USE PERMIT CONDITIONS OF APPROVAL

ATTACHMENT 1

FINDINGS AND CONDITIONS
APRIL 27,2023

2800 Telegraph Avenue

Use Permit #ZP2022-0107 to demolish a one-story (18 feet), 3,290 square foot non-residential building and construct a six-story (70 feet and 5 inches), 19,936 square-foot residential building containing 16 dwelling units (1 Very Low-Income unit), utilizing State Density Bonus.

PERMITS REQUIRED

- **Use Permit** to demolish one non-residential buildings, under Berkeley Municipal Code (BMC) Section 23.326.070
- **Use Permit** to establish a multifamily residential building, under BMC Section 23.204.020
- **Use Permit** to exceed lot coverage, under BMC Section 23.204.050(D)(1)
- **Use Permit** to reduce all setbacks, under BMC Section 23.204.050(D)(1)
- **Administrative Use Permit** for projections that exceed the maximum building height limit, under 23.304.050(A)

CONCESSIONS/WAIVERS UNDER GOVERNMENT CODE SECTION 65915-65918

- **Waiver** of BMC Section 23.204.050(D) to exceed the average building height of 35 feet with a height of 70 feet 5 inches
- **Waiver** of BMC Section 23.204.050(D) to exceed the number of stories (three) with six stories
- **Waiver** of BMC Section 23.204.050(D) to exceed the lot coverage limit of 45 percent with 93 percent lot coverage
- **Waiver** of BMC Section 23.204.050(D) to reduce the side setback (interior) from 4.5 feet to 6 inches
- **Waiver** of BMC Section 23.204.050(D) to reduce the side setback (street) from approximately 7 feet to 1.5 feet
- **Waiver** of BMC Section 23.204.050(D) to reduce the required rear setback from 15 feet to 6 feet
- **Waiver** of BMC Section 23.204.050(D) to reduce the required front setback from 15 feet to 0 feet
- **Waiver** of BMC Section 23.204.050(D) to reduce the open space from 3,200 square feet to 1,590 square feet
- **Concession** of BMC Section 23.204.050(D) to increase the height limit to allow for the basement in the base project to move to the ground level of the proposed project, thereby eliminating the cost of constructing the basement.

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code Section 21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15332 of the CEQA Guidelines ("Infill Development").
The project meets all of the requirements of this exemption, as follows:
A. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
B. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.

C. The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
D. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by the City Transportation Division which concurred with the findings of less than significant impacts. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.
E. The site can be adequately served by all required utilities and public services.

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

II. HOUSING ACCOUNTABILTY ACT FINDINGS

A. The Housing Accountability Act, Government Code Section 65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that: (A) the development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower 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.

B. Because the project complies 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.

III. DENSITY BONUS FINDINGS

1. Pursuant to Government Code Section 65915, the Zoning Adjustments Board finds that:
A. Under the City's methodology for implementing density bonuses, the "base project" consists of 12 units;
B. The project will provide at least one qualifying unit in the 12-unit "base project", as more fully set forth in Conditions 58 to 62;
C. The project is entitled to a density increase of 27.5 percent over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element, under the requirements of Government Code Section 65915(b) and (f), plus one concession or incentive. This equates to a density bonus of four units above the Base Project, for a total of 16-units.

2. In accordance with Government Code Section 65915(d) and (k), the Zoning Adjustments Board hereby grants the following concessions in order to provide for affordable housing costs:
A. Increase the height limit to allow for the basement in the base project to move to the ground level of the proposed project, thereby eliminating the cost of constructing the basement.

3. In accordance with Government Code Section 65915(d), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds that the approval of the concessions is required to provide for affordable rents, as provided in Government Code Section 65915(d)(1)(A) because 1) approval of the concession would result in identifiable and actual cost reduction; 2) approval of the concession would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) would not be contrary to State or Federal law.

4. In accordance with Government Code Section 65915(e) the Zoning Adjustments Board hereby grants the following waivers:
A. **Waiver** of BMC Section 23.204.050(D) to exceed the average building height of 35 feet with a height of 70 feet 5 inches
B. **Waiver** of BMC Section 23.204.050(D) to exceed the number of stories (three) with six stories
C. **Waiver** of BMC Section 23.204.050(D) to exceed the lot coverage limit of 45 percent with 93 percent lot coverage
D. **Waiver** of BMC Section 23.204.050(D) to reduce the side setback (interior) from 4.5 feet to 6 inches
E. **Waiver** of BMC Section 23.204.050(D) to reduce the side setback (street) from approximately 7 feet to 1.5 feet
F. **Waiver** of BMC Section 23.204.050(D) to reduce the required rear setback from 15 feet to 6 feet
G. **Waiver** of BMC Section 23.204.050(D) to reduce the required front setback from 15 feet to 0 feet
H. **Waiver** of BMC Section 23.204.050(D) to reduce the open space from 3,200 square feet to 1,590 square feet
I. **Concession** of BMC Section 23.204.050(D) to increase the height limit to allow for the basement in the base project to move to the ground level of the proposed project, thereby eliminating the cost of constructing the basement.

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

5. In accordance with Government Code Section 65915(e), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds approval of waivers is required 1) construct the proposed project at the density permitted under State law; 2) approval of requested waivers would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) approval of the requested waivers would not be contrary to State or Federal law.

IV. FINDINGS FOR APPROVAL

6. As required by Section 23.406.040.E(1) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons

residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
A. The project is a higher-density development in proximity to entitled and in-progress residential uses of a similar density along Telegraph Avenue, educational uses, transit, commercial districts, and amenities that is compatible with the purposes of the zoning district and the surrounding uses and buildings. The project site is located within the C-C commercial district. The project provides 16 new dwelling units sized from studios, three-bedrooms, and four-bedrooms. One of the units is deed restricted as affordable housing units for very-low-income residents. The proposal also includes a roof top deck that amounts to 1,590 square feet of useable open space. Located on the ground floor, a bike room will house 19 long-term bicycle parking spaces. Short-term bicycle parking is also provided outside the building within the public-right-of-way. The project site is well served by public transportation, with AC transit bus stops along Telegraph Avenue, several bus stops within a three block radius, and several bicycle share kiosks within a half-mile radius. The project adds additional dwelling units and supportive amenities, located on the ground floor, furthering the residential use that is compatible purposes of the district and not detrimental to neighborhood-serving commercial uses; and
B. New shadows shade the existing mixed-use building to the east of the project primarily during the summer months, shadowing residential units two hours before the sun sets. New shadows are cast on an existing single-family dwelling unit to the north west during the winter months around noon time. These changes in sunlight pattern are found to be reasonable given the orientation of these properties in relation to the subject building and their close proximity given the urban residential environment. These affects are not found to be detrimental because limited in duration and will not persist for extended periods throughout the year; and
C. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.

V. OTHER FINDINGS FOR APPROVAL

7. As required by Section 23.326.070(D) of the BMC, the Zoning Adjustments Board finds that the proposed demolition of the existing building at 2800 Telegraph Avenue will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City, and one of the following findings that the demolition of the structure: (1) is required to allow a proposed new building or other proposed new use; (2) will remove a building which is unusable for activities which are compatible with the purposes of the District in which it is located or which is infeasible to modify for such uses; (3) will remove a structure which represents an un-abatable attractive nuisance to the public; or (4) is required for the furtherance of specific plans or projects sponsored by the City or other local district or authority.

The proposed demolition of the existing non-residential buildings will not be detrimental needs of the neighborhood, as the project redevelops an underutilized with a new multifamily building that is compatible with existing development patterns along Telegraph Avenue. Staff finds that

the project is aligned with the district's objectives to promote development that is compatible with the commercial and residential areas within C-C district.

8. As required by BMC Section 23.204.050(D)(3), the Zoning Adjustments Board finds that the proposed modifications to lot coverage and setbacks is consistent with several goals outlined in the subject section as it allows for a more residential units to be developed on the site and encourages the utilization of existing public transit networks by proposing one automobile parking space. Similarly, the proposed setbacks are consistent with existing setbacks with frontage along Telegraph Avenue, where a residential building setback would not be appropriate or continue the existing urban street wall.

9. As required by BMC Section 23.204.050(E), the Zoning Adjustments Board finds the project is compatible with several findings in the C-C district. Consistent with the purposes of the underlying district, the project redevelops underutilized area along Telegraph Avenue with multifamily building that is compatible existing and projected development patterns within this Avenue Commercial corridor. Although the project does not provide commercial services on the ground floor, it continues the existing street wall by locating residential services on the ground floor and stepping the massing along front property line on Telegraph Avenue, allowing for planting areas where the building pulls away from the property line and maintaining a sense of urban space.

10. As required by BMC Section 23.304.050(A), the Zoning Adjustments Board finds that the proposed rooftop equipment, which exceeds the district height limit, does not exceed 15 percent the average floor area of the building's floors. None of the equipment structures will be used as habitable or commercial space.

VI. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

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

2. Compliance Required (BMC Section 23.102.050)
All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)
A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)
All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)
A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).
D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

DESIGN BUILD

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LICENSED ARCHITECT
AVRAM FORMAN
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RENEWAL DATE
STATE OF CALIFORNIA

2800 TELEGRAPH
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BERKELEY, CA 94705

USE PERMIT CONDITIONS OF APPROVAL

REVISION / DATE
Submission / 10-31-25
Revision 1 / 3-30-26

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USE PERMIT CONDITIONS OF APPROVAL

6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)
Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

7. Permit Modifications (BMC Section 23.404.070)
No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

8. Permit Revocation (BMC Section 23.404.080)
The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

9. 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.

VII. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD
Pursuant to BMC 23.406.040.E, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

10. Project Website: The applicant shall include the contact information of the building manager on the project website.

Prior to Submittal of Any Building Permit:

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

☐ **Project Liaison** ______________________________
Name Phone #

12. Final Design Review. The Project requires approval of a Final Design Review application by the Design Review Committee.

13. 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.

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

A. Construction equipment should be well maintained and used judiciously to be as quiet as practical.
B. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
C. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
D. Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
E. Prohibit unnecessary idling of internal combustion engines.
F. If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.

G. Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
H. Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
I. Route construction related traffic along major roadways and away from sensitive receptors where feasible.

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

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

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

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

16. Fee Deferrals. All zoning project application fees that were deferred at the time of application submittal shall be paid in full.

17. Construction Noise Management - Public Notice Required. At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within **500 feet** of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities during extended work hours and

reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.

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

19. 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.

20. 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.

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

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

B. Soil and Groundwater Management Plan:
1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units,

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

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

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

Prior to Issuance of Any Building (Construction) Permit

22. Percent for Public Art: Consistent with BMC §23C.23, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.

23. Affordable Housing Mitigation Fee: Consistent with BMC §22.20.065, and fee resolution applicable to this project, the applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, and they shall pay this fee.

24. HVAC Noise Reduction. Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets

or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.

25. Interior Noise Levels. Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.

26. Solar Photovoltaic (Solar PV) and Battery Energy Storage Systems (ESS). A solar PV system shall be installed, subject to specific limited exceptions, as specified by the Berkeley Energy Code (BMC Chapter 19.36). Energy storage system (ESS) readiness (new single-family, duplex, and townhouse homes) or ESS installation (new multifamily and most nonresidential buildings) shall be completed as specified by BMC Chapter 19.36. Location of the solar PV system and the ESS, if applicable, shall be noted on the construction plans.

27. Electric Vehicle (EV) Charging. At least 5 percent of the project parking spaces for residential parking shall have installed Level 2 (40 amp) electric vehicle (EV) charging stations, at least 25 percent shall have installed low power Level 2 EV charging receptacles (20 amp), and at least 20 percent shall be "EV Capable" equipped with raceway, electrical panel service capacity, and an electrical system to support future Level 2 (40 amp) EV charging stations, or any more stringent EV charging requirements as specified by the Berkeley Green Code (BMC Chapter 19.37). Required Level 2 charging stations and low power Level 2 EV charging receptacles shall be installed, maintained, and made available for building resident use. EV charging station installations, EV charging receptacles, and EV Capable spaces shall be noted on the construction plans. Public access parking spaces shall provide any applicable mandatory accessibility provisions.

28. 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 (ETo) for Berkeley is 41.8.

29. Prohibition of Natural Gas Infrastructure in New Buildings. The project shall comply with the City of Berkeley Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80).

30. 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).

31. 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.

DESIGN BUILD
VIA DESIGN BUILD
1635 GRAND AVE
PIEDMONT, CA 94611
VIADESIGNBUILD.COM

LICENSED ARCHITECT
AVRAM FORMAN
C-38104
11-10-2027
RENEWAL DATE
STATE OF CALIFORNIA

2800 TELEGRAPH
2800 TELEGRAPH AVENUE,
BERKELEY, CA 94705

USE PERMIT CONDITIONS OF APPROVAL

REVISION / DATE
Submission / 10-31-25
Revision 1 / 3-30-26

A0.1.2

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