



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 DISCUSSION
NOVEMBER 13, 2014

2211 Harold Way

Review and comment on the Draft EIR for the proposed 18-story, mixed-use development in Downtown Berkeley, that would include 302 dwelling units, a six-theater cinema, about 10,500 square feet of ground-floor commercial space, and a 171-space underground parking garage. The project would also include the demolition of the 1959 “Hink’s Building” at Harold and Allston Ways, and the removal of portions of the Shattuck Hotel building, primarily the 1926 addition fronting on Harold Way and Kittredge Street, and the portion of the 1913 addition extending west of the hotel along Kittredge Street.

I. Application Basics

A. CEQA Determination: An Environmental Impact Report (EIR) was prepared and is available for public comment until November 19, 2014. See “Background” section below for further information.

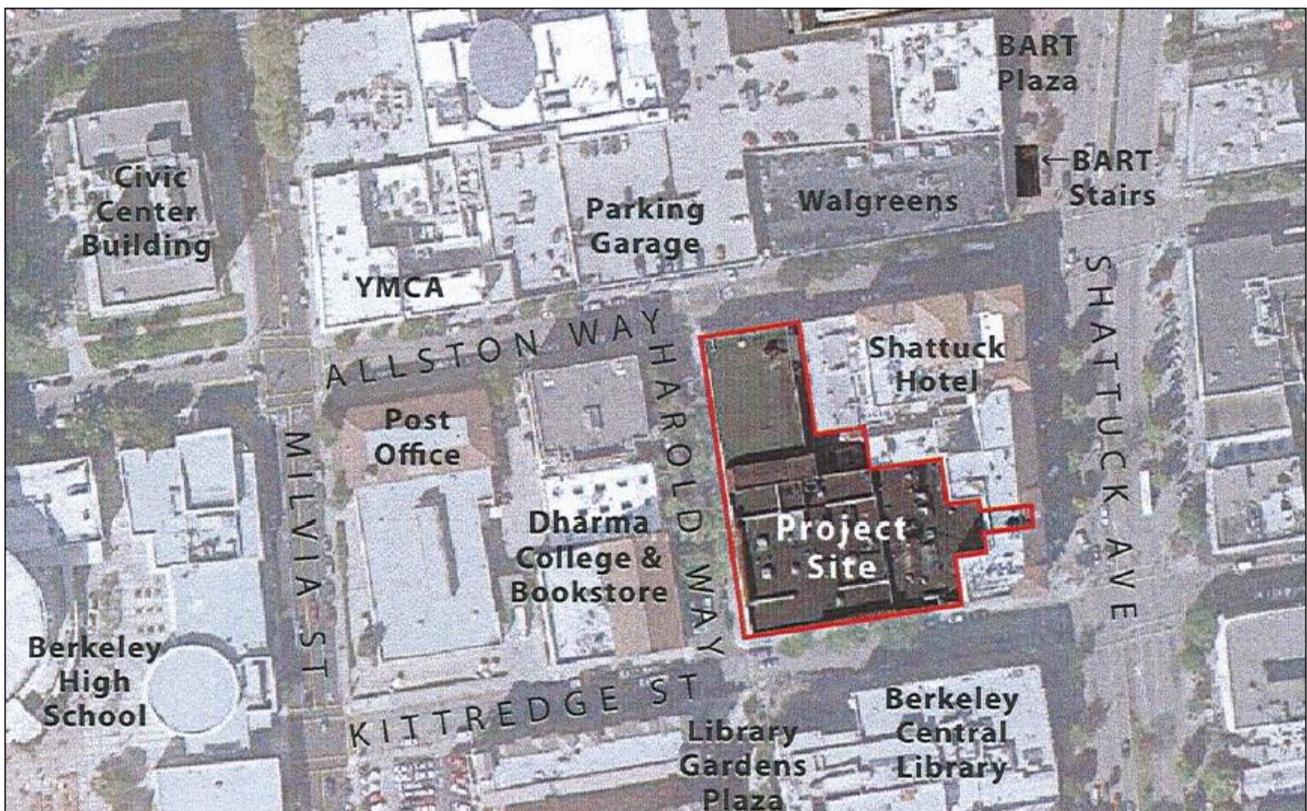
B. Parties Involved:

- Applicant Rhoades Planning Group, 505 17th St., 2nd Floor
Oakland, CA 94612
- Property Owner HSR Berkeley Investments, LLC, 11100 Santa
Monica Blvd., Suite 880, Los Angeles, CA 90025
- Architect MVEI, 3 MacArthur Place, Suite 850
Santa Ana, CA 92707
- Historical Consultant architecture + history, LLC, San Francisco, CA
- Urban Design Consultant Taecker Planning and Design, LLC, Berkeley, CA

C. Permits Required:

- Structural Alteration Permit, under BMC Section 3.24.200 (Landmarks Preservation Ordinance)
- Use Permit to demolish a main building used for non-residential purposes, under BMC Section 23C.08.050.A
- Use Permit to construct a Mixed Use Development, under BMC Section 23E.68.030.A
- Administrative Use Permit to allow over 2,000 square feet of Full Service Restaurant space, under BMC Section 23E.68.030.A
- Use Permit to allow service of distilled spirits incidental to food service, under BMC Sections 23E.16.040.A and 23E.68.030.A
- Administrative Use Permit to allow service of beer and wine incidental to food service, under BMC Section 23E.68.030.A
- Administrative Use Permit to allow amplified live entertainment incidental to food service, under BMC Section 23E.68.030.A
- Use Permit to construct over 10,000 square feet of new floor area, under BMC Section 23E.68.050
- Use Permit to allow building height of over 120 feet but not more than 180 feet, under BMC Section 23E.68.070.B.2
- Administrative Use Permit to allow mechanical penthouse to exceed maximum building height, under BMC Section 23E.04.020.C

Figure 1: Vicinity Map



II. Background

As noted above, a Draft Environmental Impact Report (DEIR) was prepared for this project. Please see Section IV below for further information on impacts discussed in the EIR.

The public comment period for the DEIR began on Monday, October 6, 2014, and ends Wednesday, November 19, 2014, at 5 p.m. On October 6, 2014, the DEIR was distributed to ZAB and LPC members, and notification was sent to various public agencies, property owners and tenants within 300 feet of the project site, and other interested parties. DEIR comment hearings by ZAB, LPC, and the Design Review Committee (DRC) are listed in Table 1 below.

The Notice of Availability is attached, and the DEIR may be viewed at the following location online (scroll down):

http://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/211_Harold.aspx. Hard copies are available for review at the Planning Department, the City Clerk's office and at the Central Library reference desk.

Table 1: Key Milestones in EIR Process

(Note: Dates in *italics* are tentative.)

Task/Event	Date
Notice of Preparation (NOP) released	May 19, 2014
LPC Scoping Session	June 5, 2014
ZAB Scoping Session	June 12, 2014
Publication of Draft EIR	October 6, 2014
DRC DEIR Comment Session	November 4, 2014
LPC DEIR Comment Session	November 6, 2014
ZAB DEIR Comment Session	November 13, 2014
Close of Draft EIR comment period	November 19, 2014
DEIR Response to Comments Publication	<i>Early January 2015</i>
ZAB hearing on EIR certification and Use Permit	<i>January 22, 2015</i>
LPC hearing on Structural Alteration Permit	<i>Late January/early February, 2015</i>

III. Project Description

The proposed project is an 18-story, mixed-use development located in Downtown Berkeley, and would include 302 dwelling units, a six-theater cinema, about 10,500 square feet of ground-floor commercial space, and a 171-space underground parking garage. The project's primary street frontage would be along Harold Way, although it

would also front on portions of Allston Way and Kittredge Street. The project is primarily 12 stories in height, with five-story portions within 15 feet of the street frontages, and an 18-story “tower” located at the southwest corner of the site, near Harold Way and Kittredge Street.

The project includes demolition of the existing on-site 1959 “Hink’s Building”, located at the corner of Harold and Allston Ways, and the removal of a portion of the Shattuck Hotel building (primarily the 1926 Walter Ratcliff addition fronting on Harold Way and Kittredge Street, and the portion of the 1913 addition extending west of the hotel along Kittredge Street). Some alteration/excavation of the area beneath the retail stores along Shattuck Avenue would also occur in order to create additional space for new cinemas.

Please see the attached Notice of Availability and project plans for further project information.

IV. Draft Environmental Impact Report (DEIR)

Pursuant to the California Environmental Quality Act (CEQA), an EIR is required when a project may have a significant impact on the physical environment, and that impact cannot be reduced to a less than significant level through mitigation. The EIR is intended to inform decision makers and the general public of project impacts and potential alternatives that would avoid or reduce those impacts. Following is a summary of key points from the proposed project’s DEIR:

- **Streamlined CEQA Process for Infill Projects.** The project qualifies for “streamlined review” under CEQA Guidelines Section 15183.3, which is intended “to streamline the environmental review process for eligible infill projects by limiting the topics subject to review at the project level where the effects of infill development have been addressed in a planning level decision or by uniformly applicable development policies.”¹ In order to be eligible for streamlined review, a project must be located on an urbanized site, satisfy certain performance measures, and be consistent with the policies of a “sustainable communities strategy” adopted for the project area.²

When a project qualifies for streamlined review, but would have new potentially significant impacts that were not addressed in the prior planning level decision, or that cannot be “substantially mitigated by uniformly applicable development policies,” such impacts must be analyzed through the normal EIR review process. In the case of the proposed project, the primary planning level decision is the adopted Downtown Area Plan, and the referenced environmental documentation is the 2009

¹ CEQA Guidelines Section 15183.3(a).

² “Sustainable Communities Strategy” (SCS) refers to a greenhouse gas emission reduction strategy adopted by a metropolitan planning organization pursuant to Government Code Section 65080. In the case of Downtown Berkeley, the applicable SCS is found in [Plan Bay Area](#), which was adopted by the Association of Bay Area Governments and the Metropolitan Planning Commission in July 2013.

Downtown Area Plan Final EIR. These streamlining provisions are discussed further in Section 1.0 of the DEIR and pp. 50-52 of the Draft Infill Environmental Checklist (part of Appendix A of the DEIR).

- ***Environmental Effects.*** The Draft Infill Environmental Checklist, included as an appendix to the DEIR, indicates that the significant effects of the proposed project would be limited to cultural (historical) resources and transportation/traffic. All other impacts are examined in the Infill Environmental Checklist and were found to be less than significant (either with or without mitigation). Therefore, the Draft EIR evaluates only Cultural Resources and Transportation/Traffic in detail.

As discussed in further detail below, the DEIR identified only one impact that could not be reduced to a less-than-significant level through mitigation: removal of portions of the existing historic building. All other cultural resource and transportation/traffic impacts were found to be less than significant, or less than significant after implementing mitigations. The potential impacts discussed in the DEIR are summarized below.

Section 4.1 *Cultural Resources* identifies four potential cultural resource impacts from the project:

1. Impact CR-1: Removal of the 1926 addition to the Shattuck Hotel building, and partial removal of the 1913 addition, which contribute to the hotel's significance, would be significant and unavoidable even with the identified mitigations measures for documentation, salvage, onsite interpretation and preservation fund contribution.
2. Impact CR-2: Alteration of the setting of adjacent landmarks would be partially inconsistent with the Secretary of the Interior's Standards and therefore significant, but mitigable to less than significant with the identified mitigation measures of incorporation of a belt course, hyphen, modified windows, and zero-lot line entry into the project design.
3. Impact CR-3: Partially obscuring views of the Golden Gate and Alcatraz Island from the base of the UC Berkeley Campanile and Campanile Way within the Classical Core of the Campus would be less than significant, and as such no mitigation measures are identified. As discussed further in the EIR, this impact was determined to be less than significant for the following reasons:
 - a) The westerly views from the Campanile and Campanile Way are not historical resources in their own right; however, they are a character-defining feature of a landscape element (Campanile Way) that has been identified as a contributor to a "cultural landscape" (the Classical Core of the UC Berkeley campus).
 - b) The project would not involve physical alteration of Campanile Way or the Classical Core. Furthermore, the project would not entirely block any views

of the Golden Gate, and would block only a minor portion of the “formal” view from the Campanile identified in UC Berkeley’s Landscape Heritage Plan.

- c) Therefore, the project would not “materially impair” these historical resources such that they would no longer be eligible for listing as historic resources (the threshold for significant impacts to historical resources, as defined in CEQA Guidelines Section 15064.5).
4. Impact CR-4: Construction activities associated with demolition would have potentially significant impacts to the remaining portions of the Shattuck hotel building, but these impacts are mitigable to a less-than-significant level with identified mitigation measures for foundation investigation, construction monitoring, and training programs.

Section 4.2 *Transportation/Traffic* identifies three potential transportation/traffic impacts from the project:

1. Impact T-1: In the Existing Year (2013) scenario, the project would increase traffic congestion at the 10 intersections studied in the project’s traffic impact analysis. However, all intersections are forecast to operate at Level of Service C or better. Therefore, this impact would be less than significant.
 2. Impact T-2: In the Year 2035 scenario, the project would increase traffic congestion at one of the 10 study intersections beyond acceptable levels. However, installation of a dedicated right-turn pocket at Shattuck and Durant would reduce this impact to less than significant.
 3. Impact T-3: The project would generate approximately 90 net new trips during the P.M. peak hour, which is below the Alameda County Transportation Commission’s threshold of 100 vehicle trips for projects located on roadways that are part of the County’s Congestion Management Program (CMP) network. Impacts related to the CMP network would therefore be less than significant.
- **Alternatives.** The CEQA Guidelines require analysis of a reasonable range of alternatives to the project, and these alternatives should avoid, or substantially lessen, any of the significant effects of the project and should attain most of the project’s basic objectives, when feasible. . The range of alternatives required in an EIR is governed by a “rule of reason” that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The Draft EIR analyzed three alternatives:
 1. The No Project Alternative would eliminate all project impacts without mitigation, but would not meet any of the project objectives.

2. The Preservation Alternative would eliminate the four potential cultural resource impacts with mitigation, however, while it would meet most of the project objectives, it would not fully achieve all of them.
3. The Contextual Design Alternative would eliminate the last three potential cultural resource impacts with mitigation, however, it would not eliminate demolition impacts, and while it would meet most of the project objectives, it would not fully achieve all of them.

Other than the No Project Alternative, the Preservation Alternative is identified as the Environmentally Superior Alternative as it would provide the greatest reduction in environmental impacts while meeting most of the project objectives.

VI. Recommendation

Staff recommends that the ZAB hold a public hearing to allow public comment on the DEIR and also provide comments on the Draft EIR. The ZAB may make a motion reflecting the comments of the ZAB as a whole, and/or individual ZAB members may offer comments. All comments will be recorded and responded to in the Response to Comments document, which is tentatively scheduled for publication in early January, 2015.

Attachments:

1. Notice of Availability
2. Project Plans
3. Correspondence Received

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