0 (2435) San Pablo Avenue

Use Permit #ZP2018-0229 to construct a 4-story, 20,526 square foot, mixed use building with 42 Group Living Accommodation rooms and 800 square feet of ground floor commercial/retail space on two vacant parcels.

I. Background

A. Land Use Designations:
   - General Plan: AC – Avenue Commercial
   - Zoning: C-W – West Berkeley Commercial, Dwight and San Pablo Designated Node

B. Zoning Permits Required:
   - Use Permit under BMC Section 23E.64.030.A, to construct a mixed-use development with more than 20,000 square feet of gross floor area
   - Use Permit under BMC Section 23E.64.030.A, to establish Group Living Accommodations
   - Use Permit under BMC Section 23E.64.030.A to establish a Residential Hotel
   - Use Permit under BMC Section 23E.64.050.B, to construct more than 5,000 square feet of gross floor area
   - Use Permit under BMC Section 23E.64.080.H, to modify the off-street parking requirement
   - Administrative Use Permit under BMC Section 23E.04.020.C, to allow architectural features to exceed the height limit

C. CEQA Recommendation: It is staff’s recommendation that 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 15332 (In-Fill Development Projects) of the CEQA Guidelines. The determination is made by ZAB.

The project meets all of the requirements of this exemption, as follows:
   - The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
   - The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
The parcels within the project site have previously been developed/paved and have no value as habitat for endangered, rare or threatened species.

The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by 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.

The site can be adequately served by all required utilities and public services.

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.

A. Parties Involved:

- **Applicant**: Erik Waterman/Studio KDA, 1810 Sixth Street, Berkeley, CA
- **Property Owner**: Wang Brother Investments, LLC, 1 Bates Blvd., Suite 400, Orinda, CA
Figure 1: Vicinity Map
Figure 2: Proposed Site Plan

SAN PABLO AVE.
### Table 1: Land Use Information

<table>
<thead>
<tr>
<th>Location</th>
<th>Existing Use</th>
<th>Zoning Districts</th>
<th>General Plan Designations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject Property</td>
<td>Vacant</td>
<td>C-W</td>
<td>Avenue Commercial</td>
</tr>
<tr>
<td>North</td>
<td>Two-Story Multi-Unit Apartment</td>
<td>C-W</td>
<td>Avenue Commercial</td>
</tr>
<tr>
<td>South</td>
<td>Single-Story Commercial Building (retail) w/Surface Parking in rear</td>
<td>C-W</td>
<td>Avenue Commercial</td>
</tr>
<tr>
<td>East</td>
<td>One- and Two-Story Single-Family Dwellings</td>
<td>R-2</td>
<td>Low Medium Density Residential</td>
</tr>
<tr>
<td>West</td>
<td>Single-Story Commercial Buildings (car repair, beauty salon) &amp; Surface Parking Lots</td>
<td>C-W</td>
<td>Avenue Commercial</td>
</tr>
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</table>

### Table 2: Special Characteristics

<table>
<thead>
<tr>
<th>Characteristic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applies to Project?</td>
</tr>
<tr>
<td>--------------------</td>
</tr>
<tr>
<td>Affordable Child Care and Affordable Housing Fee for non-residential projects (Resolution 66,617-N.S. and 66,618-N.S.)</td>
</tr>
<tr>
<td>Affordable Housing Mitigations for rental housing projects (BMC Section 22.20.065)</td>
</tr>
<tr>
<td>Coast Live Oaks</td>
</tr>
<tr>
<td>Creeks (BMC Section 17.08.045)</td>
</tr>
<tr>
<td>Density Bonus</td>
</tr>
<tr>
<td>GreenPoint Rating Version 7.0</td>
</tr>
<tr>
<td>Historic Resources</td>
</tr>
<tr>
<td>Housing Accountability Act (Gov’t Code Section 65589.5(j))</td>
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<tr>
<td>SB330, Housing Crisis Act of 2019</td>
</tr>
<tr>
<td>Public Art on Private Projects (BMC Chapter 23C.23)</td>
</tr>
<tr>
<td>Rent Controlled Units</td>
</tr>
<tr>
<td>Residential Preferential Parking</td>
</tr>
<tr>
<td>Seismic Hazards Mapping Act (Liquefaction, Fault Rupture, Landslides)</td>
</tr>
<tr>
<td>Characteristic</td>
</tr>
<tr>
<td>----------------------------------------</td>
</tr>
<tr>
<td>Soil/Groundwater Contamination</td>
</tr>
<tr>
<td>Transit and Bicycle Access</td>
</tr>
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</table>

Table 3: Project Chronology

<table>
<thead>
<tr>
<th>Date</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 6, 2018</td>
<td>Application submitted</td>
</tr>
<tr>
<td>May 16, 2019</td>
<td>DRC Preliminary Design Review Meeting (PDR): item continued</td>
</tr>
<tr>
<td>July 18, 2019</td>
<td>DRC PDR Meeting: Favorable Recommendation</td>
</tr>
<tr>
<td>October 28, 2019</td>
<td>Application deemed complete</td>
</tr>
<tr>
<td>November 26 2019</td>
<td>Public hearing notices mailed/posted</td>
</tr>
<tr>
<td>December 12, 2019</td>
<td>ZAB hearing: item continued off calendar</td>
</tr>
<tr>
<td>May 22, 2020</td>
<td>Application resubmitted</td>
</tr>
<tr>
<td>August 13, 2020</td>
<td>Public hearing notices mailed/posted</td>
</tr>
<tr>
<td>August 27, 2020</td>
<td>ZAB hearing</td>
</tr>
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Figure 3: View of Project Site Looking East from San Pablo Avenue
Table 4: Development Standards

<table>
<thead>
<tr>
<th>Standard BMC Sections 23.64.070-080</th>
<th>Existing</th>
<th>Proposed Total</th>
<th>Permitted/Required</th>
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<tbody>
<tr>
<td>Lot Area (sq. ft.)</td>
<td>7,349</td>
<td>no change</td>
<td>---</td>
</tr>
<tr>
<td>Gross Floor Area (sq. ft.)</td>
<td>0</td>
<td>20,526</td>
<td>22,047 max.</td>
</tr>
<tr>
<td>Floor Area Ratio</td>
<td>---</td>
<td>2.79</td>
<td>3 max.</td>
</tr>
<tr>
<td>Group Living Accommodation Units</td>
<td></td>
<td>42</td>
<td>---</td>
</tr>
<tr>
<td>Building Height</td>
<td>Average</td>
<td>50'</td>
<td>25' min. / 50' max.</td>
</tr>
<tr>
<td>Building Setbacks</td>
<td>Front</td>
<td>0</td>
<td>0 min.</td>
</tr>
<tr>
<td></td>
<td>Rear</td>
<td>10'</td>
<td>10' min.</td>
</tr>
<tr>
<td></td>
<td>Left</td>
<td>1'</td>
<td>0 min.</td>
</tr>
<tr>
<td></td>
<td>Right Side</td>
<td>6'</td>
<td>0 min.</td>
</tr>
<tr>
<td>Lot Coverage (%)</td>
<td>0</td>
<td>74</td>
<td>---</td>
</tr>
<tr>
<td>Usable Open Space (sq. ft.)</td>
<td>---</td>
<td>3,820</td>
<td>---</td>
</tr>
<tr>
<td>Parking</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Automobile</td>
<td>---</td>
<td>0</td>
<td>13(1) (1 per 5 res. + 1 per manager + 1 per 500 sq. ft. commercial)</td>
</tr>
<tr>
<td>Bicycle</td>
<td>---</td>
<td>2 short term</td>
<td>1 min.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>56 long term</td>
<td>(1 per 2K commercial sq. ft.)</td>
</tr>
</tbody>
</table>

(1) The Board may issue a Use Permit to modify the off-street parking requirements where it finds such modification promotes any of the general purposes of the District (BMC 23E.64.080.H)

II. Project Setting

A. Neighborhood/Area Description: The property is located along the along San Pablo Avenue (State Highway 123) corridor that features bus stops, private driveways, and parallel metered on-street parking in each direction. The area consists predominantly of one-story commercial buildings and one- to two-story residential and mixed-use buildings, interspersed with a few ground level parking lots. Four- to six-story mixed use buildings, constructed, under construction or entitled, are also interspersed along the San Pablo Avenue corridor. A predominantly single-family residential neighborhood lies adjacent to the east and west of the San Pablo Avenue corridor.

B. Site Conditions: The project site is comprised of two adjacent parcels (APN 56-1928-19 and 56-1928-20) totaling approximately 7,349 square feet, with approximately 74 feet of frontage along the east side of San Pablo Avenue. As part of the southern parcel is located 100 feet from Dwight Way, the entirety of the subject site is included in the Dwight and San Pablo designated node of the West Berkeley Commercial District. The site is currently a paved lot that has been used as parking for the adjacent commercial businesses to the south. The site can be currently accessed via an approximately 20-foot wide curb cut off of Dwight Way and 18-foot wide access easement that runs along the eastern side of the abutting property to the south, as well as well as through an approximately 20-foot wide curb cut off of San Pablo Avenue. In addition to the curb cut, two street trees, two street lamps, and an AC
Transit bus stop are located in the sidewalk along the project site frontage along San Pablo Avenue.

III. Project Description and Revisions in Response to ZAB December 2019

The project proposes to merge the two parcels and construct a four-story mixed use building. The proposed building would offer 42 residential units, operating as a Group Living Accommodations, specifically a Residential Hotel as defined in the Zoning Ordinance Section 23F.04:

**Group Living Accommodations:** A building or portion of a building designed for or accommodating Residential Use by persons not living together as a Household, but excluding Hospitals, Nursing Homes and Tourist Hotels.

**Hotel, Residential:** A building which provides rooms for rent for residential purposes, including Single Residential Occupancy (SRO) Hotels. Residential Hotels are a type of Group Living Accommodation.

Each residential floor (floors 2 through 4) would include community kitchens and a shared outdoor balcony, with the three eastern facing units on the fourth floor having a private balcony. Common usable open space would also include an approximately 1,800-square-foot roof top terrace located on the West side (facing San Pablo Avenue). A shared laundry room and toilet facilities would also be located on the roof. Each unit would be single occupancy for a total of 42 residents. Consistent with uses permitted in a designated node, the ground floor would include approximately 800 square feet of retail/commercial space, the entrance lobby with mail room, utility rooms, storage, trash room and an 853-square-foot bike storage room with secure parking for 56 bicycles and a bike repair station. Due to an existing AC Transit bus stop and shelter located and the southwest corner of the San Pablo frontage, the lobby and commercial entrances are shifted to the northwest. The indoor bike parking area can be accessed via the 18-foot wide easement from Dwight Way to the back southeast corner of the building.

To address the comments and concerns raised at the December 12, 2019 ZAB meeting, the following modifications have been made and information provided:

**Design:** The current plan set includes revisions incorporated many of the suggestions raised by ZAB. On the ground floor, the mail/pack room and heat pump/hot water storage rooms were switched, placing the mail room with a window replacing the utility doors along the San Pablo frontage. Also, a bathroom has been added to the ground floor adjacent to the janitor room for staff use; and a bike repair station has been added to the bike storage room. See plan set page A111 for the floor plan and A201 for the western elevation.

The applicant looked into the possibility of reducing the room count and adding studies, but found greater inefficiencies and loss of space due to the circulation requirement, which lessened the communal intent of the building design. However, the common rooms on each residential floor were revised to increase usability by increasing shared storage along the north wall, providing a more flexible furniture layout and more fixtures including two sinks, two ranges, two dishwashers, and two refrigerators. Additional, the electrical room has been moved to the south to create a corridor and better separation between the
room on the east side and the common space. (See plan set sheets A112, A113 and A402.).

Per ZAB’s request, the plan now show furnishings in the typical room plan which are to be provided by the owner. This includes added features for additional storage including shelves, hooks, and a hanging peg-board. Furnishings and appliances include a full size bed, a built-in closet, a folding desk and chair, a microwave and an under counter refrigerator. To address ZAB’s sanitation concerns, a toilet with an integrated sink over the tank has been included in the bathroom to provide in-room hand washing. (See plan sheet A401.)

On the roof plan, per the neighbors’ request, the two roof decks have been consolidated into one larger deck now located on the west side of the building. Also, a shared bathroom has been added to the roof plan, and the laundry room has been enlarged to include a washer/dryer ration of over 1 per 8 residents. (See plan sheet A113.)

Operations and Safety: The majority of the comments at the ZAB meeting concerned the operations of the building. In order to best address these comments, the Owner has retained the services of Common, one of the country’s premiere property management firms specializing in GLAs and co-living communities. Common operates over 48 properties with over 1,600 residents in seven metropolitan areas, including the Bay Area, 80% of which are non-traditional housing typologies, including GLAs designed for independent professionals (https://www.common.com/real-estate-partners). In collaboration with Common, an operation plan for 2435 San Pablo has been outlined. This plan includes an overview of staffing and responsibilities; tenant support services, including 24/7 assistance with maintenance and technical issues; processes ensuring safety and providing conflict resolution, if needed; general policies including standards leases describing pets (not allowed, except service dogs), guests (quantity and frequency), community activities, and programs to encourage tenant interaction. The operations plan also provides a description of the lease options—12 months is the length of the primary lease option—and the process for optimizing lease renewal. See Attachment 3 for a description of the management plan.

Affordability: Residential hotels are, per Ordinance, one of several types of GLAs that are exempt from the Affordable Housing Mitigation Fee. The project is, however, per the applicant statement, affordable by design. Compared to a studio apartment that includes an individual kitchen, the GLAs with shared kitchens, will rent for approximately 25% less. This figure is derived from a traditional studio costing $2,400 a month, plus an addition $240 for utilities wifi/cable, laundry, and furnishings. The expected rent for a GLA room will be approximately $2,000 a month with utilities, wifi/cable, laundry, cleaning services and furnishings included. Not only will the GLA be more affordable, it will provide an array of inclusive amenities (utilities, furnishings, cleaning service, etc.) that are not typically provided in the Berkeley rental market.

IV. Community Discussion

A. Neighbor/Community Concerns: Prior to submitting this application to the City, the applicant erected a yellow pre-application poster at the project site and invited interested neighborhood organizations, as well as owners and occupants within 300
feet of the project, to a community meeting. The meeting was held on December 3, 2018 and attended by approximately ten members of the public.

Prior to and at the duly noticed December 2019 ZAB meeting, several neighbors sent in comments and spoke at the hearing to express concerns regarding traffic impacts, parking impacts, massing, neighborhood compatibility, and increased density; staff also received comments supporting new housing.¹

On August 13, 2020, the City mailed public hearing notices to property owners and occupants within a 300-foot radius of the project site, and to interested neighborhood organizations. In addition City staff posted notices within the neighborhood in three locations. As of the writing of this staff report, staff has not received any further public correspondence.

B. Committee Review: The Design Review Committee (DRC) held a preliminary review of the project on May 16, 2019 and July 18, 2019. At the July 18th meeting the DRC made a favorable recommendation to ZAB (5-1-0-1) with the following conditions and recommendations:

**Conditions:**
- Trellis shall be better integrated into the design.
- Ground floor design shall be further developed at FDR for more color and interest. Show required louvers accurately.
- Demonstrate views to neighborhood from south balconies when this comes to ZAB.
- Provide revised landscape plan and plant palette at FDR showing both active and quiet open space.
- Show closets in units when this comes to ZAB.

**Recommendations:**

**Building / Façade Design**
- Review colors at Final Design Review to ensure the best fit with the neighborhood.
- Green Point checklist appears to be meager.
- Consider color on the north elevation as well.
- Trellis should be visible from the street for added detail and interest.

**Ground Floor Design**
- Ground floor tile should add more color and interest.
- There is still some concern that the trash room may not be the best use of that street façade.
- Consider a shadow box / display window for live/work unit.
- Continue to develop the wall behind the AC transit shelter for more color and interest; Consider water feature, mosaic or other art element.

¹ Correspondence received prior to and for the December 12, 2019 ZAB meeting can be found:

- [https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2019-12-12_ZAB_ATT4_0_2435%20San%20Pablo_Correspondence%20Received.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2019-12-12_ZAB_ATT4_0_2435%20San%20Pablo_Correspondence%20Received.pdf)
- [https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2019-12-12_ZAB_Supplemental%20Item_Rd1_0_2435%20San%20Pablo.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2019-12-12_ZAB_Supplemental%20Item_Rd1_0_2435%20San%20Pablo.pdf)
- [https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2019-12-12_ZAB_Supplemental%20Item_Rd2_0_2435%20San%20Pablo.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2019-12-12_ZAB_Supplemental%20Item_Rd2_0_2435%20San%20Pablo.pdf)
- [https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2019-12-12_ZAB_Late%20Item_0_2435%20San%20Pablo.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2019-12-12_ZAB_Late%20Item_0_2435%20San%20Pablo.pdf)
Residential Floors/ Common Areas
- Recommend adding more storage, possibly near stairwells.
- Staff reports shall reflect use as GLA, not co-living.

Open Space / Landscape Plan
- Planters at roof deck should have a more substantial edge. Railing design and plants proposed shall have further review at FDR.
- East roof deck is good, but should be for quiet uses only. Provide a view study from roof deck when this comes to ZAB.
- Trees on the ground floor near east property line should be as large as possible for added privacy.

V. Issues and Analysis

A. Housing Accountability Act Analysis: 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 is requesting a modification of the parking standards so Paragraph j of the HAA does not apply.

B. Required C-W Findings for Approval: In order to approve any Use Permit in the C-W District, the ZAB must make the findings, pursuant to Berkeley Municipal Code Section 23E.64.090.B, that the proposed or structure is:

Consistent with the purposes of the District

Staff Analysis: The project is a mixed-use project that would support local commercial uses by adding 42 new GLA units and 800 square feet of commercial space to a site that is well served by public transit. As a mixed-use building that would front on San Pablo Avenue and replace a surface parking lot, the project would realize the City’s plans for redeveloping underutilized sites to increase the quality of the built environment and provide new housing and commercial opportunities. The increased population, new street level commercial use, and increased street activity would assist to extend the attractiveness and vitality of San Pablo Avenue.

Compatible with the surrounding uses and buildings

Staff Analysis: Though taller than surrounding development, the 50-foot tall project meets the District’s height standard and would be consistent with the new development pattern of recently approved four- to six-story mixed use buildings along San Pablo Avenue. As the project site abuts an R-2 residential zone to the
east, the proposed building is constructed with the required 10-foot required rear yard setback and is stepped back an additional 10 feet 3 inches on the fourth floor to further reduce the massing adjacent to the residential neighbors to the east. The proposed predominantly residential uses are permissible in the District and would help revitalize the existing neighborhood commercial business.

Consistent with the adopted West Berkeley Plan

Staff Analysis: The project would be consistent with the West Berkeley Plan because it would enhance the San Pablo Avenue commercial corridor by providing a new live/work space fronting San Pablo Avenue. The project would also visually improve this stretch of San Pablo Avenue by replacing a surface parking with a new mixed-use building of four stories along the San Pablo Avenue frontage and removing a curb cut, thereby strengthening the “streetwall” of buildings along the corridor. (See also Section H below.)

Be supportive of an increase in the continuity of retail and service facilities at the ground level to the degree feasible and does not substantially degrade the existing urban fabric of the street and area

Staff Analysis: The project would enhance the urban fabric of the street and area by replacing a surface parking lot with a new mixed use building. The project sponsor worked with AC Transit and siting of the bus stop, resulting in the provision of new commercial space and the entrance to the residential lobby along the street frontage.

For projects which include construction of new floor area, providing an intensity of development which does not underutilize the property

Staff Analysis: The project is built to the 50-foot height limit of the District and is providing a 2.79 FAR where a maximum of 3 is permissible by the C-W development standards. The project is not underutilizing the property.

Capable of meeting any applicable performance standards for off-site impacts

Staff Analysis: The project’s occupancy and use would not generate noise, glare, dust, vibration, or hazardous materials, etc. that would be inconsistent with adjacent residential uses. Additionally, as a mixed-use development, it would not involve any manufacturing or industrial activities with the potential to generate off-site impacts typically involving regulation through performance standards. Potential construction period impacts, including noise and dust control, are subject to standard conditions of approval as set forth in Attachment 1, Findings and Conditions.

Not exceed the amount and intensity of use that can be served by available traffic capacity and potential parking supply

Staff Analysis: The project is a residential hotel type GLA that would encourage alternative modes of transportation by providing no vehicle parking on site, by providing secure bicycle parking for 56 bicycles, and by including a Transportation Demand Management (TDM) condition of approval that includes provision of the
cost equivalent to an unlimited local bus pass to each residential unit. As part of the project submittal, the applicant submitted an On-Street Parking Occupancy Survey that determined that at the most impacted hour, 5:00 to 6:00 p.m. on a week day, approximately 19% of the 295 on-street parking spaces located within about a block of the project site were available, which is both sufficient for residents who choose to own vehicles, as well as not so plentiful as to encourage car ownership. The project is conditioned to work with Traffic Engineering to request a white curb for deliveries and shared mobility.

C. Designated Node Finding: To approve any Use Permit for a use and/or structure within a designated node, pursuant to BMC Section 23E.64.090.C, the Board must find the use supports the development of strong retail commercial, pedestrian oriented environment at the node. Staff believes this finding can be met as the project includes new retail space with a store entrance and display area fronting San Pablo Avenue. To accommodate the existing bus entrance, the commercial entrance has been shifted to the northern end of the node thereby providing a more prominent display area that would allow passersby and patrons waiting for the bus a view of the items in the display window, thus serving to activate the pedestrian zone of the building at all times. The addition 42 new residents within the node would provide a greater volume of pedestrian activity and clientele for new and existing businesses in the area.

D. Parking Waiver: Pursuant to BMC Section 23E.64.090.D, in order to approve a Use Permit for reduction of the otherwise applicable parking requirement on a mixed use property containing residential uses, the Board or the Zoning Officer must find that the reduction in the parking requirement is not expected to cause a serious shortage of parking in the area. As described in staff analysis in Section V.B.7 above, the project is a co-living GLA that would encourage alternative modes of transportation by providing no vehicle parking on site, by providing secure bicycle parking for 56 bicycles, and by including a Transportation Demand Management (TDM) condition of approval that includes provision of the cost equivalent to an unlimited local bus pass to each residential unit. As part of the project submittal, the applicant submitted an On-Street Parking Occupancy Survey that determined that at the most impacted hour, approximately 19% of the 295 on-street parking spaces located within about a block of the project site were available, which is both sufficient for residents who choose to own vehicles, as well as not so plentiful as to encourage car ownership. The project is conditioned to work with Traffic Engineering to request a white curb for deliveries and shared mobility.

In addition, the project is in a transit rich neighborhood: North Berkeley BART station is located a little more than one mile from the project site. This station is located on the Richmond-Fremont Line which connects to other destinations in the Bay Area at the MacArthur Station. There is also direct service to Downtown San Francisco as well as continuing service to the San Francisco Airport. There is extensive bus transit service provided by Alameda-Contra Costa County (AC) Transit along San Pablo Avenue. Routes 72, 72M, 72R and all-nighter Route 802 all operate directly adjacent to the project site. Please note the nearest bus stop is directly adjacent to the site on San Pablo Avenue. Route 36 also operates along Dwight Way less than one block south of the site.
For all of the above reasons, the parking supply provided by the project relative to projected demand would not be expected to be detrimental.

E. **Rooftop projections:** Pursuant to BMC Section 23E.04.020.C, domes, turrets, and other similar architectural projections as well as mechanical penthouses, elevator equipment rooms, and other non-habitable structures can exceed the district height limit so long as the structures may not represent more than 15% of the average floor area of all of the building's floors. The project includes such structures including a trellis, and a rooftop penthouse that include two stairways, an elevator, and a laundry room, which is defined in the Zoning Ordinance as non-habitable space. The total area of the proposed rooftop projects is 808 square feet or 15% of the average floor plate size of 5,396 square feet.

F. **General Non-Detriment Finding:** Pursuant to Section 23B.32.040.A of the Zoning Ordinance requires that before the ZAB approves an application for a Use Permit, it must find that the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

1. **Shadows:** The proposed four-story building would be taller than the existing buildings surrounding it and would cast new shadows upon them, as shown in the Shadow Study prepared by the applicant (see Sheets G051 through G053 in the plan set in Attachment 2).

   In the winter, when shadows are the longest, new shadows would be cast on the southern façades of the two two-story multifamily buildings to the north of the subject site (2429 and 2433 San Pablo Avenue) during the morning through early afternoon hours. In the afternoon hours through sunset, new shadows would be cast on the rear yard areas, and the rear and southern façades of four dwellings to the east of the subject site (2430, 2432, 2434, and 2438 Byron Street).

   In summer, the project would shade the confronting commercial building across San Pablo Avenue (2442 San Pablo Avenue) during the morning hours. At noon there would be shading in portions of the side yard of the neighboring building to the north, and during the afternoon hours new shadows would affect the rear yards and rear facades of three dwellings located to the east of the subject site (2438, 2442, and 2444 Byron Street).

   Given the existing site is a surface parking lot in a zoning district that permits greater heights, any new construction at the site would have increased shadow impacts upon the dwelling units to the east. The shadows that would be created by the proposed project are lessened due to the step backs on the eastern side of the building. This degree of shading is to be expected along the San Pablo corridor and is not deemed detrimental.

2. **General Non-Detriment:** The project is subject to the City’s standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and
stormwater requirements. In addition, due to the abutting residentially zoned district to the east, staff has included the standard condition of approval for construction hours typically reserved for residential district projects only. The inclusion of the conditions of approval ensure 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.

G. General Plan Consistency: 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.

2. **Policy H-33 – Regional Housing Needs**: Encourage housing production adequate to meet City needs and the City’s share of regional housing needs.

**Staff Analysis**: The proposed project is an infill development project that would add 46 GLA units, one live-work unit, and one dwelling unit along a busy commercial corridor. The project would replace a surface parking lot on an underutilized site, providing additional housing opportunities in West Berkeley.

3. **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.

4. **Policy UD-17 – Design Elements**: In relating a new design to the surrounding area, the factors to consider should include height, massing, materials, color, and detailing or ornament.

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.

**Staff Analysis**: The project is consistent with the applicable zoning standards for the C-W District. While this area has been characterized by low-scale, commercial auto-oriented buildings, the project’s design and scale are supported by the policy and direction of the West Berkeley Plan and is consistent with new development patterns in this area of San Pablo Avenue.

6. **Policy LU-27 – Avenue Commercial Areas**: Maintain and improve Avenue Commercial areas, such as University, San Pablo, Telegraph, and South Shattuck, as pedestrian-friendly, visually attractive areas of pedestrian scale and ensure that Avenue areas fully serve neighborhood needs as well as a broader spectrum of needs.

**Staff Analysis**: The project site is currently a surface parking lot with an approximately 20-foot curb cut off of San Pablo Avenue. The elimination of the existing driveway would reduce conflicts between pedestrians and drivers and create a more pedestrian-friendly environment along this stretch of San Pablo
Avenue. In addition, the construction of the new development would contribute to the residential population, and therefore, pedestrian activity in the area.

7. **Policy H-12 – Transit-Oriented New Construction**: Encourage construction of new medium- and high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plans, design review guidelines, and the Climate Action Plan.

8. **Policy T-16 – Access by Proximity, Action B**: Encourage higher density housing and commercial infill development that is consistent with General Plan and zoning standards in areas adjacent to existing public transportation services.

9. **Policy T-16 – Access by Proximity, Action E**: In locations served by transit, consider reduction or elimination of parking requirements for residential development.

**Staff Analysis**: The project would be well-served by transit. North Berkeley BART station is located a little more than one mile from the project site. This station is located on the Richmond-Fremont Line which connects to other destinations in the Bay Area at the MacArthur Station. There is also direct service to Downtown San Francisco as well as continuing service to the San Francisco Airport. There is extensive bus transit service provided by Alameda-Contra Costa County (AC) Transit along San Pablo Avenue. Routes 72, 72M, 72R and all-nighter Route 802 all operate directly adjacent to the project site. Please note the nearest bus stop is directly adjacent to the site on San Pablo Avenue. Route 36 also operates along Dwight Way less than one block south of the site. Due to the amount of transit in the immediate neighborhood and to encourage use of the available transit, the project proposes to eliminate all on-site parking from the development.

10. **Policy T-43 – Bicycle Network, Action C**: Encourage, and when appropriate, require new multi-family residential developments to provide secure locker space for resident bicycles.

**Staff Analysis**: The project would provide a 56-space bicycle storage room and a bike repair station on the ground floor.

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

**Staff Analysis**: As noted in the analysis in Subsection E, Shadows, the shadow study shows that the proposed project would cause an increase in shading on the neighboring residential buildings to the east. However, these impacts would be consistent with those expected from a new mixed-use building at the site and the shadows would not be detrimental.

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

1. **Land Use Goal 4**: Assure that new development in any sector is of scale and design that is appropriate to its surrounding, while respecting the genuine economic and physical needs of the development.
2. **Housing & Social Services Goal 4**: Encourage appropriately scaled and located housing development

   **Staff Analysis**: As noted above, though taller than surrounding development, the 50-foot tall project meets the District’s height standard and would be consistent with the new development pattern of 4- to 6-story mixed use buildings along San Pablo Avenue. In addition, as the project site abuts an R-2 residential zone to the east, the proposed building is constructed with the required 10-foot required rear yard setback and is stepped back an additional 10 feet 3 inches on the fourth floor to further reduce the massing adjacent to the residential neighbors.

3. **Economic Development Goal 5**: Continue to create employment opportunities, especially for Berkeley and West Berkeley residents.

   **Staff Analysis**: The proposed project is intended to activate the commercial corridor along San Pablo Avenue and bring new residents to this West Berkeley neighborhood. The proposed commercial space would create an employment opportunity for residents in the area.

4. **Transportation Goal 1**: Improve traffic flow and air quality by reducing reliance on single occupant automobiles, by encouraging use of alternative means of transportation.

   **Staff Analysis**: The project is located in a transit rich corridor with an AC Transit bus stop along the project frontage. Consisting of 42 GLA units, the project would encourage alternative modes of transportation by providing no vehicle parking on site, by providing secure bicycle parking for 56 bicycles, and by including a Transportation Demand Management (TDM) condition of approval that includes provision of the cost equivalent to an unlimited local bus pass to each residential unit. As part of the project submittal, the applicant submitted an On-Street Parking Occupancy Survey that determined that at the most impacted hour, approximately 19% of the 295 on-street parking spaces located within about a block of the project site were available, which is both sufficient for residents who choose to own vehicles, as well as not so plentiful as to encourage car ownership.

**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 ZP2018-0229 pursuant to Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

**VII. 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 #ZP2018-0229 pursuant to Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:
1. Findings and Conditions
2. Project Plans, dated May 22, 2020
3. Management Plan
4. Correspondence received
5. Notice of Public Hearing

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