occupied (probably don't want to pay parking fee)

100% of on-street parking was occupied

NelsonNygaard Consulting Associates Inc. | 2

(16 sites either easy walking distance to UC Campuses or ≤ 0.6 miles from BART station)

Only 2 of the sites with similar # units are NOT within 0.5 miles of a BART station. Sites #12 & #20 have excess parking spaces, yet still 100% impact on-street parking. This will cause safety issues for homeowners in our neighborhood.

If, for some unknown reason, you do not require a less dense development...then you should at least require the

developer to make available the 0.5 parking spaces & require the developer to provide the parking at NO EXTRA COST...
to mitigate those seeking on-street parking.

Sincerely,
Margaret Pritt
1231 Kains Avenue

Sent from my iPhone Sent from my iPhone

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 1201 San Pabo Ave Project Development
Attachments: 1201 San Pablo Ave Development_Zoning Adjustment Board.docx

From: Nguyen Tan <nguyentan74@gmail.com>
Sent: Wednesday, April 20, 2022 12:53 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: RE: 1201 San Pabo Ave Project Development

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Sir or Madame,

My family and I live in the neighborhood where the project development on 1201 San Pablo Ave. will have a significant impact on our lives. Attached are my comments and concerns. People in the neighborhood, if they have not already done so, will also be sending theirs.

Thank you for your time and consideration.

Best regards,
Nguyen Tan
1229 Stannage Ave
Berkeley, CA

Zoning Adjustment Board

Berkeley, California

RE: 1201 San Pablo Project in Berkeley, California

Dear Members of the Zoning Adjustment Board (ZAB),

The project development on 1201 San Pablo Avenue in Berkeley, CA will have significant impact on my family as well as my surrounding neighbors. The 66-unit development with only 17-28 parking spaces will not only affect an already challenging parking situation in the neighborhood, but it will also significantly increase the follow of traffic onto nearby streets (i.e., Stannage Ave., Kains Ave., Dartmouth St., and Harrison St.), where there are many children, including two of my own, play on these streets.

I am not against this development. On the contrary, I am happy to see something is being done to the decrepit lot. However, the 66-unit development with limited parking spaces and an unrealistic expectation that people will just take public transportation and not own a car is just a fantasy, since the bus system does not run regularly and does not go everywhere, and BART is at least a 25-minute walk away.

In addition to the parking and traffic flow issues, the step-up development (up to six story high) will affect privacy and natural sunlight to immediate neighbors on Kains Ave., some of whom also have solar panels on their roofs.

With these said, please address the following:

1. Understanding the impact of traffic flow with this development. Please perform a Traffic Impact Assessment before (and not after) breaking ground to start building
2. Engineering a system to divert cars coming out of the proposed development toward San Pablo Avenue as a way to mitigate traffic impact on Kains and Stannage Ave.
3. Impose the developer to increase the number of parking spaces, up to 33 as allowed by law
4. Request the developer to work with local gardeners to understand what type of trees or shrubs to plant between the proposed development and the immediate neighbors on Kains Ave. in order to provide privacy. Developer should be required to pay for the maintenance of these plants
5. Encourage developer to reduce the height of the building to reduce the impact of natural sunlight to the immediate neighbors on Kains Ave.

Thank you for your time and consideration.

Sincerely,

Nguyen Tan

1229 Stannage Ave

Berkeley, CA

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 1201-1205 San Pablo Proposed Building - ZAB mtg 4/28/22
Attachments: 1201 San pablo Permit 2006 (1).pdf

From: Mary Wyand <mary@encorerenewableenergy.com>
Sent: Wednesday, April 20, 2022 3:00 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Cc: Jean Molesky-Poz <moleskypoz@me.com>; Gong, Sharon <SGong@cityofberkeley.info>; Deirdre O'Regan <dedeoregan@gmail.com>; Mary Wyand <marytwyand@gmail.com>; Berkeley Mayor's Office <mayor@cityofberkeley.info>; Kesarwani, Rashi <RKesarwani@cityofberkeley.info>
Subject: 1201-1205 San Pablo Proposed Building - ZAB mtg 4/28/22

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Zoning Adjustments Board (ZAB) Members - I'd like to provide comments on the proposed 1201-1205 San Pablo Building you are reviewing next Thursday evening, April 28, 2022.

Please find attached the Approved Permit (and history) for the negotiated facility between the developer and neighbors for the same location in 2006. For whatever reason(s), the building was never constructed.

I include this for the following:

1. My neighbors and I are passionate and care about our community.
2. Our neighborhood is not opposed to development; we believe in reasonable growth with current needs and **context of the community being considered**. In fact, we embraced this wholeheartedly enough to invest 19 months (from March 2005 to October 2006) working with the City, developer and architect to find the best solution for all involved.

Unfortunately, the negotiated building was not built. And now, 16 years later, while the **buildable site location area hasn't changed** and our **neighborhood context has not changed** (single family residential homes and primarily single story commercial buildings on San Pablo near Harrison), a proposed facility *NEARLY TWICE* the size and much taller than that in the Approved Permit is being considered. The proposed project is **a massively out of scale building for its location**.

I am aware of the density bonus requirements, calculations and the City's inability to deviate from State regulations. However, the current *base case* building is significantly larger than the building negotiated in 2006. And while the Board's hands are tied by the State regarding density bonus, I haven't found a restriction regarding the BASE CASE that would not allow the Board to make a recommendation of starting with a reduced base case.

From: *Procedures for Implementing State Density Bonus Law, pg 44 of 69*

Step 1. Calculate the Base Project State Density Bonus Law requires a City to grant a density increase over “the otherwise maximum allowable gross residential density” for the specific zoning range and land use element of the general plan. **Berkeley, however, does not have parcel-based density standards for higher density residential (R-3 and above) or commercial/mixed-use zoning districts.** While the General Plan provides policy guidance for residential density, it cannot be applied on a per-parcel basis to set the maximum allowable residential density.

Because Berkeley does not have density standards in most zoning districts, we instead rely on zoning development standards and basic Building Code considerations to define a building envelope for a particular project site. The defining standards include setbacks, parking, height, lot coverage, open space, and floor area ratio. Allowable maximum residential density is therefore the residential floor area that these standards can accommodate on a given parcel. This envelope becomes the “base project” for the purpose of calculating density. *In other words, per BMC Section 23C.14.040, the otherwise allowable maximum residential density is the floor area that can be achieved under the single use permit, which requires solely a finding of non-detriment under Chapter 23B.32*

From **BMC Title 23 Zoning document, page 53**

Section 23B.32.040 Findings for Issuance and Denial and Conditions

- A. The Board may approve an application for a Use Permit, either as submitted or as modified, only upon finding that the establishment, maintenance or operation of the use, or the construction of a building, structure or addition thereto, under the circumstances of the particular case existing at the time at which the application is granted, will 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.
- B. Prior to approving any Use Permit the Board must also make any other findings required by either the general or District regulations applicable to that particular Use Permit.
- C. The Board shall deny an application for a Use Permit if it determines that it is unable to make any of the required findings, in which case it shall state the reasons for that determination.

Title 23
Page 53

Chapter 23B.32: Use Permits

- D. The Board may attach such conditions to any Use Permit as it deems reasonable or necessary to achieve the purposes of this Ordinance, and which otherwise promote the municipal health, safety and welfare. (Ord. 6478-NS § 4 (part), 1999)

I realize a building on an empty lot is going to make an impact on our neighborhood and I assert the impact is proportional to the size and density of the facility. The proposed building consists of 66 units with 17-28 parking spaces. Parking will be problematic at best but I am particularly **concerned for the safety of the community**. Folks who will be able to afford to live in this building will not likely be taking the 72 bus down San Pablo; most will have cars. Our neighborhood is laid out such that it basically consists of Stannage and Kains Avenues between Gilman and Dartmouth streets; there is no eastbound outlet to other North/South Avenues (i.e. Cornell Ave, Talbot, Evelyn, etc). Because of this, our neighborhood is limited in accommodating the movement of all the additional vehicles associated with such a dense facility. Also, the fabric of our neighborhood varies with many older folks and young families with small children. The increased density of vehicles and increased traffic associated with the current design is extremely detrimental to the safety of the community. Constructing a building within the context and accessibility of the neighborhood will help mitigate this concern.

Reasonable growth has to start somewhere within the City. I suggest the ZAB **not** approve the current project and recommend that the architect revise their design starting with the negotiated base case of 27 units. If 10% of those units are affordable to very low-income households, then the total number of units with the density bonus

could be 38 units, with the building stepping down into the neighborhood as originally agreed upon (and currently recommended).

If you've time to visit our neighborhood/project location before the Thursday meeting, please do. I'll be happy to give you a tour of our neighborhood - my number is 510.289.2466.

Please reconsider this project as a whole within the context of its location.

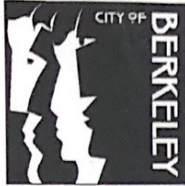
Kind regards.
Mary Wyand
1206 Stannage Ave
510.289.2466

p.s. On a personal note - my partner Paul and I have owned and lived at our home on 1206 Stannage Ave since Jan 5, 2000. We have two sons (17 yo and 20 yo) that were born and raised here and attended the Berkeley Unified School District. While my boys are industrious, we intend to leave the house to them as we don't see them being able to afford to buy in the town they grew up in.

--



Mary Wyand, PE,
LEED 2.1AP
*Sr. Project
Manager -
Development*
tel 802.713.1085
cell 510.289.2466
Encore.eco



Planning and Development Department
Land Use Planning

U S E P E R M I T

CITY OF BERKELEY ZONING ORDINANCE
Berkeley Municipal Code Title 23

USE PERMIT #05-10000029

Property Address: **1201 SAN PABLO / 1100 HARRISON STREET**

Permittee Name: **JIM HART**

Use and/or Construction Permitted:

Use Permit under Sections 23E.64.030 and 23E.64.050.B.3 of the Zoning Ordinance to construct a mixed-use building greater than 20,000 square feet gross floor area.

RESOLUTION, FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

The Use Permit herein described has been duly granted by the City Council and is in effect on October 25, 2006.

Document 1

RESOLUTION NO. 63,468-N.S.

APPROVING USE PERMIT NO. 05-1000029 FOR THE PROJECT LOCATED AT 1201
SAN PABLO AVENUE AND DISMISSING THE APPEAL

WHEREAS, on March 4, 2005, Mr. Jim Hart submitted a use permit application to construct a mixed-use building containing 30 residential units (6 Inclusionary), ground floor commercial units and 38 parking spaces on a 13,000 square foot parcel; and

WHEREAS, in August, October, November and December 2005, the Design Review Committee conducted meetings to review the design and to take testimony from the public; and

WHEREAS, on January 19, 2006, after several redesigns of the project, the Design Review Committee forwarded a positive recommendation (6-Y, 0-N, 0-abstain) to the Zoning Adjustments Board; and

WHEREAS, on April 6, 2006, the Zoning Adjustments Board held a public hearing; reviewed a staff report that provided analysis on design, Inclusionary ordinance and State Density Bonus; and received testimony from 32 speakers; and

WHEREAS, on April 6, 2006, the Zoning Adjustments Board, approved Use Permit #05-1000029; and

WHEREAS, the Zoning Adjustment Board Notice of Decision was released on April 14, 2006, and the appeal period ended on May 1, 2006; and

WHEREAS, on May 1, 2006, the City received an appeal submitted by Susan Pinto on the behalf of 12 neighbors; and

WHEREAS, on July 18, 2006, the Council set the matter for a hearing; and

WHEREAS, on September 12, 2006, the Applicant submitted revised plans to relocate floor area away from the residences to the east; and

WHEREAS, on September 19, 2006, the Council held a hearing, considered the revised plans, received testimony from 17 speakers and continued the matter to September 26, 2006; and

WHEREAS, on September 26, 2006, the City Council discussed the project and continued the matter to October 10, 2006; and

WHEREAS, on September 29, 2006, the Applicant submitted revised plans to reduce the floor area and to revise the distribution of the Inclusionary Units; and

WHEREAS, on October 10, 2006, the City Council discussed the applicant's October 10, 2006 letter regarding California Government Code Section 65589.5; and

WHEREAS, the applicant's October 10, 2006 letter was later withdrawn; and

WHEREAS, on October 16, 2006, the City Council reviewed a compromise between the neighbors and the applicant that involved a change in the plans and an offer to fund specific traffic related measures; and

WHEREAS, on October 19, 2006, the applicant submitted revised plans that increased the horizontal separation between the project and the residences to the east, reduced the number of dwellings units from 30 to 27, reduced the gross floor area from 29,665 to 28,655, increased the number of off street parking spaces from 38 to 44-56, decreased the number of Inclusionary units from six to five (or three units plus an in-lieu payment equivalent to two units); and

WHEREAS, on October 24, 2006, the City Council considered the record of the proceedings before the City Council, staff reports and correspondence presented to the City Council, and, in the opinion of this Council, the facts stated in, or ascertainable from this information, warrant approving the subject Use Permit, based on the revised plan submitted on October 19, 2006 and dismissing the appeal; and

WHEREAS, attached hereto are the findings and conditions of approval applicable to this permit (Exhibit A) that are included by reference as though fully incorporated herein; and

WHEREAS, attached hereto is a reduced copy of the approved plan (dated October 19, 2006 and marked as Exhibit B) that is included by reference as though fully incorporated herein; and

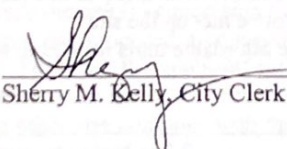
NOW THEREFORE, BE IT RESOLVED the Council of the City of Berkeley hereby approves Use Permit No. 05-1000029 as reflected in the October 19, 2006 design, based on the findings, and subject to the conditions of approval contained in Exhibit A, and dismisses the appeal.

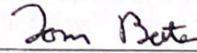
The foregoing Resolution was adopted by the Berkeley City Council on October 24, 2006 by the following vote:

Ayes: Councilmembers Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak and Mayor Bates.

Noes: None.

Absent: None.

Attest: 
Sherry M. Kelly, City Clerk


Tom Bates, Mayor

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 1201 San Pablo at Harrison

From: Dillontree <dillontree@aol.com>
Sent: Wednesday, April 20, 2022 1:08 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: 1201 San Pablo at Harrison

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear ZAB,

April 20, 2022

I, Terrence Dillon, led the fight and created most of the strategy, twice, to stop the cell tower @ St. Ambrose Church, 1145 Gilman Street, in 2006 & 2014. I had the help of my partner, neighbors, the clergy, a consultant, and informed members of ZAB.

Our neighborhood consists of two city blocks bounded by Gilman, Harrison, Stannage, and San Pablo. Please visit us with a walk and see for yourself how unique it is in all of Berkeley. It is not particularly unique because of the houses or even the residents. **It's because it's this island in the northwest corner of R2 with these boundaries.**

I/We, are asking that the following language be included in the permit regarding 1201 San Pablo @ Harrison.

Should at some point in the future, Permit Parking be instituted for these two city blocks, that residents of 1201 San Pablo and any future residents in the 1200 block of San Pablo, be excluded from obtaining parking permits.

In 2006, in response to the first application to build at this address, I walked our neighborhood and did an inventory of the number of homes with no off- street parking, with one spot for off street parking, and the rarity of two off street parking spots. Many lots are only 25' wide with some adjacent homes sharing one spot. Please ask your traffic engineer to review this critical resource. In 2006, I asked the traffic engineer at a public meeting this question and the response was "I did a drive by". You'll be surprised to see how little off- street parking there is.

This is a peaceful neighborhood where many residents know each other. Many residents are retired and many are 60 and over, some with disabilities. Allowing anyone who wants to park here, including present and future employees from the San Pablo area will create conflict for sure.

The popular theory that the City Council, ZAB, and regional planners espouse is that fewer people want cars. That we need to densify and build along transit corridors. And we now know that more people are working from home. As such, residents of 1201 San Pablo won't need more off-street parking.

This means you should have absolutely no hesitation in restricting future off-street parking in our neighborhood to future residents of 1201 San Pablo Avenue as well as future resident and employees from the 1200 block of San Pablo.

Respectfully submitted,

Terrence Dillon

1223 Stannage Ave.

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 1201 San Pablo at Harrison

From: ljsikorski@aol.com <ljsikorski@aol.com>
Sent: Wednesday, April 20, 2022 1:25 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: 1201 San Pablo at Harrison

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Members of ZAB,

The proposed project at 1201 San Pablo is not an appropriate building for our neighborhood. The 1200 block of Kains and Stannage is a cohesive neighborhood that already bares the brunt of Albany and Berkeley residents speeding, as they try to avoid the traffic backups on San Pablo and Gilman. Besides traffic issues, this proposed building backs directly up to single family houses, causing loss of property values, lack of sun, increased noise etc.

Many children reside on Kains (about 20) and Stannage has at least 9 houses in our short block of retired seniors.

Are ZAB, City Council, the Mayor and the Planning and Legal Depts. willing to stand up for the citizens of Berkeley against a foreign investor (I believe the owner is from China)? Are you willing to fight back against a series of "one size fits all" state laws related to housing, when these laws are not appropriate for all cities and neighborhoods in the state

We can all agree that there is a housing and homeless crisis. **As a taxpayer and activist for 35 years, I can only hope that my representatives in Berkeley city government have the courage to do the right thing for our neighborhood and work for appropriate developments that do not impact negatively on the neighborhoods of Berkeley.**

Respectfully,

Linda Sikorski,

Berkeley Voter, Home Owner and Tax Payer

1223 Stannage Ave.

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Comments About San Pablo Development

From: Joshua Greene <joshgreene@gmail.com>
Sent: Wednesday, April 20, 2022 3:15 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: Comments About San Pablo Development

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello,

I live on the 1200 block of Kains Avenue in Berkeley.

I am writing to voice my concerns about the proposed multi-story, multi-unit development slated for the east side of San Pablo at the corner of Harrison.

I think that adding housing density is really important for Berkeley and the Bay Area at large. I am concerned that some of the measures may be short sighted in terms of the impact on the neighborhood. I realize that the theories are well intended, particularly the notion that a paucity of parking spaces will lead to less cars, but from what I gather, there has been wildly inadequate research into whether this actually is what happens. I lived in San Francisco for 20 years and never had a parking space. It was horrendous to find parking and yet that didn't deter me from owning a car.

I also have deep concerns regarding the traffic that will result on Kains and the surrounding streets. There are many families with young children and the uptick in cars and people is likely to lead to less safe streets.

I applaud the notion of more housing and at the same time I hope that greater attention will be given to the impact it may have on those of us already living in this neighborhood.

-

Josh

--

Josh

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 1201-1205 San Pablo Proposed Building - ZAB mtg 4/28/22

From: Deirdre O'Regan <dedeoregan@gmail.com>
Sent: Wednesday, April 20, 2022 4:00 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: 1201-1205 San Pablo Proposed Building - ZAB mtg 4/28/22

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Zoning Board Members:

We, the Kains-Stannage neighborhood group, understand that the city's hands *may* be tied when it comes to substantially reducing the size of this project, but the neighborhood is giving up *great deal* if this project gets approved: what is the city of Berkeley giving up?? We, therefore, request that you use your power and funds to help soften the blow in other ways. Below are some ideas that we would like to discuss with you.

1. Mitigate the parking and traffic issues that will result from this project. This is both a *safety* and congestion issue
 - a) install parking barriers, install speed bumps
 - b) grant 24/7 parking permits for existing residents
 - c) partner with Zipcar or some other company that can supply carsharing memberships to the new tenants.
 - d) require the developer to include the full 0.5 parking spaces – which would be 33 spaces for this building.
2. Work with the developer to plant a row of LARGE (24" – 48" boxes) trees along the east and south fenceline to help, in the smallest way, with the increased noise and loss of privacy that the adjacent neighbors will suffer.
3. Compensate the neighbors that live on Kains and Harrison who will be directly affected by this building. The project will materially reduce the value of their home which, for many, is their main asset. This is no small thing.

Thank you,
Deirdre O'Regan
1134 Stannage Ave

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 1201 San Pablo project

From: Ajith Mascarenhas <ajmasci@gmail.com>
Sent: Wednesday, April 20, 2022 4:05 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Cc: Roshni Kasad <roshnikasad@gmail.com>
Subject: Re: 1201 San Pablo project

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello,

We own our home at 1235 Stannage Ave, Berkeley, CA 94706. Along with several of our neighbors, we will be adversely impacted by the project on 1201 San Pablo Ave, and want to register our concerns with the City's Zoning and Planning Board.

It is our understanding that this project of about 60+ units has only 17 parking spots. As it is our street, Stannage Ave, is not wide enough to let 2 cars pass easily. Because Stannage has no speed bumps, many drivers speed down our street to avoid traffic on San Pablo. Adding 60+ new car drivers without adequate parking will no doubt lead to parking contention on Stannage and Kains, and dangerous conditions for our kids' safety due to increased traffic flow. Our little boy of 5 often plays with his neighborhood buddies outside.

We insist that the Zoning Board and the City of Berkeley address these concerns by adopting some or all of the following measures:

1. Block off Harrison street so residents of 1201 San Pablo cannot turn right from their parking garage and have to turn left to use San Pablo Ave.
2. Add a traffic light at Harrison and San Pablo to mitigate any dangerous conditions due to unprotected left turns onto San Pablo from Harrison.
3. Enforce Harrison, Kains, and Stannage street parking to be 2 hour max, or cars to require parking permits (as done near Downtown Berkeley). Only residents of Kains, Harrison, and Stannage can obtain these permits.

Sincerely,
Ajith Mascarenhas
Roshni Kasad
1235 Stannage Ave,
Berkeley, CA 94706

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 1201 San Pablo Project
Attachments: ZAB_4_20_2022.docx

-----Original Message-----

From: Jean Molesky-Poz <moleskypoz@icloud.com>
Sent: Wednesday, April 20, 2022 4:19 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: 1201 San Pablo Project

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For ZAB members for 1201 San Pablo Project.
Thank you for circulating this.

Jean Molesky-Poz
1220 Stannage Avenue
Berkeley, CA. 94706

To: Berkeley Adjustments Board

From: Jean Molesky-Poz, Ph.D. (home owner for 32 years)
1220 Stannage Avenue, Berkeley

Re: Proposed 1201-1205 San Pablo Project

April 20, 2022

We are a well-functioning, inclusive neighborhood of families and children, and do want development on the designated property. But we have concerns and questions — about the project, the process, and the project's interface with the neighborhood, that is consider the context.

- 1) As neighbors we are not opposed to development, but want to work with all parties to again come up with a reasonable plan for all. For a history of our involvement in a former proposal, refer to my email sent to the Design and Review Committee, March 28, 2022.
- 2) The City of Berkeley strongly encourages owners to meet with neighbors, one-on-one or in a gathering to present plans and try to identify and resolve issues. **For Projects of Community Interest – Community Meeting Required**, updated January 2020, reads: “For any project of Community or Neighborhood interest, the applicant is required to contact all property owners, residents, and neighborhood organizations within 300 feet of the project site to advise them of the proposed development.” Neighbors have not been contacted.
- 3) While we understand that there are new State regulations, the City of Berkeley can also decide to consider the pragmatic impact of this proposed structure for the livability of all concerned. It seems a four-story building on San Pablo, stepped back two two-stories to the East is more reasonable for neighbors – loss of sunlight, privacy. A question that no one seems to be able to answer is how is the base case is calculated or determined. Please clarify at the upcoming meeting.
- 4) The lack of adequate parking spaces in the building will aggravate and worsen the already complicated parking problems, particularly on Harrison, Kains, and Stannage Avenues.
 - a. Parking: The proposed plan recommends 17 to 28 parking spots for 66 units. The argument might be that City of Berkeley wants people to take public transportation and/or ride a bike. But tenants who can afford these units will have a car, or two. That means there could be up to 40 - 80 additional cars will need to be parked in the neighborhood. Many of us share a driveway with a neighbor and some of the driveways have such a deep grade that owners cannot park their car in their garage – both issues which mean we must park on the street by nature of the design. Visit our neighborhood any time, and see the parking density. We cannot sustain 40 cars or more. Some neighbors are elderly. If they come home at night, and cannot park near their homes, it will not be safe for them to have to park their car blocks away, then walk to their homes.

Note that the Berkeley Residential Parking Capacity Study (2019) was done with half of the sites surrounded by commercial buildings and surrounding the UC Campus, and ALL of the sites within 1/2 mile, and 17 sites within 1/4 mile of BART or Transbay buses. The five furthest from the UC Campus have parking needs of between 0.5 to (greater than 1) car per unit. Refer to the email of Margaret Pritt, 1231 Kains (sent April 20, 2022) for summary of information in the study.

- b. Traffic patterns (density and speed): San Pablo is a transit corridor, but Kains and Stannage Avenues are not, and are not designed to be so. But residents of the proposed building will have no alternative but to take these routes.

There is no thoroughfare going east on Harrison; it is almost impossible to turn left onto San Pablo going west, meaning all the traffic will be going up Kains (speed bumps) or Stannage. Streets are narrow, making passing two-way traffic difficult when cars are parked. Our neighborhood has young families, Kains has about 20 children and grandchildren; Stannage has 12 children. Traffic flow needs to be addressed.

- c. You might say “our hands are tied” because of State mandates, but it is urgent -- reasonable and responsible -- that you consider the pragmatic and public safety consequences resulting from SB330 and lack of realistic on-site parking resulting from the city code changes. While a **Draft Memorandum (Fehr, July 2, 2021)** was done on the 1202 San Pablo Project, focusing for the most part on traffic patterns, it does not address the parking issues . . . it is unrealistic, unreasonable, to think that people who live this far will all be walking to BART; and while Berkeley has some very fit senior bikers, many of those residents past age 75 will not be wanting to jump onto one of those 64 bicycles in the long-term bike room. As I said earlier, those who can afford to rent here, will have a car – which needs to be parked and 17 or 28 spaces are not adequate.

In sum, it is not just about the Transit Corridor, but about the wider environment, the ecosystem that needs to be considered. Earlier, when addressing issues of rivers, the definition of a river was an isolated feature, the flowing body of water and its banks; but scientists and environmentalists tell us that it is more. It is also a highly complex, dynamic environment --- one that sustains creek side habitat and ecosystem processes, and extends to all the living in that habitat. The City of Berkeley ought to consider not just the transit corridor, but the wider ecosystem and its impact now and into the future.

- 5) There are many other issues I could take up, particularly as it impacts the neighbors on Kains, but they will bring these forward both in emails and at the upcoming meeting (if this project is one the agenda).
 - a. Yet lest these be lost, I have two smaller concerns. The City requires some sort of sound mechanism when a car goes in and out of the parking garage, surely as a warning, a safety measure. But how will that impact the neighbors right next door, across the street?
 - b. While we've met several times as neighbors (25-30 in attendance), one issue we have not brought forward is the five-foot space between the proposed structure and the fence – where tall trees will be planted and rise for privacy and aesthetics. How will that be protected as a “safe space” – and who will care for the trees?
- 6) We are grateful that Rashi Kesarwani of District One, and Legislative Aide, Beth Gerstein, visited our neighborhood and the proposed site, listened to our concerns on Monday, April 19, 2022. At that meeting I believe they understood that our concerns for public safety are critical and primary to us as residents and homeowners.

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 1201 San Pablo Development

From: dan.hayes@yahoo.com <dan.hayes@yahoo.com>
Sent: Wednesday, April 20, 2022 5:02 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: 1201 San Pablo Development

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear ZAB Members,

In the push for more housing the impact on the existing neighborhoods has been largely ignored. In an era when city meetings are all conducted via Zoom, the requirement for a developer to meet with the neighbors they are going to build next to becomes a post card mailed by the city. As a result the developer has ignored all attempts to have any contact.

The 1201 San Pablo project is going to hurt two groups of people in our neighborhood, those that abut the property and those in the wider neighborhood.

The first group will only have 5 feet between their property lines and a 14 foot wall that quickly steps up to 44 feet, bringing less sunlight, less privacy and more noise(especially during construction). Our neighbor Yvette will be especially hard hit during construction.

The effects of two sets of law/code changes are going to slam the wider neighborhood. The density resulting from SB330 and the lack of realistic on-site parking resulting from the city code changes will combine to push a ton of new cars into our parking ecosystem. Both of these changes are blunt tools that lack the ability to be "one size fits all". The parking needs for every Berkeley neighborhood are not the same, even the parking study commissioned during the planning of the code change shows differences in the need for on-site parking in different parts of the city. We are not the same as the neighborhood around UC Berkeley or Downtown.

And all of this does not exist in a vacuum. A 104 unit development is approved for 1200 San Pablo and we have heard that an even larger one is planned for the corner of San Pablo and Gilman. There is a limit to how much a neighborhood like ours can take.

Thank You
Dan Hayes
1116 Harrison St

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 1201-1205 San Pablo Avenue
Attachments: Yvette Bozzini 1201-1205 San Pablo.docx

-----Original Message-----

From: Yvette Bozzini <ybozzini@earthlink.net>
Sent: Tuesday, April 19, 2022 12:01 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: 1201-1205 San Pablo Avenue

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Please find attached my comments for the April 28, 2022 ZAB meeting.

As the most affected neighbor to the project, I respectfully ask for priority placement in the comments sent to the Board.

Gratefully,
Yvette Bozzini
1110 Harrison Street
Berkeley, CA 94706
510.219.5126

I am the homeowner directly adjacent the project. I live in – and work from – a 650 sq foot, three-room home. My bedroom and living room / office windows are **12 feet / 4 yards from the project.**



I will lose most natural light and privacy in my home and yard if the project goes through as proposed, and probably deal with noise issues – 66+ neighbors (plus their cars) are much different than a handful of neighbors.

I am not a NIMBY, nor are my neighbors. We are YIMBY but we want something site- and **existing** - neighborhood appropriate.

I doubt this is what Nancy Skinner had in mind with her high-density housing legislation. There are unintended consequences to the most well-meaning bills. **There are only 5 low-income units in this project.**

“High-density” might be the phrase of the day but it will not be forever. These developments up and down San Pablo...with all due respect for the hard work of the architects involved are all similar in style and effect. They may be in vogue now but in a few years will not be and yet the affected neighborhoods are FOREVER changed.

The pockets of landowners / developers, architects, and the City will be enriched but what of the existing neighbors? Some have invested in solar panels that will now be virtually useless. Many will have the value of their homes negatively impacted by loss of light and privacy, traffic and noise issues. Our homes are our primary financial assets. **Does this not matter at all?** Oops, unintended consequence but not fair.

Yes, something, rather than empty lot, may be a boon for the neighborhood in some ways but **who would want to buy my home given the lack of light and privacy, and the noise and traffic from the project? And what recourse to reparations do I have for this very real loss?**

We neighbors keep being told that everyone’s hands are tied by the new existing laws. Someone needs to grow a spine. Someone needs to untie their hands.

Mine is not a blighted community desperately in need of renovation. We are families and neighbors and a community that would welcome site-appropriate housing and new neighbors – of whatever income level. Again, we are not NIMBYS.

Please also consider:

INSTRUCTIONS REGARDING COMMUNITY OUTREACH

Last Updated January 2020

For all projects:

Early in the design process, the City strongly encourages owners to meet with their neighbors, whenever possible, to present plans and try to identify and resolve issues

of concern. Applicants can meet with neighbors one-on-one or at a gathering; whichever seems more appropriate to them. Projects in a Residential (R) District require contact between the subject property owner and the abutting and confronting property owners and tenants (See Figure 2). Projects of Community or Neighborhood Interest¹ require a meeting with owners, residents, and community groups within 300 feet of the project (See page 2).

None of us have been contacted or met with.

For any project in a Residential (R) District:

Once an applicant is ready to submit the application, he/she should request their neighbors' signatures **ON THE SITE PLAN DRAWING**, following the instructions below (See Figure 1). These signatures tell the City that the applicant has informed their neighbors of the proposed project – it in no way implies that a neighbor “approves” of a project. The signatures do not ensure approval or denial of a project; rather they confirm the applicant has fulfilled the Zoning Project submittal requirement to contact their neighbors before submitting an application. Signatures must be gathered from owners **AND** occupants of a property. If after more than one attempt to contact them in person, the owner is not able to contact a neighbor

I guess we are deemed a “Commercial District” but be real. Residences about this property and again, none of us have been contacted.

For projects of Community Interest – Community Meeting Required

For any project of Community or Neighborhood interest, the applicant is required to contact all property owners, residents, and neighborhood organizations within 300 feet of the project site to advise them of the proposed development.

For months now there has been an EBMUD way station at 1201. I presume the landowner is being paid for this use of the land. Again, my bedroom and living room windows are 12 feet from this noise, heavy trucks, and dust from 7 in the morning until 5 at night. As far as I can tell, no City permit has been pulled for this. **Why?**

In the past, when the lot has been used for anything, I have received a notice from the City telling me the parameters of the permit – how long, what time, how much light and noise allowed. **Why not now?**

In addition to the detrimental effects of the proposed project for all of my neighbors, I stand to incur damage during its construction.

When the land has been leased out to big trucks my walls literally shake. My foundation has been affected and cracks in my driveway appeared. My ability to do my writing work, of course impaired.

Design Review members commented on this and deemed it a matter of “tort law.” I would prefer not to have to wait for damage to occur and then engage an attorney for “tort law.”

I can only conclude that the developer is a bad faith bad actor with no ties to – or interest in – the community, just money.

Finally, “High-Density” may be the phrase of the day but **what happened to “Green?”** Early on in the project I wrote, “Berkeley should be the epicenter of ecologically and environmentally sound tiny home communities that serve low-income renters, the elderly wanting to down-size out of their homes, and anyone seeking a smaller footprint.

Why not use at least some plots of land – esp. those in existing residential neighborhoods --to do that? Many don't want to live in high-rise boxes. Detached tiny homes -- with all current solar, etc. -- and, perhaps, small communal areas for gardening and such, would be so much more in keeping with the Berkeley ethic AND be much more equitable and environmentally sound than what is being proposed. Pie-in-the-sky perhaps and, oh yeah, not as much money in that for the developer.

I was only able to purchase my small home because of an inheritance from my mail carrier father and 6th grade-educated Italian immigrant mother. I did not deserve it but it is what I have now financially in this world as I approach retirement.

All of us have much better things to be doing for the next 3 hours.
Can you help us ameliorate this nonsense or not?

I apologize for being so long-winded, and much appreciate your attention, but fighting this is an existential issue for me and I will not shut up.

Yvette Bozzini
1110 Harrison Street
Berkeley, CA 94706
510.219.5126

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Comments regarding 1201-1205 San Pablo Avenue, Use Permit #ZP2021-0070

-----Original Message-----

From: Lucia Varela <varela.lg@gmail.com>
Sent: Monday, April 18, 2022 9:09 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: Comments regarding 1201-1205 San Pablo Avenue, Use Permit #ZP2021-0070

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ZAB,

Having only 17 to 28 parking spaces for a building of 66 units plus commercial space will exacerbate the parking problem we already have in Kains Avenue. Even if the city grants the neighborhood 'Permit Required' for parking in Kains, the addition overflow will clog this narrow street. Parking spaces should be commensurate with the number of units.

Sincerely,

Lucia Varela-Bulger
Paul Bulger
1223 Kains Avenue
Berkeley, CA