

Jacob, Melinda

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**Subject:** FW: Letter to LPC Commissioners

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**From:** [becky.omalley2@gmail.com](mailto:becky.omalley2@gmail.com) [<mailto:becky.omalley2@gmail.com>] **On Behalf Of** Becky O'Malley

**Sent:** Thursday, August 06, 2015 11:43 AM

**To:** Zarnowitz, Sally

**Subject:** Letter to LPC Commissioners

Dear LPC Commissioners,

You would be seriously derelict in your duties if you allowed the proposed project at 2211 Harold Way to slip past you at next Thursday's hearing. The packet which is before you is, not to mince words, a mess.

I have been a member of the California Bar (now inactive) since 1977. I was a member of the Landmarks Preservation Commission for seven years. I have been an investigative reporter. I have just been trying to sort through this packet as it's posted online, and it's apparent that you commissioners just don't have the right information to make a decision at this special meeting.

Just one example of how sloppy this staff work is: the section headed "Preservation Permits Required". Amplified music? Alcoholic beverages? How could these possibly be preservation permits? If you're confused, it's not your fault.

Among other things, the EIR which you've been given is not adequate to make a decision. Yes, it has already been "certified" by the Zoning Board---*before* you as LPC commissioners have had a chance to advise them on the implications of demolishing part of a registered landmark. That's just wrong.

You should know that any EIR that's approved by a non-elected body (i.e ZAB) can be (and will be) appealed to the elected body that appointed the non-elected commissioners (i.e. Berkeley City Council). But here's the catch: the appeal can't be filed until the notice of decision on the certification is issued, and currently the city's Planning Department is refusing to do this until the ZAB acts on the permits. Catch 22.

You can be sure that as soon as the NOD is issued the so-called EIR on which you're supposed to base your decision will be appealed to the City Council, and if the City Council is negligent in applying the California Environmental Quality Act it could be appealed in court.

One serious problem is that the required public hearing required under city law when there's a proposal to demolish more than 50% of a landmark has not been held or even scheduled. This is a complicated calculation that involves measuring wall area and roof area, and nowhere in your materials do I see any indication that this has been done, either by applicant or by staff.

Your duty on Thursday August 13, at a minimum, will be to ask the staff to review these demolition rules before asking you to approve these permits.

The applicant corporation, or more precisely its consultant, seems to be claiming some privilege for special fast track treatment—even demanding that ZAB use a customized method of calculating significant community benefits. There's absolutely no reason that this project should have less scrutiny than the law requires. The city is not in such dire need of more luxury apartments that a couple of weeks delay will be fatal.

Take the time to do things right. If you “approve” whatever is before you at the special meeting on next Thursday, you will just be exposing the City of Berkeley to unnecessary and expensive litigation.

Very truly yours,

Becky O'Malley

**Jacob, Melinda**

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**Subject:** FW: NOD? (2211 Harold Way)

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**From:** Allen, Shannon  
**Sent:** Thursday, August 06, 2015 1:52 PM  
**To:** 'Becky O'Malley'  
**Cc:** James Hendry; Doug Carstens; Susan Brandt-Hawley  
**Subject:** RE: NOD? (2211 Harold Way)

Ms. O'Malley –

As you may recall from the July 9 LPC meeting, they scheduled a special meeting on August 13 to discuss the SAP. The agenda, staff report, etc. can be found here:

[http://www.ci.berkeley.ca.us/Planning\\_and\\_Development/LPC\\_and\\_DRC/LPCAg081315.aspx](http://www.ci.berkeley.ca.us/Planning_and_Development/LPC_and_DRC/LPCAg081315.aspx)

- Shannon Allen

Shannon Allen, AICP  
Principal Planner, Land Use Planning Division  
Planning and Development Department  
City of Berkeley  
2120 Milvia Street  
Berkeley, CA 94704  
(510) 981-7430

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**From:** Becky O'Malley [<mailto:becky.omalley2@gmail.com>]  
**Sent:** Monday, August 03, 2015 12:41 PM  
**To:** Allen, Shannon  
**Cc:** James Hendry; Doug Carstens; Susan Brandt-Hawley  
**Subject:** Re: NOD? (2211 Harold Way)

Thank you for this information. Since the LPC took no action on the Structural Alteration Permit in July, what is now the schedule for issuance of the Notice of Decision? Can you list for me which decisions need to be taken by which commission in order to issue it, and give me your best estimate as to when this is likely to occur?

On Thu, Jul 9, 2015 at 4:45 PM, Allen, Shannon <[ShAllen@ci.berkeley.ca.us](mailto:ShAllen@ci.berkeley.ca.us)> wrote:

Ms. O'Malley –

As per your request below, you will receive a copy of the Notice of Decision for the 2211 Harold Way Mixed Use project when it is released.

It is the City's practice to issue the Notice of Decision for both the project and the EIR at the same time. The Notice includes the official date of decision and sets the appeal period. The Final EIR was certified by the ZAB on June 25; however, the process for project approval is on-going -- discussion of the Structural Alteration Permit is on the LPC agenda this evening and the resolution related to significant community benefits for tall buildings in on the City Council agenda for July 14. Depending on these pieces, project approval *may* be before the ZAB on August 27. It is not possible for staff to predict when the project might be approved, and therefore not possible at this point in time to "schedule" the release of the NOD.

Thank you,

Shannon Allen, AICP  
Principal Planner, Land Use Planning Division  
Planning and Development Department  
City of Berkeley  
2120 Milvia Street  
Berkeley, CA 94704  
[\(510\) 981-7430](tel:5109817430)

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**From:** [becky.omalley2@gmail.com](mailto:becky.omalley2@gmail.com) [<mailto:becky.omalley2@gmail.com>] **On Behalf Of** Becky O'Malley  
**Sent:** Thursday, July 09, 2015 2:56 PM  
**To:** Zoning Adjustments Board (ZAB)  
**Subject:** NOD?

Please inform me when the Notice of Decision for the EIR for 2211 Harold Way is now scheduled to be released, and also when it has actually been released. If you have questions, please call me at 517-0024.

**Jacob, Melinda**

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**Subject:** FW: Architectural enderings in perspective, LPC Aug 13, Response to FEIR and Addition to FEIR  
**Attachments:** Elevation - Kitredge with boxes.pdf

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**From:** Kelly Hammargren [<mailto:kellyhammargren@gmail.com>]  
**Sent:** Thursday, August 06, 2015 4:54 PM  
**To:** Zarnowitz, Sally; Burns, Anne M; Zoning Adjustments Board (ZAB); Allen, Shannon; Council, Berkeley  
**Cc:** Sustainable Berkeley Coalition; Margots999 via Saving Shattuck Working Group  
**Subject:** Architectural enderings in perspective, LPC Aug 13, Response to FEIR and Addition to FEIR

The enclosed attachment is correspondence for the public record for the LPC August 13 meeting, Response to the FEIR and Addition to the FEIR, DRC, ZAB and City Council

Kelly Hammargren  
[kellyhammargren@gmail.com](mailto:kellyhammargren@gmail.com)

Date: August 6, 2015

To: LPC, DRC, City Council, ZAB

Regarding: August 13, 2015 LPC and as response to FEIR and addition to FEIR

Architectural Renderings in perspective with heights given in submitted documents from the developer and public testimony giving the total height of the proposed 2211 Harold Way including mechanical and rooftop as 194 feet



SOUTH ELEVATION - KITTREDGE 1/16" = 1'-0" 1

From the DEIR

2211 Harold Way Mixed-Use Project EIR  
Section 4.1 Cultural Resources

Shattuck Hotel (East Elevation). The 1910 and 1913 portions of the Shattuck Hotel together extend the full length of Shattuck Avenue between Allston Way and Kittredge Street. Rising five stories and approximately 60 feet in height, this 260-foot-wide façade is distinguished by four square towers topped by pyramidal hipped roofs.

The renderings by MVEI have consistently appeared out of scale. Using a box outline of the Shattuck Hotel, described by the developer in the draft EIR as approximately 60 feet and then stacking three of those boxes on top of each other to show 180 feet and then another 20% on top of that for the additional 14 feet for the rooftop terrance and the mechanical, the proportions between the proposed 2211 Harold Way and the Shattuck Hotel is a much different picture.

Kelly Hammargren  
kellyhammargren@gmail.com

THE RESIDENCES AT BERKELEY PLAZA

HSR BERKELEY INVESTMENTS, LLC  
2211 HAROLD WAY  
BERKELEY, CA 94707

DATE:	7-22-2015
PROJECT #:	2012-40117
SCALE:	1/16" = 1'-0"
0	
NORTH	
SHEET #:	A-21.4

EXTERIOR ELEVATIONS

NOT A CONTRACT DOCUMENT. THIS DOCUMENT IS FOR INFORMATION ONLY. IT IS NOT TO BE USED FOR CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND CONDITIONS OF THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. ALL RIGHTS RESERVED. © 2015 MVEI.

MVEI

MVEI Institutional, Inc.  
1 Woodruff Plaza, Suite 200  
Berkeley, CA 94704  
Tel: 415.863.9388  
www.mvei-institutional.com

From: Kelly Hammargren [kellyhammargren@gmail.com]
Sent: Thursday, August 06, 2015 11:57 AM
To: Zarnowitz, Sally; Allen, Shannon; Zoning Adjustments Board (ZAB); Burns, Anne M
Subject: August 13 LPC meeting and additionally to be filed with the FEIR

Date: August 6, 2015
To: Landmarks Preservation Commission, ZAB, DRC
Regarding: August 13, 2015 Review of 2211 Harold Way and to be added to the FEIR
Letter Sections:

- Applicable Berkeley Municipal Code
• Shattuck Cinemas as a cultural resource integral to the downtown economy
• 2211 Harold Way architectural plan design problems
• Shattuck Cinemas
• Scale
• Residential Floors
• Underground Garage

3.24.010 Findings and purposes of provisions.

BMC:
C. The purpose of this legislation is to promote the health, safety and general welfare of the citizens of the City through:
1. The protection, enhancement, perpetuation and use of structures, sites and areas that are reminders of past eras, events and persons important to local, state or national history, or which provide significant examples of architectural styles of the past, or are landmarks in the history of architecture, or which are unique and irreplaceable assets to the City and its neighborhoods, or which provide for this generation and future generations examples of the physical surroundings in which past generations lived;

3.24.260 Permit application--Review standards and criteria.

BMC:
A. The commission shall be guided by the standards in this section in its review of permit applications for work on a landmark site, in an historic district or on a structure of merit site. In appraising the effects and relationships mentioned herein, the commission shall in all cases consider the architectural style, appearance, arrangement, height, design, texture, materials, color and appurtenances and such other facts as may be relevant.
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 pursuant to this section may be granted only upon determination that the proposal conforms to the criteria set forth in paragraphs 1. and 2. below:
1. For permit applications for construction, alteration or repair:
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.
b. For applications relating to property in historic districts, the proposed work shall not adversely affect the exterior architectural features of the subject property or the relationship and congruity between the subject structure or feature and its neighboring structures and surroundings, including facade, setback and height; nor shall the proposed work adversely affect the special character or special historical, architectural or aesthetic interest or value of the district. The proposed work shall also conform to such further standards as may be embodied in the designation of the historic district.
c. For applications relating to structure of merit sites, the proposed work shall not adversely affect the architectural features if architectural merit is the basis for designation; nor shall the proposed work adversely affect the special cultural, educational or historical interest or value if that is the basis for designation.
2. For permit applications for demolition: the commission shall find that the designated landmark, historic district or structure of merit 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, historic district or structure of merit or portion thereof and the interest of the owner of the landmark site, historic district, or structure of merit site in its utilization. (Ord. 5686-NS § 1 (part), 1985; Ord. 4694-NS § 6.2, 1974)

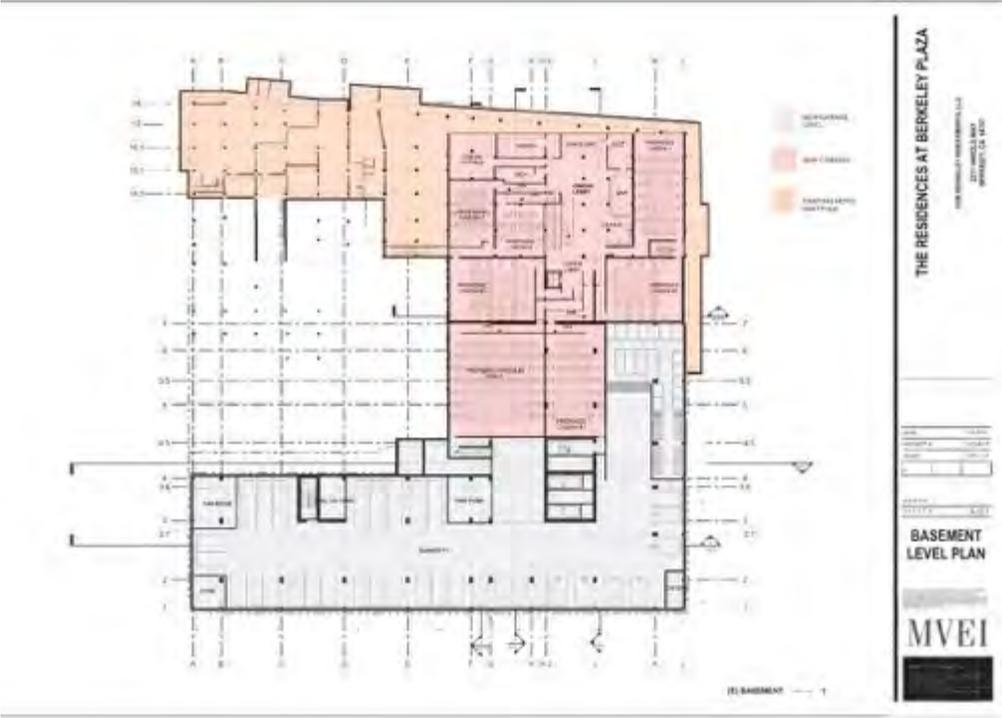
The Berkeley Municipal Code is copied herein to set the conditions that are required to be met for approval. 2211 Harold Way does not meet these conditions.

2010 Measure R Section 1. Green Vision for Downtown

The People of the City of Berkeley hereby adopt, as a vision for the City's Downtown Area, a Downtown that meets the City's climate action goals by concentrating housing, jobs and cultural destinations near transit, shops and amenities; preserving historic resources, enhancing open space, promoting green buildings; and allowing for 2 residential buildings and 1 hotel no higher than our existing 180 foot buildings and 2 smaller office buildings up to 120 feet, concentrating housing and jobs, thus helping to make Berkeley one of the greenest cities in the United States.

Shattuck Cinemas Are as Cultural Resource Integral to the Downtown Economy

Residents of the Berkeley Community as individuals and members of Save Shattuck Cinemas and Sustainable Berkeley Coalition spoke with thousands of Berkeley residents and visitors and gathered over 4300 petition signatures protesting demolishing the Shattuck Cinemas. 4200 Petition Signatures were presented to the Berkeley City Council, ZAB, DRC and LPC.
The Shattuck Cinemas are an integral part of the downtown economy with superbly curated film attracting 275,000 - 300,000 patrons annually. Patronage continues to grow. Weekend screenings are regularly to sell out crowds. Independent foreign and domestic first run film makes up 80% of the selection. It is the selection of film, the diversity available at this location in the ten Shattuck Cinemas that attracts visitors from distant Bay Area cities and beyond. Visitors regularly travel from Vallejo, Santa Rosa, San Francisco, the Peninsula and east of the Caldecott Tunnel to attend film at the Shattuck Cinemas.
It was found through the many conversations and petition gathering that 60% of the Shattuck Cinemas patrons are visitors. Cinema patrons support local business in particular the downtown restaurants. Restaurant owners and managers have expressed their concern regarding the economic impact of demolishing the Shattuck Cinemas and submitted letters to the City Council, ZAB, LPC and DRC. Losing the Shattuck Cinemas for the years it take for reconstruction in the proposed 2211 Harold Way will have a major economic impact on the viability of the downtown.
Cinema is a designated cultural resource in the Downtown Area Plan. The Downtown Area Plan calls for expansion not demolition and contraction of film. The Landmark Theatre's Shattuck Cinemas is economically stable and committed to continued presence in Berkeley as demonstrated through communications from Ted Mundorff, CEO. The draw of visitors and residents to the Shattuck Cinemas places this cultural resource as not only integral, but as the economic engine of the downtown.
2211 Harold Way Architectural Plan Design Problems - Shattuck Cinemas
The architectural plans for 2211 Harold Way have been and continue to be in a state of change and transition. The 2015-08-13 2211 Harold Way Project Plans include major revision of the Shattuck Cinemas with an increase to 10 theaters and loss of 221 seats from the existing configuration. Three theaters, numbered theater 1, theater 6 and theater 7 are under the existing Shattuck Hotel along Shattuck Avenue to Kittredge. The construction of these theaters requires excavation of the existing basement under the Shattuck Hotel.
Structural engineering reports already raise the issue of landfill and questionable stability of the Shattuck Hotel to withstand vibration from construction and call for further analysis. Excavation under this historic building far exceeds vibration from construction and demolition.
It shall be noted that on July 9, 2015, two members of the LPC presented a motion on to require the completion of the report analysis of the Shattuck Hotel structure prior to consideration of the proposed 2211 Harold Way. Foregoing the complete analysis by a structural engineer independent of the developer, places the LPC in the precarious position of inadequate information to make a fully informed decision that protects the health, safety and general welfare of the community and visitors.
The recent terrible tragedy at the Library Gardens, points to the necessity of complete and thorough analysis.
The latest plans to construct ten cinemas is based on the assumption that the existing historic Shattuck Hotel can continue to be structurally stable during demolition and excavation. Withholding the thorough independent analysis places Shattuck Hotel at risk leaving the likelihood that theaters 1,6 and 7 can be constructed. The stacked adjacent theaters 2,5,8 and 10 are also at risk. Only theaters 4 and 9 are clearly out of the areas of construction risk. Line 7 on the architectural renderings notes the demarcation of probable construction (lines 1- line 7) if the proposed 2211 Harold Way is approved.



**2211 Harold Way Architectural Plan Design Problems - Scale**

The Draft EIR - October 3, 2014 part 2

2211 Harold Way Mixed-Use Project EIR

Section 4.1 Cultural Resources

Shattuck Hotel (East Elevation). The 1910 and 1913 portions of the Shattuck Hotel together extend the full length of Shattuck Avenue between Allston Way and Kittredge Street. Rising five stories and approximately 60 feet in height, this 260-foot-wide façade is distinguished by four square towers topped by pyramidal hipped roofs. Six windows separate the towers at both the north and south ends of the building; 13 windows separate the two inner towers. As with other elevations, red clay tiles clad the roof and parapet surfaces. The towers rise a half story above the sloping parapets, their eaves decorated by exposed rafters. A relief frieze elaborates the wall surface below the eave line of each tower.

Constructing an adjacent building of 194 feet with full size trees adding additional height on the rooftop patio is grossly out of scale to the Shattuck Hotel described as being approximately 60 feet in height in the DEIR. Additionally, the renderings submitted do not show an accurate height comparison. The proposed Harold Way is more than three times the height of the Shattuck Hotel. Ceiling Height of the hotel rooms in the Shattuck Hotel are 9 feet 7 inches. Renderings show those ceiling heights as considerably higher.

The 2010 Ballot Initiative Measure R binding section 1: states no building higher than existing buildings of 180 feet. The Great Western is the tallest existing building with a total height of 178' 2" as substantiated from city micro-fiche. In addition, to the out of scale proposal, 2211 Harold Way exceeds the 2010 Measure R ballot initiative height limit. Exceeding the height limit requires putting forth a new ballot initiative to the voters.

**2211 Harold Way Architectural Plan Design Problems - Residential**

The latest Harold Way project plans are corrected for the studio apartment on levels 13, 14, 15, however, the continuing problems of bedroom window being accessible from the terrace gardens. There are no suicide barriers and barriers to prevent accidental falling from the building gardens. Interior plans have doors colliding. The units are in conflict with the stated downtown area plan goal of family oriented housing. Plantings that are inappropriate for height of the building and consideration to wind and sun.

**2211 Harold Way Architectural Plan Design Problems - Garage**

The project plans list 177 parking spaces. The garage renderings show 146 parking spaces. Traffic studies are inadequate.

Respectfully submitted,

Kelly Hammargren  
Berkeley Resident

Kelly Hammargren  
[kellyhammargren@gmail.com](mailto:kellyhammargren@gmail.com)

**Jacob, Melinda**

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**Subject:** FW: 2211 Harold Way

-----Original Message-----

From: Donald Goldmacher [<mailto:donald.goldmacher@gmail.com>]

Sent: Thursday, August 06, 2015 4:31 PM

To: Zarnowitz, Sally

Subject: 2211 Harold Way

I am writing to you at this time to urge you to delay any decision at your upcoming meeting on August 13 regarding 2211 Harold Way. After reading various city documents from the planning department, I am concerned that several issues have been inadequately addressed by staff. Specifically, they are accepting the developer's LEED Gold effort as the best that can be done in terms of environmental mitigation. At a time when we are all painfully aware of the impacts of climate change that are accelerating, the city should be demanding a much more serious investment in making this building a zero net energy building. Additionally, the statement by the developer regarding capturing rainwater does little to mitigate the amount of water this building will require when we are in a period of severe drought.

Inasmuch as your commission is charged with preservation, it seems to this resident that there is little attention being paid to preserving the viability of local businesses in the downtown area. By demolishing the current structure at this address, the Shattuck Cinemas will effectively be shut down for several years, which will create a negative economic impact across businesses in the downtown area who are patronized by those coming to the movies. Nowhere in any of the documents about this project is that issue addressed.

In keeping with the theme of preservation, is it not the duty of this commission to preserve the character, culture and lifestyle of the city for the benefit of its residents? Is it not your duty to examine what other cities in the bay area are doing with regard to both development and housing? Is it not your duty to consider the ramifications of allowing skyscrapers to be constructed in Berkeley on both current and future generations? If you have not yet pondered these questions, then it is your duty to delay any decision at this time.

I therefore urge this commission to delay any decisions regarding this project until the above issues are addressed by the city and the developer. Your failure to do so will trigger an immediate appeal to the city Council.

Yours truly,

Donald Goldmacher, M.D.  
1017 Shattuck Ave.  
Berkeley, CA 94707

**Jacob, Melinda**

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**Subject:** FW: Harold Way project

-----Original Message-----

From: kn\_johnenglish@knpanel.com [mailto:kn\_johnenglish@knpanel.com]

Sent: Thursday, August 06, 2015 12:48 AM

To: Enchill, Charles

Cc: Zarnowitz, Sally; Fogelson, Josh

Subject: Harold Way project

August 6, 2015

Landmarks Preservation Commission  
C/o Sally Zarnowitz, Secretary  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704

Re: HAROLD WAY PROJECT

Dear Commissioners:

This is to make various comments of my own about the "2211 Harold Way" megaproject and documentation that's been supplied to you regarding it.

#### UNWARRANTED PRESUMPTION OF ENTITLEMENT

The proposal seems to implicitly claim there's some right to build this much total height and bulk on THIS site. That claim is quite unjustified.

While the Downtown Area Plan (DAP) envisions construction of a few high-rises, this doesn't mean that such a building would be acceptable on any PARTICULAR site--especially on a site that, like this one, is LANDMARKED. One of the DAP's most basic aims is conserving historic resources. And within the Downtown there are many development opportunity sites that aren't landmarked.

#### VIOLATING THE DOWNTOWN PLAN AS TO SCALE AND CHARACTER

Though the DAP recognizes that in the case of some historic properties an addition might be appropriate, this would depend on the addition's scale and character in relation to the particular landmark.

DAP Policy HD-1.1's action "b" says:

"When evaluating potential modifications, adaptive reuse or [please note:] intensification of designated or sufficiently documented historic resources, in addition to applying the Landmarks Preservation Ordinance, the proposed work must also be evaluated for conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings. Where applicable, the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes, must also be applied. At a minimum, historic facades should be maintained and/or rehabilitated and the [please note:] scale and character of additions must be compatible with the historic building."

On this particular landmark site, the current project's overbearing "scale" obviously wouldn't be compatible. Nor would the development's currently proposed design "character."

#### EVASION OF THE PROJECT SCALE'S RELEVANCE

Despite public comments pointing out the project's excessive scale as a significant impact, the EIR has tried to evade the issue by calling the project "new construction adjacent to historic resources, rather than . . .

. an addition [to a historic resource]" and rationalizing that the "nearby" Wells Fargo and Great Western buildings "are of approximately the same height as the project." But that argument is specious. The truth is that the project would be grossly out of scale with the particular designated LANDMARK site WITHIN which it's proposed.

#### FAILURE TO ADMIT THE RECENT MASSING CHANGE'S OWN MAJOR IMPACT

The current staff report and accompanying documents confusingly say that according to the so-called DRC Recommended Alternative, project massing is shifted "slightly" toward the "southwest corner of the site." Instead the shifting would be toward the property's SOUTH side, to closely parallel Kittredge Street--and the shift wouldn't be "slight." it would pile four stories atop the proposed development's "south shoulder," which would thereby become 16 stories high. This would be close to, and would materially increase impact on, the Shattuck Hotel. And in combination with the adjacent "tower," the resulting WIDE, 16- to 18-story slab would loom incompatibly right across from the Public Library.

#### INCOMPATIBLE FACADE DESIGN

As both the DAP and the Downtown Design Guidelines say, it's very important that when a historic building is added to, the addition's CHARACTER is very important. In this regard some lessons can be learned from the past. As a "DPR 523" form in the EIR's Appendix D says about architect Walter Ratcliff's design of the property's 1926 addition, that expansion "was designed for compatibility with both the existing hotel building and with the Armstrong College (now Dharma Institute) across Harold Way . . . ." Appendix D also lists various of the 1926 addition's specific features that were carefully designed to serve that relationship.

In painful contrast, the hodgepodge design of the current project's upper (sixth- through eighteenth-floor) facades has NO visual relation to its relevant immediate surroundings. Instead the largely brick-faced "tower" tries to reference the brick-faced Wells Fargo Building--which is two blocks away. And though the glassiness of the facades on the project's two "shoulders" tries to ameliorate the overall project's excessive bulk, those glassy facades relate to almost nothing within the Downtown Core.

Even the EIR admits that project design needs to be made more compatible. For this purpose it prescribes several mitigation measures, of which this one is especially relevant:

"CR-2(c) Glazed Aluminum Window Wall Systems. While the glazed aluminum window wall systems proposed for much of the project would clearly differentiate the proposed project from nearby historical resources, the design of these wall systems needs to be modified to make them more compatible with these resources. The proportion and pattern of void to wall in the wall treatment of the proposed project shall be modified to more closely match that exhibited in the Shattuck Hotel, the Public Library, the former Elks Lodge and the former Armstrong College building.

Potential ways to achieve this include replacing the window wall systems with punched curtain wall systems similar to those used elsewhere in th project, or breaking up the window wall systems with windowless bays."

If that were done with true sensitivity, it would help.

#### PRESUMPTIVE "TRANSLUCENT PANELS"--AND GENERAL CONCERN RE LIGHT POLLUTION

In strange response to the EIR's Mitigation Measure CR-2(c) about the glassy facades, various statements within the staff report's Attachment 1 and Exhibit B thereof wrongly beg the question by saying the design solution would consist of incorporating "translucent panels." Why not opaque panels, and/or some other remedies?

And this question relates to an important concern that people have expressed about "light pollution." Especially considering that many of the proposed building's residents would have lights on at late hours, the project design's glassiness poses serious questions about nighttime glare.

Yet the EIR ignores the matter, and renderings that the applicant has submitted purporting to illustrate nighttime appearance fail to dispel this concern.

#### FAILURE TO ADDRESS WIND-RELATED ISSUES

The project also poses unresolved issues involving wind. There's concern that the proposed tall AND wide building could deflect wind downward to the serious discomfort of pedestrians. Another concern is the chance that unsecured objects might get blown from a rooftop terrace and fall, with potential deadly effect, onto a sidewalk or street. Unanchored things are liable to get placed up there because the terraces are meant to be open space usable by the project's hundreds of residents.

#### UNDUE DEFERRING TO "FINAL DESIGN REVIEW"

Various statements contend that revising of the glassy facades would be handled through so-called "Final Design Review"--a term that project consideration under the Landmarks Preservation Ordinance doesn't normally seem to use. But here, design of these huge facades is so basic an issue that it should be considered within the OVERALL decision about the project.

#### PROCEDURAL DISJOINT RE EIR VS. PROJECT ACTION

Many people have aptly pointed out serious flaws in the project's Environmental Impact Report. When the Zoning Adjustments Board certified the EIR, that was only by a split vote. Though it's likely that an appeal from that certifying will be filed, City staff have said that people can't submit an appeal TILL a Notice of Decision about the certification gets issued at some unspecified future time. This is unfair to concerned citizens in general. And while the EIR is thus in limbo, you LPC members shouldn't be asked to rely on it sufficiently to enable your voting on the project itself.

#### INAPPROPRIATE CITING OF THE LANDMARKS ORDINANCE'S SPECIAL DEMO PROVISION

Within the staff report's Attachment 1, the eighth page wrongly cites the Landmarks Preservation Ordinance's subsection 3.24.260.C.2. That provision is meant for situations where a landmark or portion thereof "is in such [please note:] condition that it is not feasible to preserve or restore it . . . ."

#### LACK OF RELEVANT "HARDSHIP" UNDER THE LANDMARKS ORDINANCE

In the paragraph that starts at the bottom of Attachment 1's eighth page, there's a statement that "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 particular circumstances of this case . . . ." That language evidently relates to

the LPO's Section 3.24.270, which is quoted on Attachment 1's eighth page--and which says that if the LPC makes such finding it must also "specify in writing [please note:] the facts relied upon in making such finding."

I see no way that "HARDSHIP" per se could be found regarding the current project--and in any case, no specifically relevant "FACTS" for such a finding are presented. Though language near the top of Attachment 1's ninth page may suggest demonstrating hardship via Exhibit A's CEQA Findings and Statement of Overriding Considerations, that material is instead for a different purpose under a different law.

#### RAMPANT RATIONALIZING IN GENERAL

Attachment 1 and its exhibits include various statements that figuratively fall over backwards in trying to rationalize project approval. An especially blatant one is the claim (on Exhibit A's page 31) that "each [sic!] of [the ensuing eleven bulleted considerations] . . . independently of the others, constitutes overriding consideration warranting approval of the proposed Project."

#### MISCELLANEOUS PROBLEMS

Within Attachment 1 and its exhibits there are also various other mistakes or inconsistencies. One of them is a statement that the project would include a "six-theater" cinema. This directly conflicts with the project plan's current version.

#### QUESTIONABLE FIGURES IN APPLICANT'S FEASIBILITY MEMO

The July 28 memo from Mark Rhoades on "Pro Forma Infeasibility Documentation for 2211 Harold Way CEQA Project Alternatives" has a table that shows "Land" cost as \$40 million. But information from the Assessor's office seems to mean the current owner bought the site for just half that much.

Similarly questionable is the memo's assertion that, in comparison with the proposed project, the Preservation Alternative would reduce the number of dwelling units by "nearly 35%" and the Contextual Design Alternative would reduce it by "24%." Those purported reductions are substantially deeper than the pertinent reductions implied by unit-count ranges stated in the EIR itself: reduction by about 19 to 25 percent in the case of the Preservation Alternative and reduction by about 3 to 10 percent for the Contextual Design Alternative.

Sincerely,

John S. English  
2500 Hillegass Avenue, Apt. 3  
Berkeley, CA 94704-2937





August 6, 2015

TO: Landmarks Preservation Commission Chair Linvill and  
Commissions Beil, Belser, Brown, Canavan, Hall, Olson, Schwartz and Smith  
FROM: Shirley Dean  
Via e-mail  
RE: 2211 Harold Way, Structural Alteration Permit

I am writing to you with the request that you reject the Staff recommendation to approve the Structural Alteration Permit (SAP) for 2211 Harold Way.

As one of the authors of the Landmarks Preservation Ordinance #4694-N.S enacted in 1974, I am prefacing my request with a reminder that as members of the Landmarks Preservation Commission you have the moral and legal responsibility to uphold the Ordinance as specified in Berkeley Municipal Code Section 3.24.010 (C)(1)

*C. The purpose of this legislation is to promote the health, safety and general welfare of the citizens of the City through:*

*1. The protection, enhancement, perpetuation and use of structures, sites and areas that are reminders of past eras, events and persons important to local, state or national history, or which provide significant examples of architectural styles of the past, or are landmarks in the history of architecture, or which are unique and irreplaceable assets to the City and its neighborhoods, or which provide for this generation and future generations examples of the physical surroundings in which past generations lived*

The Landmarks Preservation Ordinance, originally approved as a forward-looking planning tool, has survived attempts to repeal it for 41 years. It stands today as the door keeper of the City's renown reputation for architectural beauty and, you, as LPC Commissioners hold the key. You serve as an appointee of a member of the Council, but you were never meant, organizationally, to be a mere tool of your appointer. You were always meant to use your own, individual and independent judgment regarding upholding the Landmarks Ordinance, delving into the details of a subject to a deep level than what the Council might have the time to do. In brief, you are advisors to the Council, not the other way around.

Therefore, your obligation is *not* to consider whether you like or don't like the proposed project at 2211 Harold Way. It is to consider whether that project protects, enhances, and perpetuates the use of structures, sites and areas around it.

In this case, the Draft EIR has described in detail the project's "Vicinity," pg 4.1-21 thru 23. This "vicinity" includes an amazing number of historic resources in a very small area:

- 14 City of Berkeley designated landmarks (some of which are also on the National Registry) and historic districts, and
- 10 additional properties that are not City Landmarks but which have been found to be eligible for individual listing on the National Register, and
- 4 more properties that this very Commission has found to be eligible for City Landmark designation, and

- three more properties within 200 feet of the project that are deemed to be historic structures that are "contributing or significant and contributing" to other historic resources near the project.

Considering the EIR description, one cannot doubt that this area has the clear potential for establishment of a historical district or what the EIR states is a "Subarea of Concentrated Historical Resources."

The Downtown Area Plan (DAP) recognized that some new construction in the Downtown would be appropriate, *but it is clear that approval of any new construction would depend upon the scale and character in relation to a specific landmark*, and given the concentration of historic resources in this particular location, *the scale and character of the new construction would have to depend upon its relationship to the area.*

In considering this proposed project, please keep in mind that most of the buildings in the "Project Vicinity" are two to five stories in height and that the DEIR concedes that the cumulative impact of the taller buildings in the Downtown Core could have an impact on existing "character-defining" features of the area. The EIR and City Staff agree that you consider using the Secretary of the Interior's Standards Number 2 and 9 as a "starting point" in making an assessment of this impact, and also to consider Downtown Design Guidelines. For your review, these state:

*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.*

*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.*

Design Guidelines for future development in the Downtown Area should be updated to ensure that new construction respects the authentic character, significance and integrity of the existing building stock in area that may have the potential for designation as historic districts." Specific guidelines are

*(1) Consider the difference in character of individual blocks. The scale of buildings change within the potential historic district(s) and new construction should reflect the appropriate scale per block.*

The proposed project is referred to by the applicant, and described in various City documents, including in the Staff Report for this meeting, as being 180 feet tall. Presumably, this 180 foot figures comes from measuring the height to the roof line. At one meeting, the project's architect said the actual height of the proposed building was 194 feet tall. This was before the "interactive photovoltaic" railing was added to the roof garden on the 18-story tower of the proposed project, and which may well have added height.

The EIR states that the height difference between the project and its surrounding landmarks, such as the about 60 foot tall Shattuck Hotel and Berkeley Main Library Buildings doesn't really matter because there are two other buildings in the Downtown that are about 180 feet. Yet, the Emporis.com website regarding tall buildings in various cities states that the Great Western Building total height is 167 feet and 158 feet to the roofline, while the Wells Fargo Building's total height is 162 feet and 148 to the main roof.

To further compound the height issue, the voters were promised in November 2010 that the two new residential buildings and one hotel building in the Downtown Core would be no higher than the Wells Fargo and Great Western Buildings. To me that plainly says that THE ACTUAL HEIGHT of any proposed tall residential building in the Downtown Building can be NO HIGHER THAN 167 FEET, some 27 feet or more lower than the currently proposed height of the project.

Citizens of Berkeley have come before you and the Zoning Adjustments Board (ZAB) on multiple occasions, likening the height of the proposed project to Godzilla or King Kong hanging over the Shattuck Hotel. People have repeatedly asked for some way to actually determine the heights involved and these essential requests for decision-making based on facts have been totally ignored. To this date, no one knows the answers to this question.

The applicant states that there is no impact because the project and the Shattuck Hotel are "visually and physically separated" and relies on design elements that fool the eye. I cannot image how a building that is three times as large or more in the "backyard" of the Shattuck Hotel will not have a profound impact on the Hotel and its surrounding landmarks. I also ask each one of you, how can this height impact, either on the Hotel or other buildings, or on the shadows cast by the proposed project on other properties, be accurately assessed without full knowledge of the heights involved.

A second issue which is being ignored concerns the Campanile Way View issue. The intrusion of the proposed project into the view corridor of the Bay from the base of the Campanile on the UC Berkeley campus is acknowledged in the EIR as being less than significant because the impact is not large enough. Several thousand students signed a petition in protest this intrusion into that view and when some 90 persons signed a request supporting landmark designation of the view, you held a public hearing on April 2, 2015. You declined landmark designation possibly because you were influenced by the incorrect information that the Campanile Way was already listed on the National Registry.

When your decision was appealed to the City Council, there was no doubt that the incorrect information was a consideration of the Commission because a statement about inclusion on the National Registry was listed as one of the findings used in the making of that decision. On June 30, 2015, the date of the Council public hearing on the appeal, the City's Planning Director acknowledged that the information about being listed on the National Registry was an error - the Campanile Way is NOT ON THE NATIONAL REGISTRY. The Council did not muster five votes either way to address this issue, and then violated their own procedures about it being on the Council agenda for 30 days from the date it first appeared. The Council has now adjourned for a two-month vacation period.

But the story is not over yet. The applicant has submitted new plans that shifted height from the "north" to the "south" shoulder, and it has now been determined that this design change reduced even more what the EIR had declared to be "less than significant" view impacts of the project on the Campanile Way View.

Two things are wrong about this conclusion.

1. The "south" shoulder of the proposed project is now 16 stories tall, increasing not only the height but also the width of the project on the Kittredge Street side, requiring yet another Use Permit for the new width of this part of the structure. It is not acknowledge that this new height and width increase to the mass of this side also *increases* the visual impact on the Shattuck Hotel and Main Branch of the Berkeley Public Library.
2. The building identified in the applicant's photos/photo simulations is *not* the Shattuck Hotel. The red building with a ribbed roof is the Ashby Lofts Building at 2161 Allston Way. The Shattuck Hotel has red tiles on its roof. The proposed project to the left of the Allston Lofts Building with trees trimmed would have a much larger impact on the View. Another photo simulation has been submitted with a nighttime view, with trees trimmed along the Campanile Corridor. The tree trimming proposal is being made by a Cal Alumni Group.

I encourage the Commission to request that these photos be available at your meeting of August 13, 2015, again in an effort to evaluate this structural alteration permit on a factual basis.

My third concern involves what appears to be a substantial excavation of material not only to accommodate the stories of underground parking but also which extends to a more shallow degree underneath the Shattuck Hotel itself almost to Shattuck Avenue and along Kittredge.

Mitigation Measure CR-4(b) Construction Monitoring states that after permits are obtained and prior to demolition a historic preservation architect and structural engineer hired by the project's sponsor shall

*undertake an existing condition study of the Shattuck Hotel, including the location and extent of any visible cracks or spalls. Any existing damage to the hollow clay tile that could cause structural damage due to construction vibrations shall be noted. This initial survey will serve as a baseline to determine if any damage would occur during demolition or construction of the new building. The documentation shall take the form of written descriptions and photographs, and shall include those physical characteristics of the resource that conveys its historic significance and that justify its inclusion on the local register. The documentation shall be reviewed and approved by the City of Berkeley Planning and Development Department.*

It also provides for an on-going construction monitoring program to detect changes to existing conditions with reports to be made regarding any "substantial adverse impacts to historic resources related to construction" and that if "substantial adverse impacts to historic resources related to construction activities are found during construction" the architect and engineer shall make recommendations including halting construction. These recommendations are all decided "in-house" and the information is then shared with the project's monitoring team which includes the City.

Establishing a baseline of the condition of the existing Shattuck Hotel foundations for future reference is a good idea. However, such a measure should be done *prior* to the issuance of permit approvals and be a part of the project permit approval process in order to determine the likelihood of the full extent of the proposed work being feasible. Such a requirement is good for the applicant in that early discovery of existing conditions should influence decisions regarding the overall size of the project. This step is essential, however, for City decision-makers who are responsible for considering the impacts of the project on the preservation of the Shattuck Hotel; on the safety of hotel guests; and the inclusion of the full extent of the Shattuck Cinemas as an essential component of the project. The City must not approve a project that includes a full component of the Cinemas only to discover too late, after construction begins that a part of it wasn't feasible. It is also important in considering the extent and content of significant community benefits as conditions of approval for this project.

- the insertion of language into Mitigation Measure CR-4(a) and (b) that adds the requirement that the baseline condition report and any monitoring information provided to the City shall be public and that *the City in formulating their response should seek a second, independent opinion* of reports and methods being proposed. In view of recent events regarding problems with design, construction and inspections, it is imperative that the City gets this right; and
- disclosure of the relationship agreements between owners of the project and the Hotel Shattuck as the new design interconnects the two; and
- establishment of the amount of the required payment into an architectural preservation fund, a description of the method proposed to calculate this amount, identification of what fund this payment refers to, and a condition that this amount will not be considered as part of community benefits requirements.

There are other very serious areas of concern, not the least of which is that of the lack of affordable housing that are more appropriately addressed to other bodies. But, all in all, the three areas of concern listed above provide sufficient (but not the only) grounds on which to deny approval of the SAP. I'm sure that more will be provided at the public hearing on August 13th and I urge you to deny the SAP.

Yours is a most critical decision to make regarding the future vision of Berkeley. In approving high rise buildings in the Downtown Core, the voters did not approve a specific site, nor did they approve that they had to be 180 feet tall. They approved that such buildings could be no higher than the Great Western Building, taking into consideration preservation of historic resources. This project might well be more appropriate at a much lower height at this site, or even at its fuller height on a site closer to the UC Berkeley campus where the impacts of its height will be softened by expanses of open space. To approve this building as submitted is to destroy the very character of Berkeley, a character that is remarkable for its beauty and vibrancy of ideas and people, a character that will be lost forever if replaced by the unbridled, formless architecture seen in Los Angeles, Sacramento and Emeryville.

However, if you are not convinced to deny the SAP on August 13 based on the above, please consider the following. I find it to be a most curious procedure that the EIR which was certified by the ZAB on June 25, 2015 is part of your information base in your deliberations on August 13, 2015. The certification of the EIR is an appealable action. Therefore, it is not final until the

elected body says so. Given numerous procedural errors and other issues that are contested, it undoubtedly will be appealed, but the City prevents that from happening until after you and the ZAB vote on "project approvals." Therefore, you have an inaccurate record before you, which to my mind, negates the very purpose of CEQA in the first place.

Should you, too, find this a most curious position to be in, I suggest that you consider advising the Council that you will not vote on approving the SAP until such time as the appeal to the ZAB's decision to certify the EIR is finalized.

Respectively submitted,  
Shirley Dean, Former Mayor, City of Berkeley

Tom Beck  
To: Landmarks Preservation Commission, 8/13/15 meeting; Zoning Adjustments Board, Berkeley City Council

RECEIVED

From: Charlene M. Woodcock, 2355 Virginia Street, Berkeley 94709

AUG 04 2015

Re: Distinction between Mitigation of Detriments and Significant Community Benefits

LAND USE PLANNING

A major detriment of the 2011 Harold Way plan is the demolition of the very popular 10-screen Shattuck Cinemas (275,000 to 300,000 tickets sold per year). The Shattuck Cinemas bring both popular and little known films to Berkeley and draw loyal patrons from all over the East Bay each week whose patronage extends beyond seeing movies here to benefit Shattuck Avenue merchants, cafes and restaurants, as well. These theaters, then, are a cultural and entertainment attraction that draw several hundred thousand people to downtown Berkeley each year and contribute significantly to the vitality of our downtown and to Berkeley's cultural richness.

Mark Rhoades and Joseph Penner must not be allowed to confuse mitigation of the demolition of these theaters with the conferring of significant community benefits, as Mr. Penner does in his July 30 interview with *Berkeleyside* regarding his revised plan for 2211 Harold Way, which includes space allotments for 10 screening rooms (<http://www.berkeleyside.com/2015/07/30/new-plan-calls-for-10-theaters-at-2211-harold-way/>):

"Penner agreed to add the theaters, but told the city of Berkeley that the inclusion should count as part of the project's 'significant community benefits.' Theaters generally lose money. Landmark currently pays below market rent and Penner agreed to continue that arrangement after the new theaters were built. The construction, rent reduction and loss of other rental opportunities, however, would cost Penner \$16 million over the next 20 years, he said. Penner said he wanted that included in the benefits package."

The revised plan would place 6 of the 10 proposed theaters in the basement below street level, some underneath the Shattuck Hotel—hardly comparable to the existing 10 beautifully-decorated theaters at street level he plans to demolish (see photos below), and potentially a deadly place to be in time of a serious earthquake. Mr. Penner considers this poor if costly replacement to qualify as a significant community benefit. However, in fact, this would merely be a partial and inadequate mitigation of the huge loss that his demolition of our theaters would represent. It is essential that if the people of Berkeley are to have our downtown disrupted for several years of construction, the natural light to our main library forever blocked by this hugely out-of-scale building, our infrastructure impacted to a point that will require substantial and immediate repair or expansion of water and sewer lines, emergency services, parking, public transit, etc. that he be required to mitigate the detriments posed by his project. His consideration of significant community benefits to be provided to the city should only follow the mitigation of detriments resulting from construction of this building.

As the LPC considers this proposal, which would so radically affect the character of our city, I request once again that the developer be required to contract with a licensed professional to provide story poles to delineate the volume and height of this huge project and notify the public of the schedule.

Below is my 4/21/15 comment to the Zoning Adjustments Commission regarding the numerous detriments to the city of Berkeley posed by the 2211 Harold Way project:

To: the Zoning Adjustments Board and the City Council, 4/21/15  
From: Charlene M. Woodcock, 2355 Virginia Street, Berkeley 94709  
Re: Detriments to the city of Berkeley that would result from the proposed 2211 Harold Way project

The detriments to the city posed by approval of this project far outweigh any possible benefits.

1. This project contains no units of low income housing, which is obviously the great need in our city. Instead the developer will enjoy the "discount" of \$8,000 per unit of the \$28,000 in lieu fee. If the city continues to approve market rate and luxury developments, there will be no space left for inclusionary housing for Berkeley residents with moderate or low incomes and no solution to our critical lack of inclusionary and affordable housing.

2. The 2 to 4-year construction period will inhibit access to our Main Branch Library, our downtown Post Office, the YMCA, and to the 3000-student Berkeley High School a block away.

3. Construction of this hugely out-of-scale project proposed for Berkeley's historic area will not only disrupt downtown traffic during the years of its construction but the majority of the 302 units will be owned or rented by people who will bring additional cars to Berkeley's already very congested downtown, thus increasing our contribution of greenhouse gases rather than reducing it, as we must do.

4. The developer of this project would demolish the successful, well-attended Landmark Shattuck Cinemas, that provide thousands of residents of Berkeley and the surrounding area highly-valued programming of independent, foreign, and documentary films not offered elsewhere. Film is a major art form and the Shattuck Cinemas provide our city with a significant cultural benefit. We don't want this enrichment to our lives sacrificed to luxury housing.

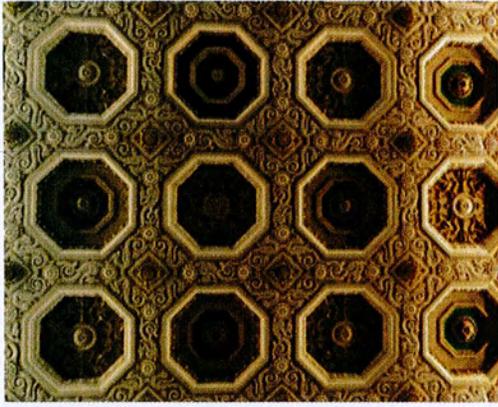
5. The 2211 Harold Way project would also demolish the thriving Habitol, with its convenient location adjacent to the YMCA and the Public Library, all of which provide Berkeley families with ready access to children's programs. Surrounding restaurants and cafes also benefit from the attraction of young families to downtown Berkeley, so they too will lose business if Habitol is forced to move.

6. Exacerbation of traffic congestion, closed sidewalks and streets, and construction equipment blocking parking will make it greatly more difficult to reach the existing businesses, restaurants and cafes in the Shattuck/Kittredge/Harold Way/Allston Way block and in the adjacent areas. Should the proposed hotel be under construction at the same time, the damage to downtown businesses from the resulting traffic congestion will be dire.

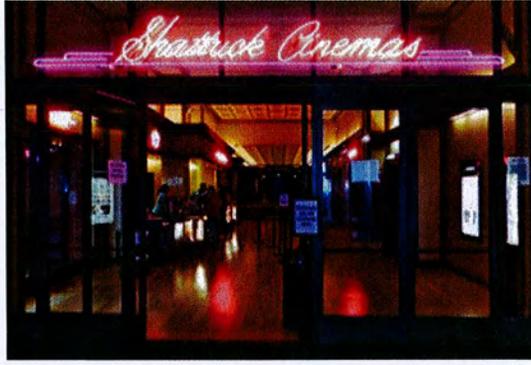
7. This huge building project is within the school zone of Berkeley High School. The decibel level and pollution emissions during the construction period would quite possibly exceed what the law allows in a school zone.

8. Adding 302 more units to the downtown area, in addition to the several large buildings built here in recent years, would significantly increase water use and demands on fire and police services, sewage disposal, city streets and aging infrastructure. There is no effort to meet the Zero Net Energy standards California will require of residential buildings in 2020. There is no provision of affordable units, so workers unable to find housing here will be forced to commute into Berkeley. In these ways too, this project would significantly increase production of greenhouse gases rather than reducing it.

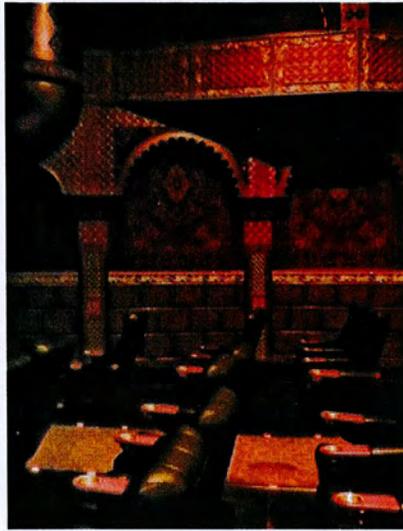
Before any more development proposals are approved, it is essential that we examine the cumulative effect of the many large building projects recently completed, under construction, or awaiting approval in the downtown area and throughout Berkeley. To allocate the few available building sites to for-profit developers will radically change the demographics of our city and force city workers to commute longer distances, thus increasing our production of greenhouse gases rather than reducing it. To interject into our city's handsome historic area so obtrusive a building that does not serve our city's need is among the detriments to the community that this project represents.



original coffered ceiling preserved from the Hink's building  
coffered ceiling and pillars



Shattuck Avenue level entrance, showing  
preserved from Hink's building



Moroccan screening room decor  
Woodcock



Hand-painted Egyptian screening room decor photos by Bill

**Jacob, Melinda**

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**Subject:** FW: Public Record Request

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**From:** Therese Fitzpatrick [<mailto:therese.fitzpatrick@gmail.com>]

**Sent:** Saturday, August 01, 2015 3:53 PM

**To:** All Council; Manager, C; Zarnowitz, Sally; Zoning Adjustments Board (ZAB); Powell, Greg; Allen, Shannon; Amoroso, Alexander; City Clerk

**Subject:** Public Record Request

Please send me any and all correspondence received by the City of Berkeley from California's Strategic Growth Council. My main interest is to know when the with of Berkeley was notified of the which had a statewide total of about 120 million in Affordable Housing grants.

I want to know if zoning and planning departments received correspondence about this huge grant program. I want to know if the mayor and council knew. I want to know if any and all support staff of zoning, planning, council and housing knew and what did they receive from CA's Strategic Growth Council about this grant.

I want to know the following for every single city employee including council, staff and all board and commission volunteers for ZAB, LPC, DRC, ARTS and most of all, the Housing Commission. The Housing Commission like all our city boards and commissioners relies on honest staff to keep them informed of such grant opportunities. Shame on this city for this epic fail.

Berkeley did not bother to apply for any grants.

I want to know which public servants received notification of this grand application possibility for Berkeley.

I want to know why the Housing Commission staff person did not give every member of the Housing Commission information about the grant.

Richmond, Emeryville and Oakland each received over \$4 million in grants.

Why did staff hide this grant from the Housing Commission?

If the California's Strategic Growth Council wrote to any city employee or commissioner about this grant, I want to know about it.

With this city's gentrification and disinclination to get serious about affordable housing, this failure to apply for these grant seems corrupt, like a deliberate attempt to push out poor and lower income persons. Another way to refer to this negligence might be bigotry, for this city clearly favors rich developers and housing for the rich and clearly seeks to purge Berkeley of poor and lower income.

Please give me any and all correspondence from Affordable Housing and Sustainable communities Program to any office of the city of Berkeley from January 1, 2012 through August 9, 2015. When you have the material ready, notify me (after giving me the required ten day notice of when info will be available) and I will review it at city hall, scanning any pages I might wish to have copies of.

Very truly yours,

Tree Fitzpatrick JD  
94704

