



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

OCTOBER 10, 2013

800 UNIVERSITY AVENUE

Use Permit 13-10000022 to demolish an existing 5,750 square-foot office building and construct a 54,302 square-foot, 4 to 5-story, 45 to 55-foot tall, mixed use project with 58 residential units, 1,175 square feet of office or retail space and 60 parking spaces.

I. Background

A. Land Use Designations::

- General Plan: Avenue Commercial & Manufacturing Mixed-Use
- Zoning: C-W, West Berkeley Commercial & MU-R, Mixed Use Residential

B. Zoning Permits Required:

- Use Permit, per BMC Section 23A.16.030.B, to apply C-W District Street-side Yard Setback to the MU-R District;
- Use Permit, per BMC Section 23C.08.050, to demolish 2 existing buildings;
- Use Permit, per BMC Section on 23E.04.020.C, to allow architectural features to exceed the height limit;
- Use Permit, per BMC Section 23E.64.030, to construct a mixed-use development in the C-W District;
- Use Permit, per BMC Section 23E.64.050.B, for new construction over 5,000 square feet in the C-W District;
- Use Permit, per BMC Section 23E.84.030.A, to construct 24 dwelling units in the MU-R District; and
- Use Permit, per BMC Section 23E.84.050.B, for new construction over 10,000 square feet in the MU-R District.

C. Requested Pursuant to State Density Bonus Law:

- Waiver/Modification of maximum building height/stories to accommodate density bonus units, per California Government Code 65915.

D. CEQA Determination: Categorically exempt pursuant to Section 15332 of the CEQA Guidelines ("In-fill Development Projects").

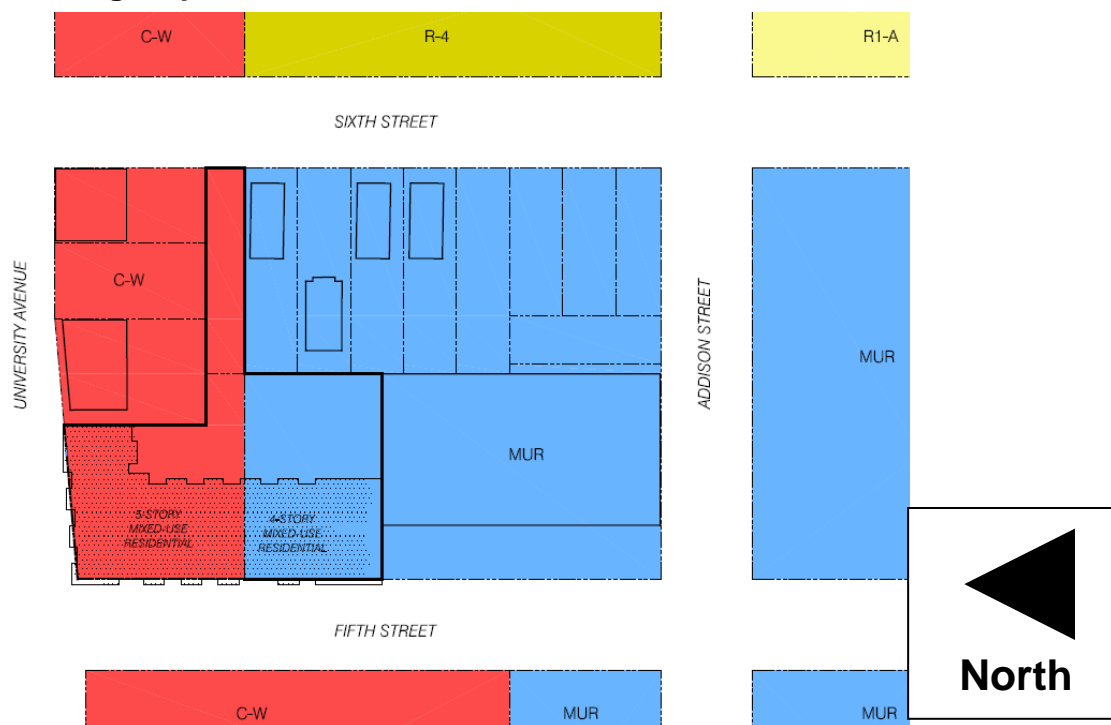
E. Parties Involved:

- Applicant: David Trachtenberg, 2421 Fourth Street, Berkeley, CA 94710
- Owner: R&S Fifth St. Apartments, 2025 Fourth Street, Berkeley, CA 94710

Figure 1: Vicinity Map



Figure 2: Zoning Map



Note that the site is bisected by C-W and MU-R District Boundary.

Figure 3: Site Views



View of the site looking south from University Avenue



View of the site looking northeast from Fifth Street

Figure 4: Site Plan

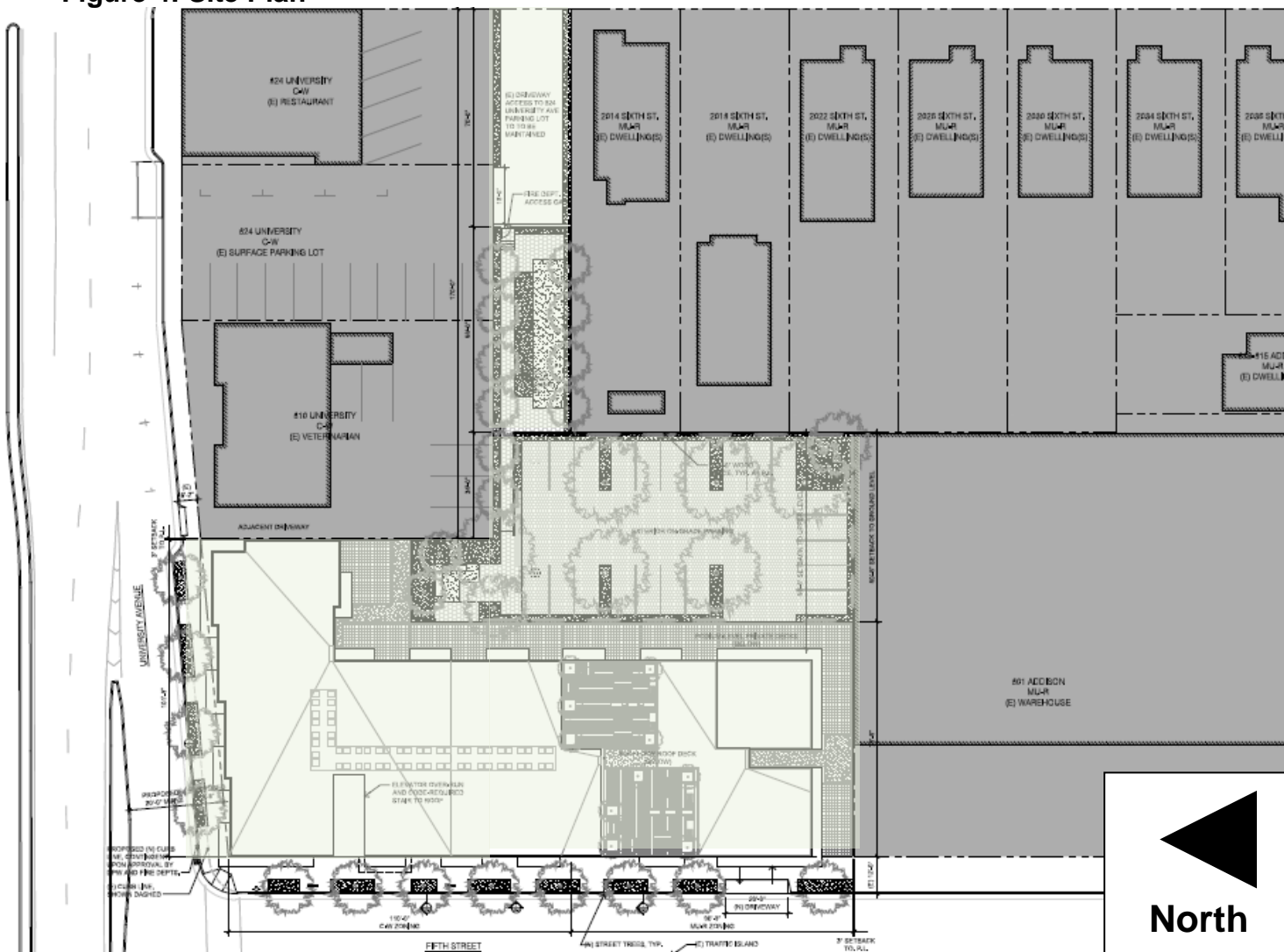


Figure 5: Ground Floor Plan

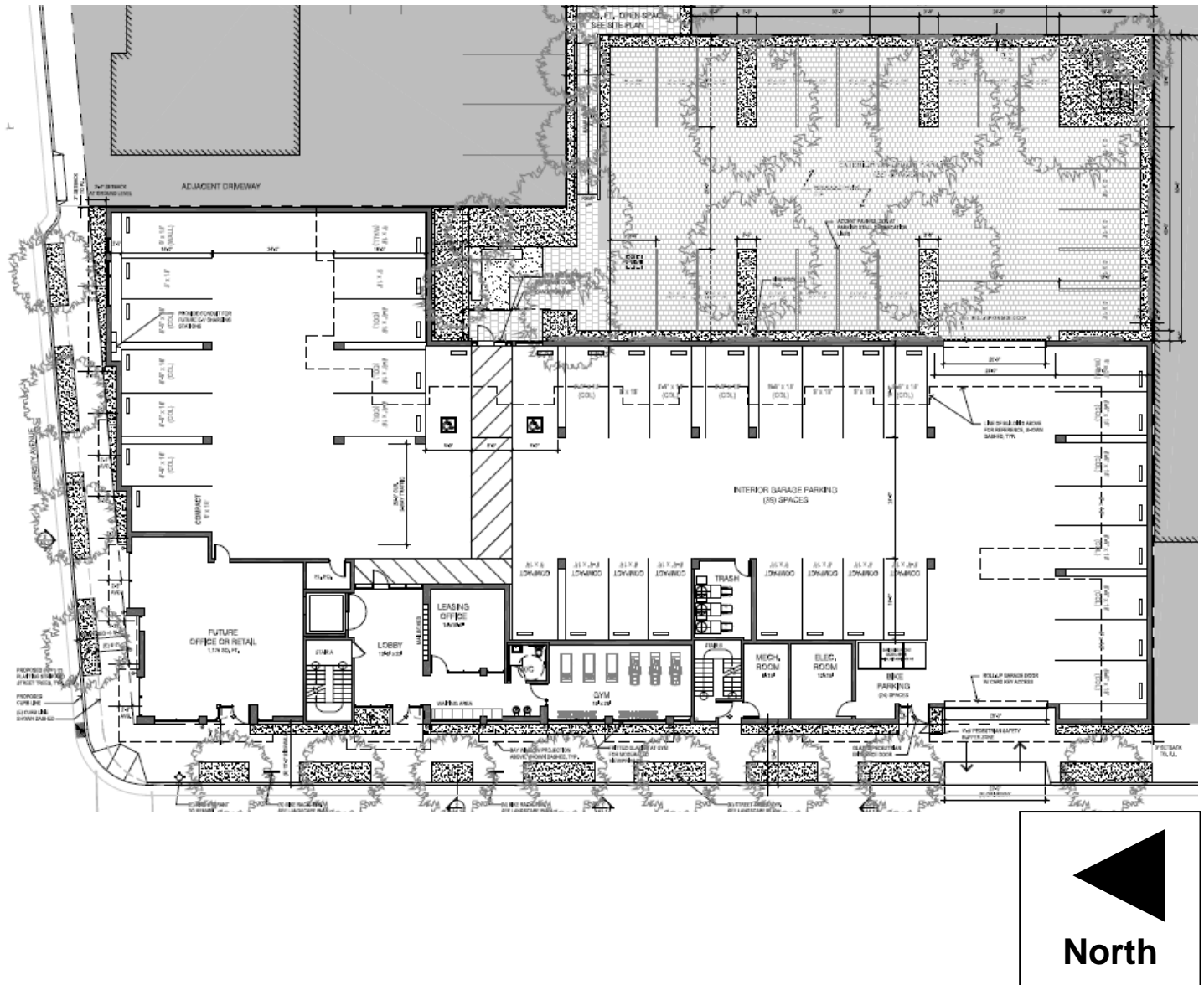
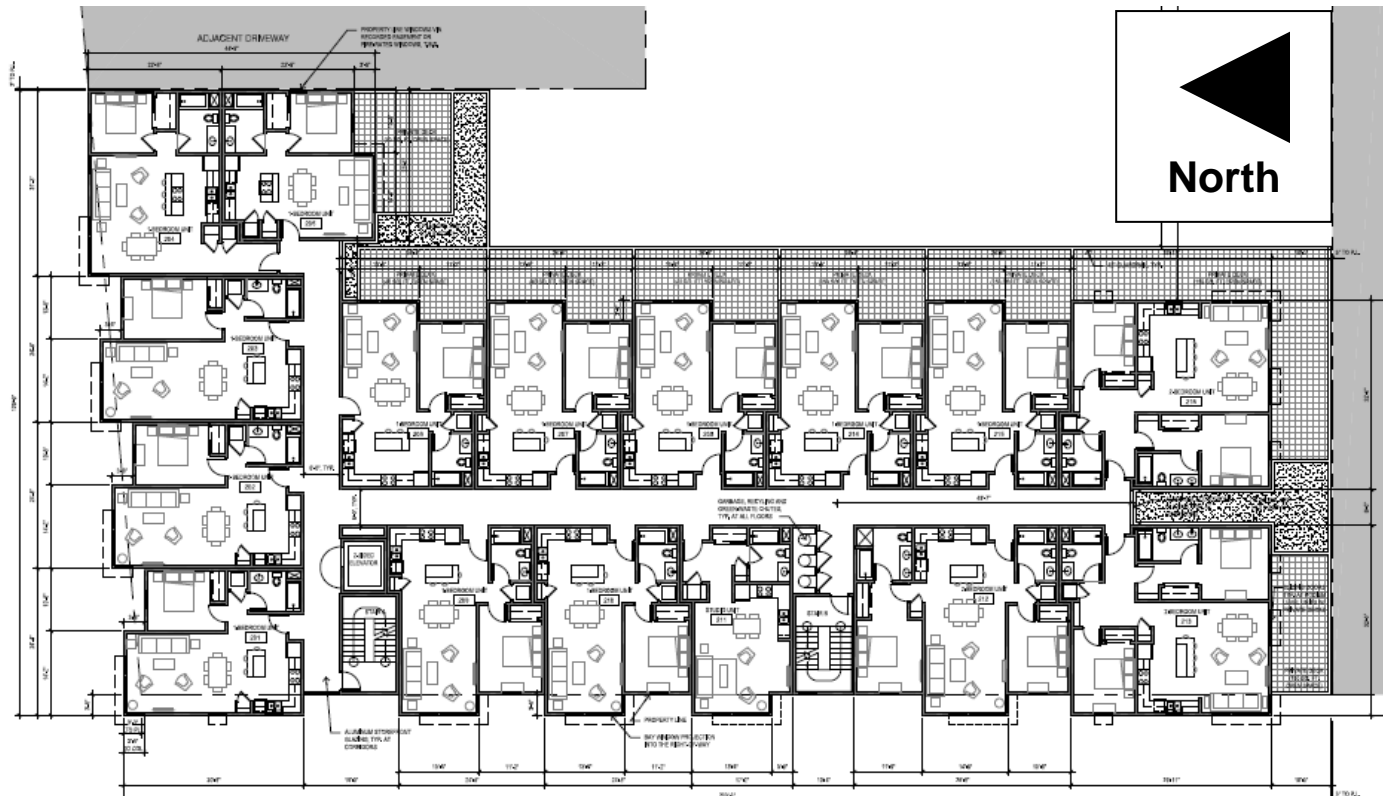


Figure 6: Typical Floor Plans (2nd Level)



3rd Level

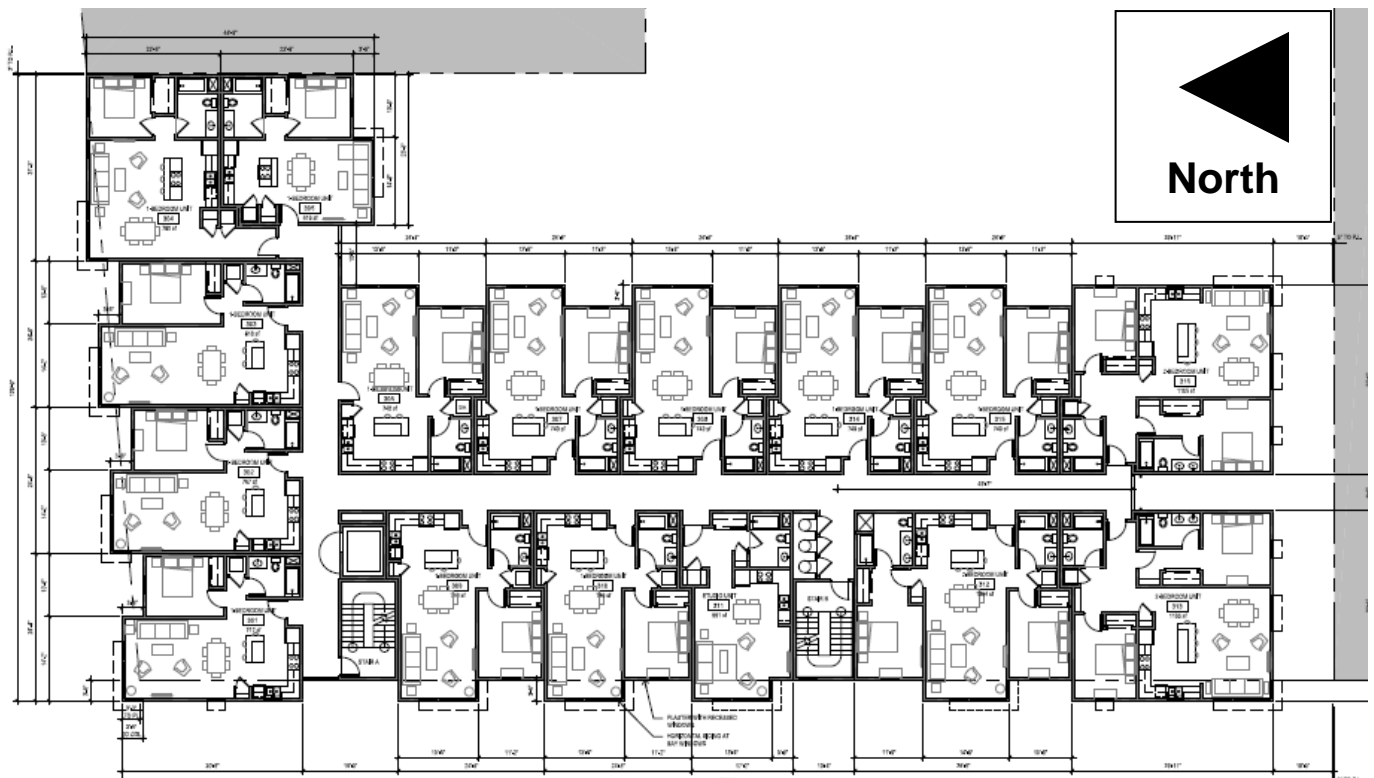


Table 1: Special Characteristics

Characteristic	Explanation
Affordable Housing Mitigation Fee	This project is subject to the City's Affordable Housing Mitigation fee. Per Resolution 66,015-N.S., all projects that are substantially complete, and on file with the City of Berkeley Planning and Development Department as of October 16, 2014, and are approved by the Zoning Adjustments Board on or before October 16, 2016, shall be entitled to an \$8,000 discount of the \$28,000 Affordable Housing Impact Fee per market rate unit.
Air Quality	A Health Risk Assessment to determine if site specific mitigation is required per Mitigation AIR-2 in the West Berkeley Project Mitigation Monitoring Plan (MMP). The study showed that the health risk will not exceed BAAQMD or applicable Berkeley criteria. No further mitigation is necessary.
Alcohol Sales/Service	None Proposed.
Archaeological Resources	Project site is near an area of high archaeological sensitivity and within 1 block of 2 prehistoric sites. Detailed mitigation protocols recommended in a project specific cultural resources study are incorporated as Conditions of Approval.
BMC 17.08 Creeks	Strawberry Creek is culverted and passes beneath Fifth Street about 240 ft. north of the site.
Density Bonus	The project will provide 4 Very Low Income Units – See Section V V.A for details.
Green Building: -Electric Vehicle Charging System -Solar Ready	Build it Green; GreenPoint Rated Checklist, Multi-family Score: 108 (50 points is the minimum). Implemented via Conditions of Approval.
Green House Gasses	The project is smaller than the BAAQMD's screening level for green house gas evaluation. Potential impact would not be significant.
Historic Resources	Project was referred to the Landmarks Preservation Commission on September 12, 2013, which took no action. The existing building is not an historic resource.
Oak Trees	None Present.
Noise Standards	A project-specific noise study was prepared as per Mitigation NOI-1 in the West Berkeley Project MMP. Specific mitigation measures recommended in the study are incorporated as Conditions of Approval.
Seismic Hazards	The site is within the USGS liquefaction hazard zone, however a site-specific geotechnical investigation found predominately clay and clayey gravels and concluded that the liquefaction potential at the site is very low. Specific mitigation measures recommended in the study are incorporated as Conditions of Approval.
Soil/Groundwater Contamination	The site is within a designated Environmental Management Area; however the project site is not listed on the Cortese List (an annually updated list of hazardous materials sites). Although no dewatering or significant excavation would be required, Conditions of Approval requiring coordination with the Toxics Management Division are incorporated as Conditions of Approval.
Traffic	A traffic study was prepared and determined that the project would generate 20 am and 26 pm peak hour vehicle trips. This study concluded that the additional traffic associated with the project would not significantly impact nearby intersections.
Transit	AC Transit: FS, G & Z Transbay and the 51B Local serve the site. BART: The North Berkeley station is roughly 1 mile to the northeast of the site. AMTRAK: The Berkeley Station is 1/10 of a mile to the west.
Transportation Demand Management	Via Conditions of Approval, all parking spaces shall be leased or rented separately and transit information shall be provided to tenants.
West Berkeley Project EIR	Project specific environmental evaluations were prepared to comply with applicable mitigation programs established in the West Berkeley Project MMP. The areas evaluated were air quality, cultural resources, and noise. Geotechnical and Traffic studies were also prepared, as noted above.

Table 2: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Vacant offices/lab space; parking lot	C-W & MU-R	Avenue Commercial, Manufacturing Mixed Use
Surrounding Properties	North	Commercial	C-W	Avenue Commercial
	South	Warehouse	MU-R	Manufacturing Mixed Use
	East	Veterinarian Office Residential	C-W MU-R	Avenue Commercial Manufacturing Mixed Use
	West	Grocery Store	C-W	Avenue Commercial

Table 3: Project Chronology

Date	Action
April 30, 2013	Application submitted
July 20, 2013	DRC: Preliminary Design Review
August 2, 2013	Applicant: Submittal of Revised Design
August 15, 2013	DRC: Preliminary Design Review Recommendation to the ZAB
September 1, 2013	Application deemed complete
September 12, 2013	LPC Referral, No action taken
September 26, 2013	Public hearing notices mailed/posted
October 10, 2013	ZAB hearing
October 31, 2013	Permit Streamlining Act Deadline

Table 4: Development Standards

Standard		Existing	Proposed Total	Permitted/ Required
BMC Sections 23E.64.070-080; 23E.84.070-080				
Lot Area (sq. ft.) – C-W		15,928	15,928	NA
Lot Area (sq. ft.) – MU-R		12,376	12,376	NA
Lot Area (sq. ft.) – Total		28,304	28,304	NA
Gross Floor Area (sq. ft.) – C-W		5,750 +/-	39,257	47,784
Gross Floor Area (sq. ft.) – MU-R		1,280	15,045	18,564
Gross Floor Area (sq. ft.) – Total		7,030 +/-	54,302	66,348 Max
Floor Area Ratio – C-W		0.36	2.46	3.00 Max
Floor Area Ratio – MU-R		0.10	1.22	1.50 Max
Dwelling Units	C-W	0	44	NA
	MU-R	0	14	NA
	Total	0	58	NA
	Affordable	0	4	4 Min
Building Height (ft.)	Average (ft.) – C-W	<18	55	50 Max
	Average – MU-R	<14	45	35 Max
	Stories – C-W	1	5	4 Max
	Stories – MU-R	1	4	3 Max
Building Setbacks (ft.)	Front (University Ave.)	4.7	0	0
	Left Side (East property line)	0	60.5	0-10
	Street Side (Fifth St.)	+/- 10	0	0-10
	Rear (south property line)	4.3	0	0
Lot Coverage (%)		25	60	No limit
Usable Open Space (sq. ft.) – C-W		N/A	1,710	
Usable Open Space (sq. ft.) – MU-R		N/A	2,150	
Usable Open Space - Total		N/A	3,860	3,860 Min
Parking	Automobile	20	60	60 Min
	Bicycle	0	24	1 Min

II. Project Setting

- A. Neighborhood/Area Description:** The project site fronts on University Avenue adjacent to the touchdown point for the ramps from the railroad and freeway overcrossing to the west. University Avenue is a heavily traveled roadway that defines the northern edge of the project area and neighborhood. Land uses east and west of the site are commercial (veterinary hospital, restaurant, and grocery store), while there is a warehouse on the lot immediately to the south along Fifth Street. A row of large, 2-story, residential buildings are located southeast of the site, along Sixth Street, while new 5-story mixed-use developments are found west of the site, along Addison Street (700 University Avenue and 651 Addison Street).
- B. Site Conditions:** The project site is currently occupied by 2 structures, both built in 1957 to house F. T. Lathrup Construction Company. The primary structure is a 1-story, flat-roofed, U-shaped office building at the corner of Fifth Street and University Ave. The original walls are of stacked cinder-block masonry. The building has been enlarged with additions on the south and west sides. The second structure on the site is a vehicle storage shed, open on front and providing 8 parking stalls. The construction company occupied the building for approximately 15 years, after which it housed a veterinary clinic, and later, a series of medical research laboratories. The building has been vacant for over a year, although employees of the Grocery Outlet currently use the parking lot.

III. Project Description

The project calls for demolition of the existing single-story office building and carport structure, followed by the construction of a new mixed use/residential building with 58 units, a commercial space facing University Avenue and Fifth Street and required off-street parking.

Recognizing that the site straddles the boundary of the C-W and MU-R Districts, the project was designed to provide a unified structure with an articulated roofline that is intended to respect the applicable use and height requirements of both districts and the surrounding area. The northern portion of the project in the C-W District would have 5 stories with both residential and ground-floor commercial space, while the southern portion in the MU-R District would have 4 stories and would be exclusively residential. Parking would be provided on the ground floor within a garage and in an open lot to the rear of the building. The project was designed to qualify for a density bonus of 27.5% by providing 4 units for very-low income residents.

Usable open space would be provided at grade within a 1,600 square foot landscaped area to the east of the parking lot, within private open areas above the podium accessible to 8 dwellings, and in 2 locations above the fourth floor that provide 1,500 square feet.

The ground floor would have an office/retail shop at the corner of University Avenue and Fifth Street, the entrance lobby and leasing office for the housing units, a gym space for the tenants, and at-grade parking. Thirty-eight spaces would be provided in the garage and 22 spaces would be included in an outdoor lot. Landscaping would be provided along the Fifth Street sidewalk, and the sidewalk along the University frontage is proposed to be widened to accommodate a new planting strip and street trees. The alleyway that extends through to Sixth Street would be maintained as a driveway as far as the entrance to the parking lot behind the adjacent veterinary hospital at 824 University, and the remaining portion of this space would be developed with a bocce ball court, providing recreational open space for tenants of the project.

All of the residential units would be located on the second through fifth floors, distributed as shown in Table 5:

Table 5: Number and Type of Units, by Floor

Floor	Studios	One-Bedrooms	2-Bedrooms	Total
2	1	12	3	16
3	1	12	3	16
4	1	12	2	15
5	1	10	0	11
Total	4	46	8	58
Average Unit Size (sq. ft.)	551	740	1,086	

IV. Community Discussion

- A. Neighbor/Community Concerns:** Prior to submitting the application to the City, the applicant held a neighborhood meeting (April 17, 2013) and a pre-application poster was erected by the applicant in April 2013. On September 26, 2013, the City mailed 116 notices to adjoining property owners and occupants, and to interested neighborhood organizations. No comments were received in response to this notice.
- B. Design Review Committee:** The Design Review Committee (DRC) previewed the project on June 20, 2013, and provided comments to the architect. On August 15, 2013 the DRC completed design review of the project and forwarded the project to the Zoning Adjustments Board with a recommendation of approval. The DRC made the following recommendations, to be considered at the final design review approval (FDR):
- Strongly recommend using metal spandrel panels.
 - Recommend having Wi-Fi available on the roof deck.
 - Show all roof-top mechanical equipment proposed at FDR.
- C. Landmarks Preservation Commission:** Pursuant to BMC Section 23C.08.050.C, the Landmarks Preservation Commission (LPC) considered the demolition of the existing buildings on the site at their September 12, 2013 meeting. The LPC took no action.

V. Issues and Analysis

A. Density Bonus: Government Code Section 65915 requires cities to grant a density bonus, and incentives, to housing projects that meet certain affordability levels. Based on the City's application of Density Bonus law, Staff has determined that the base project for this development site would have 49 units. To qualify for a bonus, such a project would need to provide at least 3 Very Low Income units, or 5% of the base project. In this case, the project would provide 4 Very Low Income units, or 8.1% of the base project. In Table 6, below, staff has summarized the base project, the bonus available to this project, and what the applicant has requested.

Table 6: Density Bonus Calculations – Base Project, Proposed Project & Maximum

	C-W District	MU-R District	Total
Base Project floor area	28,314	9,580	37,894
Average Unit Size			773
Base Project Units	39	10	49
# of Very Low Income Units			4
% of affordable units			8.1%
Maximum Density Bonus Units			14
Maximum Density Bonus (%)			27.5%
Maximum Allowable Units with Bonus			63
Proposed Density Units			9
Proposed Density %			18%
Proposed Density Bonus Project			58
Project vs. Maximum Bonus			-5 Units

As noted above, the applicant is entitled to a 14-unit bonus, but has instead elected to proceed with only a 9-unit bonus.

California Government Code Section 65915 requires the City to grant waivers or modifications of development standards that would otherwise inhibit the construction of density bonus units. The City can deny a waiver/modification request only if it finds that the waiver/modification is either not required to provide for affordable housing or would have a specific adverse impact upon public health and safety, the physical environment, or a property listed on the California Register of Historical Resources (Section 65915(e)(1)). Staff does not believe the ZAB could make such a finding.

The applicant has requested the following waivers and modifications to allow construction of the 9 density bonus units:

- 1) Waiver/modification of height/story limit to allow 5 stories & 55-feet: Section 23E.64.070.B limits building height in the C-W District to 4 stories & 50-feet. The project includes a fifth story to accommodate the density bonus units; and
- 2) Waiver/modification of story limit to allow 4 stories & 45-feet: Section 23E.84.070.B limits building height in the MU-R District to 3 stories & 35-feet. The project includes a fourth story to accommodate the density bonus units.

For the reasons stated above, Staff believes that the ZAB may grant a waiver/modification of the development standards to accommodate the Density Bonus Units, under California Government Code Section 65915.

The State Density Bonus law also requires Cities to approve certain concessions/incentives if requested by an applicant. However, the applicant for this project has not requested any concessions or incentives.

- B. Use Permit for the Demolition of the Existing Buildings:** BMC Section 23C.08.050 D allows the Zoning Adjustments Board to approve the Use Permit for demolition of these structures if the ZAB makes certain findings, including a finding that the demolition will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City and a finding that the building is required to allow a proposed new building or new use.

Staff believes that the Zoning Adjustments Board can find that the demolition of these structures will not be materially detrimental to the commercial needs of the neighborhood or the City, because the existing building is vacant and in poor condition. The ZAB can also find that the demolition is required in order to allow the proposed new mixed-use project to be built.

For the reasons stated above, Staff believes that the ZAB may grant a Use Permit under BMC Section 23C.08.05.D.

- C. Use Permits to Construct a Mixed-use Project with more than 20,000 Square Feet of Floor Area in the C-W District:** BMC Sections 23E.64.030 and 23E.64.050 allow mixed use development in the C-W District, but require approval of a Use Permit. To approve these Use Permits, the ZAB must find that the project: 1) is consistent with the purposes of the C-W District; 2) is compatible with surrounding uses and buildings; 3) is consistent with the adopted West Berkeley Plan; 4) is supportive of an increase in the continuity of retail and service facilities; 5) proposes an intensity of development that does not underutilize the property; 6) is capable of meeting applicable performance standards for off-site impact; and 7) will not exceed the amount and intensity of use that can be served by available traffic capacity and potential parking supply.

The required findings, and staff's response to each one, follow:

1. Purposes: The purposes of the C-W District relevant to this project are:

Purpose G – "Increase the opportunities for development of housing in commercial areas to support local retailing and use of transit lines and opportunities for mixed use projects combining pedestrian-oriented neighborhood-serving uses with mixed income housing in locations abutting residential districts."

Staff Analysis: The project is consistent with this purpose statement because it is a mixed-use project that would support local retailing by adding 58 new residences to a site that is within walking distance of the Fourth Street retail area and is well served by transit, including bus lines on University Avenue and Amtrak. The project would also provide 4 units of housing for very low income residents, even though it is not adjacent to a residential zoning district.

Purpose H – "Encourage appropriately intense development in underutilized portions of commercial streets."

Staff Analysis: The project is consistent with this purpose in that the project would replace a vacant, single-story office building with 58 residential units in a 54,302 square feet building.

Purpose I – “Promote development compatible with adjacent commercial, residential and industrial areas.”

Staff Analysis: The project is consistent with this purpose because it would not conflict with the operations in adjoining commercial buildings, and would provide potential customers for some of these facilities, as well as other nearby businesses. The project abuts 3 residential lots on the east (in the MU-R zone), but has been designed to minimize the impacts on these residences by providing a sizeable setback, fencing, landscaping and open space where the site abuts these residences.

2. Compatibility with surrounding uses and buildings: Staff believes that the project is compatible with surrounding uses and buildings as noted in the prior section.
3. West Berkeley Plan: Staff believes that the project is consistent with applicable policies of the West Berkeley Plan, as described in Section V.H, below.
4. Supportive of an increase in the continuity of retail and service facilities: Staff believes this finding can be made in that the project would replace a vacant, low rise, degraded office building with a new 4 and 5 story building that is consistent with the evolving urban fabric of the University Avenue/Fourth Street commercial district. The project would add a new storefront space for retail or service uses where none exists today.
5. Provides an intensity of development that does not underutilize the property: With the density bonus, the proposed design is 1 floor taller than is permitted by the respective C-W and MU-R development standards. Accordingly, staff believes that the project does not underutilize the site.
6. Meet applicable performance standards for off-site impacts: Potential off-site impacts typically include such things as noise, glare, dust, vibration, hazardous materials, etc. As a mixed-use, predominately residential, development, the project would not involve any manufacturing or industrial activities and would have limited potential to generate off-site impacts typically involving regulation through performance standards. Construction period impacts, including noise and dust control, are subject to standard conditions of approval as set out in the Findings and Conditions.
7. Traffic capacity and potential parking supply: City of Berkeley guidelines require a Traffic Impact Assessment for any project that generates more than 25 PM peak hour auto trips. In this case, the traffic report that evaluated the project estimated that the project would generate 20 AM peak hour vehicle trips and 26 PM peak hour trips. Based on this study, this level of additional traffic is not expected to be noticeable to nearby residents and motorists, and would not significantly impact nearby intersections. The on-site parking would fully meet the applicable city standards, and the project would have little or no off-site parking demand.

For the reasons stated above, Staff believes that the ZAB may grant a Use Permit under BMC Sections 23E.64.030 and 23E.64.050.

- D. Use Permits to Construct more than 10,000 Square Feet of Floor Area and more than 5 units in the MU-R District:** BMC Sections 23E.84.030 and 23E.84.050.B allow residential development with more than 10,000 square feet in the MU-R District, but require a Use Permit. To approve these Use Permits, the ZAB must find that the project: 1) is consistent with the purposes of the MU-R District; 2) is consistent with the normal use and operation of surrounding uses and buildings; 3) consistent with the adopted West Berkeley Plan; 4) would not induce or contribute to a cumulative change of use in buildings away from residential, live/work, light industrial, or arts and crafts uses; 5) is designed in such a manner to be supportive of the character and purposes of the District; and 6) is capable of meeting applicable performance standards for off-site impact.

The required findings, and staff's response to each one, follow:

1. Purposes: The purposes of the MU-R District relevant to this project are:

Purpose A: "Implement the West Berkeley's Plan's designation of a Mixed Residential District."

Staff Analysis: The proposed project would add new residential units in West Berkeley, adjacent to the University Avenue/Fourth Street Node, and replace a vacant single-story office building and support increased economic activity in the area. The relationship of the project to specific policies of the West Berkeley Plan is further described below, in Section V.H.

Purpose B: "Support continued development of a mixed use District which combines residential, live/work, light industrial, arts and crafts and other compatible uses."

Staff Analysis: The project is a mixed-use development that would add residents to the area and support continued redevelopment of the District.

Purpose C: "Strengthen residential concentrations which exist within the District."

Staff Analysis: The project would add new residents on a site that is adjacent to the University Avenue/Fourth Street node and close to other mixed-use projects that have been constructed in the past decade.

2. Consistent with the normal use and operation of surrounding uses and buildings: The proposed project site is surrounded by a) the Grocery Outlet store on the west, b) University Avenue and commercial storefronts on the north; c) a veterinary and residential units on the east; and d) a warehouse on the south.

Staff believes that the project would be compatible with all of these uses for the following reasons: a) it would bring potential customers to the Grocery Outlet store while avoiding or minimizing potential parking conflicts because it would meet the applicable off-street parking standards; b) the project would improve University Avenue frontage by replacing a vacant, deteriorated office building with a new

mixed-use building that may bring customers to existing businesses and/or encourage further investments in the improvement of property along the street; c) the project has been designed to retain the existing rear access to the adjacent veterinary shop and also to provide a large setback from the existing residential buildings adjacent to the site, thereby minimizing shading, visual, noise and other impacts on those residential properties; d) the project would not interfere with the operation of the existing warehouse to the south.

3. Consistent with the adopted West Berkeley Plan: Staff believes that the project is consistent with applicable policies of the West Berkeley Plan, as described in section V.H, below.
4. Not induce or contribute to a cumulative change of use in buildings away from residential, live/work, light industrial, or arts and crafts uses: Because the project is predominately residential, it will expand a land use that is a favored land use in the MU-R District (residential), furthering a cumulative change that is consistent with the City's planning and zoning goals for West Berkeley.
5. Support the character and purposes of the District: Staff believes that the project is supportive of the character of the District because the design concentrates its mass along the north end of the site, adjacent to the University Avenue corridor, while minimizing potential land use conflicts with the existing residential row along the southeastern boundary of the parcel. It is also supportive of the character of the District in that it is fully parked and will generate little or no additional demand for on-street parking.
6. Performance Standards: Staff believes that the ZAB can make this finding as noted in Section V.C.6, above.

For the reasons stated above, Staff believes that the ZAB may grant a Use Permit under BMC Sections 23E.84.030 and 23E.84.050.B.

- E. Use Permit to Apply C-W District Street-side Yard Setback to the MU-R District:** BMC section 23A.16.030 provides for the rather unusual situation in which a single project site is split by a boundary between zoning districts, as is the case with this site. Section 23A.16.030.B allows the ZAB to grant a Use Permit to apply the yard requirements of the C-W District to the entire site. Doing so in this case would allow no setback along the MU-R portion of the Fifth Street frontage, where a 5-foot front yard setback would normally be required.

The ZAB may grant this Use Permit as long as neither of the following 2 limitations is present:

1. The aggregate amount of development, as measured by density (FAR), shall not exceed the sum of the development potential of all of the parts of the lot if each part that is zoned differently were developed under that respective district's regulations. In this case, the project will comply with FAR limits in both the C-W and MU-R Districts. Based on this, the project would not exceed permissible densities and Limitation 1 would not apply.

2. No part of the lot shall be used other than for the uses permitted in the District in which it is located. In this case, the uses proposed in each District comply with the permissible uses.

Since neither of the specified limitations apply, Staff recommends that the ZAB grant a Use Permit under BMC 23A.16.030.B.

F. Rooftop Projections: The project would include architectural features that will extend no more than 30" above the roof and an enclosed mechanical room for the elevator and stair roof access that will extend no more than 10'-6" above the 55' building height. Per BMC Section 23E.04.020.C, mechanical penthouses, elevator equipment rooms, and cupolas, domes, turrets, and other architectural elements that exceed a District's height limit requires approval of an Administrative Use Permit. In this case, the applicant requests that the ZAB allow for a 30" parapet and enclosed mechanical room for the elevator and the building code required access to the roof.

For the ZAB to approve the Administrative Use Permit, these features cannot provide floor area that would represent more than fifteen percent (15%) of the average floor area of all of the building's floors, and cannot be used as habitable space or for any commercial purpose. The parapet will not provide floor area and is thus not subject to the 15% or habitable space limit. The elevator room/stair access will only provide access to the roof and will not provide habitable space. The average floor area of all of the building's floors is 12,792 square feet, and 15% of this total is 1,919 square feet. The total area of the elevator room/stair access is roughly 290 square feet, which is less than the 15% maximum of 1,919 square feet.

Because the rooftop projections will comply with BMC Section 23E.04.020.C, staff recommends that the ZAB approve this Use Permit.

G. General Plan Policy Analysis: The 2002 General Plan contains several policies applicable to the project, including the following:

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.

Staff Analysis: The proposed project is an infill development project that would add 58 units of housing in a location that is planned for mixed-use development. The site straddles the boundary of 2 zoning districts, and has been designed to respect the zoning requirements of each.

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.

Staff Analysis: The project is consistent with the applicable zoning standards for the C-W and MU-R Districts, respectively, and would further goals of revitalizing West Berkeley.

3. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.

Staff Analysis: With 5 stories along University Avenue stepping down to 4 stories along Fifth Street, the project would reinforce the City's plans for redeveloping underutilized sites in a way that would increase the quality of the built environment and provide new housing and commercial opportunities.

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

Staff Analysis: The project would not cast shadows on any nearby residential structures in the winter months, and would only shadow the walls of 1 residence (2018 Sixth St.) in the late afternoon hours of the summer season.

5. 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.

Staff Analysis: By adding 58 housing units, the project would help Berkeley meet its regional housing need.

6. 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.)
7. Policy UD-33–Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.

Staff Analysis: The project will meet the City's Green Building requirements.

H. West Berkeley Area Plan Policy Analysis: The West Berkeley Area Plan, adopted in December 1993, also contains several policies applicable to the project, including the following:

1. Urban Design Goal 1: Preserve and enhance the vital commercial corridors, particularly San Pablo and University Avenue, with intensification and mixed-use development at key intersections or “nodes”.

Staff Analysis: The project would add a new multi-story mixed-use development adjacent to the 4th & University/Hearst node replacing a vacant single-story office building and enhancing increased economic activity in the nodal area by bringing more residents to the neighborhood.

2. Urban Design Goal 3: Visually improve the University Avenue gateway and other entry corridors into West Berkeley, so as to create a positive image as one enters Berkeley. . . .

Staff Analysis: The project would replace a vacant, low-rise office structure with a new mixed use building with 5 stories along the University Avenue frontage, strengthening the “streetwall” of buildings along the corridor, as encouraged in Policy 3.2. The building would be placed along the front property line, as suggested in Policy 3.2, in order to strengthen the urban character of the street, and parking would be screened from view for travelers along the University Avenue entry corridor, as encouraged in Policy 3.3.

3. Urban Design Goal 4: Development in locations where there is a juxtaposition of uses and building scales – particularly where concentrations of residential uses are adjacent to more intense uses – should be sensitive to the character of both the less intense and more intense uses

Staff Analysis: The project design is sensitive to the nearby row of single-family residential structures on Sixth Street in that the new building will be set back approximately 60 feet from the rear yard fences of the 3 abutting single-family lots, and the height will step down in the south and eastern sides of the project, such that the sun shadow impacts on the abutting residences will be minimized. Furthermore, the design will not add any structures in the 25-foot wide access driveway that goes through to Sixth Street.

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:

- A. **APPROVE** Use Permit 13-10000022 pursuant to Section 23B.32.040 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received August 2, 2013
3. Notice of Public Hearing, dated September 26, 2013

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