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January 31, 2023

Via Email Submission

Berkeley City Council
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Members: Rashi Kesarwani,
Terry Taplin, Ben Bartlett,
Kate Harrison, Sophie Hahn,
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Re: Agenda Item No. 21: Appeal of 2065 Kittredge Street Project (Use Permit #ZP2021-0193)

Dear Mayor Arreguín, Members: Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Mr. Numainville, Ms. Gong, and Ms. Updegrave:

We are writing on behalf of **East Bay Residents for Responsible Development** (“East Bay Residents” or “Residents”) to provide supplemental comments on our Appeal of the Zoning Adjustment Board’s (“ZAB”) September 22, 2022 approval of the 2065 Kittredge Street Project (Use Permit #ZP2021-0193).¹ These comments

¹ City of Berkeley, Zoning Adjustment Board, Notice of Decision - 2065 Kittredge Street, Use Permit #ZP2021-0193 (“Date of Board Decision: September 22, 2022; Date Notice Mailed: October 11, 2022; Appeal Period Expiration: October 25, 2022; Effective Date of Permit (Barring Appeal or Certification): October 26, 2022”) (hereinafter “Notice of Decision”).

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were also prepared in response to the City Council Report (“Staff Report”) prepared for the January 31, 2023 Berkeley City Council hearing on the East Bay Residents’ Appeal.²

East Bay Residents’ Appeal was taken from the ZAB’s approval of Use Permits to demolish approximately 95,000 square feet of office, food service, and cinema uses and replace them with approximately 4,993 square feet of commercial space (retail, food service, and live/work), 183 units of new residential units (four live/work units), and approximately 4,600 square feet in two privately-owned plazas (at Allston and Kittredge) that would be open for public use. The Project would be eight stories, 87 feet in height, with 9 very low-income units, and 43 residential vehicle parking spaces in a ground-level garage.

The City Council should uphold East Bay Residents Appeal by modifying the ZAB approval to add Conditions of Approval which implement objective General Plan workforce and economic policies, including apprenticeship training, local hire, healthcare, and reporting requirements, as detailed herein. The City Council has broad authority under Berkeley Municipal Code Section 23.410.040(G) to reverse, affirm, or modify the ZAB’s decision.

The Project does not include any apprenticeship opportunities for the majority of the trades, nor does it require local hire, or healthcare benefits for Project construction workers and would therefore be detrimental to the general welfare of the City, its residents, and its workers and would be inconsistent with the workforce and economic policies of the General Plan and Municipal Code. Modifying the ZAB’s decision is necessary to ensure compliance with the General Plan’s objective workforce and economic policies and the Municipal Code, and is permissible pursuant to the Housing Accountability Act (“HAA”) and SB 330. The HAA and SB 330 allow local agencies to add conditions of approval to housing projects like this one to ensure compliance with the General Plan and to mitigate detrimental impacts of projects where the conditions do not constitute a disapproval of the project or reduce the density of the project. Here, East Bay Residents’ Appeal does not seek disapproval or a reduction in density of the Project. The Conditions of Approval proposed herein would mitigate detrimental impacts of the Project by requiring the Applicant to provide reporting and analysis of the feasibility of apprenticeship training, local hire, and healthcare for the construction of the Project.

² City of Berkeley, City Council Report, ZAB Appeal: 2065 Kittredge Street, Use Permit #ZP2021-0193, (January 31, 2023), <https://berkeleyca.gov/sites/default/files/documents/2023-01-31%20Item%2021%20ZAB%20Appeal%202065%20Kittredge%20Street.pdf>.

The Staff Report incorrectly states that the Council cannot uphold the appeal because the City cannot make the Government Code Section 65589.5(d)(2) findings related to specific adverse impact on public health or safety in order to deny the Project or reduce density. This is wrong and misses the point of the Appeal because the Conditions Appellants are asking the City Council to implement do not result in a denial or a reduction in density. Rather, the Conditions would implement specific economic and workforce policies in the General Plan by requiring the Project Applicant to investigate and report on the feasibility of implementing construction workforce standards. General Plan conformance is a requirement for approval under SB 330 and the HAA. Therefore, upholding the appeal is consistent with SB 330 and the HAA.

Absent the Conditions of Approval detailed herein, the Project is inconsistent with the General Plan Economic Element because it does not comply with policies ED-1 (Employment and Training), ED-5 (Element Objectives), and ED-12 (Promoting Berkeley). It is the Policy of the City to “Increase the number of jobs that go to Berkeley citizens” through training and labor market information gathering.³ The Council should uphold this Appeal and modify the ZAB’s approval of the Project to apply the Conditions listed in Section III of this letter to the Project which ensure that the Project will comply with General Plan policies and goals and allow the City to make the mandatory “non-detriment” finding required by Berkeley Municipal Code Section 23.406.040(E)(1).

I. STATEMENT OF INTEREST

East Bay Residents for Responsible Development is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential impacts associated with Project development. The association includes the **UA Plumbers and Pipefitters Local 342, International Brotherhood of Electrical Workers Local 595, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483**, their members and families, and City and Alameda County residents.

The individual members of East Bay Residents live, work, and raise their families in the City of Berkeley and Alameda County. They would be directly affected by the Project and its impacts. The organizational members of Residents also have an interest in enforcing public interest, health and safety, labor and environmental laws that encourage sustainable development and ensure a safe

³ Berkeley General Plan Economic Development and Employment Element, Policy ED-1, p. ED-5 – ED-6, https://berkeleyca.gov/sites/default/files/documents/12_Economic%20Development%20and%20Employment%20Element-FINAL.pdf.

working environment for its members. Residents' members are also concerned about projects that are built without providing opportunities to improve local recruitment, apprenticeship training, and retention of skilled workforces, and without providing lifesaving healthcare expenditures for the construction workforce.

II. SUMMARY OF REASONS FOR APPEAL

Residents appealed the ZAB's approval of the Project pursuant to BMC Sections 23.410.030 and 23.406.040 on the grounds that the approval violated the City Zoning Code requirement that a Project may not be approved if the Project would be detrimental to the general welfare of the City, its residents, and its workers and that the Project is inconsistent with the workforce and economic policies of the General Plan.⁴ For the reasons explained herein and in Residents' September 8, 2022 comments to the ZAB⁵ and October 25 Appeal Letter to the City Council⁶, the Project would be detrimental to the general welfare of the City, its residents and its workers. The Project would be detrimental to the general welfare for failing to provide construction workforce benefits to implement the workforce and economic policies of the General Plan and the Berkeley Municipal Code.

The Municipal Code prohibits the City from approving a use permit if the project is "detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or visiting in the area or neighborhood of the proposed use....or to the general welfare of the City."⁷ Under Section 22.20.020, a detriment to the general welfare of the City and its residents occurs when the City fails to mitigate the impacts of a development project, including failing to implement critical General Plan policies intended to promote the welfare of local workers and sustainable economic development in the City.⁸ Without modification, the ZAB's approval of the Project may result in a detriment to the general welfare by failing to implement General Plan policies ED-1 (Employment and Training), ED-5 (Element Objectives), and ED-12 (Promoting Berkeley) related to Project construction.

The Project Applicant has made no commitment to build the Project using a local skilled and trained workforce, to provide apprenticeship training opportunities for the majority of the trades, or to provide healthcare for its construction

⁴ Berkeley Municipal Code ("BMC") §§ 23.410.030; 23.406.040(E)(1)(a), (b); General Plan Economic Development and Employment Element

⁵ **Exhibit A:** Letter from ABJC to ZAB re *Agenda Item 4 - 2065 Kittredge Street Project (Use Permit #ZP2021-0193)* (September 22, 2022).

⁶ **Exhibit B:** Letter from ABJC to City Council re *Appeal to City Council re 2065 Kittredge Street (Use Permit #ZP2021-0193)* (October 25, 2022).

⁷ BMC § 23.406.040(E)(1)(a), (b).

⁸ *Id.*

workforce. These shortcomings render the Project inconsistent with Berkeley's General Plan policies and goals which seek to ensure that Berkeley has an adequate supply of decent housing and living wage jobs. Unless these inconsistencies are mitigated, Project construction would be detrimental to the general welfare of the City, its residents, and its workers, in violation of the City's zoning code.⁹ The City Council should mitigate the detrimental impacts of the Project by adopting the workforce and healthcare Conditions proposed herein before the Project may be approved. The City Council is authorized to take action on the subject of an appeal or any aspect of an appealed project (de novo review) pursuant to BMC Section 23.410.040(E)(1).¹⁰ The Municipal Code grants the City Council the authority to "[m]odify, reverse, or affirm, wholly or partly, any decision, determination, condition or requirement of the prior review authority."¹¹

We urge the Council to modify the ZAB's approval of the Project to apply Conditions to the Project which ensure that the Project will comply with General Plan policies and goals, including "help[ing] address the growing need for skilled and trained construction workers," and "to make sure the people that are building the thousands of needed homes in Berkeley and across the state will have health care and a decent standard of living."¹²

III. PROPOSED CONDITIONS OF APPROVAL

In keeping with the Goals and Objectives of the General Plan, and to implement General Plan Economic Development and Employment Element Objectives 1, 4, 5, 6 and 7; Policy ED-1 (Employment and Training) Actions A, B, G, H, I and J; Policy ED-12 (Promoting Berkeley) Action C; and consistent with the instructive policies of Berkeley's Living Wage Ordinance, we propose the following Conditions of Approval for the 2065 Kittredge Project:

- 1) The applicant shall evaluate the feasibility of implementing one or more of the following workforce programs for construction of the Project:
 - a. Participate in a joint labor-management apprenticeship program for each trade engaged in construction of the Project;

⁹ BMC §§ 23.406.040(E)(1); 22.20.020.

¹⁰ *Id.* at § 23.410.040(E)(1).

¹¹ *Id.* at 23.140.040(G).

¹² Nico Savidge, Berkeley May Mandate Health Coverage for Workers in Big Construction Projects: Builders of apartments and other large projects could be required to provide apprenticeships and health care coverage for workers under a new proposal, Berkeley side (September 1, 2022) <https://www.berkeleyside.org/2022/09/01/berkeley-construction-labor-standards-housing-worker-shortage>.

- b. Participate in an apprenticeship program approved by the State of California Division of Apprenticeship Standards that has a graduation rate of 50% or higher and has graduated an average of thirty (30) apprentices annually for the five (5) years immediately preceding the Covered Project. The applicant will also maintain at least the ratio of apprentices required by California Labor Code section 1777.5 for the duration of the project; or
- c. Make and require its subcontractors to make hourly contributions to the California Apprenticeship Council (“CAC”) for every apprenticeable craft hour worked on the Project of at least the apprenticeship contribution rate for the classification of “plumber, pipefitter, steamfitter” in Alameda County.

Prior to the commencement of construction, the applicant shall report to the City Manager all steps taken to comply with this condition, as well as the results of the applicant’s feasibility evaluation, and which, if any, program is implemented for the Project.

- 2) The applicant shall evaluate the feasibility of making Health Care Expenditures of twenty (20) percent to or on behalf of each construction worker working on the Project in addition to their regular hourly wages during the period of employment. The Health Care Expenditures may be made to a health plan in which the construction worker is enrolled, to the construction worker’s health savings account, and/or to the construction worker in the form of cash. Prior to the commencement of construction, the applicant shall report to the City Manager all steps taken to comply with this condition, as well as the results of the applicant’s feasibility evaluation, whether Health Care Expenditures are implemented for the Project, and the number of construction worker recipients of Health Care Expenditures for the Project.
- 3) The applicant shall, at minimum and to the extent allowable by law, endeavor to ensure that a thirty (30) percent goal of all workers on the Project construction site be residents of living within ten (10) miles of the Project site and that, if the applicant fails to achieve such goal, documentation showing good faith efforts made to achieve the goal must be furnished to the City of Berkeley.
- 4) The applicant shall, before obtaining a certificate of occupancy for the Project, furnish an affidavit to the City of Berkeley disclosing the number of union workers for each craft, apprentices, contractors, contractors’

business addresses, number of local workers living within ten (10) miles of the Project site, and Berkeley residents working on the construction workforce for the Project.

These Conditions are based in General Plan and Municipal Code policy and will allow the City to bring the Project in closer conformance with General Plan before the Project is approved.

IV. APPELLANTS' PROPOSED CONDITIONS OF APPROVAL IMPLEMENT GENERAL PLAN POLICIES

The Berkeley General Plan's Economic Development and Employment Element includes a number of policies and actions that are intended to support job training, a local workforce, increase social and economic equity, and gather economic and demographic information pertaining to the Berkeley economy.¹³

Additionally, housing development projects in the City must implement the goals and policies of the General Plan, including promoting:

- 1) Availability of basic goods and services that are affordable to local residents.
- 2) Employment for local residents at living wages.¹⁴

Policy ED-1 (Employment and Training) provides that it is the Policy of the City to **"Increase the number of jobs that go to Berkeley citizens by coordinating economic development efforts with employment placement** through the following actions:

- A. Work with job training programs and encourage training for life skills, job readiness, and specific target industries**, including industrial companies in West Berkeley.
- B. Provide labor market information from data sources and industry sectors to local educational institutions and training agencies for adults and youths.**
- C. Coordinate City employment and job training programs with the University of California, Vista College, and other local educational institutions.
- D. Encourage the University to hire Berkeley residents.

¹³ Berkeley General Plan Economic Development and Employment Element, GP Policies ED-1, ED-5, ED-12.

¹⁴ *Id.* at Policy ED-4, p. ED-7.

E. Encourage the Berkeley Unified School District to provide education and job skills appropriate to jobs in Berkeley and the region.

F. Create a collaborative process among the City, employers, and local disability/minority organizations to provide access to economic and artistic opportunities and development services for all people through education, technical assistance, and economic incentives.

G. Develop and implement employment programs to assist citizens with temporary and permanent employment.

H. Establish agreements with major employers to provide job training for Berkeley youth similar to the Bayer biotech agreements.

I. Strengthen and improve the administration and performance of the First Source Program, and establish better links between the First Source Program and the Office of Economic Development.

J. Consider development of an ordinance that requires that a percentage of Berkeley residents be hired for publicly funded construction jobs.¹⁵

The Berkeley General Plan Economic Development and Employment Element Objectives provides the following City development objectives:

1. Provide a variety of jobs with varied skill levels for residents of Berkeley.

2. Promote community and neighborhood values.

3. Support businesses that are independent, locally owned, and neighborhood-serving.

4. Encourage environmentally sustainable business.

5. Promote revitalization in neighborhoods and communities that have historically higher-than-average rates of unemployment.

6. Promote a strong industrial base as a vital foundation of a stable economy.

7. Increase social and economic equity in land use decisions.

8. Support culture and the arts in Berkeley.

9. Promote general retail businesses and a variety of cultural, recreational, entertainment, and public sector activities in the Downtown to ensure that the Downtown will remain a vital, attractive, and unifying center for the city.¹⁶

¹⁵ Berkeley General Plan Economic Development and Employment Element, Policy ED-1, p. ED-5 (emphasis added).

¹⁶ Berkeley General Plan Economic Development and Employment Element, Element Objectives, p. ED-5 (emphasis added).

Policy ED-12 (Promoting Berkeley) requires the City to “promote Berkeley as a location for appropriate business, visitor, and conference destination through specific actions, including “[d]evelop, maintain, and distribute economic and demographic information pertaining to the Berkeley economy.”¹⁷

Insofar as the Project does not include any commitment to provide construction jobs to local Berkeley or East Bay residents and does not contribute to any apprenticeship or other construction job training programs for the majority of the trades, or healthcare expenditures, the Project fails to comply with these General Plan policies. Providing a local skilled and trained workforce would implement the policies laid out in the General Plan Economic Development and Employment Element, which the City enacted to promote the general welfare. The Project does not currently include any apprenticeship opportunities for the majority of the trades, nor local hire, or healthcare for construction workers and therefore fails to promote the general welfare and fails to demonstrate consistency with the General Plan.

Each of the Conditions of Approval proposed herein would implement General Plan policies with regard to Project construction and bring the Project further into compliance with the General Plan.

First, it is the policy of the City to increase the number of jobs that go to Berkeley citizens by coordinating economic development efforts with employment placement, and to develop and implement employment programs to assist citizens with temporary and permanent employment.¹⁸ The apprenticeship training program feasibility evaluation detailed in Condition 1 would further General Plan Policy ED-1, Actions A, B, G, H, I, and J by analyzing and encouraging the development and implementation of programs to assist in job training and placement for the Project’s construction workforce. Condition 1 would also implement Policy ED-5 Objectives 1, 5, 6, and 7, and ED-12, Action C by providing analysis and data on the feasibility of these programs for the Project.

Second, it is the Objective of the City to “Increase social and economic equity in land use decisions.”¹⁹ Promoting the implementation of healthcare expenditures for construction workers through Condition 2 furthers the City’s goal of ensuring that land use decisions are made in the most equitable and socially conscious manner. Ensuring access to healthcare for construction workers is critical for promoting equity in land use decisionmaking, especially in the affordable housing

¹⁷*Id.* at Policy ED 12(C), p. ED-10.

¹⁸ *Id.* at Policy ED-1, p. ED 6.

¹⁹ *Id.* at Element Objectives, p. ED-5.

area. Condition 2 also implements General Plan Policy ED-12's Action C by developing economic and demographic information pertaining to Project construction, which is a component of the Berkeley economy.

Third, it is the Policy of the City, as enacted in the General Plan Economic Development and Employment Element, to address "Employment for local residents at living wages" in neighborhood and avenue commercial districts.²⁰ Condition 3 detailed herein, requires the Applicant to endeavor to hire local Alameda County residents, and provide a report detailing the percent of workers hired locally. Condition 3 would further the City's goals of providing living wage jobs for *local* residents for the construction of the City's much needed housing supply. It would also implement General Plan Policy ED-5 Objectives 1 (by considering feasibility of construction jobs for local workers), 4 (local workers reduce GHG emissions), 6 (promote strong industrial base), 7 (increasing social and economic equity); General Plan Policy ED-1 Actions A by evaluating whether the Project can increase the number of jobs that go to Berkeley citizens by coordinating economic development efforts with employment placement, and Policy ED-12's Action C by developing economic and demographic information pertaining to Project construction, which is a component of the Berkeley economy.

Fourth, it is Policy ED-12 of the General Plan to gather economic and demographic information. Condition 4 detailed herein requires the Applicant to furnish an affidavit to the City of Berkeley disclosing the number of union workers, local workers living within ten (10) miles of the Project site, and Berkeley residents working on the construction workforce for the Project. Condition 4 promotes numerous goals of the City including local hire, living wage, and the information gathering principle laid out in Policy ED-12 of the General Plan's Economic Development and Employment Element.

V. THE CITY COUNCIL MAY IMPOSE CONDITIONS TO MAKE THE PROJECT CONSISTENT WITH GENERAL PLAN POLICIES THAT DO NOT REDUCE DENSITY OR DENY THE PROJECT

The City Council has authority to impose conditions of approval on the Project to ensure consistency with the General Plan's economic and workforce policies. Local agencies have broad discretion to construe general plan policies in light of the plan's purposes, and to weigh and balance general plan policies when applying them.²¹ A project is consistent with the general plan "if, considering all its

²⁰ *Id.* at Policy ED-4, p. ED-7.

²¹ *Eureka Citizens for Responsible Gov. v. City of Eureka* (2007) 147 Cal.App.4th 357, 373-74.

aspects, it will further the objectives and policies of the general plan and not obstruct their attainment."²² Here, the Project is inconsistent with General Plan policies ED-1, ED-5, ED-12 with regard to the construction workforce. The Council may therefore impose conditions on the Project to increase compliance with these General Plan policies during Project construction.

SB 330 projects must be consistent with the general plan and zoning.²³ Conditions that bring a project into compliance with general plan policies are therefore consistent with the facial requirements of SB 330. Residents' proposed conditions of approval would implement elements of General Plan policies ED-1, ED-5, ED-12 by documenting the feasibility of utilizing apprentices, local workforce, and providing healthcare for construction workers on a major Berkeley housing project. Imposing such conditions is therefore consistent with SB 330's requirements.

The Staff Report asserts that upholding the Appeal would be inconsistent with SB 330 and that the Council cannot add workforce conditions to the Project because they do not meet the "specific adverse impact on public health or safety" requirement of Government Code Section 65589.5(d)(2).²⁴ This argument is incorrect. SB 330's "adverse impact" findings apply to conditions that deny the Project or reduce its density. East Bay Residents does not seek a denial or a reduction in density. Instead, East Bay Residents' Appeal asks the Council to adopt conditions which bring the Project in line with objective General Plan policies before it can be approved. The specific conditions proposed in this Appeal would not deny the Project or reduce its density. They are therefore permissible conditions under SB 330.

The courts have interpreted SB 330 and the HAA to allow conditions of approval, like those proposed by East Bay Residents, that do not reduce the housing development project's density. Under SB 330 and the HAA, local governments may impose conditions of approval which do not reduce density or render the housing development project infeasible or have a substantial adverse effect on the viability or affordability of a housing development project for very low-, low-, or moderate-income households.²⁵ The court in *CARLA* held that the HAA does not prevent "neighbors from presenting, or the agency from considering, evidence that conditions of approval that do not reduce density could mitigate undesirable effects on neighbors" as distinct from evidence related to specific adverse impacts which is

²² *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 238.

²³ Gov. Code § 65589.5, subd. (j)(1).

²⁴ Staff Report, p. 4.

²⁵ *Carla supra*, 68 Cal.App.5th at 899; Gov. Code § 65589.5, subd. (j)(1).

necessary for conditions that would reduce density or deny the project.²⁶ In keeping with the court's analysis in *CARLA*, this Appeal proposes conditions of approval that would "mitigate undesirable effects" of the Project on neighbors, local workers, and the Berkeley community which would not reduce density, render the Project infeasible, or constitute a disapproval of the Project under the HAA.²⁷

The Staff Report next makes the unsupported assertion that "BMC non-detriment findings and GP/DAP goals and policies are not objective standards"²⁸ and asserts that the Project is otherwise compliant with all vested and applicable objective general plan and zoning standards.²⁹ Staff has not provided any evidence demonstrating that Project complies with General Plan policies ED-1, ED-5, or ED-12, or with the specific Actions set forth in each policy, and fails to provide any evidence as to why staff considers these policies and actions to be non-objective. The City therefore lacks substantial evidence to deny the Appeal on this basis.

Objective standards are defined as those that involve no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.³⁰ The General Plan policies referenced herein and in East Bay Residents prior letters to the City reference objective standards for implementation of General Plan workforce and economic policies and are uniformly verifiable and knowable to all parties involved. The Zoning Code's non-detriment findings authorize the City to implement these policies where necessary to mitigate harm. The Staff Report's assertion that the Zoning Code and the City's General Plan policies and actions are not objective is inconsistent with established caselaw, the State's Department of Housing and Community Development ("HCD") guidance, and with the Council's broad authority to weigh and balance general plan policies when applying them.³¹ HCD clarifies that a "local agency may require the proposed housing development project to

²⁶ *Carla supra*, 68 Cal.App.5th at 899; Gov. Code § 65589.5, subd. (j)(1).

²⁷ Gov. Code, § 65589.5, subd. (h)(6) ("Disapprove the housing development project" includes any instance in which a local agency does either of the following: (A) Votes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit. (B) Fails to comply with the time periods specified in subdivision (a) of Section 65950.")

²⁸ Staff Report, p. 4.

²⁹ *Id.*

³⁰ Department of Housing and Community Development, Division of Housing Policy Development, *Housing Accountability Act Technical Assistance Advisory (Government Code Section 65589.5)* (September 15, 2020), <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/hcd-memo-on-haa-final-sept2020.pdf> ("HCD Advisory").

³¹ Staff Report, p. 4.; *Eureka Citizens for Responsible Gov. v. City of Eureka* (2007) 147 Cal.App.4th 357, 373-74.

comply with the objective standards and criteria contained elsewhere in the zoning code that are consistent with the general plan.”³²

As shown herein, the Project does not comply with objective economic and workforce policies in the General Plan with regard to the Project’s construction workforce. The conditions proposed by East Bay Residents would facilitate compliance with these policies by analyzing the feasibility of apprenticeship training, local hire, and healthcare expenditures for Project construction workers.

VI. CONCLUSION

The City Council has authority under Berkeley Municipal Code Section 23.410.040(G) to reverse, affirm, or modify the ZAB’s decision. For the reasons stated herein, East Bay Residents respectfully requests that the City Council uphold this Appeal and modify the ZAB’s approval to include the Conditions of Approval detailed herein. Conditions of Approval for apprenticeship opportunities, local hire, healthcare, and reporting requirements would bring the Project more closely in conformance with the General Plan and would enable the City to make the required non-detriment finding as to the general welfare as required by Berkeley Zoning Code.

Thank you for your attention to these comments. Please include them in the City’s record of proceedings for the Project.

Sincerely,



Kelilah D. Federman

Attachments
KDF:acp

³² *Supra* HCD Advisory, p. 12.