



# LANDMARKS PRESERVATION COMMISSION

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## STAFF REPORT

**For Commission Action**  
JULY 9, 2015

## 2211 HAROLD WAY

**Structural Alteration Permit (LMSAP#13-40000002)** for a proposed mixed-use development, up to 18 stories in height, containing 302 dwelling units, approximately 10,500 square feet of ground-floor commercial space, a six-theater cinema complex, and 171 underground parking spaces, located in Downtown Berkeley on the landmarked Shattuck Hotel site. The project includes removal of the 1926 addition and portions of the 1913 addition to the landmarked Shattuck Hotel.

### I. Application Basics

#### A. Land Use Designations:

- General Plan: Downtown Area Plan
- Zoning: C-DMU Core, Commercial Downtown Mixed Use; Core Sub-Area

#### B. City of Berkeley Landmark Building(s):

- Shattuck Hotel (2200-20 Shattuck Avenue)

#### C. Preservation Permits Required

- Design Review and Structural Alteration Permit to allow alteration and construction on a designated landmark site, under BMC Sections 23E.10.020 and 3.24.200
- 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; including LPC Design Review with DRC referral under BMC Section 23E.12.020.A
- Administrative Use Permit to allow over 2,000 square feet of Full Service Restaurant space, under BMC Section 23E.68.030.A



**Table 1: Project Chronology**

Date	Task/Event
December 21, 2012	Application for consideration submitted
January 9, 2013	Pre-Application Submitted
February 21, 2013	DRC Preview
February 27, 2013	UP and SAP Applications Submitted
March 7, 2013	LPC Preview
March 14, 2013	ZAB Preview
November 2013	LPC/DRC SF Walking Tour
May 19, 2014	Notice of Preparation (NOP) released
June 5, 2014	LPC Scoping Session
June 12, 2014	ZAB Scoping Session
October 6, 2014	Publication of Draft EIR
March, April, May, July, October 2014	LPC and DRC Subcommittees
November 4, 2014	DRC DEIR Comment Session
November 6, 2014	LPC DEIR Comment Session
November 13, 2014	ZAB DEIR Comment Session
December 1, 2014 <sup>1</sup>	Close of Draft EIR comment period
December 11, 2014	ZAB hearing on Community Benefits
November 20 and December 18, 2014	DRC Preliminary Design Comment
February 26, 2015	LPC Preliminary Design Comment
March 19, 2015	DRC Preliminary Design Comment
March 2015 <sup>2</sup>	Publication of Response to EIR Comments
April 16, 2015	DRC Preliminary Design Recommendation
May 7, 2015; June 4, 2015	LPC Preliminary Design Review
June 15, 2015	Addition to Final EIR: Alternative Published
June 25, 2015	Council Discussion on Community Benefits
June 25, 2015	ZAB Final EIR certification
July 9, 2015	LPC Structural Alteration Permit
TBD	ZAB Use Permit

Notes:

1. The Draft EIR comment period was originally scheduled to end on November 19, but was extended until December 1, 2014 (for a total review period of 56 days).
2. The RTC Document was published 24 days before the ZAB hearing on certification.



## II. Project Setting

The site sits on the western edge of the Shattuck Avenue Commercial Corridor identified in the Downtown Area Plan Historic Resources Reconnaissance Survey. Along with the five-story Landmark Shattuck Hotel on the site, the project interfaces with: the two-story, Spanish Colonial Landmark Armstrong College (2222 Harold Way) by Walter Ratcliff across Harold Way to the west; the Allston Garage across Allston Street to the north; and the four-story, Zig Zag Moderne Landmark Berkeley Library (2090 Kittredge Street) by James Plachek across Kittredge Street to the south. See the applicant's Historical Context Statement and the Project EIR for more information on the context.

## III. Project Description

### ***Proposed Project***

The proposed project (Project) is an 18-story mixed-use development located in Downtown Berkeley, with 302 dwelling units, a six-theater cinema, approximately 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 1959 Hink's Building, located at the corner of Harold and Allston Ways, and removal of a portion of the Shattuck Hotel building (primarily the 1926 Walter Ratcliff addition fronting on Harold Way and Kittredge Street, and a 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. The Project also proposes to seismically retrofit the shops below the Hotel.

### ***Design Review Committee (DRC) Recommended Alternative***

The DRC Recommended Alternative was developed in response to comments received during the public environmental review period and during the Project's design review. The DRC Recommended Alternative is similar to the proposed Project, but alternative architectural treatments are proposed; the building massing is shifted slightly toward the southwest corner of the site; and the square footages and details of several Project components would be incrementally changed. The location of the Project, demolition plan, and excavation plans would remain unchanged.

Similar to the proposed Project, the DRC Recommended Alternative would have components of various heights, the highest portion reaching 180 feet in 18 stories in a brick tower with curtain wall and balconies at the northeast corner of Harold Way and Kittredge Street. However, in this alternative the Allston Way step back from the five story base to a 12 story shoulder has been increased by 23 feet for a total of 38 feet, to address urban design concerns about views. The massing is then shifted to the other shoulder, where the Kittredge Street step back is from the five story base to a 16 story

shoulder. Materials proposed for this alternative would include a glass curtain wall system in addition to brick veneer panels, pre-cast concrete panels, and glass spandrels. The curtain wall system would wrap around the east side of the building's northern and southern shoulders.

The DRC Recommended Alternative includes the following changes to proposed Project components:

- 302 apartment/condominium units with an average unit size of 731 square feet, rather than 729 square feet;
- Residential open space on shared rooftop terraces increased from 14,535 to 16,406 square feet and private balconies and decks decreased from 11,045 to 10,575 square feet;
- Increased lobby area from 1,499 to 1,544 square feet;
- Retail and/or restaurant commercial floor area fronting Allston and Harold Ways and Kittredge Street would increase from 10,535 to 10,597 square feet and include a 341 square foot outdoor patio dining area associated with the commercial space at the corner of Harold Way and Kittredge Street;
- Privately owned, publicly accessible open space at the corner of Kittredge Street and Harold Way would decrease from 1,872 to 723 square feet and include a concrete band on the ground plane to denote the historic building footprint;
- Street improvements along Harold Way would include seating, bicycle racks, pedestrian-scale street lamps, and potted planting, but would not include the speed table that is part of the proposed Project; and
- Automobile parking spaces would increase from 171 to 177, and secured bicycle storage spaces would decrease from 100 to 74.

#### **IV. Community Discussion**

Prior to submitting the application to the City, the applicant erected a yellow pre-application poster at the site. As noted in Table 1 above, following project previews the LPC and DRC Design Review Subcommittees attended a San Francisco high-rise walking tour in 2013 and met throughout 2014 to review project design options. Preliminary Design Review (PDR) comments followed Draft EIR circulation in late 2014. Since project submittal, inquiries of concern and interest regarding the project's proposed location, height, design, and continuation of the existing Landmark Cinema uses have been submitted. The Response to Comments document of the EIR was made available on March 30, 2015. DRC forwarded a favorable PDR recommendation to LPC at the April 16, 2015 DRC meeting. On April 27, 2015 the City mailed 675 public notices for preliminary design review public meeting to adjoining property owners and occupants, and to interested neighborhood organizations, covering a notice area of 300-foot of the site. LPC discussed the preliminary design review of the project at their May 7, 2015 and June 4, 2015 meetings without forwarding a favorable recommendation to ZAB prior to their decision on the Structural Alteration Permit.

On June 29, 2015 the City posted notices on and around the site; and mailed approximately 675 notices for the Structural Alteration Permit public hearing to adjoining property owners and occupants, and to interested neighborhood organizations, covering a notice area of 300-feet of the site. Recently received project comment letters are attached to this report and available online.

## **V. Analysis and Issues**

The analysis addresses: the Environmental Review; the Downtown Berkeley Design Guidelines under BMC Section 23E.12.020; the relevant criteria from the Secretary of the Interior's Standards for the Treatment of Historic Properties (Standards); and the Landmarks Preservation Ordinance findings under BMC Section 3.24.200 for the DRC Recommended Alternative.

### **A. Environmental Review**

The Draft EIR was made available for public review from October 6, 2014 through December 1, 2014. The Response to Comments document was made available on March 30, 2015. The Addition to the Final EIR and RTC: DRC Recommended Alternative was made available on June 15, 2015. As the City's CEQA decision making body for projects requiring Use Permits, the ZAB certified the Final Environmental Impact Report (EIR), pursuant to the California Environmental Quality Act, at their June 25, 2015 meeting.

In order to reach a decision on the proposed DRC Recommended Alternative, the LPC will need to consider the environmental effects of the Alternative as disclosed and analyzed in the Final EIR. Pursuant to Section 15091 of the CEQA Guidelines, the Commission will be required to make findings regarding environmental impacts, mitigation measures, alternatives, and feasibility; and make overriding considerations for any unavoidable adverse environmental effects. In particular, the Commission will want to provide any relevant comment on any benefits of the proposal that they feel would outweigh the unavoidable adverse environmental effects of demolition (CR-1), such that the adverse effects may be considered acceptable. Comments may be incorporated into the draft CEQA findings and overriding considerations, together with the draft mitigation monitoring and reporting program, which will be provided at the subsequent hearing on the structural alteration permit decision.

The Final EIR identifies significant environmental impacts that will result from implementation of the proposed project and where feasible, recommends mitigation measures to reduce impacts to a less-than-significant level. Impacts determined to be less than significant or less than significant with the implementation of City of Berkeley Standard Conditions of Approval and/or recommended mitigation measures were identified for the following topics: Aesthetics<sup>1</sup>, Agricultural and Forest Resources, Air

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<sup>1</sup> Pursuant to Senate Bill 743, 2013, aesthetic impacts of a mixed-use residential/commercial project (to the extent they are not also historic resource impacts) on an infill site within a transit priority area, such as the proposed project, may not be considered significant impacts on the environment.

Quality, Biological Resources, Cultural Resources (excluding historic resources), Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Utilities and Service Systems. Potential transportation and traffic impacts and impacts to historic resources were analyzed in the Draft EIR. While the proposed project would increase existing traffic levels on local roadways, potential impacts were either found to be less than significant or would be reduced to less-than-significant levels with mitigation.

The proposed project would partially obscure views of the Golden Gate and Alcatraz Island from the base of the UC Berkeley Campanile and Campanile Way; however, this impact was found to be less than significant (CR-3). The proposed project would include alteration of the setting of the adjacent landmarks; however, this impact was found to be less than significant with mitigation (CR-2). The proposed project would include removal of the 1926 addition to the Shattuck Hotel and partial removal of the 1913 addition; and the associated impacts were found to be significant and unavoidable, as the mitigation measures identified in the EIR would not reduce the impacts to a less-than-significant level (CR-1).

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 Final 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 three of the four 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.
4. The DRC Recommended Alternative, developed based on input from the DRC and LPC during environmental review and preliminary design review to address urban design concerns about westward views from UC Berkeley, would achieve all of the project objectives while further reducing one and eliminating three of the four potential cultural resource impacts with mitigation; however, it would not eliminate demolition impacts.

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.

## **B. Downtown Design Guidelines**

BMC Section 23E.12.020 states that design review shall consider the design of a project in relation to its urban context, and shall focus on the application of design guidelines, in this case the Downtown Design Guidelines, which are drawn on guidance from the Secretary of the Interior's Standards. The purpose of the Design Guidelines is to "implement the objectives and policies of the Preservation and Urban Design chapter of the Downtown Area Plan (DAP) ..." Consistent with the vision of an additive city, the Design Guidelines set as "a priority the preservation of historic buildings, while promoting new development that complements Downtown's traditional and human-scaled character."

In using the Design Guidelines each project will be reviewed on a case by case basis, based on the specific project and building type. In this case, given the scale and independence of the proposed project from the landmarked hotel, the project type for consideration would be new construction adjacent to historic resources. As such, three chapters relate closely to this project: Building Design; Site Design; and Subareas Where Historic Resources are Concentrated, which was updated in conjunction with the Downtown Area Plan. Following are several key guidelines from these chapters for LPC consideration.

### ***Building Design: Facades***

- *Articulate side and rear facades in a manner compatible with design of front façade.*

The DRC Recommended Alternative illustrates glass curtain wall on both the north and south shoulders, articulating all facades of the shoulders in a manner compatible with the design of the front façades.

- *Avoid large blank wall surfaces on side and rear facades which are visible from public areas. In these locations, display windows, store entrances and upper windows are encouraged. When this is not feasible, consider the use of ornament, murals, or landscaping along large blank walls.*

The blank wall of the "hyphen" has been revised to incorporate theatre signage, poster display cases, and landscaping to avoid a large blank wall surface on the side façade while serving to separate the new construction from the Shattuck Hotel. Further development will be reviewed through Final Design Review in order to address this guideline.

- *The facades of Downtown's historic buildings are comprised of load-bearing walls and frames, the limits of which give similar scale and expression. Maintain the*

*typical rhythm of structural bays and enframed storefronts of 15-30 feet spacing at ground level, in order to enhance continuity with existing buildings and pedestrian scale.*

The five-story base is made of traditional materials and designed to give similar scale and expression to that of load-bearing walls and frames, to maintain the typical rhythm of structural bays and enframed storefronts at ground level, and to enhance continuity with existing buildings and pedestrian scale.

- *Curtain walls, if used, should be designed with rhythm, patterns and modulation to be visually interesting.*

The DRC Recommended Alternative includes varied fenestration patterns and shading devices to break up curtain wall systems used on the shoulders, which are set back from the base. The DRC recommended ensuring that the glazing on the shoulders be high quality and well-detailed, and further development will be reviewed through Final Design Review in order to address this guideline.

#### ***Site Design: Frontages, Setbacks, & Heights***

- *Consider massing alternatives that would reduce shadow impacts on streets and relate new construction to the scale of nearby buildings.*

The Alternative includes setbacks above the fifth floor base to relate new construction to the scale of nearby buildings.

- *Maintain and reinforce Downtown's historic streetwall at the property line. Upper floor setbacks are desirable above 60 feet (usually the fifth floor for residential construction), and should be used above 75 feet.*

The base of the corner tower and public plaza elements have been redesigned to maintain and reinforce Downtown's historic street wall at the property line in order to meet this guideline.

- *Consider ways that buildings with upper-story setbacks can avoid the "wedding cake effect," such as by incorporating features that tie buildings together visually.*

The project design incorporates a vertical curtain wall tower element at the primary corner that ties the building together visually. The Design Review Committee forwarded a favorable recommendation for the DRC Recommended Alternative including the balconies, with specific direction for design refinements of the under sides visible from the corner plaza below.

- *Consider how the building's form and orientation can take advantage of sun and shade to appropriately heat and cool the building.*

The project will achieve LEED Gold. Solar panels are an integral part of the design, as are the glass systems which will have low U-Values in order to provide insulation.

- *At least one publicly-accessible street-level entrance to be provided for every 40 feet along a street facing frontage. Any remainder exceeding 30 feet shall also have a publicly-accessible street-level entrance. No two entrances shall be separated by more than 50 feet.*
- *Clear Glass shall comprise at least 60% of the street facing façade where it is between 3 feet and 8 feet above elevation of adjacent sidewalk*
- *The design of the ground floor shall be visually open to pedestrians such that the main activities of the proposed use can be carried out towards the front of the space.*

The project design provides at least one publicly-accessible street-level entrance for every 40 feet along its street facing frontages, with clear glass storefronts that are visually open to pedestrians.

### **Subareas Where Historic Resources are Concentrated**

- *Building alterations, new construction, and public improvements should be designed with particular concern for compatibility with their surroundings, while recognizing the need for continued growth and increased building densities in Downtown's mixed-use areas.*

The project design incorporates features which illustrate particular concern for compatibility with its surroundings, including: physical separation from historic buildings; setbacks above the base; and variations in massing, rooflines and materials. The project's location near historic buildings of similar heights, on narrow urban side streets, results in a contextual high-rise infill mixed-use project that is compatible with its surroundings while recognizing the need for continued growth and increased building densities in Downtown's mixed-use area.

Commissioners provided input that in order for the design of the glass curtain wall systems on the shoulders to be more simple and unobtrusive, and to provide a more subordinate backdrop to the repose of the landmarked Shattuck Hotel; its windows should comprise approximately 25-50% consistent with design guidelines for windows on upper facades visible from public areas. Further development will be reviewed through Final Design Review to incorporate translucent panels in order to address this guideline.

- *Design new construction and alterations to resonate with prevalent architectural characteristics of historic development in the vicinity of the project including but not*

*limited to: materials, color, cornice, fenestration patterns, structural bays, roof form, vertical projections, overhanging elements, and motif. New features should not precisely replicate but should generally reinforce patterns associated with historic development.*

The project design features, such as strong visual separations and design differentiations between the tower and shoulder elements provide varied massing and scale, which do not precisely replicate but reinforce patterns associated with historic development.

A complete set of the downtown guidelines can be found on-line at:  
<http://www.cityofberkeley.info/ContentDisplay.aspx?id=14260>

### **C. Secretary of the Interior's Standards**

The Secretary of the Interior's Standards were written with building renovation or alterations in mind. Of the four treatments (Preservation, Rehabilitation, Restoration, and Reconstruction), only Rehabilitation includes an opportunity to make possible an efficient contemporary use through alterations. This is the treatment that is referenced in analyzing the compatibility of new infill construction adjacent to existing historic resources.

In the case of this project, two standards are specifically relevant: *Standard Number 2* is relevant to the proposed removal of the 1926 addition and partial removal of the 1913 additions to the Shattuck Hotel, which contribute to the hotel's significance (CR-1). *Standard Number 9* is relevant to the compatibility of the new construction proposed to be located behind the 1910-1913 Shattuck Hotel building and affronting the 1913 Elks Lodge building (2016 Allston Way), the 1923 Armstrong College building (2222 Harold Way), and the 1930 Berkeley Public Library building (2090 Kittredge Street) (CR-2).

- *Standard Number 2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*

The following information is included in Appendix B of the Project EIR: the *Historical Resources Technical Report* (HRTR). The Shattuck Hotel and former Hink's Department store (built in stages between 1910 and 1926) together contribute to the City of Berkeley landmark and appear eligible for the National/California Registers under Criteria A/1 (events) and C/3 (architecture). The original Hotel together with its 1912-13 additions appears eligible under Criterion C/3 (architecture), as a distinctive example of the Mission Revival style in Berkeley's downtown, and for its association with master architect Benjamin Geer McDougall. The 1926 addition, designed in the Spanish Revival style by Berkeley architect Walter Ratcliff, Jr., is modest in design and detail and subordinate to the Hotel buildings. While it does not appear eligible under Criterion C/3 (architecture), it does appear eligible under Criterion A/1 (events) for its association with Berkeley's early commercial development.

Therefore, the partial removal of the 1913 and total removal of the 1926 addition constitute a significant impact to historical resources. Even after mitigation measures for documentation, salvage, on-site interpretation, and contribution to the Historic Preservation Fund; the impact would remain significant and unavoidable (CR-1). As such specific findings would need to be made at the time of the use and structural alteration permit decisions on the project.

The project allows for the preservation of the Mission Revival style original hotel, together with all of its 1912 and most of its 1913 additions. The Hotel will still form a significant presence on Shattuck Avenue, retaining its distinctive form, stucco walls, decorative tile work, wall surface ornamentation, squared towers, hipped roof forms, arched or arcaded wall openings, varied roof heights, red clay tile roof cladding, and broad eave overhangs with exposed rafter tails; with the new building rising behind.

- *Standard Number 9. New additions, exterior alterations, or related new construction will not destroy historic materials and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the historic integrity of the property and its environment.*

As noted in the Final EIR for the project and in the April 7, 2015 letter from project historical consultant a+h, the DRC Recommended Alternative incorporates the following design elements that are in keeping with Standard No. 9; the goal of which is to enhance the compatibility of new construction with existing historical resources:

The Alternative is kept visually and physically separate from the Shattuck Hotel. On Allston Way, the existing alley is retained and separates the project from the 1912 restaurant addition. On Kittredge Street, a two-story “hyphen” (corresponding to one of the movie theatre spaces) separates the Shattuck Hotel from the southern shoulder.

On Allston Way, Harold Way, and Kittredge Street, floors six and higher are set back approximately 15 feet from the project base below. The height of the base is subordinate to the Shattuck Hotel, and is in keeping with the Elks Lodge across Harold Way and the Public Library across Kittredge Street. The use of traditional building materials such as brick enhances the compatibility of the base. The modulated tower with varying levels of height and scale are similar to the varying heights and eras of construction established in Downtown.

The Final EIR also identifies four mitigating design measures for the new construction to bring the project design more clearly in line with this Standard:

*CR-2(a) Incorporation of a horizontal belt course, projecting from the face of the building that corresponds to the cornice and parapet of the 1912 addition. By incorporating this belt, the proposed project, despite being considerably taller than the Shattuck Hotel, would better maintain the scale and feel of the historic building frontage along Allston Way.*

The traditional brick base is accented with pre cast panels at its top level as well as at the ground floor, creating horizontal relationships that tie to the adjacent Shattuck Hotel. Additionally, horizontal band details are incorporated into the brick, corresponding directly to the adjacent Shattuck Hotel. Further development will be reviewed through Final Design Review in order to address this mitigating design measure.

*CR-2(b) Incorporation of punctured openings or other architectural elements into the design of the two story “hyphen” that separates the Shattuck Hotel from the 12- and 18-story portions of the project to the west. By incorporating these, the project would better maintain an active street frontage that is more in keeping with the ground floors of nearby historical resources.*

The blank wall of the “hyphen” is limited in size and has been revised to incorporate theatre signage, poster display cases, and landscaping to avoid a large blank wall surface on the side façade while serving to separate the new construction from the Shattuck Hotel. Further development will be reviewed through Final Design Review in order to address this mitigating design measure.

*CR-2(c) Modification of the proportion of void to wall in the wall systems on the shoulders of the proposed project; by replacing them with punched wall systems, or breaking them up with windowless bays; in order to make them more compatible with those exhibited in nearby historical resources.*

In order for the design of the glass curtain wall systems on the shoulders to be more simple and unobtrusive, and to provide a more subordinate backdrop to the repose of the landmarked Shattuck Hotel; its windows should comprise approximately 25-50% consistent with design guidelines for windows on upper facades visible from public areas. Further development will be reviewed through Final Design Review to incorporate translucent panels into the curtain wall design in order to make them more compatible with those exhibited in nearby historical resources and to address this mitigating design measure.

*CR-2(d) Incorporation of entry plaza design features at the corner of Harold Way and Kittredge Street that maintain the zero lot-line setback characteristic of the nearby historical resources.*

The current project design option has been revised in response to LPC design review comments to maintain the zero lot-line set back, and as such the LPC may find that this design measure has been met.

*CR-3 While the project would partially obscure views from the base of UC Berkeley’s Campanile and Campanile Way, view impacts related to historic resources would be less than significant.*

The DRC Recommended Alternative better addresses views as an urban design issue and further reduces this potential impact.

#### **D. Landmarks Preservation Ordinance**

The commission is guided by the standards in BMC Section 3.24.200 in its review of permit applications for work on a Landmark site. In appraising the effects and relationships inherent in the work, the commission is called on to consider the architectural style, appearance, arrangement, height, design, texture, materials, color and appurtenances and such other facts as may be relevant.

##### **3.24.260 Permit application – Review standards and criteria**

*B. In all instances, the proposed work shall be as appropriate for and as consistent with the purposes of this chapter as is possible within the peculiar circumstances of the owner of the property and preservation or enhancement of the characteristics and particular features specified in the designation.*

*C. Approval of permit applications (for construction, alteration or repair) pursuant to this section may be granted only upon determination that the proposal conforms to the criteria set forth ... Below:*

*1.a. For applications relating to Landmark sites, the proposed work shall not adversely affect the exterior architectural features of the Landmark and, where specified in the designation for a publicly owned Landmark, its major interior architectural features; nor shall the proposed work adversely affect the special character or special historical, architectural or aesthetic interest or value of the Landmark and its site, as viewed both in themselves and in their setting.*

Consistent with Standard No. 2, the DRC Recommended Alternative allows for the preservation of the Mission Revival style original hotel, together with all of its 1912 and most of its 1913 additions, and seismic retrofit of the first floor retail located within the hotel building. The Hotel will still form a significant presence on Shattuck Avenue, retaining its distinctive form, stucco walls, decorative tile work, wall surface ornamentation, squared towers, hipped roof forms, arched or arcaded wall openings, varied roof heights, red clay tile roof cladding, and broad eave overhangs with exposed rafter tails; with the new building rising behind. Mitigation measures are included to reduce any construction related impacts to the hotel, and as such the project will not adversely affect its features.

Consistent with Standard No. 9, the Alternative is kept visually and physically separate from the Shattuck Hotel. On Allston Way, the existing alley is retained and separates the project from the 1912 restaurant addition. On Kittredge Street, a two-story “hyphen” (corresponding to one of the movie theatre spaces) separates the Shattuck Hotel from the project.

On Harold Way, and Kittredge Street, floors six and higher are set back approximately 15 feet, and on Allston Way they are set back approximately 38 feet from the five-story base below. The height of the base is subordinate to the Shattuck Hotel, and is in keeping with the Elks Lodge across Harold Way and the Public Library across Kittredge Street. The use of traditional building materials such as brick enhances the compatibility of the base. The modulated tower with varying levels of height and scale are similar to the varying heights and eras of construction established in Downtown.

The Final EIR also identifies mitigating design measures for the new construction to bring the project design more clearly in line with this Standard.

**3.24.260 Permit application – Review standards and criteria**

*2. For permit applications for demolition: the commission shall find that the designated landmark, or portion thereof is in such condition that it is not feasible to preserve or restore it, taking into consideration the economic feasibility of alternatives to the proposal, and balancing the interest of the public in preserving the designated landmark, or portion thereof and the interest of the owner of the landmark site in its utilization.*

**3.24.270 Permit application – Finding of hardship authorized when -- Effect.**

*Regardless of whether or not the standards set forth in Section 3.24.260 above are met, the commission may approve a permit application to carry out alterations or construction on a Landmark site, if the applicant presents clear and convincing evidence to the commission that such disapproval will work immediate and substantial hardship because of conditions peculiar to the particular structure or feature involved, and that failure to disapprove the application will be consistent with the purposes of this chapter. If hardship is found to exist under this section, the commission shall make a written finding to that effect, and shall also specify in writing the facts relied upon in making such finding. Nothing in this section shall prohibit the commission from acting to modify or suspend action on any application pursuant to Sections 3.24.220 through 3.24.250.*

Taking into consideration: the project objectives; the extent to which project alternatives would achieve the project objectives; and the identified mitigation measures to reduce potential impacts to less than significant, the project would include removal of the 1926 addition to the Shattuck Hotel and partial removal of the 1913 addition; and the associated impacts were found to be significant and unavoidable; the Commission may find that because of conditions peculiar to the particular site, structures and features involved, failure to disapprove the application will be consistent with the purposes of the Landmarks Preservation Ordinance under the particular circumstances of this case.

**V. Recommendation**

LPC **open** the public hearing and consider the structural alteration permit and required findings under BMC Sections 3.24.200 and 23E.10.020 and CEQA; provide comment and **continue** to a date certain to consider approval of the DRC Recommended Alternative with Conditions, Findings, and Overriding Considerations.

**Attachments:**

1. Preliminary Draft LPC Findings and Conditions for comment
2. Supplemental Plans, dated July 9, 2015
3. Public Hearing Notice
4. DRC and LPC PDR Summaries
5. Response to LPC PDR Comments, dated June 30, 2015
6. Recent Project Correspondence (available online)

**Principal Planner:** Sally Zarnowitz AIA; [szarnowitz@cityofberkeley.info](mailto:szarnowitz@cityofberkeley.info) (510) 981-7410