



Office of the City Manager

PUBLIC HEARING

June 1, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Jordan Klein, Director, Planning & Development Department  
 Subject: ZAB Appeal: 2421 Fifth Street, Use Permit #ZP2020-0043

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision and approving Use Permit #ZP2020-0043 to demolish a single-family dwelling and construct two residential buildings: a three-story triplex and a three-story single-family dwelling, for a total of four new dwellings, and dismiss the appeal.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On May 22, 2020, Amber Baker of Gunkel Architecture submitted an application on behalf of the property owner, Properties 180, LLC for Use Permit #ZP2020-0043 to demolish a single-family dwelling and construct a three-story triplex and a three-story single-family dwelling, for a total of four new dwellings.

On January 28, 2021, the ZAB conducted a public hearing for the use permit application. After hearing public comments and holding discussion, the ZAB approved the use permit by a vote of 7-0-1-0-1 (Yes: Clarke, Kahn, Kim, Olson, Pinkston, Selawsky, Tregub; No: None; Abstain: O'Keefe; Absent: None; Recused: Gaffney).

On February 9, 2021, staff issued the ZAB Notice of Decision.

On February 23, 2021, Sonja Kassuba, the neighbor and owner of 2413 Fifth Street, Unit C, immediately north of the project site, filed an appeal of the ZAB decision with the City Clerk.

On May 18, 2021, staff posted the public hearing notice at the site and three nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area.

The Council must conduct a public hearing to resolve the appeal.

## BACKGROUND

On March 16, 2020, by order of the Berkeley Health Officer, the City was placed under an emergency shelter-in-place, which restricted public activities and gatherings. Shortly after the order was issued, the Land Use Division instituted temporary waivers of the standard application submittal requirements for Pre-Application Neighborhood Outreach and the Pre-Application Yellow Poster for all new land use permit applications. In lieu of these requirements during the emergency health order period, for Use Permit with Public Hearing applications, staff mails a Notice of Received Application postcard to all residents within 300 feet of the site, and installs posters at locations near the site. The postcards have the address, project description, links to online application materials, and contact information for the applicant and the staff project planner. This permit application was submitted in May 2020, and Notices of Received Application were mailed and posted on June 11, 2020.

The project site is located in the MU-R, Mixed Use-Residential District, in a neighborhood that consists of warehouses, offices, live/work, and single-family and multiple-family dwellings. Parcels in the immediate neighborhood are primarily developed with one- and two-story buildings, with three-story, live/work developments immediately adjacent and north of the site and southeast of the site across Fifth Street. The appellant resides in the southmost live/work unit on the parcel to the north abutting the site.

Although the project proposes a different site impact than the existing, vacant, single-family dwelling on the site that would be demolished – increased Floor Area Ratio, density, height, lot coverage, and parking, and reduced setbacks and usable open space – the project would be compliant with all development standards, and would also meet non-detriment findings for the requested use permits. In addition, staff level Design Review was conducted for the project and concluded with a favorable recommendation to the ZAB.

For additional project background and analysis, please see Attachment 3, the ZAB staff report for this project.

## ENVIRONMENTAL SUSTAINABILITY

The proposed project is in compliance with all state and local environmental requirements.

## RATIONALE FOR RECOMMENDATION

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

Issue 1:           The appellant asserts that there was not adequate opportunity to discuss the project, concerns and privacy impacts.

Response 1: As mentioned in the Background section, postcard notices and posters were sent and posted near the site in early June, 2020. The ZAB public hearing for the project did not occur until late January, 2021, giving the public a period of nearly eight months to raise concerns or initiate conversation about the proposed project. No public comments or concerns were received by staff or the applicant until January 22 and 25, 2021, during the week before the ZAB hearing. One of the letters was from the appellant, expressing concerns over privacy, screening and solar access. The other letter discussed concerns over permit streamlining and was not related to physical impact from the project. The concerned neighbors spoke at the ZAB public hearing, and the appellant was amongst those who initiated a discussion of their concerns before the ZAB, which considered those concerns as part of its deliberations.

Issue 2: The appellant states that privacy issues between Units 3 and 4 of the proposal at 2421 Fifth Street and their Unit C at 2413 Fifth Street remain unaddressed.

Response 2: The appellant raised the issue of privacy concerns at the January 28, 2021 ZAB public hearing. The ZAB discussed the privacy issue at length, including ideas on how to mitigate the impact from the project. The ZAB added and approved Condition of Approval #11 to the permit to address the appellant's privacy concerns:

*11. Privacy Screening. The applicant shall submit plans for building permits that include translucent glass in the second and third floor window openings on the north elevation of Unit 3, and screening material (not solid) in the north balcony opening of Unit 4.*

Since the appeal letter was submitted, the applicant team has met with the appellant several times to negotiate further revisions to the project to further lessen potential impact on the appellant's privacy. As of the writing of this report, staff was informed that an agreement between the applicant and appellant upon specific project revisions for privacy impact mitigation was being finalized.

#### ALTERNATIVE ACTIONS CONSIDERED

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

#### Action Deadline:

Pursuant to BMC Section 23B.32.060.G, if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council

(not including Council recess), then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

CONTACT PERSONS

Jordan Klein, Director, Planning & Development Department, (510) 981-7534  
Steven Buckley, Land Use Planning Manager, (510) 981-7411  
Sharon Gong, Project Planner, (510) 981-7429

Attachments:

1. Draft Resolution
  - Exhibit A: Findings and Conditions
  - Exhibit B: Project Plans, received November 4, 2020
2. Appeal Letter, postmarked February 23, 2021
3. January 28, 2021 ZAB Hearing Staff Report
4. Index to Administrative Record
5. Administrative Record
6. Public Hearing Notice



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

AFFIRMING THE ZONING ADJUSTMENTS BOARD DECISION AND APPROVING USE PERMIT #ZP2020-0043 TO DEMOLISH A SINGLE-FAMILY DWELLING AND CONSTRUCT TWO RESIDENTIAL BUILDINGS: A THREE-STORY TRIPLEX AND A THREE-STORY SINGLE-FAMILY DWELLING, FOR A TOTAL OF FOUR NEW DWELLINGS, AND DISMISSING THE APPEAL.

WHEREAS, on May 22, 2020, Amber Baker of Gunkel Architecture (“applicant”) submitted an application on behalf of the property owner, Properties 180, LLC for Use Permit #ZP2020-0043 to demolish a single-family dwelling and construct a three-story triplex and a three-story single-family dwelling, for a total of four new dwellings (“project”); and

WHEREAS, on December 4, 2020, staff deemed this application complete and determined that the project is categorically exempt from the California Environmental Quality Act (“CEQA”) under Section 15303 of the CEQA Guidelines (“New Construction or Conversion of Small Structures”); and

WHEREAS, on January 14, 2021, staff mailed and posted a Notice of Public Hearing for the project in accordance with BMC Section 23B.32.020; and

WHEREAS, on January 28, 2021, the staff level design review appeal period expired, and the ZAB held a public hearing in accordance with BMC Section 23B.32.030, and approved the project; and

WHEREAS, on February 9, 2021, staff issued the notice of the ZAB decision; and

WHEREAS, on February 23, 2021, Sonja Kassuba, the neighbor and owner of 2413 Fifth Street, Unit C, filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on or before May 18, 2021, staff mailed and posted a Notice of Public Hearing for the project in accordance with BMC Section 23B.32.020; and

WHEREAS, on June 1, 2021, the Council held a public hearing to consider the ZAB’s decision, and in the opinion of this Council, the facts stated in, or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Council hereby adopts the findings made by the ZAB in Exhibit A to affirm the decision of the ZAB and to approve Use Permit #ZP2020-0043, adopts the conditions of approval in Exhibit A, adopts the project plans in Exhibit B, and dismisses the appeal.

Exhibits

A: Findings and Conditions

B: Project Plans, received November 4, 2020

## ATTACHMENT 1, EXHIBIT A

## FINDINGS AND CONDITIONS

JUNE 1, 2021

**2421 Fifth Street**

**Use Permit #ZP2020-0043 to demolish a single-family dwelling and construct two residential buildings: a three-story triplex and a three-story single-family dwelling, for a total of four new dwellings. This residential project abuts manufacturing uses.**

**PERMITS REQUIRED**

- Use Permit under BMC §23C.08.010.B to demolish a dwelling unit;
- Administrative Use Permit under §BMC 23E.84.030 to construct one to four dwelling units; and
- Use Permit under BMC §23E.84.060.G to establish a dwelling unit within 150 feet of a property containing a construction product manufacturing or primary production manufacturing use.

**I. CEQA FINDINGS**

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15303 (“New Construction or Conversion of Small Structures”) of the CEQA Guidelines.
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. FINDINGS FOR APPROVAL**

1. As required by Section 23B.32.040.A of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - A. Shadow impact from the project is found not to be substantially detrimental. Although shadow conditions would increase notably for the south-most neighboring dwelling (live/work building at 2413 Fifth Street), with new shadows occurring all day for much of the year, the shadow impacts generally affect living areas on the south side of the building. The two live/work buildings just north of it experience similar shading from the respective building to their south on their own property. The amount of shading from proposed project is expected in the MU-R District, where residential buildings are allowed to up to 35 feet and three stories in height, and side yards can be as little as 10% of the lot width (3'-9" for the subject site);
  - B. The siting of the proposed buildings on the lot satisfy all minimum setback requirements, and would provide adequate air space on all sides. The proposed front building would be approximately 48'-6" from the office/duplex to the north (2415/2417 Fifth Street). The proposed rear building would be 7'-5" from the south-most live/work building to the north

- (2413 Fifth Street), comparable to the typical 8'-0" minimum separation between dwellings in residential districts. The proposed buildings would be 2'-5" from the warehouse to the south and 2'-4" from the warehouse to the east, but no windows are proposed on those façades;
- C. The project would not be substantially detrimental with respect to views. The relatively flat topography of the project site, along with existing one-, two-, and three-story buildings in the vicinity, does not offer significant views as defined in BMC Chapter 23F.04 (Definitions); and
- D. Privacy impacts from the project would be reasonable and not substantially detrimental. The office/duplex to the north (2415/2417 Fifth Street) would not experience significant privacy impacts, due to the ample separation that would be between the buildings and a fence on the north property line. The south-most live/work building to the north (2413 Fifth Street), would experience some privacy impacts, but a combination of sufficient separation between the buildings, and window placement will minimize the impact on this neighbor's privacy.

### III. OTHER FINDINGS FOR APPROVAL

1. The Housing Accountability Act §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 density; 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 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 four dwelling units on a lot that permits four dwelling units in a mixed-use residential district.

2. Government Code Section 66300(d) prohibits the demolition of residential dwelling units unless the project will create at least as many residential units as will be demolished; prohibits the demolition of occupied or vacant protected units, unless replaced according to replacement provisions therein, and does not supersede any local ordinance that reserves greater protections/provisions for lower income households or displaced households. The project proposes replacing one demolished dwelling with four new dwellings; the existing unit is not considered a "protected" unit as defined in §66300(d); and compliance with this section also satisfies the findings to approve the demolition of the dwelling unit under BMC §23C.08.010.B. The dwelling proposed to be demolished is vacant, and is not subject to tenant displacement provisions pursuant to §66300(d).
3. As required by Section 23E.84.090.B of the BMC, the Zoning Adjustments Board must make the following required findings to approve any Use Permit in the district. The proposed use or structure must:

A. *Be compatible with the purposes of the District;*

The project is consistent with the following purposes of the Mixed Use Residential District (MU-R):

- *Implement the West Berkeley Plan's designation of a Mixed Residential District.*
- *Support the continued development of a mixed use District which combines residential, live/work, light industrial, arts and crafts and other compatible uses.*

- *Strengthen residential concentrations which exist within the District.*
- *Support the development of businesses of all types which contribute to the maintenance and improvement of the environment.*
- *Protect residents from unreasonably detrimental effect of nonresidential uses, such as noise, vibration, odors, smoke, fumes, gases, dust, heat and glare, to the extent possible and reasonable within a mixed use West Berkeley context.*

The project would add four new dwellings to neighborhood that has a residential concentration comprised of single-family dwellings, duplexes, live/work buildings, and other multi-family dwellings, and would bring new residents who would be potential patrons in close proximity to local businesses (art/craft studios, retail, professional office, food service).

The project would incorporate measures to screen the new dwellings from the adjacent existing industrial uses to the east and south: eight-foot tall walls with sound absorbent material at the south and east property lines, and acoustic wall construction along the south and east building walls that are directly on the property lines.

- B. *Be consistent with the normal use and operation of surrounding uses and buildings, including residential and industrial buildings;*
- C. *Not be likely, under reasonably foreseeable circumstances, to either induce or contribute to a cumulative change of use in buildings away from residential; live/work; light industrial, or arts and crafts uses; and*
- D. *Be designed in such a manner to be supportive of the character and purposes of the District.*

The proposed four-unit residential project would add to the residential development already in the area, and would reinforce the existing mixed pattern of commercial/industrial/residential development in the neighborhood. The proposed low-medium-density, three-story residential buildings would continue the existing pattern of similar residential development in the vicinity.

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#### IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

**1. Conditions 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. Applicant Responsible for Compliance with Conditions**

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

**3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)**

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

**4. Modification of Permits (Section 23B.56.020)**

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

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

**5. Plans and Representations Become Conditions (Section 23B.56.030)**

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

**6. Subject to All Applicable Laws and Regulations (Section 23B.56.040)**

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

**7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)**

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

**8. Exercise and Lapse of Permits (Section 23B.56.100)**

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

**9. Indemnification Agreement**

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

**V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD**

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

**Prior to Submittal of Any Building Permit:**

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

**Project Liaison** \_\_\_\_\_

Name

Phone #

- 11. Privacy Screening.** The applicant shall submit plans for building permits that include translucent glass in the second and third floor window openings on the north elevation of Unit 3, and screening material (not solid) in the north balcony opening of Unit 4.

- 12. Address Assignment.** The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City's database prior to the applicant's submittal of a building permit application.
- 13. 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 site surface and subsurface drainage improvements, and design parameters for foundations and associated improvements) to ensure that their recommendations have been properly incorporated and to ensure that the project concept has not changed significantly. The geotechnical consultant shall discuss and estimate the anticipated total and differential liquefaction induced settlement magnitude based on the final layout and design of proposed structures, to assist the Structural Engineer in designing a structure that conforms to the presently adopted code requirements. If the consultant concludes that the final pier design will be impacted by groundwater conditions then they should consider providing specific mitigative recommendations of for the contractor to use during construction. The results of the plan review shall 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.

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

- 14. Demolition.** Demolition of the existing building cannot commence until a complete application is submitted for the replacement building. In addition, all plans presented to the City to obtain a permit to allow the demolition are subject to these conditions.
- 15. 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.
- 16. Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
- A. Environmental Site Assessments:
- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 6 months old\*) shall be submitted to TMD for developments for:
    - All new commercial, industrial and mixed use developments and all large improvement projects.
    - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
    - EMA is available online at: [http://www.cityofberkeley.info/uploadedFiles/IT/Level\\_3\\_-\\_General/ema.pdf](http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf)
  - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
  - 3) If the Phase I is over 6 months old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.



**B. Soil and Groundwater Management Plan:**

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

**C. Building Materials Survey:**

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

**D. Hazardous Materials Business Plan:**

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

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

- 17. 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.
- 18. All-Electric or Efficient Mixed-Fuel Construction.** The project shall comply with the Berkeley Energy Code (BMC Chapter 19.36). As such, the building design shall either 1) incorporate all-electric systems (no natural gas or propane plumbing installed within the building) or 2) incorporate mixed-fuel systems and exceed the energy efficiency requirement of the Energy Code by at least 10% or meet a set of prescriptive requirements, with equivalent efficiency savings, in place of these

performance thresholds, and provide electrical panel space, conductors or raceways, and bus bar capacity to support future electrification of any natural gas appliances.

19. 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.
20. 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<sub>o</sub>) for Berkeley is 41.8.
21. 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).
22. 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.
23. Parking for Disabled Persons. Per BMC Section 23E.28.040.D of the Zoning Ordinance, "Notwithstanding any reduction in off-street parking spaces that may be granted for mixed-use projects in non-residential districts listed in Sub-title 23E, the requirement for off-street parking spaces for disabled persons in the project shall be calculated as if there had been no reduction in total parking spaces."

#### **During Construction:**

24. Construction Hours. Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
25. 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.
- 26. Construction and Demolition Diversion.** Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
- 27. 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.
- 28. 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.

- 29. 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.
- 30. 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.
- 31. 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.

- 32. 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.
- 33. 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.
- 34. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
  - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
  - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
  - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review

with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.

- E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
  - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
  - G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
  - H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge of soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
  - I. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
  - J. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 35. Public Works.** All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
- 36. Public Works.** The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
- 37. Public Works.** The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
- 38. Public Works.** Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
- 39. Public Works.** The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.

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

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

- 41. 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 slab-on-grade 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.
- 42. 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.
- 43. 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 **November 4, 2020**, except as modified by conditions of approval.

**At All Times:**

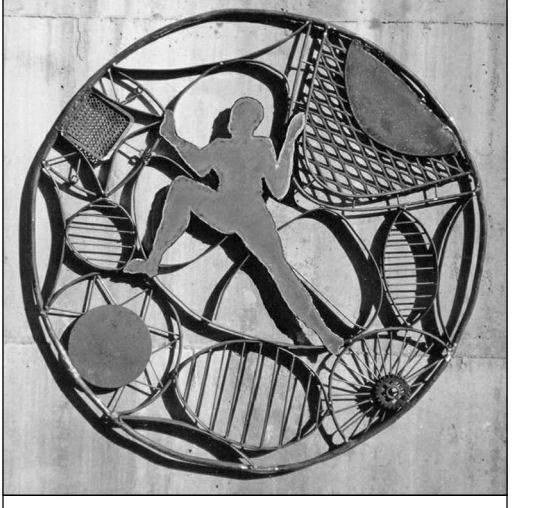
- 44. Exterior Lighting.** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
- 45. Rooftop Projections.** No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.
- 46. Design Review.** Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review approval.
- 47. 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.
- 48. Electrical Meter.** Only one electrical meter fixture may be installed per dwelling unit.
- 49. 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.



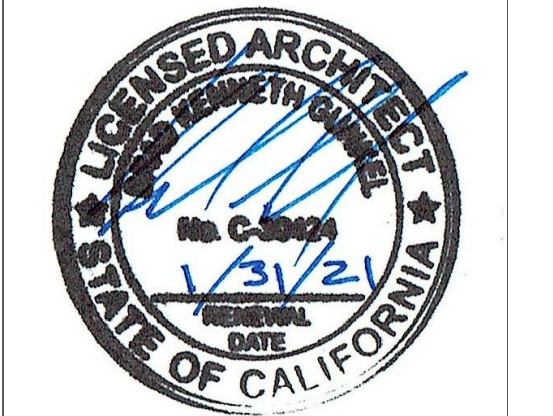


SHEET INDEX

ARCHITECTURAL				
SHEET NUMBER	SHEET NAME	DESIGN REVIEW	REVISION 1	REVISION 2
T0.1	TITLE SHEET	●	●	●
T0.2	GREEN POINT CHECKLIST	●	●	●
T0.3	SHADOW STUDY	●	●	●
T0.4	SHADOW STUDY & RENDER	●	●	●
T0.5	STREET STRIP ELEVATION	●	●	●
T0.6	NEIGHBORHOOD NOTIFICATION MAP	●	●	●
SURVEY				
A0.1	SITE PLAN	●	●	●
A0.2	LANDSCAPE PLAN	●	●	●
A1.0	FIRST FLOOR PLAN	●	●	●
A1.1	SECOND FLOOR PLAN	●	●	●
A1.2	THIRD FLOOR PLAN	●	●	●
A1.3	ROOF PLAN	●	●	●
A2.0	ELEVATIONS	●	●	●
A2.1	ELEVATIONS	●	●	●
A3.0	SECTION	●	●	●
A4.0	WINDOW SCHEDULE	●	●	●



**GUNKEL ARCHITECTURE**  
 2295 SAN PABLO AVENUE  
 BERKELEY CA 94702  
 GUNKELARCHITECTURE.COM  
 PHONE: (510) 984 - 1112



NOT FOR CONSTRUCTION

**MULTIFAMILY DEVELOPMENT**  
 2421 FIFTH STREET, BERKELEY, CA 94710

**DESCRIPTION OF WORK**  
 NEW CONSTRUCTION OF A 4-UNIT RESIDENTIAL CONDOMINIUM BUILDING. EXISTING BUILDING TO BE DEMOLISHED.

**SYMBOLS**

HEIGHT		DETAIL	
SECTION		GRIDLINE	
EXTERIOR ELEVATION		DEMOLITION NOTE	
INTERIOR ELEVATION		IMPROVEMENT NOTE	
ROOM TAG		FINISH NOTE	
WALL TAG		DOOR TAG	
WINDOW TAG			

**PROJECT INFORMATION**

APN: 56-1943-20  
 ZONING: MUR  
 LOT SIZE: 5,100 SF  
 (SEE A0.1 SITE PLAN FOR TABULATION FORM)

PARKING & DRIVE AISLE COORDINATED W/ PETER CHUN ON 1/16/20  
 SITE LAYOUT COORDINATED W/ ANNELISE DOHRER ON 1/29/20

THE PROPOSED PROJECT WILL NOT INCLUDE ANY NATURAL GAS INFRASTRUCTURE IN COMPLIANCE WITH BMC CHAPTER 12.80.

THE PROPOSED PROJECT IS DESIGNED TO COMPLY WITH THE BERKELEY ENERGY CODE (BMC CHAPTER 19.36) AND BERKELEY GREEN CODE (BMC CHAPTER 19.37), ADOPTED BY CITY COUNCIL ON DECEMBER 3RD, 2019. THIS PROJECT INCLUDES A SOLAR PV SYSTEM, ELECTRIC VEHICLE CHARGING, AND LOW-CARBON CONCRETE REQUIREMENTS. BUILDING IS TO HAVE ALL-ELECTRIC SYSTEMS.

**CODE COMPLIANCE**

2019 CALIFORNIA BUILDING CODE (INCORPORATES BY ADOPTION AND REPRINTS THE 2018 INTERNATIONAL BUILDING CODE WITH CALIFORNIA AMENDMENTS. PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, ICC)

2019 CALIFORNIA RESIDENTIAL CODE - APPLIES TO ONE AND TWO FAMILY HOUSES AND TOWNHOMES LESS THAN 3 STORIES IN HEIGHT. (INCORPORATES BY ADOPTION AND REPRINTS THE 2018 INTERNATIONAL RESIDENTIAL CODE)

2019 CALIFORNIA ENERGY CODE - CHECK THE CALIFORNIA ENERGY COMMISSION'S WEBSITE AT [HTTP://WWW.ENERGY.CA.GOV](http://www.energy.ca.gov) FOR A DOWNLOADABLE VERSION. (PUBLISHED BY ICC).

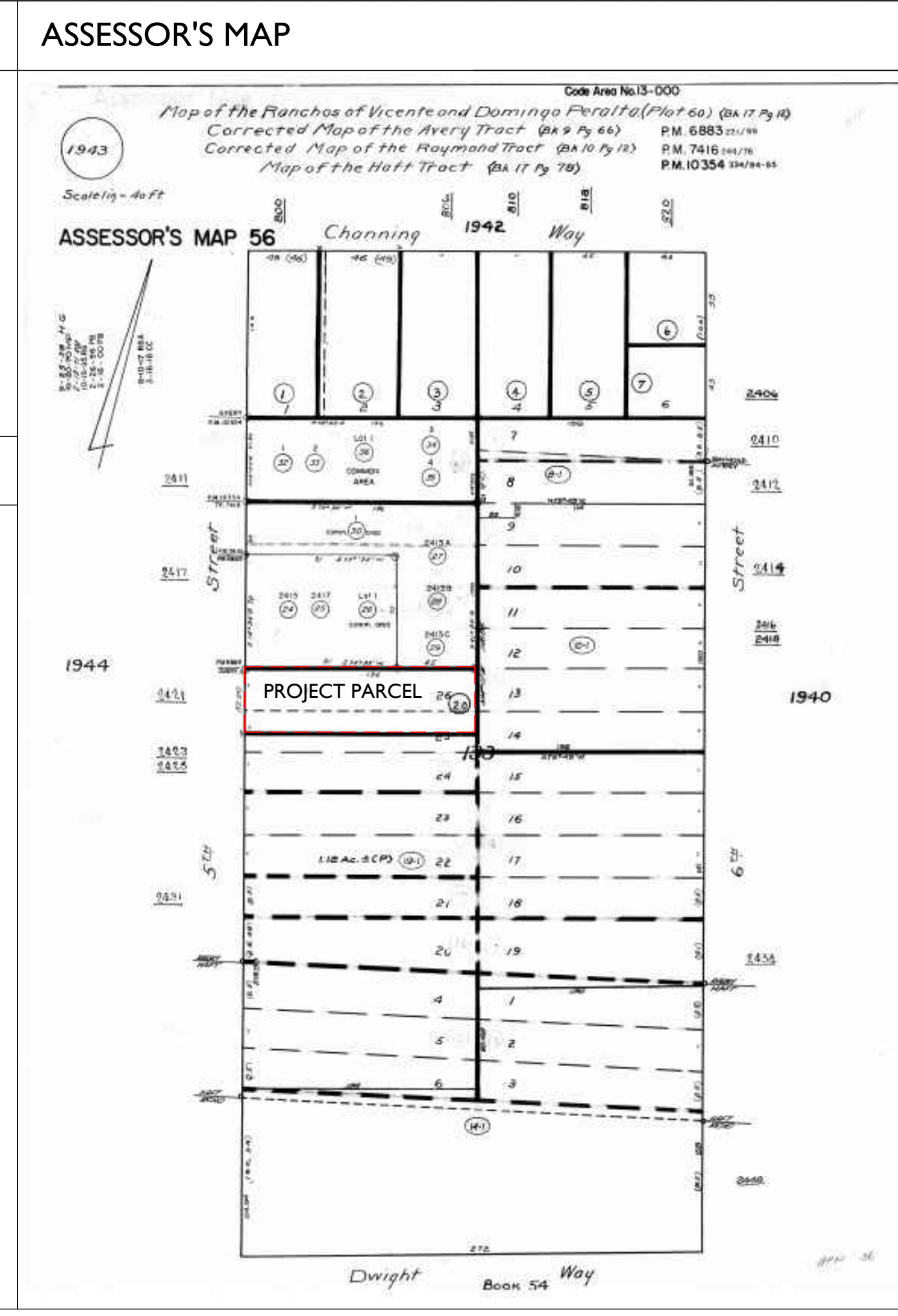
2019 CALIFORNIA ELECTRICAL CODE (INCORPORATES BY ADOPTION AND REPRINTS THE 2017 NATIONAL ELECTRICAL CODE WITH CALIFORNIA AMENDMENTS. PUBLISHED BY THE NATIONAL FIRE PROTECTION AGENCY, NFPA)

2019 CALIFORNIA PLUMBING CODE (INCORPORATES BY ADOPTION AND REPRINTS THE 2018 UNIFORM PLUMBING CODE WITH CALIFORNIA AMENDMENTS. PUBLISHED BY THE INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL OFFICIALS, IAPMO)

2019 CALIFORNIA MECHANICAL CODE (INCORPORATES BY ADOPTION AND REPRINTS THE 2018 UNIFORM MECHANICAL CODE WITH CALIFORNIA AMENDMENTS. PUBLISHED BY THE INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL OFFICIALS, IAPMO)

2019 CALIFORNIA FIRE CODE (INCORPORATES BY ADOPTION AND REPRINTS THE 2018 INTERNATIONAL FIRE CODE WITH CALIFORNIA AMENDMENTS. PUBLISHED BY ICC)

2019 CALGREEN CODE - APPLIES TO CERTAIN NEW BUILDINGS ONLY - ALL NEW RESIDENTIAL BUILDINGS 3 STORIES OR LESS AND ALL NEW NON-RESIDENTIAL BUILDINGS. HERS VERIFICATION REQUIRED BY T-24 ENERGY REPORT.

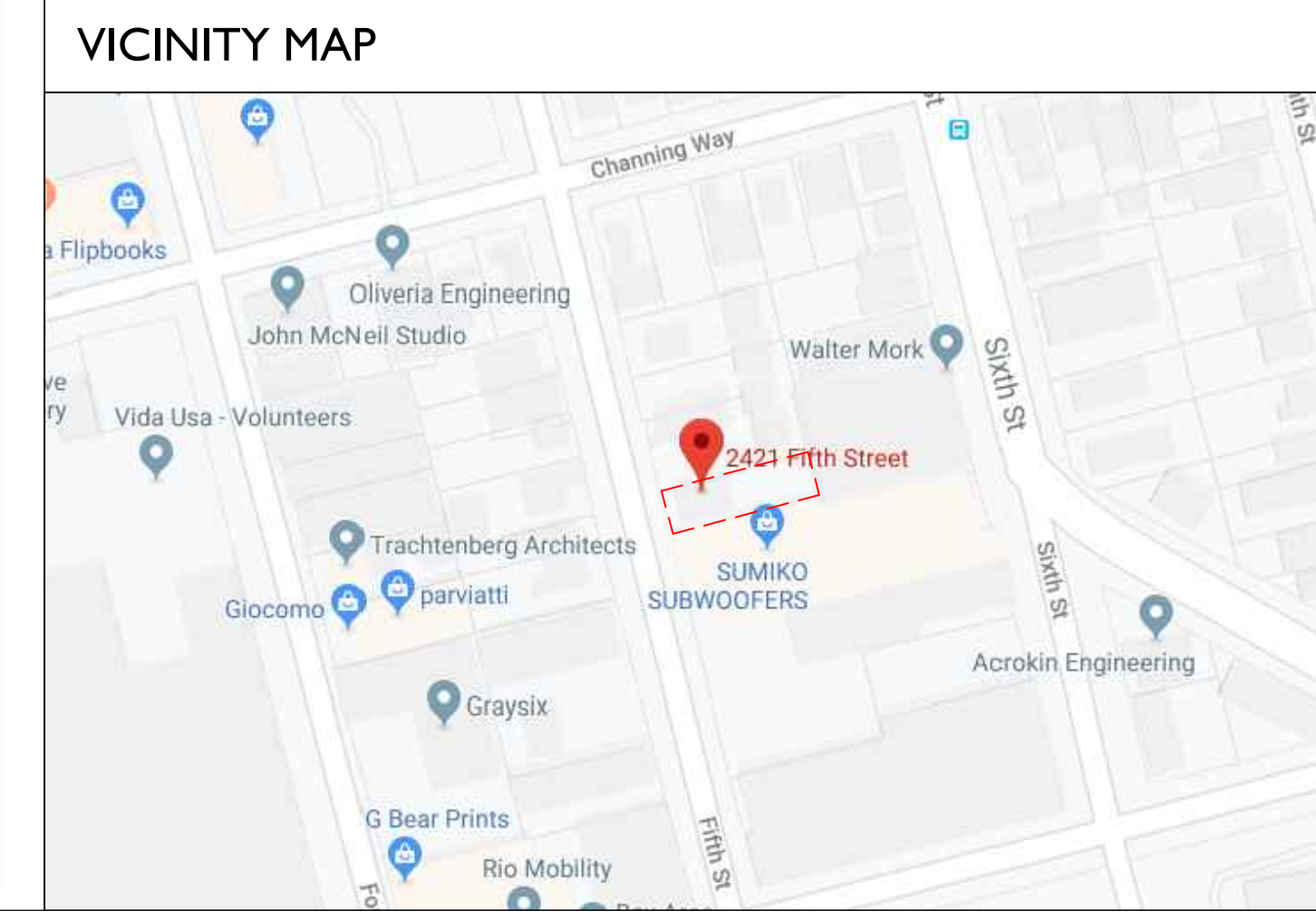


**PROJECT TEAM**

**OWNER**  
 PROPERTIES 180 LLC  
 (209)774-9045

**ARCHITECT**  
 GUNKEL ARCHITECTURE  
 2295 SAN PABLO AVENUE  
 BERKELEY, CA, 94702  
 (510) 984-1112

**GREEN POINT RATER**  
 LISA SWEET  
 SWEET SUSTAINABLE SOLUTIONS  
 SWEET203K@GMAIL.COM



**MULTIFAMILY DEVELOPMENT**  
 2421 FIFTH STREET  
 BERKELEY, CA 94710

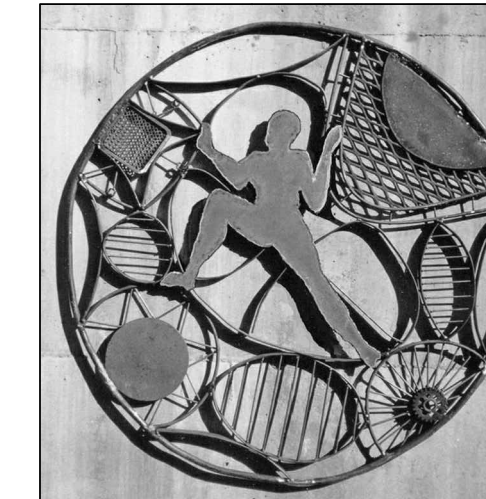
TITLE SHEET

DESIGN REVIEW

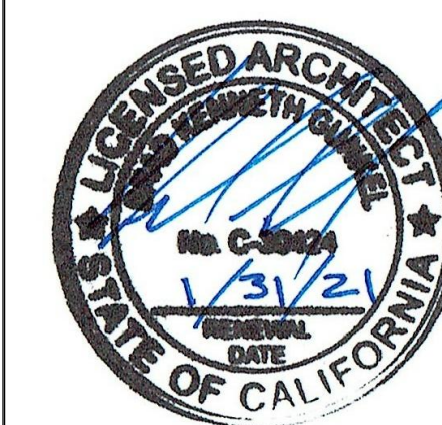
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	REVISION 2 : 9/18/20
	REVISION 3 : 11/3/20

**T0.1**





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NOT FOR CONSTRUCTION

**MULTIFAMILY DEVELOPMENT**  
 2421 FIFTH STREET  
 BERKELEY, CA 94710

GREEN POINT RATING

DESIGN REVIEW

1 REVISION 1 : 8/18/20

2 REVISION 2 : 9/18/20

3 REVISION 3 : 11/3/20

**TO.2**



**Planning Scoresheet**  
**Total: 93.5**

2421 5th St Berkeley 94710

Multi-Family New Home v. 7.0.2

		Points Targeted	Community	Energy	IAQ/Health	Resources	Water
<b>CALGreen</b>			<b>Possible Points</b>				
Yes	CALGreen Res (REQUIRED)	4	1	1	1	1	1
<b>A. SITE</b>							
Yes	A1. Construction Footprint	1			1		
≥85%	A2.2 65% C&D Waste Diversion (Excluding Alternative Daily Cover)	2			2		
Yes	A3. Recycled Content Base Material	1			1		
	A6. Stormwater Control: Prescriptive Path						1
TBD	A6.2 Filtration and/or Bio-Retention Features						1
TBD	A6.3 Non-Leaching Roofing Materials						1
<b>B. FOUNDATION</b>							
TBD	B1. Fly Ash and/or Slag in Concrete						1
TBD	B4. Moisture Controlled Crawlspace				1		
<b>C. LANDSCAPE</b>							
4.78%	Enter the landscape area percentage						
Yes	C1. Plants Grouped by Water Needs (Hydrozoning)	1					1
<b>C3. Resource Efficient Landscapes</b>							
Yes	C3.1 No Invasive Species Listed by Cal-IPC	1					1
Yes	C3.3 Drought Tolerant, California Native, Mediterranean Species, or Other Appropriate Species	3					3
<b>C4. Minimal Turf in Landscape</b>							
Yes	C4.1 No Turf on Slopes Exceeding 10% and No Overhead Sprinklers Installed in Areas Less Than Eight Feet Wide	0					2
No	C4.2 Turf on a Small Percentage of Landscaped Area	0					2
<b>C12. Environmentally Preferable Materials for Site</b>							

Yes	C12.1 Environmentally Preferable Materials for 70% of Non-Plant Landscape Elements and Fencing	1				1	
Yes	C13. Reduced Light Pollution	1	1				
<b>D. STRUCTURAL FRAME AND BUILDING ENVELOPE</b>							
<b>D1. Optimal Value Engineering</b>							
Yes	D1.2 Non-Load Bearing Door and Window Headers Sized for Load	1				1	
<b>D3. Engineered Lumber</b>							
Yes	D3.1 Engineered Beams and Headers	1				1	
TBD	D3.2 Wood I-Joists or Web Trusses for Floors					1	
Yes	D3.5 OSB for Subfloor	0.5				0.5	
TBD	D3.6 OSB for Wall and Roof Sheathing					0.5	
<b>D9. Reduced Pollution Entering the Home from the Garage</b>							
Yes	D9.1 Detached Garage	2				2	
Yes	D11. Moisture-Resistant Materials in Wet Areas (such as Kitchen, Bathrooms, Utility Rooms, and Basements)	2			1	1	
<b>E. EXTERIOR</b>							
Yes	E1. Environmentally Preferable Decking	1				1	
Yes	E5. Durable Roofing Materials	1				1	
<b>F. INSULATION</b>							
<b>F1. Insulation with 30% Post-Consumer or 60% Post-Industrial Recycled Content</b>							
Yes	F1.1 Walls and Floors	1				1	
<b>F2. Insulation that Meets the CDPH Standard Method—Residential for Low Emissions</b>							
Yes	F2.1 Walls and Floors	1				1	
<b>G. PLUMBING</b>							
<b>G1. Efficient Distribution of Domestic Hot Water</b>							
Yes	G1.1 Insulated Hot Water Pipes	1			1		
Yes	G2. Install Water-Efficient Fixtures	2				2	
Yes	G2.1 WaterSense Showerheads with Matching Compensation Valve	1				1	
Yes	G2.2 WaterSense Bathroom Faucets	1				1	
Yes	G2.3 WaterSense Toilets with a Maximum Performance (MaP) Threshold of No Less Than 500 Grams	1				1	
<b>H. HEATING, VENTILATION, AND AIR CONDITIONING</b>							
<b>H1. Sealed Combustion Units</b>							
Yes	H1.1 Sealed Combustion Furnace	1				1	
Yes	H1.2 Sealed Combustion Water Heater	2				2	
<b>H3. Effective Ductwork</b>							
Yes	H3.1 Duct Mastic on Duct Joints and Seams	1			1		



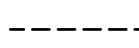

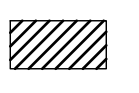
Yes	H4. ENERGY STAR® Bathroom Fans Per HVI Standards with Air Flow Verified	1				1		
<b>H6. Whole House Mechanical Ventilation Practices to Improve Indoor Air Quality</b>								
Yes	H6.1 Meet ASHRAE 62.2-2010 Ventilation Residential Standards	Y	R	R	R	R	R	
<b>H7. Effective Range Hood Design and Installation</b>								
Yes	H7.1 Effective Range Hood Ducting and Design	1				1		
Yes	H8. No Fireplace or Sealed Gas Fireplace	1						
TBD	H11. High Efficiency HVAC Filter (MERV 8+)					1		
<b>J. BUILDING PERFORMANCE AND TESTING</b>								
TBD	J3. Mechanical Ventilation Testing and Low Leakage					1		
<b>J5. Building Performance Exceeds Title 24 Part 6</b>								
3.26%	J5.1 Home Outperforms Title 24 Part 6	0		60				
<b>K. FINISHES</b>								
Yes	K2. Zero-VOC Interior Wall and Ceiling Paints	2				2		
Yes	K3. Low-VOC Caulks and Adhesives	1				1		
<b>K4. Environmentally Preferable Materials for Interior Finish</b>								
Yes	K4.5 Countertops	1				1		
<b>L. FLOORING</b>								
≥75%	L1. Environmentally Preferable Flooring	3				3		
≥75%	L2. Low-Emitting Flooring Meets CDPH 2010 Standard Method—Residential	3				3		
<b>M. APPLIANCES AND LIGHTING</b>								
TBD	M1. ENERGY STAR® Dishwasher						1	
TBD	M3. Size-Efficient ENERGY STAR Refrigerator					2		
<b>M4. Permanent Centers for Waste Reduction Strategies</b>								
Yes	M4.1 Built-In Recycling Center	1				1		
TBD	M4.2 Built-In Composting Center					1		
<b>M5. Lighting Efficiency</b>								
Yes	M5.1 High-Efficacy Lighting	2				2		
<b>N. COMMUNITY</b>								
<b>N1. Smart Development</b>								
<b>N1.5 Home Size Efficiency</b>								
3	Enter the area of the home, in square feet						9	
<b>N3. Pedestrian and Bicycle Access</b>								
<b>N3.1 Pedestrian Access to Services Within 1/2 Mile of Community Services</b>								
2	Enter the number of Tier 1 services	2	2					
8	Enter the number of Tier 2 services							
8	Enter the number of Tier 3 services							
<b>N5. Social Interaction</b>								
Yes	N5.1 Residence Entries with Views to Callers	1				1		
TBD	N5.3 Porches Oriented to Street and Public Space					1		
<b>O. OTHER</b>								
Yes	O1. GreenPoint Rated Checklist in Blueprints	Y	R	R	R	R	R	
Yes	O2. Pre-Construction Kickoff Meeting with Rater and Subcontractors	2			0.5		0.5	
Yes	O7. Green Appraisal Addendum	Y	R	R	R	R	R	
<b>Summary</b>								
		Total Available Points in Specific Categories	342	26	131	64	83	48
		Minimum Points Required in Specific Categories	50	2	0	6	6	6
		<b>Total Points Targeted</b>	<b>93.5</b>	<b>9.0</b>	<b>10.5</b>	<b>25.0</b>	<b>36.5</b>	<b>10.5</b>

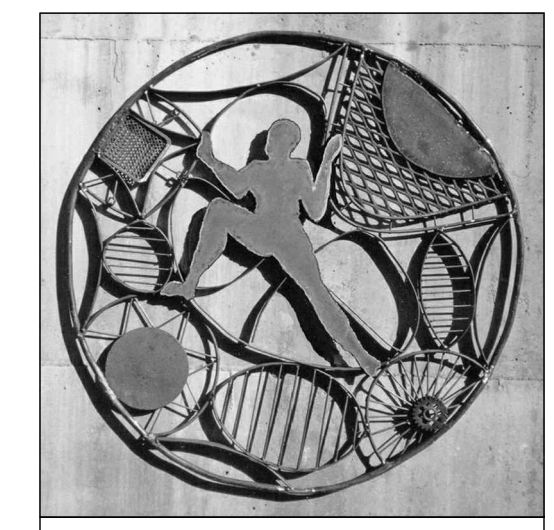
GREEN POINT RATING

1

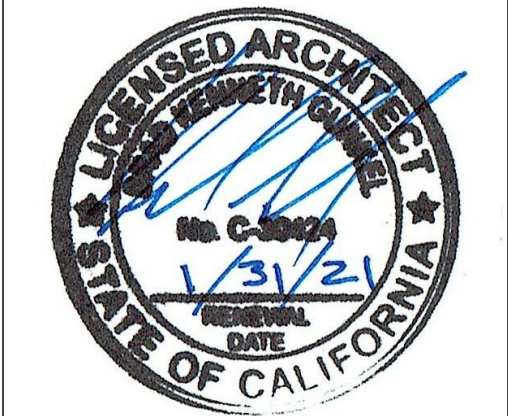


**LEGEND**

-  SHADOWS CAST BY ADJACENT BUILDINGS
-  (N) SHADOWS CAST BY PROPOSED DEVELOPMENT
-  OUTLINE OF (E) HOUSE SHADOW
-  (N) SHADOW AT RESIDENTIAL BUILDING
-  (N) SHADOW CREATED ON ADJACENT PROPERTIES BY PROPOSED DEVELOPMENT



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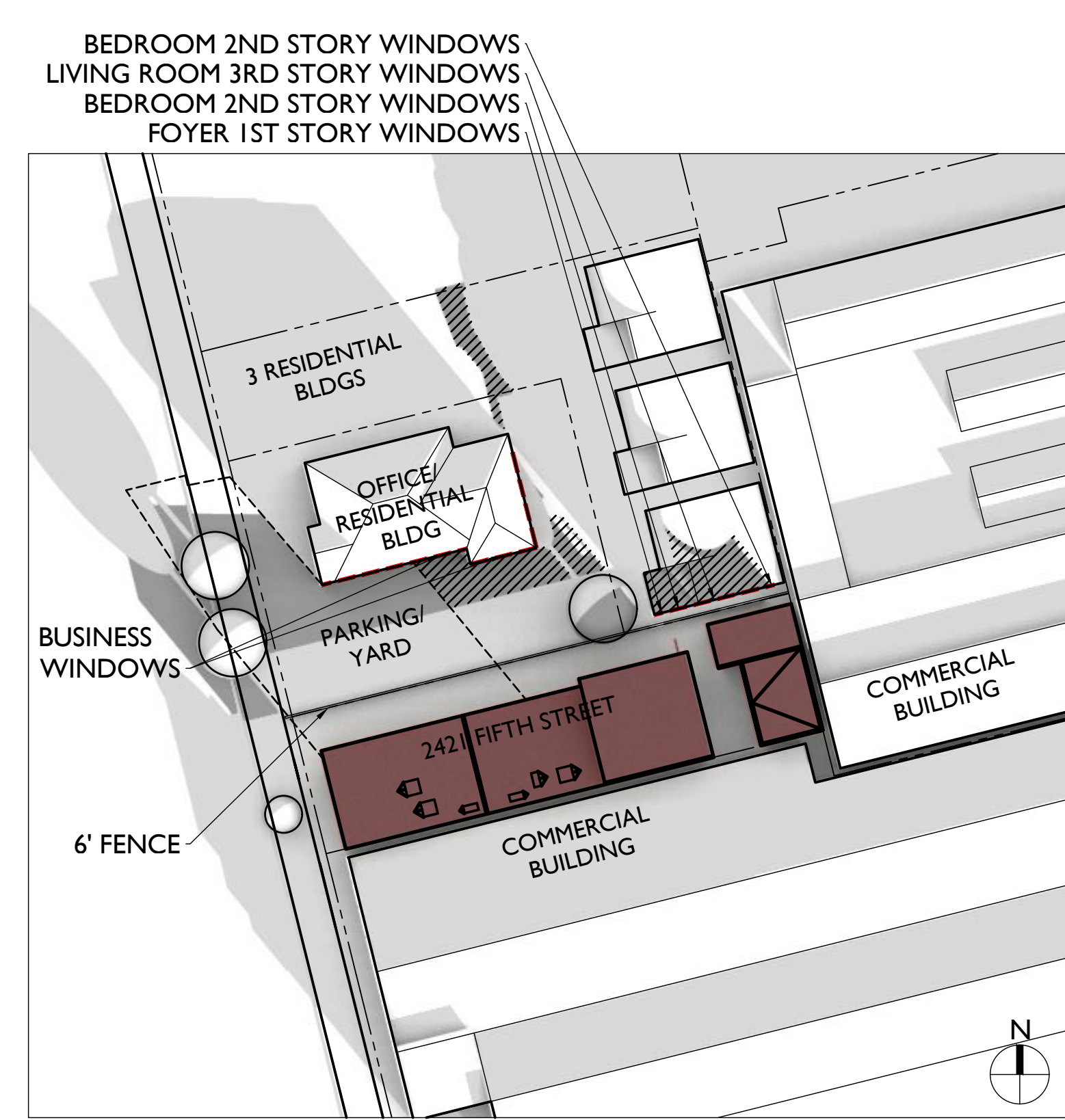
NOT FOR CONSTRUCTION

**MULTIFAMILY DEVELOPMENT**  
 2421 FIFTH STREET  
 BERKELEY, CA 94710

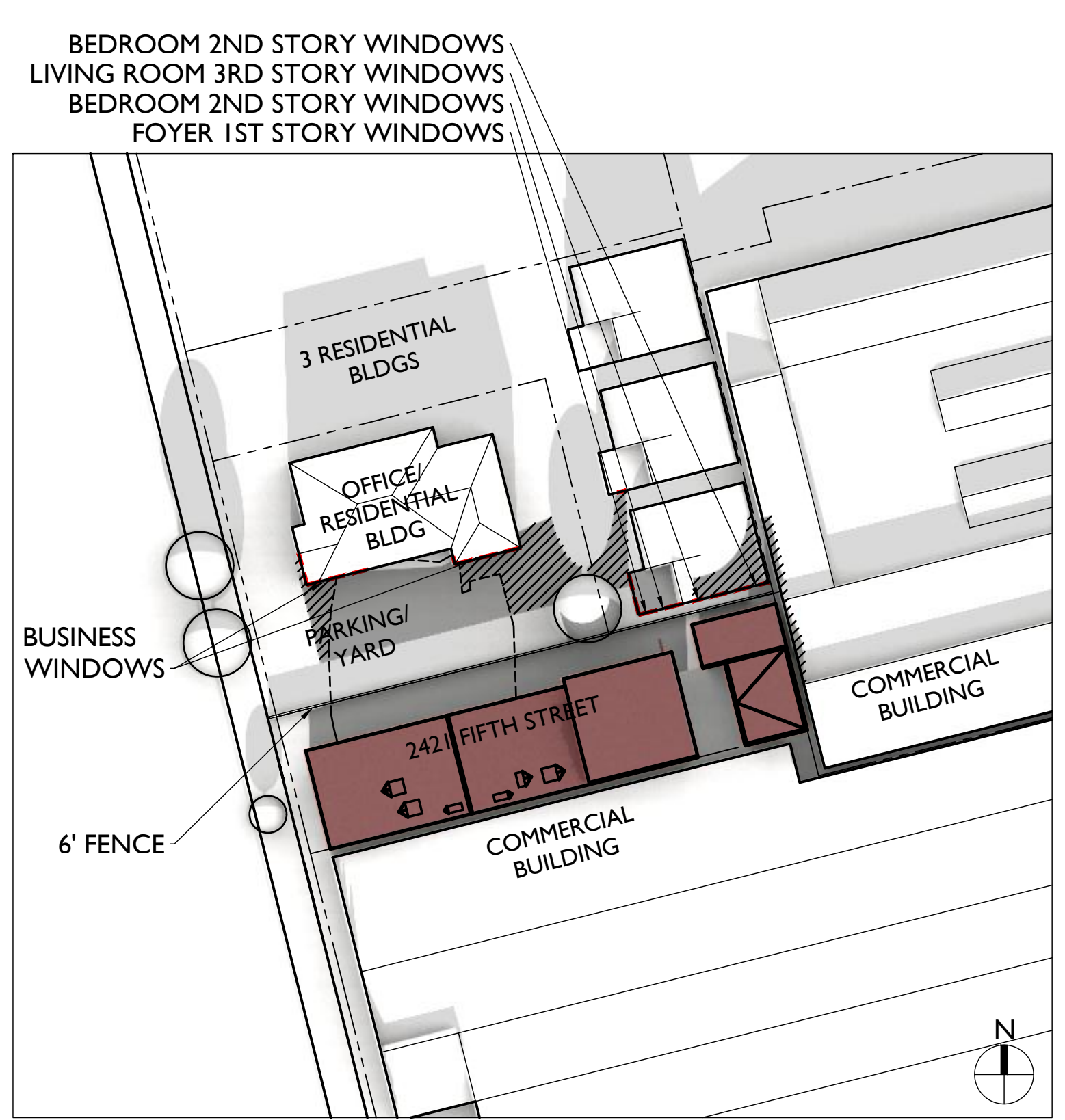
**SHADOW STUDY**

- DESIGN REVIEW
- 1 REVISION 1 : 8/18/20
  - 2 REVISION 2 : 9/18/20
  - 3 REVISION 3 : 11/3/20

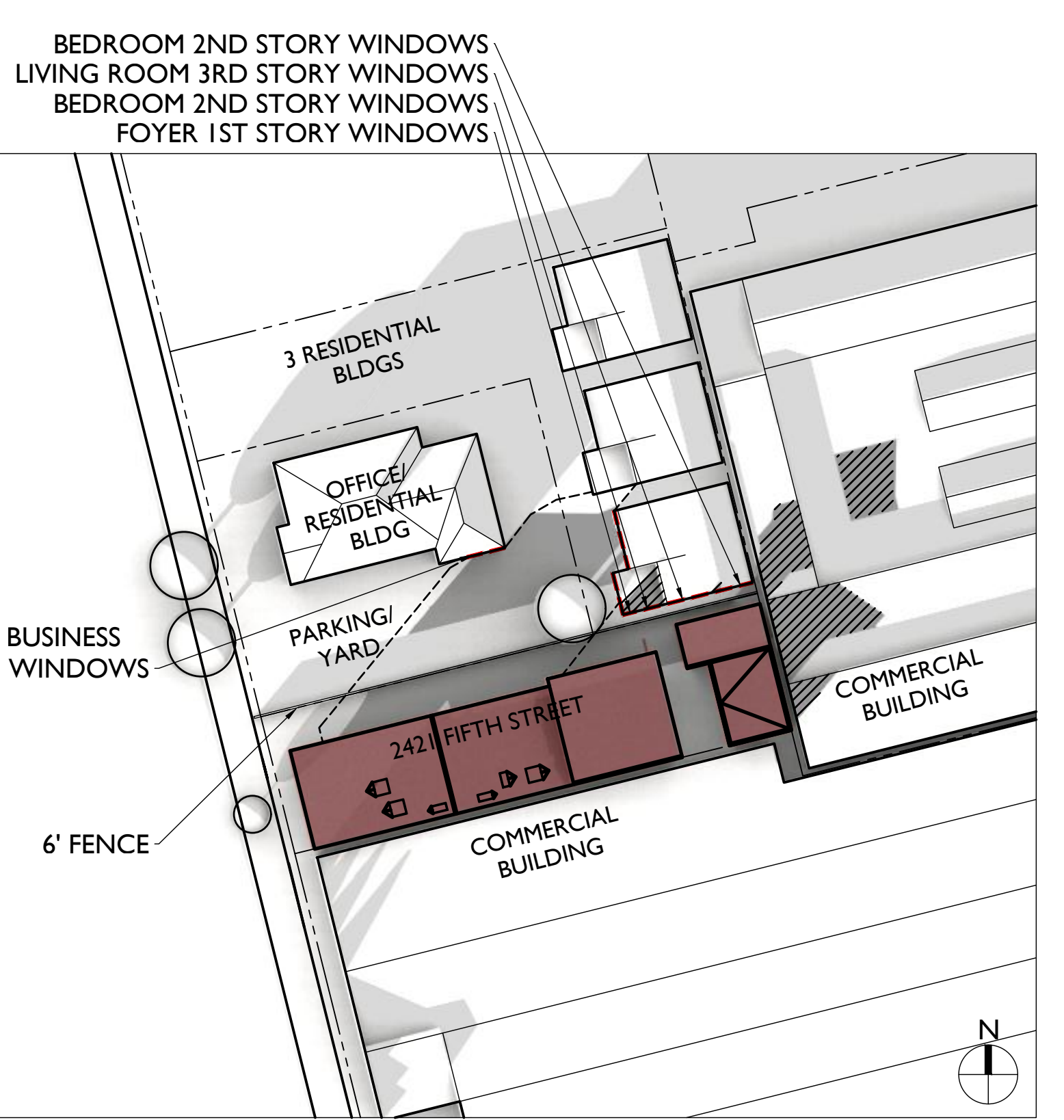
**TO.3**



DECEMBER 21<sup>ST</sup> 2 HR AFTER SUNRISE



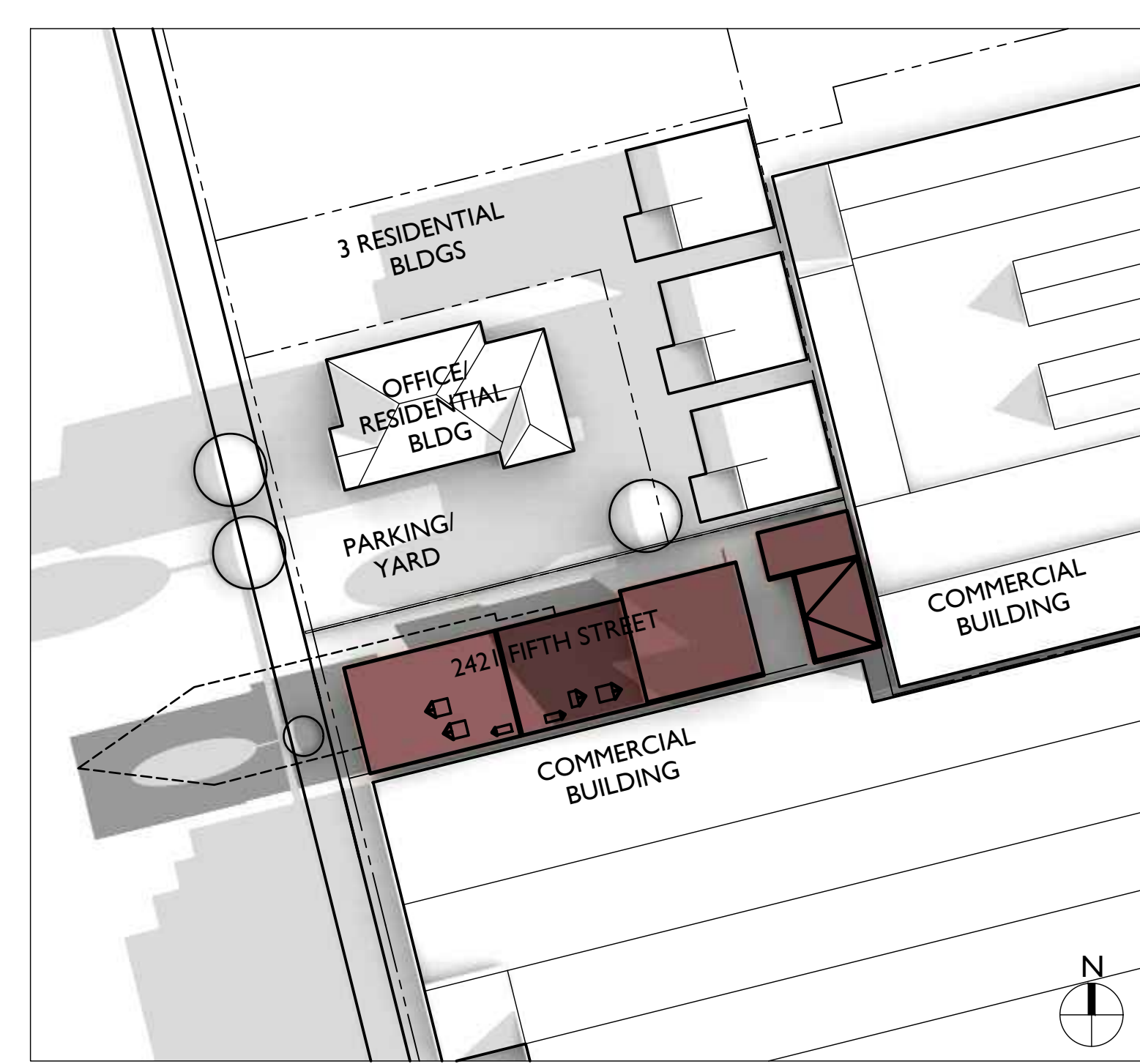
DECEMBER 21<sup>ST</sup> NOON



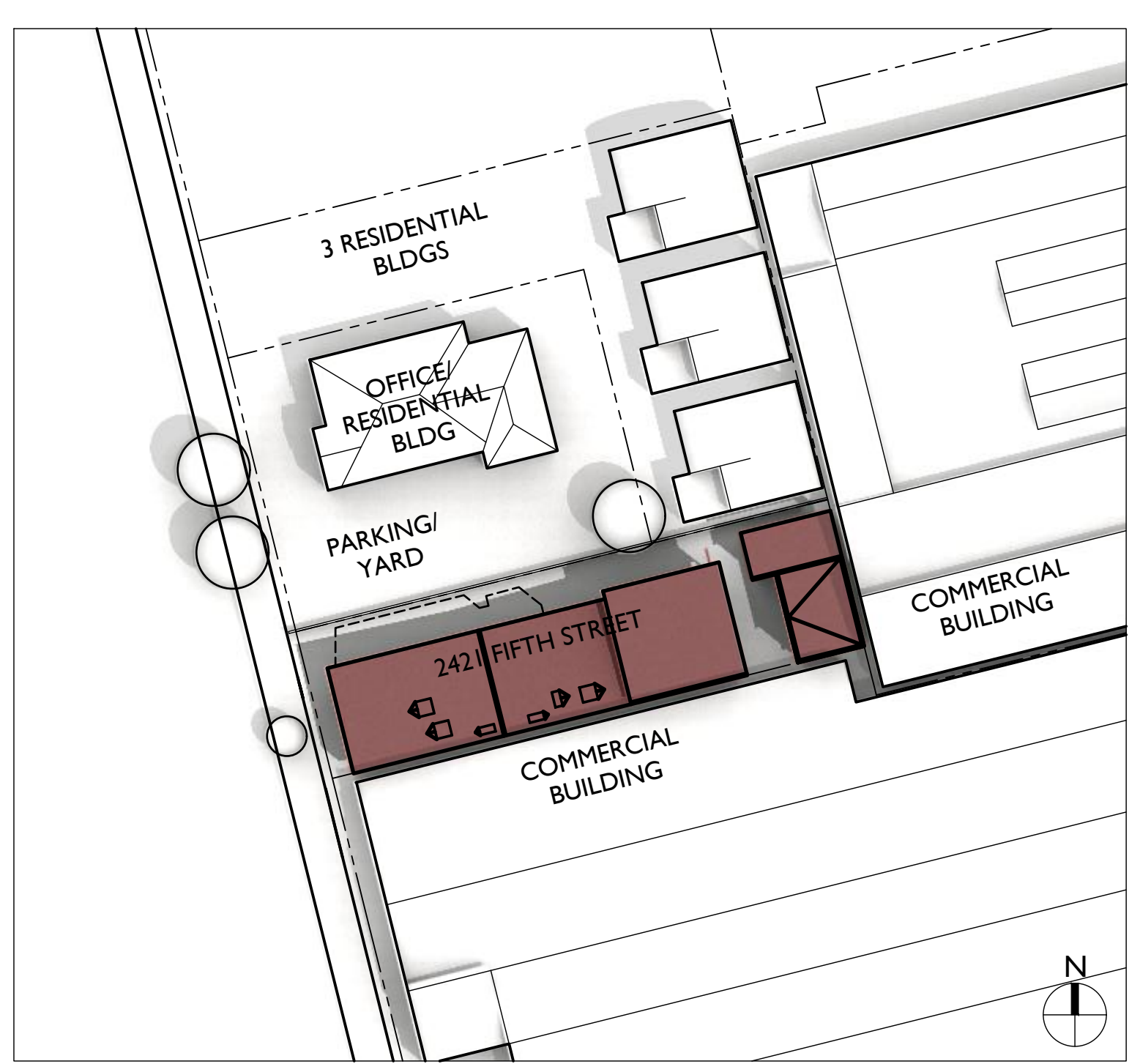
DECEMBER 21<sup>ST</sup> 2 HR BEFORE SUNSET

WINTER SOLSTICE

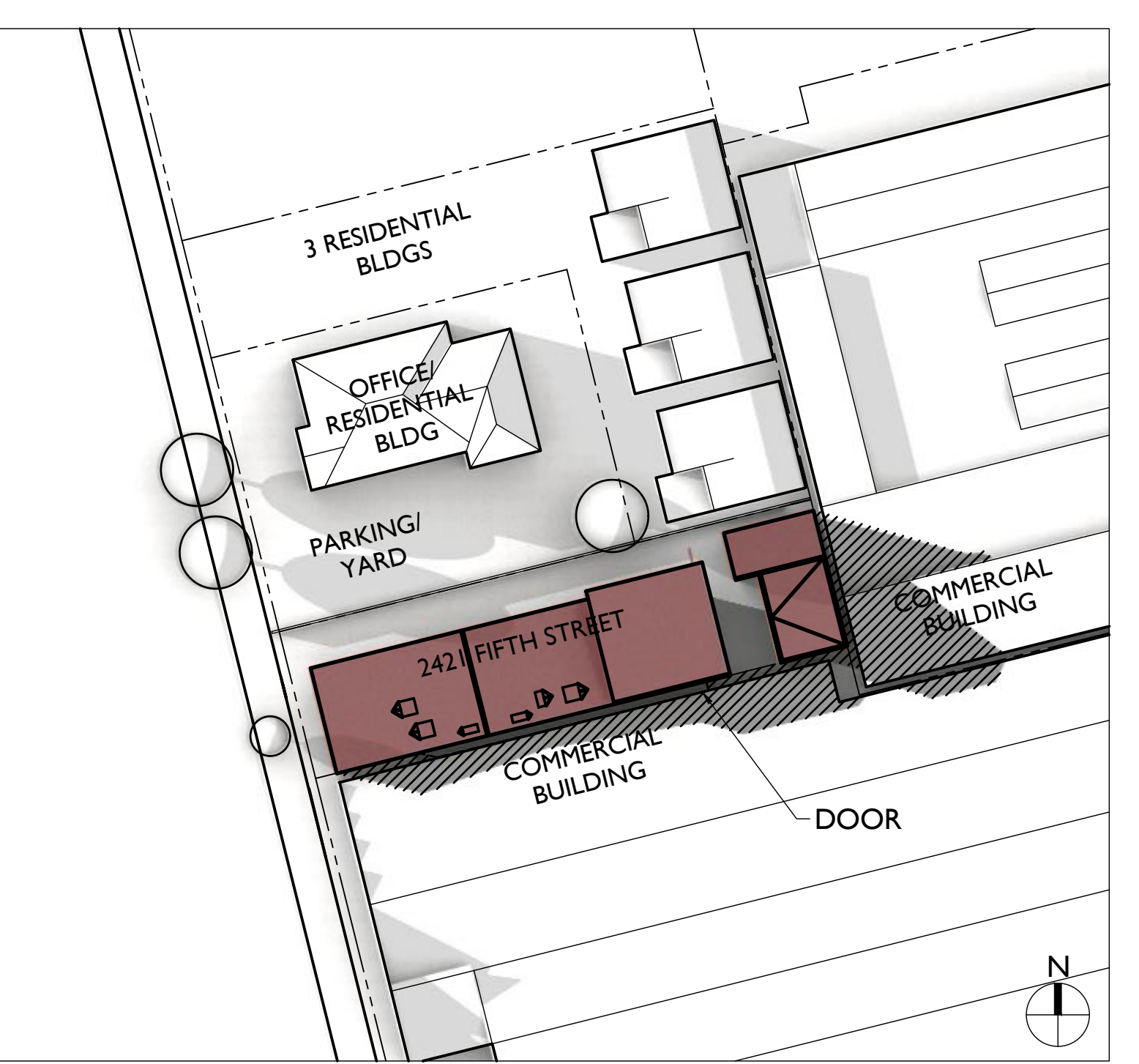
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JUNE 21<sup>ST</sup> 2 HR AFTER SUNRISE



JUNE 21<sup>ST</sup> NOON



JUNE 21<sup>ST</sup> 2 HR BEFORE SUNSET



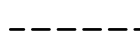


SUMMER SOLSTICE

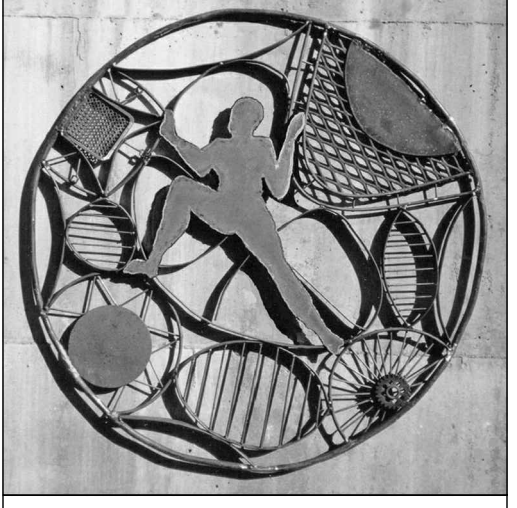
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**LEGEND**

-  SHADOWS CAST BY ADJACENT BUILDINGS
-  (N) SHADOWS CAST BY PROPOSED DEVELOPMENT
-  OUTLINE OF (E) HOUSE SHADOW
-  (N) SHADOW AT RESIDENTIAL BUILDING
-  (N) SHADOW CREATED ON ADJACENT PROPERTIES BY PROPOSED DEVELOPMENT



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**MULTIFAMILY DEVELOPMENT**  
 2421 FIFTH STREET  
 BERKELEY, CA 94710

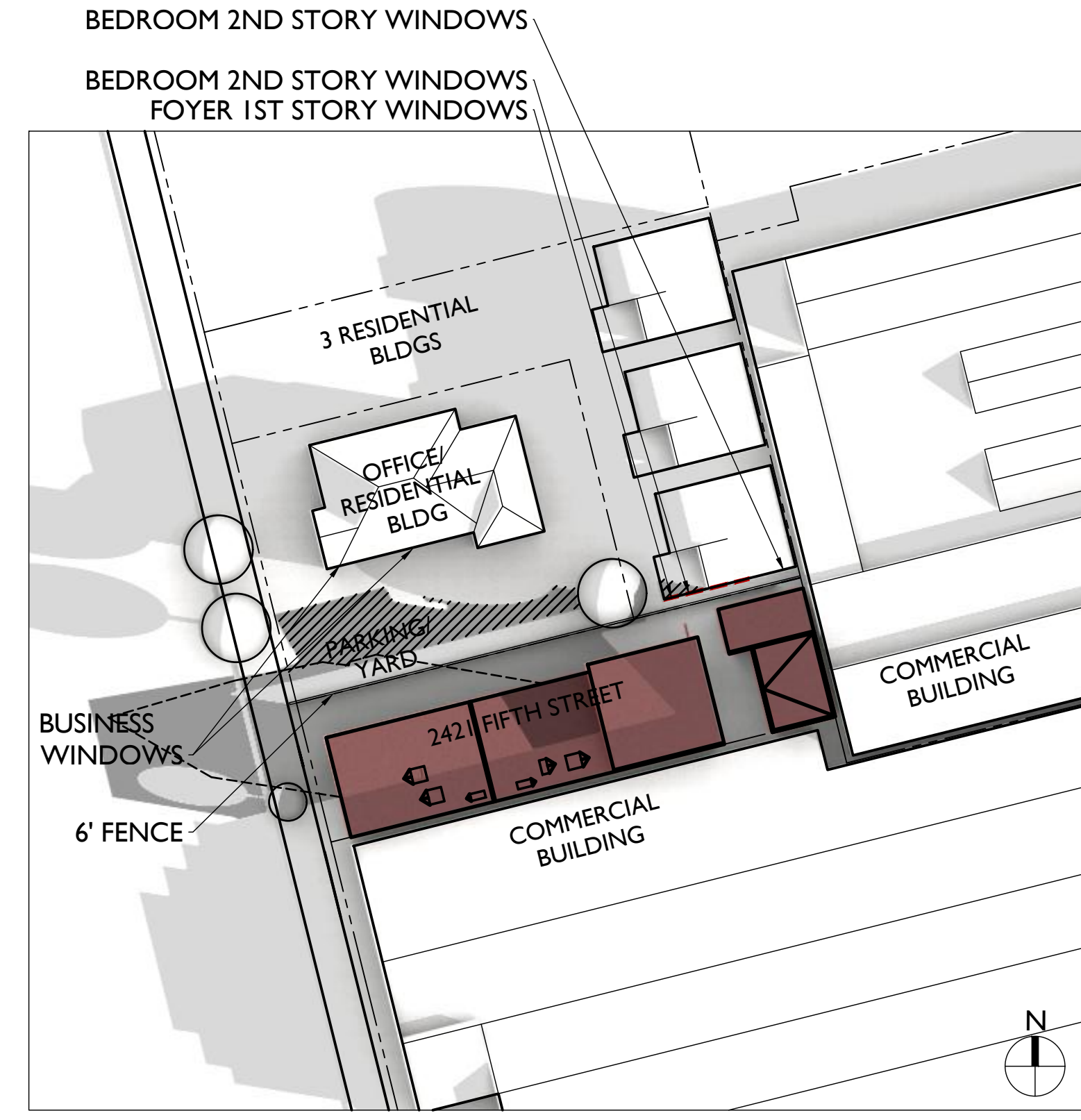
SHADOW STUDY & RENDER

- DESIGN REVIEW
- 1 REVISION 1 : 8/18/20
  - 2 REVISION 2 : 9/18/20
  - 3 REVISION 3 : 11/3/20

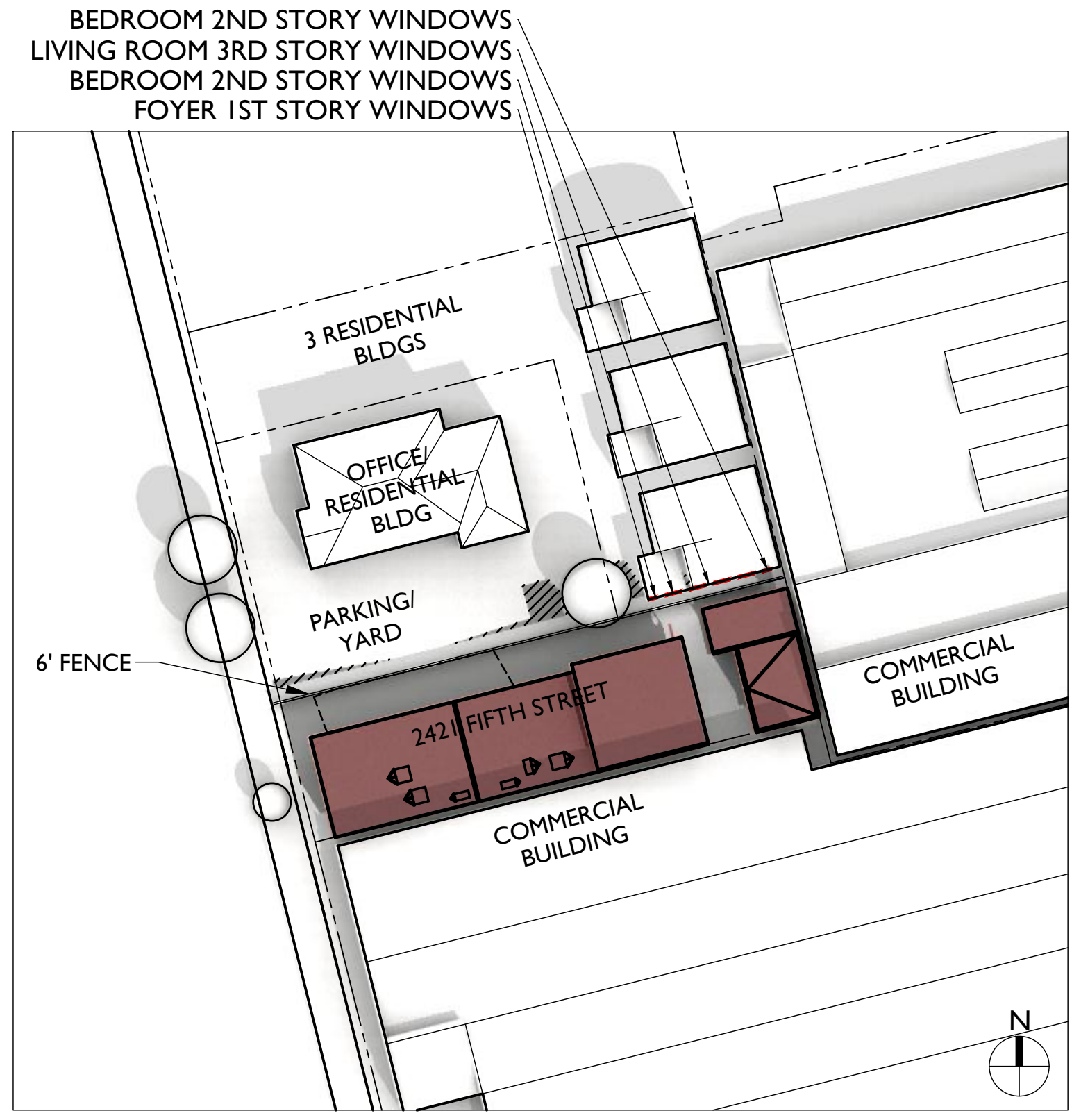
**TO.4**

**RENDER FROM SOUTHWEST**

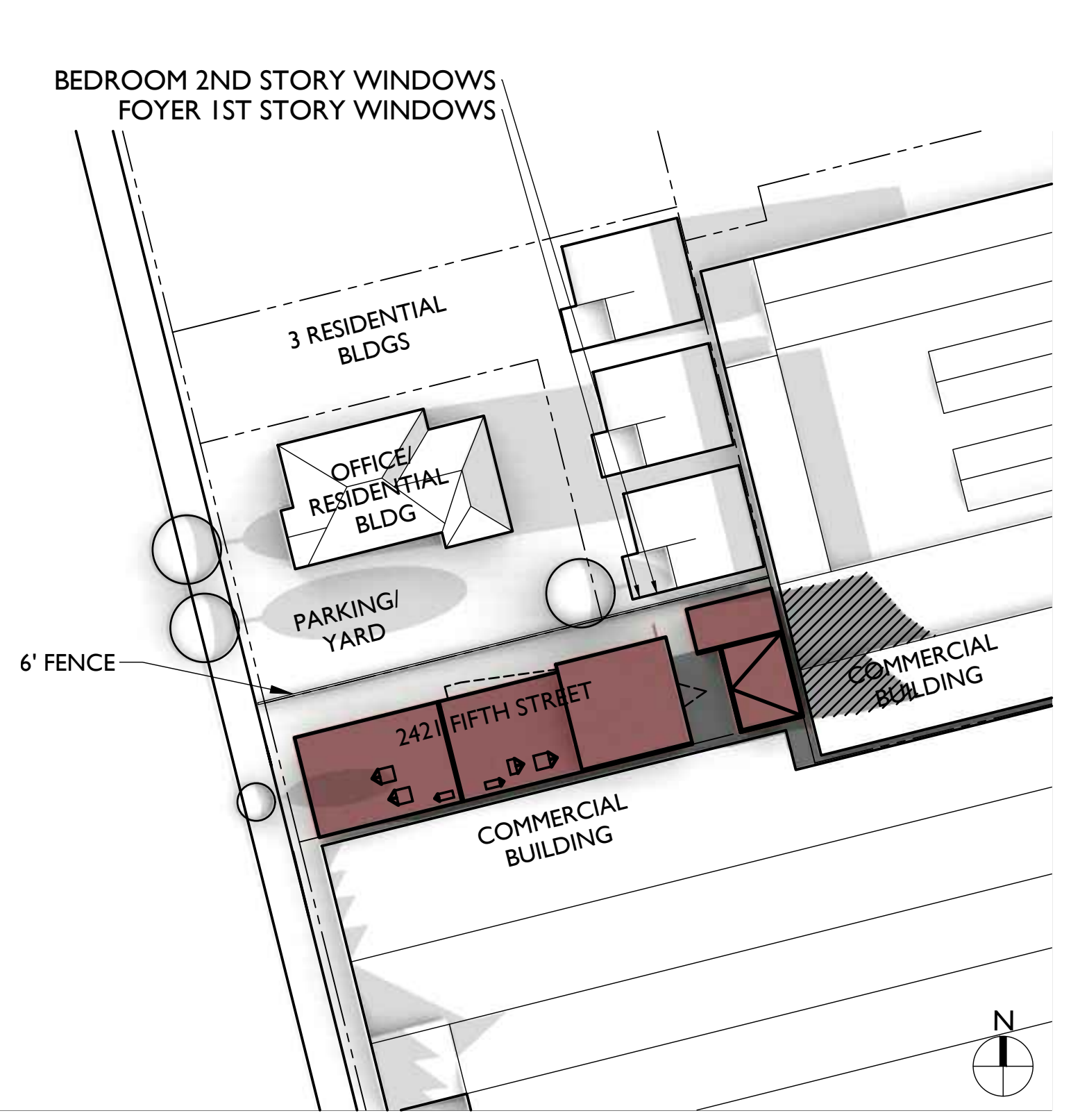
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APRIL 7<sup>TH</sup> 2 HR AFTER SUNRISE



APRIL 7<sup>TH</sup> NOON

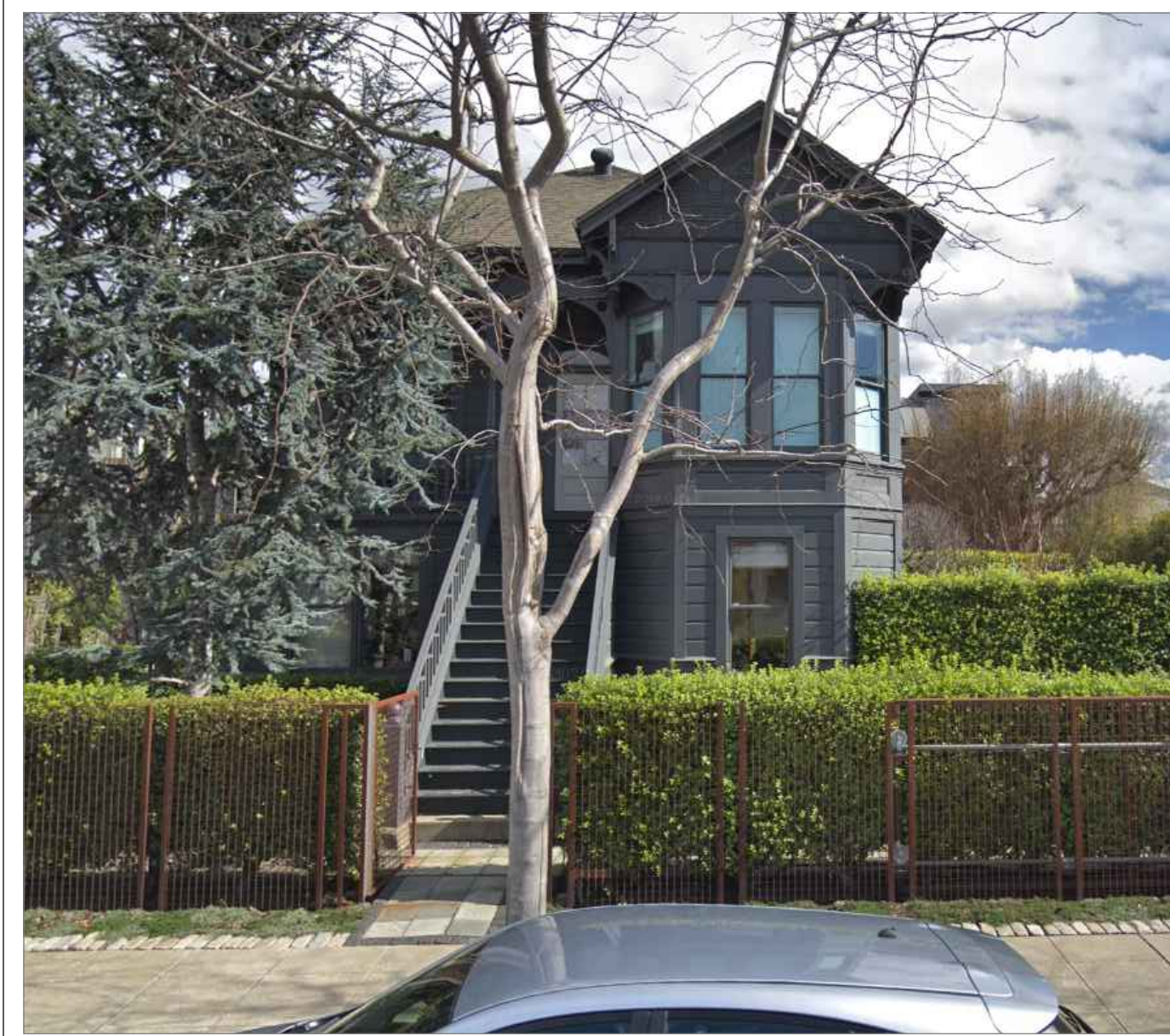


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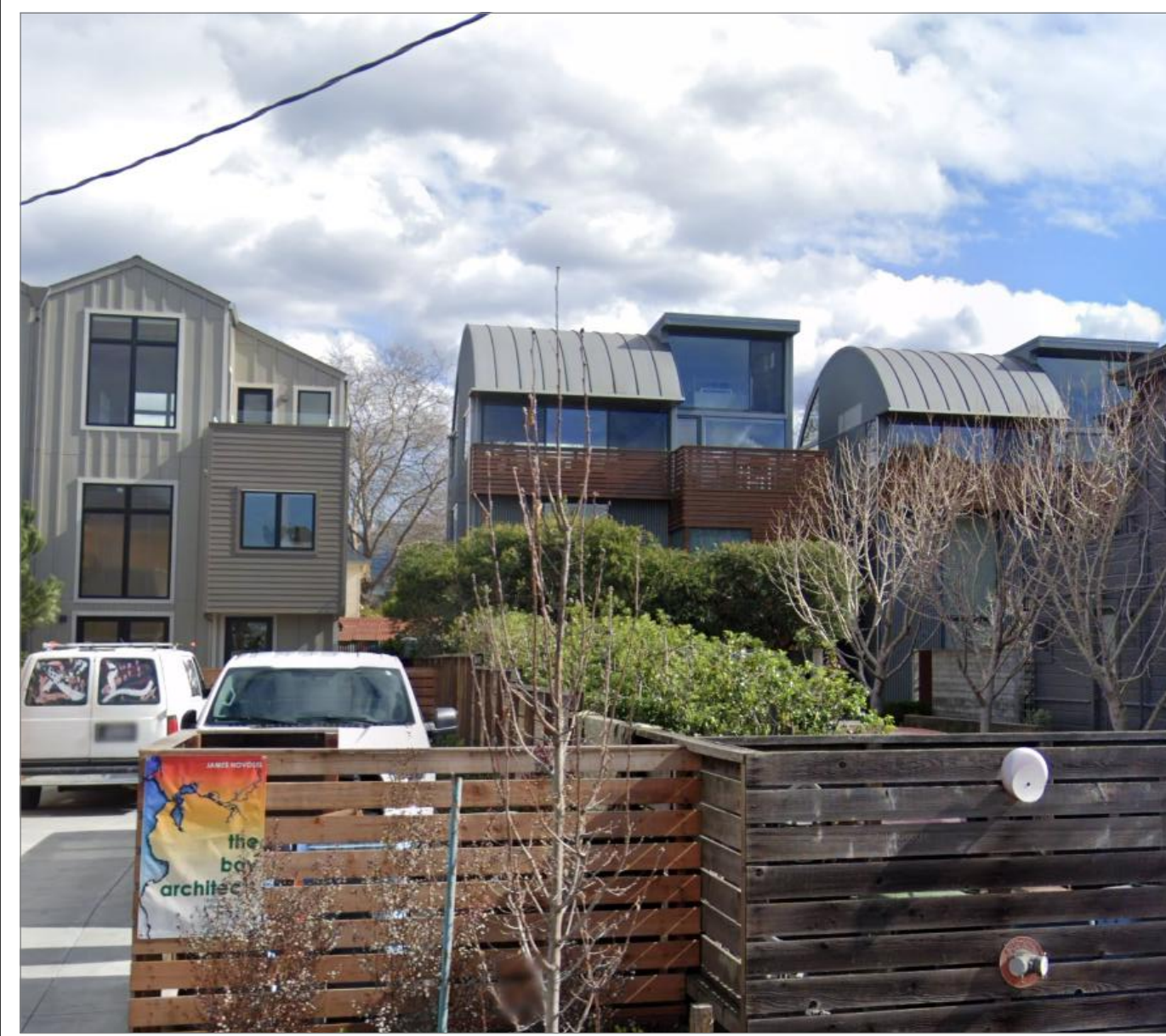
SUBMITTAL DATE

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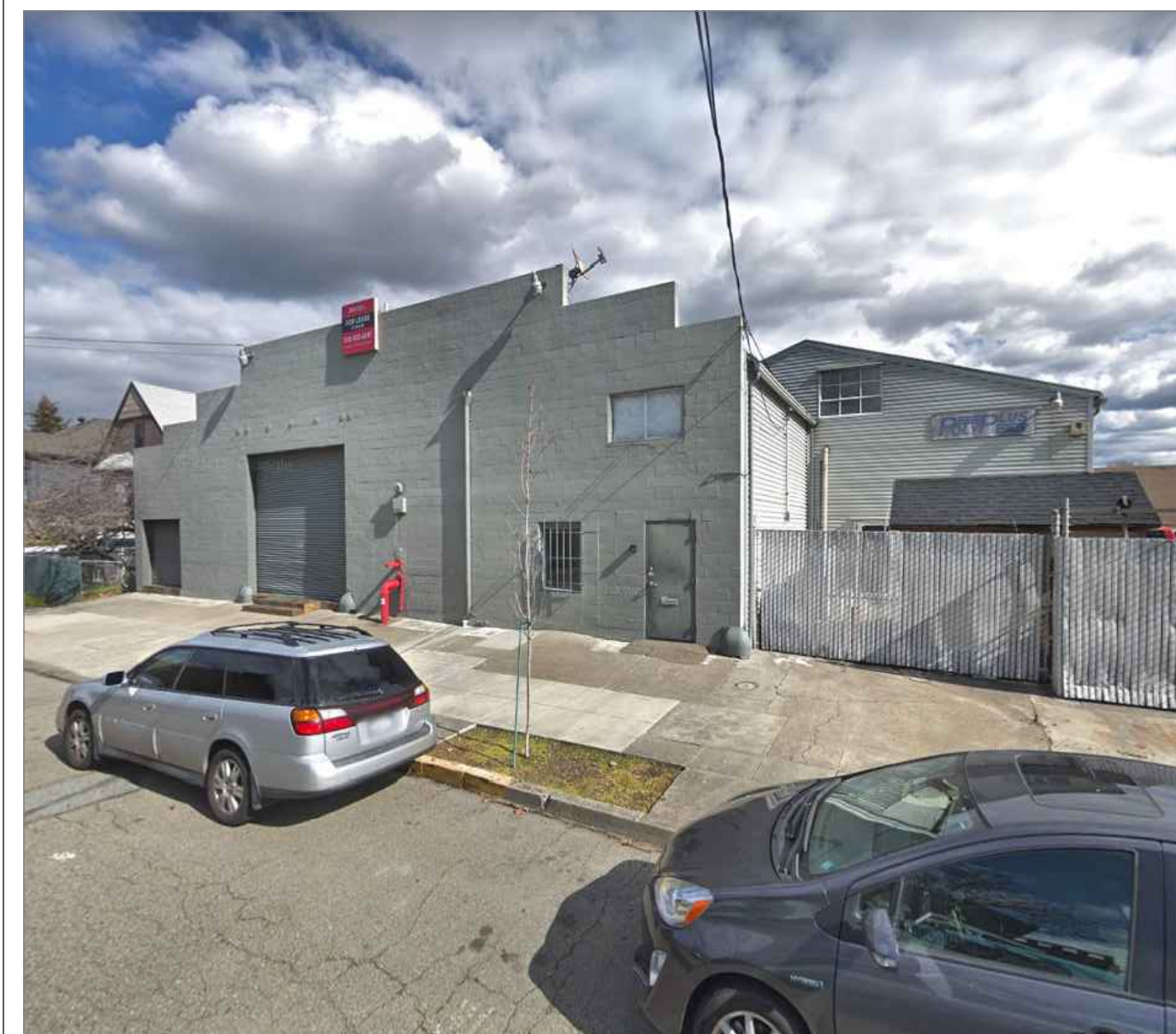
2415 / 2417 FIFTH STREET



2413 FIFTH STREET



2421 FIFTH STREET, TO BE DEMOLISHED



2431 FIFTH STREET, COMMERCIAL



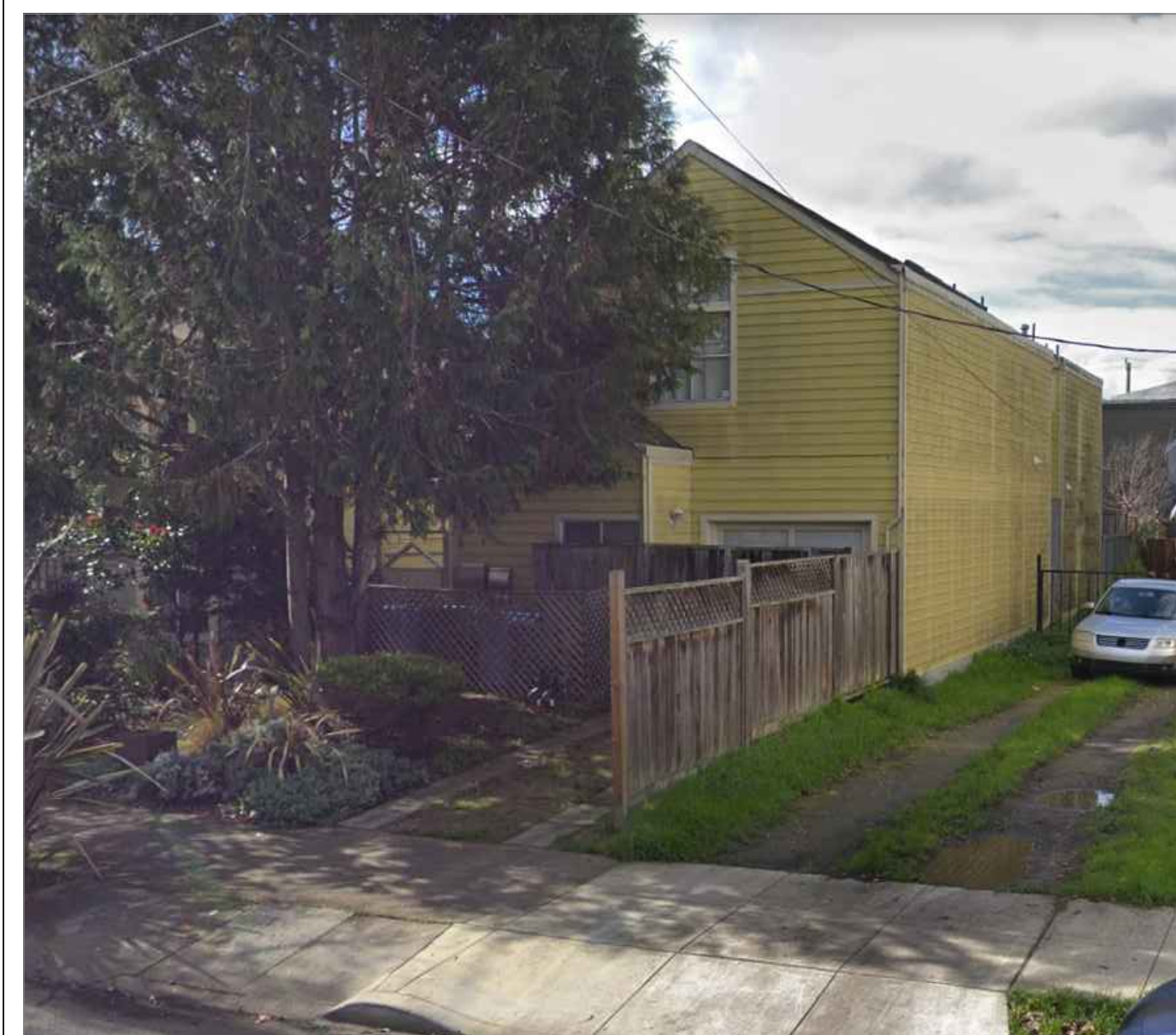
2418 SIXTH STREET, COMMERCIAL



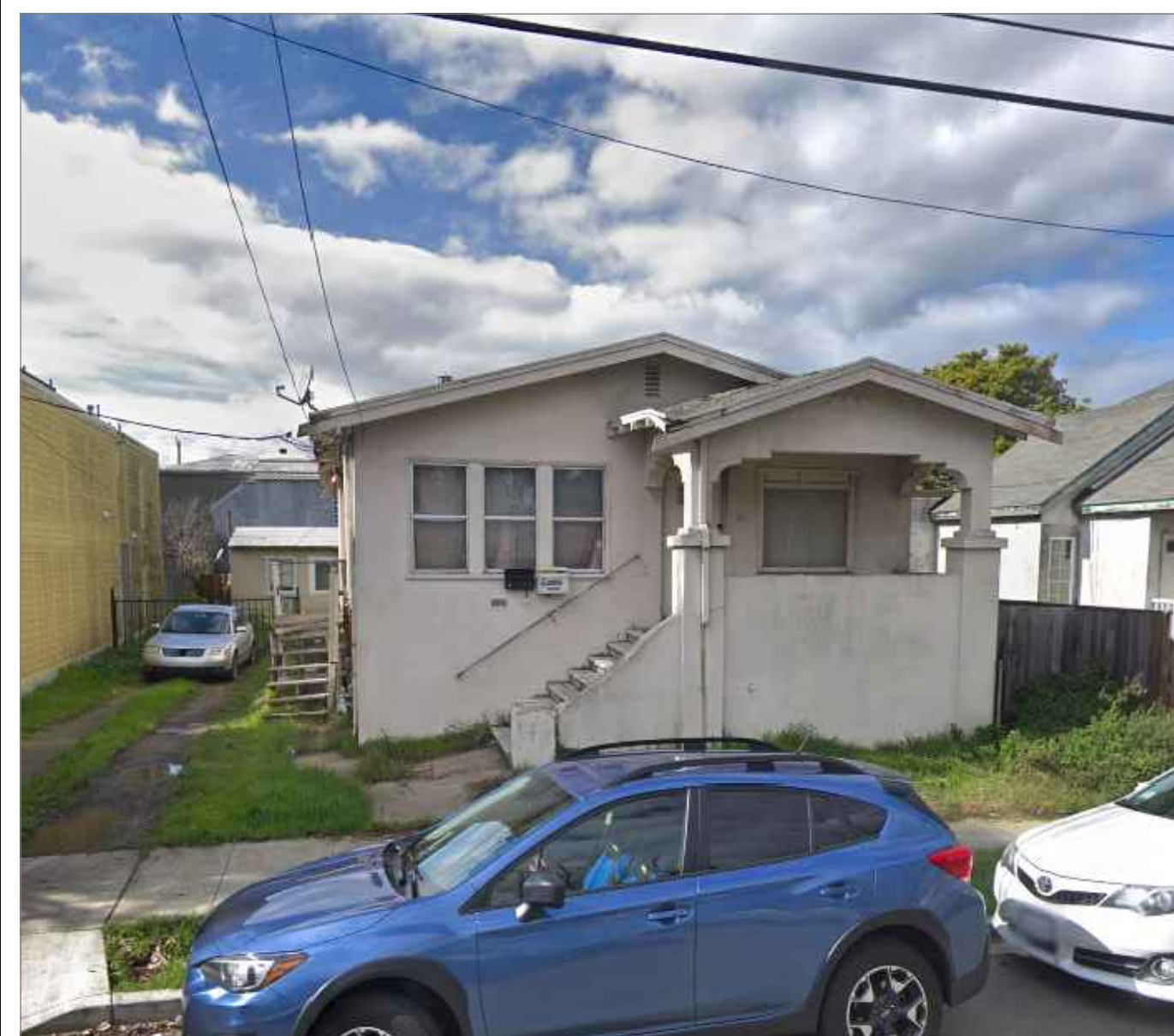
2422 FIFTH STREET



6



2418 FIFTH STREET



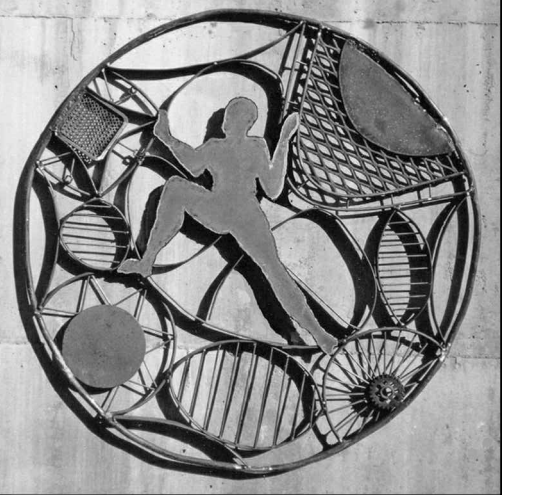
2416 FIFTH STREET



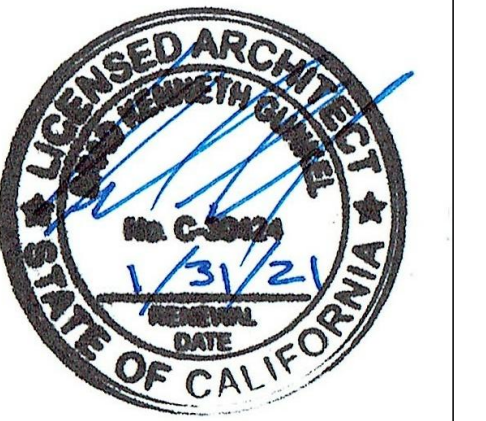
8



KEY MAP



GUNKEL ARCHITECTURE  
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**MULTIFAMILY DEVELOPMENT**  
2421 FIFTH STREET  
BERKELEY, CA 94710

NEIGHBORHOOD NOTIFICATION MAP

DESIGN REVIEW

- 1 REVISION 1 : 8/18/20
- 2 REVISION 2 : 9/18/20
- 3 REVISION 3 : 11/3/20

**TO.6**



NUMBER	ADDRESS	UNIT	OWNER OR RENTER	HAVE NO OBJECTIONS	HAVE OBJECTIONS (PLEASE STATE BRIEFLY)	NAME (PRINTED)	SIGNATURE	DATE
1	2415 FIFTH STREET							
1	2417 FIFTH STREET							
2	2413 FIFTH STREET	A						
2	2413 FIFTH STREET	B						
2	2413 FIFTH STREET	C						
3	2421 FIFTH STREET	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4	2431 FIFTH STREET	N/A	COMMERCIAL*	N/A	N/A	N/A	N/A	N/A
5	2418 SIXTH STREET	N/A	COMMERCIAL*	N/A	N/A	N/A	N/A	N/A
6	2422 FIFTH STREET							
7	2418 FIFTH STREET							
8	2416 FIFTH STREET	A						
8	2416 FIFTH STREET	B						

\*ONLY ABUTTING RESIDENTIAL OCCUPANTS ARE REQUIRED TO BE NOTIFIED



**PLANNING & DEVELOPMENT**  
 Land Use Planning, 1947 Center Street, Berkeley, CA 94704  
 Tel: 910.981.7410 TDD: 910.981.6900 Fax: 910.981.7420 Email: [Planning@CityofBerkeley.info](mailto:Planning@CityofBerkeley.info)

**TABULATION FORM**

Project Address: 2421 Fifth Street, Berkeley, CA 94710 Date: 2/6/2020

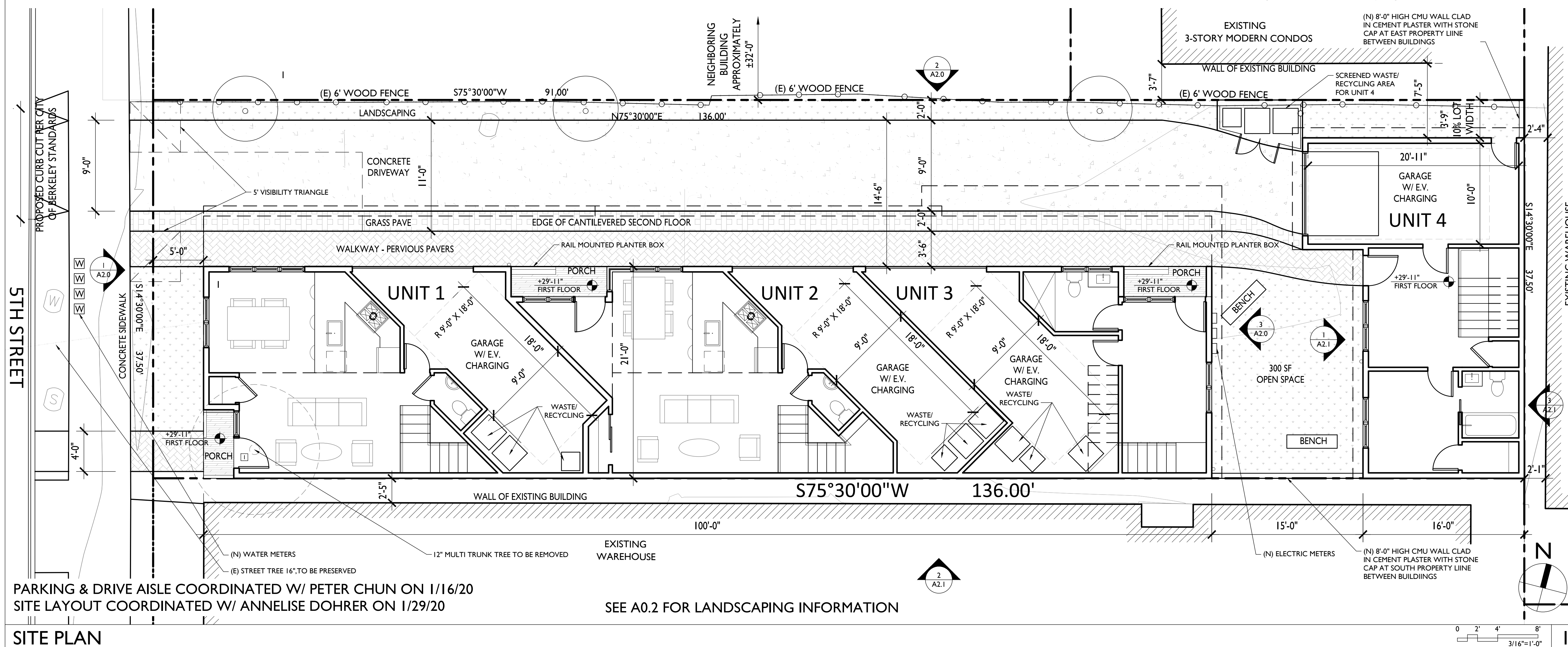
Applicant's Name: Brad Gunkel

Zoning District: MUR

Please print in ink the following numerical information for your Administrative Use Permit, Use Permit, or Variance application:

	Existing	Proposed	Permitted/ Required
<b>Units, Parking Spaces &amp; Bedrooms</b>			
Number of Dwelling Units (#)	1	4	4
Number of Parking Spaces (#)	2	4	4
Number of Bedrooms (#) (R-1, R-1A, R-2, R-2A, and R-3 only)	N/A	N/A	N/A
<b>Yards and Height</b>			
Front Yard Setback (Feet)	14'-5"	Units 1-3: 5'-0" Unit 4: 114'-0"	0'-0" 5'-0"
Side Yard Setbacks (facing property)	Left: (Feet) 6'-10" Right: (Feet) 6'-5"	Units 1-3: 11'-6" Unit 4: 3'-9" Units 1-3: 0'-0" Unit 4: 0'-0" Units 1-3: 31'-0" Unit 4: 0'-0"	3'-9" (10% lot width, where adjacent to residential) 0'-0"
Rear Yard Setback (Feet)	75'-5"	Units 1-3: 3 Unit 4: 3	0'-0"
Building Height* (# Stories)	1.5	Units 1-3: 29'-11" Unit 4: 33'-11"	3
Average* (Feet)	22'-9"	Units 1-3: 34'-9" Unit 4: 34'-9"	35'-0"
Maximum* (Feet)	28'-9"	Units 1-3: 34'-9" Unit 4: 34'-9"	35'-0"
<b>Areas</b>			
Lot Area (Square-Feet)	5,100 SF	5,100 SF	N/A
Gross Floor Area* (Square-Feet)	1,383 SF	Units 1-3: 4,103 SF Unit 4: 1,400 SF	7,650 SF
Total Area Covered by All Floors (Square-Feet)	1,016 SF	Units 1-3: 2,800 SF Unit 4: 606 SF	N/A
Lot Coverage* (%)	19.9%	62.9%	N/A
Useable Open Space* (Square-Feet)	3,175 SF	620 SF	600 SF
Floor Area Ratio* Non-Residential only (Except ES-R)	.3	1.1	1.5

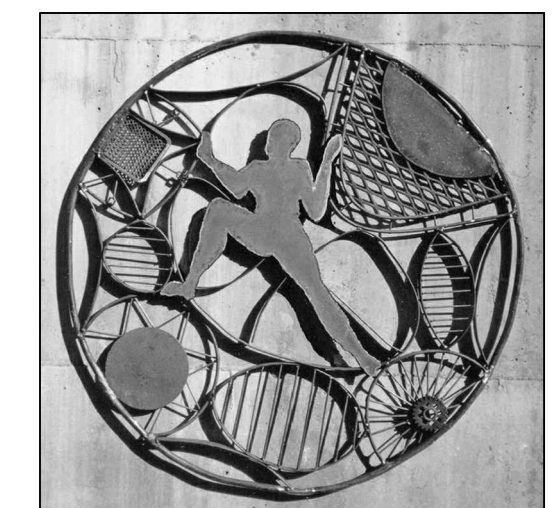
\*See Definitions - Zoning Ordinance Title 23F. Revised: 05/15



PARKING & DRIVE AISLE COORDINATED W/ PETER CHUN ON 1/16/20  
 SITE LAYOUT COORDINATED W/ ANNELISE DOHRER ON 1/29/20

SEE A0.2 FOR LANDSCAPING INFORMATION

**SITE PLAN**



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**MULTIFAMILY DEVELOPMENT**  
 2421 FIFTH STREET  
 BERKELEY, CA 94710

**SITE PLAN**

- DESIGN REVIEW
- 1 REVISION 1 : 8/18/20
  - 2 REVISION 2 : 9/18/20
  - 3 REVISION 3 : 11/3/20

**A0.1**



**WELO CALCULATIONS**

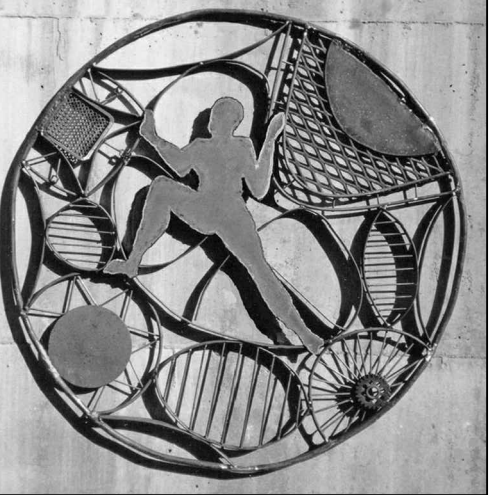
TOTAL LANDSCAPE AREA: 946 SF, 19%  
 4 YD<sup>3</sup> / 1000 SF LANDSCAPE  
 3.8 YD<sup>3</sup> COMPOST REQ'D

**WELO REQUIREMENTS**

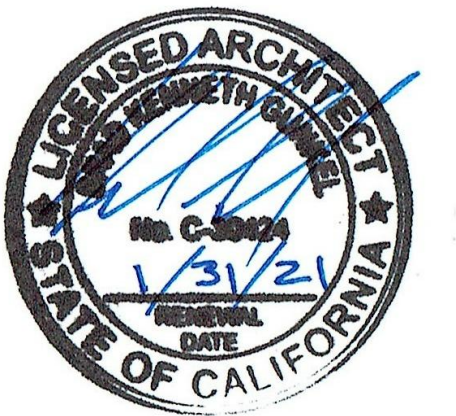
1. COMPLY W/ ALL MEASURES OF WELO PRESCRIPTIVE CHECKLIST
2. DRIP IRRIGATION SYSTEM TO BE INSTALLED TO PROVIDE WATER FOR (N) TREES & SHRUBS AS INDICATED ON SITE PLAN. AIRBORNE ACCEPTABLE ONLY AT TURF AREAS > 10' WIDE
  - 2.1. PRESSURE REGULATORS ARE INSTALLED ON THE IRRIGATION SYSTEM TO ENSURE DYNAMIC PRESSURE OF THE COMPONENTS ARE WITHIN THE MANUFACTURER'S RECOMMENDED PRESSURE RANGE
  - 2.2. MANUAL SHUTOFF VALVES (SUCH AS GATE, BALL, OR BUTTERFLY VALVES) ARE INSTALLED AS CLOSE AS POSSIBLE TO THE POINT OF CONNECTION OF THE WATER SUPPLY
- 2.3. ALL IRRIGATION EMISSION DEVICES MUST MEET THE REQ'S SET IN THE ANSI STANDARD ASABE/ICC 802-2014 "LANDSCAPE IRRIGATION SPRINKLER AND EMITTER STANDARD." ALL SPRINKLER HEADS INSTALLED MUST HAVE A DISTRIBUTION UNIFORMITY LOW QUARTER OF 0.65 OR HIGHER USING THE PROTOCOL DEFINED IN ASABE/ICC 802-2014
- 2.4. AUTOMATIC IRRIGATION CONTROLLERS ARE REQUIRED AND MUST USE EVAPOTRANSPIRATION OR SOIL MOISTURE DATA AND UTILIZE A RAIN SENSOR
3. ANY PLANT SUBSTITUTION MUST MEET WUCOLS LOW (PF-3) STANDARD. NO INVASIVE SPECIES MAY BE USED. SEE CALIFORNIA INVASIVE PLANTS COUNCIL "DON'T PLANT A PEST" BROCHURE FOR SF BAY AREA
4. INCORPORATE COMPOST AT A RATE OF AT LEAST 4 YD<sup>3</sup> PER 1,000 FT<sup>2</sup> TO A DEPTH OF 6" INTO THE LANDSCAPE AREA (UNLESS CONTRA-INDICATED BY A SOIL TEST).
5. A MIN 3" LAYER OF RECYCLED MULCH SHALL BE APPLIED ON ALL EXPOSED SOIL SURFACES OF PLANTING AREAS EXCEPT TURF AREAS, OR DIRECT SEEDING APPLICATIONS WHERE MULCH IS CONTRAINDICATED
6. TURF, HIGH WATER USE PLANTS, AND WATER FEATURES SHALL, COMBINED NOT EXCEED 25% OF THE LANDSCAPE AREA. TURF SHALL NOT BE PLANTED ON SLOPES WHICH EXCEED A SLOPE OF 1' VERTICAL ELEVATION CHANGE FOR EVERY 4' OR HORIZONTAL LENGTH. TURF IS PROHIBITED IN PARKWAYS LESS THAN 10' WIDE. EXCEPTION: PARKWAY IS ADJACENT TO A PARKING STRIP AND USED TO EXIT AND ENTER VEHICLES AND TURF IS IRRIGATED W/ SUBSURFACE IRRIGATION

**LANDSCAPE PLAN SCHEDULE**

- (S) SHRUB: ARTOSTAPHYLOS EMERALD CARPET (CARPET MANZANITA)
  - (S) SHRUB: SALVIA LEUCANTHA (MEXICAN BUSH SAGE) (PF: LOW)
  - (S) SHRUB: CEANOTHUS JULIA PHELPS (JULIA PHELPS) (PF: LOW)
  - (S) SHRUB: ABUTILON PALMERI (INDIAN MALLOW) (PF: LOW)
  - (S) SHRUB: CEANOTHUS 'BLUE JEANS' (PF: LOW)
  - (N) (N) TREE: PAPER BARK MAPLE (ACER GRISEUM)
  - (E) (E) TREE TO BE REMOVED & PERMIT ID
  - (R) (R) TREE TO BE REMAIN & PERMIT ID
  - (G) GROUND COVER: CONVOLVULUS MAURITANICUS (GROUND MORNING GLORY) (PF: LOW)
  - (G) GROUND COVER: DICHONDRA SERICEA (SILVERLEAF PONYFOOT) (PF: LOW)
- MIX INTERSTITIAL SPACES BETWEEN SHRUBS W/ PLANTINGS OF GROUND COVER  
 EXACT SHRUB LOCATION AND MIX TO BE DETERMINED BY LANDSCAPE CONTRACTOR



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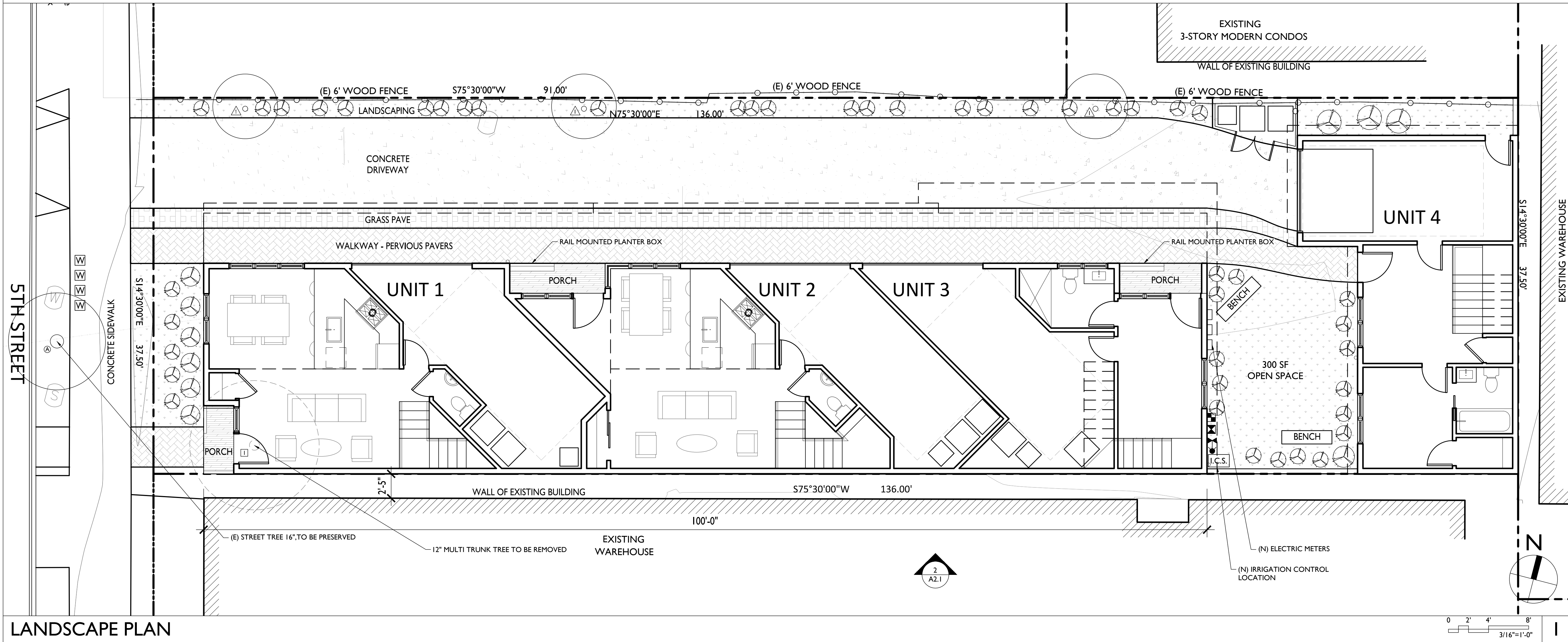
**MULTIFAMILY DEVELOPMENT**  
 2421 FIFTH STREET  
 BERKELEY, CA 94710

LANDSCAPE PLAN

DESIGN REVIEW

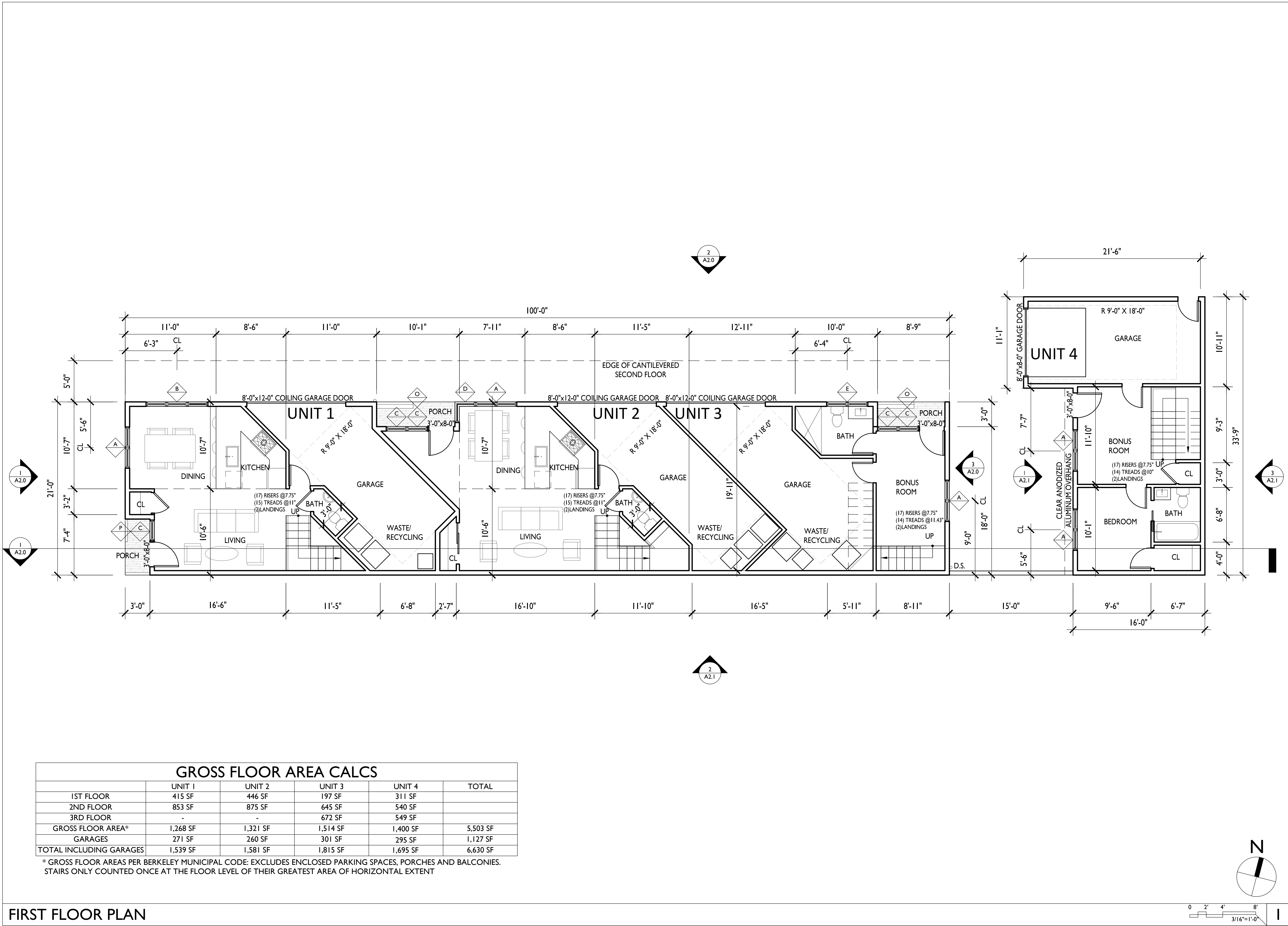
- 1 REVISION 1 : 8/18/20
- 2 REVISION 2 : 9/18/20
- 3 REVISION 3 : 11/3/20

**A0.2**



LANDSCAPE PLAN





**GROSS FLOOR AREA CALCS**

	UNIT 1	UNIT 2	UNIT 3	UNIT 4	TOTAL
1ST FLOOR	415 SF	446 SF	197 SF	311 SF	
2ND FLOOR	853 SF	875 SF	645 SF	540 SF	
3RD FLOOR	-	-	672 SF	549 SF	
GROSS FLOOR AREA*	1,268 SF	1,321 SF	1,514 SF	1,400 SF	5,503 SF
GARAGES	271 SF	260 SF	301 SF	295 SF	1,127 SF
TOTAL INCLUDING GARAGES	1,539 SF	1,581 SF	1,815 SF	1,695 SF	6,630 SF

\* GROSS FLOOR AREAS PER BERKELEY MUNICIPAL CODE: EXCLUDES ENCLOSED PARKING SPACES, PORCHES AND BALCONIES. STAIRS ONLY COUNTED ONCE AT THE FLOOR LEVEL OF THEIR GREATEST AREA OF HORIZONTAL EXTENT

**FIRST FLOOR PLAN**



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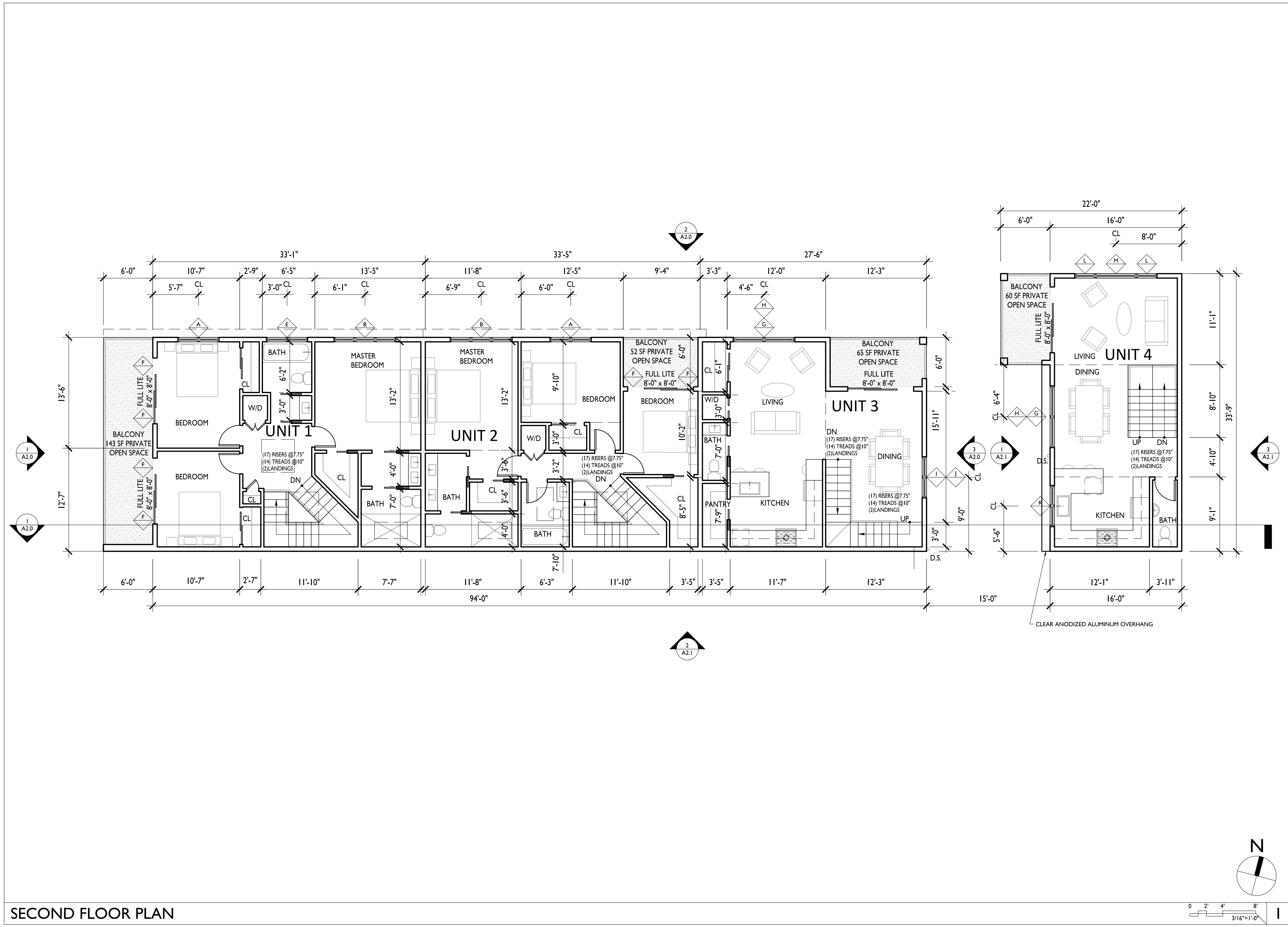
**MULTIFAMILY DEVELOPMENT**  
 2421 FIFTH STREET  
 BERKELEY, CA 94710

FIRST FLOOR PLAN

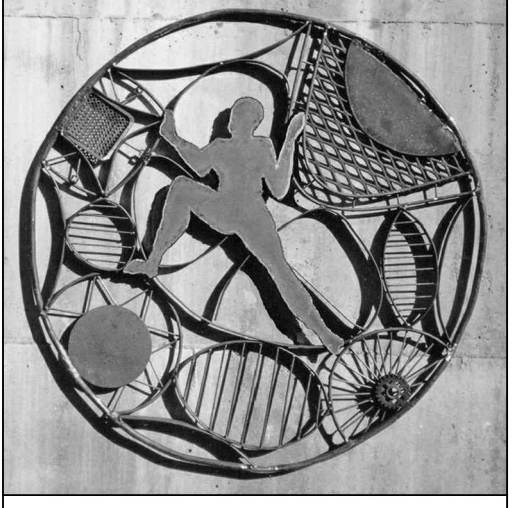
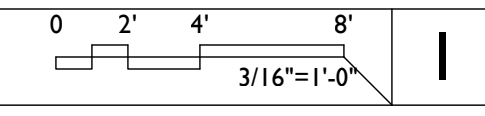
DESIGN REVIEW

- 1 REVISION 1 : 8/18/20
- 2 REVISION 2 : 9/18/20
- 3 REVISION 3 : 11/3/20

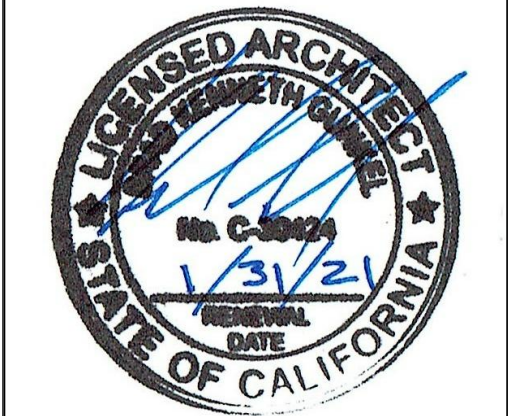
**A1.0**



SECOND FLOOR PLAN



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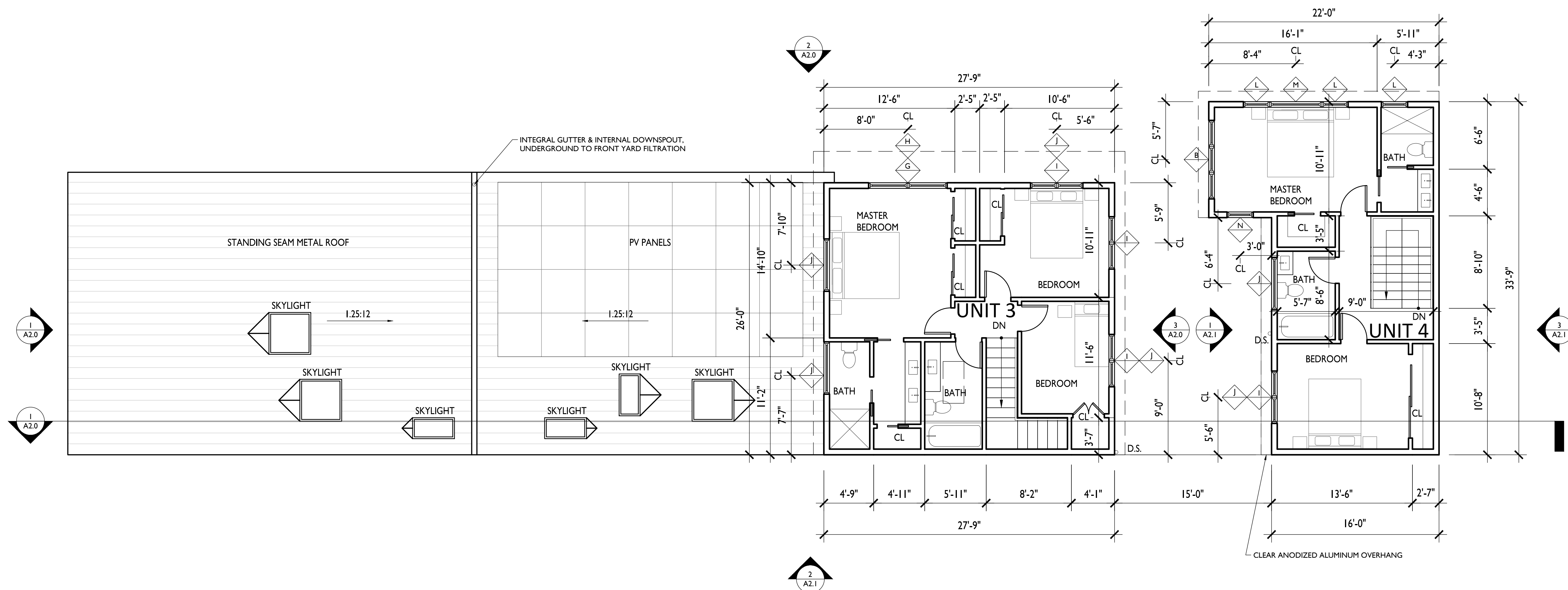
**MULTIFAMILY DEVELOPMENT**  
 2421 FIFTH STREET  
 BERKELEY, CA 94710

SECOND FLOOR PLAN

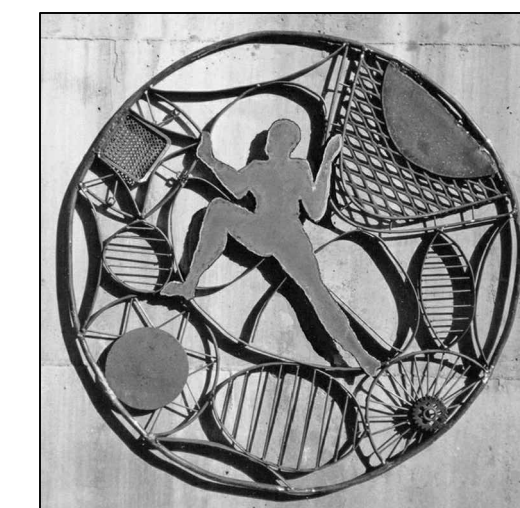
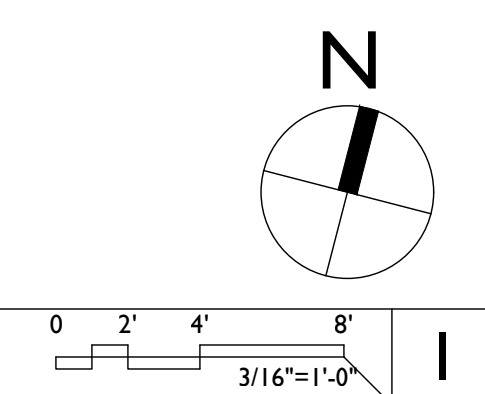
- DESIGN REVIEW
- 1 REVISION 1 : 8/18/20
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  - 3 REVISION 3 : 11/3/20

**A1.1**





THIRD FLOOR PLAN



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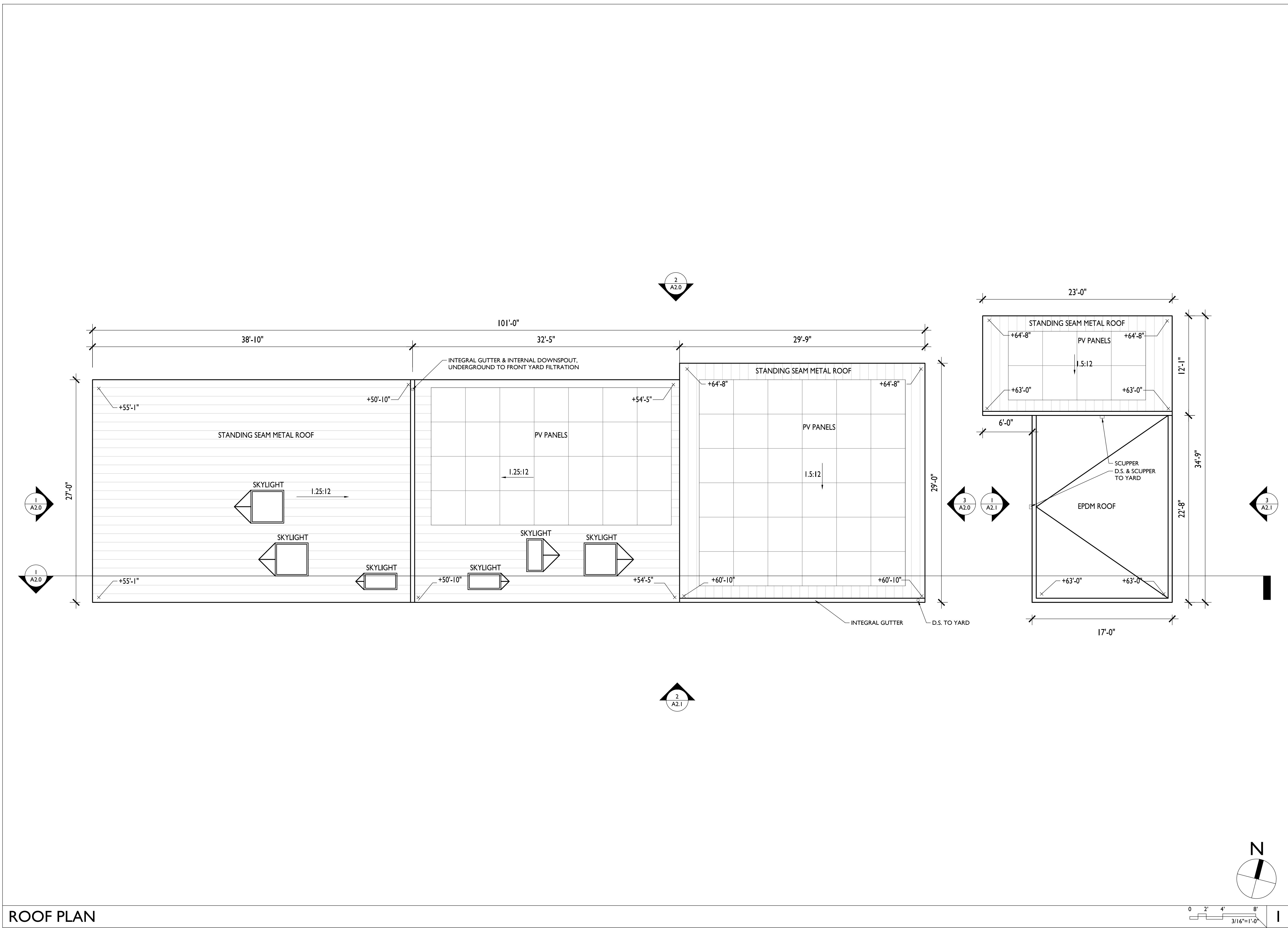
NOT FOR CONSTRUCTION

**MULTIFAMILY DEVELOPMENT**  
 2421 FIFTH STREET  
 BERKELEY, CA 94710

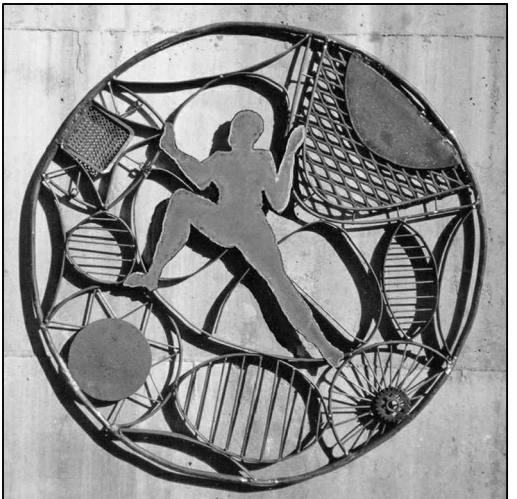
THIRD FLOOR PLAN

DESIGN REVIEW	
1	REVISION 1 : 8/18/20
2	REVISION 2 : 9/18/20
3	REVISION 3 : 11/3/20

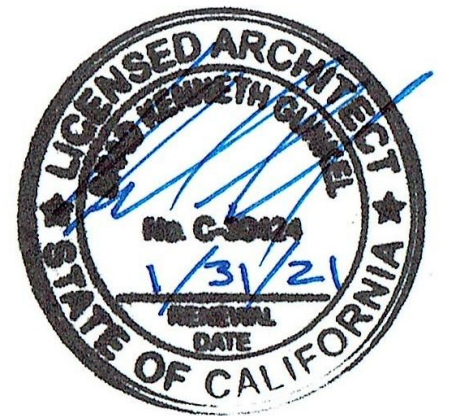
**A1.2**



ROOF PLAN



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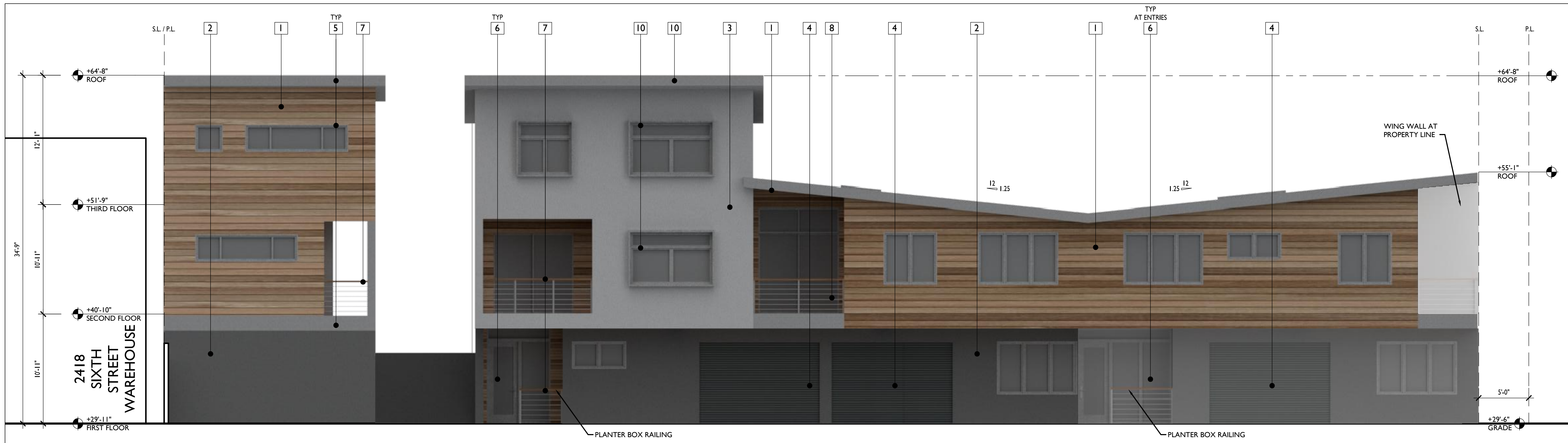
**MULTIFAMILY DEVELOPMENT**  
 2421 FIFTH STREET  
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ROOF PLAN

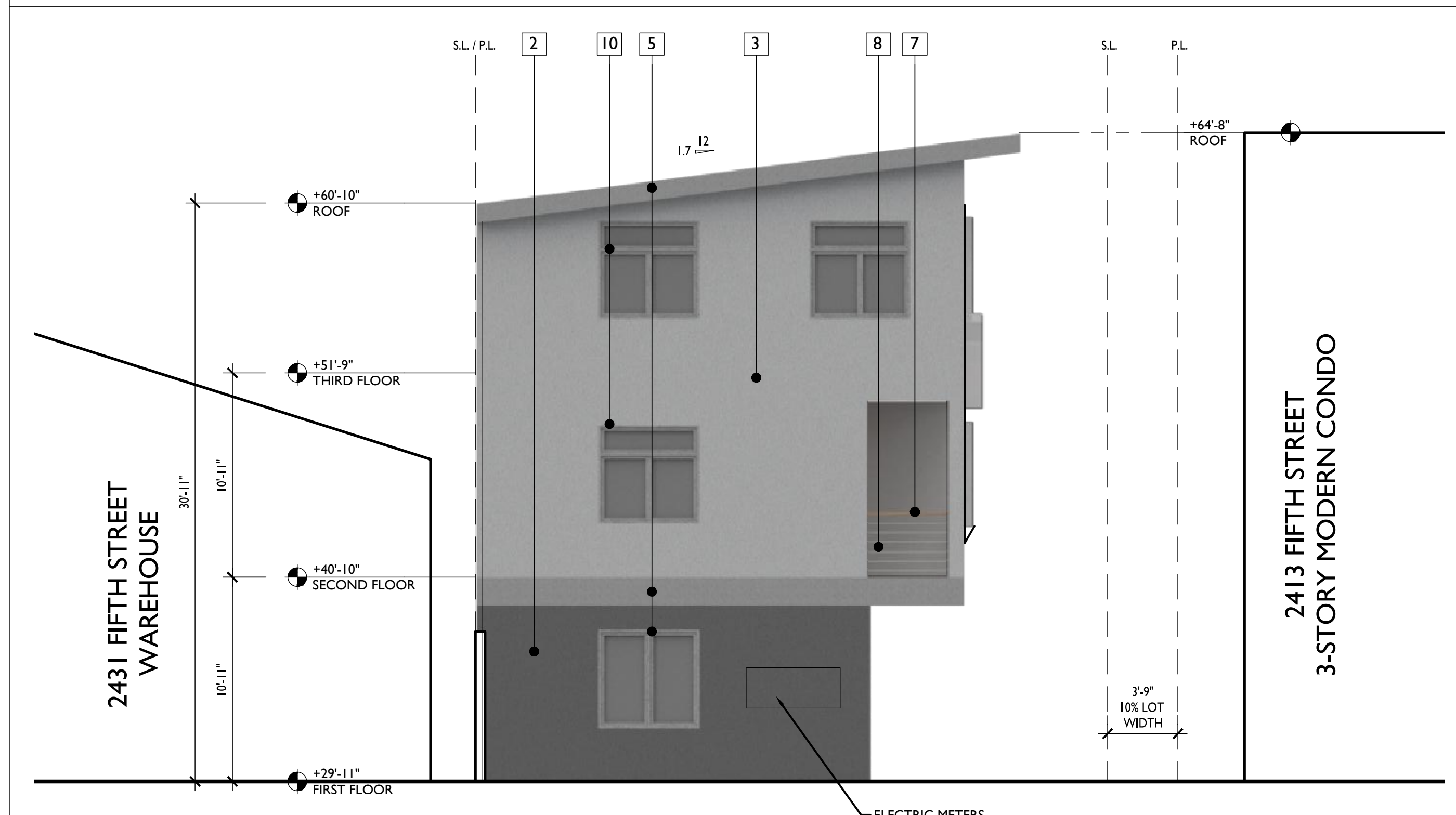
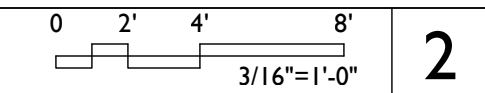
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2	REVISION 2 : 9/18/20
3	REVISION 3 : 11/3/20

**A1.3**

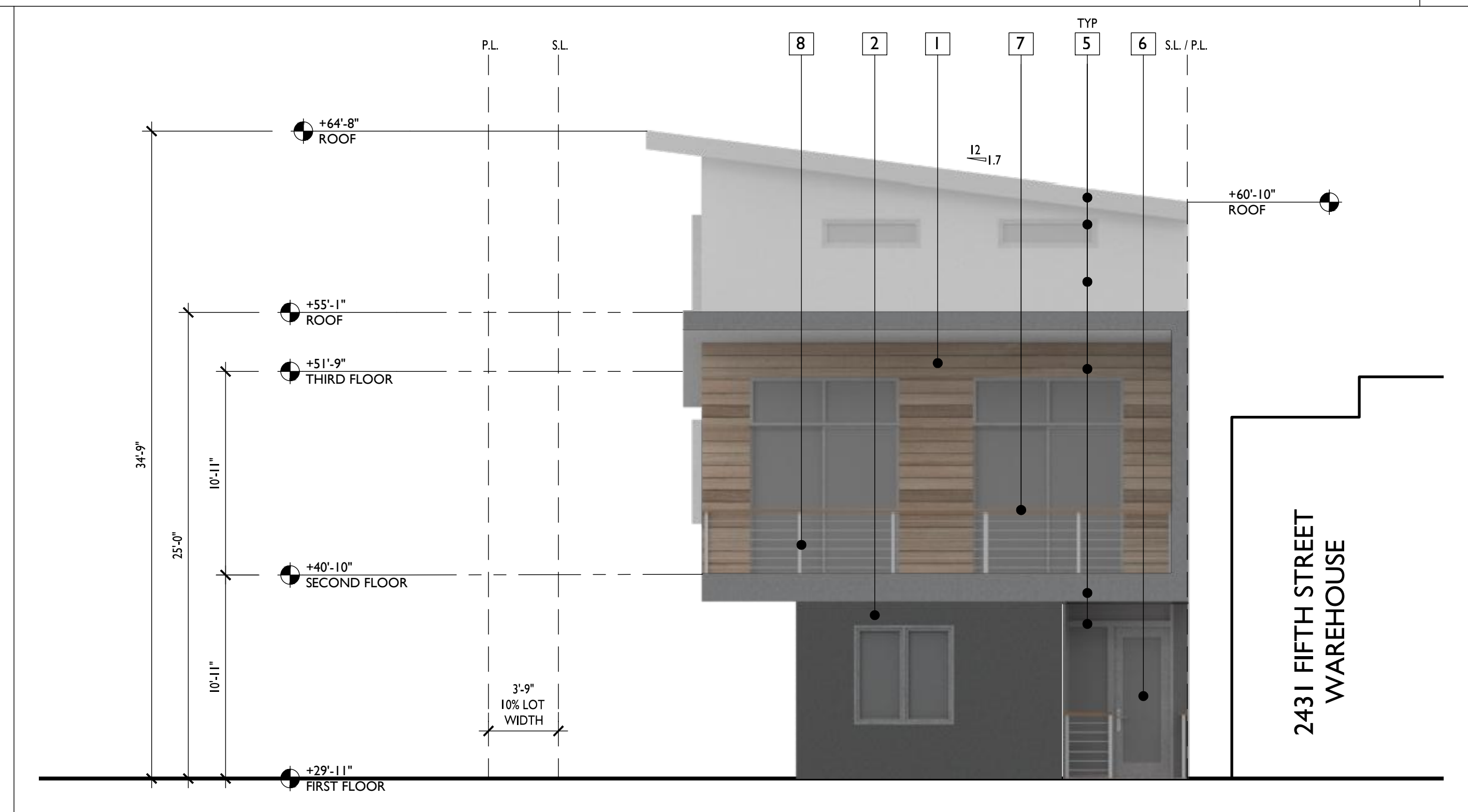
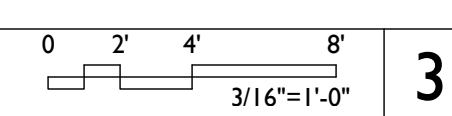




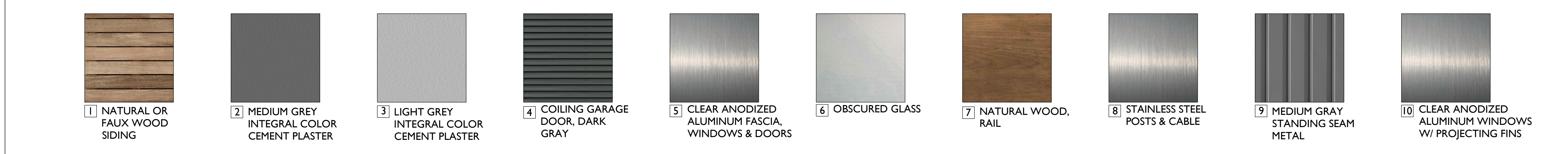
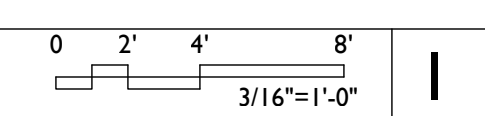
**NORTH ELEVATION**



**EAST ELEVATION - UNIT 1, 2 & 3**



**WEST ELEVATION - UNIT 1, 2 & 3**



**MATERIALS**



**GUNKEL ARCHITECTURE**  
 2295 SAN PABLO AVENUE  
 BERKELEY CA 94702  
 GUNKELARCHITECTURE.COM  
 PHONE: (510) 984 - 1112



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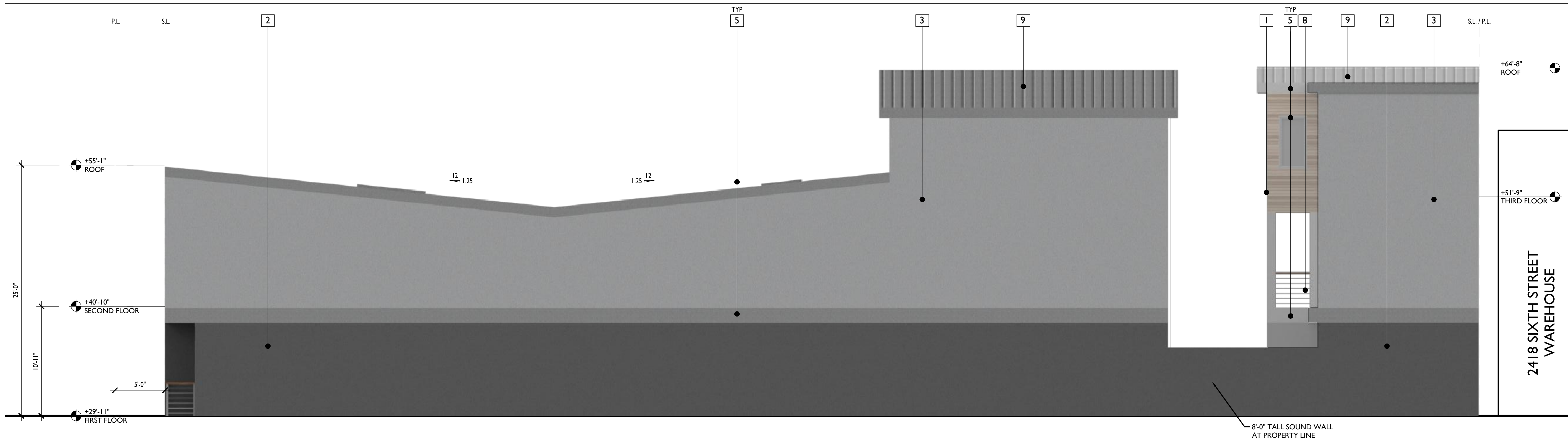
**MULTIFAMILY DEVELOPMENT**  
 2421 FIFTH STREET  
 BERKELEY, CA 94710

ELEVATIONS

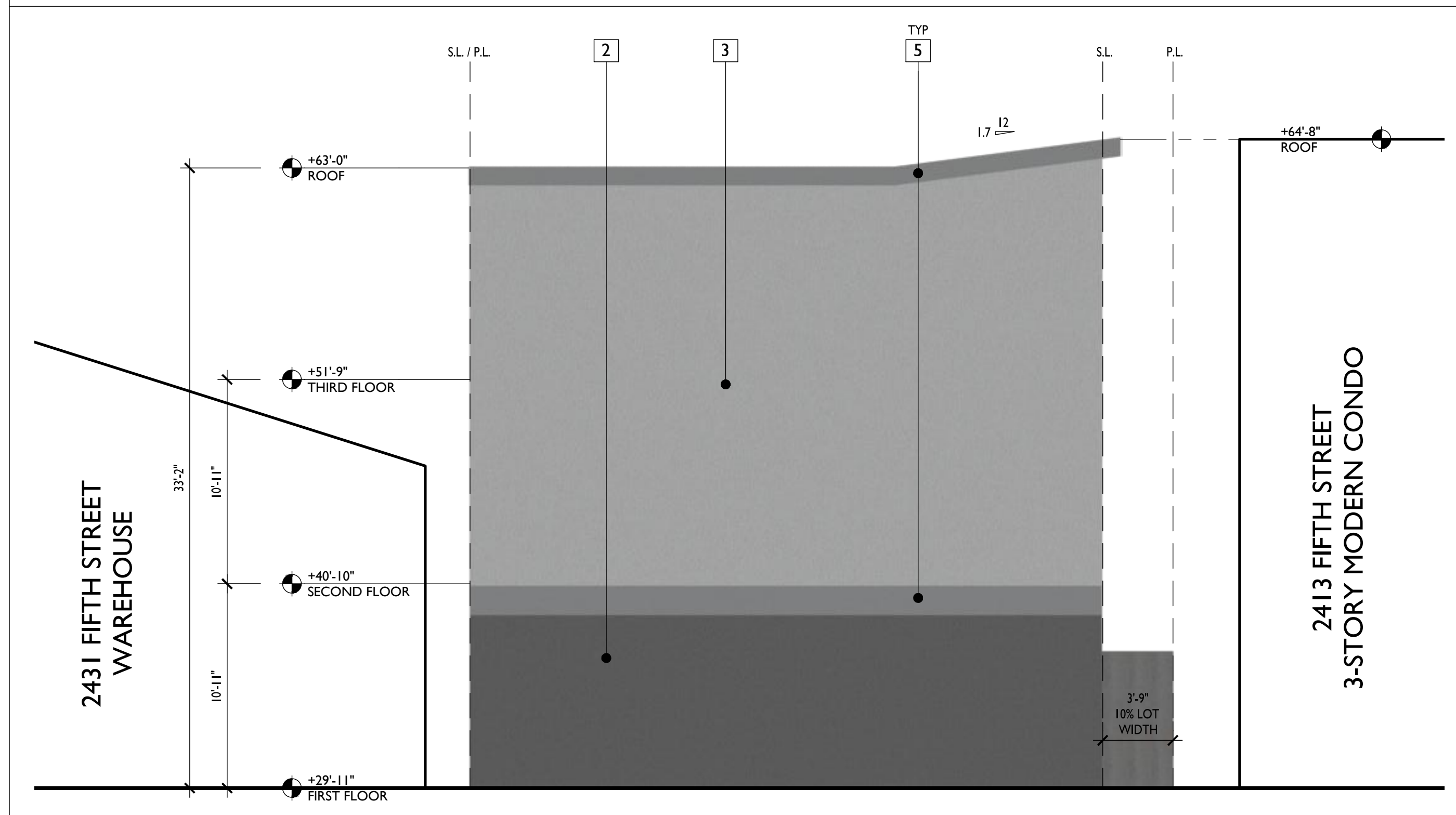
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**A2.0**

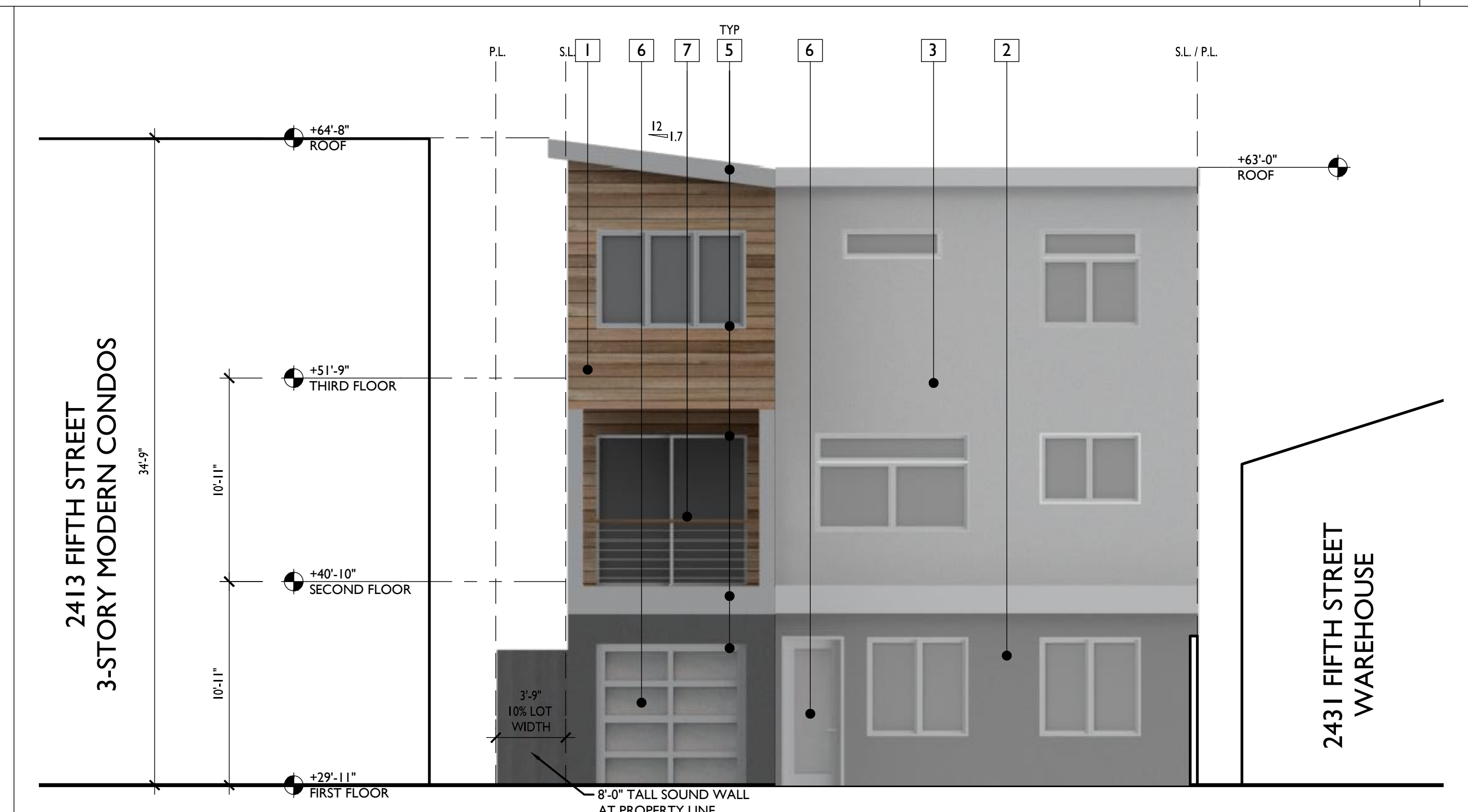





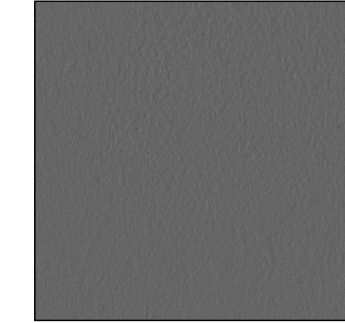
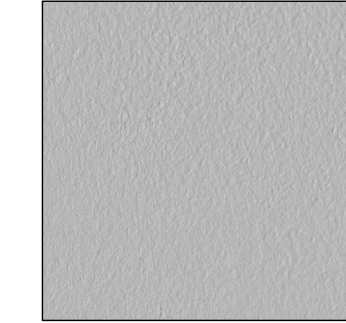
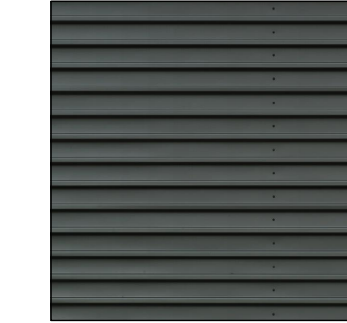

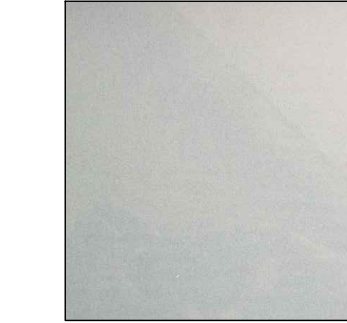


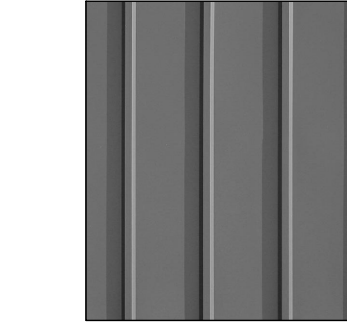

SOUTH ELEVATION



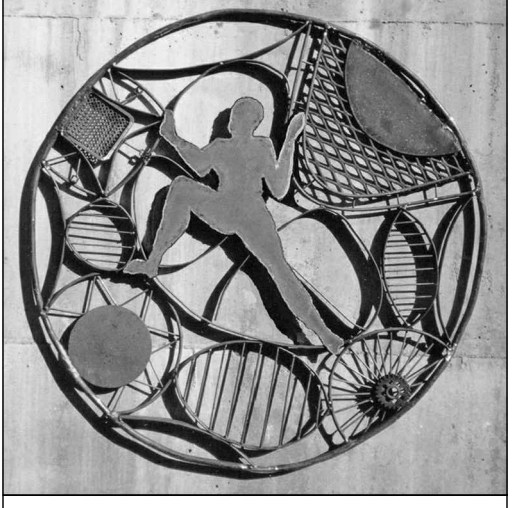
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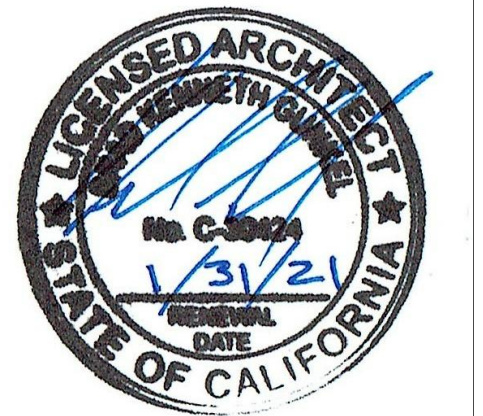
WEST ELEVATION - UNIT 4

- |   |   |   |  |   |   |   |   |   |   |
|---|---|---|--|---|---|---|---|---|---|
|  |  |  |  |  |  |  |  |  |  |
| 1 NATURAL OR FAUX WOOD SIDING   | 2 MEDIUM GREY INTEGRAL COLOR CEMENT PLASTER   | 3 LIGHT GREY INTEGRAL COLOR CEMENT PLASTER  | 4 COILING GARAGE DOOR, DARK GRAY   | 5 CLEAR ANODIZED ALUMINUM FASCIA, WINDOWS & DOORS                                     | 6 OBSCURED GLASS  | 7 NATURAL WOOD, RAIL  | 8 STAINLESS STEEL POSTS & CABLE   | 9 MEDIUM GRAY STANDING SEAM METAL   | 10 CLEAR ANODIZED ALUMINUM WINDOWS W/ PROJECTING FINIS                                |

MATERIALS



**GUNKEL ARCHITECTURE**  
 2295 SAN PABLO AVENUE  
 BERKELEY CA 94702  
 GUNKELARCHITECTURE.COM  
 PHONE: (510) 984 - 1112



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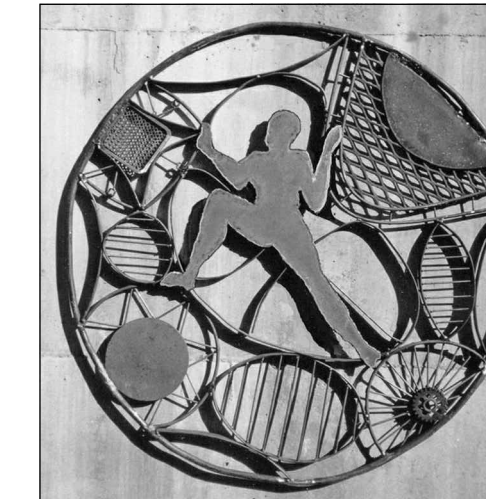
**MULTIFAMILY DEVELOPMENT**  
 2421 FIFTH STREET  
 BERKELEY, CA 94710

ELEVATIONS

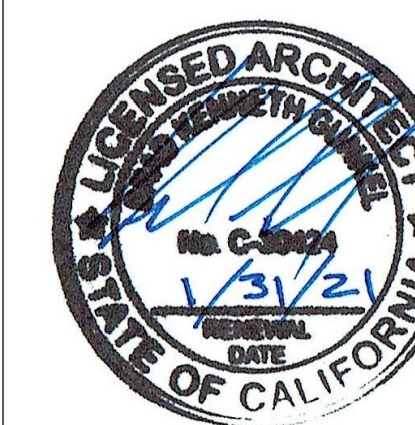
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  - 3 REVISION 3 : 11/3/20

**A2.1**





**GUNKEL ARCHITECTURE**  
2295 SAN PABLO AVENUE  
BERKELEY CA 94702  
GUNKELARCHITECTURE.COM  
PHONE: (510) 984 - 1112



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CONSTRUCTION

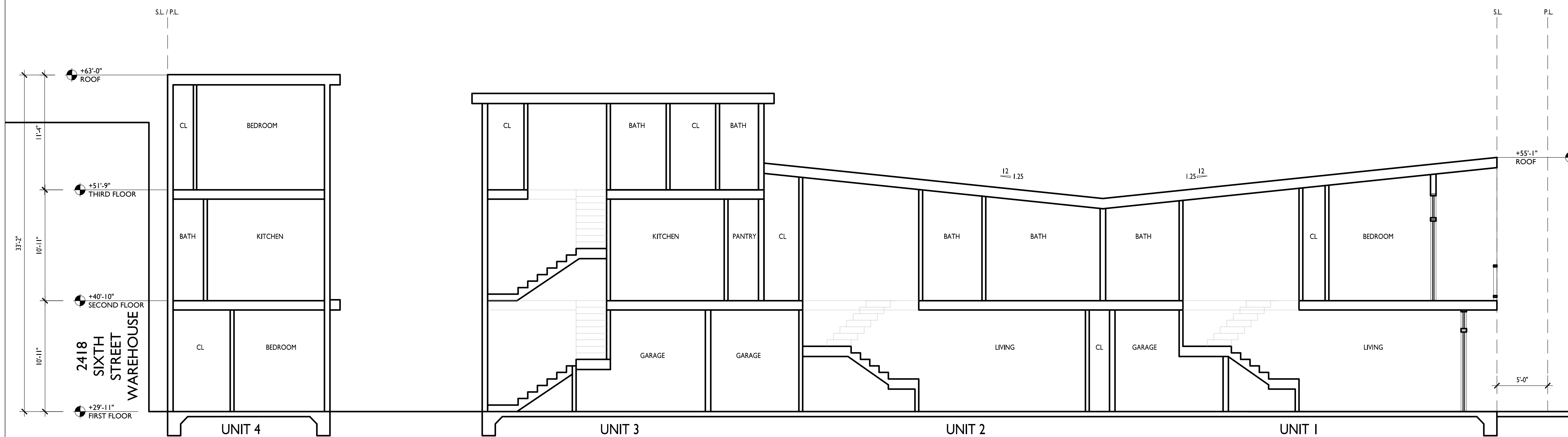
**MULTIFAMILY  
DEVELOPMENT**  
2421 FIFTH STREET  
BERKELEY, CA 94710

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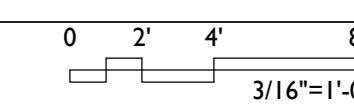
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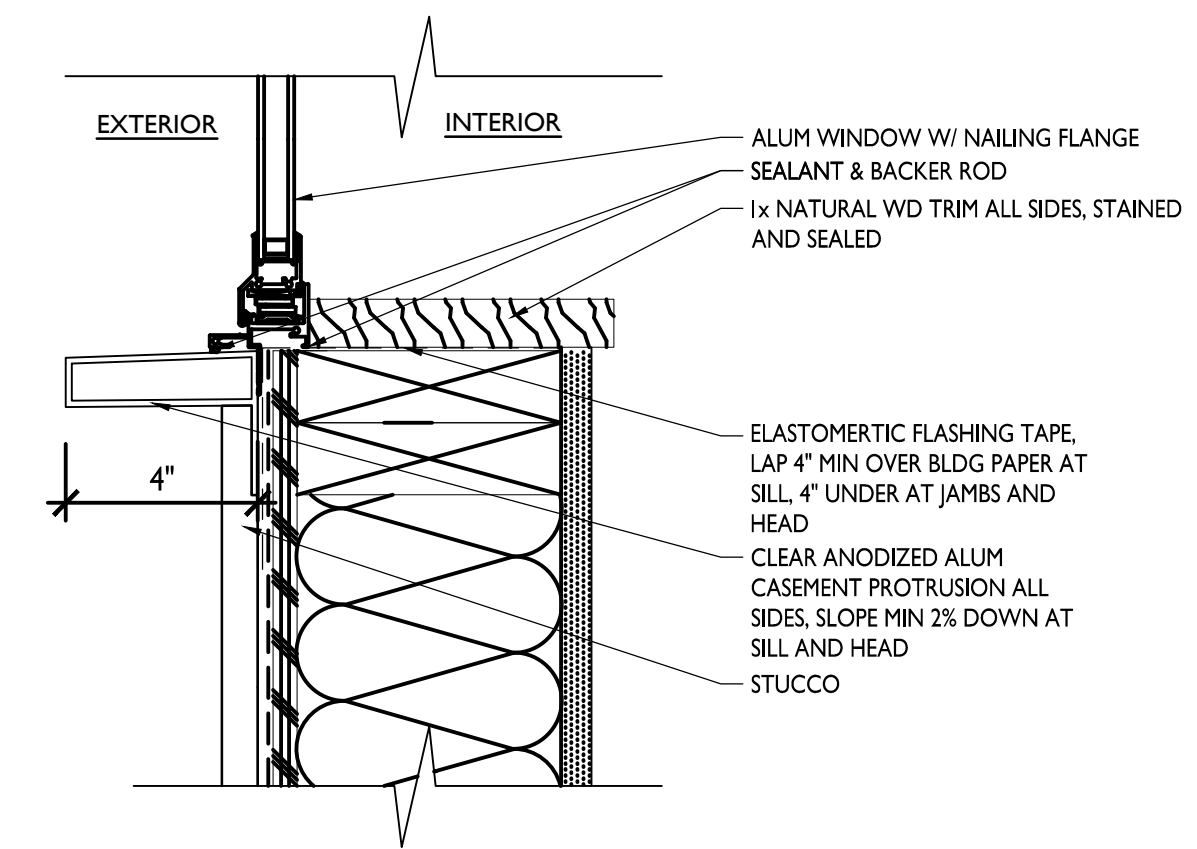
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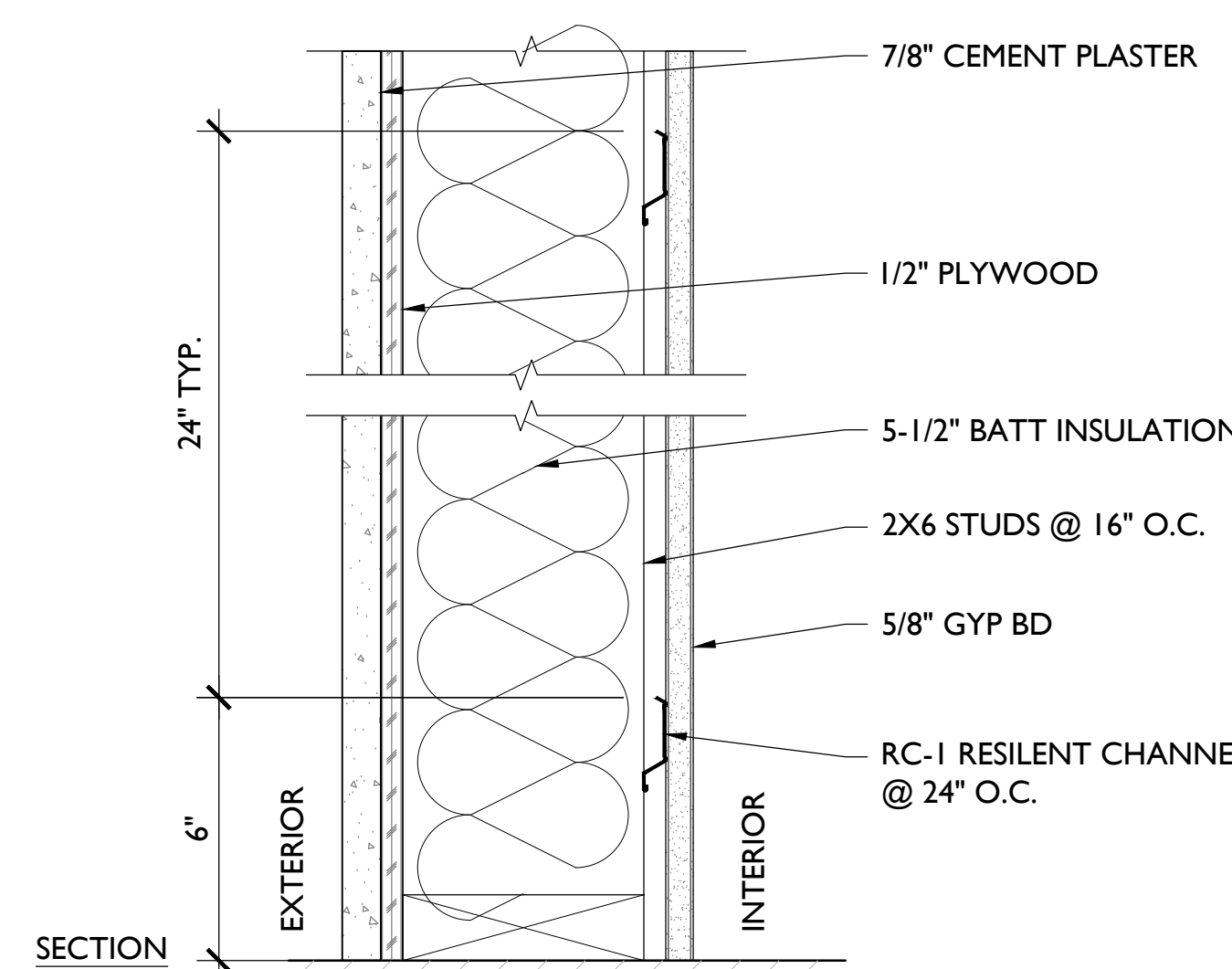


SITE SECTION



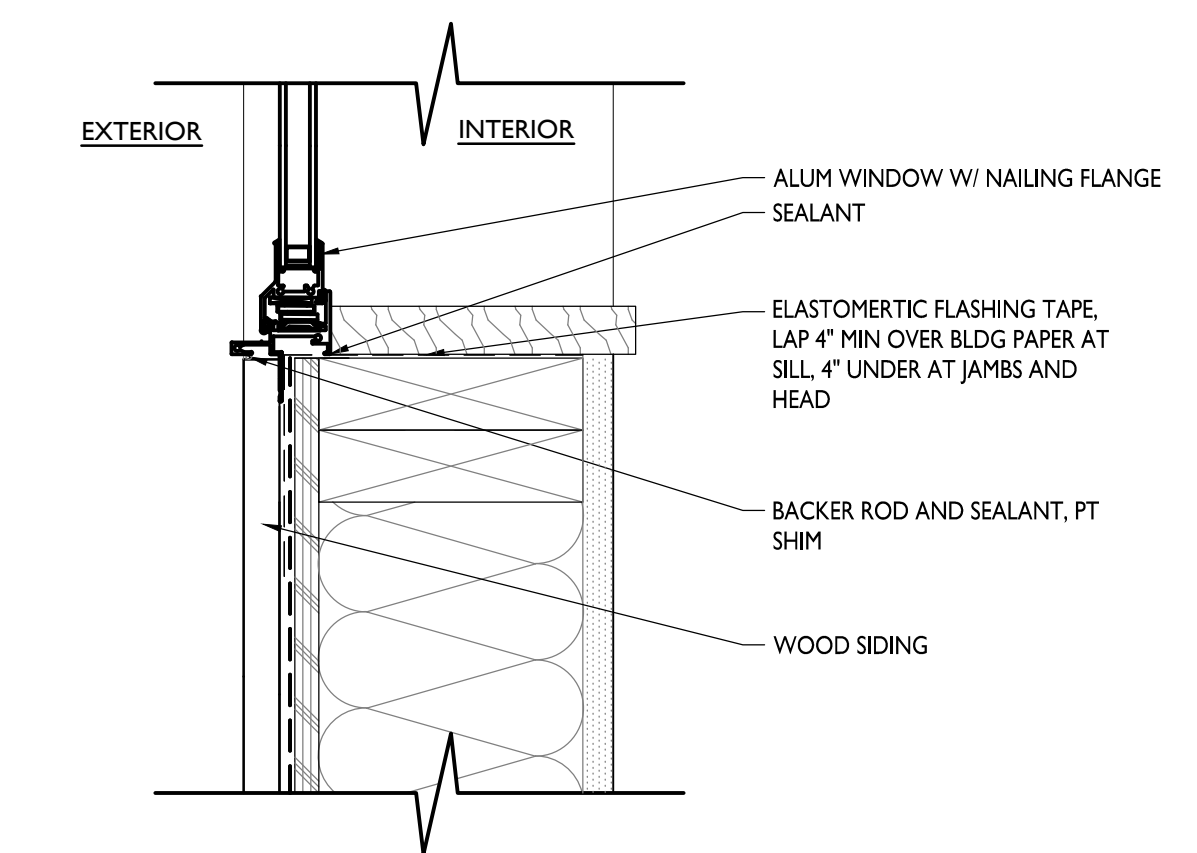


WINDOW JAMB & SILL @ STUCCO 3"=1'-0" 3



NOTE: MINIMUM 50 STC FOR EXTERIOR WALL TO ENSURE INTERIOR NOISE LEVELS NO MORE THAN 45 LDN

1-HR EXTERIOR WALL ASSEMBLY 3"=1'-0" 5

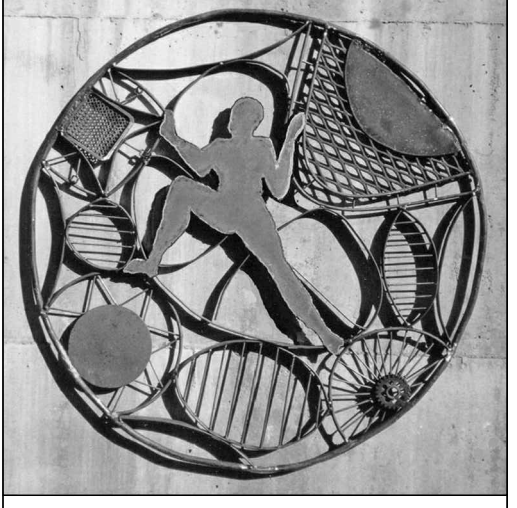


WINDOW JAMB & SILL @ WOOD 3"=1'-0" 2

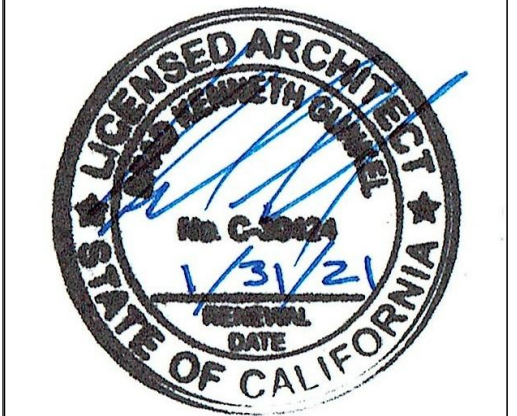
WINDOW AND FRAME SCHEDULE

WINDOW	WINDOW				RATING	SASH		FRAME		NOTES
	SIZE (WxH)	TYPE	GLAZING TYPE	HEAD HEIGHT (A.F.F.)		FIRE (MIN)	MATL	FIN	MATL	
A	5'-0"x5'-0"	FRENCH CASEMENT	CLEAR	8'-0"	-	-	-	-	-	
B	7'-6"x5'-0"	FRENCH CASEMENT + FIXED	CLEAR	8'-0"	-	-	-	-	-	
C	2'-6"x8'-0"	FIXED SIDE LITE	FROSTED	8'-0"	-	-	-	-	-	
D	5'-0"x5'-0"	FIXED CORNER	CLEAR	8'-0"	-	-	-	-	-	
E	5'-0"x2'-6"	AWNING	CLEAR	8'-0"	-	-	-	-	-	
F	4'-0"x2'-6"	FIXED	CLEAR	11'-0"	-	-	-	-	-	
G	8'-0"x3'-6"	FRENCH CASEMENT	CLEAR	6'-6"	-	-	-	-	-	
H	8'-0"x1'-6"	FIXED TRANSOM	CLEAR	8'-0"	-	-	-	-	-	
I	5'-0"x3'-6"	FRENCH CASEMENT	CLEAR	6'-6"	-	-	-	-	-	
J	5'-0"x1'-6"	FIXED TRANSOM	CLEAR	8'-0"	-	-	-	-	-	
K	5'-0"x3'-6"	AWNING	CLEAR	8'-0"	-	-	-	-	-	
L	2'-6"x2'-6"	CASEMENT	CLEAR	8'-0"	-	-	-	-	-	
M	4'-0"x2'-6"	FIXED	CLEAR	8'-0"	-	-	-	-	-	
N	2'-6"x5'-0"	CASEMENT	CLEAR	8'-0"	-	-	-	-	-	
O	8'-0"x1'-0"	FIXED	FROSTED	9'-0"	-	-	-	-	-	
P	5'-6"x1'-0"	FIXED	FROSTED	9'-0"	-	-	-	-	-	

WINDOW AND FRAME SCHEDULE 1



**GUNKEL ARCHITECTURE**  
 2295 SAN PABLO AVENUE  
 BERKELEY CA 94702  
 GUNKELARCHITECTURE.COM  
 PHONE: (510) 984 - 1112



NOT FOR CONSTRUCTION

**MULTIFAMILY DEVELOPMENT**  
 2421 FIFTH STREET  
 BERKELEY, CA 94710

WINDOW SCHEDULE

- DESIGN REVIEW
- 1 REVISION 1 : 8/18/20
  - 2 REVISION 2 : 9/18/20
  - 3 REVISION 3 : 11/3/20



Sonja Kassuba  
2413 Fifth Street, Unit C  
Berkeley, CA. 94710  
Skassubal2@gmail.com ~ (415) 290-1963

---

February 22, 2021

City Clerk  
2180 Milvia Street  
Berkeley, CA.  
Via Fax (510) 981-6901

To Whom it May Concern:

The grounds for the appeal include the following:

- There was not an adequate opportunity to discuss the project, our concerns, and the impact of privacy.
- The lack of unaddressed issues to address privacy between units 3 and 4 of the proposed development, and my unit C at 2413 Fifth Street.
- Our hope is for further discussion between the architect, developer, and neighbors.

Sincerely,



Sonja Kassuba

cc: Zachary and Tiffany Sinclair, 2413 Fifth Street, Unit A  
Skip, 2414 Fifth Street, Berkeley  
Glenda Beamon, 2412 Fifth Street, Berkeley  
Gordon Silvera and Barbara Anderson, 2415 Fifth Street, Berkeley  
Girls, 2411 Fifth Street, Berkeley

Eric Mason  
2430 5<sup>th</sup> St #F  
Berkeley CA 94710

Susan Berston  
2413 Fifth Street, C  
Susan Berston

Signature Page

Zachary and Tiffany Sinclair,  
2413 Fifth Street, Unit A.


Skip, 2414 Fifth Street, Berkeley


Glenda Beamon, 2412 Fifth Street, Berkeley

Gordon Silvera and Barbara Anderson,  
2415 Fifth Street, Berkeley

Tenants, 2411 Fifth Street, Berkeley

 Eleonora CERCATORE 2326 Fifth St

 Glenn Oliveria 732 CHANNING WAY  
SEAMUS BARLEY ~~800 FIFTH ST~~ 105

 Ivo Ljner 2430 5th St, Unit E

- Edward Ortiz 736 Channing Way

Rowena M Carlson 2430 5th St. Unit G  
Berkeley, CA 94710

Alexis M. Wachtel 2311 Berkeley, CA 94710  
5th St.

ROBB M. WALKER 2430 5th ST UNIT G  
BERKELEY, CA 94710

Ke-Sock Lee 2430 5th ST STE C, Berkeley CA 94710

E. Balme 2430 5th ST STE B - Berkeley CA 94710

Ellen Fullman 2430 5th St. Ste N - Berkeley CA 94710

Theresa Wong 2430 5th St. Ste N - Berkeley CA 94710

Edward Dean 2430 5th St Ste M Berkeley, CA 94710

Dakota Tmy 2430 5th St Ste M Berkeley, CA 94710



Signature Page

Zachary and Tiffany Sinclair,  
2413 Fifth Street, Unit A.

T. Sinclair Tiffany Sinclair

Skip, 2414 Fifth Street, Berkeley \_\_\_\_\_

Glenda Beamon, 2412 Fifth Street, Berkeley \_\_\_\_\_

Gordon Silvera and Barbara Anderson,  
2415 Fifth Street, Berkeley

Barbara Anderson B. Anderson

Tenants, 2411 Fifth Street, Berkeley

X. [Signature]

2413 Fifth Street Unit B

[Signature] E. Bolts

E. Bolts

2411 D

Chris Goodwin

[Signature]

2411 D

Savanna Murphy

[Signature]

2411 5th Street

Neil Shah

[Signature]

2411 A

ERICA RIPPPE

[Signature]

800 Channing

Brian Levitch

[Signature]

806 Channing

Sigga Tuomaiinen

[Signature]

810 Channing

Jessie [Signature]

Jennifer Ring

2335 5th St.

Laura Diven

[Signature]

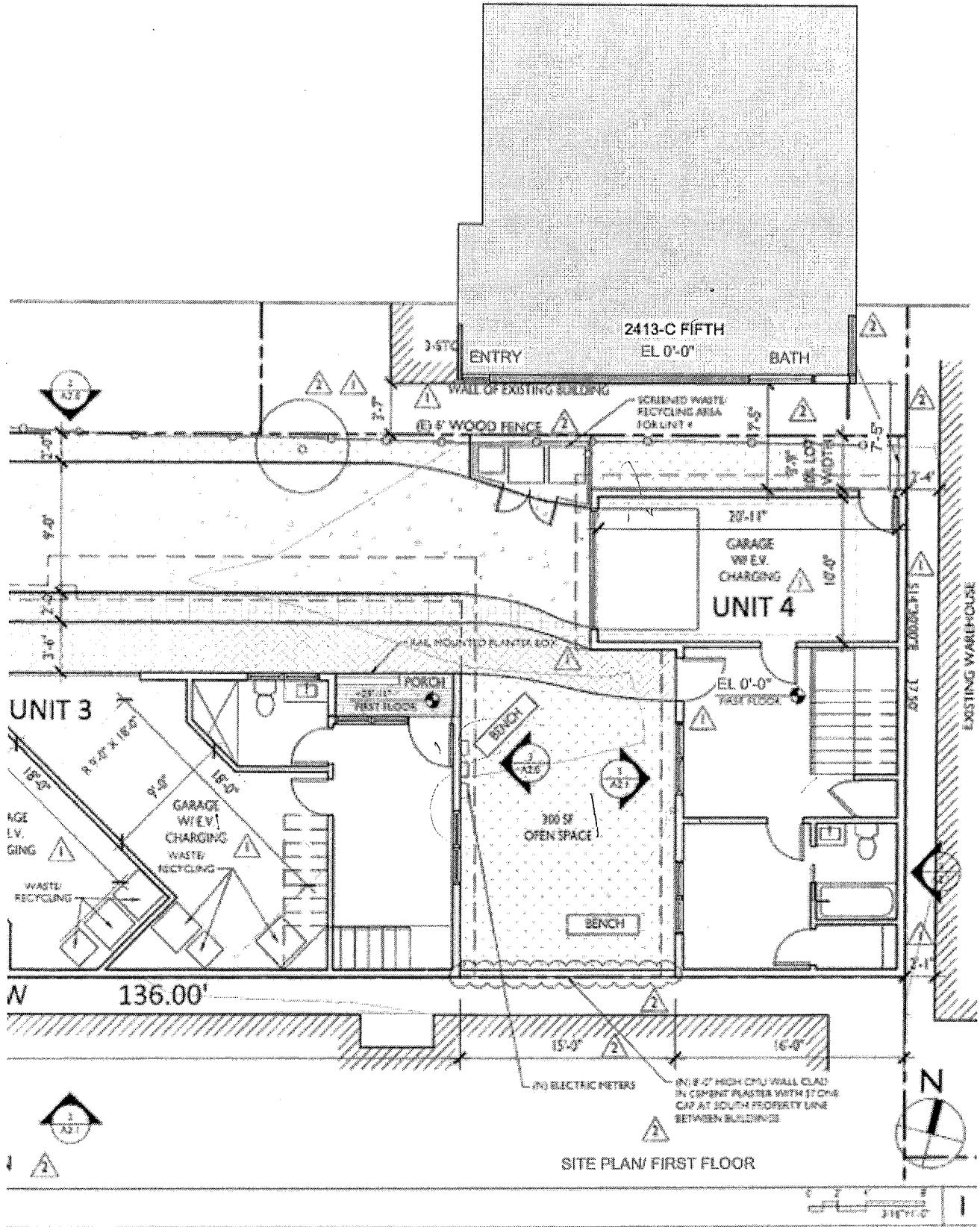
742 Channing

Echo Lee

[Signature]

2418 5th St.

JEILA SAIDI



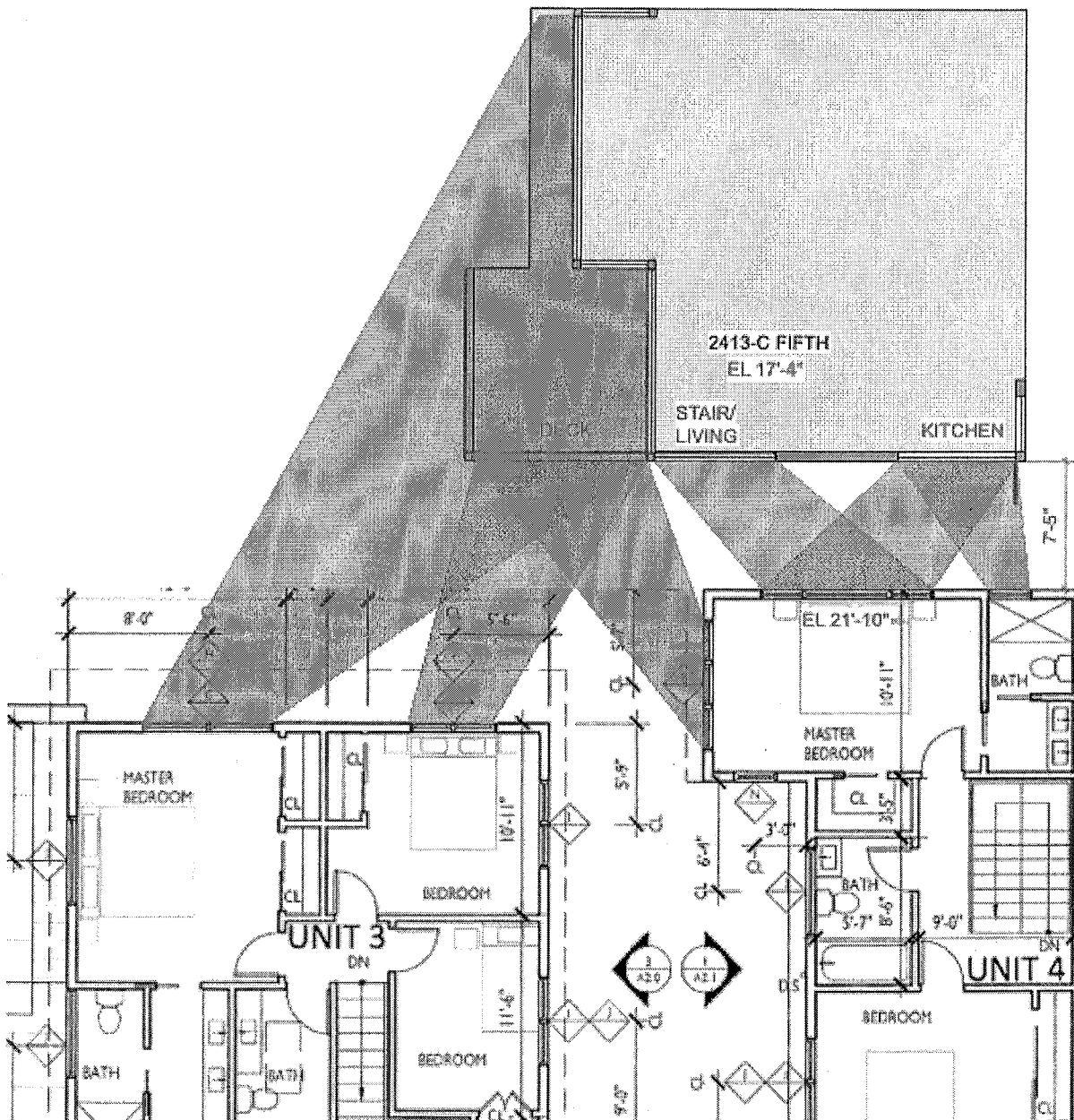
From: Patrick Sheahan pksarchitect@mac.com  
Subject: ZAB 1/28/21: 2421 FIFTH ST  
Date: January 28, 2021 at 5:51 PM  
To: Sonja Kassuba skassuba123@gmail.com, Barbara Anderson barbaraanderson@comcast.net, Gordon Silvera gsilvera@comcast.net



SENT TO ZAB TODAY:

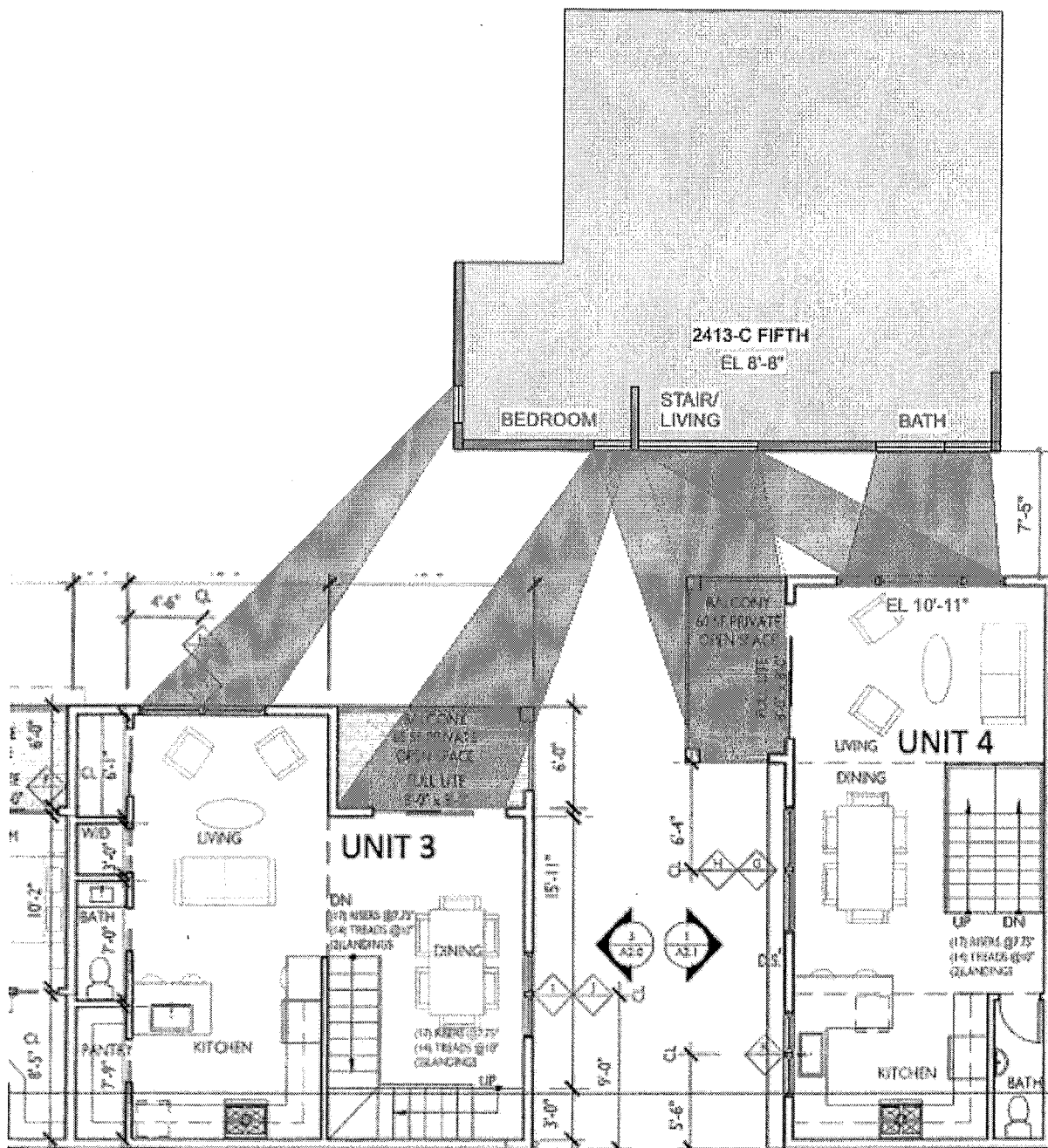
Please see attached Privacy Diagrams: 2412 Fifth / 2413 Fifth.

Patrick Sheahan





THIRD FLOOR



SECOND FLOOR



Z O N I N G

A D J U S T M E N T S

B O A R D

S U P P L E M E N T A L  
S T A F F R E P O R T

FOR BOARD ACTION  
JANUARY 28, 2021

## 2421 Fifth Street

Use Permit #ZP2020-0043 to demolish a single-family dwelling and construct two residential buildings: a three-story triplex and a three-story single-family dwelling, for a total of four new dwellings. This residential project abuts manufacturing uses.

### I. Background

#### A. Land Use Designations:

- General Plan: MU – Mixed Use
- Zoning: MU-R – Mixed Use Residential District

#### B. Zoning Permits Required:

- Use Permit under BMC §23C.08.010.B to demolish a dwelling unit;
- Administrative Use Permit under BMC §23E.84.030 to construct one to four dwelling units; and
- Use Permit under BMC §23E.84.060.G to establish a dwelling unit within 150 feet of a property containing a construction product manufacturing or primary production manufacturing use.

**C. CEQA Recommendation:** It is staff’s recommendation to ZAB that the project is categorically exempt from the provisions of the California Environmental Quality Act pursuant to §15303 (“New Construction or Conversion of Small Structures”) of the CEQA Guidelines. The determination is made by ZAB.

#### D. Parties Involved:

- Applicant Amber Baker, Gunkel Architecture, 2295 San Pablo Avenue, Berkeley, CA 94702
- Property Owner Properties 180, LLC, PO Box 1340 Ceres, CA 95307

## E. Project Background

On January 21, 2021, the staff report and hearing materials for Use Permit #ZP2020-0043 were sent to ZAB members and published to the project web page on the City's website. Section I.B of the staff report listed the following zoning permits required for the project:

- Use Permit under BMC §23C.08.010.B to demolish a dwelling unit;
- Administrative Use Permit under BMC §23E.84.030 to construct one to four dwelling units;
- Use Permit under BMC §23E.84.060.G to establish a dwelling unit within 150 feet of a property containing a construction product manufacturing or primary production manufacturing use; and
- Administrative Use Permit under BMC §23E.84.070.F.2 to use an alternative method of providing sound buffering between the residential and the manufacturing use (other than an 8' fence) if a building which will contain a residential use is constructed on a lot where the side or rear abuts a lot in the MU-R District used for manufacturing purposes.

In the staff report, the project was deemed *not* compliant with the Housing Accountability Act (HAA), California Government Code Section 65589.5(j), because it did not comply with all objective standards. Section V.A listed the following standards which were not met by the project:

- Establishment of a dwelling unit within 150 feet of a property containing a construction product manufacturing or primary production manufacturing use (Use Permit under BMC §23E.84.060.G); and
- Use of an alternative method of providing sound buffering between the residential and the manufacturing use (other than an 8' fence) if a building which will contain a residential use is constructed on a lot where the side or rear abuts a lot in the MU-R District used for manufacturing purposes (Use Permit under BMC §23E.84.070.F.2)

Subsequently, an inconsistency in staff's interpretation of the HAA was brought to staff's attention. Staff has re-evaluated the required permits, associated findings, and language of the HAA, and as a result is issuing this clarification of its analysis.

## V. Issues and Analysis

**A. Zoning Permits Required.** Staff finds that the Administrative Use Permit under BMC §23E.84.070.F.2 is not applicable to the project, as the building's east and south acoustic walls serve as the "fence" described in the BMC, it is not an "alternative method", and provides sufficient sound buffering against the adjacent manufacturing uses. Therefore, this permit has been deleted from the list of required permits, and from the list of objective standards not met by the project in section V.A of the staff report.

**B. Housing Accountability Act:** The Housing Accountability Act (HAA), California Government Code Section 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 application requires a Use Permit under BMC §23E.84.060.G, to build an otherwise an allowable use (residential) within 150 feet of a property containing a manufacturing use. (The site is 91 feet deep, and is adjacent to manufacturing uses; any dwelling on the parcel would be within 150 feet of manufacturing.) However, only the non-detriment finding for approval of this use permit applies; the non-detriment finding does not include objective standards. Therefore, this permit has been deleted from the list of objective standards not met by the project in section V.A of the staff report. Staff has deemed the project compliant with the HAA, and Section 65589.5(j) **does apply** to the Proposed Project.

The analysis in the staff report on compatibility with the purposes of the MU-R District; sunlight/shadow, air, views and privacy; and General Plan Consistency are provided for informational purposes only because they are not applicable to HAA-compliant projects.

**C. Modifications to the Findings and Conditions.** To implement the changes above, the following edits to the Findings and Conditions are necessary:

- Under Permits Required: Strike Administrative Use Permit under BMC §23E.84.070.F.2
- Under Findings for Approval: Strike Number 3, Findings for BMC §23E.84.070F.2
- Under Findings for Approval: Insert first
  1. The Housing Accountability Act §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 density; 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 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 four dwelling units on a lot that permits four dwelling units in a mixed-use residential district.

Staff's recommendation of approval of Use Permit #ZP2020-0043 remains unchanged.

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





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  
JANUARY 28, 2021

## 2421 Fifth Street

**Use Permit #ZP2020-0043 to demolish a single-family dwelling and construct two residential buildings: a three-story triplex and a three-story single-family dwelling, for a total of four new dwellings. This residential project abuts manufacturing uses.**

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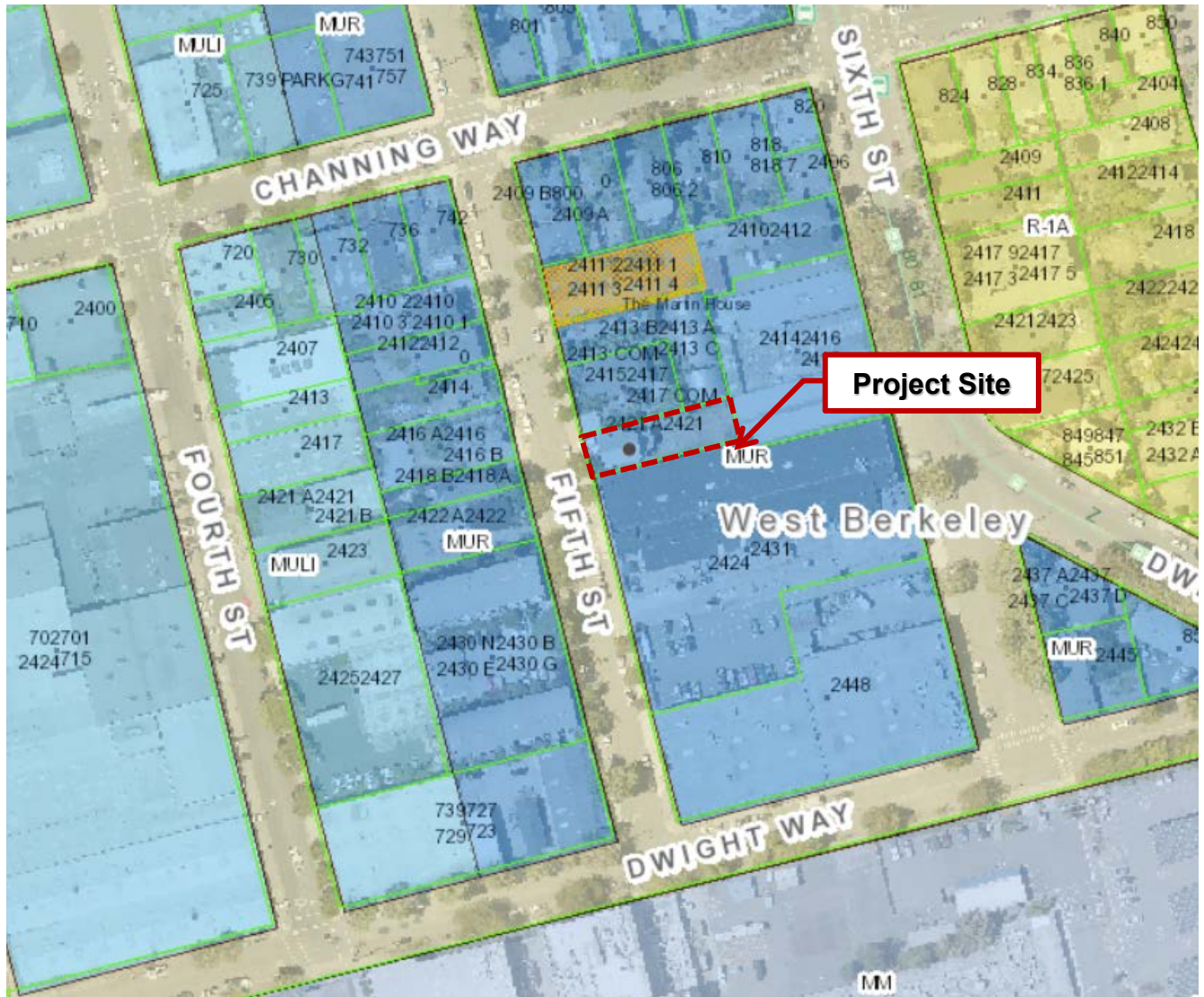
- Use Permit under BMC §23C.08.010.B to demolish a dwelling unit;
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- Use Permit under BMC §23E.84.060.G to establish a dwelling unit within 150 feet of a property containing a construction product manufacturing or primary production manufacturing use; and
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**C. CEQA Recommendation:** It is staff's recommendation to ZAB that the project is categorically exempt from the provisions of the California Environmental Quality Act pursuant to §15303 ("New Construction or Conversion of Small Structures") of the CEQA Guidelines. The determination is made by ZAB.


#### D. Parties Involved:

- Applicant Amber Baker, Gunkel Architecture, 2295 San Pablo Avenue, Berkeley, CA 94702
- Property Owner Properties 180, LLC, PO Box 1340 Ceres, CA 95307

Figure 1: Zoning Map



Legend

-  AC Transit Bus Route
- MU-LI: Mixed Use-Light Industrial District
- MU-R: Mixed Use-Residential District
- MM: Mixed Manufacturing District
- R-1A: Limited Two-Family Residential District

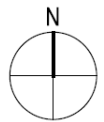


Figure 2: Proposed Site Plan

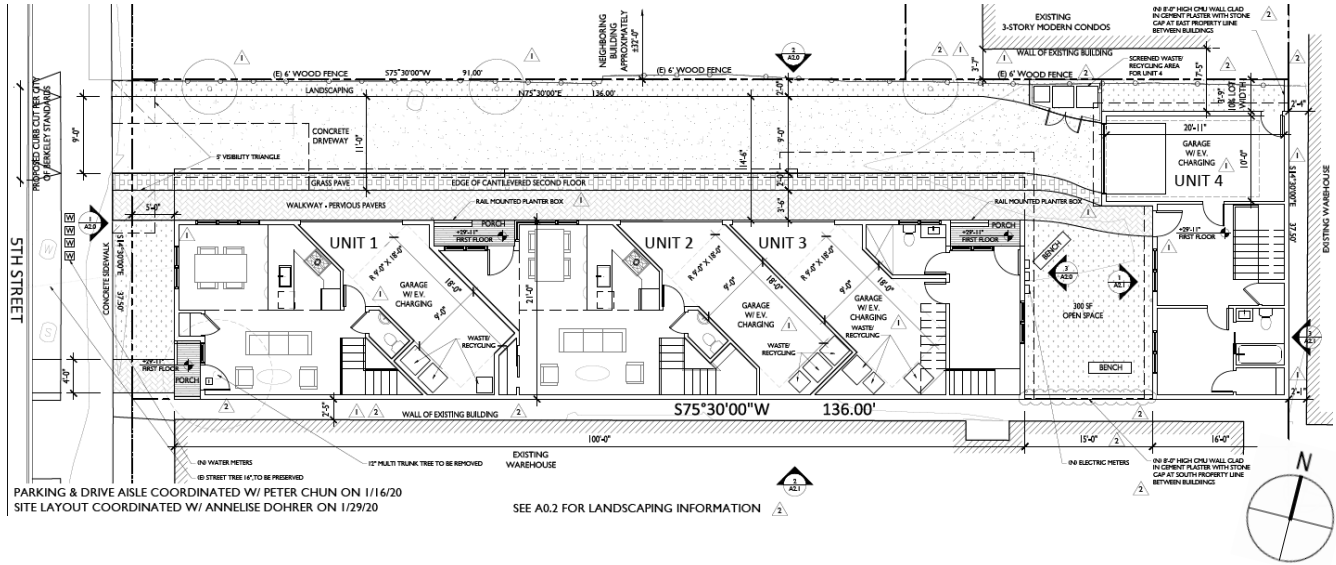


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Single-Family Dwelling	MU-R	Mixed Use (MU)
Surrounding Adjacent Properties	North	Office and duplex/Three-unit condo		
	East	Office and Sheet Metal Manufacturing		
	South	Cannabis Product Manufacturing		
	West	Duplex (B2020-02038 for new office and 2 units)/Office/Glass Manufacturing and Multi-Family Dwelling		

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)  Inclusionary Unit Requirements for ownership housing projects (Per BMC 23C.12.020)	No	The project is not subject to BMC Section 22.20.065 Affordable Housing Mitigation Fee (AHMF) or BMC Section 23C.12 Inclusionary Housing Requirements, because it is a stand-alone development of four dwelling units and is below the five-unit threshold for applicability for both ordinance sections.
Coast Live Oaks	No	There are no oak trees on the project site.
Creeks	No	The project site is not within a creek buffer.

Characteristic	Applies to Project?	Explanation
Green Building Score	Yes	The Greenpoint Checklist minimum score is 50, and the maximum is 342. The project achieves a score of 94.
Historic Resources	No	The existing dwelling was built in 1910 and is more than 40 years old. However, the property is not a City Landmark or Structure of Merit and the historical evaluation (DPR) submitted concludes that the property is not historically significant under any of the four California Register evaluative criteria, and is therefore not eligible for listing in the California Register.
Housing Accountability Act (Govt. Code 65589.5(j))	No	The project is a "housing development project" consisting of residential units only; however, modifications to development standards are requested. See Section V.C for discussion.
Public Art on Private Projects (BMC Chapter 23C.23)	No	The project does not create five or more new dwelling units, and is therefore not subject to the Percentage for Public Art on Private Projects ordinance.
Rent Controlled Units	No	The existing single-family dwelling proposed to be demolished is not subject to BMC Chapter 13.76 (Rent Stabilization and Eviction for Good Cause Program).
Residential Preferred Parking	No	The site is not located in an RPP zone.
Seismic Hazards (SHMA)	Yes	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 have been included in the permit to ensure oversight by the applicant's geotechnical consultant.
Soil/Groundwater Contamination	No	The project site is located within the City's Environmental Management Area. The applicant has submitted a Phase I Environmental Report. The report was reviewed by the City Toxics Management Division, and no further study was required. Standard Conditions for toxics are applicable to the project.
Transit	Yes	The project site is served by multiple bus lines (local and transbay) that operate one block away on Sixth Street, and is approximately 0.6 miles from the Berkeley Amtrak station and transit hub.

**Table 3: Project Chronology**

Date	Action
May 22, 2020	Application submitted
June 19, 2020	Application deemed incomplete
August 18, 2020	Revised application submitted
September 9, 2020	Application deemed incomplete
September 24, 2020	Revised application submitted
October 20, 2020	Application deemed incomplete
November 4, 2020	Revised application submitted
December 4, 2020	Application deemed complete
January 14 2021	Public hearing notices mailed/posted
January 28, 2021	ZAB Hearing

**Table 4: Development Standards**

MU-R Standards BMC Sections 23E.84.070-080		Existing	Proposed	Permitted/Required
Lot Area (sq. ft.)		5,100	5,100	n/a
FAR		0.3	1.1	1.5 max.
Dwelling Units		1	4	4 max. (1,250 sf min./du)
Building Height	Average	22'-9"	Front Bldg: 28'-5" Rear Bldg: 33'-11"	35
	Maximum	28'-9"	Front Bldg: 34'-9" Rear Bldg: 34'-9"	n/a
	Stories	2	Front Bldg: 3 Rear Bldg: 3	3
Building Setbacks	Front	14'-5"	5'-0"	5' min.
	Building Separation	0	9'-0"	n/a
	Rear	0'	0'-0"	0' min.
	Left Side (north)	6'-10"	3'-9"	3'-9" min. (10% of 37.5' width)
	Right Side (south)	6'-5"	0'-0"	0' min.
Lot Coverage (%)		20	63	n/a
Usable Open Space (sq. ft.)		3,175	620	600 min. (150 per du)
Parking		2	4	4 min. (1 per du)

## II. Project Setting

**A. Neighborhood/Area Description:** The subject site is located on the east side of Fifth Street, in a mixed-use neighborhood that consists of warehouses, offices, live/work, and single-family and multiple-family dwellings. Parcels in the immediate neighborhood are primarily developed with one- and two-story buildings, with three-story, live/work developments immediately adjacent and north of the site and southeast of the site across Fifth Street. (See Figure 1: Zoning Map.)

The site is 4-1/2 blocks south of the University Avenue commercial corridor and six blocks west of the San Pablo Avenue commercial corridor (both areas in the C-W District). Both University Avenue and San Pablo Avenue, as well as Dwight Avenue, are well served by transit bus lines. The site is approximately 0.6 miles from the Berkeley Amtrak station and transit hub.

**B. Site Conditions:** The subject lot is rectangular, with a 37.5' front along Fifth Street and 136' depth, and is generally flat. The lot is occupied by a two-story, 1,383-square-foot, single family dwelling. The dwelling is vacant.

## III. Project Description

The applicant proposes to demolish the existing single family dwelling and construct: 1) a three-story triplex: Unit 1 – 1,268 square feet, Unit 2 – 1,321 square feet, Unit 3 – 1,514 square feet; and 2) a three-story single-family dwelling: Unit 4 – 1,400 square feet; for a total of four new dwellings, each with a ground-floor, one-car garage.

## IV. Community Discussion

**A. Neighbor/Community Concerns:** After receiving the application on May 22, 2020, the City mailed New Land Use Application notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations. The project applicant shared with staff that they received email contact from owner of the adjacent property to the north (2415/2417 Fifth Street) describing concerns over the effect of shadows and massing from the height of the proposed front building in the project. In response, the applicants lowered the slope of the front half of the butterfly roof, after which the neighbor had no further concerns. No further communications were received as of the writing of this report.

On January 14, 2021, 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. No further communications regarding the project were received as of the writing of this staff report.

**B. Staff-Level Design Review:** As with all exterior improvements proposed in a non-residential district, this project was subject to Design Review. On January 14, 2021, Staff Level Design Review was completed in accordance with BMC Section 23E.12.040.C. The Design Review Committee Chair concurred with Staff's

recommendation for Staff Level Design Review, instead of the Design Review Committee, as the project is well-scaled for its adjacent neighborhood. The appeal and comment period for the favorable Staff-level decision will end at 4:00 p.m. on January 28, 2021.

## V. Issues and Analysis

**A. Housing Accountability Act:** The Housing Accountability Act (HAA), California Government Code Section 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 project has elements that do not comply with applicable, objective general plan and zoning standards in the zoning ordinance, including:

- Establishment of a dwelling unit within 150 feet of a property containing a construction product manufacturing or primary production manufacturing use (Use Permit under BMC Section 23E.84.060.G); and
- Use of an alternative method of providing sound buffering between the residential and the manufacturing use (other than an 8' fence) if a building which will contain a residential use is constructed on a lot where the side or rear abuts a lot in the MU-R District used for manufacturing purposes (Use Permit under BMC Section 23E.84.070.F.2)

Therefore, Section 65589.5(j) **does not apply** to the Proposed Project.

**B. 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 Section 65920)).

As discussed in section V.A, the project would not comply with residential/manufacturing use adjacency and noise buffering standards. Therefore, this section does not apply to the project.

2. Government Code Section 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.

As discussed in an historic resource evaluation prepared in April, 2020, there is no indication of historical significance on the parcel, and none are considered eligible for listing on the California Register of Historical Resources or as a City of Berkeley Landmarks or Structures of Merit. 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 Section 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 December 4, 2020. Should ZAB determine the application is categorically exempt from CEQA at the January 28, 2021 public hearing, the application must be approved or disapproved by March 29, 2021.
4. Government Code Section 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 proposes to demolish one housing unit and replace it with four housing units. Therefore, the requirements of this section are satisfied.

**C. Findings for Use Permit in MU-R District:** Pursuant to BMC Section 23E.84.090.B, in order to approve any Use Permit in the district, the Board must make the following required findings. The proposed use or structure must:

1. *Be compatible with the purposes of the District;*

The project is consistent with the following purposes of the Mixed Use Residential District (MU-R):

- *Implement the West Berkeley Plan's designation of a Mixed Residential District.*
- *Support the continued development of a mixed use District which combines residential, live/work, light industrial, arts and crafts and other compatible uses.*
- *Strengthen residential concentrations which exist within the District.*



- *Support the development of businesses of all types which contribute to the maintenance and improvement of the environment.*
- *Protect residents from unreasonably detrimental effect of nonresidential uses, such as noise, vibration, odors, smoke, fumes, gases, dust, heat and glare, to the extent possible and reasonable within a mixed use West Berkeley context.*

The project would add four new dwellings to neighborhood that has a residential concentration comprised of single-family dwellings, duplexes, live/work buildings, and other multi-family dwellings, and would bring new residents who would be potential patrons in close proximity to local businesses (art/craft studios, retail, professional office, food service).

The project would incorporate measures to screen the new dwellings from the adjacent existing industrial uses to the east and south: eight-foot tall walls with sound absorbent material at these property lines, and acoustic wall construction along the south and east building walls that are directly on the property lines.

2. *Be consistent with the normal use and operation of surrounding uses and buildings, including residential and industrial buildings;*
3. *Not be likely, under reasonably foreseeable circumstances, to either induce or contribute to a cumulative change of use in buildings away from residential; live/work; light industrial, or arts and crafts uses; and*
4. *Be designed in such a manner to be supportive of the character and purposes of the District.*

The proposed four-unit residential project would add to the residential development already in the area, and would reinforce the existing mixed pattern of commercial/industrial/residential development in the neighborhood. The proposed low-medium-density, three-story residential buildings would continue the existing pattern of similar residential development in the vicinity.

**D. Findings for Use Permits and Administrative Use Permits:** Pursuant to BMC Section 23E.84.090.A, in order to approve any Use Permit in the district, the Board must make the non-detriment finding. 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. Staff believes that this finding can be made.

A discussion of the project's impact on sunlight/shadows, air, privacy, and views as they relate to potential detriment follows:

1. **Sunlight/shadow:** According to the shadow studies submitted by the applicant (see Attachment 1, Sheets T0.3 and T0.4 for Shadow Studies), new shadows would be cast by the proposed dwellings onto the three-story, live/work buildings on the east side of the property to the north (2413 Fifth Street), primarily on the south-most building of the three buildings on the site. Shadows would affect the

first-floor foyer, second-floor bedroom, and third-floor living room windows, from sunrise to sunset during the months near the winter solstice and during the spring months. According to the studies, new shadows would be cast onto the first-floor foyer window of next live/work building at noon during the months near the winter solstice only.

New shadows would be cast onto the south-facing windows of the property to the north (2415/2417 Fifth Street), but these are windows to the office portion of the property and no residential areas would be affected

Although shadow conditions would increase notably for the south-most neighboring dwelling, with new shadows occurring all day for much of the year, the shadow impacts generally affect living areas on the south side of the building. Because of the proximity of the three-story live/work buildings to each other (on 2413 Fifth Street), the two neighboring live/work buildings just north of this building experience similar shading from the respective building to their south on their own property. The amount of new shading from proposed project is to be expected in the MU-R District, where residential buildings are allowed to up to 35 feet and three stories in height, and side yards can be as little as 10% of the lot width (3'-9" for the subject site). Therefore, the shadow impact from the project would not be detrimental.

2. **Air:** The proposed front building would be approximately 48'-6" from the office/duplex to the north (2415/2417 Fifth Street). The proposed rear building would be 7'-5" from the south-most live/work building to the north (2413 Fifth Street), comparable to the typical 8'-0" minimum separation between dwellings in residential districts. The proposed buildings would be 2'-5" from the warehouse to the south and 2'-4" from the warehouse to the east, but no windows are proposed on those façades, and are instead provided on the other façades. Thus, the siting of the proposed buildings satisfy all minimum setback requirements, and would provide adequate air space on all sides.
3. **Views:** The relatively flat topography of the project site, along with existing one-, two-, and three-story buildings in the vicinity, does not offer significant views as defined in BMC Chapter 23F.04 (Definitions). Therefore, staff believes that this project would not be substantially detrimental with respect to views.
4. **Privacy:** The proposed dwelling would not cause significant privacy impacts to the properties to the south and east of the project site, as they are no windows or doors on these façades in the project, and the adjacent uses are non-residential buildings. The office/duplex to the north (2415/2417 Fifth Street) would not experience significant privacy impacts, due to the 48'-6" separation that would be between the buildings, and a 6-foot tall fence on the north property line. The south-most live/work building to the north (2413 Fifth Street), would experience some privacy impacts. A third-floor balcony and second- and third-floor windows on this building would have sightlines from a second-floor balcony and third-floor bedroom window of the proposed front building, which would be approximately 20' away, and sufficient distance to mitigate the impact. The south-most neighboring building

would also have sightlines from a second-floor balcony, living room windows, and third-floor bedroom window on the proposed rear building, which would be 7'-5" away. However, the windows on the proposed rear building are designed to be above average eye level on each floor (approximately 5.5' to the sills), a feature which would minimize the impact on the neighbor's privacy. Thus, privacy impacts from the project would be reasonable and not substantially detrimental.

**E. Findings for Use Permit to Eliminate/Demolish One Dwelling Unit:** Government Code Section 66300(d) prohibits the demolition of residential dwelling units unless the project will create at least as many residential units as will be demolished; prohibits the demolition of occupied or vacant protected units, unless replaced according to replacement provisions therein; and does not supersede any local ordinance that reserves greater protections/provisions for lower income households or displaced households. The project proposes replacing one demolished dwelling with four new dwellings; the existing unit is not considered a "protected" unit as defined in Section 66300(d); and compliance with this section also satisfies the findings to approve the demolition of the dwelling unit under BMC Section 23C.08.010.B. The dwelling proposed to be demolished is vacant, and is not subject to tenant displacement provisions pursuant to Section 66300(d).

**F. Findings for Alternate Sound Buffering Against Manufacturing Use:** Pursuant to BMC Section 23E.84.070.F.2, if a building which will contain a residential use is constructed on a lot where the side or rear abuts a lot in the MU-R District used for manufacturing purposes, a fence of not less than eight feet which incorporates sound absorbent material shall be erected between the manufacturing and residential use. A more appropriate alternative method of buffering may be approved by the Board. The project would use acoustic walls along the south and east property lines, where the two buildings have walls that are directly on the property line. Walls of this type would include resilient channels to absorb vibrations and a multiple layers of sheet-rock on the interior side as buffering against noise and vibrations from the manufacturing activities on the abutting lots to the south and east. Eight-foot-tall walls with sound absorbent material would be constructed on the remainder of these property lines where there would be no building walls.

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

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.  
The project would add three net new dwelling units to a property in a developed neighborhood located in mixed-use district, in close proximity to transit. As discussed in section V.B, V.C, and V.E, the proposed building is consistent with the character of the neighborhood and the project will meet all of the zoning standards for the MU-R District. The project is compatible with the existing uses in the neighborhood, which consists of a blend of mixed-use, residential-only, commercial, and industrial developments. Furthermore, the proposed low-medium-density, three-story residential buildings would continue the existing pattern of similar residential development in the vicinity. Design Review staff has reviewed the project, and has found it to be architecturally compatible with the surrounding developments.
6. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

As discussed in section V.D.1 above, shadow impacts resulting from the proposal would be localized to one or two neighboring dwellings which already experience some shading from existing development. Also, the amount of new shading from the proposed project is expected in the MU-R District, where development standards allow low-medium density residential development. Thus, impact to solar access and shadows would not be detrimental.

7. Policy UD-33–Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.
8. 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 promote sustainable design standards, as demonstrated by its goal to meet a score of 94 on the GreenPoint Rated Checklist, New Home Multifamily Checklist.

9. 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.

The project would add three net new dwelling units to the City’s housing stock, furthering this Housing Element policy to expand the City’s existing housing supply.

## 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 #ZP2020-0043, pursuant to BMC Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

### Attachments:

1. Findings and Conditions
2. Project Plans, received November 4, 2020
3. Notice of Public Hearing

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



Index &  
Administrative Record  
ZAB Appeal:  
2421 Fifth Street

These attachments are on file and available for review upon request from the City Clerk Department, or can be accessed from the City Council Website.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

or from:

**The City of Berkeley, City Council's Web site**  
<http://www.cityofberkeley.info/citycouncil/>



**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL  
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

**ZAB APPEAL: 2421 FIFTH STREET, USE PERMIT #ZP2020-0043**

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, JUNE 1, 2021** at **6:00 P.M.** a public hearing will be conducted to consider an appeal of the decision by the Zoning Adjustments Board to approve Use Permit #ZP2020-0043, to demolish a single-family dwelling and construct two residential buildings: a three-story triplex and a three-story single-family dwelling, for a total of four new dwellings.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **MAY 20, 2021**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Sharon Gong, Project Planner at (510) 981-7429, or [sgong@cityofberkeley.info](mailto:sgong@cityofberkeley.info). Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

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Mark Numainville, City Clerk

Mailed: May 18, 2021

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

*If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available by request from the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.*

